

The following Suggested Model Policies for Nevada State Board of Education-Sponsored Charter Schools was developed primarily with Nevada's State Board-sponsored charter schools in mind. Unlike charter schools sponsored by local school districts, these schools may not have school district policies to which they could refer for guidance in developing their own policies. However, district-sponsored charter schools may find the model policies useful as well.

The Policies provide guidance only, and are not meant to be automatically, wholly adopted by any charter school, regardless whether the school's sponsor is the State Board, a local district, or an institution of higher education. The following guidelines apply to using the Policies:

- Policies and Bylaws to be adopted by a charter school should be reviewed and approved by the school's sponsor.
- Policies and Bylaws should also be reviewed and approved by the charter school's legal counsel.
- Charter schools should feel free to alter these suggested policies in consultation with the school's legal counsel and sponsor.

Preface

Much of what is presented in the personnel section of this manual is a reflection of state and federal laws and regulations. In addition much of this material is representative of relatively standard practice in public schools. Much of this material is also subject to negotiation with employee organizations under NRS 288 and NRS 391.

The negotiable portions of this manual were written with recognition that most charter schools will probably not be required to negotiate these personnel issues because in the absence of an employee organization to do negotiations, a charter school is free to unilaterally develop, within the limits of law and regulation, personnel policies and procedures that are negotiated in Nevada school districts.

The policies in this manual dealing with negotiable issues have been designed to comply with state and federal laws, deal fairly with staff, and provide for the sound administration of charter schools. It is expected that these policies will relieve charter school governing bodies of considerable work in developing their own individual policies, but it is not the intent of this manual to take away the rights of charter schools to develop their own policies regarding negotiable issues, within the limits of state and federal laws and regulations.

There are a number of issues that are commonly subjects of negotiations that have been purposely left out of this manual. These subjects include staff salary schedules, health insurance benefits, purchase of unused sick leave upon termination, purchase of early retirement credit by the school, sabbatical leave (with pay), sick leave banks, schedule 125 benefit plans, and the forms to be used for staff evaluations. Each charter school's governing body is responsible to formally adopt any policies it will follow in such areas.

For more information concerning which issues are subject to negotiations, or, in the absence of an employee organization, unilateral action by a charter school's governing body, please refer to the section of this manual titled NEGOTIABLE PERSONNEL ISSUES 402.

Aside from the issues normally negotiated, a charter school's governing body may find good reasons that some policies in this manual do not suit their particular school and that somewhat different policies would be more appropriate for their school. To accommodate these situations a charter school may request of the sponsor that it be allowed to follow an alternative policy or policies.

It is important to note that the policies in this manual, like school district policies, provide direction to schools, but they do not address all possible situations that are covered by state and federal laws and regulations. A charter school may encounter a special situation in which a policy in this manual will conflict with the more detailed direction provided by state and federal laws and regulations. If a state or federal law or regulation conflicts with the policies in this manual, state and federal laws and regulations take precedence over the policies in this manual. Further, if there is a conflict between state law or regulation and federal law or regulation, federal law and regulation take precedence over state law and regulation.

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NEGOTIABLE PERSONNEL ISSUES 402

Under NRS 288.150 local government employers shall negotiate in good faith concerning many mandatory subjects of bargaining. Such bargaining shall be done with the designated representatives of the recognized employee organization, if any, for each appropriate bargaining unit among its employees. In the public schools there are commonly two or three bargaining units, one for classified employees, one for all certified employees except administrators, and, in some districts, one for administrators.

Under NRS 288.140 it is the right of government employees, including charter school employees (NRS 288.050, NRS 288.060, and NRS 386.595), to join or not join employee organizations as they may choose. Local government employers, including charter schools, shall not discriminate in any way among its employees on account of membership or non-membership in an employee organization.

The mandatory subjects of bargaining include salary or wage rates or other forms of direct monetary compensation, sick leave, vacation leave, holidays, other paid or non-paid leaves of absence, insurance benefits, total hours of work required of an employee on each workday or workweek, total number of days' work required of an employee in a work year, discharge and disciplinary procedures, recognition clause, the method used to classify employees in the bargaining unit, deduction of dues for the recognized employee organization, protection of employees in the bargaining unit from discrimination because of participation in recognized employee organizations consistent with NRS 288.150, no-strike provisions consistent with NRS 288.150, grievance and arbitration procedures for resolution of disputes relating to interpretation or application of collective bargaining agreements, general savings clauses, duration of collective bargaining agreements, safety of the employee, teacher preparation time, materials and supplies for classrooms, policies for the transfer and reassignment of teachers, and procedures for reduction in workforce.

If there is no employee organization for staff members in a charter school, it is recommended that the charter school notify the staff of their rights to negotiate through an organization.

If there is no organization and the staff chooses not to form one, it is recommended that the charter school work with a group of individuals selected by the certified staff to represent the staff and to come to informal agreement on the items normally negotiated between a local government employer and an employee organization. The school does have the option, however, to unilaterally decide on the issues listed in NRS 288.150 if there is no employee organization.

In NRS 391.311 to 391.3197 basic requirements are set forth for a variety of procedures involving licensed employees such as evaluation, probation, suspension, dismissal, demotion, and refusal to reemploy. School districts are required to negotiate the details of complying with these statutory requirements.

It is recommended that each charter school that has a certified employee bargaining unit negotiate formally with that bargaining unit to put in place the details of complying with the statutory requirements in NRS 391.311 to 391.3197. If there is no licensed employee organization in the school, it is recommended that the school work with staff representatives less formally to come to agreement on these issues. Under NRS 386.595, however, the governing body of a charter school may unilaterally make all decisions pursuant to NRS 391.311 to 391.3197 inclusive even if there is a bargaining unit, with exceptions for employees on leave from a school district and with exceptions for items negotiated under NRS 288.

Legal References:

NRS 288.040 to 288.060

NRS 288.140

NRS 288.150

NRS 386.595

NRS 391.311 to 391.3197

EQUAL OPPORTUNITY IN EMPLOYMENT 404

Charter schools shall be committed to equal opportunity in employment. Charter schools shall seek to employ the individual who is best qualified for a particular position regardless of race; color; religion; national origin; sex; age; marital status; disability; or the presence of any sensory, physical, or mental handicap, unless the disability disqualifies an applicant because of a bona fide position requirement. Equal employment opportunity shall be considered by charter schools to include all aspects of employment: recruitment, selection, training, promotion, compensation, benefits, leave, transfer, and termination.

Charter schools will offer reasonable accommodations to qualified applicants and employees with known disabilities except where such accommodations pose an undue hardship to the school. Any qualified applicant or employee with a disability who needs reasonable accommodations should notify the administrator or the president of the governing body.

All employees of charter schools will familiarize themselves with the charter school policies regarding equal opportunity.

Charter schools will work cooperatively with appropriate state and federal agencies and community organizations that share their equal opportunity objectives.

COMPLAINT PROCEDURE

Any employee of a charter school who believes he or she has been discriminated against, denied a benefit, or excluded from participation in any school activity because of a handicapping condition, as guaranteed by Section 504 of the Handicap Rehabilitation Act of 1973; age, racial, or religious bias as guaranteed by Title VII of the Civil Rights Act of 1964; disability as described by Title II of the Americans With Disabilities Act (ADA); or been subject to harassment or sexual discrimination; may file a written complaint with the administrator. A compliance committee composed of three (3) persons designated by the administrator, or by the president of the governing body if the administrator is the complainant or alleged to be involved in the discrimination, shall review the written complaint and hear evidence concerning the complaint, if necessary. The committee shall make a written decision and mail that decision to the complainant by registered mail within ten (10) working days after the receipt of the complaint or the close of the hearing, which-ever occurs last.

If the complainant is not satisfied with the decision, he or she may submit a written appeal to the president of the governing body within ten (10) working days after receipt of the written decision indicating with particularity the nature of disagreement with the decision (his or her reasons underlying such disagreement). The president of the governing body, or his or her designee, shall consider the appeal within ten (10) working days after receipt of the appeal on the basis of the written complaint, arguments, evidence, and testimony presented before the committee and shall provide the complainant with a written decision by registered mail within twenty (20) working days following receipt of the written appeal.

If the complainant is not satisfied with the president's decision, he or she must, within ten (10) working days of receiving the decision, file a request with the president of the governing body for a review by the governing body of the written complaint, arguments, evidence, and testimony presented before the governing body. The request for review by the governing body must be honored. The governing body shall review the information presented at the hearing at the committee's level at their next regularly scheduled meeting. The governing body may make a decision at the same meeting or may make a decision at their next regularly scheduled meeting as allowed under NRS 241.020. The governing body's decision shall be in writing and delivered to the complainant by registered mail. The governing body's decision shall be final.

Legal References:

Section 504 of the Handicap Rehabilitation Act of 1973
Title VII of the Civil Rights Act of 1964
Americans with Disabilities Act
NRS 241.020

ETHICAL STANDARDS 406

The following ethical standards will serve as a guide for the conduct of all employees of charter schools.

1. No official or employee of a charter school may seek or accept any gift, service, favor, employment, engagement, emolument, or economic opportunity which would tend to improperly influence a reasonable person in his or her position to depart from the faithful and impartial discharge of his or her duties in connection with the school.
2. No official or employee of a charter school may use his or her position in the school to get or give unwarranted privileges, preferences, exemptions, or advantages for himself or herself or any member of his or her household, any business entity in which he or she has a financial interest or to any other person. Nor shall any official or employee of the school, without prior approval of a supervisor where applicable, offer, give, or loan any school property or unpaid services of the school to anyone.
3. No official or employee of a charter school may approve, disapprove, vote, abstain from voting, or otherwise act upon any matter in which he or she has a financial interest without first disclosing the full nature and extent of such interest. Such a disclosure shall be made before the time when the official or employee is to perform his or her duty, or concurrently with that performance. If the official or employee is a member of any decision-making body, he or she shall make disclosure to the chairperson and other members of the body. If the official or employee is not a member of such decision-making body and holds an appointive office, he or she shall make disclosure to the supervisory head of the appropriate organizational unit; or if he or she holds an elective office, to the general public in the area from which he or she is elected.
4. No official or employee of a charter school may participate as an agent of the school in the negotiation or execution of a contract between the school and any private business in which he or she has a financial interest. For the purposes of this subsection, "financial interest" shall mean direct or indirect ownership or beneficial interest in more than one percent (1%) of any class of stock or equity interest of such business entity, or where the official or employee manages, operates, controls, participates in, or is connected, directly or indirectly, with such business entity in any manner, including without limitation, as a director, officer, employee, owner, partner, agent, advisor, or

consultant. Unless specifically prohibited by law, an official or employee of a charter school, as such, is not precluded from making a bid on a contract with that school if the contracting process is controlled by rules of open competitive bidding, the sources of supply are limited, he or she has not taken part in developing the contract plans or specifications, and he or she will not be personally involved in opening, considering, or accepting offers.

5. No official or employee of a charter school may accept any salary, retainer, augmentation, expense allowance, or other compensation from any private source for the performance of his or her duties as an official or employee of that charter school.
6. No teacher employed by a charter school shall tutor his or her students for pay in established curriculum subject matter areas during the school year unless special permission to do tutoring has been granted by the administrator.
7. If an official or employee of a charter school acquires, through his or her official relationships, any information that by law or practice is not at the time available to people generally, he or she may not use the information to further the his or her economic interests or those of any other person or business entity.
8. No official or employee of a charter school may suppress any governmental report or other document because it might tend to affect unfavorably his or her private financial interests.
9. No official or employee of a charter school may accept compensation from any private person or business entity to represent or counsel such person or entity on any issue pending before the governing body or any administrative department of the school concerning any matter upon which the governing body or the particular department may be making a decision.
10. No employee of a charter school shall use his or her knowledge or special information about pupils to solicit funds or to sell products to pupils or adults.
11. Each official or employee of a charter school shall immediately report to the administrator accidents and a safety hazards he or she may detect.
12. Each employee of a charter school shall maintain a standard of supervision, control, and protection of students commensurate with his or her assigned duties and responsibilities.

SUSPECTED DISHONEST OR FRAUDULENT ACTIVITIES

By the nature of its business, the charter school employs people in situations and circumstances where irregularities in the handling of money, documents, and equipment are possible. If an official or employee suspects an irregularity, it should be identified and investigated promptly in order to protect the interests of the school and the taxpayers.

The support and cooperation of all school employees and officials in carrying out the intent of this policy is very important in the context of maintaining public confidence in the integrity of the school and its operations. In the event of a loss, it will also be necessary for the school to make every reasonable effort to recover such losses, and this policy will facilitate that effort.

Possible dishonest or fraudulent activities may include, but are not limited to, the following:

1. Intentional alteration or misstatement of school reports and records;
2. Forgery or alteration of checks, drafts, promissory notes, securities, shipping or receiving documents or records, etc.;
3. Any misappropriation or misapplication of funds, securities, supplies, or any other assets of the school;
4. Any irregularity in the handling or reporting of money transactions involving school funds;
5. Unauthorized sale or other disposal of school furniture, fixtures, or equipment; or
6. Intentional alteration or misstatement in reporting of items such as employee expenses, vacation time, personal time, sick leave, overtime, or of other records such as licenses or in-service credits, etc.

School administrators should be familiar with types of possible dishonest or fraudulent irregularities which may occur in their schools and among those under their supervision, and they should be alert for any indication that such an irregularity might exist or has occurred. Any employee suspecting irregularity should notify the administrator. The administrator shall determine whether or not the irregularity should be investigated by an internal audit, local law enforcement authorities, or both. If the suspected irregularity involves the administrator, then the president of the governing body should be notified.

HARASSMENT, SEXUAL HARASSMENT, AND INTIMIDATION 408

Discrimination adversely affects employee morale and productivity. Charter schools will, therefore, prohibit harassment of any person on the basis of that person's actual or perceived race, color, national origin, sex (including non-conformity to gender stereotypes), sexual orientation, age, disability, and/or religious preference, as harassment is defined by this policy and associated procedures. Charter schools will also prohibit harassment of individuals who are believed to have a relationship with persons who are protected on the basis of actual or perceived race, color, national origin, sex, sexual orientation, age, disability, and/or religious preference. Such behavior is just cause for disciplinary action. Charter schools will act promptly on formal and informal reports, complaints, and grievances of harassment, sexual harassment, and intimidation, that come to the school's attention. The school will immediately report harassing conduct that is violent or criminal in nature to local law enforcement officials.

Retaliation against any employee because he or she has made a report of alleged harassment or sexual harassment, or against any employee who has testified, assisted, or participated in the investigation of a report is prohibited. Such retaliation is itself a violation of law prohibiting discrimination and will lead to disciplinary or other appropriate action against the offender.

This policy applies to harassment or sexual harassment by any individual of any employee on school property, or while on school business.

HARASSMENT

Prohibited harassment is defined as behavior consisting of verbal or physical conduct that ridicules, degrades, or harasses a person because of his or her actual or perceived race, color, national origin, age, sex (including non-conformity to gender stereotypes), sexual orientation, disability, and/or religious preference.

Nothing contained in this policy should be construed or interpreted to prohibit or in any way to discourage the genuine discussion of issues or use of materials for academic, educational, or instructional purposes.

Prohibited harassment exists when the conduct:

1. Has the purpose or effect of creating an intimidating, hostile, or offensive working environment;
2. Has the purpose or effect of substantially or unreasonably interfering with an individual's work performance; or
3. Otherwise adversely affects an individual's employment opportunities.

Examples of general harassment include, but are not limited to, behaviors that ridicule, degrade, harass, etc., a person because of his or her actual or perceived race, color, national origin, age, sex (including non-conformity to gender stereotypes), sexual orientation, disability, and/or religious preference such as:

1. Unwelcome comments, ethnic, racial, anti-gay slurs and jokes, or threats;
2. Cartoons, graffiti, posters, visuals, etc., with offensive connotations, though nothing in this regulation shall be interpreted to prohibit use of such materials for genuine academic, educational or instructional purposes;
3. Sabotage, criticism, unreasonable monitoring of an employee's work, etc.; and
4. Hitting; intentionally blocking the path of; body, hand or facial gestures or contact.

SEXUAL HARASSMENT

Sexual harassment is generally defined as unwelcome sexual advances, requests for favors, and other verbal, nonverbal, or physical conduct of a sexual or gender-directed nature when:

1. Submission is made either explicitly or implicitly a term or condition of an individual's employment;
2. Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment; or
3. That conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's employment; or of creating an intimidating, hostile or offensive employment environment.

An “intimidating, hostile, or offensive employment environment” is an environment in which there is:

1. Any unwelcome behavior with sexual connotation that makes an employee feel uncomfortable, humiliated, or embarrassed; or
2. Any aggressive, harassing behavior in the workplace that is directed toward an individual based on their sex and interferes with his or her ability to perform at work.

The following are some examples of sexual harassment or intimidation:

1. Sexual advances that are unwanted (this may include situations which began as reciprocal, but later ceased to be reciprocal).
2. Sexual gestures, verbal abuse, sexually-oriented jokes, innuendos, or obscenities.
3. Displaying of sexually suggestive objects, pictures, cartoons, or posters.
4. Sexually suggestive letters, notes, threats, or invitations.
5. Employment benefits affected in exchange for sexual favors.
6. Physical conduct such as assault, attempted rape, impeding or blocking movement, or unwelcome touching.
7. Hazing, or daring to perform unsafe work practices, particularly directed toward employees in nontraditional settings.

PREVENTION

Charter schools will provide regular in-service training for employees about harassment, sexual harassment, and intimidation.

RESOLUTION OF COMPLAINTS

Any person who believes he or she has been or is being subjected to prohibited harassment of any kind by any individual associated with the school is encouraged to bring such harassment to the administrator’s attention, or to the attention of the president of the governing body if the administrator is a party to the harassment.

All harassment complaints will be handled in a timely and confidential manner. Information will only be shared with individuals who have a legitimate “need to know.”

Prompt attention and appropriate disciplinary action, up to and including termination, will be taken if an investigation reveals harassment has occurred. This action will be designed to stop the harassment immediately and to prevent its recurrence.

All persons shall be protected from coercion, intimidation, retaliation, interference, or discrimination as a result of filing a complaint or assisting in an investigation.

Any person who feels he or she has been harassed or is being harassed may utilize the informal or formal complaint procedures that follow. A person may utilize the INFORMAL COMPLAINT PROCEDURE and/or the FORMAL COMPLAINT PROCEDURE.

At no time shall an individual's attempts at informal resolution be used to delay or excuse the school's responsibility to investigate reports of harassment in a prompt and equitable manner.

All individuals are permitted and encouraged to have a friend or advisor present with them for moral support during any stage of the reporting and investigation. Once a report or complaint has been filed with the administrator, or with the president of the governing body if the administrator is alleged to be a harassing individual, a confidential and expeditious investigation shall begin following the procedures outlined in the following pages.

INFORMAL COMPLAINT PROCEDURE

At any time an individual may initiate the FORMAL COMPLAINT PROCEDURE, but he or she may choose to follow any or all of the following informal steps first if the harassment is not severe:

1. Informal Meeting: Harasser
 - a. The complainant (person who believes he or she has been harassed) may meet with the alleged harasser and inform him or her of the unwelcome behavior and that if the behavior stops, no further action will be pursued. A written informal complaint may be used if the employee wishes.
 - b. The complainant is also encouraged to contact the administrator, or, if the administrator is involved in the alleged harassment, the president of the governing body, to apprise him or her of the alleged harassment.

- c. The administrator, or the president of the governing body, will contact the complainant after a period of time to ensure the alleged harassment has ceased.
2. Informal Meeting: Administrator
 - a. The complainant may inform the administrator, or the president of the governing body if the administrator is involved, of the alleged harassment and request that he or she meet with the individual to discuss the allegation. The administrator, or the president of the governing body, will meet with the alleged harasser and inform him or her of the alleged unwelcome behavior. The alleged harasser will be informed that if the alleged behavior stops no formal action will be pursued.
 - b. The administrator, or the president of the governing body, will contact the complainant after a period of time to ensure the alleged harassment has ceased.

FORMAL COMPLAINT PROCEDURE

1. The complainant (person who believes he or she has been harassed) will inform the administrator of the alleged harassment, or, if the administrator is alleged to have been a party to the alleged harassment, the complainant will inform the president of the governing body of the alleged harassment. The complainant may report the alleged harassment verbally or in writing. The administrator, or the president of the governing body, will meet with the complainant to discuss the specifics of the complaint. A formal investigation will then be conducted by the administrator, or the president of the governing body.
2. A formal investigation of a complaint will normally include conferring with the parties involved and any named or apparent witnesses. Once the investigation is concluded, a review of the information will be conducted and a decision rendered regarding action to be taken. A meeting will be held with the complainant to communicate the results of the investigation. A meeting will also be held with the alleged harasser to communicate the results of the investigation and action to be taken, if any.

3. If either the complainant or the alleged harasser is not satisfied with the results of the investigation either of them may request a hearing before the governing body. At this hearing both the complainant and the alleged harasser may testify, present evidence, present witnesses and give arguments. Both the complainant and the alleged harasser are entitled to representation at this hearing.

DOCUMENTATION

With either a formal or an informal complaint the complainant should keep a journal or some other record of dates, times, places, witnesses, and description of each incident of harassment, sexual harassment, or intimidation, and also a record of all meetings and interactions related to resolving the problem. This journal and any other relevant records should be kept in a safe place.

CONFIDENTIALITY

A report of harassment, sexual harassment, or intimidation and the investigation are to be kept in strictest confidence, where practical, for the protection of all parties involved.

The school's obligation to investigate and take corrective action may supersede an individual's right of privacy.

Pending the completion of the investigation, the administrator, or the president of the governing body if the administrator is alleged to be a party to the harassment, may take any action necessary to protect the alleged victim, other employees, or students consistent with requirements of applicable regulations and statutes, if any.

SANCTIONS

Consistent with the requirements of applicable regulations or statutes, the administrator, if he or she is not found to be a party to the alleged harassment, sexual harassment, or intimidation may take such action as deemed necessary and appropriate after the completion of the investigation. All parties involved in the investigation shall be notified of the decision regarding the harassment.

The final disposition of the case may be by action of the charter school's governing body.

A substantiated charge against an employee of the school will subject the employee to disciplinary action up to and including discharge.

The due process rights of all individuals will be protected.

FALSE ACCUSATIONS

Persons perpetrating false or fabricated accusations will be held responsible for their actions, and may be subject to disciplinary action as listed under SANCTIONS above.

NOTIFICATION

Notice of these policies and procedures, the school's prevention plan, and grievance procedures and information on how to receive copies of these documents shall be posted in prominent locations in all school buildings. Notices shall also be included in staff handbooks. Notices will be updated annually with the names, locations, and phone numbers of contact persons in the school.

REMEDIATION

Staff targets of harassment and witnesses of harassment will be provided support services to help deal with the effects of harassment.

REPORTING

An Employee who believes he or she may have been harassed or intimidated should contact the administrator or, if the administrator is believed to be harassing the employee, the employee should contact the president of the governing body.

OTHER SOURCES OF ASSISTANCE

Nevada Equal Rights Commission
U.S. Department of Education Office for Civil Rights, Regional Office
State Department of Education

Legal References:

Title VII of the Civil Rights Act of 1964
Title IX of the Education Amendments of 1972
Other State and Federal Implementing Regulations

CRIMINAL DEFENSE COSTS 410

It is required under NRS 391.271 that “If a person who is or was employed by a school district is charged by criminal complaint with assault, battery or a similar crime as a result of his actions in attempting to maintain a safe or peaceful school environment, the school district shall, as soon as practicable, provide for the legal defense of the employee in that case.”

It is in both the individual employee’s best interest and the charter school’s best interest that employees have appropriate legal defense in such cases. Charter schools must comply with NAC 386 regarding insurance issues.

It is recommended that each charter school carry liability insurance on all of its employees to guarantee them coverage and protection in case of suit or claim of damage resulting from accident or incident occurring while in the pursuit of their official duties. Charter schools are also required to carry various types of insurance coverage under NAC 386.

No charter school should be obligated to assume any costs or judgment held against an employee when such damages are proved to be due to the employee's willful negligence, violation of law, or criminal act, as determined by a court of law.

Legal References

NRS 391.271
NAC 386

NEPOTISM 412

Except as hereinafter provided, no individual may be employed as an employee when the performance of such individual would be directly and immediately supervised and evaluated by any relative of such individual within the third degree of consanguinity or affinity; nor shall such related employees be assigned to positions that have a fiduciary responsibility to one another which could be compromised by such familial relationship.

A person so related, as specified in the above paragraph, may be hired or assigned when authorized by vote of the governing body upon the written request of the supervisor seeking to hire or assign such individual where some special, substantial, and convincing reason or such peculiar circumstances make such hiring or assignment reasonable and not otherwise detrimental to the school.

Should a relationship change occur that would result in a violation of this policy, it is both employees' responsibility to report this change to the governing body within thirty (30) days. The school then reserves the right to reassign or discharge one of the employees in order to comply with NRS 281.210. The school shall not allow any situation in which one relative within the third degree of consanguinity or affinity is in a supervisory role over another.

SELECTION COMMITTEES

Any employee who feels that he or she would have a conflict of interest by serving as a member of a selection committee, should not serve. A conflict of interest is any circumstance that would improperly influence a person to depart from the objective and impartial discharge of his or her responsibilities as a member of a selection committee. A conflict of interest may arise from any number of situations, such as a committee member being a relative of a candidate, close personal friend, former business associate, etc. If an individual is unsure if a conflict of interest might exist by serving as a member of a committee, he or she should consult with the administrator.

If another member of the selection committee, or any other person who has knowledge of the composition of the committee, believes there may be a conflict of interest, that person should notify the chairperson of the selection committee as soon as possible.

Legal Reference:

NRS 281.210

EVALUATIONS – CONFLICT OF INTEREST 414

An inherent conflict of interest and/or appearance of impropriety arises when a supervisor or other school employee evaluates another employee with whom he or she is involved in an intimate or romantic relationship. Such a relationship between evaluator and the person to be evaluated taints the evaluation process, adversely affects employee morale and productivity, and compromises the school's interest in promoting qualified employees on a fair and objective basis. Although all school employees have the right to engage in a consensual intimate or romantic relationship with another employee, the evaluation process should not be compromised as a result of such private activity.

For purposes of this policy, an "intimate or romantic relationship" includes dating, sexual contact of any type, or any other similar private activity that may compromise an employee's ability to evaluate his or her partner effectively and impartially. A marital relationship is presumed to be an "intimate or romantic relationship."

It is the duty of both employees involved in an intimate or romantic relationship to avoid the evaluation by one such employee of the other. The employee who is chosen to evaluate his or her partner shall consult with the governing body to select a suitable and qualified replacement. The person to be evaluated shall notify the school to select a suitable and qualified replacement in the absence of action taken by his or her partner. When a replacement evaluator is selected pursuant to this policy, the school shall respect the privacy of the employees involved in the intimate or romantic relationship and shall not create any record of, or place in either employee's personnel file, the reason for the need of a replacement evaluator.

If, after an independent investigation, the school learns that an evaluation has been conducted in violation of this policy, the school may take any or all of the following actions, depending upon the circumstances:

1. Reevaluate the person who was evaluated for the evaluation period in question, this reevaluation will be conducted by a suitable and qualified replacement of his or her partner or former partner.
2. Create a record in both employees' respective personnel files indicating that an evaluation was conducted in violation of this policy.
3. Take such other disciplinary action as is deemed appropriate.

GRIEVANCE PROCEDURE 416

The purpose of this procedure is to equitably resolve problems which may arise, and to do so at the lowest administrative level possible. Nothing in this policy shall deprive any staff member from pursuing his or her legal right(s) in state or federal courts.

GRIEVANCE

A grievance is a complaint by an employee or a group of employees based upon an alleged violation, misinterpretation, or inequitable application of rules, policies, regulations, or laws that govern the school. Such employee or employees shall be referred to as a “grievant” in this policy.

The act of filing a grievance shall not be construed as insubordination.

GENERAL PROVISIONS

Staff members shall follow all written and verbal directives given by their supervisors, even in those directives are allegedly grounds for a grievance. Compliance with such directives will not in any way prejudice the employee’s right to file a grievance, nor will compliance affect the ultimate resolution of the grievance. The single exception to the above is a situation in which peoples’ health or safety may be adversely affected. In a situation in which peoples’ health or safety may be adversely affected a staff member may not follow directives given by his or her supervisor.

No reprisals of any kind will be taken by the school’s governing body or by the school’s administration against any party because of filing a grievance or because they participated in an orderly manner in the grievance procedure on behalf of a grievant.

The charter school will provide a complete and regularly updated copy of its policies in a location that is accessible to all employees.

GRIEVANCE FILES

All documents, communications, and records dealing with the processing of a grievance will be filed separately from personnel files of the participants. These files will be available to grievants upon request.

REPRESENTATION

At each level of the grievance procedures the following people are entitled to representation of their choosing:

1. Any person or persons filing the grievance,
2. Any person or persons who might be required to take action relative to the grievance, and
3. Any person or persons against whom action might be taken in order to resolve the grievance.

TIME LIMITS

It is important that grievances be resolved as quickly as possible, and every effort should generally be made to expedite the process, however, by mutual agreement of the grievant(s) and the administration or governing body the number of days specified in any step of the grievance procedure may be extended.

If the grievant does not file a grievance within ten (10) working days after the grievant knew or should have known of the act or condition on which the grievance is based, then the grievance shall be considered waived unless the act or condition is continuing.

Failure to appeal a grievance in writing within the required time limits shall be deemed as a withdrawal of the grievance.

EXCEPTIONS TO TIME LIMITS

If a grievance is filed that cannot be processed before the end of the school term the parties involved may agree to continue the process into the summer months and/or to shorten time limits. If leaving such a grievance unresolved until the beginning of the following school term could result in harm to the grievant or anyone else involved, a good faith effort should be made by all parties involved to reduce the time limits and/or continue the process into the summer to resolve the issue prior to the end of the school term or as soon thereafter as practicable.

WRITTEN STATEMENTS AND RESPONSES IN THE PROCEDURE

It is recommended that all written responses be hand delivered and signed and dated by both the grievant and the administrator to avoid any misplaced communications or misunderstandings regarding timelines.

PROCEDURE

Level One – administrator informal

If an employee or group of employees feel they have grievance, the employee or employees as a “grievant” shall first discuss the matter informally with his/her/their administrator.

If the grievant is not satisfied with the disposition of the problem at the end of this meeting, the grievant may submit a written statement of the grievance and document any evidence related to the grievance in this statement. This written grievance shall be given or sent to the administrator and to the president of the school’s governing body within ten (10) working days of the informal meeting with the administrator.

The administrator shall respond to the grievance in writing within ten (10) working days giving his or her decision regarding the grievance and providing reasons for that decision.

Level Two – governing body

If the grievant is not satisfied with the administrator’s response to the grievance, the grievant may appeal the administrator’s decision to the governing body by requesting that the grievance be placed on the agenda for the next meeting of the governing body. This request must be made within ten (10) working days of receipt of the administrator’s written response to the grievance. If the agenda for the next meeting of the governing body has been set by the time this request is received, the grievance may be placed on the following agenda. When the governing body hears the grievance it must comply with the Nevada open meeting law. The governing body shall review any evidence, hear any testimony and hear arguments presented by or on behalf of the grievant and the administrator.

After hearing the grievance, the governing body shall make a decision on the disposition of the grievance and inform the grievant of their decision at that meeting unless it is mutually agreed by the grievant and the governing body that another course of action will be followed.

PERSONNEL INFORMATION AND RECORDS 418

An employee shall on his or her request, and by appointment, be permitted to examine his or her personnel file, which shall be kept in a secure location at the school. Personnel information, whether positive or negative, shall be maintained in this file and not in a separate file that can be presented later. An employee must be given a copy of any material in his or her file upon request.

No material derogatory to an employee shall be placed in his or her personnel file unless a copy of that material is provided to the employee. The employee shall be given ten (10) days to write a response that will be attached to and filed with the derogatory material.

Letters, reports, and warning notices that are negative or critical of an employee's conduct, service, or character shall be removed from the employee's personnel file under the following conditions:

1. After one year from the date of the document upon written request from the employee.
2. Documents will not be removed if a second document is entered for the same offense within one year of the date of the original offense. The expiration date of the original document would then be the expiration of the second document.

Letters of reprimand that are negative or critical of an employee's conduct, service, or character shall be removed from the employee's personnel file under the following conditions:

1. After three years from the date of the document upon written request by the employee.
2. Documents will not be removed if a second document is entered for the same offense within three years of the date of the original offense. The expiration date of the original document would then be the expiration date of the second document.

Evaluations are not documents that may be removed as described above.

EMPLOYMENT OF REGULAR PERSONNEL 420

These policies and procedures apply to the employment of regular employees, as opposed to substitute and other temporary employees.

It is vital to the successful operation of charter schools that all employees be qualified and competent. The governing body shall approve the employment, fix the compensation, and establish the term of employment for each person employed by the charter school. Except for administrators, who are more directly selected by the governing body, such approval shall be given only to those candidates for employment recommended by the administrator. Temporary employment prior to approval by the governing body is authorized when such employment is required to maintain continuity of services. At the next meeting of the governing body, the body shall approve regular employment, continued temporary employment, or termination of employment.

The school will comply with all applicable state and federal laws and base all hiring decisions on individual qualifications and the school's needs. All school employees shall be selected based on merit. The candidate's merit will be determined by an evaluation of the candidate's experience, performance, educational attainment employment background, maturity, and potential for maintaining and improving educational service in the school. All applicants shall receive full consideration without discrimination on the basis of race, religion, gender, sexual orientation, disability, national origin, ancestry, color, creed, or age.

Any employee's misstatement of fact material to qualifications for employment or the determination of salary shall be considered by the governing body to constitute grounds for dismissal.

The governing body shall be responsible for the selection of any administrators. The administrator shall be responsible for the selection and recommendation for employment of all other school employees. The governing body may disapprove any recommendation made by the administrator. The process of staff selection shall be free from pressures considered detrimental to the best conduct of the public schools and shall judge each candidate's qualifications by job related standards.

When recruiting staff, every effort will be made to seek and encourage applicants from diverse backgrounds. Diversity, in the context of hiring, means differences in age, experience/training, gender, cultural/ethnic background, and physical ability. However, final employment decisions shall be based upon the professional qualifications and merit of the applicant for the position.

Each school is encouraged to put into practice programs to support new employees. Every effort will be made to foster the continued training and education of current employees.

Exit interviews will be conducted when certificated employees leave the school. Data from these interviews will be shared with the governing body.

POSITION VACANCY AND ANNOUNCEMENT PROCEDURES

Positions will not be considered vacant until officially authorized by the governing body.

New positions will not be authorized until approval to create or add a position has been granted by the governing body.

Existing staff members shall be given first consideration for new or vacant positions.

Position openings that are announced on an open competitive, transfer, or promotional basis shall be posted by the school for not less than ten working days.

Job descriptions will be adopted by the school's governing body for all positions. Each job description will include as a minimum:

1. The job title,
2. A listing of the duties to be performed,
3. A list of the minimum qualifications for the position, and
4. A salary range or salary schedule.

Job announcements will include as a minimum:

1. The job title,
2. A listing of the duties to be performed,
3. A list of the minimum qualifications for the position,
4. A salary range or salary schedule,
5. A list of the materials an applicant must submit in order to apply for the position, and
6. Any other information an applicant will need to apply.

SELECTION PROCEDURES COMMON TO ALL POSITIONS

The following applies to all positions except those filled by reassignment of existing staff. Please refer to the section of this manual titled REASSIGNMENT 424 for procedures to be used when filling a vacant position with an existing staff member.

All applications for available positions should be sent directly to the administrator, or, in the case of an administrative opening, to the president of the governing body.

For administrative positions the selection committee chairperson shall be the president of the charter school's governing body, and for all other positions, the selection committee chairperson shall be the administrator.

The chairperson of the selection committee, or his or her designee, shall do all of the following:

1. Ensure that all applicants are treated equally in all stages of the selection process.
2. Ensure that all applicant information and deliberations remain confidential.
3. Ensure that selection shall be based solely on merit and that eligibility for employment shall not be affected by an applicant's race, religion, sex, age, disability, national origin, or color.
4. Assemble a selection committee composed of persons who should not be excluded from the committee based on the policy in this manual titled NEPOTISM 412. Selection committee members should have appropriate knowledge of the position and be in positions from which to validly judge the merits of the candidates.
5. Instruct the selection committee on the selection process in enough detail to ensure compliance with charter school policies and state and federal laws and regulations, and to ensure that all information and decisions shared with the committee remains confidential.
6. Paper screen submitted applications for completeness and eliminating any incomplete applications.
7. Rank the applicants' application materials based on criteria agreed upon by the selection committee.

8. Further reduce the applicant pool by pre-interview reference calls, if that is deemed appropriate by the chairperson of the selection committee.
9. Oversee the administration of any screening tests that may be selected to assess the candidates' abilities to perform the tasks for which they are being considered. Such tests may include written tests, lesson plans, sample lessons, oral presentations, group problem-solving activities, in-basket activities, mock parent or teacher conferences, and other activities designed to assess applicants' knowledge, skills, and abilities as they relate to the particular position.
10. With input from selection committee members, develop a set of interview questions which will be posed to all candidates in the interview process, discuss the sorts of answers to those questions the committee sees as favored, and set up a scoring system for the interviews.
11. See that all arrangements are made for the interviews.
12. Conduct applicant interviews with the selection committee.
 - a. At the interview all candidates will be asked essentially the same questions, but there will be an opportunity for follow-up questions.
 - b. Each selection committee member will be provided with a complete set of questions as well as other screening and rating materials.
 - c. Each selection committee member shall make an independent evaluation of the responses made by each applicant. These evaluations shall be made on previously agreed upon forms and selection committee members shall rank the candidates in order for themselves.
 - d. No selection committee members will discuss his or her opinion of any applicant until all interviews have been concluded.
 - e. When all interviews are completed, the committee will assess the applicants, sharing any and all information, pro and con, that will help the group assess the candidates' knowledge, skills, and abilities related to the job. From this the committee and will make a tentative selection and rank order the candidates.

13. Check applicant's references.
14. Verify the selected applicant's employment for the previous ten years. This may be reduced to the previous three employers if there are more than three employers in the previous ten years.
15. If information is discovered in the process of checking an applicant's references or verifying an applicant's employment experience that calls the committee's selection into question, the selection committee will be reconvened to reconsider that selection. The committee may decide to further investigate the applicant, continue to recommend the applicant, look at another candidate from the interview process, or reopen the position to obtain more applications.
16. When an offer has been made, contingent upon the approval of the governing body at its next meeting, and accepted by a candidate, the approval of that offer of employment will be placed on the agenda for the next meeting of the governing body.

No hiring shall be valid or final until approved by the governing body.

MINIMAL EMPLOYABILITY CRITERIA - CERTIFIED SCHOOL STAFF

This section applies to both certified (licensed) professional staff members and to unlicensed teachers and administrators, who may be hired under provisions of NRS 386.590.

In the process of selecting an individual to fill a position as teacher, principal, or other position requiring a license, the selection committee chairperson shall ensure that the person selected meets the following minimal criteria in addition to other criteria used in the selection process.

1. The applicant must be a citizen of the United States or be in compliance with the federal Immigration Reform and Control Act. (Not applicable to alien exchange teachers pursuant to NRS 391.070.)
2. The applicant must, if required under NRS 386.590, hold an appropriate certificate (license) or life diploma issued by the Nevada State Department of Education or the applicant must agree to obtain any such required license. If the applicant does not have a valid required license, the teacher may be separated immediately. Licensure is the responsibility of the applicant and a requirement of employment.

3. If a license or life diploma issued by the Nevada State Department of Education is not required under NRS 386.590, the applicant must meet the requirements listed in NRS 386.590.
4. The applicant must be in such physical and mental condition as to be able to perform his or her duties. Examination and certification by a physician designated by the school may be required at the applicant's expense.
5. If the applicant has previously been employed by the school, he or she must have a satisfactory employment history with the school or show other evidence that would support consideration for reemployment.
6. The applicant must be of reputable character.
7. The applicant must be willing to take an oath of office as required by NRS 391.080.
8. If the applicant is not a licensed teacher or administrator in the state of Nevada, the applicant must submit to the governing body of the school a complete set of his or her fingerprints and written permission authorizing the governing body to forward those fingerprints to the Central repository for Nevada Records of Criminal History for its report on the criminal history of the applicant and for submission to the Federal Bureau of Investigation for its report of the criminal history of the applicant. If the reports on the criminal history of the applicant indicate that the applicant has not been convicted of a felony or an offense involving moral turpitude, the governing body may employ the applicant.

All candidates shall be considered on the basis of their merits, qualifications, and the needs of the school. In each instance, the selection committee and the governing body shall seek to hire the best-qualified person for the job.

MINIMAL EMPLOYABILITY CRITERIA - CLASSIFIED SCHOOL STAFF

This section does not apply to unlicensed teachers and administrators hired under the provisions of NRS 386.590. Unlicensed teachers and administrators are covered in the previous section, titled MINIMAL EMPLOYABILITY CRITERIA - CERTIFIED SCHOOL STAFF.

In the process of selecting a person to fill a position that does not require a certificate (license) or life diploma issued by the Nevada State Department of Education, the selection committee chairperson shall ensure that the person selected meets the following minimal criteria in addition to other criteria used in the selection process.

1. The applicant must be a citizen of the United States or be in compliance with the Federal Immigration Reform and Control Act.
2. The applicant must possess or be able to secure any licenses, certificates, etc., that may be required for the position (Refer to NRS 386.590).
3. The applicant must be in such physical and mental condition as to be able to fully perform his or her duties. Examination and certification by a physician designated by the school may be required at the applicant's expense.
4. The applicant must be of reputable character.
5. If the applicant has previously been employed by the school, he or she must have a satisfactory employment history with the school or show other evidence that would support consideration for reemployment.
6. If the applicant is being hired to work in programs supported with Title I, Part A funds, the applicant must

EITHER

- a. Have a high school diploma, or its recognized equivalent, and
- b. Have completed at least two years of study at an institution of higher education, possess at least an associate's degree or have demonstrated subject-matter competence through a Department of Education approved assessment.

OR

- a. Be hired to act as a translator,
- b. Be hired to conduct parent involvement activities, or
- c. Have been employed as a paraprofessional by a school district or charter school in this state without an interruption in employment

before the date of hire by the charter school he or she has applied to for the position in question.

7. If the applicant is being hired as a driver, he or she must meet the standards under PRE-EMPLOYMENT TESTING in the policy in this manual titled DRUG AND ALCOHOL TESTING 450.
8. If the applicant is being hired as a driver, he or she must agree in writing to be tested for drugs and alcohol during his or her employment with the school as per the policy in this manual titled DRUG AND ALCOHOL TESTING 450.
9. The applicant must submit to the governing body of the school a complete set of his or her fingerprints and written permission authorizing the governing body to forward those fingerprints to the Central repository for Nevada Records of Criminal History for its report on the criminal history of the applicant and for submission to the Federal Bureau of Investigation for its report of the criminal history of the applicant. If the reports on the criminal history of the applicant indicate that the applicant has not been convicted of a felony or an offense involving moral turpitude, the governing body may employ the applicant.

References:

NRS 281.210
NRS 386.588 to 386.593
NRS 391.070 to NRS 391.140
20 U.S.C. § 6319(c)

REDUCTION IN FORCE 422

If the school determines that the staff needs to be reduced employees with the least “seniority” will be laid off first, however,

1. No employee shall be replaced by another employee who is not qualified, in the school’s opinion, for the remaining position;
2. No employee shall replace another employee who is in position with a higher salary range;
3. No licensed teacher shall be replaced by an unlicensed teacher if such replacement would result in a violation of the provisions of NRS 386.590 regarding the percentage of licensed teachers required in the school; and
4. An employee in one occupational series shall not replace an employee in another occupational series.

“Seniority date” shall mean the most recent date of employment with the school. Thus, a person who is hired, subsequently leaves the service of the school, and is rehired will have a “seniority date” that is the same as the date of his or her second hire. The exception to this rule is that person who leaves the service of the school as a result of a layoff, and who is rehired within one year, will have a “seniority date” that is the same as the date on which he or she was originally hired. A person who is hired by the school and has had no break in service with the school will have a “seniority date” that is the same as the date on which he or she was hired. If two employees have the same seniority date, the one who was first approved for employment by the governing body shall have the earliest seniority date. If a difference in seniority date can not be determined in this way, the employee who first signed a letter of intent to work for the school shall be considered to have the earliest seniority date. If none of these methods of determining which employee has the earliest seniority date, seniority shall be determined by a lottery.

The “seniority” an employee has at any time will be equal to the number of days of service since the “seniority date” minus any days not worked due to layoffs and minus any days not worked due to unpaid leaves of absence.

In the event of a reduction in force, existing vacancies will be used to the maximum extent possible to place employees in continuing positions.

For a period of one year after an employee has been laid off that employee must be given preference for rehiring in positions for which he or she is fully qualified. If two or more employees have been laid off and each qualifies for a position that is open, the employee who was laid off first will be given preference in filling the open position.

An employee who has been laid off and reemployed shall be given at least the same salary and rank as he or she had before being laid off and shall be given all unused sick leave and other benefits held when laid off. The exception to this is that an employee who has been laid off and then rehired in a position for which the salary schedule is lower than it was for his or her original position, the employee will not be paid on his or her original salary schedule, which applied to the position previously held. Reemployed individuals shall not accumulate benefits during their lay-off periods.

REASSIGNMENT 424

VOLUNTARY REASSIGNMENTS

Fully qualified existing staff members will be notified of all vacant positions, and they will be given first consideration for all vacant positions. Under this policy a promotion to a higher paying position will be treated as a reassignment.

All existing staff members who apply for a vacant position will be interviewed. If the position is not filled by an existing staff member the position will be advertised and filled from outside the school.

If two or more fully qualified staff members apply for reassignment to a vacant position, the following factors shall be equally weighted in making a selection:

1. Seniority,
2. Past work performance,
3. Academic preparation for the position and/or experience related to the position, and
4. The needs of the school.

If it is in the best interest of the school not to reassign an existing staff member the school may hire someone from outside the school. This might happen, for example, if a staff member with exceptional skills applied for a transfer and it would be very difficult to fill that person's original position in the school.

If the highest rated employee or the employee with the most seniority is not selected for the reassignment, the employee may request a conference with the administrator to discuss the reasons for the decision, and, if requested by the employee, these reasons shall be provided in writing.

No existing staff member shall suffer a loss of salary, fringe benefits, or seniority as a result of a reassignment. Exceptions to this include requested reassignment to a position with a lower salary schedule, lower full time equivalency, or fewer benefits. Before any such reassignment is finalized all reductions in salary and fringe benefits shall be made clear and shall be agreed to in writing by the employee.

INVOLUNTARY REASSIGNMENTS

The school shall always seek voluntary reassignments prior to instituting an involuntary reassignment.

Involuntary reassignments shall only be made for the following reasons:

1. As a result of a reduction in force,
2. As a change in the number of classes,
3. An unlicensed employee may be reassigned for less than 30 days in response to temporary requirements for work under NRS 391.205, and
4. Other justifiable reason.

Except as specified above, reassignments within a school may be made at the discretion of the administrator as long as:

1. Reassignments are made only after every effort is made to ensure that the reassignments are mutually agreeable to all parties concerned, however, the final decision to make such a reassignment rests with the administrator;
2. Any involuntary reassignment must be based on seniority, past work performance, academic preparation for the position and/or experience related to the position, and the needs of the school;
3. No reassignment may be made as a form of discipline; and
4. No reassignment shall be made that places an employee in a position for which he or she is not qualified.

Teachers who are reassigned during the school year shall be given ten working days notice prior to the date of the reassignment, and the school shall provide assistance in moving the teacher's classroom materials.

Legal Reference:

NRS 391.205

COMPENSATION – Classified 426

This policy applies to classified employees who are not hired as teachers or administrators. Teachers who do not hold Nevada teaching licenses, but who are teaching under the provisions of NRS 386.590 are covered by the policy titled COMPENSATION – Certified 428.

SALARY SCHEDULES

Salary schedules shall be adopted by the governing body for all classified positions.

OVERTIME

Overtime must be approved. No employee shall receive overtime compensation for work that was not approved.

Overtime pay is defined as additional compensation earned by a staff member who is held over on his or her regular shift in excess of

1. Eight hours in 1 calendar day;
2. Eight hours in any 16-hour period; or
3. A 40-hour week.

Exceptions under NAC 284.250 that are likely to apply to charter schools include those for:

1. For employees who choose and are approved for a variable workday, overtime will be considered only after working 40 hours in 1 week.
2. Employees who are eligible under the Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201 et seq., to work a variable 80-hour work schedule within a biweekly pay period and who choose, and are approved for such a work schedule, will be considered eligible for overtime only after working 80 hours biweekly, except those eligible employees who are approved for overtime in excess of one scheduled shift of 8 or more hours per day.
3. An agency may experiment with innovative workweeks upon the approval of the head of the agency and after majority consent of the affected employees. The affected employees are eligible for overtime only after working 40 hours in a workweek.

All overtime will be paid in cash or credited as “compensatory time off” at the rate of time and one-half, per NRS 284.180. The principal means of payment for overtime shall be in cash, however, upon agreement of the administrator and the employee overtime shall be paid in compensatory time off. Compensatory time off must be used within sixty days of the time it was earned unless a 30 day extension of this time is given by the administrator or a longer extension is given by the governing body. If compensatory time off is not used within the time allowed, the employee must request in writing that it be paid in cash within five days of the end of the time period within which it was to have been used, including any extensions granted.

Overtime shall not count toward PERS (Public Employees Retirement System) benefits as per NRS 286.481.

Employees called back to work for emergency work shall be granted a minimum of two hours of work, as per NAC 284.214. When an employee is called, but does not actually end up returning to perform emergency work, he or she shall be compensated for work performed on the telephone for actual hours in quarter hour increments and at a reimbursement rate of time and one half for overtime. Please refer to NAC 284.214 for more information concerning call back work and exceptions to the information provided here. Call back time will not be counted toward PERS retirement benefits, per NRS 286.025.

PAID HOLIDAYS

Employees who work four or more hours per day or twenty or more hours per week for 180 or more days per year will be paid for the following holidays:

1. Nevada Day
2. Presidents’ Day
3. Memorial Day
4. Labor Day
5. Veterans’ Day
6. Thanksgiving (2 days)
7. Christmas (2 days)
8. Martin Luther King’s Birthday
9. New Year’s Day
10. Easter (1 day)

RETIREMENT

Employees who work an average of 20 hours per week will have, in addition to their salary, the current costs paid by the charter school to the Public Employees Retirement System (PERS) for their retirement benefits.

JOB RELATED EXPENSES

The school will provide payment of the actual and necessary expenses, including travel expenses, of employees incurred in the course of performing services for the school under the direction of the governing body.

Use of a personal vehicle for approved school purposes is reimbursable at current state rates.

INDUSTRIAL COMPENSATION INSURANCE

Employees of the school will be covered by the State Industrial Insurance System. This coverage will be covered by the school at no cost to the employee.

TEMPORARY ASSIGNMENT

An employee may be temporarily assigned to perform duties outside the scope of his or her regular job description. If such an assignment exceeds 15 working days the employee shall be reclassified to another job classification with a minimum of 2.5% pay increase for the balance of the temporary assignment.

PROBATIONARY PERIODS

Normally a new employee will complete a one year probationary period. Each temporary or part time employee who is hired into a full time or permanent position will serve a one year probationary period. However, a temporary or part time employee hired into a full time or permanent position will be given the hours worked as a temporary or part time employee as time served towards the completion of his or her probationary period.

An employee who has been promoted will serve a one year probationary period in the position to which he or she has been promoted. If that employee receives an unsatisfactory evaluation for his or her service in the position to which he or she has been promoted, he or she may return to the position from which he or she was promoted if that position or a like position is vacant.

Positions that are reclassified will be considered upgraded and will not be considered new positions or promotions. Employees in reclassified positions will remain in their newly classified positions and receive appropriate pay increases.

Legal References:

NAC 284.214

NAC 284.250

NRS 284.180

NRS 286.025

NRS 286.481

Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201 et seq.

COMPENSATION – Certified & Not Administrative 428

This section applies to unlicensed teachers who are teaching under the provisions of NRS 386.590 as well as to certified (licensed) employees including teachers, librarians, counselors and others who normally work only two or three days longer than the 180 days of school each year.

Like school district negotiated agreements, this section addresses teachers most directly, but it is expected that other non-administrative certified employees will be treated equitably with teachers to the degree possible.

SALARY SCHEDULES

A salary schedule or salary schedules shall be adopted by the governing body for all certified positions.

SCHOOL YEAR – Non-administrative positions

The school year consists of all days from the first contracted day through the last contracted day, not to exceed 180 instructional days plus 2 days of orientation and/or preparation for returning employees or 3 days of orientation and/or preparation for new employees.

SCHOOL YEAR – Administrator

The school year consists of 210 days from the first contracted day through the last contracted day.

SCHOOL DAY– Non-administrative positions

The regular school day is defined as seven (7) hours and thirty (30) minutes. Any deviations from this requirement must be approved by the administrator.

A secondary teacher shall have no more than five (5) hours of student contact time each day and no more than twenty five (25) hours of student contact time each week.

An elementary teacher shall have no more than 312 minutes of student contact time each day or twenty six (26) hours per week of student contact time.

Student contact time refers to instructional or classroom time and does not include time spent supervising students during recess.

Teachers shall have an uninterrupted duty-free lunch period each day of not less than thirty (30) minutes, except when emergencies arise or scheduled special events make it necessary to alter the teacher's schedule. A teacher may volunteer to work during his or her duty-free lunch. The administrator shall make all determinations as to whether or not an emergency exists.

Teachers shall have forty-five (45) minutes for preparation each day except for emergencies or unusual scheduling problems, as determined by the administrator. Preparation time may be interrupted by conferences with parents or the administrator, school related telephone calls, and other school-related business. If block scheduling is used teachers may be given one hundred (100) minutes of preparation time every other day instead of forty-five minutes each day.

The administrator may require attendance of certified staff at staff meetings, in-service meetings, parent conferences, or similar activities designed to further the educational needs of the school. Such activities must be scheduled during the regular school day unless mutually recognized unusual circumstances warrant.

A certified staff member's school day may be extended by the assignment of duties such as bus duty, playground duty, and similar duties designed to ensure the safety and welfare of students. Such duties will be assigned equitably among the certified staff.

Open house nights will be attended by certified staff as part of their contractual duties despite the fact that time spent to attend open house will be beyond the regular school day.

Time spent outside of the regular school day in preparation for instruction, grading papers, and similar activities shall be done as needed with no additional compensation from the school.

SCHOOL DAY- Administrator

The regular work day is defined as a minimum of eight (8) hours.

Outside of the regular work day, the needs of the school may require attendance of the administrator at meetings of the governing body, in-service meetings, parent conferences, before or after school events, and other activities. Attendance at all such meetings, conferences, events, and other activities will be expected with no additional compensation from the school.

The school administrator will be expected to work outside of the regular work day as needed to ensure the proper functioning of the school. This time will be spent with no additional compensation from the school.

EXTRA DUTY PAY

Extra duties may include coaching, sponsoring school clubs, after school study programs for students, and similar assignments. Work in such additional assignments shall not be required as a condition of employment. Certified staff members shall be compensated for additional time spent in support of school activities at rates to be determined in advance by the governing body.

MANDATORY PARTICIPATION – Non-administrative positions

In addition to extra duties, which certified staff may perform for pay, there may be occasions that certified staff will be required to attend that lie outside of the above obligations. These may include, for example, mandatory training sessions and supervision at special events. Certified staff will be paid for the time they are required to spend at these activities at an hourly rate equal to their normal hourly rate of pay based on the number of days in their contracts and the seven and one half (7 ½) hours per day they are normally required to work.

TEACHING AN EXTRA CLASS

If both the teacher and the school agree, a teacher may use his or her preparation time to teach an additional class and be paid for that class at a rate equal to one fifth (1/5) of his or her regular salary.

EXTRA CONTRACT DAYS

The governing body may determine that some certified staff members services are required by the school for additional days beyond their normal contract year. Such determinations must either meet with the approval of the individual employee or be made nine (9) months in advance of the additional time to be spent on the job. Additional days in the certified employee's contract shall be paid at a rate that is equal to the employee's regular daily rate of pay.

RETIREMENT

The school will pay the current cost of the employee's contribution to the Public Employees retirement System for employees who work half-time or more. For employees who work less than half-time the school will pay Social Security tax.

TERMS AND DATE OF PAYMENT

All contracts are paid over a twelve (12) month period unless other arrangements are made with the administrator. Upon termination, a certified employee may request to have the earned balance of his or her contract paid as soon as is practical.

LEAVE OF ABSENCE 430

JURY LEAVE

Any employee called for jury duty:

1. Shall be entitled to leave with pay at the his or her regular rate;
2. Shall not have his or her leave for other purposes impacted in any way;
3. Shall report to his or her supervisor daily to report the jury's schedule for the following workday; and
4. Shall either give to the school all pay given to him or her by the court for days leave is taken, or be given leave without pay at the employee's discretion.

MILITARY LEAVE

As required under NRS 281.145, service in the United States military forces will constitute authorized leave with pay. A copy of orders from the employee's commanding officer must be submitted to the administrator.

SICK LEAVE

Full-time certified employees and uncertified teachers and administrators hired under the provisions of NRS 386.590 who work seven and one half (7 ½) or more hours per day, 182 or more days per year (including all leave taken other than leave without pay) shall accrue 15 days of sick leave per year.

Full time classified employees who work eight (8) hours per day, 180 or more days per year (including all leave taken other than leave without pay) shall accrue 15 days of sick leave per year.

Employees who work half-time or more, but less than full-time shall accrue sick leave on a prorated basis, e.g., an employee who works half-time shall accrue sick leave at one half the rate of a full time employee.

Employees who work less than half time will not accrue sick leave. This means, for example, that a classified employee who works less than 4 hours per day or less than 90 days per year, will not accrue sick leave.

Employees shall be given credit for unused sick leave earned in other public schools in Nevada as specified in NRS 391.180.

There shall be no limit to the accumulation of sick leave if service is continuous.

Sick leave may be used for absence from work due to personal illness or accident, or because of serious illness, accident, or death in the family. It is the responsibility of the employee to notify the school as soon as possible when he or she will be absent on sick leave so that a substitute can be arranged. A doctor's statement may be requested for any such absence. For a sick leave absence of ten days or more a doctor's statement is mandatory, and it must include the anticipated length of absence and the reason for the absence. Before the employee may return to his or her normal duties following a sick leave absence of ten days or more, a doctor's release must be submitted to the administrator.

Sick leave may also be used because of serious illness, accident, or death of a member of the immediate family.

The school shall include a report of accumulated sick leave on each employee pay stub.

LEAVE WITHOUT PAY FOR UP TO 30 DAYS

When an employee's sick leave has been exhausted and the employee needs to take time off that would normally be covered by sick leave, the administrator may grant leave without pay for up to 30 days.

Leave without pay may also be granted by the administrator for child rearing and other reasons deemed appropriate for the good of the employee and/or the school for up to 30 days.

Leave without pay for periods in excess of 30 days may be granted by the governing body for reasons of health, child rearing, and for other reasons deemed appropriate for the good of the employee and/or the school. Please refer to the sections of this manual titled FAMILY AND MEDICAL LEAVE ACT 446 for more information on this topic.

An employee will not earn annual leave or sick leave while on leave without pay, and he or she will not be credited with the time on leave without pay in the calculation of their seniority, which is used, for example, to calculate classified employees' annual leave, and which may be used in making decisions regarding reductions in force.

ANNUAL LEAVE - Classified

Unlicensed teachers and administrators are not covered in this section. Please refer to the next section titled ANNUAL LEAVE – Certified for annual leave policies that cover these employees.

Newly hired classified employees who earn benefits:

1. Begin earning annual leave time immediately,
2. May not take annual leave until satisfactory completion of six months of service, and
3. May not take annual leave if terminated before completion of six months of satisfactory service.

Annual leave days may be used whenever the employee wishes for personal business or time off with the following restrictions:

1. The employee shall give the school five days advance notice and receive the administrator's permission to take leave before using one or more annual leave days. The administrator will approve requests for leave in the order in which they are received. The administrator may deny a request for leave if granting the leave will put the school in the position of not having enough substitutes to adequately cover all of the leaves granted.
2. An annual leave day may not be used immediately prior to or immediately following a school holiday or vacation unless it is approved by the administrator;
3. Annual leave must be taken in increments of half and/or whole work days; and
4. An annual leave day may not be used within five school days of the beginning or end of a summer break or within five school days of the beginning or end of a break between sessions of a school that is on a year-round schedule unless an exception to this rule is approved by the administrator.

Full-time classified employees (who work 8 hrs. each day 180 days per year including leave time) accrue annual leave as follows:

1. Employees with less than 5 years of service will receive seven (7) days each year; and
2. Employees with more than 5, but less than 10, years of service will receive ten (10) days each year.

Employees who work 90 or more days per year, but less than 180 days per year, will accrue annual leave on a prorated basis using the above standards.

Employees who work 4 or more hours per day, but less than 8 hours per day, will accrue annual leave on a prorated basis using the above standards.

No annual leave will be provided to employees who work less than 4 hours per day, less than 90 days per year, or a combination of days and hours that amounts to less than half-time.

An individual's maximum accumulation of annual leave shall not exceed 30 days (240 hours). Any annual leave beyond this limit will be forfeited.

Annual leave earned in each pay period shall be credited to employees' accounts at the end of each pay period.

ANNUAL LEAVE – Certified

The annual leave for unlicensed teachers and administrators hired under the provisions of NRS 386.590 is the same as it is for licensed professional employees.

Each full time certified employee shall be credited with two annual leave days each year. Each year any unused annual leave days shall be rolled over to the next year. Certified employees who work less than a full year and/or less than full-time, but at least half-time, shall earn annual leave on a prorated basis.

Annual leave days may be used whenever the employee wishes for personal business or time off with the following restrictions:

1. The employee shall give the school five days advance notice and receive the administrator's permission to take leave before using one or more annual leave days. The administrator will approve requests for leave in the order in which they are received. The administrator may deny a request for leave if granting the leave will put the school in the position of not having enough substitutes to adequately cover all of the leaves granted.
2. An annual leave day may not be used immediately prior to or immediately following a school holiday or vacation unless it is approved by the administrator;
3. Annual leave must be taken in increments of half and/or whole work days; and
4. An annual leave day may not be used within five school days of the beginning or end of a summer break or within five school days of the beginning or end of a break between sessions of a school that is on a year-round schedule unless an exception to this rule is approved by the administrator.

LEAVE OF ABSENCE

Leave of absence without pay for up to a full school year may be granted by the governing body to employees who have completed at least three years of continuous service to the school.

Leave of absence without pay may be granted for the following reasons or such other reasons that the governing body decides are appropriate:

1. Approved study,
2. Approved travel,
3. Exchange with a teacher from another school system,
4. Health,
5. Child rearing,
6. Service in or for the armed services of the United States, and
7. Service in an elected public office.

All staff members who are on leave of absence without pay must notify the school in writing of their intent to return to their service with the school upon the completion of the approved leave. This notification must be received by the school by March 15. Failure to comply will terminate the employee's rights to re-employment.

If the employee fails to comply with the conditions of the leave of absence; the governing body may, at its discretion, terminate the agreement to reemploy.

Employees granted a leave of absence will return to duty at the same status on the salary schedule, unless they have qualified for advancement, e.g., by accumulation of graduate credits that place them higher on the salary schedule. Employees shall be credited with the same sick leave and personal leave that they had when their leaves of absence started.

LEAVE FOR PROFESSIONAL PURPOSES

The administrator may authorize absences of employees for professional purposes with pay provided that such absences provide an educational value to the school and do not exceed two weeks.

LEAVE WITHOUT PAY FOR PERSONAL BUSINESS

If an employee does not have any annual leave and needs to conduct personal business during work time or has an involuntary absence not here-to-fore provided for, the administrator may grant leave without pay if the employee applies for the leave at least ten (10) days in advance of the occurrence, or, if advance application is not possible, not later than ten (10) days after the occurrence. The administrator's decision to grant or deny leave without pay shall consider such factors as the amount of leave to be taken; length of service with the school; previous record of absence, other than for personal illness; and the purpose of the leave.

The administrator may also release employees for short periods of time during the work day when they are not needed at the school, e.g., during teachers' preparation time, or lunch time.

ABSENCES WITHOUT LEAVE

Other absences than those provided for or failure to follow the above policies regarding leave may be deemed neglect of duty or insubordination and may be sufficient grounds for dismissal.

Failure to report to work because of weather conditions, road conditions, or any reason other than those stated by these policies or law will result in a per diem deduction for the salary of the employee.

Legal References:

NRS 281.145

NRS 391.180

MENTORS 432

Experienced employees may serve as mentors for probationary employees so long as the mentoring is voluntary on both employees' parts. The role of the mentor shall be determined by mutual agreement of the evaluating administrator and both employees. The mentor shall not provide input for, nor be cited in, the evaluation of the probationary employee, and neither the administrator nor the probationary employee may use the mentor as a witness in any dispute arising from the evaluation of the employee being mentored.

DISCIPLINARY ACTIONS 434

PROGRESSIVE DISCIPLINE

The principles of progressive discipline will be used when considering disciplinary actions against any employee. These principles provide the employee with early notification of deficiencies and assistance in correcting deficiencies. Demotion, suspension, dismissal and non-renewal actions taken against certified employees in accordance with NRS 391 shall be, whenever appropriate, progressive in nature and reasonably related to the nature of the problem.

JUST CAUSE

The governing body shall not suspend a permanent employee without pay, nor shall the governing body demote, discharge, or fail to renew a permanent employee's contract as a disciplinary action without just cause.

APPEALS

Prior to suspension without pay, demotion, discharge or failure to renew a permanent employee's contract the employee shall have a right to a hearing before the governing body to provide evidence, testimony, and arguments on his or her behalf. At the conclusion of this hearing the governing body shall make a decision regarding the suspension, demotion, discharge, or failure to renew the employee's contract unless the employee and the governing body agree to another course of action.

At the hearing the employee will have a right to representation. The hearing shall be in a closed session of the governing body unless otherwise allowed by law and the wishes of the employee.

CERTIFIED EMPLOYEES

All disciplinary actions taken regarding certified employees shall be taken using procedures that are in compliance with the provisions and procedures of NRS 391.

Legal Reference:

NRS 391

EVALUATIONS 436

CLASSIFIED

Unlicensed teachers and administrators hired under the provisions of NRS 386.590 shall be evaluated as if they were certified employees.

Written evaluations of classified employees will be done annually assessing work performance based upon individual employees' job descriptions and job related behavior. Each employee's evaluation will be due on the anniversary of his or her original date of hire unless the employee has been reclassified by having his or her position reclassified or by having been reassigned to a job with a different classification. Employees who have been reclassified will have the date of their reclassifications as the dates on which their evaluations will be due.

If an employee believes that his or her evaluation is not fair, the employee may submit in writing to his or her supervisor any information and/or statements relevant to the evaluation, and those materials shall be attached to the evaluation before it is placed in the employee's personnel file. The employee shall also discuss the evaluation with the employee before it is placed in the employee's personnel file. As a result of any materials submitted by the employee and discussions with the employee the supervisor may choose to revise the employee's evaluation and present a revised evaluation to the employee. Any such revised evaluation will be treated as the initial evaluation is treated, allowing the employee to provide written input, that will accompany the evaluation if it is placed in the employee's personnel file.

If an employee receives an unsatisfactory evaluation, the employee shall be re-evaluated in three months.

If an employee is not evaluated on or before his or her evaluation due date, he or she shall have any merit increase that would result from a positive evaluation processed for the next pay period as it would be if the evaluation would have been done on time.

CERTIFIED

Evaluations of all certified employees and unlicensed teachers and administrators hired under the provisions of NRS 386.590 shall be done in compliance with the provisions of NRS 391 using instruments compatible with the position category, e.g., teacher, counselor, and librarian.

Legal References:

NRS 386.590

NRS 391

COMPLAINTS ABOUT STAFF 438

When there are complaints about a staff member they should usually be discussed with the staff member to try to resolve any problems before complaints are presented to a supervisor or administrator. Exceptions to this general rule include cases requiring criminal or welfare investigations.

Except for criminal or welfare investigations, no formal action shall be taken upon any complaint directed toward an employee, nor shall any record of the complaint be placed in the employee's personnel file unless such matter has been reported to the employee in writing within ten (10) working days of the complaint. This does not preclude the employee's supervisor or administrator meeting with the employee and resolving the issue informally. Such a resolution might even involve agreement to make some change in school operations that resolves a problem.

Any complaint that is not acted upon after investigation by the school shall not be considered in the employee's evaluation, shall not become a part of the employee's personnel file, and shall not be used against the employee in any action by the school.

PARENT COMPLAINTS

Each employee has the right to be present during parent conferences that bear upon the employee's work performance, and the employee shall be given prior notification of the nature of any such meeting. Such notification can occur immediately prior to the meeting, but the notification should provide the employee time to collect and bring any relevant materials to the meeting.

Written complaints made by parents may be placed in employees' personnel files if the employees have been provided copies of those complaints prior to those complaints being placed in the employees' personnel files. When a decision is made to place such a complaint in an employee's personnel file the employee shall be given ten (10) working days to write a response that shall be attached to the complaint in the employee's file.

CRITICAL LETTERS AND REPORTS

Letters or reports from the school, other than evaluations and letters of admonition, that are critical of an employee's performance will not be placed in an employee's personnel file without prior opportunity for the employee to review the document, present his or her point of view, and have ten (10) working days to write a response which will be attached to the document.

For more information on complaints in personnel files please refer to the section of this appendix titled PERSONNEL INFORMATION AND RECORDS 418.

OUTSIDE ACTIVITIES AND NON-SCHOOL EMPLOYMENT 440

Charter school staff should not engage in outside activities that interfere with their duties as members of the school staff. If outside activities such as non-school employment, political activities, volunteer work, church work, hobbies, etc. do interfere with staff members' abilities to perform their duties then legal and reasonable actions may be taken. For example, an employee's evaluation may reflect the effects of an employee not being able to perform his or her job duties at as high a level as he or she might otherwise, but evaluations may not be used to penalize staff members for their outside involvements. Evaluations will only be used to reflect employees' performance of their duties. The following discussion on school personnel and public office is provided as an illustration.

SCHOOL PERSONNEL SEEKING PUBLIC OFFICE

School employees have the right, as do other citizens, to seek public office. School employees are not encouraged to seek public office if it will interfere in any way with the performance of the duties for which they were employed. If an employee plans to run for office, the following guidelines shall be observed:

1. Before filing for any office, the employee must first notify the administrator and the governing body.
2. No electioneering or politics shall be brought into the schools.
3. No school time shall be used for electioneering or for the performance of any duties of the office.

UPON TAKING OFFICE

1. If there should be any released time from school duties for the office in any way, there shall be a substitute deduction for occasional absences. Longer absences may require a leave without pay.
2. Since it may be necessary in some cases to ask for extended and/or frequent periods of leave, the employee should be aware that this may reduce his or her effectiveness at school and could result in a less positive evaluation of the employee's job performance.

SUBSTITUTE AND TEMPORARY PERSONNEL 442

The following policy applies to all substitute and temporary personnel hired by a charter school.

The school will comply with all applicable state and federal laws and base all hiring decisions on individual qualifications and the school's needs.

All school employees shall be selected based on merit. The candidate's merit will be determined by an evaluation of the candidate's experience, performance, educational attainment, employment background, maturity, and potential for maintaining educational service in the school. All applicants shall receive full consideration without discrimination based on race, religion, gender, sexual orientation, disability, national origin, ancestry, color, creed, or age.

Any substitute or temporary employee's misstatement of fact material to qualifications for employment or the determination of salary shall be considered to constitute grounds for immediate dismissal.

The administrator, or his or her designee, shall do all of the following before a substitute or temporary employee is first hired:

1. Ensure that all applicants are treated equally in all stages of the selection process.
2. Ensure that all applicant information and deliberations remain confidential.
3. Ensure that selection shall be based solely on merit and availability for the position as it is or as it may arise. Eligibility for employment shall not be affected by an applicant's race, religion, sex, age, disability, national origin, or color.
4. Paper screen submitted application materials designed to elicit appropriate information upon which to make a selection for existing or potential substitute or temporary positions.
5. Conduct interviews and other applicant assessments as deemed appropriate.

6. Ensure that all applicants considered for substitute or temporary work meet the MINIMUM EMPLOYABILITY CRITERIA for the position(s) for which they are applying as listed in the appropriate section of this manual titled EMPLOYMENT OF REGULAR PERSONNEL 420. In applying these criteria it is important to note that there are sometimes reasonable exceptions. For example, substitute teachers may be employed with substitute teaching certificates to fill positions that normally require employees to hold regular teaching certificates, and an oath of office is not required of a substitute teacher each time he or she accepts a position.
7. Check applicants' references.
8. Verify the applicants' previous employment for a reasonable period of time or positions.
9. If information is discovered in the process of checking an applicant's references or verifying an applicant's employment experience that causes concerns, the applicant may be eliminated from consideration.

Once a substitute or temporary employee has been used that employee may be used or not used for future assignments as needed by the school, based on the quality of the employee's previous work at the school, as judged by the administrator, or his or her designee.

SUBSTITUTE EMPLOYEES

Substitute employees shall be paid a basic substitute pay for up to 20 successive school days of service in the same position. After 20 days of service in the same position, a substitute shall be paid at a long term substitute rate.

Under NAC 391.332 a substitute teacher may work an unlimited number of days of service if filling the position of a licensed teacher who is under contract. A substitute may also work 60 days if filling a teaching position for which a licensed teacher has not been hired, and this time may be extended in exceptional cases with approvals that are outlined in NAC 391.332 and NAC 391.398.

TEMPORARY EMPLOYEES

Temporary employees should not be hired to serve more than 90 successive days in the same position.

Legal References:

NAC 391.330

NAC 391.332

NAC 391.398

COMPENSATORY EXTRACURRICULAR POSITIONS 444

The responsibility for filling extra duty positions shall rest primarily with the school administrator, who shall annually determine the duties to be assigned and make such assignments after due consultation with teachers. Whenever possible, compensatory extracurricular positions should be assigned to certified or contracted personnel from within the school where the position exists.

Should on-site certified or contracted staff not be available to fill a compensatory extracurricular position, it is suggested the following steps be followed:

1. Seek certified staff from other schools.
2. Consider classified employees from within the school.
3. Consider qualified applicants from the community-at-large.

Though first consideration will be given to individuals as outlined above, the final selection will be up to the administrator.

An extra-pay-for-extra-duty schedule shall be established by the governing body.

FAMILY AND MEDICAL LEAVE ACT 446

Charter schools shall uphold the provisions of the Family and Medical Leave Act of 1993.

ELIGIBLE EMPLOYEES

Employees are eligible under the Family and Medical Leave Act if they have worked for the charter school for at least 12 months and for at least 1,250 hours during the 12 months before the time leave is taken under the Family and Medical Leave Act. Subject to the conditions in this policy, eligible employees may request up to 12 weeks family and medical leave during a twelve-month period.

Any employee who works principally in an instructional capacity who would be on leave for greater than 20% of the total number of working days in the period during which the leave would extend, may be required to take leave for periods of particular duration or transfer temporarily to an alternative equivalent position that better accommodates the leave.

Any employee who works primarily in an instructional capacity, and who requests a period of leave near the conclusion of the academic term, may be required to continue the leave until the end of the term.

PERMISSIBLE PURPOSES OF FAMILY AND MEDICAL LEAVES

An eligible employee may request a family and medical leave for any or all of the following reasons:

1. The birth of the employee's child;
2. The placement of a child with the employee in connection with adoption or foster care;
3. To care for a child, parent, or spouse who has a serious health condition; or
4. Due to a serious health condition that prevents the employee from performing the functions of his or her position.

In a situation where both spouses are employed by the school, the family unit is only entitled to an aggregate 12-week maximum leave period. If one spouse is ineligible for FMLA leave, the eligible spouse is entitled to the full leave period. If each spouse is entitled to the full leave period and if each spouse has used less than the 12-week leave for qualified purposes, each would be entitled to the unused portion of the 12 week entitlement.

Any leave of absence that is granted to an employee under this policy or any other policy for a purpose specified above shall be credited against the 12-week limit contained in this policy.

Leave taken to care for a new born or newly-adopted child must be completed within 12 months after the birth or adoption. Leave taken to care for a terminally ill child may be taken only once for any given child. The school may require confirmation by a health care provider of the employee's need for family leave.

"Child" is defined as a biological, adopted, or foster child, a stepchild, a legal ward who is under 18 years of age or incapable of self care due to a mental or physical disability. A "serious health condition" is one caused by injury, illness, impairment, or physical or mental condition that involves inpatient care or continuing treatment by a health care provider.

BENEFITS DURING LEAVE

An employee who is granted a family and medical leave of absence must utilize any accrued vacation and other applicable paid time off during the period of the leave. Any portion of a leave that occurs after all vacation and other applicable paid time off have been exhausted shall be without pay. For purposes of this policy's 12-week limitation, any paid and unpaid portions of the leave of absence shall be added together whether or not they are taken consecutively.

Any health insurance benefits ordinarily provided by the charter school, and for which the employee is otherwise eligible, will be continued during the period of the leave. The charter school will continue to pay its share of the premiums for the period of the leave, up to a maximum of 12 weeks. The cost of dependent coverage normally borne by the employee will remain the sole responsibility of the employee. The employee must pay his or her share of the premiums for dependent coverage by making timely payments to the charter school by the same times as such payments would be made if they were paid via payroll deductions.

NOTIFICATION RULES

An employee must provide proper notification as a condition of eligibility for this leave. The employee must notify the administrator in writing of the need for such a leave, the date it will commence, and the anticipated duration of the leave. The employee must provide 30 days advance notice, unless the family leave is not foreseeable, in which case the employee must notify the administrator of the expected leave within one (1) working day of the beginning of the leave. A failure to comply with these notice rules may result in denial or postponement of the requested leave. However, if the need for a family and medical leave results from an emergency or is otherwise unforeseeable, the leave will not be denied simply because an employee fails to provide advance notice.

CERTIFICATION BY HEALTH CARE PROVIDER

If an employee requests a leave due to a serious health condition of the employee or a family member, the employee must support the request with a certification issued by the health care provider of the individual with the serious health condition. The certification should include the following information:

1. The date, if known, on which the serious health condition commenced;
2. The probable duration of the condition;
3. An estimate of the amount of time that the health care provider believes that the employee needs to care for the individual requiring the care; and
4. A statement that the serious health condition warrants the participation of a family member to provide care during a period of the treatment or supervision of the individual requiring care.

If an employee requests intermittent leave for planned medical treatment, the certification should specify the dates on which such treatment is expected to be given and the duration of such treatment. If the time estimated by the health care provider (item number 3 above) above expires, the employee must submit a recertification if the employee desires additional leave. In addition, extensions will not be granted that cause the total period of the leave to exceed the 12-week limitation identified above.

REEMPLOYMENT PRIVILEGES

An employee who complies with the provisions of this policy will be guaranteed reemployment upon expiration of an approved leave, provided that the total period of the leave does not exceed 12 weeks. The employee will be reemployed in the same position or an equivalent position to the one he or she occupied when the leave commenced. An employee who takes a leave because of his or her own serious health condition must provide a medical certification verifying that he or she is able to return to work in the same manner as employees who return from other types of medical leave. If an employee fails to return for work immediately following the expiration of the approved leave, the employee will be considered to have voluntarily separated from the charter school's employ.

Legal Reference:

Family and Medical Leave Act

DRUG FREE WORKPLACE 448

Charter schools shall comply with the terms of the federal Drug Free Workplace Act, state laws, and regulations concerning the use of alcohol and drug abuse. It will be the policy of charter schools to maintain drug-free environments in all areas under their control. Drug-free environment is one in which no person may engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

Any violations noted should be immediately reported to the administrator in charge, who in turn shall report the violation to local law enforcement authorities for investigation. If the local law enforcement authorities determine that a violation of this policy and/or law has occurred, an appropriate action will be taken for filing administrative and/or criminal charges.

All employees are held equal under this policy and as a condition of employment accept the responsibility of reporting any conviction on a drug statute violation that occurred on school property to the administrator, or the president of the governing body in the case of an administrator, within five (5) days of conviction. The school in turn will notify all required agencies and parties of the violation conviction within ten (10) days of receiving the report.

Under this policy employees may be dismissed after due process procedures have been followed.

All new and existing school employees shall be made aware of this drug-free environment policy and dangers related to drug abuse in the work place. Drug and alcohol abuse can be managed or cured, and the school will encourage its employees with addictions or difficulties with alcohol, drugs, or controlled substance to make use of rehabilitation and treatment programs.

DRUG AND ALCOHOL TESTING 450

Charter schools shall adhere to federal law and regulations requiring a drug and alcohol testing program for employees who are required to maintain a commercial driver's license as a condition of their employment.

Charter schools are also required to comply with Federal regulations pertaining to the attainment and maintenance of an Alcohol and Drug-Free Workplace. These requirements are outlined by the U.S. Department of Transportation (DOT), Federal Highway Administration (FHWA), under Title 49 CFR Part 382 and Part 40. The purpose of this program is to reduce accidents that result from the use of alcohol and/or drugs, thereby reducing fatalities, injuries, and property damage.

DRIVERS SUBJECT TO ALCOHOL AND CONTROLLED SUBSTANCE TESTING

The alcohol and controlled substance testing regulation applies to all charter school drivers who are licensed to operate a commercial vehicle that:

1. Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight of more than 10,000 pounds;
2. Has a gross vehicle weight rating of 26,001 or more pounds;
3. Is designed to transport 16 or more passengers; or
4. Is of any size, is used to transport hazardous material, and requires the vehicle to be placarded under the hazardous materials regulations.

This includes, but is not limited to: Full-time drivers; casual, intermittent, or occasional drivers; leased drivers; and independent owner-operator contractors who are either directly employed by or under lease to the school, or who operate a commercial motor vehicle at the direction of or with the consent of the school. This program shall not apply to drivers who are granted a Federal or State waiver (i.e., emergency response vehicles) as outlined in Part 382.103.

SAFETY-SENSITIVE FUNCTIONS

A driver shall not use alcohol when performing safety-sensitive functions nor perform safety-sensitive functions within four (4) hours of using alcohol. No employer or appropriate designee having actual knowledge that a driver is using or has used alcohol as stated above shall permit the driver to perform or continue to perform safety-sensitive functions. No driver shall report for duty, remain on duty or perform a safety-sensitive function if the driver tests positive or has adulterated or substituted a test specimen for controlled substances. No employer or appropriate designee having actual knowledge that driver has tested positive or has adulterated or substituted a test specimen for controlled substances shall permit the driver to perform or continue to perform safety-sensitive functions.

A driver is performing a safety-sensitive function when:

1. All time at a school terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the school;
2. All time performing pre-trip inspections, general inspections, servicing, or conditioning any commercial motor vehicle at any time;
3. All time spent at the driving controls of a commercial motor vehicle in operation;
4. All time, other than driving time, in or upon any commercial motor vehicle, except time spent resting in a qualified sleeper berth;
5. All time loading or unloading the vehicle, supervising or assisting the loading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the motor vehicle, or in giving or receiving receipts for shipments loaded and unloaded;
6. All time repairing, obtaining assistance or remaining in attendance upon a disabled vehicle.

PROHIBITED CONDUCT

The following shall be considered “prohibited conduct” for purposes of this policy:

1. As per DOT regulations, no driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of .04 or greater. Pursuant to DOT regulations, no employer having actual knowledge that a driver has an alcohol concentration of .04 or greater, shall permit the driver to perform or continue to perform safety-sensitive functions. However, as per charter school policy, no driver shall report for duty or remain on duty while having an alcohol concentration of .02 or greater.
2. No driver shall use alcohol while performing safety-sensitive functions. The school, having actual knowledge that a driver is using alcohol while performing safety-sensitive functions, shall not permit the driver to perform or continue to perform safety-sensitive functions.
3. No driver shall perform safety-sensitive functions within four (4) hours after using alcohol. The school, having actual knowledge that a driver has used alcohol within four (4) hours, shall not permit a driver to perform or continue to perform safety-sensitive functions.
4. No driver required to take a post-accident alcohol test shall use alcohol for eight (8) hours following the accident or until he or she undergoes a post-accident alcohol test, whichever occurs first.
5. No driver shall refuse to submit to a post-accident alcohol or controlled substance test, a random alcohol or controlled substance test, a reasonable suspicion alcohol or controlled substance test, or a follow-up alcohol or controlled substance test.
6. No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, except when use is pursuant to the instructions of a licensed medical practitioner (Part 382.107) who has advised the driver that the substance will not adversely affect the driver’s ability to safely operate a commercial motor vehicle. The school, having actual knowledge that a driver has used a controlled substance, shall not permit the driver to perform a safety-sensitive function.

7. No driver shall report for duty, remain on duty or perform a safety-sensitive function if the driver tests positive or has adulterated or substituted a test specimen for controlled substances. The school, having actual knowledge that a driver has tested positive or has adulterated or substituted a test specimen for controlled substances, shall not permit the driver to perform or continue to perform safety-sensitive functions.

DRIVER VOLUNTARY SELF-IDENTIFICATION PROGRAM

In order to be supportive of drivers who come forward voluntarily to seek assistance for alcohol misuse or controlled substance use, drivers who admit to alcohol misuse or controlled substance use will not be subject to the referral, evaluation, and treatment requirements as outlined in 49 CFR Part 382 and Part 40 provided that the driver:

1. Does not self-identify in order to avoid testing under the requirements;
2. Makes the admission of alcohol misuse or controlled substance use before performing safety-sensitive functions; and
3. Does not perform a safety-sensitive function until the charter school is satisfied that the employee has been evaluated and has successfully completed education or treatment requirements as determined by a qualified Substance Abuse Professional (SAP). The employee must also provide a negative controlled substance test and/or an alcohol test result of less than .02 before participating in a safety-sensitive function.

No adverse action will be taken against a driver making a voluntary admission of alcohol misuse or controlled substance use as long as he/she complies fully with the requirements of the self-identification program.

ALCOHOL AND CONTROLLED SUBSTANCE TESTING

Drivers for charter schools shall be subject to the following types of alcohol and controlled substance testing:

1. Pre-employment testing,
2. Reasonable suspicion testing,
3. Post-accident testing, and
4. Random testing.

Under this policy return-to-duty testing and follow-up testing will not be required unless the charter school requires them.

PRE-EMPLOYMENT TESTING

All applicants for driving positions requiring a license to operate a commercial vehicle, as a condition of employment, upon a contingent offer of employment and before the employee begins his or her employment duties, must submit to a urine controlled substance test and breath alcohol test. The charter school will verify that no prior employer of the driver has records indicating a violation of any DOT rule pertaining to controlled substance or alcohol use within the previous two (2) years. Any applicant selected for a position that tests positive to a pre-employment controlled substance or alcohol test will be excluded from employment. Each driver who is absent from work for more than thirty (30) days will be subject to a pre-employment controlled substance and alcohol test.

All applicants for driving positions, as a condition of employment, will be required to sign a release of information allowing the school to access past employer records relating specifically to any record indicating that the driver had a positive alcohol test with a concentration of .04 or greater, positive controlled substance test results or refusals to test within the preceding two (2) years. Applicants will also be required to state on the application if they have had a positive alcohol test with a concentration of .04 or greater, positive controlled substance test, or a refusal to test within the preceding two (2) years. Any record of positive alcohol or controlled substance test or refusal to test will result in not being considered for employment or in a withdrawal of the offer of employment. In compliance with D.O.T. standards, it will be considered a refusal to test if the individual commences the collection process but then leaves before the collections process is complete or takes any action defined in policy as a refusal to test. Commencing the collection process begins when the individual selects an individually wrapped or sealed collection container from the collection kit materials. At that point, the individual is committed to complete the collection process or it will be considered a refusal to test.

If the driver applicant has had a positive pre-employment controlled substance test or refused to test during the past two (2) years from the date of the employment application with the charter school, the applicant will not be hired and the offer of employment will be withdrawn.

REASONABLE SUSPICION TESTING

1. A driver shall be required to submit to an alcohol and/or controlled substance test when the school has reasonable suspicion that the driver has violated the prohibitions of the alcohol and controlled substance program. The school's determination that reasonable suspicion exists to require the driver to undergo testing will be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the driver. The required observations for alcohol and/or controlled substance testing shall be made by a supervisor or designated school employee who is trained in accordance with Part 382.603.
2. A driver may be directed by the school to undergo reasonable suspicion alcohol testing only while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions. A driver may be directed by the school to undergo reasonable suspicion controlled substance testing at any time during work hours. The supervisor who makes the determination that reasonable suspicion exists will not conduct the driver's breath alcohol test.
3. If a reasonable suspicion alcohol test is not administered within two (2) hours following the determination that the driver was under the influence, the school shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If a reasonable suspicion alcohol test is not administered within eight (8) hours, the school shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test.
4. A written record shall be made of the observations leading to a reasonable suspicion controlled substance test, and it shall be signed by the supervisor who made the observations, within twenty-four (24) hours of the observed behavior or before the results of the controlled substance test are released, whichever is earlier. While DOT does not require written documentation for reasonable suspicion alcohol testing, it will be the policy of the school to require such documentation as outlined above.

POST-ACCIDENT TESTING

1. A driver shall be required to submit to controlled substance and alcohol testing as soon as possible following an occurrence involving a commercial motor vehicle operating on a public road in commerce when any of the following circumstances exist:
 - a. When a fatality occurs as a result of the accident;
 - b. When a driver receives a citation for a moving violation as a result of the accident and the accident involves an injury to anyone who requires immediate medical treatment away from the scene; or
 - c. When a driver received a citation for a moving violation as a result of the accident and the accident involves disabling damage to any of the vehicles. Disabling damage means one or more vehicles had to be towed away or could not be driven from the scene.
2. The school will require each driver to complete a post-accident report form that provides instructions to follow in completing any required alcohol and controlled substance test. Drivers will then be obligated to follow the instructions and see that the tests are conducted. Any driver subject to post-accident testing who leaves the scene of an accident before a test is administered, other than for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care, or who fails to remain readily available for testing, may be deemed by the school to have refused to submit to testing.
3. In the event that Federal, State, or local officials conduct a breath or blood test for the use of alcohol and/or urine tests for the use of controlled substances following an accident, these tests shall be considered to meet the DOT requirements, provided the tests conform to applicable Federal, State, or local requirements. The employee will be required to sign a release allowing the school to obtain the test results from such officials.
4. In the event a driver is so seriously injured that the driver cannot provide a urine or breath specimen at the time of the accident, the driver must provide necessary authorization for the school to obtain hospital records or other documents that would indicate whether there were controlled substances or alcohol in the driver's system at the time of the accident.

5. If an alcohol test is not administered within two (2) hours following the accident, the school shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If an alcohol test is not administered within eight (8) hours following the accident, the school shall cease attempts to administer an alcohol test and shall prepare and maintain the same record. Records shall be submitted to the FHWA upon request of their Associate Administrator.
6. For safety reasons, a driver required to submit to post-accident testing will be placed on a leave of absence with pay pending receipt of the post-accident testing result.
7. If a controlled substance test is not administered within thirty-two (32) hours following the accident, the school shall cease attempts to administer a controlled substance test, and the school shall prepare and maintain on file a record stating the reasons the test was not promptly administered. Records shall be submitted to the FHWA upon request of their Associate Administrator.

RANDOM TESTING

All drivers will be subject to random alcohol and controlled substance testing. The name of the entity contracted by the school to conduct a random selection system will be available to employees through the Alcohol and Drug Testing Program Manager who will be the administrator, or his or her designee. Random selection of drivers for testing and dates for testing may be accomplished by computer generated random selection, drawing names and dates from a hat or other generally accepted means for randomly selecting. Random selections will be unannounced and spread reasonably throughout the year. Random selection, by its very nature, may result in drivers being selected in successive selections or more than once in a calendar year. Alternatively, some drivers may not be selected in a calendar year, unless there is only one driver. The school will control substance test, at a minimum, one driver or fifty percent (50%) of the average number of driver positions in each calendar year, whichever is more. Random controlled substance testing may be performed at any time while the driver is at work for the employer. The school will select, at a minimum, one driver or ten percent (10%) of the average number of driver positions, whichever is more, for random alcohol testing. Random alcohol testing will be limited to the time period surrounding the performance of safety-related functions. A driver will only be tested immediately before, during, or just after the driver has ceased performing such functions. If a driver selected for a random test is not at work on the day designated for

random testing, the driver will not be tested. The school shall prepare and maintain on file a record stating the reasons the random test was not administered. When a driver is selected at random for testing, the Alcohol and Drug Testing Program Manager will notify the driver. Once notified, the driver must take action intended to lead to an immediate collection. If the driver engages in conduct that does not lead to a collection as soon as possible after notification, such conduct may be considered a refusal to test.

RETURN-TO-DUTY TESTING

Under this policy, any driver testing positive for alcohol at a concentration of .02 or greater, having a positive controlled substance test, or refusing to test will be subject to termination. As a result, the school will not provide an opportunity for a driver engaged in prohibited conduct to participate in return-to-duty testing. However, the school is required by the DOT regulations to provide information to all drivers on the requirements necessary to become medically re-qualified after engaging in prohibited conduct. A description of these requirements, including return-to-duty testing is found in Appendix A of this policy.

FOLLOW-UP TESTING

Under this policy, any driver testing positive for alcohol at a concentration of .02 or greater, having a positive controlled substance test or refusing to test will be subject to termination. As a result, the school will not provide an opportunity for a driver engaged in prohibited conduct to participate in follow-up testing. However, the school is required by the DOT regulations to provide information to all drivers on the requirements necessary to become medically re-qualified after engaging in prohibited conduct. A description of these requirements, including follow-up testing is found in Appendix A of this policy.

ALCOHOL TESTING PROTOCOL

Alcohol testing is done by testing breath, because breath is the most easily obtained bodily substance and the results are known within minutes of testing. The testing device is called an Evidential Breath Testing Device (EBT). The EBT is a scientific instrument that determines the concentration of alcohol expressed as "percent by weight." The weight of alcohol in the breath sample is determined and the quantity of the alcohol converted to its equivalent value in blood. A blood alcohol concentration (BAC) of .10 means one-tenth of a gram of alcohol per 210 liters of breath. The EBT will print three (3) numbered copies of each test. When an initial test result shows a reading of .02 BAC or greater, a confirmation test

will be conducted. Before the confirmation test, a 15-minute waiting period will occur for the purpose of ensuring that the presence of mouth alcohol from recent use of food, tobacco, or hygiene products does not artificially raise the test result. The confirmation test will be done using the same EBT as the first test. When the confirmation result is different from the initial test, the confirmation test result will always be used to determine driver consequences. The driver will be given a copy of the breath alcohol testing form. The EBT will be maintained in accordance with the standards outlined in 49 CFR Part 40, Section 40.55, Quality Assurance Plans for EBT's.

CONTROLLED SUBSTANCE TESTING PROTOCOL

1. The controlled substance testing program required by the regulations is limited to five (5) controlled substance types: 1) Marijuana, 2) Cocaine, 3) Opiates, 4) Amphetamines, and 5) Phencyclidine (PCP).
2. As set forth in 49 CFR Part 40, all controlled substance testing will be done from urine specimens collected under highly controlled conditions. The driver will provide a urine specimen, in a location that affords privacy. The "collector" will seal and label the specimen, complete a chain of custody document, and prepare the specimen and accompanying paperwork for shipment to a controlled substance testing laboratory. The specimen collection procedures and chain of custody ensure that the specimen's security, proper identification and integrity are not compromised.
3. Driver protection is also built into the testing procedures. In order to meet the Federal requirements, the only laboratories that can be used for testing are those certified by the Federal Government. The initial test of any specimen will be an immunoassay which meets the requirement of the Food and Drug Administration for commercial distribution. All specimens identified as positive will be further confirmed using gas chromatography/mass spectrometry techniques. Before a laboratory is certified to conduct controlled substance testing, it is subject to a rigorous testing and inspection by the Department of Health and Human Services (DHHS). This testing and inspection includes the submission of test samples to the laboratory for analysis during three (3) cycles over a period of three (3) months. If these test samples are correctly analyzed, a team of qualified inspectors conducts an on-site inspection prior to certification of the lab. Continuing evaluation of the performance of certified laboratories by the Department of Health and Human Services includes the submission of performance test specimens every other

month and an on-site inspection at least twice a year.

4. The laboratory must report test results to the school's designated Medical Review Officer within an average of five (5) working days after the receipt of the specimen by the laboratory. Test results must be certified accurate. The report must identify the controlled substances, metabolites tested for, whether the results are positive or negative, the specimen identification number assigned to the driver, and the controlled substance testing laboratory specimen identification number. The laboratory will retain samples that yield confirmed positive test results for one (1) year in secured frozen storage. Because it is possible that some analytes may deteriorate during storage, the results of the retest are to be reported as confirmation of the original test results if the detected level of the controlled substance is below the DOT established limits and equal to or greater than the sensitivity of the test.
5. Per DOT requirement, the approved U.S. Department of Health and Human Services Laboratories to be used by the school to perform controlled substance testing will be as follows: (Employees will be informed of the controlled substance testing location and primary site for sample collection through the Alcohol and Drug Testing Program Manager.)

COLLECTION SITES

Employees will be informed of the controlled substance testing location and primary site for sample collection through the Alcohol and Drug Testing Program Manager.

Drivers will not be allowed to transport themselves to or from the collection site in the event of a reasonable suspicion test or post-accident test request. The Alcohol and Drug Testing Program Manager will arrange transportation for the driver at all times. The driver shall report immediately to the collection site once properly notified.

The school will bear the cost for reasonable suspicion testing, post-accident testing, and random testing. The school will pay the initial cost of pre-employment testing with the understanding that if the driver fails to complete a nine-month probationary period, the cost of the pre-employment test will be deducted from the driver's final paycheck.

THE ROLE OF THE MEDICAL REVIEW OFFICER

1. The Medical Review Officer (MRO) is a licensed physician who is knowledgeable in the medical use of prescription controlled substances and the pharmacology and toxicology of illicit controlled substances. The primary responsibility of the MRO is to review and interpret positive test results obtained through the school's controlled substance testing program. Alcohol testing is not subject to medical review given the evidentiary nature of its results.
2. In terms of controlled substance testing, it is important to understand that a positive test result does not automatically identify an individual as an illegal controlled substance user. The MRO must evaluate the alternative medical explanations that could account for a positive test result.
3. The review of a positive test result is initiated immediately upon receipt and is ordinarily completed within two (2) working days after receipt of all information pertinent to the review. No information about the test result shall be given to the school during this period. In addition to information provided by the driver, this review will include considerations of chain of custody documents prepared at the time of collection and, in connection with the laboratory, processing of the specimen. In the case of a positive test result for cocaine, marijuana, or PCP, for which an acceptable medical explanation for the result is unlikely, the review should be completed on the day of the receipt of the report. This review must also include review of the chain of custody documentation. If the MRO is unable to contact the driver directly, the MRO will contact the school's Alcohol and Drug Testing Program Manager, who shall in turn contact the driver and direct the driver to contact the MRO. Upon being so directed, the driver shall contact the MRO immediately or, if the MRO is unavailable, at the start of the next business day.
4. During the review of the laboratory results, the MRO will conduct a medical interview with the driver, review the driver's medical history, or review other biomedical factors. This interview may be conducted by telephone. The MRO must review all medical records that the tested driver submits when a confirmed positive test could have resulted from legally prescribed medication. Prior to making a final decision to verify a positive test result for a driver, the MRO shall give the individual an opportunity to discuss the test result with him or her.

5. If any questions arise about the accuracy or validity of a positive test result, the MRO should review the laboratory records to determine whether the required procedures were followed. This will require collaboration with the laboratory director, the analysts, and expert consultants. If necessary, the MRO may request the sample be reanalyzed to determine the accuracy of the test result.
6. The MRO shall not disclose to any third party medical information provided by the individual to the MRO as part of the testing verification process with the following exceptions:
 - a. The MRO may disclose such information to the school, the DOT, or any other Federal safety agency, or a physician responsible for determining the medical qualification of the driver when an applicable DOT regulation permits or requires such disclosure;
 - b. In the MRO's reasonable medical judgment, the information could result in the driver being determined to be medically unqualified under an applicable DOT agency rule; or
 - c. In the MRO's reasonable medical judgment, the information indicates that continued performance by the driver of his or her covered function could pose a significant safety risk.

Before obtaining medical information from a driver as part of the verification process, the MRO shall inform the driver that the information may be disclosed to third parties and must also disclose the identity of any parties to whom the information may be disclosed.

7. At this point, the MRO makes a determination as to whether the result is scientifically sufficient to take further action. However, if the records from the collection site or laboratory raise doubts about the handling of the sample, the MRO may decide the urinary evidence is insufficient and no further actions would be taken. In these cases, the MRO shall note the possible errors in laboratory analysis or chain of custody procedures and shall notify the proper officials.
8. If it is determined with reasonable certainty that there is a legitimate medical or other reason to account for a positive laboratory test result, the report will be reclassified as a negative test result. The notice to the school will indicate that the test result was negative. Any medical information obtained by the MRO will be treated as confidential.

9. If there is no medical or other reason to account for a positive result, the verified positive test result will be disclosed to the school as required by the program. Any medical information acquired that is not specifically related to illegal controlled substance use will be treated as confidential and not disclosed.
10. No later than seventy-two (72) hours after receipt of a confirmed positive test result, a driver may submit a written request to the MRO for retesting of the specimen producing the positive test result. The MRO must honor the request. Each driver may have one written request that the sample of the specimen be provided to the original or another DHHS-certified laboratory for testing. Prior to the retest, the driver shall pay the costs of the additional test and all handling and shipping costs. The driver will be reimbursed for such costs if the retest is negative.
11. In summary, the MRO determines whether there is some reason other than illegal controlled substance use to explain a positive urine controlled substance test. If illegal controlled substance use is verified, the MRO will inform the Alcohol and Drug Testing Program Manager of the identification of the controlled substance found in a positive test. The driver shall then be notified of the results of the random, reasonable suspicion, and post-accident controlled substance test if the test results are verified as positive. The driver will also be informed as to which controlled substance(s) were verified as positive.
12. The school shall notify a driver applicant of the results of a pre-employment controlled substance test if the driver requests such information within sixty (60) days of being notified of the disposition of his or her employment application.
13. Employees will be informed of the MRO by the school's Alcohol and Drug Testing Program Manager.

DRIVER CONSENT

Under this policy, a driver's consent to alcohol and controlled substance testing is required as a condition of employment and a driver's refusal to consent will result in termination. Upon request, a driver must properly complete any required forms and releases and promptly provide a sample for alcohol and controlled substance testing. A driver who refuses to test under DOT regulations and this policy shall not be permitted to perform in a safety-sensitive position. Refusal shall be treated as a positive test for purposes of this policy and will result in termination. Consent to testing

includes a driver's obligation to fully cooperate.

REFUSAL TO SUBMIT TO A TEST

DOT regulations provide that a driver shall not refuse to submit to a required reasonable suspicion, post-accident, random, or follow-up alcohol and/or controlled substance test. Refusal to submit to an alcohol and/or controlled substance test is defined as:

1. Failure to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing;
2. Failure to provide a urine/saliva/breath specimen for alcohol and/or controlled substances testing after he or she has received notice of the requirement for testing;
3. Failure to provide adequate urine for controlled substance testing without a valid medical explanation after he or she has received notice of the requirement for urine testing;
4. Failing or declining to take a second test, following a negative dilute result, when required by the employer;
5. Failure to undergo an additional medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the Designated Employer Representative (DER), who in a charter school, is the Alcohol and Drug Testing Program Manager or appropriate others designated by the school, concerning the evaluation as part of "shy bladder" or "insufficient breath" procedures;
6. Failure to sign the certification at step 2 of the alcohol testing form (ATF); or
7. Engaging in conduct that clearly obstructs the testing process; including, but not limited to failure to appear for any test within a reasonable time after being directed to do so by the employer or to remain at the testing site until the testing process is complete, this includes the failure of an employee to appear for a test when called by their testing consortium; in the case of a directly observed or monitored collection of a controlled substances test, the driver fails to permit the observation or monitoring of the provision of a specimen .

Under this policy, a driver refusing to submit to a required test will be subject to termination.

CONSEQUENCES OF A POSITIVE TEST

Under this policy, any driver who is found to have a BAC of .02 or greater, or who tests positive for a prohibited controlled substance, shall be terminated. At the sole discretion of the school, a driver who is terminated may be given an opportunity to apply for a driving position once that driver becomes medically re-qualified and has followed all requirements as outlined in Part 382.605.

QUESTIONS REGARDING ALCOHOL AND CONTROLLED SUBSTANCE TESTING

Federal Regulations require that there be a person designated to answer questions about the alcohol and controlled substance testing program. The school may choose to designate the Alcohol and Drug Testing Program Manager as this person.

CONFIDENTIALITY OF RECORDS

The release of individual alcohol and/or controlled substance test records is permitted only with the specific written consent of the driver with the following exceptions:

1. The school shall make available copies of all results for alcohol and/or controlled substance testing when requested by the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over the school or of its drivers.
2. When requested by the National Transportation Safety Board part of an accident investigation, the school shall disclose information related to the administration of a post-accident alcohol and/or controlled substance test administered following the accident under investigation.
3. Records shall be made available to a subsequent employer upon receipt of a written request from the driver. Disclosure by the subsequent employer is permitted only as expressly authorized by the terms of the driver's request.
4. The school may disclose information required to be maintained under this policy pertaining to a driver, to the decision maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the driver, and arising from the results of an alcohol and/or controlled substance test administered under 49 CFR Part 382 (including, but not limited to a workers compensation, unemployment compensation, or other proceeding relating to a benefit sought by the driver).

Effective August 1, 2001, these proceedings have been expanded to include a criminal or civil action resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the controlled substance or alcohol test information sought is relevant to the case and issues an order directing the employer to produce the information. The employer may release the information only with a binding stipulation that the decision maker to whom it is released will make it available only to parties in the proceeding.

Upon written request, a driver shall receive copies of any records pertaining to his or her alcohol and/or controlled substance test results.

RELEASE OF ALCOHOL AND CONTROLLED SUBSTANCE TEST INFORMATION BY PREVIOUS EMPLOYERS

The school shall obtain, pursuant to a driver's written consent, information on the driver's alcohol tests with a concentration result of .04 or greater, positive controlled substance test results, and refusals to be tested, within the preceding two (2) years, that are maintained by the driver's previous employers. This information cannot be obtained without the driver's written consent. This information must be obtained and received by the school no later than thirty (30) calendar days after the first time a driver performs safety-sensitive functions. If it is not feasible to obtain the information prior to the driver performing safety-sensitive functions, the school will not permit a driver to perform safety-sensitive functions after thirty (30) days without obtaining the information. If the driver stops performing safety-sensitive functions for the school before expiration of the 30-day period or before the school has obtained this information, the school must still obtain these records. The school will provide to each of the driver's employers within the two (2) preceding years, the driver's specific written authorization for release of the information.

The release of any information under this policy may take the form of personal interviews, telephone interview, letters, or any other method of obtaining information that ensures confidentiality. The school will maintain a written, confidential record with respect to each past employer contacted.

DRIVER ASSISTANCE TRAINING PROGRAM

The school shall require designated supervisors and designated school employees who are assigned the responsibility to determine whether reasonable suspicion exists to require a driver to undergo testing, to receive at least 60 minutes of training on alcohol misuse and receive at least an additional 60 minutes of training on controlled substance use. The training shall cover the physical, behavioral, speech, and performance indicators of probable alcohol and controlled substance misuse.

The school will ensure all drivers receive information concerning the effects of alcohol and controlled substance use on an individual's health, work, and personal life; signs and symptoms of an alcohol or a controlled substance problem (the driver's or a co-worker's); and available methods of intervening when an alcohol or a controlled substance problem is suspected, including confrontation, referral to any employee assistance program, and/or referral to management. Drivers will also receive information on the requirements and procedures for alcohol and controlled substance testing, the consequences of refusing to submit to a controlled substance or alcohol test, and the consequences of having a positive controlled substance and alcohol test. The Alcohol and Drug Testing Program Manager will maintain a list of community treatment resources for drivers in need of assistance.

SEVERABILITY

If any part or provision of this policy, or the application thereof to any person or circumstance, should be held invalid by operation of law or by any tribunal of competent jurisdiction, or if compliance with or enforcement of any part of this provision is restrained by such tribunal pending a final determination as to its validity, the remainder of this policy, or the application of such part of provision to other persons or circumstances, shall not be affected and shall continue in full force and effect.

APPENDIX A

Under this policy, any driver testing positive for alcohol at a concentration of .02 or greater, having a positive controlled substance test, or refusing to test will be subject to termination.

However, the school is required by the DOT regulations to provide information to all drivers on the requirements necessary to become medically re-qualified after engaging in prohibited conduct. These requirements are as follows:

1. Return-to-Duty

- a. Each driver who has engaged in prohibited conduct shall be advised by the school of the resources available to the driver in evaluating and resolving problems associated with the misuse of alcohol and controlled substance, including the names, addresses, and telephone numbers of substance abuse professionals and treatment programs.
- b. Each driver who engages in prohibited conduct shall be evaluated by a substance abuse professional who shall determine what assistance, if any, the driver needs in resolving problems associated with alcohol misuse and controlled substance abuse. The substance abuse professional must require some level of professional assistance in every case as well as recommend at least the minimum number (6) of follow-up tests for each employee who returns to duty following any violation of the rules. Before a driver returns to duty requiring the performance of a safety-sensitive function after engaging in prohibited conduct, the driver shall undergo a return-to-duty alcohol test with an alcohol concentration of less than .02 if the conduct involved alcohol or a controlled substance test with a verified negative result if the conduct involved a controlled substance. The driver who returns to duty will also be subject to follow-up testing. Return-to-duty process and follow-up testing requirements continue to apply even if workers change jobs or have a break in service.

2. Follow-Up Testing

Each driver identified as needing assistance in resolving problems associated with alcohol misuse or controlled substance use, the driver shall be evaluated by a substance abuse professional (SAP) to determine that the driver has properly followed any rehabilitation program. The driver shall be subject to unannounced follow-up

alcohol and controlled substance tests administered by the school following the driver's return to duty. The number and frequency of such follow-up testing shall be as directed by the substance abuse professional, and it shall consist of at least six (6) tests in the first 12 months following the driver's return to duty. The school may direct the driver to undergo return-to-duty and follow-up testing for both alcohol and controlled substances if the substance professional determines that return to duty and follow up testing is appropriate.

Legal Reference:

Title 49 CFR Part 382 and Part 40, D.O.T., F.H.W.A.

USE OF TOBACCO 452

The use of tobacco products is prohibited within any building owned, leased, or contracted for; and utilized by a charter school for the provision of Kindergarten, Elementary, or Secondary education or library services to children in accordance with 20 U.S.C. S6084 (The Pro-Children Act of 1994). This prohibition extends to any portion of a building that is routinely or regularly used by school employees and, therefore, prohibits the school from designating an area or room in a building as a smoking area for employees. The designation of a smoking area by the administrator for those who may desire one shall not be in an area that is in proximity to students. The use of tobacco products shall not be allowed during staff and training meetings. Further, smoking and the use of tobacco products is banned in all vehicles owned by the school.

Legal References:

NRS 202.2491
20 U.S.C. S6084

USE OF FORCE & PROTECTION FROM PHYSICAL HARM 454

Corporal punishment may not be administered in charter schools, but NRS 392.4633, which prohibits corporal punishment, states in part: "... does not prohibit any teacher, principal or other licensed person from defending himself if attacked by a pupil." Further it does not prohibit the "... use of reasonable and necessary force:

- (a) To quell a disturbance that threatens physical injury to any person or the destruction of property;
- (b) To obtain possession of a weapon or other dangerous object within a pupil's control;
- (c) For the purpose of self-defense or the defense of another person; or
- (d) To escort a disruptive pupil who refuses to go voluntarily with the proper authorities."

In accordance with NRS 392.4633, physical force may be used as it is reasonable and necessary in the above instances.

No employee shall be required to perform any duty or act that unreasonably threatens an employee's or student's physical safety or wellbeing.

The school shall assist any employee who is assaulted while acting within the scope of his or her employment in accordance with school policies and direction. Administrative leave may be authorized by the administrator, upon request, without deductions to the employee's regular leave time.

Criminal charges or civil complaints filed against an employee shall not be the basis of disciplinary action by the school where the employee is acquitted or found not guilty of the allegations contained in the court documents.

Reasonable efforts will be made to ensure that each classroom has a working communication system that gives employees emergency contact with the main office.

Legal Reference:

NRS 392.4633

PROTECTION FROM BLOOD BORNE PATHOGENS 456

Charter schools shall offer appropriate protections to shield at-risk employees from the health hazards associated with the Hepatitis B virus and other blood borne pathogens. An employee shall be considered at-risk when their normal job duties subject them to possible exposure to blood borne pathogens. Usually this includes employees who are first aid responders as a function of their job, but may also include other employees who have frequent contact with blood or other body fluids in their employment duties. In accordance with federal Occupational Safety and Health Administration (OSHA) standards (29 CFR 1910.1030), the school will offer preventative measures to protect employees who work under these conditions. These measures shall include:

1. Training in the use of universal precautions;
2. Making available to the employee such protective devices as will help reduce or eliminate exposure (e.g., gloves, gowns, facemasks, appropriate disposal containers, disinfectants, etc.); and
3. Offering to provide, at school expense, protective vaccinations.

The school will offer these preventive measures to employees in writing on an individual basis and will document efforts to involve employees in these and related efforts. However, no employee will be required to submit to vaccination as a condition of employment.

If, while in the performance of his or her employment duties, an unvaccinated employee experiences an exposure incident, such as a needle stick or a blood splash in the eye, he or she will be offered, at school expense, a confidential medical evaluation and appropriate follow-up care from a licensed health care professional. The employee's blood will also be screened, if he or she agrees.

The health care professional must give a written opinion to the employer on whether or not the vaccination is recommended and whether the employee received it. All other information is confidential and may not be released to the employer by the health care professional.

The administrator shall annually determine the categories of employees who will be considered at risk and who will be offered the preventative measures outlined above.

Legal Reference:

Occupational Safety and Health Administration (OSHA) standards:
29 CFR 1910.1030

HIV AND OTHER INFECTIOUS DISEASES 458

Employees with HIV and other infectious diseases are entitled to continue to engage in as many of their normal pursuits as their conditions allow, including work. Administrators and other supervisors should be sensitive to such employees' conditions and ensure they are treated consistently with other employees, provided these employees meet acceptable performance standards and medical evidence indicates that their conditions do not constitute threats to others.

When the administrator of a charter school knows of or suspects the presence of a serious communicable disease such as human immunodeficiency virus (HIV) within the school, he or she shall notify the district health authority or the State Health Officer.

The health authority shall investigate the report to determine whether a communicable disease or the human immunodeficiency virus is present and direct what action, if any, must be taken to prevent the spread of the disease or virus.

As provided in NRS 441A.220, all persons involved in reporting procedures are required to treat all documents and all information obtained in any manner as confidential medical information that must not be disclosed to any person under any circumstances, including pursuant to any subpoena, search warrant or discovery proceeding, except as provided in NRS 441A.

Legal References:

NRS 441A.010 to 441A.330

SAFETY PROGRAM 460

The school will maintain safe and healthful working conditions in accord with applicable Nevada Revised Statutes and Administrative Code.

When each employee is hired he or she will be provided with a document or videotape setting forth the rights and responsibilities of employers and employees to promote safety in the workplace. The receipt of this information shall be documented by having the employee sign a receipt for the material and by placing that receipt in the employee's personnel file, as required under NRS 618.376.

The school will establish and conduct a safety program as required by NRS 618. The safety program will be administered by an administrator appointed by the governing body to ensure school compliance with all requirements set forth in NRS 618.

Legal Reference:

NRS 618