

MALTA SCHOOL DISTRICT

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5000 SERIES PERSONNEL

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Bullying/Harassment/Intimidation

The Board will strive to provide a positive and productive working environment. Bullying, harassment, intimidation, between employees or by third parties, are strictly prohibited and shall not be tolerated. This includes bullying, harassment, or intimidation via electronic communication devices (“cyberbullying”).

Definitions

1. “Third parties” include but are not limited to coaches, school volunteers, parents, school visitors, service contractors or others engaged in District business, such as employees of businesses or organizations participating in cooperative work programs with the District, and others not directly subject to District control at inter-district and intra-District athletic competitions or other school events.
2. “District” includes District facilities, District premises, and non-District property if the employee is at any District-sponsored, District-approved, or District-related activity or function, such as field trips or athletic events, where the employee is engaged in District business.
3. “Harassment, intimidation, or bullying” means any act that substantially interferes with an employee’s opportunities or work performance, that takes place on or immediately adjacent to school grounds, at any school-sponsored activity, ~~or~~ on school-provided transportation, or anywhere conduct may reasonably be considered to be a threat or an attempted intimidation of a staff member or an interference with school purposes or an educational function, and that has the effect of:
 - a. Physically harming an employee or damaging an employee’s property;
 - b. Knowingly placing an employee in reasonable fear of physical harm to the employee or damage to the employee’s property; or
 - c. Creating a hostile working environment.
4. “Electronic communication device” means any mode of electronic communication, including but not limited to computers, cell phones, PDAs, or the internet.

Reporting

All complaints about behavior that may violate this policy shall be promptly investigated. Any employee or third party who has knowledge of conduct in violation of this policy or feels he/she has been a victim of harassment, intimidation, or bullying in violation of this policy is encouraged to immediately report his/her concerns to the building principal or the District Administrator, who have overall responsibility for such investigations. Complaints against the

building principal shall be filed with the Superintendent. Complaints against the Superintendent or District Administrator shall be filed with the Board.

The complainant shall be notified of the findings of the investigation and, as appropriate, that remedial action has been taken.

Responsibilities

The District Administrator shall be responsible for ensuring that notice of this policy is provided to staff and third parties and for the development of administrative regulations, including reporting and investigative procedures, as needed.

Consequences

Staff whose behavior is found to be in violation of this policy will be subject to discipline up to and including dismissal. Third parties whose behavior is found to be in violation of this policy shall be subject to appropriate sanctions as determined and imposed by the District Administrator or the Board. Individuals may also be referred to law enforcement officials.

Retaliation and Reprisal

Retaliation is prohibited against any person who reports or is thought to have reported a violation, files a complaint, or otherwise participates in an investigation or inquiry. Such retaliation shall be considered a serious violation of Board policy, whether or not a complaint is substantiated. False charges shall also be regarded as a serious offense and will result in disciplinary action or other appropriate sanctions.

Legal Reference: 10.55.701(1)(g), ARM Board of Trustees
 10.55.801(1)(d), ARM School Climate

Policy History:

Adopted on: August 13, 2009
Reviewed on:
Revised on:

Malta School District

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Board Goal/Personnel

District staff are invaluable in creating an effective educational program and vibrant learning environment. The Board seeks always to employ highly qualified individuals for all positions in the District. The Board realizes opportunities for staff development should be provided periodically.

The Board expects supervision and evaluation of staff to be conducted in a positive and helpful manner, with the intent of improving staff performance. The Board looks to staff to promote a positive school climate in all educational endeavors, so students may work toward their greatest potential, and the community will be proud of its investment.

Nothing contained in the policies or administrative procedures included herein is intended to limit the legal rights of the Board or its agents except as expressly stated.

Should any provision of Board policy or administrative procedure be held to be illegal by a court of competent jurisdiction, all remaining provisions shall continue in full force and effect.

Policy History:

Adopted on: August 2, 2005

Revised on:

PERSONNEL

5002

Accommodating Individuals with Disabilities

Individuals with disabilities shall be provided opportunity to participate in all school-sponsored services, programs, or activities on an basis equal to those without disabilities and will not be subject to illegal discrimination.

The District may provide auxiliary aids and services when necessary to afford individuals with disabilities equal opportunity to participate in or enjoy the benefits of a service, program, or activity.

Each service, program, or activity operated in existing facilities shall be readily accessible to, and usable by, individuals with disabilities. New construction and alterations to facilities existing before January 26, 1992, will be accessible when viewed in their entirety.

The Superintendent is designated the Americans with Disabilities Act Title II Coordinator and, in that capacity, is directed to:

1. Oversee District compliance efforts, recommend to the Board necessary modifications, and maintain the District's final Title II self-evaluation document and keep it available for public inspection.
2. Institute plans to make information regarding Title II protection available to any interested party.

An individual with a disability should notify the Superintendent or building principal if they have a disability which will require special assistance or services and what services are required. This notification should occur as far as possible before the school-sponsored function, program, or meeting.

Cross Reference: 1700 Uniform Complaint Procedure

Legal Reference : Americans with Disabilities Act, 42 U.S.C. §§ 12111, et seq., and 12131, et seq.; 28 C.F.R. Part 35.

Policy History:

Adopted on: August 2, 2005

Revised on:

PERSONNEL

Equal Employment Opportunity and Non-Discrimination

The District will provide equal employment opportunities to all persons, regardless of their race, color, religion, creed, national origin, sex, age, ancestry, marital status, military status, citizenship status, use of lawful products while not at work, physical or mental disability, if otherwise able to perform essential functions of other legally protected categories.

The District will make reasonable accommodation for an individual with a disability known to the District, if the individual is otherwise qualified for the position, unless the accommodation would impose undue hardship on the District.

A person with an inquiry regarding discrimination should direct their questions to the Title IX Coordinator. A person with a specific written complaint should follow the Uniform Complaint Procedure.

Retaliation against an employee who has filed a discrimination complaint, testified, or participated in any manner in a discrimination investigation or proceeding is prohibited.

Cross Reference: 1700 Uniform Complaint Procedure

Legal Reference: Age Discrimination in Employment Act, 29 U.S.C. §§ 621, *et seq.*
Americans with Disabilities Act, Title I, 42 U.S.C. §§ 12111, *et seq.*
Equal Pay Act, 29 U.S.C. § 206(d)
Immigration Reform and Control Act, 8 U.S.C. §§ 1324(a), *et seq.*
Rehabilitation Act of 1973, 29 U.S.C. §§ 791, *et seq.*
Title VII of the Civil Rights Act, 42 U.S.C. §§ 2000(e), *et seq.*; 29 C.F.R., Part 1601
Title IX of the Education Amendments, 20 U.S.C. §§ 1681, *et seq.*; 34 C.F.R., Part 106
Montana Constitution, Art. X, § 1 - Educational goals and duties
§ 49-2-101, *et seq.*, MCA Human Rights Act
§ 49-3-102, MCA What local governmental units affected

Policy History:

Adopted on: August 2, 2005

Reviewed on:

Revised on: August 8, 2012

PERSONNEL

Sexual Harassment/Sexual Intimidation in the Workplace

The District will do everything in its power to provide employees a work environment free of unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communications constituting sexual harassment, as defined and otherwise prohibited by state and federal law.

The District prohibits its employees from making sexual advances or requesting sexual favors or engaging in any conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
2. Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting that individual; or
3. Such conduct has the purpose or effect of substantially interfering with the individual's work performance or creating an intimidating, hostile, or offensive work environment.

Sexual harassment prohibited by this policy includes verbal or physical conduct. The terms "intimidating," "hostile," or "offensive" include but are not limited to conduct that has the effect of humiliation, embarrassment, or discomfort. The District will evaluate sexual harassment in light of all circumstances.

A violation of this policy may result in disciplinary action, up to and including discharge. Any person who knowingly makes false accusation regarding sexual harassment will likewise be subject to disciplinary action, up to and including discharge.

An aggrieved person who feels comfortable doing so should directly inform the person engaging in sexually harassing conduct or communication that such conduct or communication is offensive and must stop.

Employees who believe they may have been sexually harassed or intimidated should contact the Title IX Coordinator or an administrator, who will assist them in filing a complaint. An individual with a complaint alleging a violation of this policy shall follow the Uniform Complaint Procedure.

Cross Reference: 1700 Uniform Complaint Procedure

Legal Reference: Title VII of the Civil Rights Act, 42 U.S.C. §§ 2000(e), et seq., 29 C.F.R.
§ 1604.11
Title IX of the Education Amendments, 20 U.S.C. §§ 1681, et seq.
Montana Constitution, Art. X, § 1 - Educational goals and duties
§ 49-2-101, MCA Human Rights Act
Harris v. Fork Lift Systems, 114 S.Ct. 367 (1993)

Policy History:

Adopted on: August 2, 2005

Revised on:

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5120

Hiring Process and Criteria

The Superintendent is responsible for recruiting personnel, in compliance with Board policy, and for making hiring recommendations to the Board. The principal may initially screen applicants for educational support positions. The District will hire highly qualified personnel consistent with budget and staffing requirements and will comply with Board policy and state law on equal employment opportunities and veterans' preference. All applicants must complete a District application form to be considered for employment.

Every applicant must provide the District with written authorization for a criminal background investigation. The Superintendent will keep any conviction record confidential as required by law and District policy. The District will create a determination sheet from the criminal history record. The determination sheet will be kept on file at the district Office. The Criminal History Record will be shredded on site immediately after review. Every newly hired employee must complete an Immigration and Naturalization Service form, as required by federal law.

Certification

The District requires its contracted certified staff to hold valid Montana teacher or specialist certificates endorsed for the roles and responsibilities for which they are employed. Failure to meet this requirement shall be just cause for termination of employment. No salary warrants may be issued to a staff member, unless a valid certificate for the role to which the teacher has been assigned has been registered with the county superintendent within sixty (60) calendar days after a term of service begins. Every teacher and administrator under contract must bring their current, valid certificate to the personnel office at the time of initial employment, as well as at the time of each renewal of certification.

The personnel office will file all certificates, noting class and endorsement of certificates, and will update permanent records as necessary. The personnel office also will retain a copy of each valid certificate of a contracted certified employee in that employee's personnel file.

Cross Reference: 5122 Fingerprints and Criminal Background Investigations

Legal Reference: § 20-4-202, MCA Teacher and specialist certification registration
§ 39-29-102, MCA Point preference or alternative preference in initial hiring for certain applicants – substantially equivalent selection procedure
No Child Left Behind Act of 2001 (P.L. 107-110)

Policy History:

Adopted on: August 2, 2005

Revised on: August 14, 2013

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5121

Applicability of Personnel Policies

Except where expressly provided to the contrary, personnel policies apply uniformly to the employed staff of the District. However, where there is a conflict between terms of a collective bargaining agreement and District policy, the law provides that the terms of the collective bargaining agreement shall prevail for staff covered by that agreement.

Board policies will govern when a matter is not specifically provided for in an applicable collective bargaining agreement.

Legal Reference: § 39-31-102, MCA Chapter not a limit on legislative authority

Policy History:

Adopted on: August 2, 2005

Revised on:

Fingerprints and Criminal Background Investigations

Board policy requires that any finalist recommended to be employed in a paid or volunteer position with the District, involving regular unsupervised access to students in schools, as determined by the Superintendent, shall submit to a name-based and fingerprint criminal background investigation conducted by the appropriate law enforcement agency before consideration of the recommendation for employment or appointment by the Board. The results of the name-based check will be presented to the Board, concurrent with the recommendation for employment or appointment. Any subsequent offer of employment or appointment will be contingent on results of the fingerprint criminal background check, which must be acceptable to the Board, in its sole discretion.

The following applicants for employment, as a condition for employment, will be required, as a condition of any offer of employment, to authorize, in writing, a name-based and fingerprint criminal background investigation:

- A certified teacher seeking full- or part-time employment with the District;
- An educational support personnel employee seeking full- or part-time employment with the District;
- An employee of a person or firm holding a contract with the District, if the employee is assigned to the District;
- A volunteer assigned to work in the District, who has regular unsupervised access to students; and*
- Substitute teachers.*

Any requirement of an applicant to submit to a fingerprint background check will be in compliance with the Volunteers for Children Act of 1998 and applicable federal regulations. If an applicant has any prior record of arrest or conviction by any local, state, or federal law enforcement agency for an offense other than a minor traffic violation, the facts must be reviewed by the Superintendent, who will decide whether the applicant will be declared eligible for appointment or employment. Arrests resolved without conviction will not be considered in the hiring process, unless the charges are pending.

**The requirement to fingerprint non-licensed substitutes and volunteers may be waived in whole or in part by the trustees, if the substitute has previous teaching, substitute teaching, or volunteer experience in an accredited public school in Montana prior to November 28, 2002.*

Legal Reference:	§ 44-5-301, MCA	Dissemination of public criminal justice information
	§ 44-5-302, MCA	Dissemination of criminal history record information that is not public criminal justice information
	§ 44-5-303, MCA	Dissemination of confidential criminal justice information
	ARM 10.57.113	Substitute Teachers
	Public Law 105-251,	Volunteers for Children Act

Policy History:

Adopted on: August 2, 2005

Revised on:

APPLICATION AND NOTICE PURSUANT TO THE NATIONAL CHILD PROTECTION ACT OF 1993 AS AMENDED BY THE VOLUNTEERS FOR CHILDREN ACT

5122F

To Whom It May Concern:

You have applied for employment with, will be working in a volunteer position with, or will be providing vendor or contractor services to Malta School District (the District) for the position of (please be specific)

_____.

The National Child Protection Act of 1993 (NCPA), Public Law (Pub. L.) 103-209, as amended by the Volunteers for Children Act (VCA), Pub. L. 105-251 (Sections 221 and 222 of Crime Identification Technology Act of 1998), codified at 42 United States Code (U.S.C.) Sections 5119a and 5119c, authorizes a state and national criminal history background check to determine the fitness of an employee, or volunteer, or a person with unsupervised access to children, the elderly, or individuals with disabilities.

Pursuant to the VCA, the district (a) to which you have applied for employment or to serve as a volunteer, or (b) by which you are employed or serve as a volunteer requests a background check. Your rights and responsibilities under the VCA are as follows:

1. Provide a set of fingerprints. [I understand the fingerprint background check will be at my expense]. These fingerprints will be used to conduct a search of FBI criminal history records. The district conducting this background check may use the resulting record only for the authorized purpose(s) and will not retain or disseminate it in violation of federal statute, regulation, or executive order, or rule, procedure, or standard established by the National Crime Prevention and Privacy Compact Council. 5 U.S.C. 552a(b); 28 U.S.C. 534(b); 42 U.S.C. 14616, Article IV(c); 28 CFR 20.21(c), 20.33(d) and 906.2(d).
2. Provide your name, address, and date of birth, as appears on a document made or issued by or under the authority of the United States Government, a State, political subdivision of a State, a foreign government, a political subdivision of a foreign government, an international governmental or an international quasi-governmental organization which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals. 18 U.S.C. §1028(D)(2).
3. Provide a certification that you (a) have not been convicted of a crime, (b) are not under indictment for a crime, or (c) have been convicted of a crime. If you are under indictment or have been convicted of a crime, you must describe the crime and the particulars of the conviction, if any.
4. You are entitled to (a) obtain a copy of the background check report and (b) challenge the accuracy and completeness of any information contained in any such report and obtain a prompt determination as to the validity of such challenge before a final determination is made by the state government agency performing the background check. If district policy permits, its officials may provide you with a copy of your FBI criminal history record for review and possible challenge. If the district policy does not permit it to provide you a copy of the record, you may obtain a copy of the record by submitting fingerprints and a fee to the FBI. Information regarding this process may be obtained at <http://www.fbi.gov/about-us/cjis/background-checks> or by contacting Montana Criminal Records and Identification Services at PO Box 201403, Helena MT 59620. 28 CFR, 16.30 through 16.34.
5. Prior to the completion of the background check, the district may choose to deny you unsupervised access to a person to whom the district provides care.

The [district] [Superintendent] [administration] shall access and review State and Federal criminal history records and shall make reasonable efforts to make a determination whether you have been convicted of, or are under pending indictment for, a crime that bears upon your fitness and shall convey that determination to the Board of Trustees. The district shall make reasonable efforts to respond to the inquiry within 15 business days.

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Staff Health

Medical Examinations

Through its overall safety program and various policies pertaining to school personnel, the Board will promote the safety of employees during working hours and assist them in the maintenance of good health. The Board will encourage all its employees to maintain optimum health through the practice of good health habits.

The Board may require physical examinations of its employees, under circumstances defined below. The District will maintain results of physical examinations in medical files separate from the employee's personnel file and will release them only as permitted by law.

Physical Examinations

The District participates in a Pre-Placement Physical Program for all custodial and maintenance personnel and other positions deemed inclusive of this policy as determined by specific Board action. Subsequent to a conditional offer of employment in a position for which the District may require participation in a pre-placement physical, but before commencement of work, the District may require an applicant to have a medical examination and to meet any other health requirements which may be imposed by the state. The District may condition an offer of employment on the results of such examination, if all employees who received a conditional offer of employment in the applicable job category are subject to such examination. If approved by personnel services, an employee may be allowed a thirty-(30)-day grace period beginning from the date of employment to obtain the required medical examination. The report shall certify the employee's ability to perform the job-related functions of the position for which the employee is being considered. Such examination shall be used only to determine whether the applicant is able to perform with reasonable accommodation job-related functions pursuant to P.L. 101-33C, Americans with Disabilities Act of 1990.

All bus drivers, whether full-time, regular part-time, or temporary part-time, are required by state law to have a satisfactory medical examination before employment.

Communicable Diseases

If a staff member has a communicable disease and has knowledge that a person with compromised or suppressed immunity attends the school, the staff member must notify the school nurse or other responsible person designated by the Board of the communicable disease which could be life threatening to an immune-compromised person. The school nurse or other responsible person designated by the Board must determine, after consultation with and on the advice of public health officials, if the immune-compromised person needs appropriate accommodation to protect their health and safety.

An employee with a communicable disease shall not report to work during the period of time in which the employee is infectious. An employee afflicted with a communicable disease capable of being readily transmitted in the school setting (e.g., airborne transmission of tuberculosis) shall be encouraged to report the existence of the illness so that precautions may be taken to protect the health of others. The District reserves the right to require a statement from an employee's primary care provider, before the employee may return to work.

Confidentiality

In all instances, District personnel will respect an individual's right to privacy and treat any medical diagnosis as confidential information. Any information obtained regarding the medical condition or history of any employee will be collected and maintained on separate forms and in separate medical files and will be treated as confidential information. Only those individuals with a legitimate need to know (i.e., those persons with a direct responsibility for the care of or for determining workplace accommodation for the staff person) will be provided necessary medical information.

Supervisors and managers may be informed of necessary restrictions on the work or duties of an employee and necessary accommodations. First aid and safety personnel may be informed, when appropriate, if a staff member with a disability might require emergency treatment.

Legal Reference:	29 U.S.C. 794, Section 504 of the Rehabilitation Act
	29 CFR, Section 1630.14(c)(1)(2)(3)
	42 U.S.C. 12101, et seq. Americans with Disabilities Act
	Title 49, Chapter 2, MCA Illegal Discrimination
	Title 49, Chapter 4, MCA Rights of Persons with Disabilities
	§ 20-10-103(4), MCA School bus driver qualifications
	ARM 16.28.1005 Employee of School – Day Care Facility Care Provider
	ARM 37.111.825 Health Supervision and Maintenance

Policy History:

Adopted on: August 2, 2005

Revised on: July 9, 2007

Malta School District

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5140

Classified Employment and Assignment

Each classified employee will be employed under a written contract of a specified term, of a beginning and ending date, within the meaning of § 39-2-912, MCA, after the employee has satisfied the requisite probationary period of six (6) months. During the probationary period of employment, the employment may be terminated at the will of either the School District or the employee on notice to the other for any reason or no reason. Should the employee satisfy the probationary period, such employee shall have no expectation of continued employment beyond the current contract term.

The District reserves the right to change employment conditions affecting an employee's duties, assignment, supervisor, or grade.

The Board will determine salary and wages for classified personnel.

Legal Reference: § 39-2-904, MCA Elements of wrongful discharge – presumptive probationary period
 § 39-2-912, MCA Exceptions to Wrongful Discharge from Employment Act
Hunter v. City of Great Falls (2002), 2002 MT 331
Whidden v. Nerison, 294 Mont. 346, 981 P.2d 271 (1999)
Bowden v. The Anaconda Co., 38 St. Rep. 1974 (D.C. Mont. 1981)
Prout v. Sears, Roebuck & Co., 236 Mont. 152, 722 P.2d 288 (1989)
Stowers v. Community Medical Center, Inc., 2007 MT 309, 340 Mont. 116, 172 P.2d 1252.

Policy History:

Adopted on: August 2, 2005

Reviewed on:

Revised on: August 8, 2012

Malta School District

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5210

Assignments, Reassignments, Transfers

The Superintendent may assign, reassign, and/or transfer positions and duties of all staff. Teachers will be assigned at the levels and in the subjects for which their certificates are endorsed. The Superintendent will provide for a system of assignment, reassignment, and transfer of classified staff, including voluntary transfers and promotions. Nothing in this policy prevents reassignment of a staff member during a school year.

Classified Staff

The District retains the right of assignment, reassignment, and transfer. Written notice of reassignment or involuntary transfer will be given to the employee. The staff member will be given opportunity to discuss the proposed transfer or reassignment with the Superintendent.

A teacher employed in the District will take no other employment that will interfere in any way with his/her District contract.

Teaching

Notice of their teaching assignments relative to grade level, building, and subject area will be given to teachers before the beginning of the school year. All District employees assigned extracurricular activities as a contract obligation must honor this obligation as a condition of employment unless released from this responsibility by the Board.

Provisions governing vacancies, promotions, and voluntary or involuntary transfers may be found in negotiated agreements or employee handbooks.

Policy History:

Adopted on: August 2, 2005

Revised on:

Malta School District

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Vacancies

When the District determines that a vacancy exists, that vacancy may be posted in every school building or, during the summer, outside the office.

Vacancies may be advertised in-District only or they may be advertised in-District and through job service, Career Services at a college or university, local public advertising, and, where appropriate and if time permits, through a broader regional and/or national basis. A vacancy need not be advertised, as determined by the Superintendent.

Policy History:

Adopted on: August 2, 2005

Revised on:

Evaluation of Non-Administrative Staff

Each non-administrative staff member's job performance will be evaluated by the staff member's direct supervisor, in conjunction with the building administrator. The evaluation process includes scheduled annual evaluations using forms applicable to the job classification and description, and day-to-day appraisals. Certified staff members may be evaluated according to the terms stated in the current collective bargaining agreement.

The supervisor will provide a copy of the completed evaluation to the staff member and will provide opportunity to discuss the evaluation. The original should be signed by the staff member and filed with the Superintendent. If the staff member refuses to sign the evaluation, the supervisor should note the refusal and submit the evaluation to the Superintendent.

Policy History:

Adopted on: August 2, 2005

Revised on:

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Personal Conduct

Employees are expected to maintain high standards of honesty, integrity, and impartiality in the conduct of District business.

In accordance with state law, an employee should not dispense or utilize any information gained from employment with the District, accept gifts or benefits, or participate in business enterprises or employment that creates a conflict of interest with the faithful and impartial discharge of the employee's District duties. A District employee, before acting in a manner which might impinge on any fiduciary duty, may disclose the nature of the private interest which would create a conflict. Care should be taken to avoid using or avoid the appearance of using official positions and confidential information for personal advantage or gain.

Further, employees are expected to hold confidential all information deemed not to be for public consumption as determined by state law and Board policy. Employees also will respect the confidentiality of people served in the course of an employee's duties and use information gained in a responsible manner. The Board may discipline, up to and including discharge, any employee who discloses confidential and/or private information learned during the course of the employee's duties or learned as a result of the employee's participation in a closed (executive) session of the Board. Discretion should be used even within the school system's own network of communication.

Administrators and supervisors may set forth specific rules and regulations governing staff conduct on the job within a particular building.

Legal Reference: § 20-1-201, MCA School officers not to act as agents

Policy History:

Adopted on: August 2, 2005

Revised on:

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Political Activity

The Board recognizes its employees' rights of citizenship, including, but not limited to, engaging in political activities. A District employee may seek an elective office, provided the employee does not campaign on school property during working hours, and provided all other legal requirements are met. The District assumes no obligation beyond making such opportunities available. An employee elected to office is entitled to take a leave of absence without pay, in accordance with the provisions of § 2-18-620, MCA.

No person, in or on District property, may attempt to coerce, command, or require a public employee to support or oppose any political committee, the nomination or election of any person to public office, or the passage of a ballot issue.

No District employee may solicit support for or in opposition to any political committee, the nomination or election of any person to public office, or the passage of a ballot issue, while on the job or in or on District property.

Nothing in this policy is intended to restrict the right of District employees to express their personal political views.

Legal Reference:	5 USC 7321, et seq.	Hatch Act
	§ 2-18-620, MCA	Mandatory leave of absence for employees holding public office – return requirements
	§ 13-35-226, MCA	Unlawful acts of employers and employees

Policy History:

Adopted on: August 2, 2005

Revised on:

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Tobacco Free Policy

The District maintains tobacco-free buildings and grounds. Tobacco includes but is not limited to cigarettes, cigars, snuff, smoking tobacco, and smokeless tobacco. Use of tobacco will not be allowed in any buildings or on grounds, nor will employees be allowed to use tobacco while on duty. New employees of the District will be hired with the understanding that they will be directed not to use tobacco in school buildings or on grounds. Limitations or prohibitions on tobacco use are applicable to all hours.

Legal Reference:	§ 20-1-220, MCA	Use of tobacco product in public school building or property prohibited
	§§ 50-40-101, et seq., MCA	Montana Clean Indoor Air Act of 1979
	ARM 37.111.825	Health Supervision and Maintenance

Policy History:

Adopted on: August 2, 2005

Revised on:

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Drug-Free Workplace

All District workplaces are drug- and alcohol-free. All employees are prohibited from:

- Unlawfully manufacturing, dispensing, distributing, possessing, using, or being under the influence of a controlled substance while on District premises or while performing work for the District.
- Distributing, consuming, using, possessing, or being under the influence of alcohol while on District premises or while performing work for the District.

For purposes of this policy, a controlled substance is one that is:

- Not legally obtainable;
- Being used in a manner other than as prescribed;
- Legally obtainable but has not been legally obtained; or
- Referenced in federal or state controlled-substance acts.

As a condition of employment, each employee will:

- Abide by the terms of the District policy respecting a drug- and alcohol-free workplace; and
- Notify his or her supervisor of his or her conviction under any criminal drug statute, for a violation occurring on District premises or while performing work for the District, no later than five (5) days after such conviction.

In order to make employees aware of dangers of drug and alcohol abuse, the District will endeavor to:

- Provide each employee with a copy of the District drug- and alcohol-free workplace policy;
- Post notice of the District drug- and alcohol-free workplace policy in a place where other information for employees is posted;
- Enlist the aid of community and state agencies with drug and alcohol informational and rehabilitation programs, to provide information to District employees; and
- Inform employees of available drug and alcohol counseling, rehabilitation, reentry, and any employee-assistance programs.

District Action Upon Violation of Policy

An employee who violates this policy may be subject to disciplinary action, including termination. Alternatively, the Board may require an employee to successfully complete an appropriate drug- or alcohol-abuse, employee-assistance rehabilitation program.

The Board will take disciplinary action with respect to an employee convicted of a drug offense in the workplace, within thirty (30) days of receiving notice of a conviction.

Should District employees be engaged in the performance of work under a federal contract or grant, or under a state contract or grant of \$5,000 or more, the Superintendent will notify the appropriate state or federal agency from which the District receives contract or grant moneys of an employee's conviction, within ten (10) days after receiving notice of the conviction.

Policy History:

Adopted on: August 2, 2005

Revised on:

PERSONNEL

5228

Drug and Alcohol Testing for School Bus and Commercial Vehicle Drivers

The District will adhere to federal law and regulations requiring a drug and alcohol testing program for school bus and commercial vehicle drivers.

The program will comply with requirements of the Code of Federal Regulations, Title 49, §§ 382, et seq. The Superintendent will adopt and enact regulations consistent with federal regulations, defining the circumstances and procedures for testing.

Legal Reference: 49 U.S.C. § 45101, Alcohol and Controlled Substances Testing (Omnibus Transportation Employee Testing Act of 1991)
49 C.F.R. Parts 40 (Procedures for Transportation Workplace Drug and Alcohol Testing Programs), 382 (Controlled substance and alcohol use and testing), and 395 (Hours of service of drivers)

Policy History:

Adopted on: August 2, 2005

Revised on:

PERSONNEL

Drug and Alcohol Testing for School Bus and Commercial Vehicle Drivers

School bus and commercial vehicle drivers shall be subject to a drug and alcohol testing program that fulfills the requirements of the Code of Federal Regulations, Title 49, Part 382.

Other persons who drive vehicles designed to transport sixteen (16) or more passengers, including the driver, are likewise subject to the drug and alcohol testing program.

Testing procedures and facilities used for the tests shall conform with the requirements of the Code of Federal Regulations, Title 49, §§ 40, et seq.

Pre-Employment Tests

Tests shall be conducted before the first time a driver performs any safety-sensitive function for the District.

Safety-sensitive functions include all on-duty functions performed from the time a driver begins work or is required to be ready to work, until he/she is relieved from work and all responsibility for performing work. It includes driving; waiting to be dispatched; inspecting and servicing equipment; supervising, performing, or assisting in loading and unloading; repairing or obtaining and waiting for help with a disabled vehicle; performing driver requirements related to accidents; and performing any other work for the District or paid work for any entity.

The tests shall be required of an applicant only after he/she has been offered the position.

Exceptions may be made for drivers who have had the alcohol test required by law within the previous six (6) months and participated in the drug testing program required by law within the previous thirty (30) days, provided that the District has been able to make all verifications required by law.

Post-Accident Tests

Alcohol and controlled substance tests shall be conducted as soon after an accident as practicable on any driver:

1. Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved loss of human life; or
2. Who receives a citation under state or local law, for a moving traffic violation arising from the accident.

Drivers shall make themselves readily available for testing, absent the need for immediate medical attention.

No such driver shall use alcohol for eight (8) hours after the accident, or until after he/she undergoes a post-accident alcohol test, whichever occurs first.

If an alcohol test is not administered within two (2) hours or if a drug test is not administered within thirty-two (32) hours, the District shall prepare and maintain records explaining why the test was not conducted. Tests will not be given if not administered within eight (8) hours after the accident for alcohol or within thirty-two (32) hours for drugs.

Tests conducted by authorized federal, state, or local officials will fulfill post-accident testing requirements, provided they conform to applicable legal requirements and are obtained by the District. Breath tests will validate only the alcohol test and cannot be used to fulfill controlled substance testing obligations.

Random Tests

Tests shall be conducted on a random basis at unannounced times throughout the year. Tests for alcohol shall be conducted just before, during, or just after the performance of safety-sensitive functions. The number of random alcohol tests annually must equal twenty-five percent (25%) of the average number of driver positions. The number of random drug tests annually must equal fifty percent (50%) of the average number of driver positions. Drivers shall be selected by a scientifically valid random process, and each driver shall have an equal chance of being tested each time selections are made.

Reasonable Suspicion Tests

Tests shall be conducted when a supervisor or District official trained in accordance with law has reasonable suspicion that the driver has violated the District's alcohol or drug prohibitions. This reasonable suspicion must be based on specific, contemporaneous, articulable observations concerning the driver's appearance, behavior, speech, or body odors. The observations may include indications of the chronic and withdrawal effects of controlled substances.

Alcohol tests are authorized for reasonable suspicion only if the required observations are made during, just before, or just after the period of the work day when the driver must comply with alcohol prohibitions. An alcohol test may not be conducted by the person who determines that reasonable suspicion exists to conduct such a test. If an alcohol test is not administered within two (2) hours of a determination of reasonable suspicion, the District shall prepare and maintain a record explaining why this was not done. Attempts to conduct alcohol tests shall terminate after eight (8) hours. A supervisor or District official who makes observations leading to a controlled substance

reasonable suspicion test shall make a written record of his/her observations within twenty-four (24) hours of the observed behavior or before the results of the drug test are released, whichever is earlier.

Enforcement

Any driver who refuses to submit to a post-accident, random, reasonable suspicion, or follow-up test shall not perform or continue to perform safety-sensitive functions.

Drivers who test positive for alcohol or drugs shall be subject to disciplinary action up to and including dismissal.

A driver who violates District prohibitions related to drugs and alcohol shall receive from the District the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs available to evaluate and resolve drug and alcohol-related problems. The employee shall be evaluated by a substance abuse professional who shall determine what help, if any, the driver needs in resolving such a problem. Any substance abuse professional who determines that a driver needs assistance shall not refer the driver to a private practice, person, or organization in which he/she has a financial interest, except under circumstances allowed by law.

An employee identified as needing help in resolving a drug or alcohol problem shall be evaluated by a substance abuse professional to determine that he/she has properly followed the prescribed rehabilitation program and shall be subject to unannounced follow-up tests after returning to duty.

Return-to-Duty Tests

A drug or alcohol test shall be conducted when a driver who has violated the District's drug or alcohol prohibition returns to performing safety-sensitive duties.

Employees whose conduct involved drugs cannot return to duty in a safety-sensitive function until the return-to-duty drug test produces a verified negative result.

Employees whose conduct involved alcohol cannot return to duty in a safety-sensitive function until the return-to-duty alcohol test produces a verified result that meets federal and District standards.

Follow-Up Tests

A driver who violates the District's drug or alcohol prohibition and is subsequently identified by a substance abuse professional as needing assistance in resolving a drug or alcohol problem shall be subject to unannounced follow-up testing as directed by the substance abuse professional in

accordance with law. Follow-up alcohol testing shall be conducted just before, during, or just after the time when the driver is performing safety-sensitive functions.

Records

Employee drug and alcohol test results and records shall be maintained under strict confidentiality and released only in accordance with law. Upon written request, a driver shall receive copies of any records pertaining to his/her use of drugs or alcohol, including any records pertaining to his/her drug or alcohol tests. Records shall be made available to a subsequent employer or other identified persons only as expressly requested in writing by the driver.

Notifications

Each driver shall receive educational materials that explain the requirements of the Code of Federal Regulations, Title 49, Part 382, together with a copy of the District's policy and regulations for meeting these requirements. Representatives of employee organizations shall be notified of the availability of this information. The information shall identify:

1. The person designated by the District to answer driver questions about the materials;
2. The categories of drivers who are subject to the Code of Federal Regulations, Title 49, Part 382;
3. Sufficient information about the safety-sensitive functions performed by drivers to make clear what period of the work day the driver is required to comply with Part 382;
4. Specific information concerning driver conduct that is prohibited by Part 382;
5. The circumstances under which a driver will be tested for drugs and/or alcohol under Part 382;
6. The procedures that will be used to test for the presence of drugs and alcohol, protect the driver and the integrity of the testing processes, safeguard the validity of test results, and ensure that test results are attributed to the correct driver;
7. The requirement that a driver submit to drug and alcohol tests administered in accordance with Part 382;
8. An explanation of what constitutes a refusal to submit to a drug or alcohol test and the attendant consequences;
9. The consequences for drivers found to have violated the drug and alcohol prohibitions of Part 382, including the requirement that the driver be removed immediately from safety-

sensitive functions and the procedures for referral, evaluation, and treatment;

10. The consequences for drivers found to have an alcohol concentration of 0.02 or greater but less than 0.04; and
11. Information concerning the effects of drugs and alcohol on an individual's health, work, and personal life; signs and symptoms of a drug or alcohol problem (the driver's or a coworker's); and available methods of intervening when a drug or alcohol problem is suspected, including confrontation, referral to an employee assistance program, and/or referral to management.

Drivers shall also receive information about legal requirements, District policies, and disciplinary consequences related to the use of alcohol and drugs.

Each driver shall sign a statement certifying that he/she has received a copy of the above materials.

Before any driver operates a commercial motor vehicle, the District shall provide him/her with post-accident procedures that will make it possible to comply with post-accident testing requirements.

Before drug and alcohol tests are performed, the District shall inform drivers that the tests are given pursuant to the Code of Federal Regulations, Title 49, Part 382. This notice shall be provided only after the compliance date specified in law.

The District shall notify a driver of the results of a pre-employment drug test if the driver requests such results within sixty (60) calendar days of being notified of the disposition of his/her employment application.

The District shall notify a driver of the results of random, reasonable suspicion, and post-accident drug tests if the test results are verified positive. The District shall also tell the driver which controlled substance(s) were verified as positive.

Drivers shall inform their supervisors if at any time they are using a controlled substance which their physician has prescribed for therapeutic purposes. Such a substance may be used only if the physician has advised the driver that it will not adversely affect his/her ability to safely operate a commercial motor vehicle.

Procedure History:

Promulgated on: August 2, 2005

Revised on:

Malta School District

PERSONNEL

5231

Personnel Records

The District maintains a complete personnel record for every current and former employee. The employees' personnel records will be maintained in the District's administrative office, under the Superintendent's direct supervision. Employees will be given access to their personnel records, in accordance with guidelines developed by the Superintendent.

In addition to the Superintendent or other designees, the Board may grant a committee or a member of the Board access to cumulative personnel files. When specifically authorized by the Board, counsel retained by the Board or by the employee will also have access to a cumulative personnel file.

In accordance with federal law, the District shall release information regarding the professional qualifications and degrees of teachers and the qualifications of paraprofessionals to parents upon request, for any teacher or paraprofessional who is employed by a school receiving Title I funds, and who provides instruction to their child at that school. Access to other information contained in the personnel records of District employees is governed by Policy 4340.

Personnel records must be kept for 10 years after termination.

Cross Reference: 4340 Public Access to District Records

Legal Reference: Admin. R. Mont. 10.55.701(5) Board of Trustees
No Child Left Behind Act of 2001, (Public Law 107-334)
§ 20-1-212(2), MCA Destruction of records by school officer.

Policy History:

Adopted on: August 2, 2005

Reviewed on:

Revised on: July 15, 2013

Malta School District

PERSONNEL

5231P
page 1 of 2

Personnel Records

The District shall maintain a cumulative personnel file in the administrative office for each of its employees, as required by the Office of Public Instruction and current personnel policies. These records are not to leave the administrative office except as specifically authorized by the Superintendent, and then only by signed receipt. Payroll records are maintained separately.

Contents of Personnel Files

A personnel file may contain, but is not limited to, transcripts from colleges or universities, information allowed by statute, a record of previous employment (other than college placement papers for periods beyond active candidacy for a position), evaluations, copies of contracts, and copies of letters of recommendation requested by an employee. All material in the personnel file must be related to the employee's work, position, salary, or employment status in the District. All documents, communications, and records dealing with the processing of a grievance shall be filed separately from the personnel files of the participants.

No material derogatory to an employee's conduct, service, character, or personality shall be placed in the file, unless such placement is authorized by the Superintendent, as indicated by his initials, and unless the employee has had adequate opportunity to read the material. For the latter purpose, the Superintendent shall take reasonable steps to obtain the employee's initials or signature verifying the employee has received a copy of the material. If the employee refuses to sign the document indicating they have had an opportunity to read it, the Superintendent will place an addendum to the document, noting that the employee was given a copy but refused to sign. The Superintendent will date and sign the addendum.

Disposition of Personnel Files

An employee, upon termination, may request transcripts of college and university work. Any confidential college or university placement papers shall be returned to the sender or destroyed at the time of employment. All other documents shall be retained and safeguarded by the District for such periods as prescribed by law.

Record-Keeping Requirements Under the Fair Labor Standards Act

1. Records required for ALL employees:
 - A. Name in full (same name as used for Social Security);
 - B. Employee's home address, including zip code;
 - C. Date of birth if under the age of nineteen (19);
 - D. Sex (may be indicated with Male/Female, M/F, Mr./Mrs./Miss/Ms.);
 - E. Time of day and day of week on which the employee's workweek begins;

- F. Basis on which wages are paid (such as \$5/hour, \$200/week, etc.);
- G. Any payment made which is not counted as part of the “regular rate”;
- H. Total wages paid each pay period.

2. Additional records required for non-exempt employees:

- A. Regular hourly rate of pay during any week when overtime is worked;
- B. Hours worked in any workday (consecutive twenty-four-(24)-hour period);
- C. Hours worked in any workweek (or work period in case of 207[k]);
- D. Total daily or weekly straight-time earnings (including payment for hours in excess of forty (40) per week, but excluding premium pay for overtime);
- E. Total overtime premium pay for a workweek;
- F. Date of payment and the pay period covered;
- G. Total deductions from or additions to wages each pay period;
- H. Itemization of dates, amounts, and reason for the deduction or addition, maintained on an individual basis for each employee;
- I. Number of hours of compensatory time earned each pay period;
- J. Number of hours of compensatory time used each pay period;
- K. Number of hours of compensatory time compensated in cash, the total amount paid, and the dates of such payments;
- L. The collective bargaining agreements which discuss compensatory time, or written understandings with individual non-union employees.

All records obtained in the application and hiring process shall be maintained for at least two (2) years.

Legal Reference:	29 USC 201, et seq.	Fair Labor Standards Act
	§§ 2-6-101, et seq., MCA	Public Records
	24.9.805, ARM	Employment Records

Procedure History:

Promulgated on: August 2, 2005

Revised on:

Malta School District

PERSONNEL

5232

Abused and Neglected Child Reporting

A District employee who has reasonable cause to suspect, as a result of information they receive in their professional or official capacity, that a child is abused or neglected by anyone regardless of whether the person suspected of causing the abuse or neglect is a parent or other person responsible for the child's welfare, they shall report the matter promptly to the department of public health and human services. An employee does not discharge the obligation to personally report by notifying the Superintendent or principal.

Any District employee who fails to report a suspected case of abuse or neglect to the Department of Public Health and Human Services, or who prevents another person from doing so, may be civilly liable for damages proximately caused by such failure or prevention and is guilty of a misdemeanor. The employee will also be subject to disciplinary action up to and including termination.

When a District employee makes a report, the DPHHS may share information with that individual or others as stated in 41-3-201(5). Individuals who receive information pursuant to the above named subsection (5) shall maintain the confidentiality of the information as required in 41-3-205.

Legal Reference:	§ 41-3-201, MCA	Reports
	§ 41-3-202, MCA	Action on reporting
	§ 41-3-203, MCA	Immunity from liability
	§ 41-3-205, MCA	Confidentiality – disclosure exceptions
	§ 41-3-207, MCA	Penalty for failure to report

Policy History:

Adopted on: August 2, 2005

Reviewed on:

Revised on: July 13, 2016

PERSONNEL

**Malta School District
Report of Suspected Child Abuse or Neglect**

Original to: Department of Public Health and Human Services

Copy to: Building Principal

From: _____ Title: _____

School: _____ Phone: _____

Persons contacted: Principal Teacher School Nurse Other _____

Name of Minor: _____ Date of Birth: _____

Address: _____ Phone: _____

Date of Report: _____ Attendance Pattern: _____

Father: _____ Address: _____ Phone: _____

Mother: _____ Address: _____ Phone: _____

Guardian or
Stepparent: _____ Address: _____ Phone: _____

Any suspicion of injury/neglect to other family members: _____

Nature and extent of the child's injuries, including any evidence of previous injuries, and any other information which may be helpful in showing abuse or neglect, including all acts which lead you to believe the child has been abused or neglected: _____

Previous action taken, if any: _____

Follow-up by Department of Public Health and Human Services (DPHHS to complete and return copy to the Building Principal):

Date Received: _____

Date of Investigation: _____

PERSONNEL

5240

Resolution of Staff Complaints/Problem-Solving

As circumstances allow, the District will attempt to provide the best working conditions for its employees. Part of this commitment is encouraging an open and frank atmosphere in which any problem, complaint, suggestion, or question is answered quickly and accurately by District supervisors or administration.

The District will endeavor to promote fair and honest treatment of all employees. Administrators and employees are all expected to treat each other with mutual respect. Each employee has the right to express his or her views concerning policies or practices to the administration in a businesslike manner, without fear of retaliation. Employees are encouraged to offer positive and constructive criticism.

Each employee is expected to follow established rules of conduct, policies, and practices. Should an employee disagree with a policy or practice, the employee can express his or her disagreement through the District's grievance procedure. No employee shall be penalized, formally or informally, for voicing a disagreement with the District in a reasonable, businesslike manner or for using the grievance procedure. **An employee filing a grievance under a collective bargaining agreement is required to follow the grievance procedure for that particular agreement.**

Cross Reference: 1700 Uniform Complaint Procedure

Policy History:

Adopted on: August 2, 2005

Revised on:

Malta School District

PERSONNEL

5250

Non-Renewal of Employment/Dismissal from Employment

The Board, after receiving the recommendations of the Superintendent, will determine the non-renewal or termination of certified and classified staff, in conformity with state statutes and applicable District policy.

Cross Reference: 5140 Classified Employment and Assignment

Legal Reference: § 20-4-204, MCA Termination of tenure teacher services
§ 20-4-206, MCA Notification of nontenure teacher reelection –
acceptance – termination.
§ 20-4-207, MCA Dismissal of teacher under contract

Policy History:

Adopted on: August 2, 2005

Revised on:

Malta School District

PERSONNEL

5251

Resignations

Release From Contract: A teacher under contract to the District will be released from their teaching contract, provided the teacher makes payment for liquidated damages to the District prior to release, on the following schedule. The date the District receives the teacher's letter requesting release is the date controlling on the following schedule:

No liquidated damages up to July 1 will be assessed, if the teacher notifies his or her immediate supervisor of their intent to seek employment elsewhere by May 1.

Teachers wishing to be released from contract from July 1 to August 1 will pay Five Hundred Dollars (\$500) liquidated damages.

Teachers wishing to be released from contract from August 1 to the first (1st) day of school will pay One Thousand Dollars (\$1,000) liquidated damages.

The parties agree that the District incurs costs which are impractical or extremely difficult to fix when a teacher breaches his or her contract. Liquidated damages are to cover the impractical or extremely difficult-to-fix costs.

Jurisdiction and enforcement of this provision of the individual contract is through the Seventeenth Judicial District Court of the State of Montana, with the teacher being liable for all fees under the above schedule, court costs, and reasonable attorney fees of the District. The court may take other action it deems appropriate. The court also has jurisdiction to award interest on any amount due.

Classified employees not under contract are expected to give written notice, generally of two (2) weeks, to permit the District to conduct a search for a suitable replacement.

All employees should tender resignations in writing, which will be transmitted to the Board as part of the regular personnel report.

Policy History:

Adopted on: August 2, 2005

Revised on:

PERSONNEL

Family Medical Leave

In accordance with provisions of the Family Medical Leave Act of 1993 (FMLA), a leave of absence of up to twelve (12) weeks during a twelve-(12)-month period may be granted to an eligible employee for the following reasons: 1) birth of a child; 2) placement of a child for adoption or foster care; 3) a serious health condition which makes the employee unable to perform functions of the job; 4) to care for the employee's spouse, child, or parent with a serious health condition; 5) because of a qualifying exigency (as the Superintendent shall, by regulation, determine) arising out of the fact that the spouse or a son, daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation.

Servicemember Family Leave

Subject to Section 103 of the FMLA of 1993, as amended, an eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember shall be entitled to a total of twenty-six (26) workweeks of leave during a twelve-(12)-month period to care for the servicemember. The leave described in this paragraph shall only be available during a single twelve-(12)-month period.

Eligibility

An employee is eligible to take FMLA leave, if the employee has been employed for at least twelve (12) months and has worked at least one thousand two hundred fifty (1,250) hours during the twelve (12) months immediately prior to the date leave is requested, and there have been at least fifty (50) District employees within seventy-five (75) miles for each working day during twenty (20) or more workweeks in the current or preceding calendar year.

The Board has determined that the twelve-(12)-month period during which an employee may take FMLA leave is July 1 to June 30.

Coordination of Paid Leave

Employees will be required to use appropriate paid leave while on FMLA leave. Workers' compensation absences will not be designated FMLA leave.

Employees may or may not be required to use appropriate paid leave while on FMLA leave. Workers' compensation absences will not be designated FMLA leave. (Current Policy)

Medical Certification

The Superintendent has discretion to require medical certification to determine initial or continued eligibility under FMLA as well as fitness for duty.

NOTE: This provision applies to school districts with fifty (50) or more employees. Those districts with less than fifty (50) employees must comply with notice and record retention but are not obligated to provide the leave as a benefit of any employee's employment. The FMLA poster may be obtained by going to the Montana Department of Labor website, highlight "Resources & Services" tab and click on "Required Postings".

Legal Reference: 29 U.S.C §2601, *et seq.* - Family and Medical Leave Act of 1993
29 C.F.R. Part 825, Family and Medical Leave Regulations
§§2-18-601, *et seq.*, MCA Leave Time
§§49-2-301, *et seq.*, MCA Prohibited Discriminatory Practices
Section 585 – National Defense Authorization Act for FY 2008, Public
Law [110-181]

Policy History:

Adopted on: August 2, 2005

Reviewed on: July 8, 2009

Revised on: August 8, 2012

Malta School District

PERSONNEL

5253

Retirement Programs for Employees

All District employees shall participate in retirement programs under the Federal Social Security Act and either the Teachers' Retirement System or the Public Employees' Retirement System in accordance with state retirement regulations.

Certified employees who intend to retire at the end of the current school year should notify the Superintendent in writing prior to April 1 of that year **OR** according to terms of the current collective bargaining agreement.

Those employees intending to retire, who are not contractually obligated to complete the school year, should notify the Superintendent as early as possible and no less than sixty (60) days before their retirement date.

The relevant and most current negotiated agreements for all categories of employees shall specify severance stipends and other retirement conditions and benefits.

The District will contribute to the PERS whenever a classified employee is employed for more than the equivalent of one hundred twenty (120) full days (960 hours) in any one (1) fiscal year. Part-time employees who are employed for less than 960 hours in a fiscal year may elect PERS coverage, at their option and in accordance with § 19-3-412, MCA.

Legal Reference:	Title 19, Chapter 1, MCA	Social Security
	Title 19, Chapter 3, MCA	Public Employees' Retirement System
	Title 19, Chapter 20, MCA	Teachers' Retirement

Policy History:

Adopted on: August 2, 2005

Revised on:

Malta School District

PERSONNEL

5254

Payment of Employer Contributions and Interest on Previous Service

A Public Employees' Retirement System (PERS) member may purchase (1) all or a portion of the member's employment with an employer prior to the time the employer entered into a contract for PERS coverage and (2) all or a portion of the member's employment for which optional PERS membership was declined (both of which are known as previous service).

The member must file a written application with the PERS Board to purchase all or a portion of the employment for service credit and membership service. The application must include salary information certified by the member's employer or former employer.

The District has the option to pay, or not to pay, the employer's contributions due on previous service and the option to pay, or not to pay, the outstanding interest due on the employer's contributions for the previous service.

It is the policy of this District to not pay the employer's contributions due on previous service.

It is also the policy of this District to not pay the outstanding interest due on the employer's contributions for the previous service.

This policy will be applied indiscriminately to all employees and former employees of this District.

Legal Reference: §19-3-505, MCA Purchase of previous employment with employer

Policy History:

Adopted on: July 7, 2010

Reviewed on:

Revised on:

Malta School District

PERSONNEL

5255

Disciplinary Action

District employees who fail to fulfill their job responsibilities or to follow reasonable directions of their supervisors, or who conduct themselves on or off the job in ways that affect their effectiveness on the job, may be subject to discipline. Behavior, conduct, or action that may call for disciplinary action or dismissal includes but is not limited to reasonable job-related grounds based on a failure to satisfactorily perform job duties, disruption of the District’s operation, or other legitimate reasons.

Discipline will be reasonably appropriate to the circumstance and will include but not be limited to a supervisor’s right to reprimand an employee and the Superintendent’s right to suspend an employee, with or without pay, or to impose other appropriate disciplinary sanctions. In accordance with Montana law, only the Board may terminate an employee or non-renew employment.

The Superintendent is authorized to immediately suspend a staff member.

Legal Reference:	§ 20-3-210, MCA	Controversy appeals and hearings
	§ 20-3-324, MCA	Powers and duties
	§ 20-4-207, MCA	Dismissal of teacher under contract
	§ 39-2-903, MCA	Definitions

Policy History:

Adopted on: August 2, 2005

Revised on:

Malta School District

PERSONNEL

5256

Reduction in Force

The Board has exclusive authority to determine the appropriate number of employees. A reduction in certified employees may occur as a result of but not be limited to changes in the education program, staff realignment, changes in the size or nature of the student population, financial considerations, or other reasons deemed relevant by the Board.

The Board will follow the procedure stated in the current collective bargaining agreement when considering a reduction in force. The reduction in certified employees, other than administrators, will generally be accomplished through normal attrition when possible. The Board may terminate certified employees, if normal attrition does not meet the required reduction in force.

The Board will consider performance evaluations, staff needs, and other reasons it deems relevant, in determining order of dismissal when it reduces classified staff or discontinues some type of educational service.

Cross Reference: 5250 Nonrenewal of Employment/Dismissal from Employment

Legal Reference: § 20-4-206, MCA Notification of nontenure teacher reelection – acceptable – termination

Policy History:

Adopted on: August 2, 2005

Revised on:

Malta School District

PERSONNEL

5314

Substitutes

The Board authorizes the use of substitute teachers as necessary to replace teachers who are temporarily absent. The principal shall arrange for the substitute to work for the absent teacher. Under no condition is a teacher to select or arrange for a private substitute.

Substitute teachers will not be employed by teachers to do their duties by personal arrangement. All substitute teachers will be employed by the administration, through building principals. Pay will be at the rate of Sixty-Three Dollars (\$63.00) per full day for non-certified substitute teachers and Seventy Dollars (\$70.00) per full day for certified substitutes. If the substitute's time is less than a full day, the rate of Nine Dollars (\$9.00) (non-certified) or Ten Dollars (\$10.00) (certified) per period will be paid. Only those periods taught will be paid. Full-day assignments normally include a paid prep period. An additional Five Dollars (\$5.00) per day will be paid, after a substitute teacher has worked five (5) consecutive days for the same teacher. After thirty (30) consecutive days of substituting for the same teacher, a regular contract, according to the District's collective bargaining salary schedule, will be written. The substitute must be certified at this point.

Substitutes for classified positions will be paid by the hour. When a classified employee is called upon to substitute for a teacher, the teacher sub rate shall apply unless the classified rate of pay is higher.

All substitute teachers will be required to undergo fingerprint and background checks. *The Board may pass a motion waiving, in whole or in part, this requirement, if the non-licensed substitute has previous teaching or substitute teaching experience in an accredited public school in Montana prior to November 28, 2002.*

Policy History:

Adopted on: August 2, 2005

Revised on: October 10, 2007

Malta School District

PERSONNEL

5322

Military Leave

Pursuant to the Uniformed Services Employment and Reemployment Rights Act (USERRA) and the Montana Military Service Employment Rights, the Superintendent shall grant military leave to employees for voluntary or involuntary service in the uniformed services of the United States, upon receipt of the required notice. Benefits shall be maintained for these employees as required by law and/or collective bargaining agreements. A service member who returns to the District for work following a period of active duty must be reinstated to the same or similar position and at the same rate of pay unless otherwise provided by law.

Time spent in active military service shall be counted in the same manner as regular employment for purposes of seniority or District service unless otherwise provided in a collective bargaining agreement.

The District will not discriminate in hiring, reemployment, promotion, or benefits based upon membership or service in the uniformed services.

All requests for military leave will be submitted to the Superintendent, in writing, accompanied by copies of the proper documentation showing the necessity for the military leave request.

When possible, all requests for military leave will be submitted at least one (1) full month in advance of the date military service is to begin.

Persons returning from military leave are asked to give the Superintendent notice of intent to return, in writing, as least one (1) full month in advance of the return date.

The District shall post notice of the rights, benefits, and obligations of the District and employees in the customary place for notices.

Legal Reference:	38 U.S.C. §§ 4301-4334	The Uniformed Services Employment and Reemployment Act of 1994
	§10-1-1004, MCA	Rights under federal law
	§10-1-1005, MCA	Prohibition against employment discrimination
	§10-1-1006, MCA	Entitlement to leave of absence
	§10-1-1007, MCA	Right to return to employment without loss of benefits – exceptions – definition
	§10-1-1009, MCA	Paid military leave for public employees

Policy History:

Adopted on: October 11, 2006

Reviewed on:

Revised on: July 13, 2016

PERSONNEL

5325

Breastfeeding Workplace

Recognizing that breastfeeding is a normal part of daily life for mothers and infants, and that Montana law authorizes mothers to breastfeed their infants where mothers and children are authorized to be, the District will support women who want to continue breastfeeding after returning from maternity leave.

The District shall provide reasonable unpaid break time each day to an employee who needs to express milk for the employee's child, if breaks are currently allowed. If breaks are not currently allowed, the District shall consider each case and make accommodations as possible. The District is not required to provide break time if to do so would unduly disrupt the District's operations. Supervisors are encouraged to consider flexible schedules when accommodating employee's needs.

The District will make reasonable efforts to provide a room or other location, in close proximity to the work area, other than a toilet stall, where an employee can express the employee's breast milk. The available space will include the provision for lighting and electricity for the pump apparatus. If possible, supervisors will ensure that employees are aware of these workplace accommodations prior to maternity leave.

Legal Reference: Title 39, Chapter 2, Part 2, MCA

Policy History:

Adopted on: August 2, 2005

Revised on: July 9, 2007

PERSONNEL

Family Medical Leave

In accordance with provisions of the Family Medical Leave Act of 1993 (FMLA), a leave of absence of up to twelve (12) weeks during a twelve-(12)-month period may be granted to an eligible employee for the following reasons: 1) birth of a child; 2) placement of a child for adoption or foster care; 3) a serious health condition which makes the employee unable to perform functions of the job; or 4) to care for the employee’s spouse, child, or parent with a serious health condition.

An employee is eligible to take FMLA leave, if the employee has been employed for at least twelve (12) months and has worked at least one thousand two hundred fifty (1,250) hours during the twelve (12) months immediately prior to the date leave is requested and there have been at least fifty (50) District employees within seventy-five (75) miles for each working day during twenty (20) or more workweeks in the current or preceding calendar year.

Employees may or may not be required to use appropriate paid leave while on FMLA leave. Workers’ compensation absences will not be designated FMLA leave.

The Board has determined that the twelve-(12)-month period during which an employee may take FMLA leave is July 1 to June 30.

The Superintendent has discretion to require medical certification to determine initial or continued eligibility under FMLA, as well as fitness for duty.

NOTE: This provision applies to school districts with fifty (50) or more employees. Those districts with less than fifty (50) employees must comply with notice and record retention but are not obligated to provide the leave as a benefit of any employee’s employment.

Legal Reference: 29 CFR 825, 29 USC 2601, et seq. - Family and Medical Leave Act of 1993
§§2-18-601, et seq., MCA Leave Time
§§49-2-301, et seq., MCA Prohibited Discriminatory Practices

Policy History:

Adopted on: August 2, 2005

Revised on:

Malta School District

PERSONNEL

5329

Long-Term Illness/Temporary Disability/Maternity Leave

Employees may use sick leave for long-term illness or temporary disability, and, upon the expiration of sick leave, the Board may grant eligible employees leave without pay if requested. Medical certification of the long-term illness or temporary disability may be required, at the Board’s discretion.

Long-term illness or temporary disability shall be construed to include pregnancy, miscarriage, childbirth and recovery therefrom. Maternity leave includes only continuous absence immediately prior to delivery, absence for delivery, and absence for post-delivery recovery, or continuous absence immediately prior to and in the aftermath of miscarriage or other pregnancy-related complications. Such leave shall not exceed six (6) weeks unless prescribed by a physician.

Leave without pay arising out of any long-term illness or temporary disability, including pregnancy, miscarriage, childbirth and recovery therefrom, shall commence only after sick leave has been exhausted. The duration of leaves, extensions, and other benefits for privileges such as health and long-term illness or temporary disability plans in the event of maternity leave, shall apply under the same conditions as other long-term illness or temporary disability leaves.

The Superintendent shall devise procedures within the intent of Title VII of the 1964 Civil Rights Act as amended in 1978 by the Pregnancy Discrimination Act, and within the scope of applicable law and court rulings in the state of Montana.

Legal Reference:	§ 49-2-310, MCA	Maternity leave – unlawful acts of employers
	§ 49-2-311, MCA	Reinstatement to job following pregnancy-related leave of absence

Policy History:

Adopted on: August 2, 2005

Revised on:

Malta School District

PERSONNEL

5329P

Long-Term Illness/Temporary Disability/Maternity Leave

The following procedures will be used when an employee has a long-term illness or temporary disability, including maternity:

1. When any illness or temporarily disabling condition is “prolonged,” an employee will be asked by the administration to produce a written statement from a physician, stating that the employee is temporarily disabled and is unable to perform the duties of his/her position until such a time.
2. Maternity leave will be treated as any other disability. Generally, unless mandated otherwise by a physician, maternity leave does not exceed six (6) weeks. As a disabling condition, maternity leave is not available to fathers.
3. In the case of any other extended illness, procedures for assessing the probable duration of the temporary disability will vary. The number of days of disability will vary according to different conditions, individual needs, and the assessment of individual physicians. Normally, however, the employee should expect to return on the date indicated by the physician, unless complications develop which are further certified by a physician.

Procedure History:

Promulgated on: August 2, 2005

Revised on:

Malta School District

PERSONNEL

5333

Holidays

Holidays for certified staff are dictated in part by the school calendar. Temporary employees will not receive holiday pay. Part-time employees will receive holiday pay on a prorated basis.

The holidays required for classified staff, by § 20-1-305, MCA, are:

1. Independence Day
2. Labor Day
3. Thanksgiving Day
4. Christmas Day
5. New Year's Day
6. President's Day (contingent upon the fact that school was not in session that day)
7. Good Friday (contingent upon the fact that school was not in session that day)
8. Memorial Day
9. State and national election days when the school building is used as a polling place and conduct of school would interfere with the election process.

When an employee, as defined above, is required to work any of these holidays, another day shall be granted in lieu of such holiday, unless the employee elects to be paid for the holiday in addition to the employee's regular pay for all time worked on the holiday.

When one of the above holidays falls on Sunday, the following Monday will not be a holiday. When one of the above holidays falls on Saturday, the preceding Friday will not be a holiday.

When a holiday occurs during a period in which vacation is being taken by an employee, the holiday will not be charged against the employee's annual leave.

Legal Reference: § 20-1-305, MCA School holidays

Policy History:

Adopted on: August 2, 2005

Revised on:

Malta School District

PERSONNEL

Vacations

All classified employees, except those in a temporary status, serving more than six (6) months, are eligible to earn vacation leave credits retroactive to the date of employment. Leave credits may not be advanced nor may leave be taken retroactively. A seasonal employee's accrued vacation leave credits may be carried over to the next season, if management has a continuing need for the employee, or paid out as a lump-sum payment to the employee when the season ends (generally in June). The employee may request a lump-sum payment at the end of each season.

Vacation is earned according to the following schedule:

RATE-EARNED SCHEDULE

<u>Years of Employment</u>	<u>Working Days Credit per Year</u>
1 day - 10 years	15
10 - 15 years	18
15 - 20 years	21
20 years on	24

Time as an elected state, county, or city official, as a school teacher, or as an independent contractor, does not count toward the rate earned. For purposes of this paragraph, an employee of the District or the university system is eligible to have school district or university employment time count toward the rate-earned schedule, if that employee was eligible for annual leave in the position held with the school district or university system.

Maximum Accrual of Vacation Leave

All full-time and part-time employees serving in permanent and seasonal positions may accumulate two (2) times the total number of annual leave credits they are eligible to earn per year, according to the rate-earned schedule.

Sick Leave Bank

An employee may contribute accumulated vacation leave to the sick leave bank provided for in 2-18-618, MCA. Donation of vacation leave credits to and use of vacation leave credits in the sick leave bank are governed by terms of the current collective bargaining agreement.

Annual Pay-Out

The District may, in its sole discretion and/or subject to the terms of a collective bargaining agreement, provide cash compensation in January of each year for unused vacation leave in lieu of the accumulation of vacation leave.

Lump-Sum Payment Upon Termination

An employee who terminates employment for reasons not reflecting discredit on the employee shall be entitled, upon the date of such termination, to cash compensation for unused vacation leave, assuming that the employee has worked the qualifying periods set forth in § 2-18-611, MCA. The District shall not pay accumulated leaves to employees who have not worked the qualifying period. Vacation leave contributed to the sick leave bank is nonrefundable and is not eligible for cash compensation upon termination.

Legal Reference: § 2-18-611 - § 2-18-618, MCA

Procedure History:

Promulgated on:

Revised on: July 9, 2007

Malta School District

PERSONNEL

Vacations

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Legal Reference: § 2-18-611 - § 2-18-617, MCA

Procedure History:

Promulgated on: August 2, 2005

Revised on:

Compensatory Time and Overtime for Classified Employees

Classified employees who work more than forty (40) hours in a given workweek may receive overtime pay of one and one-half (1½) times the normal hourly rate, unless the District and the employee agree to the provision of compensation time at a rate of one and one-half (1½) times all hours worked in excess of forty (40) hours in any workweek. The Superintendent must approve any overtime work of a classified employee.

Under Montana law and the Federal Fair Labor Standards Act, a classified employee may not volunteer to work without pay in an assignment similar to his or her regular work.

A non-exempt employee who works overtime without authorization may be subject to disciplinary action.

Legal Reference: 29 USC 201, et seq. Fair Labor Standards Act

Policy History:

Adopted on: August 2, 2005

Revised on:

Malta School District

PERSONNEL

5337

Workers' Compensation Benefits

All employees of the District are covered by workers' compensation benefits. In the event of an industrial accident, an employee should:

1. Attend to first aid and/or medical treatment during an emergency;
2. Correct or report as needing correction a hazardous situation as soon as possible after an emergency situation is stabilized;
3. Report the injury or disabling condition, whether actual or possible, to the immediate supervisor, within forty-eight (48) hours, on the Employer's First Report of Occupational Injury or Disease; and
4. Call or visit the administrative office after medical treatment, if needed, to complete the necessary report of accident and injury on an Occupational Injury or Disease form.

The administrator will notify the immediate supervisor of the report and will include the immediate supervisor as necessary in completing the required report.

An employee who is injured in an industrial accident may be eligible for workers' compensation benefits. By law, employee use of sick leave must be coordinated with receipt of workers' compensation benefits, on a case-by-case basis, in consultation with the Workers' Compensation Division, Department of Labor and Industry.

The District will not automatically and simply defer to a report of industrial accident but will investigate as it deems appropriate to determine: (1) whether continuing hazardous conditions exist which need to be eliminated; and (2) whether in fact an accident attributable to the District working environment occurred as reported. The District may require the employee to authorize the employee's physician to release pertinent medical information to the District or to a physician of the District's choice, should an actual claim be filed against the Workers' Compensation Division, which could result in additional fees being levied against the District.

Legal Reference: §§ 39-71-101, et seq., MCA Workers' Compensation Act

Policy History:

Adopted on: August 2, 2005

Revised on:

Malta School District

PERSONNEL

5338

Payment of Interest on Employer Contributions for Workers' Compensation Time

An employee absent because of an employment-related injury entitling the employee to workers' compensation payments may, upon the employee's return to service, contribute to the retirement system an amount equal to the contributions that would have been made by the employee to the system on the basis of the employee's compensation at the commencement of the employee's absence plus regular interest accruing from one (1) year from the date after the employee returns to service to the date the employee contributes for the period of absence.

The District has the option to pay, or not pay, the interest on the employer's contribution for the period of absence based on the salary as calculated. If the employer elects not to pay the interest costs, this amount must be paid by the employee.

It is the policy of this District to not pay the interest costs associated with the employer's contribution.

Legal Reference: §§ 19-3-504, MCA Absence due to illness or injury.

Policy History:

Adopted on: July 7, 2010

Reviewed on:

Revised on

Malta School District

PERSONNEL

5420

Teachers' Aides/Paraeducators

Teachers' aides/paraeducators, as defined in the appropriate job descriptions, are under the supervision of a principal and a teacher to whom the principal may have delegated responsibility for close direction. The nature of the work accomplished by paraeducators will encompass a variety of tasks that may be inclusive of "limited instructional duties."

Paraeducators are employed by the District mainly to assist the teacher. A paraeducator is an extension of the teacher, who legally has the direct control and supervision of the classroom or playground and responsibility for control and the welfare of the students.

In compliance with applicable legal requirements, the Board shall require all paraeducators with instructional duties, that are newly hired in a Title I school-wide program, to have:

1. Completed at least two (2) years of study at an institution of higher education;
2. Obtained an Associate's or higher degree; or
3. Met a rigorous standard of quality, and can demonstrate through a formal state or local academic assessment the knowledge of and ability to assist in the instruction of reading, writing, or mathematics or the instruction of readiness of these subjects.

Paraeducators hired before January 8, 2002, have until January 1, 2006, to meet these standards.

It is the responsibility of each principal and teacher to provide adequate training for a paraeducator. This training should take into account the unique situations in which a paraeducator works and should be designed to cover the general contingencies that might be expected to pertain to that situation. During the first thirty (30) days of employment, the supervising teacher or administrator shall continue to assess the skills and ability of the paraeducator to assist in reading, writing, and mathematics instruction.

The Superintendent shall develop and implement procedures for an annual evaluation of teachers' aides/paraeducators. Evaluation results shall be a factor in future employment decisions.

Legal Reference: Public Law 107-110, No Child Left Behind Act of 2001

Policy History:

Adopted on: August 2, 2005

Revised on:

Malta School District

PERSONNEL

5440

Student Teachers/Interns

The District recognizes its obligation to assist in the development of members of the teaching profession. The District shall make an effort to cooperate with accredited institutions of higher learning in the education of student teachers and other professionals in training (such as interns) by providing a reasonable number of classroom and other real-life situations each year.

The District and the respective training institutions shall enter into mutually satisfactory agreements whereby the rules, regulations, and guidelines of the practical experiences shall be established.

The Superintendent shall coordinate all requests from cooperating institutions for placement with building principals so that excessive concentrations of student teachers and interns shall be avoided. As a general rule:

1. A student teacher shall be assigned to a teacher or other professional who has agreed to cooperate and who has no less than three (3) years of experience in the profession;
2. A supervising professional shall be assigned no more than one (1) student teacher/intern per school year;
3. The supervising professional shall remain responsible for the class;
4. The student teacher shall assume the same conditions of employment as a regular teacher with regard to meeting the health examination requirements, length of school day, supervision of co-curricular activities, staff meetings, and in-service training; and
5. The student teacher shall be subject to the District policy regarding background checks, if the student teacher has unsupervised access to children.

Cross Reference: 5122 Fingerprints and Criminal Background Investigations

Legal Reference: § 20-4-101(2) and (3), MCA System and definitions of teacher and specialist certification – student teacher exception

Policy History:

Adopted on: August 2, 2005

Revised on:

Malta School District

PERSONNEL

5450
page 1 of 2

Employee use of Electronic Mail, Internet, and District Equipment

Electronic mail (“e-mail”) is an electronic message that is transmitted between two (2) or more computers or electronic terminals, whether or not the message is converted to hard-copy format after receipt, and whether or not the message is viewed upon transmission or stored for later retrieval. E-mail includes all electronic messages that are transmitted through a local, regional, or global computer network.

Because of the unique nature of e-mail/Internet, and because the District desires to protect its interest with regard to its electronic records, the following rules have been established to address e-mail/Internet usage by all employees:

The District e-mail and Internet systems are intended to be used for educational purposes only, and employees should have no expectation of privacy when using the e-mail or Internet systems for any purpose. Employees have no expectation of privacy in district owned technology equipment, including but not limited to district-owned desktops, laptops, memory storage devices, and cell phones.

Users of District e-mail and Internet systems are responsible for their appropriate use. All illegal and improper uses of the e-mail and Internet system, including but not limited to extreme network etiquette violations including mail that degrades or demeans other individuals, pornography, obscenity, harassment, solicitation, gambling, and violating copyright or intellectual property rights, are prohibited. Abuse of the e-mail or Internet systems through excessive personal use, or use in violation of the law or District policies, will result in disciplinary action, up to and including termination of employment.

All e-mail/Internet records are considered District records and should be transmitted only to individuals who have a need to receive them. If the sender of an e-mail or Internet message does not intend for the e-mail or Internet message to be forwarded, the sender should clearly mark the message “Do Not Forward.”

In order to keep District e-mail and Internet systems secure, users may not leave the terminal “signed on” when unattended and may not leave their password available in an obvious place near the terminal or share their password with anyone except the system administrator. The District reserves the right to bypass individual passwords at any time and to monitor the use of such systems by employees.

Additionally, District records and e-mail/Internet records are subject to disclosure to law enforcement or government officials or to other third parties through subpoena or other process. Consequently, the District retains the right to access stored records in cases where there is

reasonable cause to expect wrongdoing or misuse of the system and to review, store, and disclose all information sent over the District e-mail systems for any legally permissible reason, including but not limited to determining whether the information is a public record, whether it contains information discoverable in litigation, and to access District information in the employee's absence. Employee e-mail/Internet messages may not necessarily reflect the views of the District.

Except as provided herein, District employees are prohibited from accessing another employee's e-mail without the expressed consent of the employee. All District employees should be aware that e-mail messages can be retrieved, even if they have been deleted, and that statements made in e-mail communications can form the basis of various legal claims against the individual author or the District.

E-mail sent or received by the District or the District's employees may be considered a public record subject to public disclosure or inspection. All District e-mail and Internet communications may be monitored.

Policy History:

Adopted on: August 2, 2005

Reviewed on:

Revised on: August 8, 2012

Malta School District

PERSONNEL

5500

Payment of Wages Upon Termination

When a District employee quits, is laid off, or is discharged, wages owed will be paid on the next regular pay day for the pay period in which the employee left employment or within fifteen (15) days from the date of separation of employment, whichever occurs first.

In the case of an employee discharged for allegations of theft connected to the employee's work, the District may withhold the value of the theft, provided:

- The employee agrees in writing to the withholding; or
- The District files a report of the theft with law enforcement within seven (7) business days of separation.

If no charges are filed within thirty (30) days of the filing of a report with law enforcement, wages are due within a thirty-(30)-day period.

Legal Reference: § 39-3-205, MCA Payment of wages when employee separated from employment prior to payday – exceptions

Policy History:

Adopted on: August 2, 2005

Reviewed on: July 8, 2009

Revised on: August 8, 2012

PERSONNEL

HIPAA

Note:

(1) Any school district offering a group “health care plan” for its employees is affected by HIPAA. School districts offering health plans that are self-insured will be entirely responsible for compliance with HIPAA, despite a third party administrator managing the plan. School districts may also be subject to HIPAA as a “health care provider” by either having a school-based health center or a school nurse. School-based health centers staffed and serviced by a hospital or local health department are responsible for complying with HIPAA if there is a sharing of records containing health information. For those districts providing the services of a school nurse, HIPAA regulations issued in 2000 commented that an “educational institution that employs a school nurse is subject to [the] regulations as a health care provider if the school nurse or the school engaged in a HIPAA transaction.” This transaction occurs when a school nurse submits a claim electronically.

(2) Any personally identifiable health information contained in an “education record” under FERPA is subject to FERPA, not HIPAA.

Background

Health Insurance Portability and Accountability Act of 1996 (HIPAA)

The District’s group health plan is a Covered Entity under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its implementing regulations, the Standards for the Privacy of Individually Identifiable Information. In order to comply with HIPAA and its related regulations, the District has implemented the following HIPAA Privacy Policy:

The HIPAA Privacy Rule

HIPAA required the federal government to adopt national standards for *electronic health care transactions*. At the same time, Congress recognized that advances in electronic technology could erode the privacy of health information and determined there was a need for national privacy standards. As a result HIPAA included provisions which mandated the adoption of federal privacy standards for individually identifiable health information.

The standards found in the Privacy Rule are designed to protect and guard against the misuse of individually identifiable health information, with particular concern regarding employers using an employee’s (or dependent’s) health information from the group health plan to make adverse employment-related decisions. The Privacy Rule states that verbal, written, or electronic information that can be used to connect a person’s name or identity with medical, treatment, or health history information is Protected Health Information (PHI) under the HIPAA Privacy Rule.

Under the HIPAA Privacy Rule:

1. Individuals have a right to access and copy their health record to the extent allowed by HIPAA.
2. Individuals have the right to request an amendment to their health record. The plan may deny an individual's request under certain circumstances specified in the HIPAA Privacy Rule.
3. Individuals have the right to an accounting of disclosures of their health record for reasons other than treatment, payment, or healthcare operations.
4. PHI, including health, medical, and claims records, can be used and disclosed without authorization for specific, limited purposes (treatment, payment, or operations of the group health plan). A valid authorization from the individual must be provided for use or disclosure for other than those purposes.
5. Safeguards are required to protect the privacy of health information.
6. Covered entities are required to issue a notice of privacy practices to their enrollees.
7. Violators are held accountable with civil and criminal penalties for improper use or disclosure of PHI.

Compliance

The business manager has been designated Privacy Officer. The Privacy Officer will oversee all ongoing activities related to the development, implementation, maintenance of, and adherence to the District's policies and procedures covering the privacy of and access to patient health information in compliance with HIPAA, other applicable federal and state laws, and the District's privacy practices.

As required for a Covered Entity under HIPAA, the plan has developed these internal privacy policies and procedures to assure that PHI is protected and that access to and use and disclosure of PHI are restricted in a manner consistent with HIPAA's privacy protections. The policies and procedures recognize routine and recurring disclosures for treatment, payment, and healthcare operations and include physical, electronic, and procedural safeguards to protect PHI. The procedures include safeguards for sending PHI via mail or fax, receiving PHI for plan purposes, and workstation safeguards and procedures for securing and retaining PHI received by the plan. Plan participants are entitled to receive a copy of the plan's policies and procedures upon request.

Designating a limited number of privacy contacts allows the District to control who is receiving

PHI from the contract claims payor for plan operations purposes. The contract claims payor will provide only the minimum PHI necessary for the stated purpose and, as required under the Privacy Rule, will provide PHI only to individuals with a legitimate need to know for plan operations purposes.

The District has distributed a notice of privacy practices to plan participants. The notice informs plan participants of their rights and the District's privacy practices related to the use and disclosure of PHI. A copy of this notice may be obtained by contacting the Privacy Officer.

The District has reviewed how PHI is used and disclosed by the plan and has limited disclosure of that information to employees who have a legitimate need to know or possess the PHI for healthcare operations and functions. The District will make reasonable efforts to use de-identified information whenever possible in the operations of the plan and will only use the minimum PHI necessary for the stated purpose.

Some of the District's employees need access to PHI in order to properly perform the functions of their jobs. The District has identified these employees and has given them training in the important aspects of the HIPAA Privacy Rule, the privacy policy, and procedures. New employees who will have access to PHI will receive training on the HIPAA Privacy Rule and related policies and procedures as soon as reasonably possible after they are employed. Employees who improperly use or disclose PHI or misuse their access to that information may be subject to disciplined, as deemed appropriate.

In the event the group health plan must disclose PHI in the course of performing necessary plan operations functions or as required by law or a governmental agency, the District has developed a system to record those disclosures and requests for disclosures. An individual may request a list of disclosures of his or her PHI made by the plan for other than treatment or claims payment purposes. All requests for an accounting of PHI disclosures must be made in writing, and the plan may impose fees for the cost of production of this information. Requests will be responded to within sixty (60) days. If the plan is not able to provide the requested information within sixty (60) days, a written notice of delay will be sent to the requesting individual, with the reasons for the delay and an estimated time for response.

In order to comply with the new privacy regulations, the plan has implemented compliant communication procedures. Except for its use in legitimate healthcare operations, written permission will be required in order for the District to disclose PHI to or discuss it with a third party.

The HIPAA Privacy Rule prohibits the District from disclosing medical information without the patient's written permission other than for treatment, payment, or healthcare operations purposes. An authorization signed by the patient and designating specified individuals to whom the District may disclose specified medical information must be on file, before the plan can discuss a patient's medical information with a third party (such as a spouse, parent, group health plan

representative, or other individual).

The District has taken the following steps to ensure PHI is safeguarded:

- The District has implemented policies and procedures to designate who has and who does not have authorized access to PHI.
- Documents containing PHI are kept in a restricted/locked area.
- Computer files with PHI are password protected and have firewalls making unauthorized access difficult.
- Copies of PHI will be destroyed when information is no longer needed, unless it is required by law to be retained for a specified period of time.
- The District will act promptly to take reasonable measures to mitigate any harmful effects known to the group health plan, due to a use or disclosure of PHI in violation of the plan's policies, procedures, or requirements of the HIPAA Privacy Rule.
- The District will appropriately discipline employees who violate the District's group health plan's policies, procedures, or the HIPAA Privacy Rule, up to and including termination of employment if warranted by the circumstances.

The District has received signed assurances from the plan's business associates that they understand the HIPAA Privacy Rule, applicable regulations, and the Privacy Policy and will safeguard PHI just as the plan would.

The contract claims payor and certain other entities outside the group health plan require access on occasion to PHI, if they are business associates of the group health plan and in that role need to use, exchange, or disclose PHI from the group health plan. The plan requires these entities to sign an agreement stating they understand HIPAA's privacy requirements and will abide by those rules just as the group health plan does, to protect the PHI to which they have access. For example the plan engages a certified public accountant to audit the plan annually and to make sure payments are made in compliance with the Plan Document. In order for the CPA to complete an audit, the auditor reviews a sample of the claims for accuracy.

The District will ensure health information will not be used in making employment and compensation decisions. The HIPAA Privacy Rule and other applicable laws expressly prohibit an employer from making adverse employment decisions (demotions, terminations, etc.) based on health information received from the group health plan. To the extent possible, the District has separated the plan operations functions from the employment functions and has safeguards in place to prevent PHI from the plan from going to or being used by an employee's supervisor, manager, or superior to make employment-related decisions.

Complaints

If an employee believes their privacy rights have been violated, they may file a written complaint with the Privacy Officer. No retaliation will occur against the employee for filing a complaint. The contact information for the Privacy Officer is:

Business Manager
Malta School District
PO Box 670
Malta, MT 59538

Policy History:

Adopted on: August 2, 2005

Revised on:

Malta School District

PERSONNEL

5630

Employee Use of Cellular Phones and Other Electronic Devices

The Board recognizes that the use of cellular telephones and other electronic communication devices may be appropriate to help ensure the safety and security of District property, students, staff, and others while on District property or engaged in District-sponsored activities. To this end, the Board authorizes the purchase and employee use of such devices, as deemed appropriate by the Superintendent.

Use of cellular telephones and other electronic communication devices in violation of Board policies, administrative regulations, and/or state/federal laws will result in discipline up to and including dismissal.

District employees are prohibited from using cell phones or other electronic communication devices while driving or otherwise operating District-owned motor vehicles, or while driving or otherwise operating personally-owned vehicles when transporting students on school-sponsored activities.

Emergency Use

Staff are encouraged to use any available cellular telephone in the event of an emergency that threatens the safety of students, staff or other individuals.

Use of Personal Cell Phones and Communication Devices

Employees are strongly discouraged from using their personal cell phone during the school days. When necessary, employees may use their personal cell phones and similar communication devices only during non-instructional time. In no event shall an employee's use of a cell phone interfere with the employee's job obligations and responsibilities. If such use is determined to have interfered with an employee's obligations and responsibilities, the employee may be disciplined in accordance with the terms of the collective bargaining agreement and Board policies.

Policy History:

Adopted on: July 7, 2010

Reviewed on:

Revised on: