
SECTION G: Personnel

GA	Personnel Policies Goals
GAA	Staff Time Schedules
GAB/IIBEA	Acceptable Computer System Use
GAB-G/ IIBEA-G	Technology Use Guidelines
GAD	Access to Employee Social Media Accounts
GAE	Child Abuse and Neglect Reporting
GAH	School Employee Conflict of Interests
GB	Equal Employment Opportunity/Non-Discrimination
GB-F	Report of Discrimination
GBA/JFHA	Prohibition Against Harassment and Retaliation
GBA-F/ JFHA-F	Report of Harassment
GBB	Prohibition of Abusive Work Environment
GBC	Staff Compensation Procedures
GBC-R	Notice of How Employees Who Work Less Than 12 Months Are to be Paid
GBD	Board-Staff Communications (Also BG)
GBD-G	Guidelines for Board-Staff Communications
GBE	Staff Health

SECTION G: Personnel
(Continued)

GBEA	Unlawful Manufacture, Distribution, Dispensing, Possession or Use of a Controlled Substance
GBEB	Staff Weapons in School
GBEC	Tobacco Free School for Staff and Students (Also JFCH)
GBEF/JHCL Lactation Support	
GBG	Staff Participation in Political Activities
GBI	Staff Gifts and Solicitations
GBL	Personnel Records
GBLA	Third Party Complaints Against Employees
GBM	Professional Staff Grievances
GBMA	Support Staff Grievances
GBN	Staff Hiring Procedures
GBO	Virginia Retirement System
GBR	Voluntary Retirement Savings Program
GC	Professional Staff
GCB	Professional Staff Contracts
GCBA	Staff Salary Schedules
GCBB	Supplementary Pay
GCBC	Staff Fringe Benefits
GCBC-R	Regulations to Staff Fringe Benefits

SECTION G: Personnel
(Continued)

G CBD	Staff Leaves and Absences
G CBD-R	Regulations to Staff Leaves and Absences
G CBE	Family and Medical Leave
G CBEA	Leave Without Pay
G CBEB	Military Leave and Benefits
G CCB	Employment of Family Members
G CDA	Effect of Criminal Conviction or Founded Complaint of Child Abuse or Neglect
G CE	Part-Time and Substitute Professional Staff Employment
G CG	Professional Staff Probation and Continuing Contract
G CI	Professional Staff Assignments and Transfers
G CL	Professional Staff Development
G CL-R	Certificated Personnel: Professional Growth
G CN	Evaluation of Professional Staff
G CPA	Reduction in Force
G CPA-R	Accompanying Regulation - Reduction in Force
G CPB	Resignation of Staff Members
G CPD	Professional Staff Discipline
G CPD-R	Professional Staff Discipline – Regulations
G CPE	Suspension of Staff Members

SECTION G: Personnel
(Continued)

GCQA	Non-school Employment by Professional Staff Members
GCQAB	Tutoring for Pay
GCQB	Staff Research and Publishing
GD	Support Staff
GDB	Support Staff Employment Status
GDG	Support Staff Probation
GDI	Support Staff Assignments and Transfers
GDJ	Support Staff Time Schedules
GDN	Evaluation of Support Staff
GDQ	Drug and Alcohol Testing for School Bus Drivers
GEA/JOH	Acceptance of Electronic Signatures and Records

PERSONNEL POLICIES GOALS

The goal of the employment policies and practices of the New Kent County School Board is to promote the employment and retention of highly qualified personnel to effectively serve the educational needs of students.

No employee, contractor or agent of the New Kent County School Board may assist a school board employee, contractor or agent in obtaining a new job, apart from the routine transmission of administrative and personnel files, if the employee, contractor or agent knows, or has probable cause to believe, that such school employee, contractor or agent engaged in sexual misconduct regarding a minor or student in violation of law.

1. This prohibition does not apply if the information giving rise to probable cause
 - A. has been properly reported to a law enforcement agency with jurisdiction over the alleged misconduct and
 - B. has been properly reported to any other authorities as required by federal or state law, including title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et. seq.) and the regulations implementing it and
2.
 - A. the matter has been officially closed or the prosecutor or police with jurisdiction over the alleged misconduct has investigated the allegations and notified school officials that there is insufficient information to establish probable cause that the school employee, contractor or agent engaged in sexual misconduct regarding a minor in violation of law;
 - B. the school employee, contractor or agent has been charged with, and acquitted or otherwise exonerated of the alleged misconduct; or
 - C. the case or investigation remains open and there have been no charges filed against, or indictment of, the school employee, contractor or agent within 4 years of the date on which the information was reported to a law enforcement agency.

Adopted: July 1, 1998
Revised: September 4, 2002
Revised: August 7, 2006
Revised: May 3, 2010
Reviewed: January 22, 2013 – no changes
Revised: June 17, 2013
Revised: April 28, 2017
Revised: August 7, 2018
Revised: August 5, 2019

Legal Refs.: 20 U.S.C. § 7926.
Code of Virginia, 1950, as amended, §§ 22.1-79.8, 22.1-295.

Cross Refs.:	AC	Nondiscrimination
	GAE	Child Abuse and Neglect Reporting
	GB	Equal Employment Opportunity/Nondiscrimination
	GBL	Personnel Records
	GBN	Staff Hiring Procedures

STAFF TIME SCHEDULES

Work Schedules

The workday for full-time licensed and professional staff is a minimum of seven hours and thirty minutes and continues until professional responsibilities to the students and school division are completed. Administrative meetings, curriculum development, pupil supervision, assigned duties, parent conferences, group or individual planning and extra-curricular activities may require hours beyond the stated minimum. Elementary school classroom teachers are provided at least an average of thirty minutes per day during the students' school week as planning time. Each full-time middle and secondary classroom teacher is provided one planning period per day, or the equivalent, as defined by the Board of Education, unencumbered of any teaching or supervisory duties. If a middle or secondary school classroom teacher teaches more than the standard load of students or class periods per week, as defined by the Board of Education, an appropriate contractual arrangement and compensation is provided. Work schedules for other employees are defined by the superintendent or superintendent's designee, consistent with the Fair Labor Standards Act and the provisions of this policy.

Workweek Defined

For purposes of compliance with the Fair Labor Standards Act, the workweek for employees of New Kent School Board is 12:00 a.m. Saturday until 11:59 p.m. Friday.

Overtime and Compensatory Time

Working hours for all employees not classified as exempt under the Fair Labor Standards Act, including secretaries, bus drivers, cafeteria, janitorial and maintenance personnel conform to federal and state regulations. The superintendent ensures that job positions are classified as exempt or non-exempt and that employees are made aware of such classifications. Supervisors make every effort to avoid circumstances which require non-exempt employees to work more than 40 hours each week. The New Kent County School Board discourages overtime work by non-exempt employees. A non-exempt employee will not work overtime without the express approval of the employee's supervisor. All overtime work must be expressly approved in writing by the superintendent or superintendent's designee. All supervisory personnel must monitor overtime on a weekly basis and report such time to the superintendent or superintendent's designee. Principals and supervisors monitor employees' work, ensure that overtime provisions of this policy and the Fair Labor Standards Act are followed and ensure that all employees are compensated for any overtime worked. Principals or supervisors may need to adjust daily schedules to prevent non-exempt employees from working more than 40 hours in a workweek. Accurate and complete time sheets of actual hours worked during the workweek must be signed by each employee and submitted to the finance officer. The finance officer reviews work records of employees on a regular basis to make an assessment of overtime use.

In lieu of overtime compensation, non-exempt employees may receive compensatory time off at a rate of not less than one and one-half (1.5) hours for each one hour of overtime worked, if such compensatory time

- (1) is pursuant to an agreement between the employer and employee reached before overtime work is performed, and
- (2) is authorized by the immediate supervisor.

Employees will be allowed to use compensatory time within a reasonable period after requesting such use if the requested use of the compensatory time does not unduly disrupt the operation of the school division. Employees may accrue a maximum of 80 compensatory time hours before they will be provided overtime pay at the rate earned by the employee at the time the employee receives such payment. In addition, upon leaving the school division, an employee will be paid for any unused compensatory time at the rate of not less than the higher of

- (1) the average regular rate received by the employee during the employee's last three years of employment, or
- (2) the final regular rate received by the employee.

Non-exempt employees whose workweek is less than 40 hours are paid at the regular rate of pay for time worked up to 40 hours. Such employees are provided overtime pay or compensatory time as provided above for working more than 40 hours in a workweek.

Employees are provided with a copy of this policy and are required to sign this policy to acknowledge their understanding of overtime and compensatory time provisions. Such signed policy constitutes the written agreement required in this section.

Definitions:

A. Compensatory Time

Compensatory time, in lieu of overtime payment, must be authorized at no less than straight time for hours up to 40 and at 1½ hours for each hour of work in excess of 40 hours in a workweek and must be taken within six weeks in which the work was completed. If the compensatory time is not used within this timeframe, it is to be submitted to the Payroll Department for payment. A compensatory time agreement must be completed by the employee and approved by the supervisor prior to the performance of work.

Emergency/ Holiday Overtime:

Days:	Sat.	Sun.	Mon.	Tues.	Wed.	Thurs.	Fri.	Total
Hours:	4	4	H	8	8	8	8	48 Hours

In this example, the employee is entitled to 48 hours of pay. Since he worked under emergency conditions for the weekend and since Monday was a paid holiday, the employee is paid for 40 regular hours and 8 hours of overtime.

B. "Wait Time"

Time spent by the employee while "waiting" to work is paid time and hours worked. The most common example of this includes a bus driver waiting for children at a field trip or athletic event. Workers waiting at the loading dock for arrival of the delivery truck are likewise "on the clock."

C. "On the Clock" Lunches and Breaks

Rest periods are not required, but may be allowed by the employer. Rest periods of 20 minutes or less are counted as time worked. The employee is not "off the clock" for short work breaks during the day. Division employees located at the schools normally have a lunch period of 20 to 30 minutes "on the clock," because of the unique nature of the work within the school building itself. In other words, the lunch break is considered paid time.

Normally, school personnel are “on duty” or “on call” during lunch. Even when an employee is on lunch break, school personnel are normally available to handle unexpected situations. All personnel supervising students during lunch are “on the clock.”

An instructional assistant is considered paid for 7.5 hours a day if he or she works from 8:00 a.m. to 3:30 p.m.

D. Managing the Work Week

One way commonly used to avoid overtime pay or compensatory leave is to rearrange the employee’s work schedule. For example, if secretarial assistance is required in the evening for a special situation such as kindergarten enrollment, the administrator may allow an equal number of hours off that same week, thus ensuring that the total number of hours worked is the normal

40. If the adjustment cannot take place the same week, the employee would be due overtime pay or compensatory leave at 1½ hour for each hour worked.

Attendance Expectations

All employees are expected to be present during all work hours. Absence without prior approval, chronic absences, habitual tardiness or abuses of designated working hours are all considered neglect of duty and will result in disciplinary action up to and including dismissal.

Adopted:

Revised: August 3, 2009

Revised: February 6, 2012

Revised: May 19, 2014

Revised: April 15, 2019

Revised: September 27, 2021

Legal Refs.: 29 U.S.C. §§ 203, 207.

29 C.F.R. § 516.1 et seq.

Code of Virginia, 1950, as amended, §§ 22.1-253.13:2, 22.1-253.13:3, 22.1-291.1, 40.1-29.2.

8 VAC 20-131-240.

Cross Ref.: GCBD Staff Leaves and Absences
IC/ID School Year/School Day

ACCEPTABLE COMPUTER SYSTEM USE

The school board provides a computer system, including the internet, to promote educational excellence by facilitating resource sharing, innovation and communication. The term computer system includes, but is not limited to, hardware, software, data, communication lines and devices, terminals, display devices, printers, CD, DVD and other media devices, tape or flash drives, storage devices, servers, mainframe and personal computers, tablets, laptops, telephones, cameras, projectors, multimedia devices, workstations, the internet and other electronic services and internal or external networks. This includes any devices that may be connected to or used to connect to the school division's network or electronically stored division material.

All use of the division's computer system must be (1) in support of education and/or research, or (2) for legitimate school business. Use of the computer system is a privilege, not a right. Inappropriate use may result in cancellation of those privileges, disciplinary action, and/or legal action. Any communication or material generated using the computer system, including electronic mail, social media posts, instant or text messages, tweets, and other files, including communications and materials deleted from a user's account may be monitored, read and/or archived by division staff.

This policy applies to all users of the division's computer system. By using or accessing the computer system, the user agrees to abide by this policy and the Technology Use Guidelines established by the superintendent.

The superintendent is responsible for establishing Technology Use Guidelines, containing the appropriate uses, ethics and protocols for use of the computer system. The superintendent is also responsible for reviewing and updating, as necessary, the Guidelines at least every two years. It is the user's responsibility to know and follow this policy and the Technology Use Guidelines.

The Guidelines include:

- (1) a prohibition against use by division employees and students of the division's computer equipment and communications services for sending, receiving, viewing or downloading illegal material via the Internet;
- (2) provisions, including the selection and operation of a technology protection measure for the division's computers having Internet access to filter or block Internet access through such computers, that seek to prevent access to
 - (a) child pornography as set out in Va. Code §18.2-374.1:1 or defined in 18 U.S.C. §2256;
 - (b) obscenity as defined by Va. Code §18.2-372 or 18 U.S.C. §1460; and
 - (c) material that the school division deems to be harmful to juveniles as defined in Va. Code § 18.2-390, material that is harmful to minors as defined in 47 U.S.C. § 254(h)(7)(G), and material that is otherwise inappropriate for minors;
- (3) provisions establishing that the technology protection measure is enforced during any use of the division's computers;
- (4) provisions establishing that all usage of the computer system may be monitored;
- (5) provisions designed to educate students and employees about appropriate online behavior, including interacting with students and other individuals on social networking websites and in chat rooms and cyber bullying awareness and response;

- (6) provisions designed to prevent unauthorized online access by minors, including “hacking” and other unlawful online activities;
- (7) provisions requiring every user to protect the security of information necessary to access the computer system, such as usernames and passwords, and prohibiting the sharing of passwords;
- (8) provisions prohibiting the unauthorized disclosure, use and dissemination of photographic and/or personal information of or regarding minors; and
- (9) a component of Internet safety for students that is integrated in the division’s instructional program.

Use of the school division’s computer system must be consistent with the educational or instructional mission or administrative function of the division as well as the varied instructional needs, learning styles, abilities and developmental levels of students.

The division’s computer system is not a public forum.

Users of the division’s computer system have no expectation of privacy for use of the division’s resources or electronic devices including non-division owned devices while connected to division networks or computer resources.

Software and/or services may not be installed or downloaded on the division’s computer system without the prior approval of the superintendent or superintendent’s designee.

The failure of any user to follow the terms of this policy or the Technology Use Guidelines may result in loss of computer system privileges, disciplinary action, and/or appropriate legal action.

The school board is not responsible for any information that may be lost, damaged or unavailable when using the computer system or for any information retrieved via the Internet. Furthermore, the school board is not responsible for any unauthorized charges or fees resulting from access to the computer system.

The school board reviews and amends, if necessary, this policy every two years.

Adopted:	October 1, 2001
Revised:	June 6, 2005
Revised:	August 3, 2009
Revised:	July 12, 2010
Reviewed:	August 20, 2012 – no changes
Revised:	June 17, 2013
Reviewed:	September 8, 2016 – no changes
Revised:	April 15, 2019
Revised:	August 5, 2019
Revised:	July 12, 2021

Legal Refs: 18 *U.S.C.* §§ 1460, 2256.
47 *U.S.C.* §254.

Code of Virginia, 1950, as amended, §§ 18.2-372, 18.2-374.1:1, 18.2-390, 22.1-70.2,
and 22.1-78.

Cross Refs: EGAA Reproduction and Use of Copyrighted Materials
GBA/JHFA Prohibition Against Harassment and Retaliation
GCPD Professional Staff Discipline
GCQB Staff Research and Publishing
JFC Student Conduct

TECHNOLOGY USE GUIDELINES

All use of the New Kent County School Division's computer system shall be consistent with the school board's goal of promoting educational excellence by facilitating resource sharing, innovation and communication. The term computer system includes, but is not limited to, hardware, software, data, communication lines and devices, terminals, display devices, printers, CD, DVD and other media devices, tape or flash drives, storage devices, servers, mainframe and personal computers, tablets, laptops, telephones, cameras, projectors, multimedia devices, workstations, the internet and other electronic services any other internal or external network. This includes any device that may be connected to or used to connect to the school division's network or electronically stored division material.

Computer System Use-Terms and Conditions:

1. **Acceptable Use.** Access to the Division's computer system shall be (1) for the purposes of education or research and be consistent with the educational objectives of the Division or (2) for legitimate school business.
2. **Privilege.** The use of the Division's computer system is a privilege, not a right.
3. **Unacceptable Use.** Each user is responsible for his or her actions on the computer system. Prohibited conduct includes but is not limited to:
 - using the network for any illegal or unauthorized activity, including violation of copyright or contracts, or transmitting any material in violation of any federal, state, or local law.
 - sending, receiving, viewing or downloading illegal material via the computer system.
 - unauthorized downloading of software.
 - using the computer system for private financial or commercial purposes.
 - wastefully using resources, such as file space.
 - gaining unauthorized access to resources or entities.
 - posting material created by another without his or her consent.
 - submitting, posting, publishing, or displaying any obscene, profane, threatening, illegal, or other inappropriate material.
 - using the computer system while access privileges are suspended or revoked.
 - vandalizing the computer system, including destroying data by creating or spreading viruses or by other means.
 - intimidating, harassing, bullying, or coercing others.
 - threatening illegal or immoral acts.
4. **Network Etiquette.** Each user is expected to abide by generally accepted rules of etiquette, including the following:
 - be polite.
 - users shall not forge, intercept or interfere with electronic mail messages.
 - use appropriate language. The use of obscene, lewd, profane, lascivious, threatening or disrespectful language is prohibited.

- users shall not post personal information other than directory information as defined in Policy JO Student Records about themselves or others.
 - users shall respect the computer system's resource limits.
 - users shall not post chain letters or download large files.
 - users shall not use the computer system to disrupt others.
 - users shall not modify or delete data owned by others.
5. **Liability.** The school board makes no warranties for the computer system it provides. The school board shall not be responsible for any damages to the user from use of the computer system, including loss of data, non-delivery or missed delivery of information, or service interruptions. The school division is not responsible for the accuracy or quality of information obtained through the computer system. The user agrees to indemnify the school board for any losses, costs, or damages incurred by the school board relating to or arising out of any violation of these procedures.
 6. **Security.** Computer system security is a high priority for the school division. If any user identifies a security problem, the user shall notify the building principal or system administrator immediately. All users shall keep their passwords confidential and shall follow computer virus protection procedures.
 7. **Vandalism.** Intentional destruction of or interference with any part of the computer system through creating or downloading computer viruses or by any other means is prohibited.
 8. **Charges.** The School Division assumes no responsibility for any unauthorized charges or fees as a result of using the computer system, including telephone, **data**, or long-distance charges.
 9. **Electronic Mail.** The School Division's electronic mail system is owned and controlled by the School Division. The School Division may provide electronic mail to aid students and staff in fulfilling their duties and as an education tool. Electronic mail is not private. Students' electronic mail will be monitored. The electronic mail of staff may be monitored and accessed by the School Division. All electronic mail may be archived. Unauthorized access to an electronic mail account by any student or employee is prohibited. Users may be held responsible and personally liable for the content of any electronic message they create or that is created under their account or password. Downloading any file attached to an electronic message is prohibited unless the user is certain of that message's authenticity and the nature of the file.
 10. **Enforcement.** Software will be installed on the division's computers having Internet access to filter or block internet access through such computers to child pornography and obscenity. The online activities of users may also be monitored manually. **Any violation of these regulations shall result in loss of computer system privileges and may also result in appropriate disciplinary action, as determined by school board policy, or legal action.**

Adopted: October 1, 2001
Revised: August 3, 2009
Revised: February 9, 2011
Reviewed: August 20, 2012 – no changes
Revised: June 17, 2013
Revised: April 15, 2019
Revised: August 5, 2019
Revised: July 12, 2021

Legal Refs: 18 U.S.C. §§ 1460, 2256.
47 U.S.C. § 254.

Code of Virginia, 1950, as amended, §§ 18.2-372, 18.2-374.1:1, 18.2-390, 22.1-70.2
and 22.1-78.

Cross Refs:	GAB/IIBEA	Acceptable Computer System Use
	GCPD	Professional Staff Discipline
	JFC	Student Conduct
	JFC-R	Standards of Student Conduct

ACCESS TO EMPLOYEE SOCIAL MEDIA ACCOUNTS

The New Kent School Board does not require current or prospective employees to disclose the username or password to the employee's personal social media accounts or to add an employee, supervisor or administrator to the list of contacts associated with the employee's personal social media account.

If the school board or a school board employee inadvertently receives an employee's username and password to, or other login information associated with, the employee's personal social media account through the use of an electronic device provided to the employee by the school board or a program that monitors the school board's network, the board will not be liable for having the information but will not use the information to gain access to the employee's social media account.

This policy does not prohibit the school board and its agents from viewing information about a current or prospective employee that is publicly available.

This policy does not prohibit the school board from requesting an employee to disclose the employee's username and password for the purpose of accessing a personal social media account if the employee's social media account activity is reasonably believed to be relevant to a formal investigation or related proceeding by the board of allegations of an employee's violation of federal, state or local laws or regulations or of the board's written policies. If the board exercises its rights under this paragraph, the employee's username and password will only be used for the purpose of the formal investigation or a related proceeding.

Adopted: July 13, 2015

Legal Ref: Code of Virginia, 1950, as amended, § 40.1-28.7:5.

Cross Ref.: GAB/IIBEA Acceptable Computer System Use

CHILD ABUSE AND NEGLECT REPORTING

Reporting Requirement

Every employee of New Kent County Schools who, in his professional or official capacity, has reason to suspect that a child is an abused or neglected child, in compliance with the Code of Virginia § 63.2-1509 et seq. shall immediately report the matter to

- the local department of social services where the child resides or where the abuse or neglect is believed to have occurred;
- to the Virginia Department of Social Services' toll-free child abuse and neglect hotline; or
- to the person in charge of the school or department, or his designee, who shall make the report forthwith to the local or state agency. The person making the report to the local or state agency must notify the person making the initial report when the report of suspected abuse or neglect is made to the local or state agency, and of the name of the individual receiving the report, and must forward any communication resulting from the report, including any information about any actions taken regarding the report, to the person who made the initial report.

Notice of Reporting Requirement

The school board shall post in each school a notice that

- any teacher or other person employed there who has reason to suspect that a child is an abused or neglected child, including any child who may be abandoned, is required to report such suspected cases of child abuse or neglect to local or state social services agencies or the person in charge of the relevant school or his designee; and
- all persons required to report cases of suspected child abuse or neglect are immune from civil or criminal liability or administrative penalty or sanction on account of such reports unless such person has acted in bad faith or with malicious purpose. The notice shall also include the Virginia Department of Social Services' toll-free child abuse and neglect hotline.

Complaints of Abuse and Neglect

The school board and the local department of social services have adopted a written interagency agreement as a protocol for investigating child abuse and neglect reports, including reports of sexual abuse of a student. The interagency agreement is based on recommended procedures for conducting investigations developed by the Departments of Education and Social Services. The school board reports substantial modifications of the agreement to the Board of Education.

Adopted: July 1, 1998
Revised: May 3, 2004
Revised: August 2, 2004

Revised: November 3, 2008
Revised: August 6, 2012
Revised: July 7, 2014
Revised: July 13, 2015
Revised: August 5, 2019

Legal Ref.: Code of Virginia, 1950, as amended, §§ 22.1-253.13:7, 22.1-291.3, 63.2-1509, 63.2-1511.D.

Cross Ref.: EFB Food Services
 JFHA/GBA Prohibition Against Harassment and Retaliation
 GA Personnel Policies Goals
 GBLA Third Party Complaints Against Employees

SCHOOL EMPLOYEE CONFLICT OF INTERESTS

A. Purpose

The State and Local Government Conflict of Interests Act (the Act), applies to public school employees and officials. The Act creates uniform standards of conduct for all public employees and officials. The Act also defines and prohibits inappropriate conflicts of interest and requires disclosure of economic interests in some circumstances. The purpose of this policy is to provide an introduction to the Act for employees. Additional information regarding the Act may be obtained from Policy BBFA Conflict of Interests and Disclosure of Economic Interests and from the Virginia Conflict of Interest and Ethics Advisory Council (the Ethics Council) which assists with compliance with the Act.

B. Compliance

School board employees are required to read and be familiar with the Act. The superintendent provides employees with information regarding how to access the Act and how to contact the Ethics Council.

The Act's provisions are complex and their application is fact-specific. A violation of the Act could result in civil or criminal penalties. Therefore, if an employee has any question whether an interest the employee has in a contract or transaction involving the school division is prohibited under the Act, the employee should contact the superintendent's office or the Ethics Council for assistance.

C. Areas of Regulation

The Act prohibits school employees from having a "personal interest," as that term is defined by the Act, in certain contracts and transactions that involve the division and from engaging in other specified conduct related to the schools. The prohibited personal interest also may be that of the school employee's immediate family (a spouse or any other person who resides in the same household as the employee and who is a dependent of the employee).

Under the Act, an employee may be considered to have a prohibited conflict arising from:

- a personal interest in a contract;
- a personal interest in a transaction;
- business opportunities tied to official acts;
- misuse of confidential information; or
- receipt or solicitation of certain gifts.

Examples of prohibited conduct include:

- soliciting or accepting money or other thing of value for services performed within the scope of the employee's official duties, except for the employee's compensation, expenses or other remuneration paid by the division;
- using for the employee's own economic benefit or that of another party, confidential information that the employee has acquired by reason of the employee's public position and which is not available to the public;

- accepting any money, loan, gift, favor, service or business or professional opportunity that reasonably tends to influence the employee in the performance of the employee's official duties;
- accepting any business or professional opportunity when the employee knows that there is a reasonable likelihood that the opportunity is being afforded to influence the employee in the performance of the employee's official duties;
- entering into contracts with the school division under certain circumstances;
- accepting a gift from a person who has interests that may be substantially affected by the performance of the employee's official duties under circumstances where the timing and nature of the gift would cause a reasonable person to question the employee's impartiality in the matter affecting the donor; and
- accepting gifts from sources on a basis so frequent as to raise an appearance of the use of the employee's position for private gain.

D. Award to Employees for Exceptional Service

The Act does not prohibit or apply to the acceptance by a teacher or other employee of the New Kent County School Board of an award or payment in honor of meritorious or exceptional services performed by the teacher or employee and made by an organization exempt from federal income taxation pursuant to the provisions of Section 501©(3) of the Internal Revenue Code.

E. Advisory Opinions

Employees may seek written opinions regarding application of the Act from the local Commonwealth's Attorney, the local county attorney or the Ethics Council. Good faith reliance on a written opinion of the Commonwealth's Attorney or a formal opinion or written informal advice of the Ethics Council made in response to a written request for such opinion or advice regardless of whether such opinion or advice is later withdrawn, provided that the alleged violation occurred prior to the withdrawal of the opinion or advice, bars prosecution for a knowing violation of the Act provided the opinion or advice was made after a full disclosure of the facts. If the employee relies on written informal advice given by the Ethics Council in a prosecution for a knowing violation of the Act, the record of the request and the written informal advice given shall be a public record and released upon request. An opinion of the local county attorney may be introduced at trial as evidence that the employee did not knowingly violate the Act.

Adopted: April 28, 2017
Revised: August 7, 2017

Legal Refs.: Code of Virginia, 1950, as amended, §§ 2.2-3101, 2.2-3102, 2.2-3103, 2.2-3103.2, 2.2-3104.1, 2.2-3109, 2.2-3110, 2.2-3112, 2.2-3121, 2.2-3124 and 30-356.

Cross Ref.:	BBFA	Conflict of Interests and Disclosure Requirements
	CBCA	Disclosure Statement Required of Superintendent
	DJG	Vendor Relations
	GCCB	Employment of Family Members
	GCQA	Nonschool Employment by Staff Members
	KGA	Sales and Solicitations in Schools
	KJ	Advertising in the Schools

EQUAL EMPLOYMENT OPPORTUNITY/NON-DISCRIMINATION

I. Policy Statement

The New Kent County School Board is an equal opportunity employer, committed to non-discrimination in recruitment, selection, hiring, pay, promotion, retention and other personnel action affecting employees or candidates for employment. Therefore, discrimination in employment against any person on the basis of race, color, creed, religion, national origin, ancestry, political affiliation, sex, sexual orientation, gender, gender identity, age, pregnancy, childbirth or related medical conditions, marital status, military status, genetic information or disability is prohibited. Personnel decisions are based on merit and the ability to perform the essential functions of the job, with or without reasonable accommodation.

The statement, “New Kent County School Board is an equal opportunity employer,” is placed on all employment application forms.

II. Notice of Policy/Prevention

This policy is: (1) posted in prominent areas of each school division building, (2) included in employee handbooks and (3) provided to any employee or candidate for employment upon request. Training to prevent prohibited discrimination is included in employee in-service training.

III. Complaint Procedure

A. File Report

Any person who believes he has not received equal employment opportunities should report the alleged discrimination to one of the compliance officers designated in this policy. The alleged discrimination should be reported as soon as possible, and the report generally should be made within fifteen (15) school days of the occurrence. Any employee who has knowledge of conduct which may constitute prohibited discrimination shall immediately report such conduct to one of the compliance officers designated in this policy.

The reporting party should use the form, Report of Discrimination, GB-F, to make complaints of discrimination. However, oral reports and other written reports will also be accepted. The complaint must be filed with one of the compliance officers designated in this policy. Any complaint that involves the compliance officer shall be reported to the superintendent.

The complaint and the identity of the complainant and the person or persons allegedly responsible for the discrimination will be disclosed only to the extent necessary to fully investigate the complaint and only when such disclosure is required or permitted by law. A complainant who wishes to remain anonymous will be advised that anonymity may limit the school division's ability to fully respond to the complaint.

B. Investigation

Upon receipt of a report of alleged discrimination, the compliance officer shall immediately authorize or undertake an investigation. The investigation may be conducted by school personnel or a third party designated by the school division. The investigation shall be completed as soon as practicable, which generally should be not later than 14 school days after receipt of the report by the compliance officer. Upon receiving the complaint, the compliance officer will acknowledge receipt of the complaint by giving written notice that the complaint has been received to both the complainant and the superintendent. If the compliance officer determines that more than 14 school days will be required to investigate the complaint, the complainant and the superintendent will be notified of the reason for the extended investigation and the date by which the investigation will be concluded.

The investigation may consist of personal interviews with the complainant, the person(s) alleged to have violated the policy and any others who may have knowledge of the alleged discrimination or the circumstances giving rise to the complaint. The investigation will consider witnesses and evidence from both the complainant and the person(s) responsible for the alleged discrimination. The investigation may also include the inspection of any documents or information deemed relevant by the investigator. The school division shall take necessary steps to protect the complainant and others pending the investigation.

Whether a particular action or incident constitutes a violation of this policy requires a case by case determination based on all of the facts and circumstances revealed by a complete and thorough investigation.

The compliance officer shall issue a written report to the superintendent upon completion of the investigation. If the complaint involves the superintendent, then the report shall be sent to the school board. The report shall include a determination of whether the allegations are substantiated, whether this policy was violated and recommendations for corrective action, if any.

All employees shall cooperate with any investigation of alleged discrimination conducted under this policy or by an appropriate state or federal agency.

C. Action by Superintendent

Within 5 school days of receiving the compliance officer's report, the superintendent or superintendent's designee shall issue a written decision regarding (1) whether this policy was violated and (2) what action if any should be taken.

If the complaint alleges that the superintendent has violated this policy, the school board's standing Equal Employment Opportunity/Non-discrimination Committee shall make the decision and determine what action should be taken. If the school board does not have such a standing committee, at its next scheduled meeting it shall appoint a committee consisting of three of its members to handle the matter. The committee shall issue a written decision within 14 calendar days of the time the school board receives the compliance officer's report or the time a committee is appointed, if there is no standing committee.

The written decision shall state (1) whether this policy was violated and (2) what action, if any, should be taken. The written decision must be mailed to or personally delivered to the complainant within five calendar days of the issuance of the decision. If the superintendent, superintendent's designee or committee concludes that prohibited discrimination occurred, the New Kent County School Division shall take prompt, appropriate action to address and remedy the violation as well as prevent any recurrence. Such action may include discipline up to and including dismissal.

D. Appeal

If the superintendent, superintendent's designee or committee determines that no prohibited discrimination occurred, the person who was allegedly subjected to discrimination may appeal this finding to the school board within 5 school days of receiving the decision. Notice of appeal must be filed with the superintendent, or with a member of the committee which issued the written decision, who shall forward the record to the school board. The school board shall make a decision within 30 calendar days of receiving the record. The school board may ask for oral or written argument from the aggrieved party and the superintendent, superintendent's designee or the committee, whichever issued the written decision, and any other individual the school board deems relevant. Written notice of the school board's decision will be given to the complainant.

Employees may choose to pursue their complaints arising under this policy through the relevant employee grievance procedure instead of the complaint procedure in this policy.

E. Compliance Officer and Alternate Compliance Officer

The Compliance Officer:

- receives reports or complaints of discrimination;
- conducts or oversees the investigation of any alleged discrimination;
- assesses the training needs of the school division in connection with this policy;
- arrange necessary training to achieve compliance with this policy; and
- ensures that any discrimination investigation is conducted by an impartial investigator who is trained in the requirements of equal employment opportunity, and has the authority to protect the allege victim and others during the investigation.

IV. Retaliation

Retaliation against employees who report discrimination or participate in the related proceedings is prohibited. The School division takes appropriate action against any employee who retaliates against another employee or candidate for employment who reports alleged discrimination or participates in related proceedings. The Compliance Officer informs persons who make complaints, who are the subject of complaints, and who participate in investigations of how to report any subsequent problems.

V. Right to Alternative Compliant Procedure

Nothing in this policy denies the right of any individual to pursue other avenues of recourse to address concerns relating to prohibited discrimination including initiating civil action, filing a complaint with outside agencies or seeking redress under state or federal law.

VI. Prevention and Notice of Policy

Training to prevent discrimination is included in employee orientations and in-service training.

This policy is (1) displayed in prominent areas of each division building in a location accessible to school personnel, and (2) included in employee handbooks. All employees are notified annually of the names and contact information of the Compliance Officers.

VII. False Charges

Employees who knowingly make false charges of discrimination are subject to disciplinary action.

Adopted: May 1, 2000
Revised: November 5, 2001
Revised: June 6, 2005
Revised: August 1, 2005
Revised: December 3, 2012
Revised: July 13, 2015
Revised: August 31, 2020
Revised: July 12, 2021

Legal Refs.: 20 U.S.C. § 1681 et seq.
29 U.S.C. § 701.
42 U.S.C. §§ 6101 et seq., 2000e-2 et seq., 2000ff-1(a) and 12101 et seq.

Code of Virginia, 1950 as amended, §§ 2.2-3900, 2.2-3901, 2.2-3902,
2.2-3905.1, 22.1-23.3, 22.1-295.2, 22.1-306.

Cross Refs:	AC	Nondiscrimination
	AD	Educational Philosophy
	BCE	School Board Committees
	GB-F	Report of Discrimination
	GBA/JFHA	Prohibition Against Harassment and Retaliation
	GBM	Professional Staff Grievances
	GBMA	Support Staff Grievances
	GCPD	Professional Staff Discipline
	JB	Equal Educational Opportunities/Nondiscrimination
	KKA	Service Animals in Public Schools

REPORT OF DISCRIMINATION

Name of Complainant: _____

For Employees, Position and Location: _____

For Applicants, Position Applied For: _____

Address, Phone Number
And Email Address:

Date(s) of Alleged Discrimination: _____

Name of person(s) you believe discrimination against you or others: _____

Please describe in detail the incident(s) of alleged discrimination, including where and when the incident(s) occurred. Please name any witnesses that may have observed the incident(s). Please include a description of any past incidents that may be related to this complaint. Attach additional pages if necessary.

I certify that the information provided in this report is true, correct and complete to the best of my knowledge.

Signature of Complainant Date

Complaint Received By: _____
Compliance Officer Date

PROHIBITION AGAINST HARASSMENT AND RETALIATION

I. Policy Statement

The New Kent County School Board is committed to maintaining an educational environment and workplace that is free from harassment. In accordance with law, the board prohibits harassment against students, employees, or others on the basis of sex, sexual orientation, gender, gender identity, race, color, national origin, disability, religion, ancestry, age, marital status, pregnancy, childbirth or related medical conditions, military status, genetic information or any other characteristic protected by law or based on a belief that such characteristic exists, hereinafter referred to as protected group status, at school or any school sponsored activity.

It is a violation of this policy for any student or school personnel to harass a student or school personnel based on protected group status at school or any school sponsored activity. Further, it is a violation of this policy for any school personnel to tolerate harassment based on a student's or employee's protected group status at school or any school sponsored activity, by students, school personnel or third parties participating in, observing or otherwise engaged in school sponsored activities.

For the purpose of this policy, school personnel includes school board members, school employees, agents, volunteers, contractors or other persons subject to the supervision and control of the School Division.

The school division

- promptly investigates all complaints, written or verbal, of harassment based on protected group status at school or any school sponsored activity;
- promptly takes appropriate action to stop any harassment;
- takes appropriate action against any student or school personnel who violates this policy; and
- takes any other action reasonably calculated to end and prevent further harassment of school personnel or students.

II. Definitions

the Compliance Officer is the person designated by the School Board to receive complaints of harassment referred by the Title IX Coordinator and oversee investigation of those complaints as described below.

“Consent” is clear, unambiguous, and voluntary agreement between the participants to engage in specific sexual activity.

Prohibited Conduct

Harassment Based on Sex

Harassment based on sex consists of unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication, which may include use of cell phones or the internet, of a sexual nature when submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment or education; submission to or

rejection of the conduct or communication by an individual is used as a factor in decisions affecting that individual's employment or education; or that conduct or communication substantially or un-reasonably interferes with an individual's employment or education, or creates an intimidating, hostile or offensive employment or educational environment (i.e. the conduct is sufficiently serious to limit a student's or employee's ability to participate in or benefit from the educational program or work environment.)

Examples of conduct which may constitute harassment based on sex if it meets the immediately preceding definition include:

- unwelcome sexual physical contact
- unwelcome ongoing or repeated sexual flirtation or propositions or remarks
- sexual slurs, leering, epithets, threats, verbal abuse, derogatory comments or sexually degrading descriptions
- graphic comments about an individual's body
- sexual jokes, notes, stories, drawings, gestures or pictures
- spreading sexual rumors
- touching an individual's body or clothes in a sexual way
- displaying sexual objects, pictures, cartoons or posters
- impeding or blocking movement in a sexually intimidating manner
- sexual violence
- display of written materials, pictures, or electronic images
- unwelcome acts of verbal, nonverbal, written, graphic, or physical conduct based on sex or sex stereotyping

"Sexual harassment prohibited by Title IX" means conduct on the basis of sex that satisfies one or more of the following:

- an employee of the School Board conditioning the provision of an aid, benefit, or service of the School Board on an individual's participation in unwelcome sexual conduct;
- unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the School Board's education program or activity; or
- "sexual assault" as defined in 20 U.S.C. § 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. § 12291(a)(10), "domestic violence" as defined in 34 U.S.C. § 12291(a)(8), or "stalking" as defined in 34 U.S.C. § 12291(a)(30).

Harassment Based on Race, National Origin, Disability or Religion

Harassment based on race, national origin, disability or religion consists of physical or verbal conduct, which may include use of cell phones or the internet, relating to an individual's race, national origin, disability or religion when the conduct:

- creates an intimidating, hostile or offensive working or educational environment; or
- substantially or unreasonably interferes with an individual's work or education; or
- otherwise is sufficiently serious to limit an individual's employment opportunities or to limit a student's ability to participate in or benefit from the education program.

Examples of conduct which may constitute harassment based on race, national origin, disability or religion if it meets the immediately preceding definition include:

- graffiti containing racially offensive language
- name calling, jokes or rumors
- physical acts or aggression against a person or his property because of that person's race, national origin, disability or religion
- hostile acts which are based on another's race, national origin, religion or disability
- written or graphic material which is posted or circulated and which intimidates or threatens individuals based on their race, national origin, disability or religion

Additional Prohibited Behavior

Behavior that is not unlawful may nevertheless be unacceptable for the educational environment or the workplace. Demeaning or otherwise harmful actions are prohibited, particularly if directed at personal characteristics including socioeconomic level regardless of whether the personal characteristic is protected by law.

"Title IX" means 20 U.S.C. §§ 1681-1688 and the implementing regulations.

"Title IX Coordinator" means the person designated by the School Board to coordinate its efforts to comply with its responsibilities under this policy and Title IX.

The Title IX Coordinator may be contacted at titleixcoordinator@nkcp.s.k12.va.us.

Complaint Procedures

1. Report

Any student or school personnel who believes he or she has been the victim of harassment prohibited by law or by this policy by a student, school personnel or a third party should report the alleged harassment to the Title IX Coordinator or to any school personnel. The alleged harassment should be reported as soon as possible, and the report generally should be made within fifteen (15) school days of the occurrence. Further, any student who has knowledge of conduct which may constitute prohibited harassment should report such conduct to the Title IX Coordinator or to any school personnel. Any school personnel who has notice that a student or other school personnel may have been a victim of prohibited harassment shall immediately report the alleged harassment to the Title IX Coordinator. Any complaint that involves the Title IX Coordinator should be reported to the superintendent.

The reporting party should use the form, Report of Harassment, JFHA-F, to make complaints of harassment. However, oral reports and other written reports are also accepted.

The complaint, and identity of the person allegedly harassed and alleged harasser, will be disclosed only to the extent necessary to fully investigate the person allegedly harassed and only when such disclosure is required or permitted by law. Additionally, a complainant who wishes to remain anonymous shall be advised that such confidentiality may limit the School Division's ability to fully respond to the complaint.

After receiving a complaint, the Title IX Coordinator makes an initial determination whether the allegations may be sexual harassment prohibited by Title IX. If they may be, the Title IX Grievance Process below is followed. If they cannot be sexual harassment prohibited by Title IX, then the complaint is referred to the Compliance Officer who follows the procedures below.

The Title IX Coordinator also determines whether the alleged harassment may also constitute criminal conduct and ensures that law enforcement officials are notified if necessary.

If the alleged harassment may also constitute child abuse, then it must be reported to the Department of Social Services in accordance with Policy GAE Child Abuse and Neglect Reporting.

2. Investigation by Compliance Officer

1. Generally

The Compliance Officer

- receives complaints of harassment referred by the Title IX Coordinator;
- conducts or oversees the investigation of any alleged harassment referred by the Title IX Coordinator;
- assesses the training needs of the school division in connection with complaints referred by the Title IX Coordinator;
- arranges necessary training; and
- ensures that any harassment investigation is conducted by an impartial investigator who is trained in the requirements of equal employment/education opportunity and has the authority to protect the alleged victim and others during the investigation.

2. Compliance Officer Formal Procedure

Upon receiving a referral of a complaint of alleged prohibited harassment from the Title IX Coordinator, the compliance officer shall immediately authorize or undertake an investigation. The investigation may be conducted by school personnel or a third party designated by the school division.

The investigation shall be completed as soon as practicable, which generally should be not later than 14 school days after referral of the complaint to the compliance officer. Upon receiving the complaint, the compliance officer shall acknowledge receipt of the complaint by giving written notice that the complaint has been received to both the person complaining of harassment and the person accused of harassment. Also upon receiving the complaint, the compliance officer shall determine whether interim measures should be taken pending the outcome of the investigation. Such interim measures may include, but are not limited to, separating the alleged harasser and the person allegedly harassed. If the compliance officer determines that more than 14 school days will be required to investigate the complaint, the person allegedly harassed and the alleged harasser shall be notified of the reason for the extended investigation and of the date by which the investigation will be concluded.

The investigation shall be completed as soon as practicable, which generally should be not later than 14 school days after referral of the complaint to the compliance officer. Upon receiving the complaint, the compliance officer shall acknowledge receipt of the complaint by giving written notice that the complaint has been received to both the person complaining of harassment and the person accused of harassment. Also upon receiving the complaint, the compliance officer shall determine whether interim measures should be taken pending the outcome of the investigation. Such interim measures may include, but are not limited to, separating the alleged harasser and the person allegedly harassed. If the compliance officer determines that more than 14 school days will be required to investigate the complaint, the person allegedly harassed and the alleged harasser shall be notified of the reason for the extended investigation and of the date by which the investigation will be concluded.

The investigation may consist of personal interviews with the person allegedly harassed, the alleged harasser, and any others who may have knowledge of the alleged harassment or the circumstances giving rise to the complaint. The investigation will consider witnesses and evidence from both the alleged harasser and the person allegedly harassed. The investigation may also consist of the inspection of any other documents or information deemed relevant by the investigator. The school division shall take necessary steps to protect the person allegedly harassed and others pending the completion of the investigation.

In determining whether alleged conduct constitutes a violation of this policy, the division shall consider, at a minimum: (1) the surrounding circumstances; (2) the nature of the behavior; (3) past incidents or past or continuing patterns of behavior; (4) the relationship between the parties; (5) how often the conduct occurred; (6) the identity of the alleged perpetrator in relation to the alleged victim (i.e. whether the alleged perpetrator was in a position of power over the alleged victim); (7) the location of the alleged harassment; (8) the ages of the parties and (9) the context in which the alleged incidents occurred. Whether a particular action or incident constitutes a violation of this policy requires a case by case determination based on all of the facts and circumstances revealed after a complete and thorough investigation.

The Compliance Officer shall issue a written report to the superintendent upon completion of the investigation. If the complaint involves the superintendent, then the report shall be sent to the school board. The report shall include a determination of whether the allegations are substantiated, whether this policy was violated and recommendations for corrective action, if any. All employees shall cooperate with any investigation of alleged harassment conducted under this policy or by an appropriate state or federal agency.

3. Action by Superintendent

Within 5 school days of receiving the compliance officer's report, the superintendent or superintendent's designee shall issue a decision regarding whether this policy was violated. This decision must be provided in writing to the person allegedly harassed and the alleged harasser. If the superintendent or superintendent's designee determines that it is more likely than not that prohibited harassment occurred, the New Kent County School Division shall take prompt, appropriate action to address and remedy the violation as well as prevent any recurrence. Such action may include discipline up to and including expulsion or discharge. Whether or not the superintendent or superintendent's designee determines that prohibited harassment occurred, the superintendent or superintendent's designee may determine that school-wide or division-wide training be conducted or that the person allegedly harassed receives counseling.

4. Appeal

If the superintendent or superintendent's designee determines that no prohibited harassment occurred, the employee or student who was allegedly subjected to harassment may appeal this finding to the school board within 5 school days of receiving the decision. Notice of appeal must be filed with the superintendent who shall forward the record to the school board. The school board shall make a decision within 30 calendar days of receiving the record. The school board may ask for oral or written argument from the aggrieved party, the superintendent and any other individual the school board deems relevant. Written notice of the school board's decision will be given to both the alleged harasser and the person allegedly harassed.

If the superintendent or superintendent's designee determines that prohibited harassment occurred and discipline is imposed, the disciplined person may appeal the disciplinary sanction in the same manner as any other such sanction would be appealed.

Employees may choose to pursue their complaints under this policy through the relevant employee grievance procedure instead of the complaint procedure in this policy.

B. Compliance Officer Informal Procedure

If the person allegedly harassed and the person accused of harassment agree, the person allegedly harassed's principal or principal's designee or supervisor may arrange for them to resolve the complaint informally with the help of a counselor, teacher, or administrator.

If the person allegedly harassed and the person accused of harassment agree to resolve the complaint informally, they shall each be informed that they have the right to abandon the informal procedure at any time in favor of the initiation of the Compliance Officer Formal Procedures set forth herein. The principal or principal's designee or supervisor shall notify the person allegedly harassed and the person accused of harassment in writing when the complaint has been resolved. The written notice shall state whether prohibited harassment occurred.

C. Sexual Harassment Prohibited by Title IX

Definitions

"Actual knowledge" means notice of sexual harassment prohibited by Title IX or allegations of sexual harassment prohibited by Title IX to the Title IX Coordinator or any official of the school division who has authority to institute corrective measures or to any employee of an elementary or secondary school.

"Complainant" means an individual who is alleged to be the victim of conduct that could constitute sexual harassment prohibited by Title IX.

"Formal complaint" means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment prohibited by Title IX against a respondent and requesting that the allegation be investigated. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail. When the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise a party. The allegations in a formal complaint must be investigated. In response to a formal complaint, the Title IX Grievance Process below is followed.

"Program or activity" includes locations, events or circumstances over which the School Board exercises substantial control over both the respondent and the context in which the sexual harassment occurs.

"Respondent" means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment prohibited by Title IX.

"Support measures" means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or when no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the School Board's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security or monitoring of parts of campus, and other similar measures. Any supportive measures provided to the complainant or respondent are maintained as confidential, to the extent that maintaining such confidentiality does not impair the ability to provide supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

Title IX Grievance Process

Generally

Any person may report sex discrimination prohibited by Title IX, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. The reporting party may use the form, Report of Harassment, GBA-F/JFHA-F, to make a complaint. Such a report may be made at any time, including non-business hours, by using the telephone number or electronic mail address, or by mail to the office address listed for the Title IX Coordinator.

Complainants and respondents are treated equitably by offering supportive measures to a complainant and by following this grievance process before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent.

The Title IX Coordinator promptly contacts the complainant to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain the process for filing a formal complaint.

Applicants for admission and employment, students, parents or legal guardians, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the School Board are notified

- of the name or title, office address, electronic mail address, and telephone number of the Title IX Coordinator; and
- that the School Board does not discriminate on the basis of sex in its education program or activity and that it is required by Title IX not to discriminate in such a manner. The notification states that the requirement not to discriminate extends to admission and employment and that inquiries about the application of Title IX may be referred to the Title IX Coordinator, the Assistant Secretary for Civil Rights of the United States Department of Education, or both.

The School Board prominently displays the contact information for the Title IX Coordinator and this policy on its website and in each handbook or catalog it makes available to persons listed above who are entitled to notifications.

Nothing herein precludes a respondent from being removed from the School Board's education program or activity on an emergency basis, provided that an individualized safety and risk analysis determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and that the respondent is provided with notice and an opportunity to challenge the decision immediately following the removal.

Nothing herein precludes a non-student employee respondent from being placed on administrative leave during the pendency of a grievance process

This grievance process treats complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent, and by following this process before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent. Remedies are designed to restore or preserve equal access to the School Board's education program or activity.

The respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

All relevant evidence is evaluated objectively, including both inculpatory and exculpatory evidence. Credibility determinations are not based on a person's status as a complainant, respondent, or witness.

Any Title IX Coordinator, investigator, decision-maker, or any person who facilitates an informal resolution process may not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process receives training on the definition of sexual harassment prohibited by Title IX, the scope of the School Board's education program or activity, how to conduct an investigation and grievance process including appeals, and informal resolution processes, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Decision-makers receive training on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant. Investigators receive training on issues of relevance in order to create investigative reports that fairly summarize relevant evidence.

A finding of responsibility may result in disciplinary action up to and including expulsion for students or dismissal of employees.

The standard of evidence used to determine responsibility is preponderance of the evidence.

This grievance process does not allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege unless the person holding such privilege has waived the privilege.

Notice of allegations

On receipt of a formal complaint, the Title IX Coordinator gives the following written notice to the parties who are known:

- notice of the grievance process, including any informal resolution process, and

- notice of the allegations of sexual harassment potentially constituting sexual harassment prohibited by Title IX, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment prohibited by Title IX, and the date and location of the alleged incident, if known.

The written notice

- includes a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
- informs the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence; and
- informs the parties of any provisions in the School Board's code of conduct or the superintendent's Standards of Student Conduct that prohibit knowingly making false statements or knowingly submitting false information during the grievance process.

If, in the course of an investigation, the investigator decides to investigate allegations about the complainant or respondent that are not included in the notice previously provided, notice of the additional allegations is provided to the parties whose identities are known.

Dismissal of formal complaints

A formal complaint or any allegations therein must be dismissed if the conduct alleged in the complaint

- would not constitute sexual harassment prohibited by Title IX even if proved,
- did not occur in the School Board's education program or activity, or
- did not occur against a person in the United States.

Such a dismissal does not preclude action under another provision of the School Board's code of conduct or the superintendent's Standards of Student Conduct.

A formal complaint or any allegations therein must be dismissed if at any time during the investigation:

- a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
- the respondent is no longer enrolled or employed by the School Board; or
- specific circumstances prevent the School Board from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Investigation of formal complaint

When investigating a formal complaint and throughout the grievance process, the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the School Board and not on the parties provided that a party's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that

capacity, and which are made and maintained in connection with the provision of treatment to the party are not accessed, considered, disclosed or otherwise used without the voluntary, written consent of the party's parent, or the party if the party is an eligible student, to do so for this grievance procedure.

The parties have an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.

The ability of the parties to discuss the allegations under investigation or to gather and present relevant evidence is not restricted.

The parties have the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. The choice or presence of advisor for either the complainant or respondent is not limited in any meeting or grievance proceeding.

Any party whose participation is invited or expected is provided written notice of the date, time, location, participants, and purpose of all investigative interviews or other meetings with sufficient time for the party to prepare to participate.

The investigator provides both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence which will not be relied upon in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Prior to the completion of the investigative report, the investigator must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least 10 days to submit a written response, which the investigator will consider prior to completion of the investigative report.

The investigator creates an investigative report that fairly summarizes relevant evidence and, at least 10 days prior to the time a determination regarding responsibility is made, sends to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

After the investigator has sent the investigative report to the parties and before reaching a determination regarding responsibility, the decision-maker must afford each party the opportunity to submit written, relevant questions that the party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. The decision-maker(s) must explain to the party proposing the question any decision to exclude a question as not relevant.

Determination regarding responsibility

The decision-maker, who cannot be the same person as the Title IX Coordinator or the investigator, must issue a written determination regarding responsibility.

The written determination must include

- identification of the allegations potentially constituting sexual harassment prohibited by Title IX;
- a description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather other evidence;
- findings of fact supporting the determination;
- conclusions regarding the application of the School Board's code of conduct or the superintendent's Standard of Student Conduct to the facts;
- a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the School Board imposes on the respondent, and whether remedies designed to restore or preserve equal access to the School Board's education program or activity will be provided to the complainant; and
- the procedures and permissible bases for the complainant and respondent to appeal.

The decision-maker must provide the written determination regarding responsibility to the parties simultaneously.

The determination regarding responsibility becomes final either on the date that the parties are provided with the written determination of the result of the appeal, if an appeal is filed, or, if an appeal is not filed, the date on which an appeal would no longer be considered timely.

The Title IX Coordinator is responsible for effective implementation of any remedies.

Appeals

Either party may appeal from a determination regarding responsibility or from a dismissal of a formal complaint or any allegations therein, on the following bases:

- procedural irregularity that affected the outcome of the matter;
- new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- the Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

Notification of appeal must be given in writing to the Title IX Coordinator.

As to all appeals, the Title IX Coordinator

- notifies the other party in writing when an appeal is filed and implements appeal procedures equally for both parties;
- ensures that the decision-maker for the appeal is not the same person as the decision-maker that reached the determination regarding responsibility or dismissal, the investigator, or the Title IX Coordinator; and
- ensures that the decision-maker for the appeal complies with the standards set forth in Title IX and this policy.

The appeal decision-maker

- gives both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
- reviews the evidence gathered by the investigator, the investigator's report, and the decision-maker's written decision;
- issues a written decision describing the result of the appeal and the rationale for the result; and
- provides the written decision simultaneously to both parties and the Title IX Coordinator.

Timelines

The investigative report will be provided to the parties within 35 days from the date the formal complaint is filed.

A decision will be issued within 10 working days from the date the investigative report is submitted to the decision-maker.

Either party may appeal within 5 working days from the date the written determination regarding responsibility is given to the parties.

Any appeal will be resolved within 15 calendar days from the filing of the appeal.

If the parties agree to an informal resolution process, these deadlines are tolled from the time one party requests an informal resolution process until either the time the other party responds, if that party does not agree to the informal resolution process, or until either party withdraws from the informal resolution process.

Temporary delays of the grievance process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action are permitted. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; disciplinary processes required by law or School Board policy; or the need for language assistance or accommodations of disabilities.

Informal Resolution Process

At any time during the formal complaint process and prior to reaching a determination regarding responsibility, the parties may participate in an informal resolution process, such as mediation, that does not involve a full investigation and determination of responsibility. When one party requests an informal resolution process, the other party must respond to the request within 3 days. The informal resolution process must be completed within 10 days of the agreement to participate in the process.

The informal resolution process may be facilitated by a trained educational professional, consultant, or other individual selected by the Title IX Coordinator under the following conditions:

- the parties are provided a written notice disclosing the allegations, the requirements of the informal resolution process, including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations; provided, however that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process, resume the grievance process with respect to the formal complaint, and be informed of any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
- the parties, voluntary and in writing, consent to the informal resolution process; and
- the informal resolution process cannot be used to resolve allegations that an employee sexually harassed a student.

If the matter is resolved to the satisfaction of the parties, the facilitator shall document the nature of the complaint and the resolution, have both parties sign the documentation and receive a copy, and forward it to the Title IX Coordinator. If the matter is not resolved, the formal complaint process is resumed.

Parties cannot be required to participate in an informal resolution process.

An informal resolution process is not offered unless a formal complaint is filed.

Recordkeeping

The School Board will maintain for a period of seven years records of:

- each investigation of allegations of sexual harassment prohibited by Title IX including any determination regarding responsibility and any audio or audiovisual recording or transcript, if any, required under the Title IX regulations, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to School Board's education program or activity;
- any appeal and the request therefrom;
- any informal resolution and the result therefrom; and
- all materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. These materials will also be made available on the School Board's website.

For each response required under 34 C.F.R. § 106.44, the School Board must create, and maintain for a period of seven years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment prohibited by Title IX. In each instance, the School Board will document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to its education program or activity. If the School Board does not provide a complainant with supportive measures, then it will document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

Retaliation

Retaliation against students or school personnel who report harassment or participate in any related proceedings is prohibited. The School division shall take appropriate action against students or school personnel who retaliate against any student or school personnel who reports alleged harassment or participates in related proceedings. The Title IX Coordinator will inform persons who make complaints, who are the subject of complaints, and who participate in investigations, of how to report any subsequent problems.

Right to Alternative Complaint Procedure

Nothing in this policy shall deny the right of any individual to pursue other avenues of recourse to address concerns relating to prohibited harassment including initiating civil action, filing a complaint with outside agencies or seeking redress under state or federal law.

Prevention and Notice of Policy

Training to prevent harassment prohibited by law or by this policy is included in employee and student orientations as well as employee in-service training.

This policy is (1) displayed in prominent areas of each division building in a location accessible to students, parents and school personnel, (2) included in the student and employee handbooks; and (3) sent to parents of all students within 30 calendar days of the start of school. Further, all students, and their parents/guardians, and employees are notified annually of the names and contact information of the compliance officers.

False Charges

Students or school personnel who knowingly make false charges of harassment shall be subject to disciplinary action as well as any civil or criminal legal proceedings.

Adopted: May 1, 2000
Revised: September 4, 2002
Revised: October 3, 2011
Revised: December 3, 2012
Revised: July 13, 2015
Revised: August 31, 2020
Revised: October 5, 2020
Revised: July 12, 2021

Legal Refs: 20 U.S.C. §§ 1681-1688.
29 U.S.C. § 794.
42 U.S.C. §§ 2000d-2000d-7.
42 U.S.C. §§ 2000e-2000e-17.
42 U.S.C. § 2000ff-1.

34 C.F.R. 106.2, 106.8, 106.9, 106.30, 106.44, 106.45, 106.71.

Code of Virginia, 1950 as amended, §§ 2.2-3900, 2.2-3901, 2.2-3902, 22.1-23.3, 22.1-295.2.

Cross Refs:	AC	Nondiscrimination
	AD	Educational Philosophy
	GAB/IIBEA	Acceptable Computer System Use
	GB	Equal Employment Opportunity/Nondiscrimination
	GBA-F/JFHA-F	Report of Harassment
	GBM	Professional Staff Grievances
	GBMA	Support Staff Grievances
	JB	Equal Educational Opportunities/Nondiscrimination
	JFC	Student Conduct
	GCPD	Professional Staff Discipline
	GAE	Child Abuse and Neglect Reporting
	KKA	Service Animals in Public Schools

Report of Harassment

Name of Complainant: _____

For Students, School Attending: _____

For Employees, Position and Location: _____

Address, Phone Number
And Email Address:

Date(s) of Alleged Incident(s) of Harassment: _____

Name of person(s) you believe harassed you or others: _____

If the alleged harassment was toward another, please identify that person: _____

Please describe in detail the incident(s) of alleged harassment, including where and when the incident(s) occurred. Please note any witnesses that may have observed the incident(s). Please include a description of any past incidents that may be related to this complaint. Attach additional pages if necessary.

I certify that the information provided in this report is true, correct and complete to the best of my knowledge:

Signature of Complainant Date

Complaint Received By: _____
(Principal or Compliance Officer) Date

PROHIBITION OF ABUSIVE WORK ENVIRONMENT

The New Kent School Board prohibits abusive work environments in the school division.

Any school board employee who contributes to an abusive work environment is appropriately disciplined.

Retaliation or reprisal against school board employees who make allegations of abusive work environments or assist in the investigations of abusive work environments is prohibited.

Definitions

As used in this policy,

“Abusive conduct” means conduct of a school board employee in the workplace that a reasonable person would find hostile and that is severe enough to cause physical harm or psychological harm to another school board employee based on a determination in which the following factors are considered: the severity, nature, and frequency of the conduct and, when applicable, the continuation of the conduct after a school board employee requests that it cease or demonstrates outward signs of physical harm or psychological harm in the face of the conduct. “Abusive conduct” includes verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating; the gratuitous sabotage or undermining of another school board employee’s work performance; attempts to exploit another school board employee’s known psychological or physical vulnerability; or repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, or epithets. “Abusive conduct” does not include (i) a single act, unless it is especially severe, or (ii) conduct that the school board proves with clear and convincing evidence is necessary for the furtherance of its legitimate and lawful interests.

“Abusive work environment” means a workplace in the school division in which abusive conduct occurs.

“Physical harm” means a material impairment of a school board employee’s physical health or bodily integrity, as documented by a licensed physician or another licensed health care provider.

“Psychological harm” means a material impairment of a school board employee’s mental health, as documented by a licensed psychologist, psychiatrist, or psychotherapist or another licensed mental health care provider.

Adopted: August 7, 2018
Revised: July 12, 2021

Legal Refs.: Code of Virginia, 1950, as amended, § 22.1-291.4.

STAFF COMPENSATION PROCEDURES

Employees will be paid in accordance with the New Kent County school division pay schedule. Coaches will be paid each season.

Adopted: November 3, 2008

Revised: May 18, 2009

Revised: January 22, 2013

DEFERRED WAGE PAYMENT ELECTION FORM

Deleted by January 22, 2013 action of the New Kent School Board.

NOTICE OF HOW EMPLOYEES WHO WORK LESS THAN 12 MONTHS ARE TO BE PAID

This notifies [name of employee] that New Kent County school division requires him or her to be paid over 12 months regardless of the fact that he or she will actually work over a shorter time period. Specifically [name of employee] will receive 24 equal bi-monthly payments (or 26 equal payments every two weeks) of [dollar amounts of each payment] beginning on [date].

In the event that a separation from service occurs before the end of the 12-month payment period, [name of employee] will be entitled to an additional payment for the amount actually earned from the beginning of the 12-month pay period until the date of separation from service which has not yet been paid. This additional payment will be included in the employee's final paycheck. For this purpose, "separation from service" has the same meaning as that term is defined in section 1.409A-1(h) of the Treasury Regulations.

NKSB Review: January 22, 2013

BOARD-STAFF COMMUNICATIONS

The New Kent County School Board supports and encourages two-way communication between the board and employees. The superintendent is the official representative of the school board in its relations and communications with its employees.

Employees are encouraged to communicate their ideas and concerns in an orderly and constructive manner to the school board and/or the superintendent or superintendent's designee.

The school board desires to develop and maintain the best possible working relationship with the employees of the school division. The school board welcomes the viewpoints of employees, and it allows time at its meetings for employees to be heard.

The school board does not discriminate against any employee because of membership in an employee organization, or participation in any lawful activities of the organization.

Adopted: July 1, 1998
Revised: August 2, 2004
Revised: November 3, 2008
Revised: July 2, 2012
Revised: May 19, 2014
Revised: April 15, 2019

Legal Ref.: Code of Virginia, 1950, as amended, § 22.1-253.13:7.

GUIDELINES FOR BOARD-STAFF COMMUNICATIONS

The superintendent shall communicate with staff in a manner that allows for two-way communications and shall maintain an “open door” policy where staff members are free to call or meet with the superintendent at their request.

The superintendent shall establish a communication program for the staff of the school system, which will include the following:

- A. Planned, regular and recurring personal contacts between the central administration and personnel in the schools;
- B. School system and school-wide meetings of faculty and key operational personnel;
- C. School system-wide written communications media;
- D. System-wide reports;
- E. System-wide process to recognize the achievements and contributions of staff at all levels;
- F. Individual school and system-wide procedures for two-way communications; and
- G. The establishment of the Superintendent’s Advisory Committee which is comprised of staff representatives from all schools and departments and provides an opportunity for discussion and information exchange.

In addition, the various other advisory committees provide a means for staff as well as community representative to offer ideas and suggestions in the decision making process.

NKSB Review: November 19, 2012

STAFF HEALTH

As a condition of employment every new employee of the school board including teachers, cafeteria workers, janitors and bus drivers, shall submit a certificate signed by a licensed physician, physician assistant, nurse practitioner, or registered nurse stating the employee appears free of communicable tuberculosis. Volunteers and student teachers may be required to provide such a certificate.

After consulting with the local health director, the school board may require the submission of such certificates annually or at such intervals as it deems appropriate, as a condition to continued employment.

Adopted: July 1, 1998
Revised: September 4, 2002
Revised: June 2, 2003
Revised: September 3, 2003
Revised: August 1, 2005
Revised: August 7, 2006
Revised: October 3, 2011
NKSB Review: January 22, 2013 – no changes
Revised: November 2, 2015
Revised: July 13, 2020

Legal Refs.: Code of Virginia, 1950, as amended, §§ 22.1-300, 54.1-2952.2, 54.1-2957.02.

Cross Ref.:	EBAB	Possible Exposure to Viral Infections
	EBBB	Personnel Training—Viral Infections
	GDQ	School Bus Drivers
	JHCC	Communicable Diseases
	JHCCA	Blood-borne Contagious or Infectious Diseases

UNLAWFUL MANUFACTURE, DISTRIBUTION, DISPENSING
POSSESSION OR USE OF A CONTROLLED SUBSTANCE

The New Kent County School Board is committed to maintaining a Drug-Free Workplace.

Prohibited Conduct

Employees may not unlawfully manufacture, distribute, dispense, or possess a controlled substance on school property, at any school activity, or on any school-sponsored trip. It is a condition of employment that each employee of the New Kent County School Board will not engage in such prohibited conduct and will notify the New Kent County School Board of any criminal drug conviction for a violation occurring on school property, or on any school-sponsored trip no later than 5 days after such conviction. An employee who is convicted of criminal drug activity for a violation occurring on school property, at any school activity, or on any school-sponsored trip will be subject to appropriate discipline, up to and including termination, or required to satisfactorily participate in a drug abuse assistance or rehabilitation program.

Discipline

Within 30 days of receiving notice from a School Board employee as described above, the superintendent and school board will take appropriate personnel action up to and including dismissal of any employee found to have engaged in prohibited conduct listed above or require satisfactory participation in a drug abuse assistance or rehabilitation program approved by a federal, state, or local health, law enforcement, or other appropriate agency.

Distribution of Policy

All employees are given a copy of this policy.

Drug-Free Awareness Program

The New Kent County School Board shall establish a drug-free awareness program to inform its employees about the dangers of drug abuse in the workplace, the board's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for violations of laws and policies regarding drug abuse.

Adopted: July 1, 1998
Revised: November 5, 2001
Revised: September 4, 2002
Revised: May 2, 2011
Revised: November 19, 2012
Revised: July 7, 2014
Revised: July 13, 2020

Legal Refs. 41 U.S.C. §§ 8103, 8104.

Code of Virginia, 1950, as amended, sections 22.1-78

Cross Ref.: GCPD Professional Staff Discipline
GDQ School Bus Drivers

STAFF WEAPONS IN SCHOOL

No one may possess or use any firearm or any weapon, as defined in Policy JFCD Weapons in School, on school property (including school vehicles), on that portion of any property open to the public and then exclusively used for school-sponsored functions or extracurricular activities while such functions or activities are taking place; or on any school bus without authorization of the superintendent or superintendent's designee. The superintendent or superintendent's designee is permitted to give authority to possess a firearm on school property only to persons expressly authorized by statute to possess a firearm on school property.

Violation of this policy by an employee will result in appropriate personnel action up to and including dismissal.

Illegal conduct will be reported to law enforcement officials.

Adopted: February 1, 1999
Revised: November 5, 2001
Revised: September 4, 2002
Revised: June 2, 2003
Revised: October 3, 2011
NKSB Review: January 22, 2013 – no changes
Revised: July 13, 2015
Revised: August 7, 2017
Revised: August 31, 2020

Legal Refs: Code of Virginia, 1950, as amended, sections 18.2-308.1, 22.1-78, 22.1-279.3:1, 22.1-280.2:1, 22.1-280.2:4.

8 VAC 20-560-10.

Cross Refs: CLA Reporting Acts of Violence and Substance Abuse
 JFCD Weapons in School
 KGB Public Conduct on School Property

TOBACCO PRODUCTS AND NICOTINE VAPOR PRODUCTS

Generally

Students are prohibited from possessing any tobacco product or nicotine vapor product on a school bus, on school property, or at an on-site or off-site school sponsored activity.

In addition, the use or distribution of any tobacco product or nicotine vapor product, on a school bus, on school property, or at an on-site or off-site school sponsored activity is prohibited.

The superintendent is responsible for developing a regulation which contains

- provisions for the enforcement of this policy among students, employees, and visitors, including the enumeration of possible sanctions or disciplinary actions, and
- referrals to resources to help staff and students overcome tobacco addiction.

Definitions

“Nicotine vapor product” means any noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. “Nicotine vapor product” includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any cartridge or other container or nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. “Nicotine vapor product” does not include any product regulated by the FDA under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

“Tobacco product” means any product made of tobacco and includes cigarettes, cigars, smokeless tobacco, pipe tobacco, bidis, and wrappings. “Tobacco product” does not include any nicotine vapor product, alternative nicotine product that is regulated by the FDA under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

Adopted: July 1, 1998
Revised: September 8, 1999
Revised: May 7, 2001
Revised: September 4, 2002
Revised: June 2, 2003
Revised: June 2, 2008
Revised: August 3, 2009
Revised: September 10, 2012
Revised: July 1, 2015
Revised: August 19, 2019

Legal Refs.: 20 U.S.C. section 6083, 7183.

Code of Virginia, 1950, as amended, §§ 18.2-371.2, 22.1-79.5, 22.1-279.6.

Cross Ref.:

CLA	Reporting Acts of Violence and Substance Abuse
JFC-R	Standards of Student Conduct
JFCH/KGC	Tobacco Products and Nicotine Vapor Products
KG	Community Use of School Facilities
KGB	Public Conduct on School Property

LACTATION SUPPORT

The superintendent shall designate a non-restroom location in each school as an area in which any mother who is employed by the New Kent School Board or enrolled as a student in the division may take breaks of reasonable length during the school day to express milk to feed her child until the child reaches the age of one. The area must be shielded from public view.

Adopted: July 7, 2014

Legal Refs.: Code of Virginia, 1950, as amended, § 22.1-79.6.

STAFF PARTICIPATION IN POLITICAL ACTIVITIES

The New Kent County School Board recognizes the right of its employees to engage in political activity.

The board also recognizes that school time and school property should not be used for partisan political purposes. Thus, when engaging in political activities, an employee may not

- use the employee's position within the school division to further a political cause;
- engage in any activity supporting or opposing a candidate or political party while on duty, while on school property during school hours, or while representing the school division;
- suggest in any manner that the school division or any component of it supports or opposes a candidate for election to any office; or
- use any school division property to engage in any activity supporting or opposing a candidate for public office or a political party.

These restrictions are not intended to limit the rights of school division employees to support or oppose any political candidate or party on their own time. They are intended to minimize distractions from instruction, to assure that no public funds are used to support any candidate for public office, and to assure that the public is not given the false impression that the school division supports or opposes any political candidate or party. School division employees who engage in political activities on their own time must make it clear that their views and actions represent their individual positions and do not represent the views of the school division.

Adopted: July 1, 1998
Revised: April 2, 2012
Revised: April 12, 2021

Legal Refs.: Code of Virginia, 1950, as amended, sections 22.1-70, 22.1-78.

STAFF GIFTS AND SOLICITATIONS

Exchange of gifts between students and/or parents and staff is discouraged.

No school division employee solicits money, property, goods or services for personal use or use by staff or students during school hours on school property without written authorization from the superintendent or superintendent's designee.

Employees shall not use their official titles or otherwise indicate endorsement by the board in the commercial promotion of any product, process or service except with the written permission of the superintendent or superintendent's designee.

Adopted: July 1, 1998
Revised: May 1, 2006
Reviewed: November 19, 2012
Revised: April 15, 2019

Legal Refs.: Code of Virginia, 1950, as amended, §§ 22.1-70, 22.1-78.

Cross Refs.:	JHCH	School Meals and Snacks
	JL	Fund Raising and Solicitation
	KGA	Sales and Solicitations in Schools
	KMA	Relations with Parent Organizations
	KQ	Commercial, Promotional and Corporate Sponsorships and Partnerships

PERSONNEL RECORDS

Present and past employees have access to their personnel information maintained by the New Kent County School Division.

If information relative to employment is requested by banks or other establishments or individuals, written permission from the employee to release such information is required, except to comply with a judicial order, a lawfully issued subpoena, the Virginia Freedom of Information Act (Va. Code § 2.2-3700 et seq.), or other law or court order. The employee will be notified of the request for records.

The superintendent or superintendent's designee is responsible for maintaining a system of personnel records for all employees of the school board. Personnel files of all school board employees may be produced and maintained in digital or paper format.

Teacher performance indicators, or other data collected by or for the Department of Education or the school board or made available to and able to be used to judge the performance or quality of a teacher, maintained in a teacher's personnel file or otherwise is confidential but may be disclosed, in a form that does not personally identify any student or other teacher, (i) pursuant to court order, (ii) for the purposes of a grievance proceeding involving the teacher, or (iii) as otherwise required by state or federal law. Nothing in this policy prohibits the release of or limits the availability of non-identifying, aggregate teacher performance indicators or other data.

Personnel files of all school board employees may be produced and maintained in digital or paper format.

Adopted:	July 1, 1998
Revised:	June 3, 2002
Revised:	June 2, 2003
Revised:	August 2, 2004
Revised:	August 7, 2006
Revised:	January 22, 2013
Revised:	June 17, 2013
Revised:	November 18, 2013
Revised:	November 2, 2015
Revised:	July 18, 2016
Revised:	April 12, 2021

Legal Ref.: Code of Virginia, 1950, as amended, §§ 2.2-3705.1, 2.2-3800 et seq., 22.1-295.1.

Cross Ref.:	CBA	Qualifications and Duties for the Superintendent
	GA	Personnel Policies Goals
	GBLA	Third Party Complaints Against Employees

THIRD-PARTY COMPLAINTS AGAINST EMPLOYEES

Any parent or guardian of a student enrolled in the New Kent County Public Schools or any resident of New Kent County may file a complaint regarding an employee of the New Kent County School Board. Such complaint should be filed with the superintendent or superintendent's designee. If the complaint involves allegations that an employee of the New Kent School Board has abused or neglected a child in the course of his employment, the complaint will be investigated in accordance with Va. Code §§ 63.2-1503, 63.2-1505, 63.2-1516.1.

Information determined to be unfounded after a reasonable administrative review is not maintained in any employee personnel file, but may be retained in a separate sealed file by the administration if such information alleges civil or criminal offenses. Any dispute over such unfounded information, exclusive of opinions retained in the personnel file, or in a separate sealed file, notwithstanding the provisions of the Government Data Collection and Dissemination Practices Act, Va. Code §§ 2.2-3800 et seq., will be settled through the employee grievance procedure as provided in Va. Code §§ 22.1-206 and 22.1-208 through 22.1-314.

Individuals lodging a complaint are notified in writing that the complaint has been received and is being investigated.

The complaint should be filed as soon as possible after the alleged incident, usually within 15 school days, and will be processed promptly, usually within 15 days.

Adopted: July 1, 1998
Revised: November 5, 2001
Revised: August 7, 2006
Revised: November 3, 2008
NKSB Review: January 22, 2013 – no changes
Revised: June 17, 2013
Revised: May 19, 2014
Revised: April 15, 2019
Revised: July 13, 2020

Legal Refs.: Code of Virginia, 1950, as amended, §§ 2.2-3800 et seq., 22.1-70, 22.1-78, 22.1-295.1,

Cross Refs.:	GB	Equal Employment Opportunity/Nondiscrimination
	GBA/JFHA	Prohibition Against Harassment and Retaliation
	GBL	Personnel Records
	GBM	Professional Staff Grievances
	GBMA	Support Staff Grievances
	JB	Equal Educational Opportunities/Nondiscrimination
	GAE	Child Abuse and Neglect Reporting

PROFESSIONAL STAFF GRIEVANCES

The New Kent School Board adopts the most recent version of **Procedure for Adjusting Grievances** promulgated by the Virginia Board of Education based on current statutory provisions.

Adopted:	July 1, 1998
Revised:	September 4, 2002
Revised:	August 2, 2004
Revised:	May 1, 2006
Revised:	November 3, 2008
NKSB Review:	January 22, 2013 – no changes
Revised:	November 18, 2013
Revised:	April 28, 2017

Legal Ref.: Code of Virginia, 1950, as amended, §§ 22.1-253.13:7.C.8, and 22.1-306 et seq.

8 VAC 20-90-10 through 8 VAC 20-90-80 and accompanying forms.

SUPPORT STAFF GRIEVANCES

The New Kent County School Board adopts the following procedure in accordance with § 22.1-79(6) of the Code of Virginia, as amended. Nothing in this procedure is intended to create, nor shall it be construed as creating, a property right in employment, nor shall this procedure be interpreted to limit in any way whatsoever the school board's exclusive final authority over the employment and supervision of its personnel.

The following words and terms are defined as indicated when used in this procedure, unless the context clearly indicates otherwise.

"Days" means calendar days unless a different meaning is clearly expressed in this procedure. Whenever any period of time fixed by this procedure shall expire on a Saturday, Sunday or legal holiday, the period of time for taking action under this procedure shall be extended to the next day that is not a Saturday, Sunday or legal holiday. "Working days" means those days that the New Kent County School Board office is open for business.

"Dismissal" means the termination of employment of any covered employee with or without cause during the term of such employee's employment.

"Employee" or "employees" means all full-time employees of the New Kent County School Board who have completed the required probationary period except the division superintendent and those employees covered under the provisions of Articles 2 (principals and assistant principals) and 3 (teachers) of Chapter 15 of Title 22.1 of the Code of Virginia, as amended, and central office administrators. "Employee" does not mean a part-time or temporary employee (substitutes, consultants, individuals receiving remuneration for providing contracted services and part-time employees are not eligible to use this procedure).

"Grievance" means a complaint or dispute involving the dismissal or other disciplinary action of an employee. A dismissal, reassignment or other action pursuant to a Reduction in Force (RIF) is not a disciplinary action and is not grievable. Employee evaluations are not disciplinary actions and are not grievable. "Grievance" does not mean a complaint or dispute regarding the suspension of an employee. The procedure for the suspension of employees is set forth in Policy GCPF Suspension of Staff Members.

Procedure

1. Written notice of the proposed action, along with a statement of the reasons for the action, shall be given to the employee by the employee's building administrator/department head. Upon receipt of the recommendation, the employee is required to meet with a Human Resources administrator. During this meeting the employee receives a copy of this policy as notice of the employee's grievance rights. The employee may file a written request for a hearing with the superintendent or his designee within ten (10) working days of receiving the written notice. The failure to file such a request within the prescribed time will constitute a waiver of the right to a hearing and the proposed action will become final without a hearing or further notice.

2. Upon receiving a timely written request, the superintendent or his designee shall hear the grievance. The superintendent or his designee will hold a hearing within fifteen (15) working days of receipt of the employee's request. Notice of the hearing shall be given orally or in writing to the employee at least five (5) working days before the hearing. The employee and the school division will share the cost of recording the hearing equally.
3. The employee and the employee's supervisor may be represented by legal counsel or a lay advocate at the hearing, but not both. The hearing will be private and the superintendent or his designee will have full discretion over the conduct of the hearing. However, the employee and the supervisor may make opening statements, may present all material and relevant evidence, including the testimony of witnesses, and may cross examine witnesses. Witnesses may be questioned by the superintendent or his designee.
4. The superintendent or his designee shall give the employee a written decision within ten (10) working days after the completion of the hearing. The decision shall be based on the evidence relevant to the issues produced at the hearing in the presence of each party.
5. The employee may appeal the decision to the school board by providing written notice of appeal to the clerk of the school board with five (5) working days of receiving the decision of the superintendent or his designee. Upon timely appeal, the school board shall decide the appeal on the written record and render its decision within thirty (30) days of the appeal.

Adopted: July 1, 1998
Revised: September 4, 2002
Revised: August 2, 2004
Revised: May 1, 2006
Revised: August 3, 2009
Reviewed: January 22, 2013 – no changes
Revised: June 17, 2013
Revised: June 7, 2016
Revised: August 31, 2020

Legal Ref.: Code of Virginia, 1950, as amended, § 22.1-79(6), 22.1-311, 22.1-313.

Cross Ref.: GCPF Suspension of Staff Members
GDG Support Staff Probation

STAFF HIRING PROCEDURES

It is the desire of the New Kent County School Board to recruit, hire and retain the best possible qualified applicants.

The superintendent or designee will maintain procedures for advertising vacancies and new positions. Those procedures will be designed to ensure that all openings are properly advertised to give all interested and qualified parties the opportunity to apply. While most positions will be filled using those procedures, the school board may, at the request of the superintendent, fill positions in other ways. For example, the school board may authorize the filling of a position to accommodate the disability of an employee, to transfer an employee when it is determined to be in the best interest of the school division, to satisfy the rights of employees returning from leave, to move an employee whose performance is unsuccessful to a position in which the employee might be successful, or to discipline an employee for conduct deficiencies.

Current division employees are given an opportunity to apply for positions for which they are qualified.

The applicant determined to be the best qualified shall be selected for a vacant or new position, regardless of whether the applicant is an internal or external candidate.

Application for employment in the New Kent County Public Schools shall be completed online. If an applicant does not have access to the internet, the applicant may schedule an appointment to complete the application at the School Board Office.

It is the responsibility of the applicant to furnish accurate information, and any falsification of either information or credentials is cause for dismissal or refusal to employ. Placement on a step does not necessarily relate to years of experience.

Adopted: July 1, 1998
Revised: May 3, 2010
Revised: June 17, 2013
Revised: May 19, 2014
Revised: May 8, 2015
Revised: July 13, 2020

Legal Refs.: Code of Virginia, 1950, as amended, sections 22.1-70, 22.1-78.

Cross Refs.: AC Nondiscrimination
GA Personnel Policies Goals
GCDA Effect of Criminal Conviction or Founded Complaint of Child Abuse
or Neglect

VIRGINIA RETIREMENT SYSTEM

All eligible employees must be members of the Virginia Retirement System. Employee retirement benefits are governed by the rules and regulations established by the Virginia Retirement System.

Adopted: July 1, 1998
Revised: June 3, 2002
Revised: August 6, 2012

Legal Refs.: Code of Virginia, 1950 as amended, sections 22.1-78, 51.1-135.

Cross Ref.: GBR Voluntary Retirement Savings Program

VOLUNTARY RETIREMENT SAVINGS PROGRAM

The New Kent School Division offers its employees the opportunity to participate in a defined contribution retirement plan, also known as a tax sheltered annuity or 403(b) program. This program is maintained and operated pursuant to a written plan.

The written plan contains all the material terms and conditions for eligibility, benefits, applicable limitations, the contracts available under the plan, and the time and form under which benefit distributions may be made.

The written plan also addresses any optional features, including hardship withdrawal distributions, loans, plan-to-plan or annuity contract-to-annuity contract transfers, and acceptance of rollovers to the plan, which are included in the Division's program.

The written plan may

- allocate responsibility for administrative functions, including functions to comply with the requirements of 26 U.S.C. § 403(b) and other tax requirements
- assign such responsibilities to parties other than the school division, but not to participants (unless the administration of the plan is a substantial portion of the duties of the participant)
- incorporate by reference other documents which thereupon become part of the written plan
- address termination of the program

Every employee of the school division is notified annually about the program.

Adopted: August 6, 2012

Revised: July 13, 2015

Legal Refs.: 26 U.S.C. § 403(b).

26 CFR 1.403(b)-1 et seq.

Code of Virginia, 1950, as amended, §§ 51.1-603, 51.1-603.1.

Cross Refs: GBO Virginia Retirement System

PROFESSIONAL STAFF

No teacher is regularly employed by the school board or paid from public funds unless such teacher

- holds a license or provisional license issued by the Board of Education,
- holds a three-year license to teach high school career and technical education courses in specified subject areas or
- is hired to teach in a trade and industrial education program and for whom the teacher licensure requirements have been waived by the Virginia Department of Education.

If a teacher employed under a provisional license is activated or deployed for military service within a school year (July 1 – June 30), an additional year will be added to the teacher's provisional license for each school year or portion thereof during which the teacher is activated or deployed. The additional year shall be granted the year following the return of the teacher from deployment or activation.

The superintendent may request that the Board of Education extend the three-year provisional license of a teacher for at least one year but no more than two additional years. The request must be accompanied by the superintendent's recommendation for such extension and satisfactory performance evaluations for the teacher for each year of the original three-year license.

The Board of Education prescribes, by regulation, the requirements for the licensure for teachers and other school personnel required to hold a license. On recommendation of the superintendent, the school board may waive applicable licensing requirements as specified in Va. Code § 22.1-298.1 for any individual the school board seeks to employ as a career and technical education teacher who is also seeking initial licensure or renewal of a license with an endorsement in the area of career and technical education.

Adopted: July 1, 1998
Revised: November 6, 2000
Revised: November 5, 2001
Revised: September 4, 2002
Revised: November 3, 2008
Revised: May 3, 2010

NKSB Review: January 22, 2013 – no changes
Revised: July 13, 2015
Revised: July 18, 2016
Revised: August 7, 2017
Revised: August 7, 2018

Legal Refs.: Code of Virginia, 1950, as amended, §§ 22.1-298.1, 22.1-299, 22.1-299.5 and 22.1-299.6.

LOCAL LICENSES FOR TEACHERS

Policy deleted 7/18/2016 based on amendment to Va. Code § 22.1-298.1 and repeal of Va. Code § 22.1-299.3 by HB 2151 (2013).

PROFESSIONAL STAFF CONTRACTS

The school board enters into written contracts with teachers, principals, assistant principals, and supervisors as defined in 8 VAC 20- 441-10 before such employees assume their duties except as noted below. Contracts are in the form permitted by the Board of Education, with special covenants added by the school board as appropriate. Contracts are signed in duplicate, with a copy furnished to each party. Administrators designated by the superintendent may issue a firm and binding commitment on the part of both parties at recruitment fairs.

Written contracts are not required with persons who are temporarily employed. A temporarily employed teacher, is 1) one who is employed to substitute for a contracted teacher for a temporary period of time during the contracted teacher's absence, or 2) one who is employed to fill a teacher vacancy for a period of time, but for no longer than 90 teaching days in such vacancy, unless otherwise approved by the Superintendent of Public Instruction on a case-by-case basis, during one school year.

Coaching contracts and contracts for extracurricular activity sponsorship assignments where a monetary supplement is paid are separate from the employee's primary contract. Such contracts are in a form permitted by the Board of Education. Termination of the separate contract does not constitute cause for the termination of the primary contract.

For purposes of this policy, "extracurricular activity sponsorship" means an assignment for which a monetary supplement is received, requiring responsibility for any student organizations, clubs, or groups such as service clubs, academic clubs and teams, cheerleading squads, student publication and literary groups, and visual and performing arts organizations except those that are conducted in conjunction with regular classroom, curriculum, or instructional programs.

Adopted: July 1, 1998
Revised: May 7, 2001
Revised: September 4, 2002
Revised: August 7, 2006
Revised: July 12, 2010
Revised: August 6, 2012
Revised: June 17, 2013
Revised: April 24, 2018

Legal Refs.: Code of Virginia, 1950, as amended, §§ 22.1-78, 22.1-302.

8 VAC 20-441-10.

8 VAC 20-441-40.

Cross Ref.:	GCBB	Supplementary Pay
	GCDA	Effect of Criminal Conviction or Founded Complaint of Child Abuse or Neglect
	GCE	Part-Time and Substitute Professional Staff Employment
	GCG	Professional Staff Probationary Term and Continuing Contract
	GCPB	Resignation of Staff Members
	GCPD	Professional Staff Discipline
	GCPF	Suspension of Staff Members

STAFF SALARY SCHEDULES

The school board establishes and approves salaries for all school employees.

Adopted: July 1, 1998
Revised: April 2, 2012
Revised: April 12, 2021

Legal Refs.: Code of Virginia, 1950, as amended, sections 22.1-78, 22.1-313.

SUPPLEMENTARY PAY

The New Kent County School Board approves all athletic coaching and other extracurricular activity sponsorships for which supplemental pay is provided. The board establishes the amount of compensation for employees who coach or supervise such activities.

A separate contract in a form permitted by the Board of Education is executed by the school board with an employee who receives supplemental pay for any athletic coaching assignment or extracurricular activity sponsorship assignment. All such contracts will require a party intending to terminate the contract to give reasonable notice to the other party before termination thereof becomes effective.

For purposes of this policy, "extracurricular activity sponsorship" means an assignment requiring responsibility for any student organizations, clubs, or groups, such as service clubs, academic clubs and teams, cheerleading squads, student publication and literary groups, and visual and performing arts organizations which are excluded from creditable compensation for retirement benefits except those activities that are conducted in conjunction with regular classroom, curriculum, or instructional programs which are included in creditable compensation for retirement benefits.

Adopted: July 1, 1998
Revised: September 4, 2002
Revised: April 2, 2012
Revised: June 17, 2013
Revised: April 24, 2018

Legal Refs.: Code of Virginia, 1950, as amended, §§ 22.1-78, 22.1-302, and 22.1-313.

Cross Ref.: GCB Professional Staff Contracts

STAFF BENEFITS

The New Kent School Board recognizes the need for benefits in order to promote the employment and retention of high quality personnel and effectively serve the educational needs of students. Accordingly, benefits are provided as established by the board.

Adopted: February 1, 1999
Revised: June 3, 2002
Revised: August 6, 2012
Revised: April 12, 2021

Legal Ref.: Code of Virginia, 1950, as amended, § 22.1-85.

8 VAC 20-460-10.

Cross Ref.: GCBD Staff Leaves and Absences
 GBO Virginia Retirement System

REGULATIONS TO STAFF FRINGE BENEFITS

A. Definitions

1. **Full-time Employees:** Full-time employees are defined as employees who work an average of 30) hours or more per consecutive work week for the defined school year and who fill 100 percent of a budgeted full-time equivalency position. Full time employees are eligible to receive retirement, life insurance benefits and health insurance benefits and leave benefits.
2. **Part-time Employees:** Part-time employees are defined as employees who work an average of less than (30) hours per consecutive work week for the defined school year and who fill less than 75 percent of a budgeted full-time equivalency position. Part-time employees shall be eligible for pro-rated leave benefits but shall not be entitled to health insurance, retirement or life insurance benefits.

B. Health Care Coverage

1. **Full-time Employees Eligibility:** Full-time employees shall be eligible for health care coverage provided by the school board per contractual agreement.
2. **Contracted Part Time Employees Eligibility:** Employees such as bus drivers and car drivers, who work less than an average of (30) hours consecutively for the defined school year and are defined as Contracted Part-time employees shall be eligible for premium assistance at a reduced level as approved annually by the school board. These employees may use this assistance to offset the cost of a health care plan on the Exchange (ACA). The employees' hours and work days shall be specified by the superintendent.
3. **Part-time Employees Eligibility:** Part time employees shall not be eligible for health care coverage or premium assistance benefits. The employees' hours and work days shall be specified by the superintendent.

C. Benefit Periods Defined for Part-Time Employees: Hours of service includes paid leave.

1. **Standard Measurement Period (SMP)** – This is the standard measurement period where the employer tracks the variable hour employees to determine benefits. If the average for SMP is 30 or more hours/week, the employee is deemed full-time for the following Stability Period. The SMP will begin August 1 through July 30. This twelve month period will continue August 1 through July 30 of each plan ear.
2. **Administrative Period (AP)** – This period is the time used for purposes of tabulating hours and enrolling employees. The Administrative Period is August 1 through September 20 annually.

3. **Stability Period (SP)** – This period is the time during which employees who were found to be full-time during the SMP will be offered health care coverage. The employees must be treated as full-time (offered coverage) during the Stability Period regardless of hours worked during the Stability Period which runs October 1 through September 30 of the plan year. Employees not found to be full-time are not eligible for employer coverage.

Adopted: September 23, 2013 Section C Only -
Revised: December 16, 2013 Addition of Sections A and B
Revised: January 27, 2014

STAFF LEAVES AND ABSENCES

All employee leaves and absences are subject to school division policy and regulations. The superintendent shall establish any regulations necessary for the application of the division's policies regarding leaves and absences.

Adopted: July 1, 1998
Revised: February 1, 1999
Revised: June 1, 1999
Revised: March 4, 2002
Revised: September 4, 2002
Revised: March 3, 2003
Revised: December 1, 2003
Revised: August 24, 2009
Revised: June 28, 2010
Revised: July 24, 2012
Reviewed: September 10, 2012 – no changes

Legal Refs.: Code of Virginia, 1950, as amended, section 22.1-78

Cross Ref.:	GCBE	Family and Medical Leave
	GCBEA	Leave Without Pay
	GCBEB	Military Leave and Benefits
	GCQA	Nonschool Employment by Staff Members

REGULATIONS TO STAFF LEAVES AND ABSENCES

All employee leaves and absences shall be subject to school division policy and regulations. The superintendent or designee shall provide for the interpretation and application of the school division's policies and regulations regarding leaves and absences. An optional Sick Leave Bank is available to all full time employees participating in the VRS Plan 1 and Plan 2. Employees have access to categories of leave as a condition of their contractual status, such as whether the employee is a 10, 11, or 12 month employee. When an employee is eligible for an approved FMLA leave (unpaid leave), New Kent County Public Schools requires the employee to substitute all categories of paid leave until the employee exhausts their paid accrued leave. Accruals for paid leave will be the leave earned prior to the employee beginning the FMLA leave. When the employee returns actively to perform the duties of their contractual agreement, the employee will begin accruing leave per the procedures established in each category of leave.

An employee who is absent and takes leave for any purpose other than those defined in the Sick Leave Policy GCBD will not be considered within the limits of the school board's authorized leave classifications. Such action by an employee may be grounds for disciplinary action up to and including dismissal. It is the responsibility of the employee to follow the procedures designated by each school when reporting absences. Employees must report any leave concerns or inaccuracies to the Human Resources Department immediately. Attendance is an essential function of each employee's job. Employees are expected to regularly and consistently adhere to their assigned work schedule and not have leave usage reduce their ability to perform the essential duties of their job. Sporadic absenteeism, i.e. time lost not due to long-term illness, must be limited to maintain efficient operations. In the event of a pandemic, flexible leave and teleworking options will be available (if applicable) for employees in need as approved by their direct supervisor and the Executive Director of Administration.

Employees (Defined):

A. Full-Time Employees (GCBC-R)

All full-time personnel will be entitled to participate in all leave benefits.

B. Part-Time Employees (GCBC-R)

Contracted Part-time employees and part-time employees (who work less than an average of 30 hours per consecutive work week for the defined school year) are eligible for pro-rated leave benefits as follows:

- | | |
|-------------------|-------------------|
| 1. Court Leave | 3. Military Leave |
| 2. Personal Leave | 4. Sick Leave |

C. Types of Contractual Employees:

1. Twelve month employees: Vacation days will accrue on July 1st and will be reflected on first paycheck (15th) of the respective year for 12 month professional employees. The accrual begins at the start of the contract through the completion of the indicated year. 260 Day Employees earn vacation leave. Employees work July 1st through June 30th of each school year and are paid July 15th – June 30th annually. Holidays are determined by the superintendent as noted on the 260 day contract calendar.
2. Eleven Month Employees: Employee's contract will not accrue vacation leave and are paid August 15th – July 30th annually for the completion of their contract. 220 Day Employees report in August as indicated by school board contract calendar.

3. Ten Month Employees on 210, 206, 202, 200, 195 and 183 contracts: Employees will not accrue vacation leave and are paid September 15th – August 30th annually for the completion of their contract.

(Categories of Leave)

All categories of leave (1-11): accumulated sick, vacation, personal, short term disability (for hybrid employees), and long term disability (for hybrid employees) will run concurrently with any FMLA leave and will be required to be used before being granted unpaid leave status. Employees must report to work for the new contractual period to be eligible to begin accruing leave. If the employee uses anticipated leave that has not been earned and the employee fails to return to work after the expiration of FMLA leave, the employee will be required to reimburse the school division for any unearned leave taken. Employees must report to work to be eligible to begin accruing leave. It is the employee's sole responsibility to monitor their leave balances bi-monthly. All employees may, at any time, be required by their administrator/director to furnish a written statement by a licensed health care professional if unable to work, regardless of the length of illness. Prior to returning to work after an extended illness (more than 3 consecutive days), an employee must submit to the Executive Director of Administration a statement from the physician certifying the employee's fitness for duty and the statement by the physician must cite if any accommodations are necessary to perform the essential duties of the job. Any worker injured on the job will substitute accrued leave during the "waiting period." An employee may not earn more than 100% of pay during the waiting period for any type of leave to include STD and LTD for Hybrid employees and the employee will be required to refund the leave paid during the waiting period. The school division would then reinstate the accrued days. (WC or Hybrid)

1. Annual Leave

A. **Eligibility:** Annual leave for twelve-month full-time employees may be taken in quarter day, half day and full day increments. As of June 30, 2016, use or payment of excess leave will not be carried to the next fiscal year, except under unusual circumstances and only by written permission of the superintendent. All requests will be granted by their supervisor as long as the request does not conflict with the needs of the department. Seniority and the operational needs of the department may be considered by the supervisor when approving leave requests.

B. **Accrual of Leave:** Annual leave is awarded to the employee for each month of New Kent service and begins when the employee begins their twelve month contract as follows:

Years of Full Time New Kent Service	Accrual Per Month/ Year
Accruals: <i>Leave begins at the start of the contract to the completion of the contract.</i>	Utilization: <i>Annual days do not accumulate past June 30 annually.</i>
Year 1 through 5	1.25 days per month/15 days annually
Year 6 through 10 year	1.50 days per month/18 days annually
Year 11 through retirement	1.75 days per month/21 days annually
Partial Month of Active Service	
1. Employment for month (more than 75% of month, 100% annual accrual is earned.	
2. Employment from the 10 th through 20 th of the month, 50% of the annual accrual is earned.	
3. Employment from the 21 st of the month, employee does not accrue leave for the month.	

- C. Payment for Annual Leave:** Payment for accumulated vacation leave must be approved by the employee's supervisor with final approval of the superintendent. Upon retirement or termination of employment (including death), an employee or the beneficiary will be paid his/her per diem amount for unused accumulated vacation leave not to exceed the maximum allowed: 1-5 years/30 days; 6-10 years/36 days; and 11 + years/40 days. Employees may request to use earned annual leave prior to termination of employment instead of being paid the per diem amount. This request must be approved by the superintendent.
1. If any employee is changed from a twelve-month contract to a less-than-twelve-month contract, he/she may elect to convert the accumulated annual days to sick days or the employee will be allowed to use leave within an agreed amount of time not to extend beyond one contractual year.
 2. When there is a break in service with the New Kent County Public School System, the employee's annual leave accrual will begin again (i.e., at 1.25 days per month).
 3. Approval for annual leave must be obtained from the superintendent.
 4. New employees cannot transfer annual leave from a previous employer.

D. Benefits:

1. An employee's deductions will continue to be deducted from the employee's paycheck while the employee is on paid leave status using accrued leave. If the pay is not sufficient to cover the deductions, the Payroll Technician will contact the employee to set up payment arrangements. The Finance and/or Human Resources Executive Directors reserve the right to ensure the employee's pay is adjusted to avoid overpayment.
2. Employees on unpaid leave designated as FMLA leave will continue to receive their employer portion of the medical and insurance benefits up to the maximum 12 work weeks allowed. These benefits will continue on the same basis as an active employee during the 12 week period. Employees must remit premiums for the employee portion to cover themselves and all eligible dependents. Once in an approved unpaid leave such as an extended leave status beyond the FMLA approved period, the employee must pay the entire premiums applicable; medical, dental, vision, and life insurance premiums during an approved extended leave of absence. The employer contribution is paid by the employee during LWOP.
3. Employees using approved leave such as earned accrued: annual leave, sick leave, sick bank leave, or compensatory leave will continue with their employee benefits as long as the employee remains in "paid status." If the employee is in an "unpaid status" due to using all accrued earned leave, the employee's benefits other than the health, dental and life insurance are discontinued for the duration of the unpaid leave status as follows:
 - a) The Virginia Retirement System (VRS) contribution is based on a percent of the employee's income. No employer or employee contribution is made for period of unpaid leave. Upon returning to work, the employee may be eligible to purchase the lost service with VRS, if the leave was necessitated by birth or adoption as defined by VRS policies. VRS policies will prevail when determining what time is eligible to purchase. VRS contributions are based on active work status as of the first work day of the contract calendar for the month.

- b) The employee may remain on the plan during an approved extended leave of absence if the employee pays the full premiums (inclusive of employee and employer contributions) for the remainder of the contractual year if the board approved for the leave of absence.

2. **Sick Leave**

A. **Eligibility**

Eligible employees are full time employees who participate in the Virginia Retirement System under the Plan 1, Plan 2 or Hybrid Plan. Contracted Part-time and part-time employees with a Letter of Appointment will earn pro-rated sick leave. The minimum amount of sick leave may be used in one-half day increments.

This leave may be used only if the employee is unable to work or must provide care for a family member due to 1) an illness or injury incapacitating the employee; 2) exposure to a contagious disease that would jeopardize the health of co-workers or the public; or 3) a medical or dental appointment for examination and or treatment. Sick leave may not be used to extend holidays. If an employee is absent the day before or the day after a holiday, the administrator will request a reasonable proof of illness, including a physician's certificate, unless the leave is pre-approved by the direct supervisor.

It is the employee's responsibility to assure that the leave taken is properly documented and submitted. When a substitute is required, the employee must report his/her absence minimally 1-2 hours prior to the designated reporting time. Unauthorized use of leave will require documentation, may result in the loss of pay for the unauthorized usage and may be subject to disciplinary action. The amount of money equal to the employee's per diem rate shall be withheld from the next paycheck for unauthorized leave. The School Division shall at all times retain the right to designate an employee's leave as Family Medical Leave in accordance with the Family and Medical Leave Act (FMLA). Family members covered under the FMLA are defined in school board policy GCBE as *Family and Medical Leave*.

Sick leave shall be allowed for the following reasons:

- o Medical necessity during temporary incapacity due to illness or injury;
- o The illness or injury of an employee's family member;
- o Medical necessity during the employee's or the spouse of the employee's temporary incapacity related to pregnancy or childbirth;
- o Medical appointments that cannot reasonably be scheduled during non-work hours;
- o Infection with or exposure to a contagious disease such that the employee's presence on the job might jeopardize the health of others;
- o Death in the employee's family (*Bereavement Leave*);
- o Any reason which makes the employee eligible for leave under FMLA.
- o Principals and Directors may approve in advance leave in increments of 1.5 hours for contracted licensed teachers and approved Special Education paraprofessionals to reduce the need for substitutes.

B. Accumulation of Sick Leave

1. Full-time employees shall earn leave at the rate of one day for each month of employment that may be taken in half day increments; however, ten days of sick leave for ten month employees and twelve days of sick leave for twelve month employees may be advanced at the start of each school year (accrual occurs on July 1st of the respective year). If an employee separates from service prior to the end of their contract, sick leave will be adjusted on a pro-rata basis.

Eligible employees who are in the Virginia Retirement Plan 1 or Plan 2 retirement plan shall accumulate sick leave at a rate of one day for each contract month with a maximum accumulation of 200 days. Eligible employees who are members of the Virginia Retirement System Hybrid Plan, which includes a short-term disability plan, shall accumulate sick leave at a rate of one day for each contract month with the maximum accumulation of 90 days.

C. Allowances of Sick Leave

1. Earnings for less than full year of full-time employment shall be at the rate of one day per month, or major fraction earned. This provision applies to teachers/employees who do not begin teaching/working at the start of the school term and to those who do not complete the full contractual year.
2. Partial Month of Service Accruals for Leave Types:
Active service from the 1st of the month through the end of the month, one sick leave day will be earned; active service for half of month, one-half of sick leave accrual is earned. Active service from the 21st of the month, employee does not accrue sick leave for the month. Active service is defined as able to report to work with and without accommodations.
3. Employees cannot claim any portion of earned leave unless he or she has reported for duty for the school year as stated with the terms of the employment contract or Letter of Appointment. If the employee is unable due to illness to begin working as stated by the employment contract/ Letter of Appointment when school opens in the fall, such employee may be allowed to use accumulated leave as paid leave not to exceed the balance credited to him or her as of June 30 of the immediate preceding school year.
4. Sick Leave accruals may be frontloaded for active employees. If an employee uses anticipated leave during the school year for an approved leave that has not been earned, the employee must provide a refund of the unearned time upon returning to work and a paid status or prior to terminating employment.

For purposes of computing sick leave allowances at the end of the calendar month in which the employee is appointed, the following schedule is used:

- Actively employed on or before the 10th of the month, one sick leave day is earned.
- Actively employed between the 10th and 20th of the month, one-half day is earned.
- Actively employed on or after the 21st of the month, no sick leave day is earned.

In subsequent months, sick leave accumulation is based on completed calendar months of service. Ten-month employees who fulfill all obligations of their contract earn one sick leave day in June, not to exceed 10 days total in any school year.

When an employee leaves the system, sick leave accumulation for the final month of employment will be determined as follows:

- Separated on or before the 10th of the month, no sick leave day is earned.
- Separated between the 10th and 20th of the month, one-half day is earned.
- Separated on or after the 21st of the month, one sick leave day is earned.

D. Illness in the Family

(Current language)

1. Employees may use up to six days of accumulated sick leave for quarantine or illness in the immediate family. This leave is applicable only once in the school year in each separate case of illness. The "immediate family" of an employee shall be regarded to include spouse, children, step-children, sons and daughters-in-law, parents (including foster parents), step-parents, parents-in-law, siblings, brothers and sisters-in-law, grandchildren, grandparents, step-grandparents, grandparents-in-law, and any other relative, no matter how distant, living in the household of the employee.

2. COVID Pandemic (Effective January 4, 2021 – February 22, 2021):

NKCPS continues to support employees being able to use up to (80) hours of paid leave as directed under the eligibility criteria for reasons cited in the FFCRA, for reasons #2, #3 and #4 exclusively, which expires on 12/31/2020. In the absence of an extension of the FFCRA leave by the federal government, NKCPs will locally apply the paid sick leave through February 22, 2021. This support is to encourage the reduction of the spread of the virus, allow our employees who are able to telework to do so from home while continuing to provide student instruction or division support, and to assist in our retention of staff.

Employees who are able to telework while in quarantine shall be granted teleworking privileges for up to (80) hours in two weeks or part time equivalent. This paid sick leave may only be used up to the (80) hours for reasons cited on the Employees Rights federal poster for the following reasons:

- 2). has been advised by a health care provider to self-quarantine related to COVID-19 at 100% pay;
- 3). is experiencing COVID-19 symptoms and is seeking a medical diagnosis at 100% pay; or
- 4). is caring for an individual subject to an order described (1) or self-quarantine as described in (#2) at 2/3 pay up to \$2,000.

This leave is inclusive of any paid leave taken under the FFCRA through December 31, 2020. After an employee exhausts the 80 hours of paid leave, the employee would use their accrued leave for any additional time. Employees having to care for an immediate family member may elect to use six days of accumulated sick leave for quarantine paid at 100% or they may choose COVID pandemic leave at 2/3 pay.

E. Bereavement Leave

An employee may be granted up to three work days or 24 hours of bereavement leave for the death of an immediate family member. For the purposes of this policy, the immediate family of an employee shall be regarded to include spouse, children (including miscarriage), step-children, sons and daughters-in-law, parents (including foster parents), step-parents, parents-in-law, siblings, brothers and sisters-in-law, grandchildren, grandparents, step-grandparents, grandparents-in-law, and any other relative, no matter how distant, living in the household of the employee. In addition to bereavement leave for the death of a parent (employee's or spouse's), spouse, or child (including miscarriage) of the employee, the employee may take two days (16 hours) of sick leave in conjunction with and the bereavement leave. Employees shall remain in contact with their supervisors to have this leave approved.

F. Physician's Certificate

When an employee is absent for three or more consecutive days, a physician's certificate may be required stating the nature of the illness and the anticipated length of absence. If an administrator suspects abuse of sick leave, he/she may **at any time, require reasonable proof of illness, including a physician's certificate.**

G. Transfer of Accumulated Sick Leave

1. Accumulated sick leave earned by employees in other school divisions or institutions covered under the Virginia Retirement System will be accepted to a maximum of 200 days upon presentation of acceptable proof of sick leave by an employee transferring to the school system, provided the employee participated in the Virginia Retirement Plan as a Plan 1 or Plan 2 employee and has not been out of a VRS covered position for three years or longer. A VRS Hybrid Plan member may transfer a maximum of 90 days upon presentation of acceptable proof of sick leave.
2. Licensed Professionals: Accumulated sick leave will be transferred to or from other divisions or institutions within the State, if requested by the employee within three years from the resignation date. Any teacher who separates from service for a period of three or more years will be presumed to have left the teaching profession and will not be eligible for transferring leave (VA. Code 20-460-50).
3. Employees must report to duty before claiming any earned sick leave (transferred or advanced).
4. Upon retirement, any eligible employee will be paid \$25.00 per day for each accumulated day of unused sick leave, to a maximum of 200 days (\$5,000.00). In order to be eligible for payout, the employee must have reached retirement eligibility as outlined in the Virginia Retirement System plan, and have retired formally from employment with the school system. Retirement payouts will be granted after retirement and cessation of full-time employment from the school system. Employees separating from employment will not be paid for accrued sick leave.

3. Personal Leave

Leave with pay, two days in any school year, may be granted to any full-time employee to conduct those essential personal matters which cannot be transacted during off-duty time. Employees fulfilling their contract are eligible for two personal days, one per semester. Employees may use the two days in one semester as long as they complete their contractual agreement. An employee's unused personal days will be converted to two sick days at the end of the year. Employees also may convert two earned sick days to two personal days (for a total of four personal days) with prior approval from their immediate supervisor as long as the absence does not cause an undue hardship on the operations of the department. Personal leave may be used to observe religious holidays up to the maximum of four days with the additional two days being converted from sick leave.

4. Professional Leave

Employees may be allowed to represent the school division at professional meetings, to serve in workshops and on committees, and to observe other personnel without loss of pay with prior approval of the employee's direct supervisor and final approval of the superintendent or designee.

5. Civic Leave

The board encourages involvement of employees in public services so long as such service is consistent with the Board's Philosophy and Goals. Leave may be granted to those employees who have received prior approval from the superintendent to accept appointment to public committee, commissions, and boards.

6. Court Appearance Leave

Jury Duty - The New Kent County School Board supports employees fulfilling civic duties such as serving on federal and state jury panels. Employees called for jury duty may be absent without loss of pay, subject to verification of actual days served by the clerk of the court.

Leave of absence may be granted employees to serve on a jury or to attend court as a witness under subpoena. Employees must submit to the school board a copy of notice of jury duty or subpoena with their leave form in order to be paid. The superintendent or designee shall have approval authority to grant such leave for employees.

If an employee is involved in a personal case, either as a plaintiff or as a defendant, he/she may not be granted court appearance leave. The time will be charged to personal leave, vacation leave, or pre-approved leave without pay.

7. Holidays

Personal or Vacation leave may not be used to extend school holidays, except as specifically approved by the direct supervisor and with final approval from the superintendent or designee. Requests must be received five days in advance and must be in writing.

8. Military Leave - Reserve Training

Employees who are members of the National Guard or an organized military service of the United States and, as such, are required to report for training periods, shall be granted military leave with pay.

The leave shall not exceed fifteen work days during any fiscal year. Any employee on less than twelve (12) month contract is not eligible to receive military leave with pay except when the required period of training can be scheduled only during the contract period. Then, the leave, not to exceed fifteen (15) days in any federal fiscal year shall be granted with pay.

Conditions:

1. Upon receipt of official notice to report for duty, a written request for military leave along with a copy of the official orders shall be submitted to the superintendent or designee with the employee's leave form.
2. When possible, military leave for employees on less-than-twelve-month contracts shall be arranged during non-duty periods.

Application Procedure

Request for military leave for training purposes shall be made in advance, immediately upon receipt by the employee of official notice to report from the appropriate military authorities. A copy of the official orders must accompany the form for leave, which must be approved by the superintendent or his/her designee.

The superintendent may ask the employee to request a change in military orders when it is in the best interest of the school system.

Status of Benefits

The employee shall suffer no loss of accumulated leave or other benefits while on military leave with pay.

9. Short Term Leave Without Pay

Employees may request in writing to their direct supervisor (1) day of leave without pay with proper documentation of need. The employee may only request this unpaid leave once every three years. The direct supervisor may approve or deny this request in writing. Their decision is final. Employees must work one contractual year prior to being eligible to request this leave.

10. Families First Coronavirus Response Act (FFCRA) requires certain employers to provide employees with paid sick leave and expanded family and medical leave for specified reasons related to COVID-19. These provisions will apply April 1, 2020 through December 31, 2020. New Kent will comply with the U.S. Department of Labor's Wage and Hour Division (WHD) who has the authority to investigate and enforce compliance with the FFCRA.

A. Eligible Employees under FFCRA

In general, employees of private sector employers with fewer than 500 employees, and certain public sector employers, are eligible for up to two weeks of fully or partially paid sick leave for COVID-19 related reasons (see below). *Employees who have been employed for at least 39 days* prior to their leave request may be eligible for up to an additional 10 weeks of partially paid expanded family and medical leave for reason #5 below. This leave is all inclusive to include the 12 week period under the Classic FMLA policy.

B. Paid Leave Entitlements under FFCRA

Generally, employers covered under the Act must provide employees:

1. Up to two weeks (80 hours, or a part-time employee's two-week equivalent) of paid sick leave based on the higher of their regular rate of pay, or the applicable state or Federal minimum wage, paid at:
2. 100% for qualifying reasons #1-3 below, up to \$511 daily and \$5,110 total;
3. 2/3 for qualifying reasons #4 and 6 below, up to \$200 daily and \$2,000 total; and
4. Up to 12 weeks of paid sick leave and expanded family and medical leave paid at 2/3 for qualifying reason #5 below for up to \$200 daily and \$12,000 total.
5. A part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period.
6. An employee may elect to substitute any accrued leave (annual, sick and personal) for the first two weeks (80 hours) of the partial paid leave under the EPSLA only. The employer cannot require employees to use accrued leave. Under the EFMLA, employees may elect to substitute accrued leave.
7. The Department of Labor has concluded the paid sick time provided under the FFCRA Act does not carryover from one year to the next. Employees are not entitled to reimbursement for unused leave upon termination, resignation, retirement, or other separation from employment.

C. Qualifying Reasons for Leave Related to COVID-19 under FFCRA

An employee is entitled to take leave related to COVID-19 if the employee is unable to work, including unable to telework, because the employee:

1. is subject to Federal, State, or local quarantine or isolation order related to COVID-19;
2. has been advised by a health care provider to self-quarantine related to COVID-19;

3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;
4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);
5. is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related to reasons; or
6. is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services.

11. Extended Leave Without Pay (LWOP)

A leave of absence without pay may be granted for a period that does not exceed a maximum of ninety days inclusive of the FMLA period. All accrued leave is concurrent with FMLA leave. Under normal circumstances, the leave period will not be permitted to extend from one year to the next and must be one of the designated types of approved leave. Employees with a debilitating or life-threatening illness who are entitled to leave under this policy may take up to thirty (30) days of unpaid leave during their first year of employment with the school division.

When an employee has exhausted all applicable leave (including exhausting the FMLA period), the employee may request in writing for the direct supervisor to approve or deny the leave request without pay. The employee must schedule an appointment with the Executive Director of Administration to review this leave option prior to the approval of the leave being granted. If it is determined that it is in the best interest of the department/division to fill the position, the employee may be dismissed upon recommendation of the superintendent.

A. Extended Leave Request in Writing

Requests for extended leave without pay must be submitted in advance for one of the types of acceptable leave, two weeks prior to the requested leave date, in writing, to the direct supervisor for their approval or denial in writing to the superintendent or designee. The superintendent will approve or deny the request and a copy of this documentation will be sent to the requesting employee.

1. The per diem deduction in pay for leave without pay absences will be determined by dividing the number of contract days into the employee's annual salary.
2. Leave allowances will not accrue and holidays will not be paid holidays for employees during an approved leave without pay.
3. Retirement benefits in VRS do not accrue during a leave without pay and all VRS rules will apply regarding service credit.
4. Employees who are on unpaid leave pursuant to this policy or any other policy, except those on leave pursuant to the Uniformed Services employment and Reemployment Rights Act of 1994 (USERRA), may not engage in work for which they receive pay or any other type of remuneration, without prior written approval of the superintendent.
5. If the employee has not worked 80% of the contractual period, the employee will not be eligible for step increases, but may have the wage increase prorated. The employee's merit date is July 1.
6. Employees are salaried and shall be paid their regular semi-monthly payment during each scheduled pay period using any accrued leave or paid leave options. When leave balances are exhausted an employee may be docked in half or whole day increments.

B. Types of Leaves Acceptable for Leave Without Pay - Documentation Required

1. A leave of absence for hardship may be granted to employees who experience family emergencies or other extraordinary circumstances beyond the employee's control. The employee must have completed one full year of employment to be eligible to elect this option.
2. A leave of absence may be granted to employees who are experiencing ill health as documented by a licensed physician and who have depleted sick leave and all accrued leave benefits.
3. A leave of absence for military service may be granted to an employee to cover the period of the employee's enlistment or active duty.
4. A leave of absence for study in a regionally accredited program may be granted to an employee who wishes to pursue a graduate degree or to participate in a specific program which is approved by the superintendent. Employees must have at least three years of experience in the New Kent County Public Schools to elect this option.

C. Benefits

While on an unpaid leave of absence, which is not an approved FMLA leave or Military leave, an individual may continue participation in medical plans and group life insurance at his/her own expense for both the employee and employer's portion of the premiums from the beginning of the unpaid leave status through the remainder of the contractual year or until the employee returns to a paid status.

D. Placement Following Extended Leave Without Pay

An employee shall be assigned a comparable position in the school system for which they are endorsed to teach if a vacancy exists.

12. Sick Leave Bank Eligibility

The New Kent County School Board maintains a Sick Leave Bank for use by eligible and participating employees. Employees participating in the Virginia Retirement Plan under Plan 1 or Plan 2 are eligible to participate in the Sick Leave Bank. Employees participating in the Virginia Retirement System Hybrid Plan are covered by a short-term disability plan are not eligible to participate in the Sick Leave Bank. The purpose of the Sick Leave Bank is to provide additional sick leave for those who have prolonged or long-term illness or injury. Additional information is available at each school and at the Central Office.

A. Sick Leave Bank Procedures

The New Kent County School Board shall establish and maintain a Sick Leave Bank for use by eligible and participating employees. Eligible employees are those employees participating in the Virginia Retirement System under Plan 1 and Plan 2. The purpose of the Sick Leave Bank is to provide additional sick leave for those who have defined prolonged or long-term illnesses or injury and who have exhausted their sick leave. The Sick Leave Bank will not be applicable to any illnesses or injuries stemming from an elective surgery and /or procedure. To enable the school board to provide this benefit, a minimum of 50 employees must agree to participate. Membership in the Sick Leave Bank shall be voluntary and open to all full-time employees.

B. Enrollment Period and Membership

The period of enrollment shall be during “Open Enrollment” each year or within 15 calendar days from initial employment. Enrollment requires each employee to complete an application and to donate two sick leave days to the bank. Employees may donate additional days to the bank if they desire. Membership in the bank shall be continuous unless the employee provides written notification to the Sick Leave Bank Administrator, the Director of Human Resources, prior to September 15th of any year of their intent to withdraw from participation. Upon termination of employment or withdrawal of membership, the participant will not be permitted to withdraw or receive any payment for the days contributed to the Sick Leave Bank.

C. Sick Leave Advisory Committee (SLAC)

The Sick Leave Advisory Committee will be represented by the Director of Human Resources, two administrators and a teacher representative from each school. Each spring the advisory committee will provide a report regarding usage to the school board. The committee can institute changes in the bank’s procedures with appropriate notification to the members.

D. Assessment

Participants in the Sick Leave Bank will be assessed an additional day of sick leave if the bank is depleted to 50 days. Members having no sick leave to contribute at the time of assessment but desiring to remain a member will be assessed the first leave day subsequently accumulated. Notification of such need shall be sent to each member at the time it is determined to be necessary to request more days.

E. Guidelines to be Eligible for Sick Leave Bank Days

1. **Waiting Period** - Members must work sixty days after the enrollment prior to being eligible to withdraw days from the Sick Leave Bank.
2. The use of the Sick Leave Bank is confined to the member’s personal illness or to the illness of a family member necessitating an extended absence. “Immediate Family” is as defined in the school board policy manual under the Sick Leave Policy.

3. Members must have exhausted all accrued leave before becoming eligible to use the sick leave bank days. The first twenty working days of the illness or injury must be covered by the employee's accumulated sick leave or they must take leave without pay before accessing the Sick Leave Bank.
4. All accumulated days in the Sick Leave Bank will automatically carry over to the next school year.
5. A maximum of thirty contracted days may be drawn from the bank by a member. Once the thirty days have been used, the member will not be eligible to draw days from the Sick Leave Bank for a period of five years with the exception of an approved waiver by the Sick Leave Advisory Board (see the guidelines for waivers).
6. Members drawing from the bank will not be required to replace the days used.

F. Application

To use the Sick Leave Bank, a member must complete an application and submit it with a physician's statement that includes the nature of the illness or disability, length of time out of work, and a statement that the member is unable to work due to illness or disability. An approximate date the member will return to work must be included in the physician's statement. Requests to use the bank will be honored for personal incapacitation due to a personal long-term illness or disability, with the exception of a Worker's Compensation injury or illness. Elective surgeries and /or procedures are also excluded. Maternity leave is not covered under the Sick Leave Bank. However, consideration will be given in situations where complications occur. Failure to apply prior to an unpaid status, the employee may be denied approval of Sick Leave Bank Days or may have a reduced number of days approved.

G. Reoccurrence of Illness

If a member of the Sick Leave Bank suffers a reoccurrence of the illness for which the member initiated the use of the Sick Leave Bank, the member may request use of the bank provided the member did not use the entire thirty days afforded during the initial usage and all accrued leave has been exhausted. A Physician's statement must be included. With extenuating circumstances, the member may petition the Sick Leave Advisory Bank Committee to request a waiver not to exceed twenty days.

A. Waiver Guidelines

If a full- time employee has been granted usage of the Sick Leave Bank during the five-year period and has a reoccurrence of the same illness, they may request a waiver under the following guidelines:

1. Under no circumstances will an employee be approved leave for more than thirty days in a school year.
2. All accrued leave must be exhausted and must follow the guideline in #2 under the Sick Leave Bank Guidelines.
3. If the employee did not use the initial thirty days allowed under the Sick Leave Policy, they can apply for a waiver for the number of days not used previously. The SLAC must review the request and determine if the request will be approved.
4. If the employee used the thirty initial days, they may request a waiver for an additional twenty days. The (SLAC) will determine if the waiver is approved.
5. To request a waiver, the employee must provide documentation from a physician stating the nature of the illness; the time the employee will miss from work, and must provide the projected return date. If all components are not listed, the request for a waiver will be denied.
6. The (SLAC) will determine approvals of waiver requests by reviewing the physician's note and information, reviewing the employee's attendance history, and determining the impact on the instructional environment.
7. A quorum of (SLAC) is necessary for all approvals. The decision made by the Sick Leave Advisory Committee will be final.

B. Termination of Employment or Membership

Upon termination of employment or withdrawal of the membership from the Sick Leave Bank, a participating member shall not be permitted to withdraw his/her contributed days.

C. Abolishment

If the Sick Leave Bank is abolished by the school board or by legal ruling, the remaining sick leave days shall be distributed first to those members drawing from the bank at the time of abolishment, and then to each member if sufficient days exist to return one full day. In the absence of sufficient days to redistribute one day per member, the Sick Leave Bank shall terminate with no distribution of days to any members. If the Sick Leave Bank becomes inoperative for any reason, the school board shall not be held responsible to anyone, enrolled now or eligible to enroll in the future, for any claims.

13. Disability Programs for Employees in the VRS Hybrid Plan

Benefit eligible employees assigned to the Virginia Retirement System (VRS) Hybrid Retirement Plan have disability benefits under the Virginia Disability Plan Alternative plan VACORP offered through TheStandard. VACORP's short term and long-term disability benefits work in conjunction with a third-party administrator (TPA) and the School Division and will be governed by the following:

A. Membership in Short-Term and Long-Term Disability Plans

Benefit eligible employees assigned to the VRS Hybrid Plan are employees hired on or after January 1, 2014, and met the disability plan member definition and active work requirement; you are covered under VACORP Hybrid Disability Plan. Eligibility:

1. Short Term Disability:

a). Waiting period: There is a one (1) year waiting period for non-work-related short-term disability coverage. For example, a non-occupational disability allows employees to become an eligible for Short Term Disability coverage on the first day after one year of continuous participation as a member in the VACORP Hybrid Disability Plan offered by TheStandard with New Kent County Public Schools. Employees are required to report and file a STD Claim if they are unable to work due to physical disease, mental disorder, injury or pregnancy. Employees are enrolled in this program because NKCPs opted out of the state disability program. This program meets all state requirements. Failure to complete STD paperwork in a timely manner may result in TheStandard denying the claim.

b). Short Term Disability that is work-related, you are eligible for coverage on your first day as a member.

2. Long Term Disability Eligibility:

a). Waiting period: Long Term Disability coverage requires the employee to meet the definition of a member as described above and the employee must be actively at work.

The benefit waiting period is the period for which benefits are payable under the NKCPs Short Term Disability plan, inclusive of the STD waiting period.

B. Changing Jobs and (STD & LTD): Each time you accept a position with another Virginia state or local government employer providing the Hybrid Disability Program, employees are required to satisfy a new one-year eligibility waiting period for non-occupational (non work-related) short term disability coverage and a new five-year eligibility period for higher income-replacement levels beginning with the new hire date. This applies to employees leaving covered employment and then returning to a position eligible for this benefit.

C. Management of the Short-Term and Long-Term Disability Plans: Disability Claims, including determination of payment, will be processed by the TheStandard and payment will be made by NKCPs. Short-term and long-term will run consecutive with Family and Medical Leave. Employees will continue to receive FMLA determination through the Department of Human Resources. Employees who fail to comply with requirements such as contacting VACORP, the TPA, regarding an illness or injury, compliance with return to work arrangements, or completing and returning requested information to the TPA may have their benefit reduced or terminated and/or may be subject to disciplinary action up to and including termination of employment.

A.Short-Term Disability Procedures: VRS Hybrid Plan employees are eligible for work-related short-term disability coverage upon employment.

1. Notice and Claim Initiation. An employee who becomes ill or injured and expects to be out of work for more than seven (7) calendar days must notify his/her supervisor and the Department of Human Resources who will assist with the claim initiation with the TPA. For illnesses or injuries that are known in advance, such as for a scheduled surgery or childbirth, the employee must notify Human Resources and initiate a claim as soon as possible, up to thirty (30) calendar days in advance. An employee may not receive benefits more than fourteen (14) calendar days before the date the disability is reported.
2. Elimination period. Once an employee's short-term disability claim is approved for coverage by the TPA, a seven (7) calendar day elimination period is assigned. An employee must use his/her available sick leave, personal reasons leave, and/or annual leave accruals during the seven-day elimination period. Short-term disability income replacement normally begins on the eighth calendar day of absence. Once approved for payment, NKCPs will work with the employee to use all paid leave accruals in increments to equal 100% pay until all paid accrued leave is exhausted.
3. Reporting other forms of income during STD. Employees receiving short-term disability coverage must report any additional income to the Department of Human Resources. If an employee receives or is eligible to receive income from certain sources, short-term benefits will be offset.
4. Replacement income. Short-term disability coverage provides income replacement for a maximum of one-hundred twenty-five (125) workdays. The number of days and percentage of income replacement depends on continuing service:

a) Days of Income Replacement: Non-Work-Related Short Term Disability:

Months of Continuous Service	Workdays of Income Replacement at 100%	Workdays of Income Replacement at 80%	Workdays of Income Replacement at 60%
Less than 12	0	0	0
13 – 59	0	0	125
60 - 119	25	25	75
120 - 179	25	50	50
180 or more	25	75	25

- b) During non-work-related short-term disability coverage, an employee must use available sick, personal reasons, and/or annual leave accruals **to supplement** income replacement levels of less than 100%.

- c) Days of Income Replacement: Work-Related Disability:

Months of Continuous Service	Workdays of Income Replacement at 100%	Workdays of Income Replacement at 80%	Workdays of Income Replacement at 60%
Less than 60	0	0	125
60 - 119	85	25	15
120 or more	85	40	0

- d) Use of available sick, personal reasons, and/or annual leave accruals during work-related disability coverage will be dependent on the option selected under *Worker's Compensation: Work Related Injury not to exceed 66 2/3 income replacements*.
5. Holidays during STD. During periods of short-term disability (STD), 12-month employees are credited with holiday leave based on the percentage of disability benefit (100%, 80% or 60%) they are receiving. To receive 100% income replacement when STD decreases to 80% or 60% employees must use accrued leave to supplement VACORP benefits. Holidays count towards the seven (7) calendar day elimination period.
6. Reports of medical status during STD. During periods of STD absences, the employee is required to maintain contact with the TPA, Human Resources, and his/her supervisor regarding his/her medical status. Should an employee's anticipated return-to-work date change or should he/she be unable to return to work on the date designated by the TPA, the employee should immediately notify the TPA as well as his/her supervisor.
7. End of STD. Short Term Disability ends when the employee either: 1) is released to return to work full-time, full-duty; 2) Is no longer medically eligible; 3) does not cooperate or comply with the requirements of VACORP; 4) separates from employment through termination, resignation, retirement, or death; or 5) enters long-term disability after one-hundred twenty-five (125) days.
8. Medical release required to return to work from STD. An employee must present to the Executive Director of Administration a medical release in order to return to work from a short-term disability.

9. Disability benefits for Ten and Eleven Month Employees. 10-month and 11-month employees are only eligible for disability benefits during their contract months, even if they are being paid during the off months.
 1. If the employee becomes disabled during the contract/employment period, he/she will receive benefits, but benefits end when the contract/ employment period ends. If the employee's contract/employment period is renewed, the benefits start again.
 2. An employee who becomes injured or ill during a non-contractual period is not required to report his/her injury or illness at the time of its occurrence. However, if the disability prevents the employee from returning to work at the beginning of a new contract year, he/she may be eligible for benefits under VACORP and must notify his/her supervisor and the Department of Human Resources of Employee as soon as possible (but no later than thirty (30) calendar days in advance) for assistance with the claim initiation.
10. Conditions for front-loading leave, accrual of annual leave, and other leave eligibility:

An employee on a leave of absence will not be front-loaded sick leave, personal leave, or accrue annual leave after twelve (12) consecutive workweeks of leave. Employees in a short-term disability status are not eligible for leave accruals until they report for the contractual school year.
11. An employee retains VRS membership while on short-term disability. The employee continues to accrue service credit and remains eligible for retirement after reaching age and service requirements. Time spent on short-term disability counts toward the five years needed to become vested for a retirement benefit.

B. Long Term Disability: (LTD) is an income replacement benefit that commences upon the expiration of the maximum period for which the employee is eligible to receive STD benefits, and provides income replacement in an amount equal to sixty percent (60%) of a participating employee's creditable compensation or eighty percent (80%) income replacement if the disability has been designated catastrophic. The TPA will work with the employee to apply for LTD. The TPA provides payment for income replacement under LTD.

- 1). LTD continues until an employee is able to return to work or is eligible to retire pursuant to Hybrid Plan requirements.
- 2). Employees on an LTD status do not earn annual, sick, or personal leave and are not eligible for leave under *Leave for Long-term Illness or Injury of an Employee or Family Member*.
- 3). Once approved for LTD benefits, the employer must contribute 1% toward VRS.
- 4). LTD approved employees may continue participation in the NKCPs insurance plan at the retiree rate.
- 5). Separation from LTD benefits: 1) Death 2) Recovery and return to work 3) Age out/Retirement 4) Payout

Adopted:	December 15, 2008
Review by NKSb:	July 24, 2012
Review by NKSb:	September 10, 2012
Revised:	January 27, 2014
Revised:	May 5, 2014
Revisions Reviewed by NKSb:	October 6, 2014
Revised:	September 8, 2016
Revised:	August 7, 2018
Revised:	August 31, 2020
Revised:	December 14, 2020

Cross Ref.: GCBD Professional Staff Leaves and Absence

REQUIRED MILITARY RESERVE DUTY POLICY

Deleted by NKSBS Action on 9/10/12 – Contents are now included in GCBDR.

FAMILY AND MEDICAL LEAVE

Generally

The New Kent County School Board recognizes its obligation to provide its eligible employees with unpaid leave pursuant to the Family and Medical Leave Act (FMLA), 29 U.S.C. § 2601, et seq. This policy describes the benefits available to eligible employees under the Act.

Definitions

Covered active duty: The term “active duty” means

- in the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; and
- in the case of a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty under a provision of law referred to in 10 U.S.C. § 101(a)(13)(B).

Covered service member: The term “covered service member” means

- a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or
- a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

Eligible employee: To be eligible for leave under this policy the employee must have at least twelve (12) months of service with the school division and have worked at least 1250 hours according to the Fair Labor Standards Act, 29 U.S.C. § 201 et seq., in the twelve (12) months preceding the commencement of the leave. Full-time teachers are deemed to meet the 1250 hour test.

Instructional employee: Employees whose principal function is to teach and instruct students in a class, a small group, or an individual setting such as teachers, athletic coaches, driving instructors, and special education assistants such as signers for the hearing impaired. The term does not include teacher assistants or aides who do not have as their principal function actual teaching or instructing, or auxiliary personnel such as counselors, psychologists, curriculum specialists, cafeteria workers, maintenance workers, bus drivers, or other primarily non-instructional employees.

Next of kin: The term “next of kin” used with respect to an individual, means the nearest blood relative of that individual other than the covered service member’s spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the covered service member by court decree or statutory provisions, brothers and sisters, grand-

parents, aunts and uncles, and first cousins, unless the covered service member has specifically designated in writing another blood relative as the covered service member's nearest blood relative for purposes of military caregiver leave under the FMLA. When no such designation is made, and there are multiple family members with the same level of relationship to the covered service member, all such family members are considered the covered service member's next of kin and may take FMLA leave to provide care to the covered service member, either consecutively or simultaneously. When such designation has been made, the designated individual is deemed to be the covered service member's only next of kin.

Outpatient status: The term "outpatient status," with respect to a covered service member, means the status of a member of the Armed Forces assigned to
(A) a military medical treatment facility as an outpatient; or
(B) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

Serious health condition: A serious health condition is an illness, injury, impairment or condition that involves inpatient care or continuing treatment by a health care provider.

Serious injury or illness: The term "serious injury or illness," in the case of

- a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness incurred by the member in line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating; and
- a veteran who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during a period described in 29 U.S.C. § 2611(15)(B), means a qualifying (as defined by the Secretary of Labor) injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

Year: A rolling 12-month period measured backward from the date an employee uses FMLA leave.

Leave

Any eligible employee is entitled to leave for a combined total of twelve (12) weeks per year for the following situations:

1. The birth and care of a newborn child;
2. The adoption or foster placement of a child;

3. To care for an employee's spouse, parent, or child with a serious health condition;
4. Because of a serious health condition that makes the employee unable to perform the essential functions of the employee's job; and
5. Because of any qualifying exigency as defined in Department of Labor regulations, arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces.

However, an eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member is entitled to a total of 26 workweeks of leave per year to care for the service member. Leave under this paragraph is available only during a single year. During that year the employee is entitled to a combined total of 26 workweeks of leave under this policy.

To the extent that employee is entitled to compensated leave under other policies, such paid leave shall be substituted for unpaid FMLA leave. Otherwise, family and medical leave is unpaid. When paid leave is available, the employee must satisfy any procedural requirements of the division's paid leave policy.

Employees on FMLA leave must report their status and intention regarding returning to work to the school division at least every four weeks.

Notice to Employees of Their Rights under the FMLA

Posting and General Notice

The school division posts, in conspicuous places on the premises of the school division where notices to employees and applicants for employment are customarily posted, a notice explaining the FMLA's provisions and providing information about the procedure for filing complaints with the Department of Labor. Attachment 1 may be used as the notice.

A copy of Attachment 1 is also given to each employee by including it in the employee handbook or similar document or by distributing it to each new employee upon hiring.

Eligibility Notice

When an employee requests FMLA leave, or the division has knowledge that an employee's leave may be for an FMLA-qualifying reason, the division should notify the employee of the employee's eligibility to take FMLA leave within five business days. The Eligibility Notice should state whether the employee is eligible for FMLA leave. If the employee is not eligible for FMLA leave, the Notice must state at least one reason why the employee is not eligible (such as, for example, the number of months the employee has worked for the division.) This notification may be accomplished by providing the employee a copy of Attachment 4.

Notice of Rights and Responsibilities

The division provides written notice detailing the specific expectations and obligations of the employee and explaining the consequences of the failure to meet those obligations each time the employee is given an Eligibility Notice. This Notice includes, as appropriate:

- that the leave may be designated and counted against the employee's annual FMLA leave entitlement and the 12-month period for FMLA entitlement;
- any requirements for the employee to furnish certification of a serious health condition, serious injury or illness, or qualifying exigency arising out of active duty or call to active duty status, and the consequences of failing to provide certification;
- that the division substitutes paid leave for unpaid leave and any conditions related to the substitution and the employee's right to take unpaid FMLA leave if the employee does not meet the conditions for paid leave;
- any requirement for the employee to make any premium payments to maintain health benefits and the arrangements for making such payments, and the possible consequences of failure to make such payments on a timely basis;
- the employee's rights to maintenance of benefits during the FMLA leave and restoration to the same or an equivalent job upon return from FMLA leave; and
- the employee's potential liability for payment of health insurance premiums paid by the employer during the employee's unpaid FMLA leave if the employee fails to return to work after FMLA leave.

The Notice of Rights and Responsibilities should be accompanied by any required certification form.

The Notice of Rights and Responsibilities also includes notice that employees on FMLA leave must report their status and intention regarding returning to work to the division at least every four weeks.

If the information provided by the Notice of Rights and Responsibilities changes, the division will, within five business days of receipt of the employee's first notice of need for leave subsequent to any change, provide written notice referencing the prior notice and setting forth any of the information in the Notice of Rights and Responsibilities that has changed.

Designation Notice

When the division has enough information to determine whether the leave is being taken for a FMLA-qualifying reason, the division should give the employee written notice whether the leave will be designated and will be counted as FMLA leave within five business days. If the division determines that the leave will not be designated as FMLA-qualifying, the division must inform the employee of that determination. The division will also notify the employee that paid leave must be substituted for unpaid FMLA leave or that paid leave taken under an existing leave plan be counted as FMLA leave at the time of designating the FMLA leave.

If the division will require the employee to present a fitness-for-duty certification to be restored to employment after taking leave for a continuous period of time, the division will provide notice of the requirement with the Designation Notice. If the division will require that the fitness- or-duty certification address the employee's ability to perform the essential functions of the employee's position, the division so indicates in the Designation Notice and includes a list of the essential functions of the employee's position.

If the division has reasonable safety concerns regarding the ability of an employee who is returning to work after intermittent or reduced leave schedule to perform the employee's duties based on the serious health condition for which the employee took leave, it may require the employee to submit a fitness for duty certification unless one has been submitted within past 30 days.

If the leave is not designated as FMLA leave because it does not meet the requirements of the FMLA, the notice to the employee that the leave is not designated as FMLA leave may be in the form of a simple written statement.

If the information provided by the division to the employee in the Designation Notice changes, the division will provide, within five business days of receipt of the employee's first notice of need for leave subsequent to any change, written notice of the change.

The division notifies the employee of the amount of leave counted against the employee's FMLA leave entitlement. If the amount of leave needed is known at the time the employer designates the leave as FMLA-qualifying, the division notifies the employee of the number of hours, days, or weeks that will be counted against the employee's FMLA leave entitlement in the Designation Notice. If it is not possible to provide the hours, days, or weeks that will be counted against the employee's FMLA leave entitlement, then the division provides notice of the amount of leave counted against the employee's FMLA leave entitlement upon request by the employee but no more often than once in a 30-day period and only if leave was taken in that period.

The division's decision to designate leave as FMLA-qualifying is based only on information received from the employee or the employee's spokesperson. If the division does not have sufficient information about the reason for an employee's use of leave, the division will inquire further of the employee or the spokesperson to ascertain whether leave is potentially FMLA-qualifying. Once the division has knowledge that the leave is being taken for a FMLA-qualifying reason, the division provides the employee the notice described in this subsection.

An employee giving notice of the need for FMLA leave must explain the reasons for the needed leave so as to allow the division to determine whether the leave is FMLA-qualifying. If the employee fails to explain the reasons, leave may be denied.

Leave for the Birth, Adoption or Foster Placement of a Child

The employee's entitlement to leave for a birth, adoption or foster placement of a child expires at the end of the twelve month period beginning on the date of the birth, adoption or foster placement. Leave taken for the birth, adoption or foster placement of a child may be taken intermittently or on a reduced leave schedule if the superintendent or superintendent's designee agrees to such an arrangement.

If the necessity for leave for the birth, adoption or foster placement of a child is foreseeable based on an expected birth or placement, the employee shall provide the school division with not less than 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave. If the date of the birth or placement requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable. The employee's notice should be sufficient to make the division aware that the employee needs FMLA-qualifying leave and of the anticipated timing and duration of the leave.

Leave Because of a Serious Health Condition of Employee

Employees are entitled, when medically necessary, to take such leave on an intermittent or reduced leave schedule except as provided below.

If the necessity for leave is foreseeable based on planned medical treatment, the employee shall

- (1) make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the division; and
- (2) provide the division with at least 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave. If the date of the treatment requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

The employee's notice should be sufficient to make the division aware that the employee needs FMLA-qualifying leave and of the anticipated timing and duration of the leave.

The school board may require that a request for leave because of the employee's own serious health condition be supported by a certification issued by a health care provider of the employee. The division may use Form WH-380-E (Attachment 2) for this certification. The division should request that the employee furnish certification when the employee gives notice of the need for leave or within five business days thereafter, or, in the case of unforeseen leave, within five business days after the leave begins. The division may request certification at a later date if it later has reason to question the appropriateness of the leave or its duration. The employee must provide a complete and sufficient certification within 15 calendar days after the division's request. When the division requests certification, it advises the employee of the anticipated consequences of the employee's failure to provide adequate certification.

Certification will be sufficient if it states-

- (1) the name, address, telephone number and fax number of the health care provider and the type of medical practice/specialization;
- (2) the approximate date on which the serious health condition commenced and its probable duration;
- (3) a statement or description of appropriate medical facts regarding the employee's health condition for which FMLA leave is requested. The medical facts must be sufficient to support the need for leave; and
- (4) information sufficient to establish that the employee is unable to perform the essential functions of the employee's position, the nature of any other work restrictions, and the likely duration of such inability.

If an employee requests leave on an intermittent or reduced leave schedule for planned medical treatment of the employee's serious health condition, the certification shall include information sufficient to establish the medical necessity for such intermittent or reduced schedule leave and an estimate of the dates on which such treatment is expected to be given and the duration of such treatment and any period of recovery.

If an employee requests leave on an intermittent or reduced leave schedule because of the employee's own serious health condition that may result in unforeseeable episodes of incapacity, the certification shall include information sufficient to establish the medical necessity for the intermittent leave or leave on a reduced leave schedule, and an estimate of the frequency and duration of the episodes of incapacity.

If the employee submits a complete and sufficient certification signed by the health care provider, the division may not request additional information from the health care provider. However, the division may contact the health care provider for purposes of clarification and authentication of the medical certification. To make such contact, the division must use a health care provider, a human resources professional, a leave administrator, or a management official. The employee's direct supervisor may not contact the employee's health care provider.

If the school division doubts the validity of a certification, it may require, at its own expense, that the employee obtain the opinion of a second health care provider designated or approved by the school division concerning any information certified. The health care provider designated or approved by the school division may not be employed by the school division on a regular basis.

If the second opinion differs from the original certification, the school division may require, at its own expense, that the employee obtain the opinion of a third health care provider designated or approved jointly by the school division and the employee concerning information certified. The opinion of the third health care provider will be binding on both the school division and the employee.

Leave Because of a Serious Health Condition of a Child, Spouse or Parent of Employee

Family and medical leave is provided when the employee is needed to care for the employee's spouse, child or parent with a serious health condition, as defined above. Employees are entitled, when medically necessary, to take such leave on an intermittent or reduced leave schedule except as provided below.

- If the necessity for leave is foreseeable based on planned medical treatment, the employee shall
- (1) make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the division; and
 - (2) provide the division with at least 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave. If the date of the treatment requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

The employee's notice should be sufficient to make the division aware that the employee needs FMLA-qualifying leave and the anticipated timing and duration of the leave.

The school board may require that a request for leave to care for an employee's spouse, parent, or child with a serious health condition be supported by a certification issued by a health care provider of the family member in need of care. The division may use Form WH-380-F (Attachment 3) for this medical certification. The division should ask the employee to furnish certification when the employee gives notice of the need for leave or within five business days thereafter, or, in the case of unforeseen leave, within five business days after the leave begins. The division may request certification at some later date if it has reason to question the appropriateness of the leave or its duration. The employee must provide the requested certification within 15 calendar days after the division's request. When the division requests certification, it advises the employee of the anticipated consequences of the employee's failure to provide adequate certification.

Certification will be sufficient if it states-

- (1) the name, address, telephone number, and fax number of the health care provider and type of medical practice/specialization;
- (2) the approximate date on which the serious health condition commenced and its probable duration;
- (3) a statement or description of appropriate medical facts regarding the patient's health condition for which FMLA leave is requested. The medical facts must be sufficient to support the need for leave; and
- (4) information sufficient to establish that the family member is in need of care and an estimate of the frequency and duration of the leave requested to care for the family member.

If an employee requests leave on an intermittent or reduced leave schedule for planned medical treatment of a family member's serious health condition, the certification shall include information sufficient to establish the medical necessity of such intermittent or reduced schedule leave and an estimate of the dates and the duration of such treatments and any periods of recovery.

If an employee requests leave on an intermittent reduced leave schedule in order to care for a family member with a serious health condition, the certification shall include a statement that the employee's intermittent leave or leave on a reduced leave schedule is medically necessary for the care of the son, daughter, parent, or spouse who has a serious health condition, or will assist in their recovery, and the expected duration and schedule of the intermittent leave or reduced leave schedule.

If the employee submits a complete and sufficient certification signed by the health care provider, the division may not request additional information from the health care provider. However, the division may contact the health care provider for purposes of clarification and authentication of the medical certification. To make such contact, the division must use a health care provider, a human resources professional, a leave administrator, or a management official. The employee's direct supervisor may not contact the employee's health care provider.

If the school division doubts the validity of a certification, it may require, as its own expense, that the employee obtain the opinion of a second health care provider designated or approved by the school division concerning any information certified. The health care provider designated or approved by the school division may not be employed by the school division on a regular basis.

If the second opinion differs from the original certification, the school division may require, at its own expense, that the employee obtain the opinion of a third health care provider designated or approved jointly by the school division and the employee concerning information certified. The opinion of the third health care provider will be binding on both the school division and the employee.

Leave to Care for a Covered Service Member

If the necessity for leave is foreseeable based on planned medical treatment for a serious injury or illness of a covered service member, the employee shall

- (1) make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the division; and
- (2) provide the division with at least 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave. If the date of the treatment requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

The employee's notice should be sufficient to make the division aware that the employee needs FMLA-qualifying leave and the anticipated timing and duration of the leave.

The school board may require that a request for leave to care for a covered service member with serious injury or illness be supported by a certification issued by a health care provider of the covered serviceperson. The certification may be completed by any health care provider listed in 29 C.F.R. 825.310(a). The employee shall provide, in a timely manner, a copy of such certification to the school division.

Certification will be sufficient if it states

- (1) the name, address, and appropriate contact information (telephone number, fax number, and/or email address) of the health care provider, the type of medical practice, the medical specialty, and whether the health care provider is one of the following: a United States Department of Defense (DOD) health care provider, a United States Department of Veterans Affairs (VA) health care provider, a DOD TRICARE network authorized private health care provider, or a DOD non-network TRICARE authorized health care provider or a health care provider as defined in 29 C.F.R. 825.125;
- (2) whether the covered service member's injury or illness was incurred in the line of duty on active duty;
- (3) the approximate date on which the serious health condition or serious injury or illness commenced or was aggravated and its probable duration;

- (4) a statement or description of appropriate medical facts regarding the covered service-member's health condition for which FMLA leave is requested. The medical facts must be sufficient to support the need for leave; and
- (5) information sufficient to establish that the covered service member is in need of care and whether the covered service member will need care for a single continuous period of time, including any time for treatment and recovery, and an estimate as to the beginning and ending dates for this period of time.

If an employee requests FMLA leave on an intermittent or reduced leave schedule for planned medical treatment appointments for the covered service member, the certification must state that there is a medical necessity for the covered service member to have such periodic care and must contain an estimate of the treatment schedule of such appointments.

If an employee requests FMLA leave on an intermittent or reduced schedule basis to care for a covered service member other than for planned medical treatment, the certification must contain a statement that there is a medical necessity for the covered service member to have such periodic care, and must contain an estimate of the frequency and duration of the periodic care.

In addition to the information listed above, the division may also request that the certification set forth the information on Form WH-385 (Attachment 7.)

In lieu of Form WH-385, the division accepts invitational travel orders (ITOs) or invitational travel authorizations (ITAs) issued to any family member to join an injured or ill service member at the service member's bedside. An ITO or ITA is sufficient certification for the duration of time specified in the ITO or ITA. During that time period, the employee may take leave to care for the covered service member in a continuous block of time or on an intermittent basis.

The information on the certification must relate only to the serious injury or illness for which the current need for leave exists. The division may seek authentication or clarification of the certification, ITO, or ITA but may not seek second or third opinions. The division may require an employee to provide confirmation of covered family relationship to the seriously injured or ill service member.

The Division also accepts as sufficient certification of the service member's serious injury or illness documentation indicating the service member's enrollment in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

Leave Related to a Qualifying Exigency arising from Covered Active Duty or a Call to Covered Active Duty

If the necessity for leave because of a qualifying exigency arising from the fact that a family member is on covered active duty or has been notified of an impending call to covered active duty is foreseeable, the employee shall give such notice to the school division as is reasonable and practicable. The employee's notice should be sufficient to make the division aware that the employee needs FMLA-qualifying leave and the anticipated timing and duration of the leave.

The first time an employee requests leave because of a qualifying exigency arising out of the covered active duty or call to covered active duty status (or notification of an impending call or order to covered active duty) of a military member, the division may require the employee to provide a copy of the military member's active duty orders or other documentation issued by the military which indicates that the military member is on covered active duty or call to covered active duty status and the dates of the military member's active covered duty service. A copy of new active duty orders or other documentation issued by the military shall be provided to the division if the need for leave because of a qualifying exigency arises out of a different covered active duty or call to covered active duty status (or notification of an impending call or order to covered active duty) of the same or a different military member.

A request for leave because of a qualifying exigency must be supported by

- (1) a statement or description signed by the employee of appropriate facts regarding the qualifying exigency for which FMLA leave is requested. The facts must be sufficient to support the need for leave;
- (2) the approximate date on which the qualifying exigency commenced or will commence.
- (3) the beginning and ending dates of absence if the employee requests leave because of a qualifying exigency for a single, continuous period of time;
- (4) an estimate of the frequency and duration of the qualifying exigency if the employee requests leave because of a qualifying exigency on an intermittent or reduced schedule basis; and
- (5) if the qualifying exigency involves meeting with a third party, appropriate contact information for the individual or entity with whom the employee is meeting and a brief description of the purpose of the meeting.
- (6) if the qualifying exigency involves Rest and Recuperation leave, a copy of the military member's Rest and Recuperation orders, or other documentation issued by the military which indicates that the military member has been granted Rest and Recuperation leave, and the dates of the military member's Rest and Recuperation leave.

The division may use Form WH-384 (Attachment 6) for this certification.

Rules for Intermittent and Reduced Schedule Leave

When permitted by the FMLA, intermittent and reduced schedule leave may be used until the aggregate amount of such leave equals twelve weeks or 26 weeks if the leave is taken to care for a covered service member in the employee's rolling year. However, when the employee requests intermittent or reduced schedule leave that is foreseeable based on planned medical treatment the school division may temporarily transfer the employee to an available alternative position with equivalent pay and benefits that better accommodates the employee's intermittent or reduced schedule leave.

When an eligible employee employed principally in an instructional capacity requests leave to care for a family member with a serious health condition, leave because of the employee's own serious health condition, or leave to care for a covered service member and the leave is foreseeable based on planned medical treatment and the employee would be on leave for greater than 20 percent

of the total number of working days in the period during which the leave would extend, the school division may require the employee to elect either

- (1) to take leave for periods of a particular duration, not to exceed the duration of the planned medical treatment; or
- (2) to transfer temporarily to an available alternative position offered by the school division for which the employee is qualified and that has equivalent pay benefits and better accommodates recurring periods of leave than the employee's regular employment position.

The school division may require an employee to make such an election when the employee has

- (1) made a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the division, subject to the approval of the health care provider; and
- (2) has provided the division with not less than 30 days' notice before the date the leave is to begin, of the employee's intention to take leave, except that if the date of the treatment requires leave to begin in less than 30 days, the employee shall provide such notice as its practicable.

Rules for Husband and Wife Employed by New Kent County School Division

A husband and wife who are both eligible for family and medical leave and are employed by the school division shall be granted family and medical leave only for a combined total of twelve weeks per year when the leave is taken for the birth, foster placement, or adoption of a child or to care for the child after birth, adoption or foster placement or to care for a parent with a serious health condition.

A husband and wife who are both eligible for family and medical leave and are employed by the school division shall be granted family and medical leave only for a combined total of 26 workweeks per year if the leave

- (1) is taken to care for a covered service member; or
- (2) is taken as a combination of leave to care for a covered service member and leave for the birth, foster placement, or adoption of a child or to care for the child after birth, adoption, or foster placement or to care for a parent with a serious health condition. However, if the leave taken by the husband and wife includes leave for the birth, foster placement, or adoption, of a child or to care for the child after birth, adoption, or foster placement or to care for a parent with a serious condition, the leave for that reason shall be limited to 12 workweeks per year.

Benefits During Family and Medical Leave

Employees on family and medical leave shall receive the group health insurance plan coverage on the same conditions as coverage would have been provided if the employee had been working during the period of leave. Other benefits are provided according to school division policy for paid or unpaid leave, whichever applies.

If the employee fails to return to work when the period of leave to which the employee is entitled expires for any reason other than the continuation, recurrence, or onset of a serious health condition that entitles the employee to leave, or other circumstances beyond the employee's control, the school division may recover the premium it paid for maintaining the employee's coverage during the period of unpaid leave in accordance with federal law.

Return to Work

An employee on family and medical leave shall provide the division at least two work days notice of the intent to return to work. The employee shall be returned to the same or equivalent position at the end of the family and medical leave unless the division shows that the employee would not otherwise have been employed at the time reinstatement is requested.

The following return to work provisions apply to instructional employees:

1. If an instructional employee begins family and medical leave more than five (5) weeks before the end of an academic term, the employee may be required to continue taking leave until the end of the term if the leave is at least three (3) weeks in duration and the return to work would occur during the last three (3) weeks of the academic term.
2. If an instructional employee begins family and medical leave a) because of the birth, adoption, or foster care placement of a son or daughter of the employee, b) to care for a family member with a serious health condition, or c) to care for a covered service member during the five (5) week period before the end of an academic term, the employee may be required to continue taking leave until the end of the academic term if the leave is longer than two (2) weeks in duration and the return to work would occur during the last two (2) weeks of the academic term.
3. If an instructional employee begins family and medical leave a) because of the birth, adoption, or foster care placement of a son or daughter of the employee, b) to care for a family member with a serious health condition, or c) to care for covered service member during the three (3) week period before the end of an academic term, the employee may be required to continue taking leave until the end of an academic term if the leave is longer than five (5) working days in duration.

If an instructional employee is required to continue leave until the end of an academic term, only the period of leave until the employee is ready and able to return to work shall be counted against the family and medical leave entitlement. However, the division continues the group health insurance coverage under the same conditions as if the employee were working.

Outside Employment

An employee who is on family and medical leave may not engage in employment for any other employer or self-employment while on leave. Falsification of records and failure to correct records known to be false are violations of this policy and will result in discipline which may include termination from employment.

Adopted: July 1, 1998
Revised: August 2, 2004
Revised: June 2, 2008
Revised: May 18, 2009
Revised: May 3, 2010
Reviewed: November 12, 2012
Revised: November 18, 2013
Revised: May 9, 2016
Revised: April 12, 2021

Legal Refs.: 29 U.S.C. §§ 207, 2611, 2612, 2613, 2614, 2618, 2619.

29 CFR 825.110, 825.115, 825.122, 825.124, 825.125, 825.200, 825.203, 825.207,
825.300, 825.301, 825.302, 825.303, 825.305, 825.306, 825.307, 825.309, 825.310,
825.311, 825.312, 825.600, 825.602, 825.603, 825.604, 825.800.

Cross Refs.:	GCBD	Professional Staff Leaves and Absences
	GCBEA	Leave without Pay
	GCQA	Nonschool Employment by Staff Members

ATTACHMENT TO GCBE

- Attachment 1 **Employee Rights and Responsibilities Under the Family and Medical Leave Act** (WHD Publication 1420) (Revised April 2016)
Please note: a copy of this poster can be downloaded from

<http://www.dol.gov/whd/regs/compliance/posters/fmla.htm>
- Attachment 2 **Certification of Health Care Provider for Employee's Serious Health Condition (Under the Family and Medical Leave) Act** (Form WH-380-E) (Revised June 2020)
Please note: a copy of the certification form can be downloaded from
<http://www.dol.gov/whd/forms/WH-380-E.pdf>.
- Attachment 3 **Certification of Health Care Provider for Family Member's Serious Health Condition Under the Family and Medical Leave) Act** (Form WH-380-F) (Revised June 2020)
Please note: a copy of this form may be downloaded from
<http://www.dol.gov/whd/forms/WH-380-F.pdf>.
- Attachment 4 **Notice of Eligibility and Rights & Responsibilities (Under the Family and Medical Leave) Act** (Form WH-381) (Revised June 2020)
Please note: a copy of this form may be downloaded from
<http://www.dol.gov/whd/forms/WH-381.pdf>.
- Attachment 5 **Designation Notice (Under the Family and Medical Leave) Act** (Form WH-382) (Revised June 2020)
Please note: a copy of this form may be downloaded from
<http://www.dol.gov/whd/forms/WH-382.pdf>.
- Attachment 6 **Certification for Military Family Leave for Qualifying Exigency under the Family and Medical Leave Act** (Form WH-384) (Revised June 2020)
Please note: a copy of this form may be downloaded from
<http://www.dol.gov/whd/forms/WH-384.pdf>.
- Attachment 7 **Certification for Serious Injury or Illness of Current Service Member for Military Caregiver Leave under the Family and Medical Leave Act** (Form WH-385) (Revised June 2020)
Please note: a copy of this form may be downloaded from
<http://www.dol.gov/whd/forms/WH-385.pdf>.
- Attachment 8 **Certification for Serious Injury or Illness of a Veteran for Military Caregiver Leave (Family and Medical Leave Act)** (Form WH-385-V) (Revised May 2015)
Please note: a copy of this form may be downloaded from
<http://www.dol.gov/whd/forms/wh385V.pdf>.

LEAVE WITHOUT PAY

Employee's Debilitating or Life-Threatening Illness or Injury

A leave of absence, without pay, may be granted to employees of the school division who have a debilitating or life-threatening illness or injury and who are not eligible for Family and Medical Leave as described in Policy GCBE Family and Medical Leave because they have not worked for the division for 12 months or have not worked at least 1250 hours according to the Fair Labor Standards Act, 29 U.S.C. § 201 et seq.

Employees with a debilitating or life-threatening illness who are entitled to leave under this policy may take up to thirty (30) days unpaid leave during their first year of employment with the school division. Leave may be taken only in full-day increments. Leave may be taken only when the employee has no other leave (such as sick leave) available.

Employees must submit medical documentation of their need for leave. Whenever possible, documentation must be provided prior to leave being taken.

Approval must be obtained prior to leave being taken.

All rights under this policy expire at the end of the employee's first year of service.

Other Work During Leave

Employees who are on unpaid leave pursuant to this policy or any other policy, except those on leave pursuant to the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) (see Policy GCBE Military Leave and Benefits), may not engage in work for which they receive pay or any other type of remuneration without the prior written approval of the superintendent.

Adopted: August 1, 2005
Revised: August 7, 2006
NKSB Review: January 22, 2013 – no changes
Revised: May 19, 2014
Revised: April 15, 2019

Legal Ref.: Code of Virginia, 1950, as amended, §§ 22.1-78, 22-1-296.

Cross Refs.:	GCBD	Professional Staff Leaves and Absences
	GCBE	Family and Medical Leave
	GCBEB	Military Leave and Benefits
	GCQA	Non-school Employment by Staff Members

MILITARY LEAVE AND BENEFITS

Leave

All employees of New Kent County School Board who are members of the state or federal military reserves are entitled to leaves of absence from their duties on all days during which they are engaged in federally funded military duty, including training duty, or when called forth by the Governor.

Immediately upon receipt of official notice to report for duty, the employee will notify his or her supervisor of the need for military leave. A copy of the official orders must accompany the leave request.

Pay/Paid Leave

All employees on military leave receive up to 15 days paid leave per federally funded tour of duty. When possible, military leave for employees on less than a 12 month contract should be arranged during non-duty hours.

An employee who is scheduled for a physical examination for military service during working hours, including but not limited to pre-induction physicals, receives paid leave.

In addition, full-time employees of the New Kent County School Division whose active duty service with the regular armed forces of the United States or the National Guard or other reserve component requires the employee's absence from employment receive supplemental pay if the employee's military compensation is less than the regular salary paid to the employee by the school division. The amount of supplemental pay will be that which makes whole the employees' regular pay.

The employee will be permitted, upon request, to use any vacation, annual, or similar leave that had accrued at the time military leave began.

Except as outlined above, military leave is unpaid.

Benefits

Health Benefits

If the employee so desires, the employee and the employee's dependents may continue to participate in the division's group health plan for up to 24 months while the employee is on military leave. The employee must notify the Executive Director of Administration in writing if the employee wants to continue participation in the division's group health plan. Employees who elect to continue on the division's health plan will be responsible for payment of only their employee portion of premiums if military leave is for 31 days or less. For military leave of longer than 31 days, the employee will be responsible for payment of the entire premium while on leave.

Retirement Benefits

An employee reemployed after military leave will be treated as not having incurred a break in service. The period of military leave will be considered service to the division for purposes of vesting and benefit accrual. The division is responsible for its pension plan funding obligation. The division is not required to make its contribution until the employee is reemployed.

The employee is allowed, but not required, to make up the employee's contributions to a contributory plan. The employee may repay his or her employee contributions for a period of up to three times the period of military service, but not to exceed five years. If the employee's retirement plan is contributory and the employee does not make up the employee's contributions, the employee will not receive the employer match or the accrued benefit attributable to the employee's contribution because the employer is required to make contributions that are contingent on the employee's contributions.

The employer and employee contribution will be calculated on the rate of pay the employee would have received but for the absence to serve military duty.

Reemployment

An employee who is entitled to military leave by reason of service in the federal military reserves is entitled to be reemployed by the school board as long as the employee

- has given advance notice of the need for military leave (unless notice is precluded by military necessity or is otherwise impossible or unreasonable);
- has not been absent from his or her job for more than five years; and
- returns to work as outlined below.

If the employee was absent from work for

- less than 31 days, the employee must report back to work by the beginning of the next regularly scheduled work period after a reasonable amount of time to arrive home, rest and report to work;
- more than 30 days but less than 181 days, the employee must submit an application for reemployment within 14 days after the completion of service;
- more than 180 days, the employee must submit an application for reemployment within 90 days after the completion of service.

Employees who are entitled to military leave due to service in the Virginia military reserves must make written application for reemployment within (1) 14 days of release from duty or from hospitalization following release if the length of the employee's absence by reason of service in the uniformed services does not exceed 180 days or (2) 90 days of his release from duty or from hospitalization following release if the length of the employee's absence by reason of service in the uniformed services exceeds 180 days.

Upon returning from duty, an employee will be restored to the same job he or she held before leaving or to a comparable job. The school board is not obligated to reemploy persons returning from military leave in certain unusual situations specified by state and federal law.

Termination after Reemployment

A person who is reemployed after returning from more than 30 days of military duty will not be discharged except for cause

- within one year after the date of reemployment, if the person's period of military service before the reemployment was more than 180 days; or
- within 180 days after the date of reemployment, if the person's period of military service before the reemployment was more than 30 days but less than 181 days.

Discrimination Against Members of Military Reserves Prohibited

Members of the military reserves will not be denied initial employment, reemployment, retention in employment, promotion, or any benefit of employment on the basis of that membership.

Adopted: May 1, 2006
Revised: July 12, 2010
Revised: January 22, 2013
Revised: May 8, 2015
Revised: July 13, 2020

Legal Refs: 38 U.S.C. §§ 4312, 4313, 4316, 4317

20 C.F.R. §§ 1002.259, 1002.261, 1002.262, 1002.267.

Code of Virginia, 1950, as amended, §§ 22.1-289.2, 44-93, 44-93.1, 44-93.3, 44-93.4, 44-102.1.

CIVIC DUTIES

Deleted by NKSBS Action on 9/10/12 – Contents are now included in GCBD-R.

POSTING OF PROFESSIONAL STAFF VACANCIES

Policy deleted to avoid duplication. Content is now covered in Policy GBN.

May 3, 2010 School Board Action

EMPLOYMENT OF FAMILY MEMBERS

- A. The school board may not employ or pay, and the superintendent may not recommend for employment, any family member of the superintendent or of a school board member except as authorized in below. This prohibition does not apply to the employment, promotion, or transfer within the school division of any family member who:
- has been employed pursuant to a written contract with the school board or employed as a substitute teacher or teacher's aide by the school board prior to the taking of office of the superintendent or any school board member, or
 - has been employed pursuant to a written contract with the school board or employed as a substitute teacher or teacher's aide by the school board prior to the inception of the family relationship, or
 - was employed by the school board at any time prior to June 10, 1994, and had been employed at any time as a teacher or other employee of any Virginia School Board prior to the taking of office of any member of the school board or the superintendent.

A family member employed as a substitute teacher may not be employed to any greater extent than he was employed by the school board in the last full school year prior to the taking of office of such board member or superintendent or to the inception of such relationship.

- B. Notwithstanding the rules stated in Subsection A above, the school board may employ or pay, and the superintendent may recommend for employment, any family member of a school board member provided that
- The member certifies that he had no involvement with the hiring decision; and
 - The superintendent certifies to the remaining members of the school board in writing that the recommendation is based upon merit and fitness and the competitive rating of the qualifications of the individual and that no member of the board had any involvement with the hiring decision.
- C. Notwithstanding the rules stated in Section A above, the school board may employ or pay any family member of the superintendent provided that
- The superintendent certifies that he had no involvement with the hiring decision; and
 - The executive director of administration certifies to the members of the school board in writing that the recommendation is based upon merit and fitness and the competitive rating of the qualifications of the individual and that the superintendent had no involvement with the hiring decision.
- D. No family member of any employee may be employed by the school board if the family member is to be employed in a direct supervisory and/or administrative relationship either supervisory or subordinate to the employee. The employment and assignment of family members in the same organizational unit is discouraged.
- E. Family members are defined as father, mother, brother, sister, spouse, son, daughter, son-in-law, daughter-in-law, sister-in-law or brother-in-law.

Adopted: July 1, 1998
Revised: June 3, 2002
Revised: August 7, 2006
Revised: July 12, 2010
Revised: October 3, 2011
NKSB Review: January 22, 2013 – no changes
Revised: May 8, 2015
Revised: August 7, 2018
Revised: September 7, 2018
Revised: August 5, 2019

Legal Ref.: Code of Virginia, 1950, as amended, § 2.2-3119.

Cross Ref.: BBFA Conflict of Interests and Disclosure of Economic Interests
GCI Professional Staff Assignments and Transfers

PROFESSIONAL STAFF HIRING

Policy deleted to avoid duplication. Content is now covered in Policy GBN.

May 3, 2010 School Board Action

EFFECT OF CRIMINAL CONVICTION OR FOUNDED COMPLAINT OF CHILD ABUSE OR NEGLECT

The board does not hire or continue the employment of any part-time, full-time, temporary, or permanent personnel who are determined to be unsuited for service by reason of criminal conviction or information appearing in the registry of founded complaints of child abuse and neglect maintained by the Department of Social Services.

I. APPLICANTS FOR EMPLOYMENT

A. Criminal Convictions

As a condition of employment for all of its employees, whether full-time or part-time, permanent, or temporary, the New Kent County School Board requires on its application for employment certification of whether the applicant been convicted of any violent felony set forth in the definition of barrier crime in subsection A of Va. Code § 19.2-392.02; any offense involving the sexual molestation, physical or sexual abuse or rape of a child; or any crime of moral turpitude.

The School Board does not employ any individual who has been convicted of any violent felony set forth in the definition of barrier crime in subsection A of Va. Code § 19.2-392.02 or any offense involving the sexual molestation, physical or sexual abuse, or rape of a child.

The School Board may employ any individual who has been convicted of any felony or crime of moral turpitude that is not set forth in the definition of barrier crime in subsection A of Va. Code § 19.2-392.02 or any offense involving the sexual molestation, physical or sexual abuse, or rape of a child, provided that in the case of a felony conviction, such individual's civil rights have been restored by the Governor.

The New Kent County School Board also requires on its application for employment, as a condition of employment requiring direct contact with students, whether full-time or part-time, permanent, or temporary, certification that the applicant has not been the subject of a founded case of child abuse and neglect. Any person making a materially false statement regarding a finding of child abuse and neglect shall be guilty of a Class 1 misdemeanor and upon conviction, the fact of said conviction shall be grounds for the Board of Education to revoke such person's license to teach.

As a condition of employment, any applicant who is offered or accepts employment, whether full-time, part-time, permanent or temporary with the New Kent County School Board shall submit to fingerprinting and provide personal descriptive information. The information and fingerprints shall be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigations for the purpose of obtaining criminal history record information on applicants who are offered or accept employment.

To conserve the costs of conducting criminal history record checks to applicants and school boards, upon the written request of the applicant, New Kent County School Board shall inform another school board with which reciprocity has been established and to which the applicant also has applied for employment of the results of the criminal history record information conducted within the previous ninety days that it obtained concerning the applicant. Criminal history record information pertaining to an applicant for employment by a school board shall be exchanged only between school boards in the Commonwealth in which a current agreement of reciprocity for the exchange of such information has been established and is in effect. Reciprocity agreements shall provide for the apportionment of the costs of the fingerprinting or criminal records check between the applicant and New Kent County School Board as provided by statute.

If an applicant is denied employment because of information appearing on the applicant's criminal history record, the school board provides a copy of the information provided by the Central Criminal Records Exchange to the applicant.

B. Founded Complaints of Child Abuse or Neglect

The school board requires, as a condition of employment, that any applicant who is offered or accepts employment requiring direct contact with students, whether full-time or part-time, permanent or temporary, provide written consent and the necessary personal information for the school board to obtain a search of the registry of founded complaints of child abuse and neglect. The registry is maintained by the Department of Social Services. The school board ensures that all such searches are requested in conformance with the regulations of the Board of Social Services. In addition, where the applicant has resided in another state within the last five years, the school board requires as a condition of employment that such applicant provide written consent and the necessary personal information for the school board to obtain information from each relevant state as to whether the applicant was the subject of a founded complaint of child abuse and neglect in such state. The school board takes reasonable steps to determine whether the applicant was the subject of a founded complaint of a child abuse and neglect in the relevant state. The Department of Social Services shall maintain a database of central child abuse and neglect registries in other states that provide access to out-of-state school boards for use by local school boards. The applicant may be required to pay the cost of any search conducted pursuant to this subsection at the discretion of the school board. From such funds as may be available for this purpose, however, the school board may pay for the search.

If the information obtained pursuant to the preceding paragraph indicates that the applicant is the subject of a founded case of child abuse and neglect, such applicant shall be denied employment, or the employment shall be rescinded.

If an applicant is denied employment because of information appearing on the applicant's record in the registry, the school board provides a copy of the information obtained from the registry to the applicant. The information provided to the School Board by the Department of Social Services is confidential and is not disseminated by the school board.

II. EMPLOYEE CHARGES AND CONVICTIONS

A. Criminal Proceedings

An employee who is charged by summons, warrant, indictment, or information with the commission of a felony or a misdemeanor specified in Va. Code § 22.1-315 may be suspended in accordance with Policy GCPF Suspension of Staff Members.

If a current employee is suspended or dismissed because of information appearing on the applicant's criminal history record, the school board provides a copy of the information provided by the Central Criminal Records Exchange to the employee.

The superintendent shall inform the school board of any notification of arrest of a school board employee received pursuant to Virginia Code §19.2-83.1. The school board shall require such employee, whether full-time or part-time, permanent, or temporary, to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the employee's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigations for the purpose of obtaining criminal history record information regarding such employee. The contents of the employee's criminal record shall be used only to implement dismissal, suspension or probation in accordance with §§ 22.1-307 and 22.1-315 of the Code of Virginia.

B. Founded Complaints of Child Abuse or Neglect

C.

Any employee of the New Kent School Board will be dismissed if he or she is or becomes the subject of a founded complaint of child abuse and neglect and after all rights to an appeal provided by Va. Code § 63.2-1526 have been exhausted. The fact of such finding, after all rights to an appeal provided by Va. Code § 63.2-1526 have been exhausted, is grounds for the local school division to recommend that the Board of Education revoke such person's license to teach.

III. COURT ORDERED PROBATION

For purposes of this policy, a court's placing an individual on probation pursuant to Va. Code section 18.2-251 is treated as a conviction and as a finding of guilt.

COSTS OF FINGERPRINTING, CRIMINAL RECORD AND ABUSE AND NEGLECT CHECKS

The school board pays for the fingerprinting, criminal record check and abuse and neglect check conducted pursuant to this policy (Option 2).

Adopted:	July 1, 1998	Revised:	August 3, 2009
Revised:	November 6, 2000	Revised:	August 6, 2012
Revised:	November 5, 2001	Revised:	August 7, 2018
Revised:	August 7, 2006	Revised:	September 7, 2018
Revised:	May 7, 2007	Revised:	August 5, 2019
Revised:	November 3, 2008	Revised:	August 31, 2020
		Revised:	July 12, 2021

Legal Ref.: Code of Virginia, as amended, §§ 18.2-251, 19.2-83.1, 19.2-389, 22.1-78, 22.1-296.1, 22.1-296.2, 22.1-296.4, 22.1-307, 22.1-315, 63.2-1515.

Cross Ref.: GCPF Suspension of Staff Members
GCPD Professional Staff Discipline

FILLING ADMINISTRATIVE VACANCIES

Policy deleted to avoid duplication. Content is now covered in Policy GBN.

May 3, 2010 School Board Action

PART-TIME AND SUBSTITUTE PROFESSIONAL STAFF EMPLOYMENT

Substitute Teachers

Substitute teachers shall:

- 1) be at least 18 years old, with preference given to persons 21 years old or older;
- 2) possess good moral character;
- 3) hold a high school diploma or have passed a high school equivalency examination approved by the Board of Education;
- 4) attend orientation to school policies and procedures; and
- 5) attend a division substitute training.

The New Kent School Board shall seek to employ substitute teachers, especially those engaged as long-term substitutes, who exceed these requirements.

A substitute teacher, as used in this section, is (i) one who is employed to substitute for a contracted teacher for a temporary period of time during the contracted teacher's absence, or (ii) one who is employed to fill a teacher vacancy for a period of time, but for no longer than 90 teaching days in such vacancy, unless otherwise approved by the Superintendent of Public Instruction on a case-by-case basis, during one school year.

Homebound Teachers

Homebound teachers shall be employed on a part-time, hourly basis. They shall be selected from the active file of applicants in the Personnel Office or current teaching staff or from the approved substitute teacher list and shall hold a valid teaching certificate.

Part-Time Teachers

An employee working less than 180 days or less than six (6) hours per day or who is restricted to temporary or interim employment is considered part-time.

Part-time teachers shall meet the certification requirements of the State Board of Education.

Summer School Teachers

Summer school teachers shall meet all certification requirements.

Interns

Arrangements for the utilization of interns in the school division should be initiated through the superintendent.

Student Teachers

The school division shall accept student teachers only from accredited institutions. All student teachers shall meet the same health requirements as all other personnel. The superintendent shall have the responsibility for the assignment and placement of student teachers in the school system. Student teachers shall not be used as substitute teachers.

Adopted: July 1, 1998
Revised: September 8, 1999
Revised: June 2, 2003
Revised: July 12, 2010
Revised: August 6, 2012
Revised: July 7, 2014

Legal Refs.: Code of Virginia, 1950, as amended, sections 22.1-70, 22.1-78, 22.1-302.

Cross Ref.:	GCB	Professional Staff Contracts
	GCPD	Professional Staff Discipline
	GCDF	Suspension of Staff Members

PROFESSIONAL STAFF PROBATIONARY TERM AND CONTINUING CONTRACT

Teachers

Probationary Term

A probationary term of service of three years in the New Kent School Division is required before a teacher is issued a continuing contract. A mentor teacher is provided to every first year probationary teacher to assist him or her in achieving excellence in instruction. Probationary teachers with prior successful teaching experience may be exempt from this requirement with approval from the superintendent. Probationary teachers are evaluated at least annually in accordance with policy GCN Evaluation of Professional Staff. A teacher in his first year of the probationary period is evaluated informally at least once during the first semester of the school year. The superintendent considers such evaluations as one factor in making recommendations to the school board regarding the nonrenewal of such teacher's contract.

In order to achieve continuing contract status, every teacher must successfully complete training in instructional strategies and techniques for intervention for or remediation of students who fail or are at risk of failing the Standards of Learning assessments. The New Kent School Board provides said training at no cost to teachers it employs. If such training is not offered in a timely manner, no teacher will be denied continuing contract status for failure to obtain such training.

Once a continuing contract status has been attained in a school division in this state, another probationary period need not be served unless such probationary period, not to exceed two years, is made a part of the contract of employment. If a teacher separates from service and returns to teaching service in Virginia public schools by the beginning of the third year, the person shall be required to begin a new probationary period, not to exceed two years, if made part of the contract.

If a teacher who has not achieved continuing contract status receives notice of re-employment, he must accept or reject in writing within 15 calendar days of receipt of the notice. Unless a conference with the superintendent is requested as specified in the Code of Virginia, or in the case of reduction in force, written notice of nonrenewal of the probationary contract must be given by the board on or before June 15 of each year. If the teacher requests a conference with the superintendent, then written notice of non-renewal by the school board must be given within thirty days after the superintendent notifies the teacher of his intention with respect to the recommendation.

Continuing Contract

Teachers employed after completing the probationary period are entitled to continuing contracts during good behavior and competent service. Written notice of non-continuation of the contract by either party must be given by June 15 of each year; otherwise the contract continues in effect for the ensuing year.

The school board may reduce the number of teachers, whether or not such teachers have reached continuing contract status, because of decrease in enrollment or abolition of particular subjects. Furthermore, nothing in the continuing contract shall be construed to authorize the school board to contract for any financial obligation beyond the period for which funds have been made available.

As soon after June 15 as the school budget is approved the appropriating body, the school board furnishes each teacher a statement confirming continuation of employment, setting forth assignment and salary.

Within two weeks of the approval of the school budget by the appropriating body, but no later than July 1, the school board will notify any teacher who may be subject to a reduction in force due to a decrease in the school board's budget as approved by the appropriating body.

Principals, Assistant Principals, and Supervisors

A person employed as a principal, assistant principal or supervisor, including a person who has previously achieved continuing contract status as a teacher, shall serve a probationary term of three years in such position in the same school division before acquiring continuing contract status as a principal, assistant principal or supervisor.

Continuing contract status acquired by a principal, assistant principal or supervisor shall not be construed (i) as prohibiting the school board from reassigning such principal, assistant principal or supervisor to a teaching position if notice of reassignment is given by the school board by June 15 of any year or (ii) as entitling any such principal, assistant principal or supervisor to the salary paid him as principal, assistant principal or supervisor in the case of any such reassignment to a teaching position. No such salary reduction and reassignment, however, shall be made without first providing such principal, assistant principal or supervisor with written notice of the reason for such reduction and reassignment and an opportunity to present his or her position at an informal meeting with the superintendent, the superintendent's designee or the school board. Before recommending such reassignment, the superintendent shall consider, among other things, the performance evaluations for such principal, assistant principal or supervisor. The principal, assistant principal or supervisor shall elect whether such meeting shall be with the superintendent, the superintendent's designee or the school board. The school board, superintendent or superintendent's designee shall determine what processes are to be followed at the meeting. The decision to reassign and reduce salary shall be at the sole discretion of the school board.

The intent of this section is to provide an opportunity for a principal, assistant principal or supervisor to discuss the reasons for such salary reduction and reassignment with the superintendent, the superintendent's designee or the school board, and the provisions of this section are meant to be procedural only. Nothing contained herein shall be taken to require cause for the salary reduction and reassignment of a principal, assistant principal or supervisor.

As used in this policy, "Supervisor" means a person who holds an instructional supervisory position as specified in the regulations of the Board of Education and who is required to hold a license as prescribed by the Board of Education.

Adopted: July 1, 1998
Revised: September 8, 1999
Revised: November 6, 2000
Revised: November 5, 2001
Revised: September 3, 2003
Revised: November 3, 2008
Revised: October 3, 2011
Revised: August 6, 2012
Revised: June 17, 2013
Revised: July 18, 2016
Revised: August 7, 2018
Revised: August 31, 2020

Legal Refs.: Code of Virginia, 1950, as amended, §§ 22.1-294, 22.1-303, 22.1-304.

Cross Refs.:	GBM	Professional Staff Grievances
	GCB	Professional Staff Contracts
	GCE	Part-Time and Substitute Professional Staff Employment
	GCN	Evaluation of Professional Staff
	GCPA	Reduction in Professional Staff Work Force
	GCPB	Resignation of Staff Members
	GCPD	Professional Staff Discipline
	GCPF	Suspension of Staff Members

PROFESSIONAL STAFF ASSIGNMENTS AND TRANSFERS

Principals and other supervisory personnel may submit recommendations to the superintendent for the appointment, assignment, promotion, transfer and dismissal of all personnel assigned to their supervision.

Upon recommendation of the superintendent, the New Kent School Board shall place all employees within the various schools and facilities located in the school division. The superintendent has the authority to assign such employees to their respective positions within the school or facility wherein they have been placed by the school board.

The superintendent may also reassign any such employee for that school year to any school or facility within such division, provided no change or reassignment during a school year shall affect the salary of such employee for that school year. However, no one will be employed in or reassigned to a situation where a family member, as defined in Policy GCCB Employment of Family Members, is directly responsible for that employee's supervision.

Any employee seeking a transfer of assignment to another work location for the next school year must make a request in writing to the superintendent or the superintendent's designee, with copies to the current supervisor, not later than April 1. This type of request, if granted, will be considered a voluntary transfer. A change of assignment within an immediate work station is the responsibility of the immediate supervisor.

Adopted: June 2, 2008
Revised: February 2, 2009
Reviewed: January 22, 2013 – no changes
Revised: June 17, 2013

Legal Ref.: Code of Virginia, 1950, as amended, §§ 22.1-293, 22.1-295, 22.1-297.

Cross Ref: GCCB Employment of Family Members

PROFESSIONAL STAFF TIME SCHEDULES

This policy has been combined with GAA and deleted from VSBA.

PROFESSIONAL STAFF DEVELOPMENT

The New Kent County School Board provides a program of high-quality professional development:

- (i) in the use and documentation of performance standards and evaluation criteria based on student academic progress and skills for teachers and administrators to clarify roles and performance expectations and to facilitate the successful implementation of instructional programs that promote student achievement at the school and classroom levels;
- (ii) as part of the license renewal process, to assist teachers and principals in acquiring the skills needed to work with gifted students, students with disabilities, and students who have been identified as having limited English proficiency and to increase student achievement and expand the knowledge and skills students require to meet the standards for academic performance set by the Board of Education;
- (iii) in educational technology for all instructional personnel which is designed to facilitate integration of computer skills and related technology into the curricula, and
- (iv) for administrative personnel designed to increase proficiency in instructional leadership and management, including training in the evaluation and documentation of teacher and administrator performance based on student academic progress and the skills and knowledge of such instructional or administrative personnel, and
- (v) designed to educate school board employees about bullying as defined in Va. Code § 22.1-276.01 and the need to create a bully-free environment.

In addition, the board provides teachers and principals with high-quality professional development programs each year in:

- (i) instructional content;
- (ii) the preparation of tests and other assessment measures;
- (iii) methods for assessing the progress of individual students, including Standards of Learning assessment materials or other criterion-referenced tests that match locally developed objectives;
- (iv) instruction and remediation techniques in English, mathematics, science, and history and social science;
- (v) interpreting test data for instructional purposes;
- (vi) technology applications to implement the Standards of Learning; and
- (vii) effective classroom management.

All instructional personnel are required to participate each year in professional development programs.

Each teacher and instructional staff employed on a full-time basis, is required to complete a mental health awareness training or similar program.

The board annually reviews its professional development program for quality, effectiveness, participation by instructional personnel, and relevancy to the instructional needs of teachers and the academic achievement needs of the students in the school division.

Adopted: July 1, 1998
Revised: September 8, 1999
Revised: November 6, 2000
Revised: August 2, 2004
Revised: August 1, 2005
Revised: August 6, 2007
Reviewed: January 22, 2013 – no changes
Revised: June 17, 2013
Revised: April 24, 2018
Revised: August 31, 2020
Revised: July 12, 2021

Legal Ref.: Code of Virginia, 1950, as amended, §§ 22.1-78, 22.1-23.3, 22.1-253.13:5, 22.1-276.01, 22.1-291.4 and 22.1-298.6.

LICENSED PERSONNEL: PROFESSIONAL GROWTH

A. Generally

The board believes that the continuing educational growth of staff members both in educational techniques and subject depth is a necessity for the continued improvement of the school division. The board, therefore, encourages the professional growth of members of the staff through accredited college courses and other means.

B. Staff Development

There shall be an organized program of staff development for all employees of the board with an emphasis on high quality, sustained, intensive, and classroom-focused staff development in order to have a positive and lasting impact on classroom instruction and the teacher's performance in the classroom. The superintendent shall adjust the schedule of the employees as he/she judges necessary.

C. Staff Development Meetings

At the designated times during the school year, students will not attend school or will be dismissed early in order to free the staff for planning and staff development meetings. The superintendent and designated administrators shall structure these sessions to make the best use of the available time.

Since these meetings are a part of the required working day for staff members, attendance is mandatory.

D. Financial Assistance for Undergraduate, Graduate and Post Graduate Coursework

The school board budgets limited funds each year to assist teachers in their professional development through tuition assistance. An application for tuition assistance must be submitted for approval to the Executive Director of Administration prior to registering for class. Priority for funds will be determined in the following order:

1. To meet the requirements for the Collegiate Professional Certificate.
2. To meet the requirements for an endorsement in the area of assignment.
3. To raise a one-year certificate to a full five year license.
4. For certificate renewal.
5. To meet the requirements for an added endorsement in an area approved by the division superintendent.
6. To meet the requirements for a master's or doctoral degree with priority given to those who have longest served in the system.

E. Licensed Personnel: Professional Growth

Teachers and administrators will be required to pay one-half of the cost for any courses for which they are requesting tuition assistance. The division will pay 50% of the cost of the course with a maximum of \$300.00 per course for two courses (total of \$600.00 per fiscal year, July 1 through June 30). Textbooks, materials and supplies are not included. No teacher/administrator will receive more than the allotted maximum amount for tuition assistance in any one budget year.

Employees enrolled in pre-approved coursework for renewal are eligible for the following:

Agree to work in the New Kent County Public Schools for one year after receipt of the tuition assistance for each \$600.00 or portion thereof, or reimburse the school system for all funds expended.

The Tuition Assistance Forms will be available at each school for teachers and administrators to complete agreeing to the requirements set forth in this policy. Grades of an "A" or "B" must be submitted with documentation of payment prior to reimbursement.

The division superintendent, with school board approval, may waive the requirement of payment of one-half of the tuition cost for hardship cases or for those teachers/administrators who are being requested to take a particular course for an added endorsement. The superintendent also reserves the right to approve assistance for teachers pursuing National Board Certification.

Any staff development funds left at the end of the year may be evenly disbursed among those requesting reimbursement to include Support Staff enrolled in an approved program that continues their educational growth and provides for continuous improvement in their current department/position within the school division. All programs must be through a regionally accredited college or university. Regulations listed in section A-E shall apply to Support Staff.

Adopted: November 17, 2008
NKSB Review: January 22, 2013
Revised: November 7, 2017

SUPERVISION OF THE EVALUATION PROCESS

This policy deleted by May 2012 VSBA recommendation and August 6, 2012 New Kent School Board Action.

EVALUATION OF PROFESSIONAL STAFF

Every employee of the New Kent School Board is evaluated on a regular basis at least as frequently as required by law.

The superintendent assures that cooperatively developed procedures for professional staff evaluations are implemented throughout the division and included in the division's policy manual. The results of the evaluation are in writing, dated and signed by the evaluator and the person being evaluated, with one copy going to the central office personnel file and one copy to the person being evaluated.

The primary purposes of evaluation are:

- to optimize student learning and growth;
- to contribute to the successful achievement of the goals and objectives of the division's educational plan;
- to improve the quality of instruction by ensuring accountability for classroom performance and teacher effectiveness;
- to provide a basis for leadership improvement through productive performance appraisal and professional growth;
- to implement a performance evaluation system that promotes a positive working environment and continuous communication between the employee and the evaluator that promotes continuous professional growth, leadership effectiveness, improvement of overall job performance and improved student outcomes; and
- to promote self-growth, instructional effectiveness, and improvement of overall professional performance.

Teacher, principal, and superintendent evaluations are consistent with the performance standards included in the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and superintendents. Evaluations shall include student academic progress as a significant component and an overall summative rating. Teacher evaluations include regular observation and evidence that instruction is aligned with the school's curriculum. Evaluations include identification of areas of individual strengths and weaknesses and recommendations for appropriate professional activities. Evaluations include an evaluation of cultural competency.

Any teacher whose evaluation indicates deficiencies in managing student conduct may be required to attend professional development activities designed to improve classroom management and discipline skills.

Adopted: February 1, 1999
Revised: September 8, 1999
Revised: November 6, 2000
Revised: August 2, 2004
Revised: May 2, 2011
Revised: August 6, 2012
Revised: June 17, 2013
Revised: April 24, 2018
Revised: August 31, 2020
Revised: July 12, 2021

Legal Refs.: Code of Virginia, 1950, as amended, §§ 22.1-70, 22.1-78, 22.1-294, 22.1-295, 22.1-303, 22.1-253.13:5, 22.1-253.13:7 and 22.1-276.2.

Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers
(Virginia Board of Education as approved March 18, 2021).

Guidelines for Uniform Performance Standards and Evaluation Criteria for Principals
(Virginia Board of Education effective January 10, 2020).

Cross Ref.: CBG Evaluation of the Superintendent
GCG Professional Staff Probationary Term and Continuing Contract

REDUCTION IN PROFESSIONAL STAFF WORK FORCE

Generally

A decrease in the school board's budget as approved by the appropriating body, a consolidation of schools, the phasing out of programs, departments or grade levels and other conditions may cause a reduction in the number of staff needed in a building, program or department or in the entire school division.

General reduction in total personnel and redistribution of personnel within designated programs is done in accordance with Reduction in Force (RIF) Guidelines established by the superintendent and reviewed and approved by the school board. The Guidelines will not provide for reductions to be made solely on the basis of seniority; they will include consideration of the performance evaluations of the teachers potentially affected by the reduction in workforce.

Adopted: July 1, 1998
Revised: September 4, 2002
Revised: September 3, 2003
Revised: February 2, 2009
Reviewed: September 10, 2012 – no changes
Revised: June 17, 2013
Revised: April 12, 2021

Leg. Ref.: Code of Virginia, 1950, as amended, §§ 22.1-70, 22.1-78, 22.1-304.

Cross Ref.: GCG Professional Staff Probation and Continuing Contract

Recodified: August 2000, Amended: July 16, 2003, Amended

ACCOMPANYING REGULATION

REDUCTION IN FORCE

A. Licensed Personnel

The layoff of licensed New Kent County School Board personnel due to reduction in force shall be accomplished according to the following provisions:

1. The division superintendent shall recommend the specific endorsement areas or instructional programs in which reductions need to be made and the extent of those reductions.
2. The division superintendent shall then recommend the individuals, if any, who shall be laid off. Generally, the primary factor to be considered in making both the recommendation and determination shall be seniority within each class of employment, the least senior person being laid off first. Generally, within each class, probationary teachers shall be laid off prior to continuing contract teachers.
3. Seniority shall be that period of time commencing with the most recent term of continuous service as a licensed employee with the New Kent County Public Schools, including authorized leave as shown by school board minutes, but excluding temporary, interim, substitute, or part-time employment. The initial date of employment shall be the date of appointment to a licensed position (as distinguished from the date of the school board meeting where such an appointment was approved), as shown by the school board minutes. A leave-of-absence for two consecutive years or resignation cancels prior seniority. Licensed personnel who are on sabbatical leave shall be granted full seniority credit for the period of absence.
4. The division superintendent may recommend exceptions to the seniority rule. Examples of factors which may be considered in excepting the seniority rule are: (1) teaching endorsements on the individual's license which may meet specific school needs, (2) extended responsibilities that the school program may require, (3) teachers on probation, (4) teachers with licensure deficiencies, or (5) special skills and/or active assignment essential to the effective operation of the school program.
5. Each licensed employee shall be placed on the seniority list for the endorsement area or instructional program in which he is actively assigned. In addition, licensed employees recommended for reduction in the area or program of their active assignments shall be placed on the seniority lists in any other areas or programs for which they have a right to be considered pursuant to paragraph A.6.
6. Each licensed employee who is recommended for lay off from an affected endorsement area or instructional program shall have the right to be considered, using the same criteria, in all other programs or instructional areas for which the employee has completed all endorsement requirements.
7. Released continuing contract licensed employees shall be considered for any position for which they are qualified, to include a position higher or lower than the one in which they were working at the time of the reduction, but they shall apply for the position and be considered with any other applicant. No new licensed employee shall be employed for an

area or program until all properly licensed continuing contract persons released from such assignment due to a reduction in force have been provided with the opportunity of filling the available positions. A licensed employee on continuing contract shall have the right to be considered for a position and receive a letter of notification, pursuant to the provisions of this paragraph, for a period not to exceed fifteen months from the date of the individual's release. Such letter of notification shall be sent by the division superintendent or his designee. It shall be the responsibility of the released employee to keep the office of human resources informed of his current address to be notified of vacancies. A licensed employee's eligibility for consideration of a position shall terminate if he/she:

- a. fails to respond affirmatively in writing fifteen (15) calendar days after the mailing of a letter of notification to express interest in the vacant position;
- b. indicates in writing that he/she no longer wishes to be considered for recall; or
- c. fails to maintain licensure and other employment eligibility requirements.

Upon reemployment, all rights related to salary, fringe benefits, and length of service shall be restored based on the position of rehire, with the step determined by years of experience in the position of reemployment. However, time that has elapsed between release and reemployment will not count toward length of service.

In accordance with COBRA (in accordance with current Federal Guidelines), released continuing contract licensed employees may pay the total premium for group life and hospitalization insurance for a period of eighteen (18) months or the date that their eligibility for rehire is terminated, whichever occurs first.

B. Administrative and/or Classified Licensed Personnel

Administrative and/or classified licensed personnel shall include those persons who are employed on a full-time contractual basis by the New Kent County School Board and whose position is defined by the uniform pay scale.

1. The division superintendent shall recommend the specific position classification in which a reduction in force needs to be made and the number of positions to be reduced.
2. Where there is only one person in a position classification recommended for mandatory reduction, that person shall be laid off unless the division superintendent considers such employee for another administrative or supervisory position pursuant to paragraph B.5. for purposes of this Policy and Regulation only, an administrative licensed or classified licensed employee with three years continuous experience in New Kent, and who is recommended for reduction, shall also be considered under the "Licensed Personnel" section of this Regulation as a teacher in a program or area, provided that his license is still valid.
3. Where there is more than one person in a position classification, the division superintendent shall recommend which individual(s) shall be laid off. The primary factors to be considered in making both the recommendation and the determination shall be job performance, the specific needs of the school division, and any special skills or qualifications and/or active assignment essential to the effective operation of the school(s).

4. In those cases where no significant difference among individuals exists after a review of the factors listed in paragraph B.3., the recommendation and determination shall be based on seniority as described in paragraph A.3., the least senior employee within the classification being laid off first.
5. An employee who is recommended for lay off from his or her present position may be considered for other positions which the division superintendent determines to have generally similar duties and for which the person is otherwise qualified.
6. Released employees shall be considered for any position for which they are qualified, to include a position higher or lower than the one in which they were working at the time of the reduction, but they shall apply for the position and be considered with any other applicant as under the procedure set out in paragraph A.7.

C. Classified Personnel

1. Classified personnel are defined as those persons who hold positions that do not require licensure and who are assigned by the school board full-time to a position on the uniform pay schedule.
2. The division superintendent shall recommend the specific position classifications in which a reduction-in-force needs to be made and the specific number of positions needed to be reduced.
3. The division superintendent shall recommend which individuals, if any, shall be laid off within the position classification. The primary factor to be considered in making both the recommendation and the determination shall be seniority, the least senior being laid off first. The procedure by which classified personnel are recommended by the division Superintendent for reduction shall be as set out in paragraph B.3., with the exception that all employment with the New Kent County Public Schools, regardless of position, shall be counted toward seniority. In addition, an employee who is recommended for lay off from his or her present position shall be considered for lesser positions which the division Superintendent determines to have generally similar duties and for which the person is otherwise qualified.
4. Released employees shall be considered for reemployment as vacancies occur in the position which they held. The division Superintendent shall make a recommendation as to the order of seniority in which released employees will be considered for the positions. No new person shall be employed for a position until all persons released from such positions have been considered for the available positions. A person shall not have a right to be considered for a position higher than the one in which he or she was working at the time of the reduction. However, the division superintendent may consider the laid off employee for a substantially similar lower position. A person may be considered for a position and receive a letter of notification for a period not to exceed fifteen months from the date of lay off. Such letter of notification shall be sent by certified mail to the employee's current address as listed with the office of human resources. An employee's eligibility for consideration shall terminate if he/she:
 - a. fails to respond affirmatively in writing within fifteen (15) calendar days after the mailing of the letter of notification offering him/her a position;
 - b. otherwise indicates in writing that he/she no longer wishes to be considered for vacancies;or

- c. fails to maintain licensure and other employment eligibility requirements, if any.

Upon reemployment, all rights related to salary, fringe benefits, and length of service shall be restored based on the position of rehire, with the step determined by years of experience in the position of reemployment. However, time that has elapsed between release and reemployment will not count toward length of service.

In accordance with COBRA (in accordance with current Federal Guidelines), released classified employees may pay the total premium for group life and hospitalization insurance for a period of eighteen (18) months or the date on which the employee's eligibility for rehire is terminated, whichever occurs first.

D. Transfer

This Policy and Regulation shall not apply to the transfer of employees but shall only apply when, due to a reduction-in-force, an employee must be laid off. The division superintendent retains the authority to transfer teachers or other employees to other assignments at any time to reduce the number of persons affected by the reduction-in-force.

E. Board Minutes

So that there will be no negative implications regarding the professional record of an employee laid off under this Policy, the minutes of the school board will clearly show that such termination of employment was due to a reduction-in-force.

F. Activation of Policy

This Policy will be activated upon recommendation of the division superintendent to the school board. It will not be necessary for the office of human resources to establish seniority lists, etc., until such time as notified by the division superintendent.

G. Effect on Term Contract

Nothing in this Policy shall be construed as granting an employee on a term contract the right to employment beyond the term of his or her contract or to grant such person a property interest in employment beyond the term of his present contract.

H. Interpretations

The school board realizes that questions will arise about the application of this Policy to a specific case. Consequently, interpretations of this Policy shall be made by the division superintendent when necessary. Any such interpretations shall be presumed valid until specifically ruled otherwise by the school board.

Adopted: February 2, 2009
Revised: February 4, 2010
NKSB Review: September 10, 2012 – no changes

RESIGNATION OF STAFF MEMBERS

The superintendent is authorized to approve resignations of employees. Any resignation must be in writing.

A teacher may resign after April 15 of any school year with the approval of the superintendent. The teacher shall request release from contract at least two weeks in advance of the intended date of resignation. Such request shall be in writing and state the cause of the resignation. The teacher may, within five business days, withdraw a request to resign. Upon the expiration of the one week period, the superintendent shall notify the school board of the decision to accept or reject the resignation. The school board, within two weeks, may reverse the decision of the superintendent. In the event that the board or the division superintendent declines to grant the request for release on the grounds of insufficient or unjustifiable cause, and the teacher breaches such contract, disciplinary action, which may include revocation of the teacher's license, may be taken pursuant to regulations prescribed by the Board of Education.

Other employees who wish to terminate their employment must give notice at least ten school days prior to their desired separation date. Notice should be given to the employee's immediate supervisor, who will inform the superintendent. The superintendent will inform the school board of the resignation at its next regular meeting.

Adopted: February 1, 1999
Revised: September 4, 2002
Revised: April 2, 2012
Revised: August 6, 2012
Revised: April 24, 2018

Legal Ref.: Code of Virginia, 1950, as amended, § 22.1-304.

Cross Refs.: GCPD Professional Staff Discipline
GDB Support Staff Employment Status

PROFESSIONAL STAFF DISCIPLINE

A. Probation and Dismissal

Teachers may be dismissed for incompetency, immorality, non-compliance with school laws and regulations, disability in accordance with State and federal law, conviction of a felony or a crime of moral turpitude or other good and just cause.

A teacher shall be dismissed if such teacher is or becomes the subject of a founded complaint of child abuse and neglect, pursuant to Va. Code § 63.2-1505, and after all rights to an appeal provided by Va. Code § 63.2-1526 have been exhausted. The fact of such finding, after all rights to an appeal provided by Va. Code § 63.2-1526 have been exhausted, shall be grounds for the school board to recommend that the Board of Education revoke such person's license to teach.

In those instances when licensed personnel are dismissed or resign due to a conviction of any felony; any offense involving the sexual molestation, physical or sexual abuse or rape of a child; any offense involving drugs; or due to having become the subject of a founded case of child abuse or neglect, the school board shall notify the Board of Education within 10 business days of such dismissal or the acceptance of such resignation.

If a current employee is dismissed because of information appearing on his/her criminal history record, the school board shall provide a copy of the information obtained from the Central Criminal Records Exchange to the employee.

Administrative regulations shall be developed for the dismissal or placing on probation of continuing contract teachers and probationary teachers during the school year.

No teacher shall be dismissed or placed on probation solely on the basis of the teachers' refusal to submit to a polygraph examination requested by the school board.

B. Suspension

Employees of the New Kent County School Board may be suspended as provided in Policy GCPF Suspension of Staff Members.

C. Failure to Perform Nonemergency Health-Related Services

With the exception of school administrative personnel and employees who have the specific duty to deliver health-related services, no licensed instructional employee, instructional aide, or clerical employee shall be disciplined, placed on probation, or dismissed on the basis of such employee's refusal to (i) perform nonemergency health-related services for students or (ii) obtain training in the administration of insulin and glucagon. However, instructional aides and clerical employees may not refuse to dispense oral medications.

"Health-related services" means those activities which, when performed in a health care facility, must be delivered by or under the supervision of a licensed or certified professional.

D. Effect of Probation Pursuant to Va. Code §18.2-251

For purposes of this policy, a court's placing an individual on probation pursuant to Va. Code § 18.2-251 shall be treated as a conviction and as a finding of guilt.

Adopted: July 1, 1998
 Revised: September 8, 1999
 Revised: November 6, 2000
 Revised: November 5, 2001
 Revised: November 3, 2008
 Revised: August 20, 2012
 Revised: June 17, 2013
 Revised: August 7, 2017
 Revised: August 31, 2020

Legal Ref.: Code of Virginia, 1950, as amended, §§ 18.2-251, 22.1-274, 22.1-296.2, 22.1-307, 22.1-313, 22.1-315.

Cross Refs.:	GBM	Professional Staff Grievances
	GCE	Part-Time and Substitute Staff Employment
	GCG	Professional Staff Probationary Term and Continuing Contract
	GCDA	Effect of Criminal Conviction or Founded Complaint of Child Abuse or Neglect
	GCPF	Suspension of Staff Members
	JHC	Student Health Services
	JHCD	Administering Medicines to Students

PROFESSIONAL STAFF DISCIPLINE
Regulations

Probation, Suspension and Dismissal

Procedures for Teachers placed on probation or considered for dismissal are as follows:

1. In the absence of unusual circumstances, the employee will be given oral or written notice of the employer's intent regarding "employer action" (nonrenewal, dismissal, suspension, layoffs or an applicable demotion).
2. Where actions are taken for purposes other than budgetary restrictions or reorganizations, the reason shall be given orally to the employee by his or her supervisor or by the superintendent's designee. The employee will be given an opportunity during this meeting to present reasons why the employer should not take the proposed action. Information presented shall be considered by the supervisor who shall confirm, modify or reverse the initial action upon conclusion of the meeting. The recommendation from the supervisor will be submitted to the superintendent or designee within two days. The supervisor will provide orally to the employee what his or her recommendation will be to the superintendent or designee.
3. The superintendent or designee will notify the employee orally of the decision and will review the procedures below in incidents where the initial recommendation of the supervisor was upheld.

Probation, Suspension or Dismissal Upheld

1. Written notice of the action will be given to the employee that will include the nature of the action, the reason for the action, the length of the action, status of the employee's pay during the action period, and a designee for communications during the "employer's action" period.
2. A statement will be included in the written documentation whether the employee will be allowed on school property during the probation or suspension period.
3. A statement will be included if a recommendation for further disciplinary action is warranted.
4. A statement of future expectations regarding job performance and expectations may be included.
5. All documentation will be placed in the employee's personnel file. The direct supervisor will receive a copy for the "employer's action" as notification.
6. The employee is expected to provide lesson plans and or directions to his or her supervisor during the absence to allow for the continuation of their duties in their absence.

Reviewed by NKSB: August 20, 2012

SUSPENSION OF STAFF MEMBERS

Employees of New Kent School Board, whether full-time or part-time, permanent or temporary, may be suspended for good and just cause

- when the safety or welfare of the school division or the students therein is threatened or
- when the employee has been charged by summons, warrant, indictment or information with the commission of
 - a felony; or
 - a misdemeanor involving
 - sexual assault as established in Article 7 (§18.2-61 et seq.) of Chapter 4 of Title 18.2, of the Code of Virginia,
 - obscenity and related offenses as established in Article 5 (§18.2-372 et seq.) of Chapter 8 of Title 18.2, of the Code of Virginia,
 - drugs as established in Article 1 (§18.2-247 et seq.) of Chapter 7 of Title 18.2, of the Code of Virginia,
 - moral turpitude, or
 - the physical or sexual abuse or neglect of a child;
- or an equivalent offence in another state.

Except when an employee is suspended because of being charged by summons, warrant, indictment or information with the commission of any of the above-listed offenses, the superintendent or appropriate central office designee shall not suspend an employee for longer than sixty (60) days and shall not suspend an employee for a period in excess of five (5) days unless such employee is advised in writing of the reason for the suspension and afforded an opportunity for a hearing before the school board in accordance with Va. Code §§ 22.1-311 and 22.1-313, if applicable. Any employee so suspended shall continue to receive his then applicable salary unless and until the school board, after a hearing, determines otherwise. No employee shall be suspended solely on the basis of the employee's refusal to submit to a polygraph examination requested by the school board.

Any employee suspended because of being charged by summons, warrant, information or indictment with any of the above-listed criminal offenses may be suspended with or without pay. In the event an employee is suspended without pay, an amount equal to the employee's salary while on suspended status shall be placed in an interest-bearing demand escrow account. Upon being found not guilty of one of the above-listed criminal offenses or upon the dismissal or nolle prosequi of the charge, such employee shall be reinstated with all unpaid salary and accrued interest from the escrow account, less any earnings received by the employee during the period of suspension, but in no event shall such payment exceed one year's salary.

In the event an employee is found guilty by an appropriate court of any of the above-listed criminal offenses and, after all available appeals have been exhausted and such conviction is upheld, all funds in the escrow account shall be repaid to the school board.

If an employee is suspended because of information appearing on the employee's criminal history record, the school board provides a copy of the information obtained from the Central Criminal Records Exchange to the employee.

No employee will have his insurance benefits suspended or terminated because of suspension in accordance with this policy.

The placing of a school employee on probation pursuant to the terms and conditions of Va. Code § 18.2-251 shall be deemed a finding of guilt.

Adopted: August 6, 2012
Revised: July 18, 2016
Revised: April 28, 2017
Revised: July 12, 2021

Legal Ref.: Code of Virginia, 1950, as amended, §§ 22.1-78, 22.1-296.2, 22.1-315.

Cross Refs.	GCDA	Effect of Criminal Conviction or Founded Complaint of Child Abuse or Neglect
	GDG	Support Staff Probationary Period
	GBMA	Support Staff Grievances
	GCPD	Professional Staff Discipline

NONSCHOOL EMPLOYMENT BY STAFF MEMBERS

Employees may, during the hours not required of them to fulfill their responsibilities to the New Kent School Board, engage in other employment as long as such employment does not detract from or interfere with their employment by the New Kent School Board.

An employee who is on leave from the New Kent School Board, in a paid or unpaid status, may not be employed by the school board or any other employer in any capacity during the period of leave except with the prior written authorization of the superintendent or superintendent's designee.

The school board does not endorse, support, or assume liability for any activity conducted by school board employees in which division students or employees participate which is not sponsored by the school board.

Adopted: July 1, 1998
Revised: May 21, 2012
Revised: April 12, 2021

Legal Ref.: 29 C.F.R. 825.216(e).
Code of Virginia, 1950, as amended, §§ 22.1-70, 22.1-78.

Cross Refs.:	BBFA	Conflict of Interests and Disclosure or Economic Interests
	GAA	Staff Time Schedules
	GAH	School Employee Conflict of Interests
	GCBE	Family and Medical Leave
	GCBEA	Leave Without Pay
	GCBEB	Military Leave and Benefits
	GCQAB	Tutoring for Pay
	GCQB	Staff Research and Publishing
	IICA	Field Trips



EMPLOYMENT: SECOND JOB REQUEST FORM GCQA-F

Part I: To be completed by Employee

In order to implement policy GCQA, persons who desire to work during the regular school term while on leave, paid or unpaid, must complete this form and submit it to the principal. The principal will submit the form to the superintendent. The employee will receive a copy of this form back with the superintendent's approval or denial.

Employee's Name:			
Telephone Number:			
Job Title:			
School/ Department:			
Specific Assignment:			
Date Employment Will Begin and End :			
Approximate Description of Duties and Time Duties will begin in the second job:			
Requested by (Employee):		Date:	
Approval of Administrator:		Date:	

Part II: To be completed by Superintendent

Status of Request :	Approved	Denied
Superintendent's Signature: _____ Date: _____		

Central Office Only

☐ Payroll ☐ Personnel File ☐ Administrator

Revised 5.21.2012

TUTORING FOR PAY

Staff members may not be paid by anyone other than the New Kent School Board for tutoring individual students enrolled in a class under their direction.

Adopted: July 1, 1998
Revised: April 2, 2012
Revised: August 6, 2012
Revised: April 12, 2021

Legal Ref.: Code of Virginia, 1950, as amended, sections § 22.1-78.

Cross Ref.: GCQA Nonschool Employment by Staff Members

STAFF RESEARCH AND PUBLISHING

The New Kent School Board encourages employee innovation in creating and developing high-quality materials to improve student achievement and the efficiency of division operations. The school board is the author of works produced by its employees within the scope of their employment and retains all rights to such works unless those rights are expressly waived or assigned to the employee who produced the work.

Any such assignment of rights will be accomplished in accordance with regulations promulgated by the superintendent. The regulations will provide that the work will remain available for the use of the school board at no charge.

Employees who develop materials, including instructional materials and computer programs, outside the scope of their employment that have a connection to or are related to the division shall inform the superintendent in writing of their intent to develop such materials prior to commencing work.

Adopted: July 1, 1998
Revised: May 21, 2012

Legal Ref.: 17 U.S.C. §§ 101, 102, and 201.

Code of Virginia, 1950, as amended, §§ 22.1-70, 22.1-78.

Cross Refs.: EGAA Reproduction of Copyrighted Materials
GCQA Nonschool Employment by Staff Members

STAFF RESEARCH AND PUBLISHING

A. Generally

The superintendent or the superintendent's designee will act upon all proposals for research projects involving New Kent County Public Schools employees as described in School Board Regulation GCQB-R only after consideration of the following:

1. The superintendent's recommendation;
2. The nature and purpose of the activities as described in the research plan;
3. The anticipated benefit to the research subjects and/or the school division's educational program.

Action research studies and other data-collection activities conducted by New Kent County Public Schools employees for internal purposes only do not require review by the superintendent.

B. Administrative Criteria

Research involving employees may be approved by the superintendent or the superintendent's designee provided that:

1. The research proposed complies with New Kent County Public Schools Policies, Regulations and research guidelines, Federal Statutes and Regulations, Virginia Statutes and Virginia Board of Education Regulations;
2. The research plan sets forth explicit objectives and a sound design for collecting and analyzing information designed to reach these objectives;
3. The research holds out the prospect of benefiting the individual subjects and/or the division's educational program;
4. There will be no significant departure from normal school/central office routine or use of instructional time on the part of employees;
5. The proposed research includes adequate provisions to protect the privacy of employees and to maintain confidentiality of data. Contact information of NKCPs employees will not be released for research purposes.

Research Involving Employees

Requests to conduct research in the school division including the distribution of surveys, must be submitted to the superintendent.

Action research studies and other data-collection activities conducted by New Kent County Public Schools employees for internal purposes only do not require review by the superintendent. In addition, data collection activities that are mandated by the state or federal government do not require review by the superintendent.

A. Superintendent

The superintendent may designate an administrative team member to establish and oversee the request to research or publish. The superintendent will make the final decision on all such requests.

Application Review Process

1. All requests to conduct research or distribute surveys involving employees, except those described in this regulation and data collection as activities mandated by the state or federal government must be submitted to the superintendent on the *Application to Conduct Research or Distribute Surveys* form. Each request will be reviewed by the superintendent against the following criteria:
 - a. The research/survey distribution complies with the administrative criteria as set forth in School Board Policy GCQB-R.
 - b. The research does not investigate the personal lives of employees except as applicable under federal and state law, school division policies and regulations.
 - c. Participation in the research and/or data collection activities is voluntary.
 - d. Requests for preexisting data do not require extensive data programming.
 - e. The research/survey distribution is proposed and conducted in such a way as to preserve the anonymity of all participants when reporting the results. The identity or identifiable characteristics of employees, schools, or the school system will not be revealed unless so authorized in writing when the research/survey is approved.
 - f. The applicant states in the proposal the expected date of completion for the study/survey distribution and states that a final copy of the study/results will be forwarded to the superintendent upon completion.
2. Each applicant will receive a written response approving or disapproving the request following a decision by the superintendent.

B. Action Research and Other Data-Collection Activities for Internal Purposes

1. Action research studies and data-collection activities that are routinely conducted by NKCPS staff members in carrying out their responsibilities to maintain and improve instructional programs and administrative practices and are strictly for school/division-related purposes do not require formal review by the superintendent provided that:
 - a. Activities involving a single school site or department are approved by the administrator in charge of the department or school.
 - b. Activities involving multiple school sites or activities conducted on behalf of a central office department are approved by the appropriate supervising administrator.
 - c. The research or data-collection activities conform to existing federal, state, and local school board policies/regulations. If doubt exists as to whether the activities conform to the appropriate policies and regulations, the administrator overseeing the activity may request a review by the superintendent.
2. The results of research or data-collection activities of this regulation may not be used for external purposes after the fact without the written permission of the superintendent or the superintendent's designee.

C. Ownership of Materials

1. The board adopts the "work for hire doctrine," and shall have the copyright of all employees' work produced at the instance and expense of the board and/or any of its administrative staff. Work made for hire is defined as materials prepared by an employee in connection with his or her job duties, and it includes instructional texts, tests, answer sheets, and materials specifically commissioned.
2. Works authored by employees on their own time, without expense to the board, and without instruction, direction, or control of the employees' superiors are the copyright of the employees.

D. Waiver and Assignment of Proprietary Rights

1. Copyrights of the board may be waived in favor of or assigned to the author by the board upon application submitted to the board through the superintendent.
2. The board authorizes the superintendent to review materials prepared by employees for whom the board has no copyright, and to waive or assign all or part of any interest or proprietary rights therein which is alleged the board may have, in favor of the employees producing such works.
3. Any materials copyrighted under this section shall be made available to New Kent County Public Schools at no charge to the system.



APPLICATION TO CONDUCT RESEARCH OR DISTRIBUTE SURVEYS

GCQB-R/F1

A. Identifying Information

Employee's Name:	
Telephone Number:	
Job Title:	
School/ Department:	
Specific Assignment:	

B. Introduction to the Project

Title of Project:	
Why are you conducting the survey?	<input type="checkbox"/> Independent Research <input type="checkbox"/> Master's Thesis/ Paper <input type="checkbox"/> Graduate Class Requirement <input type="checkbox"/> Dissertation Research/ Project
University Affiliation:	
Faculty Advisor:	

C. Participants

Population:	<input type="checkbox"/> Elementary <input type="checkbox"/> Middle <input type="checkbox"/> High <input type="checkbox"/> Other	
Grade Level:		
Subject (s):		
Name of School (s):		
Special Characteristics (if any) of Population:		
Group	Number Needed	Time (in minutes) Required for Each Person to Complete Tasks
Students		
Teachers		
Principals		
Others		

D. Required Attachments

1. Provide a concise description of your purpose, research design and methodology, plan for analyzing the data, and value to the school system. A detailed description of the protocol to be used must also be included. (i.e. how individuals will be contacted for participation and procedures used in the research or survey administration).
2. Attach a copy of the cover letter that will be sent to participants describing the study, the informed consent form to be used (if applicable), and the data collection instruments(s) that will be used (i.e. surveys, tests, questionnaires). If an online version of the survey is to be used, a hard copy of the survey is still required.



APPLICATION TO CONDUCT RESEARCH OR DISTRIBUTE SURVEYS

GCQB-R/F1

Please read each of the following statements and place a check mark in the box indicating that you have read and agree to abide by each of the statements.

- ☐ I understand that acceptance of this request for approval of a research proposal in no way obligates New Kent County Public Schools to participate in this research. I also understand that approval does not constitute commitment of resources or endorsement of the study or its findings by the school system or by the School Board.
- ☐ I acknowledge that participation in research studies by students, parents, and school staff is voluntary. I will preserve the anonymity of all participants in all reporting of this study. I will not reveal the identity or include identifiable characteristics of schools or the school system unless authorized by the superintendent.
- ☐ If approval is granted, I will abide by all the policies and regulations of New Kent County Public Schools and will conduct this research within the stipulations accompanying any letter of approval.
- ☐ At the completion of the study, I will provide New Kent County Public Schools with a copy of the results.

Applicant's Signature: _____ Date: _____

Professor or Faculty Advisor's Signature (if applicable): _____ Date: _____

Address: _____ Telephone: _____

To be completed by Superintendent

Status of Request : Approved Denied

Superintendent's Signature: _____ Date: _____

Central Office Only

☐ Personnel File

☐ Administrator

☐ Superintendent

Revised 5.21.2012

SUPPORT STAFF

Support staff personnel are those employees who need not hold a license issued by the Virginia Board of Education in order to obtain their positions. This category includes, but is not limited to, non-licensed administrative, clerical, maintenance, transportation, food services, and paraprofessional positions.

Adopted: July 1, 1998
Revised: April 2, 2012
Revised: August 6, 2012

Cross Refs.:	GCDA	Effect of Criminal Conviction or Founded Complaint of Child Abuse or Neglect
	GCPB	Resignation of Staff Members
	GCPF	Suspension of Staff Members
	GDB	Support Staff Employment Status

SUPPORT STAFF EMPLOYMENT STATUS

Support staff are not issued written contracts unless such contracts are required by law.

The school division employs three types of support staff:

- Temporary employees who are hired for short-term needs on a daily basis. These employees do not receive benefits and are paid only for hours worked.
- Probationary employees who are fully qualified new employees assigned to authorized positions. These employees are eligible for salary increases and receive benefits.
- Regular employees who have successfully completed the prescribed probationary period. Regular employees receive all employment benefits available under school board policy.

The employment of support personnel may be terminated with fifteen calendar days' notice. Support personnel may also be subject to immediate dismissal for just cause.

Support personnel who are removed from employment for just cause shall be ineligible thereafter for employment by New Kent School Board.

Employees of New Kent School Board may be suspended as provided in Policy GCPF Suspension of Staff Members.

Adopted: July 1, 1998
Revised: April 2, 2012
Revised: August 6, 2012
Revised: July 18, 2016

Legal Ref.: Code of Virginia, 1950, as amended, § 22.1-78.

Cross Ref.: GCDA Effect of Criminal Conviction or Founded Complaint of Child
Abuse or Neglect
GDG Support Staff Probationary Period
GBMA Support Staff Grievances
GCPF Suspension of Staff Members

SUPPORT STAFF SALARY SCHEDULES

This policy was deleted by NKSb on 4/2/12 per
2/2012 VSBA recommendations.

SUPPORT STAFF LEAVES AND ABSENCES

This policy was deleted by NKSB on 4/2/12 per
2/2012 VSBA recommendations.

SUPPORT STAFF HIRING

Policy deleted to avoid duplication. Content is now covered in Policy GBN.

May 3, 2010 School Board Action

SUPPORT STAFF PROBATIONARY PERIOD

The probationary period for all support staff positions is six (6) months. The probationary period may not be extended for more than a total of eighteen (18) months, pursuant to the Code of Virginia.

Employees who have successfully completed the probationary period for one position will serve another probationary period if they move to another position.

Adopted: July 1, 1998
Revised: June 6, 2005
Revised: July 12, 2010
Revised: May 21, 2012
Revised: August 6, 2012
Revised: July 18, 2016

Legal Ref.: Code of Virginia, 1950, as amended, §§ 22.1-78, 22.1-79.

Cross Ref.: GBMA Support Staff Grievances
GD Support Staff
GDB Support Staff Employment Status

SUPPORT STAFF ASSIGNMENTS AND TRANSFERS

Support staff shall be assigned to positions for which their qualifications meet the needs of the school division's operations.

Support staff personnel may request a transfer to a position within their area of competence and for which they are qualified. Support staff personnel may be transferred to positions or locations for which their qualifications best meet the needs of the school division.

Adopted: July 1, 1998
Revised: May 3, 2010
Revised: August 6, 2012

Legal Refs.: Code of Virginia, 1950, as amended, sections 22.1-70, 22.1-78.

Cross Ref.:	GA	Personnel Policies Goals
	GD	Support Staff
	GDB	Support Staff Employment Status
	GDG	Support Staff Probationary Period

SUPPORT STAFF TIME SCHEDULES

The New Kent County School Board recognizes the need for establishing daily time schedules for all employees that provide for consistency throughout the school system. The school board also recognizes the need for daily time schedules to allow for differences in responsibilities and requirements in the variety of positions held by school system employees.

The superintendent shall be authorized to establish daily time schedules for all classifications of employees that shall be subject to school board review. In setting such schedules, consideration must be given but not be limited to; evening and weekend responsibilities, wage and hour regulations, comparative schedules of employees in other school systems, and schedules established by other employers in the community that provide a generally accepted standard.

Adopted: July 1, 1998

NKSB Review: September 10, 2012 – no changes

Legal Refs.: Code of Virginia, 1950, as amended, sections 22.1-70, 22.1-78, 22.1-79(5), 22.1-291.

EVALUATION OF SUPPORT STAFF

Every employee of the New Kent School Board is evaluated on a regular basis.

The superintendent ensures that cooperatively developed procedures for support staff evaluations are implemented within the division. The results of the evaluation shall be in writing, dated and signed by the evaluator and the person being evaluated, with one copy going to the central office personnel file and one copy to the employee.

The primary purposes of evaluation and assistance are:

- to optimize student learning and growth;
- to contribute to the successful achievement of the goals and objectives of the division's educational plan;
- to provide a basis for leadership improvement through productive performance appraisal and professional growth;
- to implement a performance evaluation system that promotes a positive working environment and continuous communication between the employee and the evaluator that promotes continuous professional growth, leadership effectiveness, improvement of overall job performance and improved student outcomes; and
- to promote self-growth, instructional effectiveness, and improvement of overall professional performance.

Adopted: July 1, 1998
Revised: June 2, 2003
Revised: August 2, 2004
Revised: November 3, 2008
Revised: August 6, 2012
Revised: April 12, 2021

Legal Ref.: Code of Virginia, 1950, as amended, §§ 22.1-70, 22.1-78, 22.1-313, 22.1-253.13:7.

Cross Ref.: CBG Evaluation of the Superintendent
 GCN Evaluation of the Professional Staff
 GD Support Staff
 GDB Support Staff Employment Status
 GDG Support Staff Probationary Period
 GCPF Suspension of Staff Members

RESIGNATION OF SUPPORT STAFF MEMBERS

This policy was deleted by NKSB on 4/2/12 per
2/2012 VSBA recommendations.

SUPPORT STAFF MEMBERS: CONTRACT STATUS AND DISCIPLINE

This policy deleted per May 2012 VSBA recommendation and August 6, 2012 New Kent School Board Action.

SCHOOL BUS DRIVERS

Eligibility for Employment

Any applicant for employment operating a school bus transporting pupils must

- a. have a physical examination of a scope prescribed by the Board of Education and furnish a form prescribed by the Board of Education showing the results of such examination
- b. furnish a statement or copy of records from the Department of Motor Vehicles showing that the applicant, within the preceding five years, has not been convicted of a charge of driving under the influence of alcohol or drugs, convicted of a felony or assigned to any alcohol safety action program or driver alcohol rehabilitation program pursuant to Va. Code § [18.2-271.1](#) or, within the preceding 12 months, has not been convicted of two or more moving traffic violations or required to attend a driver improvement clinic by the Commissioner of the Department of Motor Vehicles pursuant to Va. Code § [46.2-498](#)
- c. furnish a statement signed by two reputable persons who reside in the school division or in the applicant's community that the person is of good moral character
- d. exhibit a license showing the person has successfully undertaken the examination prescribed by Va. Code § [46.2-339](#)
- e. have reached the age of 18 on the first day of the school year
- f. submit to testing for alcohol and controlled substances as required by state and federal law and regulation

Persons for whom registration with the Sex Offender and Crimes Against Minors Registry is required are not eligible for employment as a school bus driver.

Persons hired as school bus drivers must annually furnish the documents listed in (a) and (b) above prior to the anniversary date of their employment as a condition of continued employment as a school bus operator.

The New Kent County School Board requires proof of current certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of an automated external defibrillator as a condition of employment to operate a school bus transporting pupils.

The New Kent School Board does not employ drivers subject to controlled substances and alcohol testing required by federal law without first conducting a pre-employment query of the federal Drug and Alcohol Clearinghouse (the Clearinghouse) to obtain information about the driver. Drivers must give specific consent for the query.

No driver is permitted to perform any safety-sensitive functions if the results of a Clearinghouse query demonstrate that the driver has a verified positive, adulterated, or substituted controlled substances test result; has an alcohol confirmation test with a concentration of 0.04 or higher; has refused to submit to a test; or that an employer has reported actual knowledge that the driver used alcohol on duty, used alcohol before duty, used alcohol following an accident, or used a controlled substance in violation of federal regulations, except where a query of the Clearinghouse demonstrated that the driver has successfully completed the substance abuse professional (SAP) evaluation, referral, and education/treatment process required by federal regulation; achieves a negative return-to-duty test result; and completes the follow-up testing plan prescribed by the SAP.

The School Board also conducts a query of the Clearinghouse at least once per year for information for all employees subject to controlled substance and alcohol testing required by federal law and regulation to determine whether information exists in the Clearinghouse about these employees.

Drug and Alcohol Testing

Drivers are subject to drug and alcohol testing as required by state and federal law. Any driver who refuses to submit to a test shall not perform or continue to perform safety-sensitive functions. The division administers alcohol and controlled substance tests in accordance with federal laws and regulations.

Prohibited Conduct

Drivers are prohibited from alcohol possession and/or use on the job, use during the four hours before performing safety-sensitive functions, having prohibited concentrations of alcohol in their systems while on duty or performing safety-sensitive functions, and use during eight hours following an accident or until after undergoing a post-accident alcohol test, whichever occurs first.

No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substances except when the use is pursuant to the instructions of a licensed medical practitioner who is familiar with the driver's medical history and has advised the driver that the substance does not adversely affect his ability to safely operate a commercial motor vehicle.

Notification

The superintendent or superintendent's designee is responsible for providing educational materials to drivers that explain the requirements of federal regulations and the divisions' policies and procedures with regard to meeting those requirements. The superintendent or superintendent's designee ensures that a copy of the materials is distributed to each driver prior to the start of testing and to each driver subsequently hired or transferred into a position requiring driving a commercial vehicle. Those materials contain at least the following information

- the identity of the person designated by the school division to answer driver questions about the materials;
- the categories of drivers subject to this policy;
- sufficient information about the safety-sensitive functions performed by those drivers to make clear what period of the work day the driver is required to be in compliance;
- specific information concerning driver conduct that is prohibited;
- the circumstances under which a driver will be tested for alcohol and/or controlled substances, including post-accident testing;
- the procedures that will be used to test for the presence of alcohol and controlled substances, protect the driver and the integrity of the testing processes, safeguard the validity of the test results, and ensure that those results are attributed to the correct driver, including post-accident information, procedures and instructions;
- the requirement that a driver submit to alcohol and controlled substances tests;
- an explanation of what constitutes a refusal to submit to an alcohol or controlled substances test and the attendance consequences;
- the consequences for drivers found to have violated federal law or regulations, including the requirement that the driver be immediately removed from safety-sensitive functions;
- the consequences for drivers found to have an alcohol concentration level of 0.02 or greater but less than 0.04;
- information concerning the effects of alcohol and controlled substances use on an individual's health, work, and personal life; signs and symptoms of an alcohol or a controlled substances problem (the driver's or a co-worker's); and available methods of intervening when an alcohol or a controlled substances problem is suspected, including confrontation, referral to any employee assistance program and/or referral to management; an
- the requirement that the following personal information be reported to the Clearinghouse: a verified positive, adulterated, or substituted drug test result; an alcohol confirmation test with a concentration of 0.04 or higher; a refusal to submit to required tests; an employer's report of actual knowledge of on duty alcohol use, pre-duty alcohol use, post-accident alcohol use, and controlled substance use; a SAP report of the successful completion of the return-to-duty process; a negative return-to-duty test; and an employer's report of completion of follow-up testing.

Each driver must sign a statement certifying that the driver has received a copy of the above materials and the division maintains this signed copy.

Before performing each alcohol or controlled substances test, the division notifies the driver that the test is required by federal law or regulation.

Consequences of Prohibited Conduct

A driver who has engaged in conduct prohibited by federal regulation or for whom testing confirms prohibited alcohol concentration levels or the presence of a controlled substance, is removed immediately from safety-sensitive functions. Before a driver is returned to the performance of safety-sensitive functions, if at all, the driver shall undergo an evaluation by a substance abuse professional, as defined by 49 C.F.R. § 40.281, comply with any required rehabilitation and undergo a return-to-duty test with negative drug test results and/or an alcohol test with an alcohol concentration of less than 0.02.

Record Retention

The division maintains records in compliance with the federal regulations in a secure location with controlled access. With the driver's consent, the division may obtain any of the information concerning drug and alcohol testing from the driver's previous employer. A driver is entitled upon written request to obtain copies of any records pertaining to the driver's use of alcohol or controlled substances including information pertaining to alcohol or drug tests.

Records shall be made available to a subsequent employer upon receipt of a written request from a driver. Disclosure by the subsequent employer is permitted only as expressly authorized by the terms of the driver's request.

Adopted: July 1, 1998
Revised: September 4, 2002
Revised: June 6, 2005
Reviewed: January 22, 2013 – no changes
Revised: June 17, 2013
Revised: April 24, 2018
Revised: July 13, 2020

Legal Refs.: 49 U.S.C. § 31136

49 C.F.R. §§ 40.305, 382.105, 382.113, 382.201, 382.205, 382.207, 382.209, 382.213, 382.217, 382.301, 382.303, 382.401, 382.405, 382.601, 382.605, 382.701.

Code of Virginia, 1950, as amended, §§ 22.1-178, 46.2-339, 46.2-340.

Cross Ref.: GBEA Unlawful Manufacture, Distribution, Dispensing, Possession or
Use of a Controlled Substance

ACCEPTANCE OF ELECTRONIC SIGNATURES AND RECORDS

Policy Statement

Electronic or digital signatures can take many forms and can be created using many different types of technology. The authenticity and reliability of electronic signatures relating to transactions are dependent on the accompanying processes, supplemental records and the overall context in which records are created, transferred, and signed. The New Kent School Board adopts the following policy with respect to the use of electronic records and signatures in connection with its communications with parents, guardians, or other persons having control over a child enrolled in this division.

Definitions

“Attribution” – An electronic record or electronic signature is attributable to a person if it was the act of the person. The act of the person may be shown in any manner, including a showing of the efficacy of any security procedure applied to determine the person to which the electronic record or electronic signature was attributable.

“Electronic Signature” – An electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

“Electronic Record” – Any record created, generated, sent, communicated, received or stored by electronic means.

Applicability

This policy applies to parents, guardians, and other persons having control or charge of a child enrolled in the division; and also to individuals affiliated with the division, whether paid or unpaid, including but not limited to teachers, administrators, staff, students, affiliates, and volunteers.

Electronic Records

Electronic records created or received by the division shall be appropriately attributed to the individual(s) responsible for their creation and/or authorization or approval. The division shall utilize available technology to implement reliable methods for generating and managing electronic records. Any electronic record filed with or issued by the division may be given full force and effect of a paper communication if the following conditions are satisfied:

1. The communication is an electronic filing or recording and the New Kent School Board agrees to accept or send such communication electronically; and
2. If a signature is required on the record or communication by any statute, rule or other applicable law or School Board policy, the electronic signature must conform to the requirements set forth in this policy governing the use of electronic signatures.

Electronic Signatures

An electronic signature may be used if the law requires a signature unless there is a specific statute, regulation, or policy that requires records to be signed in non-electronic form. The issuance and/or acceptance of an electronic signature by the School Board may be permitted in accordance with the provisions of this policy and all applicable state and federal law. If permitted, such electronic signature shall have the full force and effect of a manual signature only if the electronic signature satisfies all of the following requirements:

1. The electronic signature identifies the individual signing the document by the individual's name and title;
2. The identity of the individual signing with an electronic signature is capable of being validated through the use of an audit trail;
3. The electronic signature and the document to which it is affixed cannot be altered once the electronic signature has been affixed;
4. The electronic signature conforms to all other provisions of this policy.

Acceptance, Use and Issuance of Electronic Records and Signatures

The School Board shall maintain an electronic recordkeeping system that can receive, store, and reproduce electronic records and signatures relating to communications and transactions in their original form. Such system should include security procedures whereby the School Board can (a) verify the attribution of a signature to a specific individual, (b) detect changes or errors in the information contained in a record submitted electronically, (c) protect and prevent access, alteration, manipulation or use by an unauthorized person, and (d) provide for nonrepudiation through strong and substantial evidence that will make it difficult for the signer to claim that the electronic representation is not valid.

The School Board shall ensure that all electronic records and signatures are capable of being accurately reproduced for later reference and retained until such time as all legally mandated retention requirements are satisfied.

The School Board shall maintain a secure hard copy log of the PIN/password or actual signature of any individual authorized to provide an electronic signature in connection with School Board business.

The School Board may receive and accept as original, electronic records and signatures so long as the communication, on its face, appears to be authentic.

Adopted: July 12, 2021

Legal Ref.: Code of Virginia, 1950, as amended §§ 22.1-79.3, 59.1-479 et seq.

Cross Ref.: JO Student Records