

CODE OF EMPLOYEE CONDUCT

Adopted: May 31, 2016
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1. Definitions. When capitalized anywhere in these Code of Employee Conduct, the following terms shall have the meanings stated unless the context clearly indicates otherwise:
 - a. “Applicable Law” means any applicable federal, state or local statute, ordinance or regulation, fiduciary duties, and includes applicable court precedent.
 - b. “Board” or “School Board” means the Board of School Directors of the Coatesville Area School District.
 - c. “Child Abuse” mean intentionally, knowingly or recklessly doing any of the following:
 - (1) Causing bodily injury to a child or student through any recent act or failure to act.
 - (2) Fabricating, feigning or intentionally exaggerating or inducing a medical symptom or disease which results in a potentially harmful medical evaluation or treatment to a child or student through any recent act.
 - (3) Causing or substantially contributing to serious mental injury to a child or student through any act or failure to act or a series of such acts or failures to act.
 - (4) Causing Sexual Abuse or Exploitation of a child through any act or failure to act. 23 Pa. C.S. Sec. 6301
 - (5) Creating a reasonable likelihood of bodily injury to a child or student through any act or failure to act.
 - (6) Creating a likelihood of sexual abuse or exploitation of a child through any recent act or failure to act.
 - (7) Causing serious physical neglect of a child or student.
 - (8) Engaging in any of the following acts:
 - (i) Kicking, biting, throwing, burning, stabbing or cutting a child or student in a manner that endangers the child or student.
 - (ii) Unreasonably restraining or confining a child or student, based on consideration of the method, location or the duration of the restraint or confinement.
 - (iii) Interfering with the breathing of a child or student.

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(iv) Causing a child or student to be present at a location while a violation of 18 Pa.C.S. § 7508.2 (relating to operation of methamphetamine laboratory) is occurring, provided that the violation is being investigated by law enforcement.

(vii) Leaving a child unsupervised with an individual, other than the child's parent, who the actor knows or reasonably should have known:

(A) Is required to register as a Tier II or Tier III sexual offender under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders),¹¹ where the victim of the sexual offense was under 18 years of age when the crime was committed.

(B) Has been determined to be a sexually violent predator under 42 Pa.C.S. § 9799.24 (relating to assessments) or any of its predecessors.

(C) Has been determined to be a sexually violent delinquent child as defined in 42 Pa.C.S. § 9799.12 (relating to definitions).

(9) Causing the death of the child or through any act or failure to act.

- d. "Code" means this Code of Employee Conduct.
- e. "Director of Human Resources" means the Director of Human Resources, an interim Director of Human Resources, an acting Director of Human Resources, or the designee of any of them.
- f. "Duty" means any duty established in or by: (i) Applicable Law, (ii) applicable School Board policy, (iii) applicable Code of Employee Conduct, (iv) applicable collective bargaining agreement, (v) applicable contract or administrative compensation plan, or (vi) applicable directive provided to the employee.
- g. "School District" means the Coatesville Area School District.
- h. "Sexual abuse or exploitation" means any of the following:
 - (1) The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another individual to engage in sexually explicit conduct, which includes, but is not limited to, the following:
 - (i) Looking at the sexual or other intimate parts of a child or another individual for the purpose of arousing or gratifying sexual desire in any individual.
 - (ii) Participating in sexually explicit conversation either in person, by telephone, by computer or by a computer-aided device for the purpose of sexual stimulation or gratification of any individual.
 - (iii) Actual or simulated sexual activity or nudity for the purpose of sexual stimulation or gratification of any individual.
 - (iv) Actual or simulated sexual activity for the purpose of producing visual depiction, including photographing, videotaping, computer depicting or filming.
 - (v) Any of the following offenses committed against a child:
 - (i) Rape as defined in 18 Pa.C.S. § 3121 (relating to rape).
 - (ii) Statutory sexual assault as defined in 18 Pa.C.S. § 3122.1 (relating to statutory sexual assault).

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- (iii) Involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).
- (iv) Sexual assault as defined in 18 Pa.C.S. § 3124.1 (relating to sexual assault).
- (v) Institutional sexual assault as defined in 18 Pa.C.S. § 3124.2 (relating to institutional sexual assault).
- (vi) Aggravated indecent assault as defined in 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).
- (vii) Indecent assault as defined in 18 Pa.C.S. § 3126 (relating to indecent assault).
- (viii) Indecent exposure as defined in 18 Pa.C.S. § 3127 (relating to indecent exposure).
- (ix) Incest as defined in 18 Pa.C.S. § 4302 (relating to incest).
- (x) Prostitution as defined in 18 Pa.C.S. § 5902 (relating to prostitution and related offenses).
- (xi) Sexual abuse as defined in 18 Pa.C.S. § 6312 (relating to sexual abuse of children).
- (xii) Unlawful contact with a minor as defined in 18 Pa.C.S. § 6318 (relating to unlawful contact with minor).
- (xiii) Sexual exploitation as defined in 18 Pa.C.S. § 6320 (relating to sexual exploitation of children).

i. “Sexual Misconduct” means:

- i. Any act, including, but not limited to, any verbal, nonverbal, written or electronic communication or physical activity, directed toward or with a child or a student regardless of the age of the child or student that is designed to establish a romantic or sexual relationship with the child or student;
- ii. Any sexual or romantic invitation to or with a student or child;
- iii. Dating or soliciting dates with a student or child;
- iv. Engaging in sexualized or romantic dialog with a student or child;
- v. Making sexually suggestive comments to any student or child;
- vi. Self-disclosure or physical exposure of a sexual, romantic or erotic nature at school or with any student or child; or
- vii. Any sexual, indecent, romantic or erotic contact at work or with any child or student.

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

j. “Superintendent” means the Superintendent, an interim superintendent, an acting superintendent, or the designee of any of them.

2. Serious or Egregious Offenses.

- a. Unless restricted by any applicable collective bargaining agreement and notwithstanding anything herein to the contrary, an employee may be discharged for any one or more of the following reasons:

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- i. Failure to meet any qualifications for the job or to have required licenses, certification, education or training;
- ii. Engaging in conduct that constitutes Child Abuse, Sexual Abuse or Exploitation, or Sexual Misconduct with any student or child;
- iii. Sexually harassing any student, employee, volunteer or visitor;
- iv. Bullying any student, employee, volunteer or visitor;
- v. Engaging in or allowing the hazing of any student;
- vi. Unlawfully discriminating against or retaliating against any individual;
- vii. Failing to make any report required by Applicable Law;
- viii. Lying at work;
- ix. Subjecting any student to corporal punishment;
- x. Bringing, possessing or consuming intoxicants, illegal substances, or look alike drugs on school property, in school vehicles or at school functions;
- xi. Engaging in criminal conduct on or off duty, other than a summary offense;
- xii. Reporting to work with illegal drugs or alcohol in your system;
- xiii. Refusing to take a drug or alcohol test when requested or required;
- xiv. Bringing pornography to work;
- xv. Displaying pornography at work;
- xvi. Willfully damaging, defacing, misusing or stealing the School District's property or the property of a student, parent or another School District employee;
- xvii. Using threatening language to anyone while on duty or to a student, parent or School District employee anywhere or at any time;
- xviii. Participating in practical jokes or pranks which cause injury requiring medical attention;
- xix. Physically fighting with or assaulting anyone at work;
- xx. Engaging in sexual conduct or activity at work or on School District premises, even if welcome and acceptable to the other party;
- xxi. Engaging in sexual conduct with any student or child;

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- xxii. Clocking the time card of another employee or falsifying any time card or other record or report, such as an employment application, medical reports, production records, time records, expense accounts, absentee reports, or shipping and receiving records;
- xxiii. Falsifying school district records;
- xxiv. Improperly taking or attempting to take leave to which the employee knows (or should know) that he or she is not entitled;
- xxv. Significant or repeated violation of safety rules or practices;
- xxvi. Engaging in unsafe acts or omissions;
- xxvii. Injuring any student, employee or other person at work through negligence or willful misconduct;
- xxviii. Bringing or allowing unauthorized individuals on the School District's premises;
- xxix. Disclosing confidential information in violation of School District requirements or Applicable Law;
- xxx. Possessing firearms or other weapons on School District property, in School District vehicles or at School District functions;
- xxxi. Possessing look alike weapons on School District property, in School District vehicles or at School District functions unless authorized by the building administrator for an approved curricular or co-curricular function;
- xxxii. Misusing School District communications systems, including electronic mail, computers, Internet access, and telephones;
- xxxiii. Failing to wear assigned safety equipment or failing to abide by safety rules and policies;
- xxxiv. Smoking where prohibited by local ordinance or School District rules;
- xxxv. Gambling on School District property or at work;
- xxxvi. Sleeping on the job;
- xxxvii. Violation of any law;
- xxxviii. Engaging in any criminal conduct (not including a summary offense);
- xxxix. Breach of any Duty that is considered serious or egregious.

- b. The foregoing examples of impermissible behavior are not intended to be an all-inclusive list. At the School District's discretion, any violation of the School District's policies or any conduct considered inappropriate or unsatisfactory may subject the employee to disciplinary action, including dismissal. The School District reserves sole discretion whether to apply progressive

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discipline in any given situation, subject to any applicable rules that may be contained in a collective bargaining agreement. Although each of the foregoing kinds of conduct are considered serious and egregious, the School District reserves the right to impose discipline less than discharge after considering relevant factors.

3. Other Offenses.

- a. Generally. In addition to the serious or egregious offenses enumerated above, subject to the restrictions in any applicable collective bargaining agreement, employees shall not engage in the following conduct:
 - i. Failing to perform duties as required contained in the employee's job description;
 - ii. Wearing improper attire or having an inappropriate personal appearance pursuant to Policy 425;
 - iii. Failing to maintain proper hygiene at work;
 - iv. Using profanity or abusive language;
 - v. Allowing students to use profanity or abusive language;
 - vi. Engaging in horseplay;
 - vii. Failing to keep work space reasonably well organized;
 - viii. Disrupting the operations of the School District or the educational activities of the School District;
 - ix. Refusing to follow management's instructions or directives concerning a job-related matter or being insubordinate;
 - x. Violating copyright;
 - xi. Spreading rumors at work (this does not include making reports of rumors to Childline, law enforcement, a supervisor or as required by law);

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

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

The Director of the Childline and Abuse registry testified before this Grand Jury regarding the process of making a Childline report. She testified that, when making a report either on line or by telephone, there are four options a reporter can select to describe how they came about the information reported Those options are: (1) told by another party; (2) media; (3) rumor: or (4) observed. It is clear that the Childline obviously intends. and is designed to accept, reports from sources that have no direct knowledge of suspected abuse In fact. "rumor" is an anticipated source of information.

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This is in compliance with Section 6311 (b)(1)(iii) of the CPSL, Persons Required to Report Suspected Child Abuse, which states that a mandated reporter shall make a report of suspected child abuse where “a person makes a specific disclosure to the mandated reporter that an identifiable child is the victim of child abuse. There are no limits or restrictions for the basis of the information.”

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

- xii. For purposes unrelated to work, using any material, document, logo, or thing that constitutes the Intellectual Property of the School District.
- xiii. Representing that you are acting for or on behalf of the School District when you are not.
- xiv. Refusing to answer questions from supervisors or counsel for the School District;
- xv. Failing or refusing to perform their job duties on a timely and in a competent manner;
- xvi. Failing to report to assignments on time and prepared to work;
- xvii. Driving a student alone, unless written permission has been granted by the building administrator in advance, or specifically assigned as part of the employee’s job;
- xviii. Drive to or from school or in connection with your job when you are not properly licensed to drive;
- xix. Failing or refusing to report any student who has violated the School District’s Code of Conduct where the student engaged in conduct that:
 - 1. Constituted sexual harassment;
 - 2. Constituted unlawful discrimination;
 - 3. Constituted unlawful retaliation;
 - 4. Constituted bullying;
 - 5. Constituted hazing;
 - 6. Involves a weapon;
 - 7. Involves the commission of a crime;
 - 8. Involves injury to another student;
 - 9. Underage drinking of alcohol at or away from school;
 - 10. Involved the possession or use of alcohol, illegal drugs or look-alikes by any student; or
 - 11. Involved a violation of the Code of Student Conduct that could result in an in-school suspension, out-of-school suspension or expulsion.

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xx. Failing or refusing to report:

1. Any instance of a concussion or possible concussion of a student;
2. Any instance of a threat of cardiac arrest; or
3. Any instance of a threat of suicide.

xxi. Touching students, employees, volunteers or parents, except as follows:

1. To quell a disturbance;
2. To obtain possession of weapons or other dangerous objects;
3. For the purpose of self-defense; and/or
4. For the protection of persons or property.
5. If necessary to touch for any one or more of the last four (4) of the foregoing reasons, employees may not use excessive force and may use only reasonable force.

- b. The foregoing examples of impermissible conduct are not intended to be an all-inclusive list. At the School District's discretion, any violation of the School District's policies or any conduct considered inappropriate or unsatisfactory may subject the employee to disciplinary action, including dismissal. The School District reserves sole discretion whether to apply progressive discipline in any given situation, subject to any applicable rules that may be contained in a collective bargaining agreement. Although each of the foregoing kinds of conduct may not be considered serious and egregious, the School District reserves the right to impose discharge after considering relevant factors.

4. Computer Rules.

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

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

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- iv. “Digital Technology” shall mean all forms of digital technology, Including Data, software, hardware, the School District’s network and all components of the School District’s network; and digital services of any nature and kind, that is based on digital technology and that is:
 - 1. owned, leased or licensed to the School District;
 - 2. that is accessed by or through Digital Technology that is owned, leased or licensed to the School District,

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

- v. “Includes” and “Including” shall mean inclusive of but not limited to and/or by way of example and not limitation.
- vi. “Malicious Code” shall mean any code in any part of a software system or script that is intended to or that does cause undesired effects, security breaches, degradation to system speed or functionality to or damage to a system; INCLUDING attack scripts, viruses, malware, worms, Trojan horses, backdoors, time bombs, and malicious active content.
- vii. "Pornography" or "Pornographic" Includes: (1) any visual or audio depiction, Including any photograph, digital image, film, video, picture, recording or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct; (2) nude pictures or images of the genitalia of any male or female or the breasts of any woman, Including any photograph, digital image, film, video, picture, or computer or computer-generated image or picture of such; and (3) the definition of such terms in any federal or Pennsylvania state statute.
- viii. “Storage Device” shall mean any device capable of storing data, code, or programs, Including CD’s, thumb drives, DVD’s, floppy’s, hard drives, RAM devices or any thing or item that has the function of storing or maintaining electronic data of any nature or type.
- ix. “Student Record” shall mean any item of information gathered within or outside the district that is directly related to an identifiable student.
- x. “User” shall mean a student, employee or visitor who is using any Digital Technology.
- xi. “User ID” shall mean the identification number(s) or letter(s) that is unique and that is assigned to the individual student or employee.

b. Computer Prohibitions. Employees shall not:

- i. use any Digital Technology of the School District for any purpose other than for the legitimate educational purposes of our students or for purposes of advancing the

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- legitimate business of the School District except use of personal email during the lunch break or before or after the scheduled work day;
- ii. use any of the School District's Computers or Data unless and until a confidential User ID and password has been assigned to the employee;
 - iii. use any of the School District's Computers or Data without using his/her User ID and password;
 - iv. Shut down any Computer without properly logging off the Computer;
 - v. disclose his/her User ID or password to any other individual unless directed by a properly authorized supervisor to do so;
 - vi. use or utilize the User ID and/or password belonging to or assigned to any other individual, or impersonate, in any manner, any other person;
 - vii. open or logon to any Computer, software, program or application using, utilizing or inputting the User ID and/or password of any other individual or entity, or use any default or preset User ID and/or password without express authority;
 - viii. misrepresent his/her identity when using the School District's Computers;
 - ix. bypass any blocking or security software that may be used or installed by the School District;
 - x. intentionally, willfully, maliciously or through reckless indifference damage or corrupt the functioning of any Digital Technology or any data stored, either temporarily or permanently on any Digital Technology;
 - xi. visit or access pornographic websites at work or through any School District Computer or Digital Technology;
 - xii. when using the School District's Digital Technology, violate any other applicable policy of the School District;
 - xiii. use any Computers unless and until the employee has signed an acknowledgment in the form prescribed by the School District attesting to the employee's understanding of the rules governing the use of Digital Technology.
 - xiv. intentionally enter or hack into any secure or confidential area of the School District's systems, network(s) or Computers without proper authority;
 - xv. violate the legal rights of others;
 - xvi. knowingly or willfully infect any Computer with any virus;
 - xvii. knowingly or willfully placing any Malicious Code in any Computer, software, or network or network component;

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- xviii. use any software or Internet site in violation of any applicable licensing agreement or applicable terms of use;
- xix. use any Digital Technology to hack into anyone else's Computers or networks in any way or manner that is not authorized;
- xx. use any data mining, robots, or similar data gathering and extraction methods in violation of any person's or entity's rights;
- xxi. use Digital Technology to violate any applicable law, Including the Wiretap and Electronic Surveillance Control Act;
- xxii. fail to report to the building administrator and School District's technology administrator any time when he/she inadvertently visits or accesses a pornographic site at work or through any School District Computer or Digital Technology;
- xxiii. violate any applicable work rule when using the School District's Digital Technology;
- xxiv. delete or remove any program, application, security feature, or virus protection from any School District Computer without express authorization in writing from an administrator in the technology department;
- xxv. incur any charges or costs of any nature or type to the School District in connection with Digital Technology or your use of Digital Technology; except as specifically and expressly authorized in accordance with applicable procurement requirements established by the School District or by Applicable Law, or telephone charges by an employee incurred for School District's purposes and consistent with the employee's authority;
- xxvi. hack into any hardware and/or software owned or licensed by the School District for any purpose;
- xxvii. violate any applicable criminal statute pertaining to computers, property or electronic devices, Including Chapter 76 of the Crimes Code, relating to computer offenses. 18 Pa.C.S.A. §7601 *et seq.*;
- xxviii. plant any virus, Malicious Code, pornography or other prohibited content or software on anyone's Computer, Including the School District's network or Computer(s), or any component of the School District's network;
- xxix. disconnect any hardware from any computer without prior explicit direction to do so, except with respect to laptop computers issued with the expectation that they will have hardware, such a printer, connected and disconnected;
- xxx. access another's Computer for any improper or unlawful purpose, Including to activate the audio or video functions of the Computer or to search the Computer's files, documents or codes, without the person's prior permission and authority; and/or

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

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- p. shall not engage in conduct prohibited by the act of December 12, 1973 (P. L. 397, No. 141) (24 P. S. § § 12-1251—12-1268), known as the Teacher Certification Law;
 - q. shall not engage in conduct prohibited by: (1) The Public School Code of 1949 (24 P. S. § § 1-101—27-2702) and other laws relating to the schools or the education of children;
 - r. shall not violate the applicable laws of the Commonwealth establishing ethics of public officials and public employees, including the act of October 4, 1978 (P. L. 883, No. 170) (65 P. S. § § 401—413), known as the Public Official and Employee Ethics Law;
 - s. shall not discriminate on the basis of race, National or ethnic origin, culture, religion, sex or sexual orientation, marital status, age, political beliefs, socioeconomic status; disabling condition or vocational interest against a student or fellow professional;
 - t. shall not interfere with a student's or colleague's exercise of political and civil rights and responsibilities;
 - u. shall not accept gratuities, gifts or favors that might impair or appear to impair judgment;
 - v. shall not exploit a professional relationship for personal gain or advantage;
 - w. shall not knowingly or intentionally distort or misrepresent evaluations of any student;
 - x. shall submit grades on a timely basis;
 - y. shall check and ensure that data inputted by the employee has been properly loaded and/or saved in the system;
 - z. shall not knowingly or intentionally misrepresent subject matter or curriculum;
 - aa. shall not knowingly or intentionally withhold evidence from the proper authorities about violations of the legal obligations as defined within this section;
 - bb. shall not knowingly or intentionally deny or impede a colleague in the exercise or enjoyment of a professional right or privilege;
 - cc. shall not knowingly or intentionally distort evaluations of colleagues;
 - dd. shall not use coercive means or promise special treatment to influence decisions of colleagues;
and
 - ee. shall not threaten, coerce or discriminate against a colleague who in good faith reports or discloses to a governing agency actual or suspected violations of law, agency regulations or standards.
6. Reporting Arrests, Indictments, Convictions and Pleas.

- a. Each employee is required to report each arrest, indictment, conviction and/or plea of any crime that is graded as a felony or misdemeanor of any degree or as otherwise required by any applicable law, including Act 24 of 2011 and Act 82 of 2012.

NOTES:

1. All misdemeanors and felonies must be reported under this work rule. By way of information, under the Educator Discipline Act, the Superintendent is required to report to the Pennsylvania Department of Education all misdemeanor and felony arrests of certificated employees.¹

2. All arrests, stops or tickets (not including a summary offense) for DUI must be reported within seventy-two (72) hours, even if it is a first time arrest, stop or ticket.

- b. The report must be made in writing (including email) to the Superintendent and the Director of Human Resources within seventy-two (72) hours of the arrest, indictment, conviction and/or plea.

7. Inappropriate Speech on Social Media. Employees may be subjected to discipline, including discharge, for expressive conduct on social media or otherwise, subject to whatever First Amendment rights, if any, that may exist. For example, upholding dismissal of a teacher for what she posted on social media, in the case of *Munroe v. Central Bucks School Dist.*, 2015 WL 5167011, at *17 (C.A.3 (Pa.),2015), a federal court said:

The job of a public school educator implicates a rather special set of circumstances and responsibilities. “Plaintiff worked in a school, where students ‘are impressionable and their attendance is involuntary.’ “ *Munroe*, 34 F.Supp.3d at 539 (quoting *Edwards v. Aguillard*, 482 U.S. 578, 584, 107 S.Ct. 2573, 96 L.Ed.2d 510 (1987)). One generally expects that a teacher would: (1) refrain from expressing outright hostility and disgust against them on her blog (at least where the blog itself was not protected by a password and evidently could be (and, in this case, was) discovered by the media and members of the school community); (2) when confronted with her derogatory comments, publicly defended what she had said; and (3) in the process, singled out specific and identifiable students as the targets of her ire. As the PSBA helpfully notes in its amicus brief, the Pennsylvania Code of Professional Practice and Conduct for Educators states, inter alia, that professional educators are expected to value “the worth and dignity of every person, student and colleague alike,” 22 Pa.Code § 235.3, and to exercise care in maintaining confidentiality, 22 Pa.Code § 235.4(b)(9).

161718 “The position of public school teacher ‘requires a degree of public trust not found in many other positions of public employment.’ “ *Munroe*, 34 F.Supp.3d at 539 (quoting

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

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

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

8. Rules of Construction.

- a. Notwithstanding anything herein to the contrary, nothing in this Code of Conduct shall be interpreted in a way that violates any applicable collective bargaining agreement or Applicable Law.
- b. If any provision contained in this Code of Conduct is ambiguous—i.e., capable of being given one or more reasonable interpretations—and one or more reasonable interpretations would render the provision unlawful or unconstitutional, the School District intends only those interpretations that are lawful and constitutional.

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

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

Signature: _____ Date: _____

Print Name: _____