

School attendance and class participation are integral parts of academic achievement and the teaching-learning process. Through regular attendance, students develop patterns of behavior essential to professional and personal success in life. Regular attendance by every student is mandatory. The State of North Carolina requires that every child in the State between the ages of 7 (or younger if enrolled) and 16 attend school.

Parents and legal guardians are responsible for ensuring that students attend and remain at school daily.

The principal must assure adherence to attendance policies and regulations and notify parents of their responsibility under the Compulsory Attendance Law (G.S. 115C-378). Teachers must monitor and report student absences on a daily and class period basis and follow all rules and regulations concerning attendance.

The Ten Day Rule states that when a student accumulates more than ten consecutive days of unlawful absences, he/she is to be withdrawn from funded membership as of the first day following his/her last attendance. The absence of a student which results from the suspension or expulsion of that student for misconduct may not be used for compulsory attendance violation action. Absence caused by out of school suspensions are not a factor in the administration of the Ten Day Rule.

Temporary Rule for Attendance on Remote Instruction Days

To be counted present during remote instruction days, students must either: (1) complete their daily assignments, either online or offline; or (2) have a daily check-in through two-way communication with (a) the homeroom teacher for grades K-5 or (b) the course teacher for all other grade levels. This temporary rule will remain in effect until repealed by the board or until the applicable guidance from the North Carolina Department of Public Instruction is rescinded, whichever occurs first.

A. ATTENDANCE RECORDS

School officials shall keep accurate records of attendance, including accurate attendance records in each class.

Attendance records will be used to enforce the Compulsory Attendance Law of North Carolina.

B. ATTENDANCE COMMUNICATION

Attendance concerns will be communicated in the following ways:

Local Requirements for 10% Notification

1. 3, 6, and 10 State Letters

When a student has missed 3, 6, or 10 days (unlawful) the state required **written** notification will be mailed **sent**. School officials and/or designees in charge of attendance will check these reports and generate and mail this documentation each day for students reaching the 3, 6, and 10 day absence (unlawful) milestones.

2. 3, 6, and 10 Day Phone Calls and Emails

- a. At 3 days absent (and for high school, 3 class periods absent) – teachers will call and email to notify parents of the absence. The call will be logged and the email will be saved for documentation purpose. Principals will require and check attendance logs regularly.
- b. At 6 days absent (and for high school, 6 periods absent) – school counselors will contact parents by phone and email. An attendance improvement plan will be created and put into place. The district truancy officer will also be provided with names of students reaching this attendance milestone. Waiver forms and processes will be provided at this time as appropriate (lawful absences only).
- c. At 10 days absent (and for high school, 10 periods absent) – principals will hold mandatory face to face meetings with parents and students along with relevant stakeholders (school counselor, truancy officer, teacher, etc.). If appropriate, waiver forms and processes will be provided (lawful absences only). The ability to be promoted (K-8) and/or the ability to receive credit for the course (9-12) part of this required meeting.

C. LAWFUL ABSENCES

The following are lawful (excused) absences permitted by the North Carolina State Board of Education attendance rules:

1. personal illness or injury that makes the student physically unable to attend school;
2. isolation ordered by the State Board of Health;
3. death in the immediate family;
4. medical or dental appointment;
5. participation under subpoena as a witness in a court proceeding;
6. observance of an event required or suggested by the religion of the student or the

student's parent or legal guardian that was previously communicated to the principal (the principal must authorize a minimum of two such absences for a student per academic year);

7. participation in a valid educational opportunity, such as travel or service as a legislative or Governor's page, with prior approval from the principal;
8. pregnancy and related conditions or parenting, when medically necessary; or
9. visitation with the student's parent or legal guardian if the student is not identified as at risk of academic failure because of unexcused absences and the student's parent or legal guardian (a) is an active duty member of the uniformed services as defined by policy 4050, Children of Military Families, and (b) has been called to duty for, is on leave from, or has immediately returned from deployment to a combat zone or combat support posting (the principal must authorize a minimum of two such absences for a student per academic year).

D. UNLAWFUL ABSENCES

Unlawful (unexcused) absences are defined as the student's willful absences from school without the knowledge of the parents or guardians, or the student's absences from school without justifiable causes with the knowledge of parents or guardians. All absences not classified above as lawful (excused) are deemed unlawful (unexcused). An absence also will be deemed unlawful unless the student's parent, guardian or custodian provides written documentation of the reason(s) for the absence to the principal or designee within three school days of the student's return to school.

E. HOMEBOUND PLACEMENTS

Homebound placements are based on medical or exceptional circumstances, and students are credited as in attendance when pre-approved by the appropriate official in the Thomasville City Schools.

F. MAKEUP WORK

Whether absences are lawful, unlawful, including absences under G.S. 130A-440 (for failure to submit a school health assessment form within 30 days of entering school) or due to suspension, the student will be permitted to make up his or her work. Students are responsible for all work missed when absent from school. Immediately upon returning to school, students must make arrangements with their teacher(s) to make up all work (assignments, tests, projects, etc.) missed while absent. Work must be made up during the grading period in which it was assigned.

G. ABSENCE DOCUMENTATION REQUIREMENT

All absences require a written note from the parent or guardian explaining the absence(s).

The student should deliver the note to school authorities (teacher, attendance office official, etc.) as soon as possible upon his or her return to school. Failure to submit such notes within three school days after returning to school will result in an unlawful absence being recorded.

Parents and guardians are requested to contact school officials as soon as possible when unanticipated absences occur. All anticipated periods of absence should be reported to school officials prior to the period of absence. Such absences should receive prior approval by school officials. Prior approval is required for any student departing from campus once he or she has arrived; this approval is required throughout the school day. Students must follow a sign-in / sign-out procedure as established by the school.

For absences of more than 3 consecutive days for illness or for absences of 6 or more total days for illness (chronic illness), documentation from medical personnel will be required in order to excuse the absence.

H. TARDIES/EARLY SIGN-OUTS

When a student has no lawful excuse for not being in the required, scheduled location at the appropriate time as determined by school start times and bell schedules, a student is considered tardy (unlawful/unexcused).

Six (6) or more tardies/early releases in a semester will lead to mandatory meeting with relevant stakeholders (principal, school counselor, teacher, parent/guardian, student, etc.) to create an attendance improvement plan.

I. DEFINITION OF BEING “IN ATTENDANCE”

To be considered “in attendance,” a student must be present in the school for at least one-half of the school day. For high school students, this also includes being in attendance for two-thirds of the class period (that would be 60 minutes of a 90-minute block) to be counted “in attendance” for that class period.

Students may, with the approval of the school principal or designees, attend an authorized school activity and be considered “in attendance.” Such activities include, but may not be limited to, job shadowing and other work based learning activities, field trips, athletic contests or other competitions, student conventions, music festivals, concerts or similar activities approved by the school.

J. UNLAWFUL ABSENCE DISCIPLINARY ACTIONS

Unlawful absences will result in conferences with parents or guardians. Unlawful absence and/or truancy may lead to disciplinary action to include court proceedings

involving parents and/or students if the student is under 16 years of age. G.S. 115C-378 requires attendance until age 16.

K. ATTENDANCE REQUIREMENTS AND EXCESSIVE ABSENCES

The goal of Thomasville City Schools is to have at least 95% attendance. Schools seek to have partnerships with parents to improve attendance and ask that parents commit to this goal.

1. Elementary School and Middle School: Students in grades K-8 who are absent from school more than 10% of days (for example: 18 days in a 180-day calendar) for any reason may potentially receive no credit for the year of study and may be retained in the same grade for the succeeding year, except by a determination of the principal upon review of the student's record and waiver requests. Absences cannot be a sole reason for retention.
2. High School: If a student is absent from school for nine or more days (10% or more) in a semester course, the student may lose the opportunity to receive credit for the course. He or she may receive a grade of FF along with the comment "grade due to excessive absences" unless his or her average is lower, in which case the actual grade earned will be assigned.

At the high school level, cumulative absences above six (6) in a block/semester course (twelve (12) in a full-year course) are excessive. These will serve as a trigger to the school to begin intervention.

After three (3) days of accumulated absences in one or more block courses, (six (6) in a full-year course) there will be school determined, expectation-based intervention to help the student improve his/her attendance. The intervention will involve parents.

After six (6) days of accumulated absences in a block course (twelve (12) in a full-year course) and failure to meet previously-determined expectations, the student will be subject to the following possible actions if absences exceed 10% of days (9 days/periods in a semester course, 18 days/periods in a year-long course):

- a. the student may not receive a passing grade for the semester (FF – no credit awarded);
- b. the student may receive the grade otherwise earned; or
- c. the student may be given additional time to complete the missed work before a determination of the appropriate grade is made.

Students with excused absences due to documented chronic health problems are exempt from this policy.

In addition, for students experiencing homelessness (see board policy 4125, Homeless Students), school officials must consider issues related to the student's homelessness, such as a change of caregivers or nighttime residence, before taking disciplinary action or imposing other barriers to school attendance based on excessive absences or tardies.

The waiver process established by the district will be followed.

Absences cannot be the sole factor determining the denial of credit for the course.

At any level, promotion decisions affecting a child in the Exceptional Children's program will include recommendations of the IEP team.

Excessive absences may impact eligibility for participation in interscholastic athletics. See policy 3620, Extracurricular Activities and Student Organizations.

L. WAIVERS

Each school's principal will be responsible for waivers in order to address the needs of students whose academic standings are in question because of attendance. Students absent from school more than 10% of days (9 per semester or 18 per year) must make up all missed schoolwork in order to receive credit toward promotion/graduation. Students whose academic standing is adversely affected by this standard have the right to appeal for a waiver. The appeal must be submitted to the principal in writing along with any appropriate or required documentation. Principal decisions may be appealed to the superintendent. Waivers of absences may be granted by the principal only when extenuating circumstances exist. Students with lawful absences due to documented chronic health problems are exempt from this policy. Waivers may only be granted for excused/lawful absences.

Legal References: McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11431, *et seq.*; G.S. 115C-47, -84.2, -288(a), -375.5, -378 through -383, -390.2(d), -390.2(l), -390.5, -407.5; 130A-440; 16 N.C.A.C. 6E .0102, -.0103; State Board of Education Policies ATND-000, -003, NCAC-007

Cross References: Extracurricular Activities and Student Organizations (policy 3620), Education for Pregnant and Parenting Students (policy 4023), Children of Military Families (policy 4050), Immunization and Health Requirements for School Admission (policy 4110), Homeless Students (policy 4125), Short-Term Suspension (policy 4351)

Adopted: June 4, 2013

Revised: August 1, 2017; October 2, 2018; February 4, 2020; February 2, 2021

DISCRIMINATION AND HARASSMENT IN THE WORKPLACE

Policy Code:

7232

The board prohibits unlawful discrimination in employment based on race, color, religion, national origin, military affiliation, genetic information, sex (including pregnancy, childbirth, sexual orientation and gender identity), age (40 or older), disability or other unlawful grounds. Harassment is a form of unlawful employment discrimination. The board recognizes that all forms of harassment of employees or applicants is harmful behavior that negatively impacts the workplace environment.

Any employee who engages in discrimination or harassment prohibited by this policy or who contributes to the development of a hostile work environment is subject to discipline, up to and including dismissal.

A. DISCRIMINATION PROHIBITED

Discrimination is any act or failure to act, whether intentional or unintentional, by an employee or agent of the school system that unreasonably and unfavorably differentiates treatment of others based solely on their membership or that of an associate in a legally-protected class.

Discrimination in employment based on the characteristics listed above is prohibited in all employment-related practices, including hiring, compensation, terms, conditions, and other privileges of employment, except when sex, age or physical requirements are essential occupational qualifications.

B. HARASSMENT PROHIBITED

Harassment prohibited by this policy is unwelcome conduct based on race, color, religion, national origin, military affiliation, genetic information, age (40 or older), sex (including pregnancy, childbirth, sexual orientation and gender identity) or disability where:

1. enduring the offensive conduct becomes a condition of continued employment; or
2. the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive, even if the complaining individual is not the intended target.

A single incident of harassment, if physically threatening or humiliating, can create a hostile work environment. The complaining individual need not be the target of the harassment.

Examples of unwelcome conduct that may violate this policy include, but are not limited to, offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures and interference

with work performance.

Petty slights, annoyances, simple teasing, offhand comments, or isolated incidents (unless extremely serious) are not harassment under this policy, nor are reasonable performance management actions taken to direct and control how work is performed or to monitor and give feedback on work performance. The exercise of legitimate authority administered in a professional and constructive manner is not harassment under this policy.

C. SEXUAL HARASSMENT PROHIBITED

Sexual harassment is a particular type of workplace harassment. Sexual harassment prohibited by this policy may also violate policy 1725/4035/7236, Title IX Sexual Harassment – Prohibited Conduct and Reporting Process, and in such cases school officials must proceed in accordance with the requirements of that policy.

Prohibited sexual harassment is unwelcome conduct which is either of a sexual nature, or is directed at a person because of the person's sex (including pregnancy, childbirth, sexual orientation and gender identity), when:

1. submission to the conduct is made either explicitly or implicitly a term or condition of a person's employment;
2. submission to or rejection of such conduct is made the basis for decisions affecting a person's employment; or
3. the conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile or offensive work environment.

Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature, or verbal, nonverbal, or physical aggression, intimidation, or hostility that is based on actual or perceived gender and sexual stereotypes, sexual orientation or gender identity. Consensual conduct between adults that is not directed at a third party is not sexual harassment.

D. REPORTING DISCRIMINATION AND HARASSMENT

Applicants and employees should promptly report orally or in writing any instance of alleged or potential discrimination, including harassment, to their principal or supervisor or the senior human resources official. Upon receiving a written complaint, the principal, supervisor, or senior human resources official shall promptly investigate the written complaint and cause or recommend appropriate corrective action if the written complaint is substantiated. Oral reports of violations may be investigated at the discretion of the school officials designated above. All reports and complaints of harassment under this policy will be investigated in a manner that protects the employee or applicant and maintains confidentiality to the greatest extent possible as permitted by law.

E. RETALIATION PROHIBITED

The board prohibits retaliation against any person for making a report or complaint of a violation of this policy, supporting someone for reporting or intending to report a violation of this policy, or participating in the investigation of a reported violation of this policy. No reprisals will be taken by the board against a complaining party or other individual who makes a good faith report of discrimination or harassment. Any person who is found to have engaged in retaliation will be subject to discipline, up to and including dismissal. Acts of retaliation may also be subject to policy 1760/7280, Prohibition Against Retaliation.

Legal References: Age Discrimination in Employment Act of 1967, 29 U.S.C. 621 *et seq.*, 34 C.F.R. pt. 110; Americans with Disabilities Act, 42 U.S.C. 12101 *et seq.*, 28 C.F.R. pt. 35; Rehabilitation Act of 1973, 29 U.S.C. 705(20), 794, 34 C.F.R. pt. 104; Title II of the Genetic Information Nondiscrimination Act of 2008; Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e *et seq.*, 29 C.F.R. pt. 1604; Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. 4301 *et seq.*; Bostock v. Clayton County, 590 U.S. ___, 140 S. Ct. 1731 (2020); G.S. 143-422.2

Cross References: Discrimination and Harassment Prohibited by Federal Law (policy 1710/4020/7230), Title IX Nondiscrimination on the Basis of Sex (policy 1720/4030/7235), Title IX Sexual Harassment – Prohibited Conduct and Reporting Process (policy 1725/4035/7236), Title IX Sexual Harassment Grievance Process (policy 1726/4036/7237), Prohibition Against Retaliation (policy 1760/7280), Recruitment and Selection of Personnel (policy 7100)

Adopted: September 1, 2020

Revised: March 2, 2021;

The board of education believes that it is important for employees to have leave available to attend to personal, civic and professional matters as well as to meet family commitments. This need for leave is to be balanced with the need to provide an effective instructional program for students. No employee may be discharged, demoted or otherwise subjected to adverse employment action for taking leave in accordance with board policies and administrative procedures.

All requests for leave, with or without pay, must be addressed in accordance with state and federal law, as well as policies promulgated by the State Board of Education, including those specified in the most current edition of the *North Carolina Public Schools Benefits and Employment Policy Manual*, available at <https://www.dpi.nc.gov/districts-schools/districts-schools-support/district-human-capital/employee-policy>.

In addition to applicable laws and regulations, this board policy applies to leave requests. The information in this policy is intended to supplement, not replace, the requirements of law and the State Board of Education. In the event that changes to State or federal law or regulation conflict with current State Board or local board policies, the board intends that its leave practices be modified to the extent necessary to comply with current law until such time as conforming changes to State Board and/or local board policy are made.

The superintendent shall develop any necessary administrative procedures and make them available to employees upon request.

Temporary Requirement Related to COVID-19~~for Employee Health Certificate~~

In order to secure the health and safety of school system students and employees during the COVID-19 pandemic, employees who test positive for COVID-19, have COVID-19 symptoms, or have a COVID-19 exposure, shall not return to work until they meet the criteria set forth in the most recent guidance from the North Carolina Department of Health and Human Services and North Carolina Department of Public Instruction~~will be required to provide a health certificate from a medical professional as a condition of returning to work following isolation due to COVID-19 symptoms or exposure.~~ This temporary requirement shall remain in effect for as long as the state guidance remains in effect~~the remainder of the 2020-2021 school year or until repealed by the board, whichever occurs first.~~

A. MINIMUM LEAVE TIME

An employee may take any type of leave in half day increments unless otherwise specified in this policy.

B. CONTINUOUS LEAVE OF MORE THAN 10 DAYS

An employee must comply with the notice and verification requirements provided in

policy 7520, Family and Medical Leave, for any continuous leave of more than 10 days if: (1) the leave also is eligible for leave under the Family and Medical Leave Act (FMLA), defined in policy 7520, and (2) the leave is designated as FMLA-eligible at the time it is taken or as soon as is feasible thereafter. Leave that is designated as FMLA-eligible may be taken in increments of hours. See policy 7520, Family and Medical Leave.

C. SICK LEAVE

The superintendent or designee may require a statement from a medical doctor or other acceptable proof that the employee was unable to work due to illness or injury. Employees who anticipate using sick leave should inform their immediate supervisor in advance so that arrangements may be made to reassign the employee's duties during the period of absence.

D. PERSONAL LEAVE

Personal leave may be used only upon the authorization of the teacher's immediate supervisor and in accordance with legal requirements and procedures established by the superintendent.

E. VACATION LEAVE

Vacation may be taken only upon the authorization of the employee's immediate supervisor and in accordance with legal requirements and procedures established by the superintendent.

To promote the efficient operation of the schools, the superintendent may designate certain periods during the nonacademic year as preferred vacation periods for 12-month employees.

F. COMPENSATORY LEAVE

Because professional employees are expected to fulfill all job duties, compensatory leave should apply only in extraordinary circumstances.

Employees who are not exempt from the provisions of the Fair Labor Standards Act may accrue compensatory time (comp time) as described in policy 7500, Workday and Overtime. Supervisors shall arrange for employees to take comp time within one pay period following the time it is earned, if possible; however, the superintendent or designee may exempt certain employees or categories of employees from this requirement when deemed necessary for the proper administration of the school system.

An employee must obtain approval from his or her immediate supervisor before taking compensatory leave.

G. LEAVE TO TEACH AT A CHARTER, REGIONAL OR LAB SCHOOL

Leave of absence to teach for one year at a charter, regional or lab school will be granted to a teacher upon timely written request to the board. The request must be provided at least 45 days before the teacher would otherwise have to report for duty if it is the initial year of the charter/regional/lab school's operation and at least 90 days if it is after the charter/regional/lab school's initial year of operation. The teacher may return to work in the school system in accordance with the provisions of applicable state law.

H. DISCRETIONARY LEAVE OF ABSENCE WITHOUT PAY

An employee may be granted a leave of absence without pay for the following reasons for a period of time up to one calendar year, at the discretion of the superintendent with approval from the board.

1. personal illness in excess of sick leave;
2. family leave;
3. educational leave; and
4. other reasons in the discretion of the superintendent as designated by the board of education.

The employee is expected first to consult with his or her immediate supervisor and then to provide advance written notice (60 days if possible) stating the beginning and ending dates of the desired leave of absence. The superintendent may request documentation from the employee in support of his or her request. In determining the length of the leave of absence without pay that will be approved, due and proper consideration must be given to the welfare of the students as well as the employee. The superintendent may require the employee to give notice of his or her intent to return to work at reasonable time intervals during the leave.

Once a leave of absence without pay has been requested by an employee and approved by the board, the dates are binding unless both parties agree to a change.

I. OTHER LEAVE

Other types of leave, such as leave for observance of a bona fide religious holiday, professional leave, community responsibility leave, leave for jury duty or court attendance, elected officials leave, parental involvement in schools leave, parental leave without pay and military leave (see policy 7530, Military Leave), will be granted in accordance with the requirements of law and State Board of Education policy.

Legal References: G.S. 95-28.3; 115C-12, -36, -47, -84.2, -218.90(a)(3), -238.68(3), -285, -302.1, -316, -336, -336.1; 116-239.10(4); 16 N.C.A.C. 6C .0405; State Board of Education

Policy BENF-001, *North Carolina Public Schools Benefits and Employment Policy Manual* (N.C. Dept. of Public Instruction, current version), available at <https://www.dpi.nc.gov/districts-schools/districts-schools-support/district-human-capital/employee-policy>

Cross References: Workday and Overtime (policy 7500), Compliance with State Board of Education Employment Policies (policy 7505), Family and Medical Leave (policy 7520), Military Leave (policy 7530), Voluntary Shared Leave (policy 7540), Absences Due to Inclement Weather (policy 7550)

Adopted: August 7, 2012

Revised: April 1, 2014; March 6, 2018; October 2, 2018; March 2, 2021;

Employment or volunteer service with the school system does not preclude an individual from participating in political activities, such as The employee's right of citizenship, involving registering, discussing political issues, and voting, campaigning for candidates or issues, running for or serving in public office, attending political events and contributing funds to partisan groups or candidates, and participating on a committee or board that seeks to serve the welfare of the community, will not be infringed upon due to employment by the school system. These political activities must not: (1) take place during school timework hours; (2) involve school system monies funds or materials; or (3) make use of an official school position to encourage or to coerce students, or other employees or other of the system to support in any way or oppose a political party, candidate or issue.

As specified in policy 2220, Official School Spokesperson, the chairperson of the board or designee and the superintendent or designee are the official spokespersons for the school system. Employees, when exercising their rights as citizens, should take steps to ensure that their personal political activities or opinions are not erroneously attributed to the board or the school system.

This policy should not be construed as prohibiting the impartial study and discussion of political or other controversial issues in the classroom setting. However, employees must be mindful of their responsibility to deliver the curriculum of the school system and may not present their personal political views to students in the classroom or when otherwise engaged in the instruction of students.

Legal References: U.S. Const. amend. I; G.S. 115C-46.1, -47(18); *Boring v. Buncombe County Bd. of Educ.*, 136 F.3d 364 (4th Cir. 1998); *Lee v. York County Sch. Div.*, 484 F.3d 687 (4th Cir. 2007)

Cross References: Official School Spokesperson (policy 2220)

Adopted: August 7, 2012

Revised:

The accounts of the school system and the individual schools will be audited as soon as possible after the close of each fiscal year by an independent, qualified auditor. The auditor will be selected by the board, and the terms and conditions will be specified in a written contract that complies with the requirements of 20 N.C.A.C. 03.0502(c). The auditor will report directly to the board.

The superintendent shall assist the board in providing for an annual independent audit that meets all requirements as provided by G.S. 115C-447 and any other relevant statute. All employees and agents of the school system having custody of public money or responsibility for keeping records of public financial or fiscal affairs shall produce all books and records requested by the auditor and provide any information relating to fiscal affairs requested by the auditor. Any employee who fails to cooperate may be subject to disciplinary action, up to and including dismissal, and also may be found guilty of criminal conduct.

The board will receive the report and opinion of the auditor and will arrange for the auditor to present to the board the audited financial statements, compliance reports, if any, and other information as specified in the audit contract. The presentation must be in an official meeting in open session, held as soon as the audited financial statements are available but not later than 45 days after the submission of the audit report to the Secretary of the Local Government Commission.

Legal References: G.S. 115C-447; 20 N.C.A.C. 03.0502

Cross References: Professional Employees: Demotion and Dismissal (policy 7930), Classified Personnel: Suspension and Dismissal (policy 7940)

Adopted: May 7, 2013

Revised:

A. APPLICABILITY TO CERTAIN CLAIMS

On occasion, the board of education is presented with claims against the board from students, parents or other citizens for injuries to person or property sustained while on a board property or at a school-sponsored event. The board adopts this policy in order that it may consider and process all such claims in a fair and equitable manner, taking into consideration the economic resources available to the board.

The board will only consider claims under this policy when the applicable insurance agreement and/or coverage agreement, if any, does not provide for the consideration, settlement and/or adjustment of claims prior to legal action being filed by the claimant in a court of competent jurisdiction. Upon the filing of a complaint, the board will immediately refer all claims to the appropriate insurance company or coverage provider for appropriate action.

B. PROCEDURE FOR FILING CLAIM

All claims must be made to the superintendent in writing and must include a detailed account of how the injury occurred, whether board employees were involved, and the amount of damages suffered by the claimant. The claimant should include all supporting documentation and any other information he or she believes is relevant. The superintendent or designee shall investigate the incident and, if necessary, provide supplemental information to the board.

After receiving the claim, the board, in consultation with its attorney, will determine whether to pay the claim, deny the claim or make an offer to settle the claim.

C. SETTLEMENT

The resolution of claims requires the exercise of discretion by the board. Therefore, to treat similarly situated claimants (claimants who are alike in all relevant respects) alike, the board will be consistent in its settlement practices by using the factors listed below to evaluate all claims. The board recognizes, however, that separate claimants often will be dissimilar with respect to one or more of the relevant factors, so the final decision regarding each claim will be based upon the specific circumstances. All factors need not be given equal weight and no one factor will be controlling.

~~In determining whether to settle a claim prior to the filing of a legal action, the board will consider the factors listed below. Before any final decision is reached, the board attorney shall ensure that these factors were considered by the board in arriving at its final decision.~~

- ~~1. Whether there is a reasonable possibility that the potential defense costs to be paid by the board, including an estimate of personnel time and school system~~

resources, will exceed the amount for which the case can be settled.

- ~~2.1.~~ Whether there was a negligent act or omission by an employee or agent of the board. ~~The extent to which an employee's actions or omissions may have caused, or contributed to, an injury.~~
- ~~3.2.~~ Whether an employee or agent of the board intentionally caused an injury.
3. Whether an employee or agent of the board violated any board policies.
4. ~~Whether there are any affirmative~~ What, if any, defenses are available to the board in the event of litigation and the viability of those defenses based upon the facts known at the time of settlement consideration. ~~However, the board will not assert or consider the availability of Sovereign/Governmental Immunity for any pre-litigation claim.~~
5. The claimant's likelihood of success in litigation.
6. The likely costs of defending the case.
7. The administrative burden and disruption that litigation would likely cause.
- ~~5.8.~~ Whether the demand is within the retention or deductible level for monetary payments pursuant to any applicable insurance or liability coverage agreement and whether there is, or is likely to be, coverage under such agreements, if known.
9. Goodwill on behalf of the citizens of the school community.
10. The best use of public funds in an effective manner.

~~Each claim will be evaluated based upon the specific circumstances. All factors need not be given equal weight, and no one factor will be controlling.~~

The payment of any claim will be subject to the claimant's execution of a full release of liability in favor of the board, its employees and its agents. The release will be on a form approved by the board attorney.

By considering whether to settle a claim, the board does not waive any affirmative defenses available to it or its employees, including but not limited to the defenses of governmental, sovereign, qualified or public official immunity, or contributory negligence. The board may assert these defenses should the claimant choose to file a lawsuit.

Legal References: *Clayton v. Branson*, 170 N.C. App. 438 (2005); *Dobrowolska v. City of Greensboro* Wall, 138 N.C. App. 1 (2000)

Cross References:

Adopted: May 7, 2013

Revised: