

HOT SPRINGS SCHOOLS 14J
Regular School Board Meeting
July 12, 2010
7:30 p.m. – High School Library

Call to Order: 7:36 p.m.

Roll:

Terry Prongua, Julie White, Kim Baker, Dirk Roosma, Frank Salmi, Carol Heath, Sean Estill, Larry Markuson and Carmen Jackson

Absent:

Sheila Matt

Visitors:

Pat Ingraham, Jennifer Christiansen, Brandy Fowler, and Ken Scovill

Non-Agenda Items:

1. Pat Ingraham spoke to the board about the proposed cuts that will be reviewed by the 2011 legislature. She is inviting local school officials to meet with her to discuss the proposed cuts and their potential impact on school districts. She would like to be able to make informed decisions when voting on the proposals in the next session.
2. Jennifer Christiansen commented on the snack program. She referenced the fresh fruits and vegetables program offered through OPI for an elementary afternoon snack. She stated the PTO would be willing to purchase water bottles for kids at the beginning of the year in-lieu of the disposable mini-water bottles the District used last year.

She also inquired as to the procedure for Board members to visit the school and if that was permissible. She was informed by Mr. Markuson that Board members, like parents, are welcome to visit the school. Administration does request a courtesy call to inform the offices of the intended visit.

PTO Parking Lot

Jennifer Christiansen gave the Board an update on the PTO's fundraising efforts for the Elementary Parking Lot Project. Jay Preston and Valley Bank both gave over \$100 and the Senior Class donated over \$1000. A bake sale will be held on Friday, July 16th from 10:00 a.m. – 2:00 p.m. in front of Buck's Grocery. The PTO is hoping to have the project completed by the start of school.

HOT SPRINGS SCHOOLS 14J
Regular School Board Meeting
July 12, 2010
7:30 p.m. – High School Library

First Call

Representatives Ken Scovill and Brandy Fowler discussed the proposed Tech Service Contract submitted to the Board at the June meeting. The contract offers \$10,000 worth of service for \$8000. If the District does not use the entire \$10,000 the balance will roll over until all the funds are used, the contract does not expire.

Trustee Baker inquired about transferring the unused balance, if any, to alleviate the costs of the monthly manager services at the end of the 2011 school year, rather than rolling it over from year to year. Ken Scovill and Brandy Fowler did not have an answer for Trustee Baker at this time.

Move to approve the purchase of the First Call Service Pack for \$10,000 worth of Technical Services for the total District Cost of \$8000.

White/Heath (P)

Minutes:

Move to approve the minutes of the June 14, 2010, Regular Board Meeting.

Baker/White (P)

Warrant Approval

1. Elementary Warrants:

- | | |
|------------------------------------|-------------|
| a. Claim Warrant #33285 – 33308 | \$20,294.49 |
| Claim Warrant #33312 – 33330 | \$34,551.90 |
| b. Payroll Warrants #33268 – 33311 | \$25,572.23 |

Baker/White (P)

2. High School Warrants:

- | | |
|------------------------------------|-------------|
| a. Claim Warrants #33285 – 33308 | \$22,168.84 |
| Claim Warrant #33312 – 33330 | \$16,409.42 |
| b. Payroll Warrants #33268 – 33311 | \$18,044.32 |

Baker/White (P)

Extracurricular Fund Review:

Move to approve the June Activity checks #13074 – 13082 (\$5803.63).

Salmi/White (P)

HOT SPRINGS SCHOOLS 14J
Regular School Board Meeting
July 12, 2010
7:30 p.m. – High School Library

Superintendent's Report:

1. Elementary Fuel Tank
 - a. Mr. Markuson would like to have the elementary heating oil fuel tank removed. This tank was used to supply the elementary boiler with fuel and is no longer needed. It would cost the District \$800 to have it removed by NorthWest Fuel Systems. Manford Tempero has expressed an interest in the tank.
Move to have the fuel tank removed by NorthWest Fuel Systems, declared as surplus property, and put it up for bid.
Baker/Roosma (P)
2. The Senior Class was willing to donate the remainder of their funds to the PTO Parking Lot Project. Randy Arnold, Senior Class President requested a “nice” sign to recognize their generosity in return.
3. Superintendent Travel –
 - a. Move to approve the Supt travel for the months of August and September, 2010.
White/Salmi (P)
4. Procurement Cards – The Procurement Card Program by MASBO distributes a rebate based on a percentage of the District's expenditures from May 2009 – April 2010. The rebate that will be presented to the District in October will be approximately \$1400. The Administration would like the Board's approval to use the Procurement Card for all purchases and monthly bills. By using the Procurement Cards the District can avoid late charges, decrease the amount of warrants written, and increase the rebate for the next year. The Board agreed to allow the use of the Procurement Cards as discussed.

Athletic Director's Report

1. District Meeting- Mr. Clairmont attended the May 18, 2010 District meeting with Mr. Hess at Quinn's. At this meeting Melinda Pablo of Arlee was elected District President. Hot Springs School District will continue to run the District Track Meet.
2. JH Schedule – The JH Schedule was finalized at the May 18th meeting. It was proposed that the county schools allow Troy and Libby to compete in the Sanders County Tournament starting in 2012 for just basketball. This topic is being discussed within the schools and Mr. Clairmont will return with more information at a later date. Also being discussed is the addition of a “B” team tournament for future County Tournaments.
3. Open gyms are being well attended by students. Groups are varying between 12-14 students per night.
4. The Montana Coaches Clinic is scheduled for August 4th – 6th in Great Falls. Almost all of the coaches and Mr. Clairmont are scheduled to attend.

HOT SPRINGS SCHOOLS 14J
Regular School Board Meeting
July 12, 2010
7:30 p.m. – High School Library

NEW BUSINESS

1. Personnel Issues

- 5th Grade – Melissa Fink – Move to hire Melissa Fink as the 5th Grade Teacher for the 2011 school year.
White/Roosma (P)
- Laura Clairmont – Title 1 Aide – Move to hire Laura Clairmont as a Title I Aide, contingent upon funding, for the 2011 school year.
White/Salmi (P)
- JH Volleyball Coach – Cristina Winebrenner – Move to hire Cristina Winebrenner as the JH Volleyball Coach for the 2011 school year.
Roosma/Baker (P)
- K-12 Counselor – The interviewing committee recommended offering Amanda Pierce a contract for the School Counseling position for the 2011 school year, with their 2nd choice being Rhonda Kinney. Move to hire Amanda Pierce as the K-12 Counselor for the 2011 school year.
Baker/Salmi (P)
- After speaking with Richard Jackson, Mr. Markuson voiced that he would be willing to step aside as the Assistant Boys Basketball Coach to allow the Board the opportunity to offer the position to Mr. Kearney. After discussion, the Board decided to honor Richard Jackson's contract.
- Head Cook- Five applications have been submitted for the Head Cook position. Trustee Prongua suggested having two noticed meetings; the first meeting to interview all cook applicants and hire the best candidate, the second to have a general discussion about the program.

Monday July 19, 2010, at 6:00 p.m. the Board will have the Special Meeting to interview and hire a Head Cook.

Wednesday, July 21, 2010, at 7:30 p.m. the Board will have a Special Meeting to discuss the Food Service Program with the public.

Recess 9:32 p.m.

Reconvene 9:40 p.m.

2. Student Handbooks

- Elementary – Move to approve the 2011 Elementary Handbook.
Baker/Salmi (P)

HOT SPRINGS SCHOOLS 14J
Regular School Board Meeting
July 12, 2010
7:30 p.m. – High School Library

- High School – Move to approve the High School Handbook with the removal of the phrase “Semester Text Exemption”.
Baker/White (P)
3. Extracurricular Stipend Payment Schedule
 - Move to approve the payment of extracurricular stipends in 2 installments through the season. The first payment to be paid as close to ½ through the season as possible, and the second payment up on completion of all duties, or upon checkout with the Athletic Director.
Salmi/Baker (P)
 4. Audit Review – The Board reviewed the 2009 Audit.
 5. Audit Contract Renewal- Two bids for the fiscal years 2010 - 2012 audit contract; Denning, Downey & Associate and Nicole Noonan.
The Board requested Mrs. Jackson to contact Denning, Downey & Associates to see if they will match the bid submitted by Nicole Noonan.
This issue will be re-visited at the July 21st Special Board Meeting.
 6. Liability Insurance Renewal- Move to approve the 3 year renewal contract with Western State Insurance for the District’s Liability Insurance.
Baker/Heath (P)
 7. Board Policy – 1st Reading (See Attached for policies)
 - 5002 Baker/White (P)
 - 5010 Baker/White (P)
 - 5012 White/Baker (P)
 - 5222 Baker/Salmi (P)
 - 5228-5228P Baker/White (P)
 - 5240 White/Baker (P)
 - 5325 Roosma/Salmi (P)
 - 5328-5238P Baker/White (P)

With the following change:
July 1st – June 30th will be the 12 month period in which an employee may qualify.

 - 5336 White/Baker
 - 5510 Baker/Salmi –
With the following change:
Appoint Privacy Officer as Carmen Jackson
 8. Deferred Maintenance & Energy Efficiency Projects –
 - Move to approve the repairs to the old gym boiler and the installation of the air conditioner in the server room.

HOT SPRINGS SCHOOLS 14J
Regular School Board Meeting
July 12, 2010
7:30 p.m. – High School Library

Baker/Salmi (P)

- The Multi-purpose room and Kitchen re-roof bids will be revisited at the Special Board meetings. The Board would like to contact Bill Massey and request that he submit a bid for the project as well.

August Agenda Items

1. Valedictorian Qualification
2. Student Activity Meal Allowance

Adjourn: 11:16pm

Chairman

Clerk

HOT SPRINGS SCHOOLS 14J
Regular School Board Meeting
July 12, 2010
7:30 p.m. – High School Library

5002 Accommodating Individuals with Disabilities

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

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

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

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

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

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

Cross Reference: 1700 Uniform Complaint Procedure

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

Policy History:

Adopted on:

Reviewed on:

Revised on:

HOT SPRINGS SCHOOLS 14J
Regular School Board Meeting
July 12, 2010
7:30 p.m. – High School Library

5010 Equal Employment Opportunity and Non-Discrimination

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

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

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

Cross Reference: 1700 Uniform Complaint Procedure

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

Policy History:

Adopted on:

Reviewed on:

Revised on:

HOT SPRINGS SCHOOLS 14J
Regular School Board Meeting
July 12, 2010
7:30 p.m. – High School Library

5012 Sexual Harassment/Sexual Intimidation in the Workplace

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

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

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

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

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

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

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

HOT SPRINGS SCHOOLS 14J
Regular School Board Meeting
July 12, 2010
7:30 p.m. – High School Library

Cross Reference: 1700 Uniform Complaint Procedure

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

Policy History:

Adopted on:

Reviewed on:

Revised on:

HOT SPRINGS SCHOOLS 14J
Regular School Board Meeting
July 12, 2010
7:30 p.m. – High School Library

Evaluation of Non-Administrative Staff

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

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

Policy History:

Adopted on:

Reviewed on:

Revised on:

HOT SPRINGS SCHOOLS 14J
Regular School Board Meeting
July 12, 2010
7:30 p.m. – High School Library

5228 Drug and Alcohol Testing for School Bus and Commercial Vehicle Drivers

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

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

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

Policy History:

Adopted on:

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HOT SPRINGS SCHOOLS 14J
Regular School Board Meeting
July 12, 2010
7:30 p.m. – High School Library

5228P Drug and Alcohol Testing for School Bus and Commercial Vehicle Drivers

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

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

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

Pre-Employment Tests

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

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

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

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

Post-Accident Tests

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

4. Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved loss of human life; or

HOT SPRINGS SCHOOLS 14J
Regular School Board Meeting
July 12, 2010
7:30 p.m. – High School Library

5. Who receives a citation under state or local law, for a moving traffic violation arising from the accident.

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

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

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

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

Random Tests

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

Reasonable Suspicion Tests

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

Alcohol tests are authorized for reasonable suspicion only if the required observations are made

HOT SPRINGS SCHOOLS 14J
Regular School Board Meeting
July 12, 2010
7:30 p.m. – High School Library

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

A supervisor or District official who makes observations leading to a controlled substance reasonable suspicion test shall make a written record of his/her observations within twenty-four (24) hours of the observed behavior or before the results of the drug test are released, whichever is earlier.

Enforcement

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

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

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

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

Return-to-Duty Tests

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

HOT SPRINGS SCHOOLS 14J
Regular School Board Meeting
July 12, 2010
7:30 p.m. – High School Library

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

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

Follow-Up Tests

A driver who violates the District's drug or alcohol prohibition and is subsequently identified by a substance abuse professional as needing assistance in resolving a drug or alcohol problem shall be subject to unannounced follow-up testing as directed by the substance abuse professional in accordance with law. Follow-up alcohol testing shall be conducted just before, during, or just after the time when the driver is performing safety-sensitive functions.

Records

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

Notifications

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

1. The person designated by the District to answer driver questions about the materials;
2. The categories of drivers who are subject to the Code of Federal Regulations, Title 49, Part 382;
3. Sufficient information about the safety-sensitive functions performed by drivers to make clear what period of the work day the driver is required to comply with Part 382;

HOT SPRINGS SCHOOLS 14J
Regular School Board Meeting
July 12, 2010
7:30 p.m. – High School Library

4. Specific information concerning driver conduct that is prohibited by Part 382;
5. The circumstances under which a driver will be tested for drugs and/or alcohol under Part 382;
6. The procedures that will be used to test for the presence of drugs and alcohol, protect the driver and the integrity of the testing processes, safeguard the validity of test results, and ensure that test results are attributed to the correct driver;
7. The requirement that a driver submit to drug and alcohol tests administered in accordance with Part 382;
8. An explanation of what constitutes a refusal to submit to a drug or alcohol test and the attendant consequences;
9. The consequences for drivers found to have violated the drug and alcohol prohibitions of Part 382, including the requirement that the driver be removed immediately from safety-sensitive functions and the procedures for referral, evaluation, and treatment; The consequences for drivers found to have an alcohol concentration of 0.02 or greater but less than 0.04; and
11. Information concerning the effects of drugs and alcohol on an individual's health, work, and personal life; signs and symptoms of a drug or alcohol problem (the driver's or a coworker's); and available methods of intervening when a drug or alcohol problem is suspected, including confrontation, referral to an employee assistance program, and/or referral to management.

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

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

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

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

HOT SPRINGS SCHOOLS 14J
Regular School Board Meeting
July 12, 2010
7:30 p.m. – High School Library

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

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

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

Procedure History:

Promulgated on:

Reviewed on:

Revised on:

HOT SPRINGS SCHOOLS 14J
Regular School Board Meeting
July 12, 2010
7:30 p.m. – High School Library

5240 Resolution of Staff Complaints/Problem-Solving

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

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

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

Cross Reference: 1700 Uniform Complaint Procedure

Policy History:

Adopted on:

Reviewed on:

Revised on:

HOT SPRINGS SCHOOLS 14J
Regular School Board Meeting
July 12, 2010
7:30 p.m. – High School Library

5325 Breastfeeding Workplace

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

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

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

Legal Reference: Title 39, Chapter 2, Part 2, MCA General Obligations of Employers

Policy History:

Adopted on:

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Revised on:

HOT SPRINGS SCHOOLS 14J
Regular School Board Meeting
July 12, 2010
7:30 p.m. – High School Library

5328 Family Medical Leave

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

Servicemember Family Leave

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

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

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

The Board has determined that the twelve-(12)-month period during which an employee may take FMLA leave is: **1) July 1 to June 30 or other specific dates;** ~~2) the calendar year; 3) twelve (12) months forward from the date of a particular employee's first FMLA leave; or 4) twelve (12) months backward from the date of FMLA leave.~~ PICK ONE

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

HOT SPRINGS SCHOOLS 14J
Regular School Board Meeting
July 12, 2010
7:30 p.m. – High School Library

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

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

Policy History:

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HOT SPRINGS SCHOOLS 14J
Regular School Board Meeting
July 12, 2010
7:30 p.m. – High School Library

5328P Eligibility for Family Medical Leave

Who Is Eligible

Employees are eligible if they have worked for the District for at least one (1) year, and for one thousand two hundred fifty (1,250) hours over the previous twelve (12) months, and if there have been at least fifty (50) District employees within seventy-five (75) miles for each working day during twenty (20) or more workweeks in the current or preceding calendar year.

Benefit

Under certain conditions, eligible employees, if qualified, may be entitled to up to twelve (12) weeks or twenty-six (26) weeks leave with continuing participation in the District's group insurance plan.

Reasons for Taking Leave

Unpaid leave will be granted to eligible employees for any of the following reasons:

- a. To care for the employee's child after birth, or placement for adoption or foster care;
- b. To care for the employee's spouse, child, or parent (does not include parents-in-law) who has a serious health condition;
- c. For a serious health condition that makes the employee unable to perform the employee's job;

Military Family Leave

- a. Military caregiver leave
 1. An eligible employee who is a relative of a servicemember can take up to twenty-six (26) weeks in a twelve-(12)-month period in order to care for a covered servicemember who is seriously ill or injured in the line of duty.
- b. Qualified exigency leave (only applies to eligible employees with family members who are in the National Guard or Reserves, not the Regular Armed Forces)
 1. An eligible employee can take up to the normal twelve (12) weeks of leave, if a family member who is a member of the National Guard or Reserve is called up to active duty on a contingency mission.
 2. Qualifying exigencies include:
 - a. Short-notice deployment;
 - b. Military events and related activities;
 - c. Childcare and school activities;

HOT SPRINGS SCHOOLS 14J
Regular School Board Meeting
July 12, 2010
7:30 p.m. – High School Library

- d. Financial and legal arrangements;
- e. Counseling;
- f. Rest and recuperation;
- g. Post-deployment activities; and
- h. Additional activities agreed to by the employer and the employee.

Substitution of Paid Leave

Paid leave will be substituted for unpaid leave under the following circumstances:

- a. Accumulated sick/personal leave will be utilized concurrently with any FMLA leave that is taken for a serious health reason as described in (b) or (c) above.
- b. Accumulated vacation/personal leave will be utilized concurrently with any FMLA leave that is taken for a family reason as described in (a) above.
- c. Accumulated sick leave will be utilized concurrently with FMLA leave, whenever the FMLA leave is taken for reasons which qualify for sick leave benefits pursuant to District policy or an applicable collective bargaining agreement.
- d. Whenever appropriate workers' compensation absences shall be designated FMLA leave.
- e. Servicemember FMLA runs concurrent with other leave entitlements provided under federal, state, and local law.

When Both Parents Are District Employees

If both parents of a child are employed by the District, they each are entitled to a total of twelve (12) weeks of leave per year. However, leave may be granted to only one (1) parent at a time, and only if leave is taken: (1) for the birth of a child or to care for the child after birth; (2) for placement of a child for adoption or foster care, or to care for the child after placement; or (3) to care for a parent (but not a parent-in-law) with a serious health condition.

If spouses are employed by the same employer, the aggregate number of weeks of leave that can be taken is twenty-six (26) weeks in a single twelve-(12)-month period for serviceperson leave or a combination of exigency and serviceperson leave. The aggregate number of weeks of leave that can be taken by a husband and wife who work for the same employer is twelve (12) weeks if for exigency leave only.

Employee Notice Requirement

The employee must follow the employer's standard notice and procedural policies for taking FMLA.

HOT SPRINGS SCHOOLS 14J
Regular School Board Meeting
July 12, 2010
7:30 p.m. – High School Library

Employer Notice Requirement (29 C.F.R. § 825.300)

Employers are required to provide employees with notice explaining the FMLA through a poster and either a handbook or information upon hire. If an employee requests FMLA leave, an employer must provide notice to the employee within five (5) business days of whether the employee meets the FMLA eligibility requirements. If an employee is not eligible to take FMLA, the employer must provide a reason. The employer must also provide a rights and responsibilities notice outlining expectations and obligations relating to FMLA leave. If FMLA leave is approved by the employer, it must provide the employee with a designation notice stating the amount of leave that will be counted against an employee's FMLA entitlement.

Notice for Leave Due to Active Duty of Family Member

In any case in which the necessity for leave is foreseeable, whether because the spouse or a son, daughter, or parent of the employee is on active duty or because of notification of an impending call or order to active duty in support of a contingency operation, the employee shall provide such notice to the employer as soon as is reasonable and practicable.

Requests

A sick leave request form is to be completed whenever an employee is absent from work for more than three (3) days or when an employee has need to be absent from work for continuing treatment by (or under the supervision of) a health care provider.

An employer may require that a request for leave be supported by a certification issued at such time and in such manner as the Secretary may by regulation prescribe. If the Secretary issues a regulation requiring such certification, the employee shall provide, in a timely manner, a copy of such certification to the employer.

Medical Certification

The District will require medical certification to support a request for leave or any other absence because of a serious health condition (at employee expense) and may require second (2nd) or third (3rd) opinions (at the employer's expense) and a fitness-for-duty report or return-to-work statement.

Intermittent/Reduced Leave

FMLA leave may be taken "intermittently or on a reduced leave schedule" under certain circumstances. Where leave is taken because of birth or placement of a child for adoption or foster care, an employee may take leave intermittently or on a reduced leave schedule only with

HOT SPRINGS SCHOOLS 14J
Regular School Board Meeting
July 12, 2010
7:30 p.m. – High School Library

District approval. Where FMLA leave is taken to care for a sick family member or for an employee's own serious health condition, leave may be taken intermittently or on a reduced leave schedule when medically necessary. An employee may be reassigned to accommodate intermittent or reduced leave. When an employee takes intermittent leave or leave on a reduced leave schedule, increments will be limited to the shortest period of time that the District's payroll system uses to account for absences or use of leave.

Insurance

An employee out on FMLA leave is entitled to continued participation in the appropriate group health plan, but it is incumbent upon the employee to continue paying the usual premiums throughout the leave period. An employee's eligibility to maintain health insurance coverage will lapse if the premium payment is more than thirty (30) days late. The District will mail notice of delinquency at least fifteen (15) days before coverage will cease.

Return

Upon return from FMLA leave, reasonable effort shall be made to place the employee in the original or equivalent position with equivalent pay, benefits, and other employment terms.

Recordkeeping

Employees, supervisors, and building administrators will forward requests, forms, and other material to payroll to facilitate proper recordkeeping.

Summer Vacation

The period during the summer vacation or other scheduled breaks (i.e., Christmas) an employee would not have been required to work will not count against that employee's FMLA leave entitlement.

SPECIAL RULES FOR INSTRUCTIONAL EMPLOYEES

Leave More Than Five (5) Weeks Before End of Term

If an instructional employee begins FMLA leave more than five (5) weeks before the end of term, the District may require the employee to continue taking leave until the end of a semester term, if:

HOT SPRINGS SCHOOLS 14J
Regular School Board Meeting
July 12, 2010
7:30 p.m. – High School Library

- a. The leave is at least three (3) weeks; and
- b. The employee's return would take place during the last three-(3)-week period of the semester term.

Leave Less Than Five (5) Weeks Before End of Term

If an instructional employee begins FMLA leave for a purpose other than that employee's own serious health condition less than five (5) weeks before the end of term, the District may require the employee to continue taking leave until the end of a semester term, if:

- a. The leave is longer than two (2) weeks; and
- b. The employee's return would take place during the last two-(2)-week period of the semester term.

Leave Less Than Three (3) Weeks Before End of Term

If an instructional employee begins FMLA leave for a purpose other than that employee's own serious health condition less than three (3) weeks before the end of term, the District may require the employee to continue taking leave until the end of the academic term if the leave is longer than five (5) days.

Intermittent or Reduced Leave

Under certain conditions, an instructional employee needing intermittent or reduced leave for more than twenty percent (20%) of the total working days over the leave period may be required by the District to:

- a. Take leave for a period(s) of particular duration not to exceed the duration of treatment;
or
- b. Transfer to an alternate but equivalent position.

Procedure History:

Promulgated on:

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HOT SPRINGS SCHOOLS 14J
Regular School Board Meeting
July 12, 2010
7:30 p.m. – High School Library

5336 Compensatory Time and Overtime for Classified Employees

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

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

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

***NOTE:** Please be advised that comp time is not required. If a district adopts a comp time policy, there are basically two (2) types of employees: 1) Those who are covered before the policy was adopted need to be treated on a case-by-case basis, and the agreement to allow comp time must be entered into before the work is performed. 2) Those hired after the policy is in place – the Department of Labor has determined that the employee agreed to the policy. Some experts have said comp time is a credit card, not a savings account. The employee has broad latitude to decide when the time will be taken.*

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

Policy History:

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HOT SPRINGS SCHOOLS 14J
Regular School Board Meeting
July 12, 2010
7:30 p.m. – High School Library

5510 HIPAA

Note:

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

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

Background

Health Insurance Portability and Accountability Act of 1996 (HIPAA)

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

The HIPAA Privacy Rule

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

The standards found in the Privacy Rule are designed to protect and guard against the misuse of individually identifiable health information, with particular concern regarding employers using

HOT SPRINGS SCHOOLS 14J
Regular School Board Meeting
July 12, 2010
7:30 p.m. – High School Library

an employees (or dependent's) health information from the group health plan to make adverse employment-related decisions. The Privacy Rule states that verbal, written, or electronic information that can be used to connect a person's name or identity with medical, treatment, or health history information is Protected Health Information (PHI) under the HIPAA Privacy Rule.

Under the HIPAA Privacy Rule:

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

Compliance

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

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

HOT SPRINGS SCHOOLS 14J
Regular School Board Meeting
July 12, 2010
7:30 p.m. – High School Library

Plan participants are entitled to receive a copy of the plan's policies and procedures upon request.

Designating a limited number of privacy contacts allows the District to control who is receiving PHI from the contract claims payor for plan operations purposes. The contract claims payor will provide only the minimum PHI necessary for the stated purpose and, as required under the Privacy Rule, will provide PHI only to individuals with a legitimate need to know for plan operations purposes.

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

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

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

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

In order to comply with the new privacy regulations, the plan has implemented compliant

HOT SPRINGS SCHOOLS 14J
Regular School Board Meeting
July 12, 2010
7:30 p.m. – High School Library

communication procedures. Except for its use in legitimate healthcare operations, written permission will be required in order for the District to disclose PHI to or discuss it with a third party.

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

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

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

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

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

HOT SPRINGS SCHOOLS 14J
Regular School Board Meeting
July 12, 2010
7:30 p.m. – High School Library

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

Complaints

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

Carmen Jackson, Business Manager
Hot Springs School District
PO Box 1005
Hot Springs, MT 59845

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