

# CAPITAN MUNICIPAL SCHOOLS BOARD OF EDUCATION

## SECTION I STUDENTS

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## **I.1 Student Policy Goals and Objectives**

The CMS Board of Education seeks to promote and advance the following goals for all students:

- To enhance equal educational opportunities.
- To promote regular, daily attendance.
- To ensure the constitutional rights of students as citizens in a democracy have practical meaning and application.
- To develop in students a deep sense of personal responsibility for their actions.
- To attend vigorously to matters of student safety, health, and welfare.
- To deal justly and constructively in matters of discipline.
- To develop in students a personal philosophy of caring for self and others.
- To help students feel that they are valued as individual persons in the school environment.

*Adopted: December 2009*

## **I.2 Equal Educational Opportunity**

The right of a student to participate fully in classroom instruction shall not be abridged or impaired because of race, color, religion, sex, sexual orientation, age, national origin, or disability, or any other reason not related to the student's individual capabilities.

The right of students to participate in extracurricular activities shall be dependent only upon their maintaining the minimum academic and behavioral standards established by the Board and the student's individual ability in the extracurricular activity.

### **I.2-A Compliance Officer**

The Superintendent shall be the compliance officer. Any person who feels unlawfully discriminated against or to have been the victim of unlawful discrimination by and agent or employee of the District or who know of such discrimination against another person should file a complaint with the superintendent. If the Superintendent is the one alleged to have unlawfully discriminated, the complaint shall be filed with the President of the Board.

### **I.2-B Complaint Procedure**

The District is committed to investigating each complaint and to taking appropriate action on all confirmed violations of policy. The Superintendent shall investigate and document complaints filed pursuant to this regulation as soon as reasonable. In investigating the complaint, the Superintendent will maintain confidentiality to the extent reasonably possible.

If the person alleged to have violated policy is a student, the Superintendent may impose discipline in accordance with District policy.

If the Superintendent's investigation reveals no reasonable cause to believe policy has been violated the Superintendent shall so inform the complaining party in writing.

### **I.2-C Timelines**

The complaint must be filed within thirty (30) calendar days of the time the complaining party knows or should have known that there were grounds for a complaint/grievance.

Once the written complaint has been filed using the forms provided in policy, the Superintendent, immediate supervisor, or building administrator has five (5) working days to investigate and respond in writing to the complaining party.

If the immediate supervisor or building administrator does not respond, the complaining party can then file the report with the Superintendent. The Superintendent will have ten (10) working days to respond in writing to the complaining party.

If the Superintendent does not respond within the ten (10) days, then the complaining party may bring the complaint before the board. They will then review and have thirty (30) calendar days to respond to the complaining party in writing.

*Adopted: December 2009*

### **I.3 Student Attendance**

The parent/guardian is charged by law with responsibility for the student's school attendance. The Superintendent will enforce the laws regarding attendance, with consideration for the variables that affect children and families. The Superintendent will place emphasis on the prevention and correction of the causes of absenteeism.

#### **I.3-A Student Attendance Records**

Each time a class meets the teacher shall check and formally record according to school procedures the attendance of all students assigned to the class or program for that period of instruction. The name of any absent student shall be entered on the prescribed attendance/absence report for submission to the office.

The building Principal is accountable for assuring that accurate and timely daily records of student membership and attendance are maintained and reported.

#### **I.3-B Policy Statements in Student Handbooks**

Each building will publish annually a student handbook, to be approved by the Board, which includes specific absence policies for:

- Type and number of absences allowed per semester;
- Parental justification requirements;
- Make-up work requirements;
- Parent notification of excessive absence requirements;
- Absences due to school activities or religious holidays; and
- Attendance appeal process.

*Adopted: December 2009*



## **I.4 Compulsory Attendance Ages**

A “school-age person” means a person who is at least five (5) years of age prior to 12:01 a.m. on September 1 of the school year and who has not received a high school diploma or its equivalent.

Any parent, guardian, or person having custody and control of a person subject to the provisions of the Compulsory School Attendance Law is responsible for the school attendance of that person until that person has reached at least eighteen (18) years of age unless the person has graduated or received a general educational development (GED) certificate.

A person shall be excused from this requirement if, with the written signed permission of the parent, guardian, or person having custody and control of the person to be excused, the person is excused from the provisions of this section by the Superintendent of schools for a hardship.

The school-age person shall attend school for at least the length of time of the school year that is established in the District in which the child is a resident. The District shall not excuse a student from attending school except as provided in the Compulsory School Attendance law or for authorized medical reasons.

### **I.4-A Special Preschool**

A child evaluated and recommended for special services for a disability in accord with statute, and who is at least three (3) years of age at any time during the school year, may be admitted to the 3Y-4Y program.

### **I.4-B Kindergarten**

A “school-age person” means a person who is at least five (5) years of age prior to 12:01 a.m. on September 1 of the school year.

### **I.4-C High School**

A person who has not received a high school diploma or its equivalent and qualifies on the basis of standards and qualifying examination may enter high school.

*Adopted: December 2009*

## **I.5.0 Student Admissions**

The person enrolling a student (except homeless students) in the school for the first time will be asked to produce one (1) of the following proofs:

- A certified copy of the child’s birth certificate.
- Other reliable proof of the student’s identity and age, including the student’s baptismal certificate, an application for a Social Security number, or original school registration along with an affidavit explaining the inability to provide a copy of the birth certificate.
- A letter from the authorized representative of an agency having custody of the student certifying that the student has been placed in the custody of the agency as prescribed by law.

The parent/guardian or surrogate will be given thirty (30) calendar days to provide documentation requested as listed above. If documentation is not provided, a letter will be sent to notify the parent/guardian or surrogate that unless the documentation is provided within ten (10) days, the local law enforcement agency will be notified.

Nothing in this policy shall authorize the school to disclose to any person a student's educational record without prior parental consent unless the school makes a determination that disclosure of such records is necessary to protect the health and safety of the student.

*Adopted: December 2009*

### **I.5.1 Admission of Resident Students**

A student who is a resident of the District and who meets the applicable requirements established by state law shall be admitted to the school.

The residency of a student, natural or adoptive parent, or other person to whom custody of the student has been granted by court order shall be based upon evidence of the individual's physical presence and intent to remain in the District. Such evidence of residency may include, without limitation, landlord-tenant agreements, rent receipts, and receipts for utility payments. A post office box may not be used for proof of residency. Resident students are described as follows:

- A student who is in the legal custody of a natural or adoptive parent or other person to whom custody has been granted by a court order and who resides with the parent or other person in the District.
- A student who is an emancipated minor and whose place of residence is in the District. When determining whether a minor is emancipated, the Superintendent will consider such factors as whether the student is married, financially independent, and residing away from the family domicile with parental consent.
- A student who is seventeen (17) years of age or older and whose place of residence is in the District.
- A student who is homeless, and who attended school in the District at the time of becoming homeless.

A student found to have an invalid enrollment may be disenrolled from school in accordance with the procedures set forth in Section 6.10.4.9 NMAC.

*Adopted: December 2009*

### **I.5.2 Admission of Non-Resident Students**

For purposes of open enrollment a "nonresident pupil" means a student who is enrolled in or is seeking enrollment in a school district other than the district in which the student resides.

#### **I.5.2-A New Mexico Student**

A student who is not a resident of the District but is a resident of New Mexico who meets the age and other requirements for open enrollment established by state law and District policy may be admitted to a school without payment of tuition.

### **I.5.2-B Out of State Resident Student**

Out of state school age persons may be admitted when there are sufficient school accommodations to provide for them and tuition may be charged. The tuition shall not exceed the amount generated by the public school fund for school-age persons similarly situated within the District for the current year. The amount of the tuition payable for the school year may be reduced by the District average ad valorem tax per pupil as determined by the ad valorem tax credit utilized in calculating state equalization guarantee (SEG) distribution if the parent/guardian for the student pays an ad valorem property tax for school purposes within the District.

*Adopted: December 2009*

### **I.5.3 Admission of Exchange and Foreign Students**

Foreign exchange students from a recognized/accredited exchange program will be accepted but must have prior approval. They must enroll for a full year, must take a full load of classes, will be bound by the same attendance standards as resident students, and are not eligible for honors such as valedictorian. They will be eligible to participate in graduation exercises if they complete their entire final year of secondary schooling at Capitán High School and have fulfilled all graduation requirements.

*Adopted: December 2009*

### **I.5.4 Admission/Placement of Transfer Students**

#### **I.5.4.1 Elementary/Middle School Students**

For a student transferring from an accredited program, academic credit for placement in the elementary school (K-5) and middle school (6-8) subjects and grades shall be based upon teacher recommendations and previous grade level assignments. These assignments are subject to the determination that the student can meet the standards adopted by the Secretary of Public Education for the grade level assignment. The school may employ a variety of assessment/achievement tests to determine if the student is meeting standards.

Students transferring from a non-accredited school or home-school will be placed upon the recommendation of a screening committee. The screening committee will be comprised of two grade level teachers, the principal, and parents. The decision for placement by the screening committee will be final. The screening committee will use the following as criteria and process for placement:

- Review of the curriculum and student performance within that curriculum;
- Review of curriculum tests (unit, nine weeks, or semester) to ensure that the student was performing at grade level;
- Review of any standardized test scores;
- Review of documentation to assure the amount of time spent on instructional activities;
- Review of any other material which will assist the committee in accurate grade placement of the student.

#### **I.5.4.2 High School Students Credit Transfer**

Each student who enrolls and requests the transfer of academic credits to fulfill graduation requirements shall be provided with a list specifying the courses for which credit has been accepted for graduation and those for which credit has been denied by the District. All transfer courses credited for graduation must meet the standards adopted by the Secretary of Public Education where such standards exist or the District in the absence of state adopted standards.

##### **I.5.4.2-A Credit from Accredited Schools or Programs**

Credits from schools that are accredited by a Public Education Department in the United States, its territories, or the Department of Defense shall be transferable with no loss of value. Students who have received a grade recorded as “Satisfactory (S)” or “Pass (P)”, will be given credit for completing the course, but the grade will not be computed in the grade point average.

Transferred credit from correspondence courses, foreign study, home study, or non Public Education Department accredited nonpublic schools that satisfies the following criteria will be acceptable for fulfilling District graduation requirements:

- The credit was from a course taught by a teacher licensed by the State of New Mexico.
- Awarding of the credit was based upon instruction and an assessment that meets the standards adopted by the Secretary of Public Education and evidence of the student having achieved the standards is provided.
- The credit was awarded by a school accredited by one (1) of the following accrediting agencies of colleges and schools and meets standards adopted by the state where the credit was granted:
  - North Central Association
  - Southern Association
  - Middle States Association
  - New England Association
  - Northwestern Association
  - Western Association
- Credits earned through correspondence or extension study may be accepted if such credits are from school accredited by the National Home Study Council, the State Board of Education of the State in which they are located, or by a college or university which is regionally accredited for such purposes.

##### **I.5.4.2-B Credit from Non-Accredited Schools or Programs**

Transfer credits from non-accredited high schools or home schools, if accepted, will be accepted on a Satisfactory (S)/Unsatisfactory (U) basis. Other letter grades will not be awarded for grades from non-accredited sources.

Credits from a non-accredited school will be reviewed by a screening committee comprised of four core teachers, the high school counselor, the high school Principal, and parents. The decision for acceptance or denial of credits by the screening committee will be final. The criteria for acceptance or denial of credits will be:

- Review of the curriculum and student performance within that curriculum;
- Review of curriculum tests (unit, nine weeks, or semester) to ensure that the student was performing at grade level;

- Review of any standardized test scores;
- Review of documentation to assure the amount of time spent on instructional activities;
- Review of any other material which will assist the committee in accurate grade placement of the student;

Grades provided by a non-accredited school (private, public or home) in which there is no documented proof of student completion of a specific curriculum will result in a denial of credit. The student may request and take a final examination on the course subject matter designed and evaluated by a teacher licensed to teach the subject matter of the course selected by the Superintendent. Course credit will be granted if a satisfactory (passing) score is earned. If the student fails the exam and earns a grade of “U”, no credit is earned and the student must enroll in the course to receive credit.

### **I.5.4.3 Class Ranking for Transfer Students**

The CMS Board of Education establishes the following criteria for class ranking of transfer students:

- Students must attend the last four (4) consecutive semesters at Capitan High School to be ranked numerically and be considered for Valedictorian and Salutatorian.
- Students who transfer to Capitan High School in grades 11-12 from a non-accredited school (private, public, or home school) will not be eligible for class ranking and will therefore not be eligible for Valedictorian or Salutatorian.

*Adopted: December 2009*

## **I.5.5 Admission of Homeless Students**

This section is intended to provide compliance with New Mexico State Laws and New Mexico Administrative Code and the McKinney-Vento Homeless Education Assistance Improvements Act of 2001.

### **I.5.5.1 Definitions**

#### **I.5.5.1-A Homeless Student**

The term “homeless student” means individuals who lack a fixed, regular, and adequate nighttime residence and includes:

- students who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodation, are living in emergency or transitional shelters; are abandoned in hospital, or are awaiting foster care placement;
- students who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;
- students who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
- migratory students who qualify as homeless because the children are living in circumstances described above.

#### **I.5.5.1-B School of Origin**

The school of origin means the school that the student attended when permanently housed or the school in which the student was last enrolled.

#### **I.5.5.1-C Unaccompanied Youth**

An unaccompanied youth includes a youth not in the physical custody of a parent or guardian.

#### **I.5.5.2 Liaison for Homeless Students**

The Director of Special Programs shall serve as liaison for homeless students. The liaison will coordinate activities and programs in the best interest of homeless students that will include, but not be limited to, establishment of procedures to continue the student's education in the school or origin for the duration of homelessness in the following situation:

- in any case in which a family becomes homeless between academic years or during an academic year; or
- for the remainder of the academic year, if the student becomes permanently housed during an academic year; or
- assist in enrolling the student in any public school that non-homeless students who live in the attendance area in which the student is actually living are eligible to attend.

#### **I.5.5.3 Enrollment of Homeless Students**

The following guidelines shall be used when enrolling homeless students:

- The district in which the student is currently domiciled shall admit the student even if the student is unable to produce records normally required for enrollment such as previous academic records, medical records, proof of residency, or other documentation.
- The school shall immediately contact the school last attended by the student to obtain relevant academic and other records.
- If the student needs to obtain immunizations, or immunization or medical records, the enrolling school shall immediately refer the parent/guardian or unaccompanied student to the liaison who shall assist in obtaining necessary immunizations or immunization or medical records.

#### **I.5.5.4 Disputes with Enrollment**

When enrolling a homeless student, the parents/guardians are informed of the educational and related opportunities available to their children and are provided with meaningful opportunities to participate in the education of their children. Should a dispute arise over the enrollment, the dispute may be mediated in the following manner:

- Provide the parent/guardian or unaccompanied student with written explanation of the school's decision regarding the enrollment and inform the parent/guardian or unaccompanied student of the right to appeal the decision if so desired.
- The Principal of the school in which the student enrolled shall forward the Admission of Homeless Students Complaint Form (Appendix I- 1) to the District Liaison. The liaison shall determine if the decision not to enroll or to disenroll the student is appropriate.
- If the decision is contrary to the homeless parent or child and the party involved wishes to appeal, the information regarding the decision shall be provided to the Public Education

Department State Coordinator for Education of Homeless Children and Youths and shall include the following information:

- School name, address, phone, and fax number;
- Student's name, ID number, grade, and address;
- Parent/guardian or complaining party's name, relationship to student, address, and phone number;
- Whether the student lives in a shelter;
- Whether school enrolled in is the school of origin;
- Reason for complaint;
- Signature of parent/guardian or complaining party; and
- The Principal's actions on the complaint.

The party appealing the decision will be provided with the contact information for the PED Coordinator for Education of Homeless Children and Youths:

McKinney-Vento Homeless Education Program Coordinator  
New Mexico Public Education Department  
School and Family Support Bureau  
Workforce Training Center  
5600 Eagle Rock Ave, N.E., Rm. 201  
Albuquerque, NM 87113

Telephone: (505) 222-4743

*Adopted: December 2009*

## **I.6 Adult Students**

A student who has reached their 18<sup>th</sup> birthday will be treated as an adult with respect to parental or official contacts.

*Adopted: December 2009*

## **I.7.0 Open Enrollment**

The District has an open-enrollment program as set forth in 22-1-4 NMSA 1978.

*Adopted: December 2009*

## **I.7.1 Admission Standards**

A student who has been expelled by any school district or private school in the United States or any student whose behavior in another school district or private school in the United States during the proceeding twelve months is determined to be detrimental to the welfare or safety of other students or school employees will be denied enrollment to Capitan Municipal Schools.

Acceptance for enrollment may be revoked upon finding the existence of any of these conditions.

*Adopted: December 2009*

### **I.7.2 Boundaries**

The Capitan Municipal Schools' boundaries are defined by the District boundaries plat thereof filed in the office of the County Clerk of Lincoln County, New Mexico, ***SUBJECT*** to easements, restrictions, reservations, and boundary agreements of record.

An out of district student means a pupil who resides in this state and who is seeking enrollment in a district other than the district in which the student resides.

*Adopted: December 2009*

### **I.7.3 Enrollment Priority Levels**

The District defines the following priorities for enrollment:

- **First Priority** – Students residing within the district boundaries. Students who were enrolled on May 23, 1998, but lived out-of-district, will be grandfathered into the classification of “First Priority”.
- **Second Priority** – Students who reside outside the district boundaries but have previously attended the School District (*within the context of a free public education, the term “previously attended” means previously enrolled and recorded as present on the official attendance record of the school as of the official last day of school*).
- **Third Priority** – All other applicants.

*Adopted: December 2009*

### **I.7.4 Enrollment Criteria**

Students that apply for enrollment to the District will be enrolled by the following criteria:

- First Priority Students (in-district students)
- Second priority students will be entitled to enroll when the maximum allowable class size is not met or exceeded.
- Third priority students will be entitled to enroll when the maximum allowable size is not met or exceeded and there are no existing second priority students waiting for enrollment.

*Adopted: December 2009*

### **I.7.5 Waiting List**

The School District will maintain a waiting list of second and third priority students based on a date of completed application.

*Adopted: December 2009*

### **I.7.6 Out of District Attendance Application**

An out of district attendance application form shall be completed for each out of district student wishing to enroll in the District. This form can be found in Appendix I - 2.

All out of district students must reapply annually. This attendance application form will be sent to the parent/guardian at the mailing address provided to the school for completion. Each school



will mail this application form by May 1 each year. Should the application form not be returned to the school by June 1, the District will assume the out of district student will not be reapplying for enrollment.

Admission of a student for a particular school year or remainder thereof creates no expectations that the student will be permitted to continue in the District for a succeeding school year or that he/she has any priority over other out of district applicants seeking admission in future years, except as identified in Section I.6.2.

Out of district students must meet the same enrollment requirements of the District as all other student enrolled in the District.

*Adopted: December 2009*

### **I.7.7 Considerations**

In admitting out of district students to the District, the Superintendent or designee may give consideration to whether admission of that student will place a disproportionate demand on the resources of the District, special circumstances making admission of particular benefit to the applicant, projections of future demand on the resources of the District from current or projected resident students and any other factors deemed appropriate. In making this determination, the Superintendent or designee may rely on interviews, inquiries, recommendations, review of grades and other records from other school districts, personal knowledge, PED class load requirements, and any other factors likely to assist him/her.

*Adopted: December 2009*

### **I.7.8 Termination of Enrollment**

Once admitted to the District, a student shall be subject to all the rights and responsibilities of resident students. A student's enrollment in the District may be terminated by the Superintendent at any time and for any reason including, but not limited to:

- Unanticipated demands on the District's resources by students who are residents in the District;
- A determination that the out of district student is placing disproportionate demands on the resources of the District;
- Continued enrollment will create a situation where class maximum enrollment numbers are exceeded due to the enrollment of a first priority student. In such a situation, third priority students will be disenrolled on a "last in - first out" basis. Should there be no third priority students, second priority students will be disenrolled on a "last in - first out" basis.
- If enrollment is to be terminated for disciplinary reasons, the long-term suspension or expulsion procedures shall be followed.

Where enrollment is terminated during the school year for any other reason, the student and his/her parent/guardian may request a hearing with the Superintendent at which the reasons for the District's decision will be explained and an informal "give and take" will be followed.

*Adopted: December 2009*

### **I.7.9 Transportation of Students**

The School District is not responsible for the transportation of second and third priority students.

On an individual basis, bus transportation for second and third priority students may be available on an “as room” basis on each individual bus as determined by the Transportation Director and Bus Contractor in coordination with the Superintendent. Second and third priority students must meet the bus at the stop assigned to them by the District. Failure to do so will result in loss of transportation privileges.

Second and third priority students will not be eligible for “feeder route” reimbursements.

A second or third priority student’s transportation privilege will be eliminated when any of the following criteria are experienced:

- A first priority student becomes eligible to ride the bus and that individual bus is at maximum capacity; or
- The student’s behavior becomes a problem.

*Adopted: December 2009*

### **I.8 Student Withdrawal from School**

A withdrawal form shall be presented to the parent or legal guardian of a student who may or must withdraw from school. The withdrawal form shall include space for the reason for withdrawal and the signature of an official of the school from which the student has withdrawn.

Reasons for withdrawal may include:

- Parents/guardians moving from the District or child being placed in different educational setting
- Parents requesting the withdrawal of student(s) who have passed their seventeenth (17<sup>th</sup>) birthday
- Absence of more than ten (10) consecutive days.
- Expulsion or long-term suspension

Upon withdrawal, the student shall check in all books and other District property through the office of the school that was attended.

*Adopted: December 2009*

### **I.9.0 Student Absences**

The regular school attendance of a child of school age is required by state law. Regular school attendance is essential for success in school; therefore, absences shall be excused only for necessary and important reasons. Such reasons include, but are not limited to:

- Illness;
- Bereavement;

- Family emergency;
- Observance of major religious holidays of the family's faith.

School administrators are authorized to excuse students from school for necessary and justifiable reasons.

*Adopted: December 2009*

### **I.9.1 Notification to School:**

- Phone calls are acceptable
- Parent written notes shall be brought to school either the first or second day back
- Absences are explained or unexplained, the district does not excuse students. Therefore, every absence will count toward limit of ten per semester
- All parent written notes shall include the following:
  - Name of student
  - Date(s) of absences
  - Explanation of absence
  - Parent signature and date
  - Medical documentation when applicable

Each school Principal is responsible for monitoring attendance procedures and ensuring that:

- Attendance is checked and reported daily for each class
- Parent written notes are processed
- A system is implemented to periodically monitor students' absences with follow up activities initiated as appropriate.

*Adopted: December 2009*

### **I.9.2 General Guidelines**

- A student may have no more than ten absences(explained or unexplained) per semester
- On the sixth absence, written notification will be mailed to parents
- On the tenth absence, written notification will be mailed to parents
- On the eleventh absence, and ensuing absences, provisions of the Children's Code will be implemented and appropriate referrals initiated.
- Absences due to school sponsored or school approved, and subpoenaed court appearances are counted as days of school attendance, however, students are limited to 15 days of extra curricular activities.
- Out of school suspension, for any reason, will be counted as part of the accrual of the ten days.
- A student who is absent for ten consecutive days will be dropped from the attendance records.

### **I.9.2-A Extended Illness**

Parent/guardian shall contact school principal immediately to discuss individual situations and appropriate plans. Extended illness is defined as 3 or more consecutive days and must be verified by a Health Care Provider. Unusual circumstances as determined by the State Health Department and the Public Education Department may defer this requirement.

### **I.9.2-B Make-Up Work**

Students with explained absences will be allowed and encouraged to make up work which was missed. Make-up work will only be accepted for explained absences and school sponsored absences.

Work missed while the student is absent can be made up at the student's initiative. Students may be allowed a minimum of one day and/or teacher's discretion to make up work for each day that is missed. The student must assume the responsibility of contacting the teacher about the work missed on the first day back to school.

Pre-assigned work is not considered as make up work and is due on the designated date.

### **I.9.2-C Specific School Considerations**

Each building will publish annually a student handbook, to be approved by the Board, which includes school specific policies for items such as explained and unexplained absences, suspensions, tardies, credit/no-credit status, etc. A copy of the building handbook will be provided to each student enrolled in that building at the beginning of the school year or upon enrollment.

*Adopted: December 2009*

## **I.10.0 Truancy**

A student with five (5) unexplained absences within any twenty day period is a "truant" and one with ten (10) or more unexplained absences within a school year is "habitually truant." The Superintendent will establish procedures to identify intervene and discipline truant students, beginning with notification of parents and requesting an opportunity to discuss interventions. Discipline shall not include out of school suspension or expulsion but should focus on fostering retention of truant students in the educational setting.

*Adopted: December 2009*

### **I.10.1 Truant Status**

Upon the student's fifth (5<sup>th</sup>) unexplained absence within twenty (20) school days, parent(s)/guardian(s) shall be contacted to inform them of the truancy status and request their cooperation to meet and establish a cooperative arrangement to prevent future truancy by identifying:

- the cause(s),
- preventive measures,

- resources to address the causes, and
- a corrective action plan including follow-up procedures. (Appendix I-3)

*Adopted: December 2009*

### **I.10.2 Habitual Truant Status**

Upon a student's tenth (10<sup>th</sup>) unexplained absence within a school year, written notice of the habitual truancy shall be given by certified mail to or by personal service on the parent of the student subject to and in noncompliance with the provisions of the Compulsory Attendance Law.

Should an additional unexplained absence occur after delivery of a written notice of habitual truancy, the probation services office shall be notified within seven (7) days.

Follow-up with the probation office shall be accomplished within a reasonable time to determine the disposition of the violation of the Compulsory School Attendance Law, and may, if no referral was made to the children's court, include contact with the children's court attorney to determine what action is to be taken. If the probation office determined that the parent of guardian may have caused the habitual truancy and no charges have been filed, the District may contact the District Attorney's office to determine what action will be taken.

*Adopted: December 2009*

### **I.11 Exclusions and Exemptions from School Attendance**

Should a chronic health condition exist, a student may be referred and/or assigned to homebound/hospital instruction. Such a referral or placement may be made under the following conditions:

- A licensed physician's report or recommendation resulting from a severe illness or injury.
- A determination that the student will be absent from school for an extended period of time (more than ten [10] consecutive days).
- Assignment by an Individualized Education Program (IEP) Committee for special education students.
- Determination for nonmedical cases will be made on a case-by-case basis.

*Adopted: December 2009*

#### **I.11.1 Coordination of Services**

The building Principal in which the student attends will coordinate the services within that building to include the following:

- Approval for homebound/hospital instruction granted by Superintendent or Superintendent designee
- Selection of instruction;
- Monitoring of instruction; and

- Identification of employee to provide assistance to the student.

*Adopted: December 2009*

### **I.11.2 Length of Service**

Students on homebound/hospital instruction will receive weekly assistance as agreed upon by the building Principal, the student's classroom teacher(s), and in accordance with a student's IEP if applicable.

Forms for documentation of the need for Exclusion or Exemption from School Attendance can be found in Appendix I – 4.

*Adopted: December 2009*

### **I.12 Closed Campus**

All schools of the Capitan Municipal Schools will operate as closed campuses. Students will not be allowed to leave campus or return to their vehicles during the school day. The exceptions outlined below will be permitted:

- Students who are properly checked out by their parents.
- Students who attend school on a reduced schedule (must still check in and out at the school office).
- Students who have critical appointments (legal, medical, etc.) that cannot be rearranged. Students must provide prior parent written notification and receive administrative approval.
- Students having permission from the school administrator or office to return to their vehicle to retrieve items or place items in the vehicle during the school day.

*Adopted: December 2009*

### **I.13.0 Checking In/Out During School**

Students should try to schedule appointments and other activities for such a time that classes will not be missed. When a student must arrive after the school day has begun or leave before the end of the day, the procedures below need to be followed. These procedures will also apply to high school students who have a reduced schedule.

*Adopted: December 2009*

#### **I.13.1 Checking In During the School Day**

Students arriving on campus after the school day has begun must report to the office in their

school building and sign in so that a record of the student's arrival is in place in the school.

*Adopted: December 2009*

### **I.13.2 Checking Out During the School Day**

Any student leaving school during the school day will sign out through the office. The student's parent/guardian must provide notification that the student is to be released. Parents are requested to check their student out in person. The District will not allow anyone to check out a student unless a school official has had contact with the parent or guardian. The school has the right to ask for identification of anyone wishing to check out a student. The school has the right to deny a student from checking out.

Failure to check out through the office will result in the student being truant. Truant students may be subject to discipline as outlined in the school handbook.

*Adopted: December 2009*

## **I.14.0 Student Discipline**

### **I.14.0-A Philosophy**

It is the philosophy of the Capitan Municipal Schools that when discipline of a student is necessary, it shall be sure, swift, carried out with the help and sanction of the parents or guardians, and be consistent with District and school policies.

### **I.14.0-B Authority for Disciplinary Actions**

The authority possessed by the State to prescribe and enforce standards of conduct in its school must be exercised consistently with constitutional safeguards and a student's legitimate entitlement to a public education as a property interest which may not be taken away for misconduct without adherence to the minimum procedures required by due process. All disciplinary actions are subject to regulations imposed by the State of New Mexico and/or the Public Education Department.

The Superintendent shall prepare and recommend the final format of discipline policies and the procedures for the discipline of students. These policies and procedures will apply to all students traveling to, attending, and returning from school and/or school sponsored/sanctioned activities. Policies and procedures will also apply when visiting other schools.

### **I.14.0-C Definitions**

- **Administrative Authority** - the building principal or designee.
- **Disruptive Behavior** – behavior which creates a willful interference with the educational process and which is so serious in nature as to be referred to the Principal for disciplinary action. This type of behavior may occur on any school property, school bus or at any school sponsored activity, athletic or social event.
- **Immediate Removal** - the removal of a student from class or activity for a period of one day or less. Regardless of what other disciplinary actions may be considered appropriate,

or that other disciplinary actions are implemented, students whose presence pose a danger to persons or property or a threat of disrupting the educational process may be immediately removed from school or school sponsored event(s) by any school personnel.

- **Detention** -requiring a student to remain inside or otherwise restricting his or her liberty at specific times during the school day or immediately before/after the school day. Detention may be imposed in connection with in-school suspension (ISS), but is distinct from ISS in that it does not entail removing the student from any of his or her regular classes. Teachers may assign detention to students for any minor infractions not listed in ISS and/or OSS.
- **ISS (In School Suspension)** - a disciplinary sanction where students are secluded from their peers. It will be served as soon as possible after occurrence of infraction. Parents must be notified in writing or orally why their child was placed in ISS. Students who serve ISS will be given class work, homework and/or tests and receive full credit for these assignments. A student will not be allowed to attend any school activities or functions during the time they are serving ISS. This includes any activity held on the weekend should the ISS assignment continue over a weekend period. The weekend does not count as a day of ISS.
- **OSS (Out of School Suspension)** – a disciplinary sanction where students who are sent home for a specific period of up to ten (10) school days for a specific violation. A student will not be allowed to attend any school activities or functions during the time they are serving OSS. This includes any activity held on the weekend should the OSS assignment continue over a weekend period. The weekend does not count as a day of OSS.
- **Long Term Suspension** - the removal of a student from school for more than ten (10) school days.
- **Expulsion** – the removal of a student from school for the remainder of the school year or permanently.
- **Hearing Authority** - the Superintendent or Superintendent’s designee who will hear evidence and determine the facts of a case at a required formal hearing. The Superintendent shall also impose punishment after the facts have been determined.
- **Review Hearing Authority** – a quorum of the Capitan Municipal Schools Board of Education. The Board is authorized to review the Superintendent’s/designee final decision to impose a long-term suspension or expulsion. The Board has the discretion to modify or overrule the Superintendent’s decision, including imposing a harsher punishment.
- **Due Process** – the process accorded an individual when the governmental body undertaking the proceeding against that individual adequately informs the accused of the charges, gives the accused enough time and specifications of charges to prepare a proper defense, allows the accused the opportunity to confront witnesses and challenge the testimony given, and permit the presentation of evidence on his/her own behalf. The process may be informal or formal.

*Adopted: December 2009*



### **I.14.1 Student Discipline Records**

Information concerning a student's disciplinary record will be held in the strictest confidence. Disciplinary actions taken will be recorded in an administrative log, and all types of suspensions or expulsions will be recorded in a separate file for each student. Each Principal shall establish and retain complete records of student disciplinary actions and procedures. Records regarding student disciplinary actions shall be retained for at least two (2) years after the last attendance date.

#### **I.14.1-A Discipline Record Accounting**

The accounting for students subject to disciplinary action shall contain an entry of:

- The full name of the student.
- The time, place, and date of the offense or offenses, or observed behavior.
- Descriptions and dates of other offenses or observed behaviors if not previously reported.
- The names of witnesses or others involved.
- Specific measures taken by person or persons reporting the offense or offenses to effect an adjustment, including the specialized help secured before referral, such as conferences with parents, conferences with the Principal, and conferences with other school personnel.
- The name and title of the person or persons reporting the offense or offenses.
- Alternatives, if any, that were considered prior to the imposition of the disciplinary action taken by the Principal.
- The final disposition of the case.
- The name and title of the person or persons imposing the action or actions.

#### **I.14.1-B Actions Requiring Discipline Record Accounting**

The kinds of disciplinary actions for which an accounting should be kept shall include, but is not limited to, the following:

- Suspensions (includes ISS and OSS)
- Expulsions
- Detention for disciplinary reasons
- Transfer to another class for disciplinary reasons
- Referrals of cases to police and juvenile authorities
- Others as required

#### **I.14.1-C Principal Reporting**

Each Principal shall keep, in addition to the aforementioned discipline records for each student, the following records:

- Cumulative log of suspensions
- Cumulative log of expulsions and referrals to courts
- Cumulative log of student withdrawals
- Cumulative log of dropouts.

A summary of these logs should be prepared at the end of each school year and a copy provided to the Superintendent.

*Adopted: December 2009*

### **I.14.2 Publication of Sanctions**

Each building will publish annually a student handbook, to be approved by the Board, which shall include specific violations for which Detention, ISS, OSS, Long Term Suspension/Expulsion may be assigned.

*Adopted: December 2009*

### **I.14.3 Corporal Punishment**

The policy of the Capitan Municipal Schools shall be that corporal punishment is not permissible in accordance with state statute.

*Adopted: December 2009; Revised June 2011*

### **I.14.4 Actions Subject to Sanction/Disciplinary Action**

#### **I.14.4-A Prohibited Activities**

The following are prohibited activities:

- Criminal or delinquent acts;
- Gang related activity;
- Sexual harassment;
- Disruptive conduct;
- Refusal to identify self; and
- Refusal to cooperate with school personnel.

#### **I.14.4-B Additional Activities Subject to Disciplinary Action**

- Engaging in conduct that is disorderly by causing a public inconvenience, annoyance, alarm, or recklessly creating a risk by:
  - Fighting or engaging in violent behavior.
  - Making unreasonable noise.
  - Using abusive or obscene language or gestures.
  - Obstructing vehicular or pedestrian traffic.
  - Creating a hazardous or physically offensive condition by any act that serves no legitimate purpose.
- Engaging in conduct that is insubordinate such as failure to comply with the lawful direction of a teacher, school administrator, or other school employee in charge of the student.
- Endangering the safety, morals, health, or welfare of others by any act, including but not limited to:
  - Selling, distributing, using, or possessing alcohol, drugs, or other controlled substances or drug paraphernalia.
  - Selling, distributing, using, or possessing weapons, fireworks, or other dangerous instruments or contraband.
  - Selling, using, or possessing obscene materials.
  - Using profane, vulgar, or abusive language (including ethnic slurs).

- Gambling.
- Hazing.
- Engaging in lewd behavior.
- Engaging in any of the following forms of academic misconduct:
  - Lateness for, missing, or leaving school or class without permission or excuse.
  - Cheating – including, but not limited to copying, using unauthorized help sheets and the like, illegally obtaining tests in advance, substituting one student’s work for another, and other forms of unauthorized collusion.
  - Plagiarism.
- Engaging in conduct in violation of the Board’s rules and regulation for the maintenance of public order on school property.
- Having a record of excessive absenteeism.
- Is believed to have or actually has committed a crime.

**I.14.4-C Use of Physical Force**

Reasonableness of use of physical force in self-defense, defense of others, and defense of property will be considered as a mitigating factor in determining penalties for misconduct. The threat or use of physical force by a student is not reasonable:

- when made in response to verbal provocation alone;
- when assistance from a school staff member is a reasonable alternative; or
- when the degree of physical force used is disproportionate to the circumstances or exceeds that necessary to avoid injury to oneself or to others or to preserve property at risk.

**I.14.4-D Permissible Penalties**

The range of penalties that may be imposed for violations of student discipline rules include, but are not limited to, the following:

- Verbal warning.
- Written warning.
- Written notification to parents.
- Probation.
- Detention.
- Suspension from transportation.
- Suspension from athletic participation.
- Suspension from social or extracurricular activities.
- Suspension of other privileges.
- Exclusion from a particular class.
- In-school suspension (ISS).
- Community Service.
- Suspension (OSS).
- Expulsion.
- Student Behavior Contract.

Depending on the nature of the violation, student discipline may be progressive, i.e., generally, a student's first violation should merit a lighter penalty than subsequent violations. A District employee or agent should take in to account all other relevant factors when determining an appropriate penalty. The above penalties may be imposed either alone or in combination.

*Adopted: December 2009*

### **I.14.5 Reporting of Violations of Rules**

Any teacher, administrator, Board member, parent, or other person may report a violation of student disciplinary rules to an administrator. The administrator will then make an investigation of the charges as deemed appropriate and will institute appropriate proceedings. All staff members are responsible for implementing the plan of student discipline for the school.

*Adopted: December 2009*

### **I.14.6.0 Student Suspension/Expulsion**

The authority to suspend a student for up to ten (10) days, after an informal hearing is held, rests with the building Principal. If a danger to students or staff members is present, the Principal may immediately remove the student from school, with prior contact with the parents and with a notice and informal hearing to follow as soon as practicable. A student may be removed from contact with other students as a temporary measure but shall be reinstated by the next school day unless short-term suspension is imposed.

In all cases, except summary suspension where a danger to students or staff is evident, the student shall remain in school until applicable due process procedures are instituted. In no instance shall a student be released early from school unless parents have been notified.

The Superintendent may designate a Hearing Officer for suspension/expulsion hearings.

*Adopted: December 2009*

## **I.14.6.1 Suspension for Up to Ten School Days (Short Term Suspension) of Regular Education Students**

### **I.14.6.1-A Procedural Steps**

- **Step 1:** The Administrative Authority shall provide the student with notice, written or oral, or the reason for suspension and the evidence the school authorities have of the alleged misconduct.
  - After having received notice, the student will be asked for an explanation of the situation.
  - The Administrative Authority shall make reasonable efforts to verify facts and statements prior to making a judgment.
- **Step 2:** Provided that a written record of the action taken is kept on file, the Administrative Authority may:
  - Suspend the student for up to ten (10) days.
  - Choose other disciplinary alternatives.
  - Exonerate the student
  - Suspend the student for up to ten (10) days pending a recommendation that the student be given a long-term suspension or expulsion or both.

### **I.14.6.1-B Parent Notification**

Whenever suspension is involved, a parent/guardian must be notified before the student is allowed to leave campus. If no parent/guardian contact can be made, the student may be isolated until dismissal time and then given a written message to the parents.

A letter to the parents/guardians will be written and mailed by the day after the short-term suspension is imposed to explain the terms and reasons for the suspension and to request a meeting to solicit their help. If a long-term suspension and/or expulsion is being considered, this information shall be included in the letter.

### **I.14.6.1-C Appeal**

No appeal is available from a short-term suspension.

*Adopted: December 2009*

## **I.14.6.2 Suspension for Over Ten School Days (Long Term Suspension) or Expulsion of Regular Education Student**

Long Term Suspension or Expulsion requires greater due process than a suspension of ten days or less. In cases of Long Term Suspension or Expulsion, steps 1 and 2 in the Short Term Suspension process shall be carried out. These steps shall then be followed by:

- **Step 3:** A formal hearing will be arranged and conducted by the Superintendent or designated Hearing Officer. This person shall have no direct connection to the act or acts, person alleged to have perpetrated the acts, nor be the administrator of the school in which the acts took place.
- **Step 4:** A formal letter addressed to the student through the responsible parent/guardian will be delivered by hand (with an adult witness present) at least five (5) working days prior to the formal hearing or mailed at least eight (8) days prior to the formal hearing

date (mailed documents are assumed received in three (3) days). The hearing shall be scheduled no sooner than five (5) nor later than ten (10) school days from the date of receipt of the notice by the parents. A copy of this letter will remain of file, and the letter should contain the following information:

- The charges and the rule or regulation violated.
  - The extent of the punishment to be considered.
  - The date, time, and place of the formal hearing.
  - A request for the parents and student to attend.
  - The hearing will take place as scheduled unless the Hearing Authority grants a delay.
  - The hearing will take place as scheduled unless the student and parent agree to waive the hearing and comply voluntarily with the proposed disciplinary action or with a negotiated penalty.
  - Failure of the student or parent to appear will not delay the hearing and may lead to the imposition of the proposed penalty by default.
  - A designation of the District's witnesses
  - That the student may present witnesses.
  - That the student may be represented by counsel or a representative designated in a written notice filed at least seventy-two (72) hours prior to the hearing date with the hearing officer or administrator.
  - The name, business address, and telephone number of the Hearing Authority or contact person through whom the student, parent/guardian, or designated representative may request a delay or seek further information, including access to any documentary evidence or exhibits which the school proposes to introduce at the hearing.
  - That the conduct of the hearing will be informal, not adhering to the rules of evidence.
- **Step Five:** A hearing will be held, during which the student will be informed of the following:
    - Nothing in these procedures shall be construed to prevent the students who are subject to the action and their parents/guardians and legal counsel from attending any executive (closed) session pertaining to the proposed disciplinary action, or from having access to the minutes and testimony of such session or from recording such a session at the parent's/guardian's expense.
    - The student is entitled to a statement of the charges and the rule(s) or regulation(s) violated.
    - The student may be represented by counsel, without prejudice.
    - The student may present witnesses.
    - The student or counsel may cross-examine witnesses presented by the District.
    - The District has the right to cross-examine witnesses, and may be represented by an attorney.
    - The burden of proof of the offense lies with the District by a preponderance of the evidence.

- Either the hearing must be recorded on tape or an official record must be kept in some other appropriate manner. In addition, parents/guardians are to be allowed to tape-record the hearing at their own expense.
- **Step Six:** Results of the hearing will be the following:
  - Upon the conclusion of a hearing by a Hearing Authority, the decision by the Hearing Authority may be given but shall be provided, in writing, within five (5) days to the student and parents. If initial notification is by mail, the parent shall be presumed to have received the notice on the fifth calendar day after the date of mailing unless a receipt for certified mail, if used, indicates a different date of receipt.
  - Upon the conclusion of a hearing and notice that an act or acts of misconduct have been proved, the discipline proposed or a lesser form of discipline as determined by the recommending administrator shall be imposed by the disciplinarian. The action may take place immediately upon the Hearing Authority's determination and informing of the student and parent. If the disciplinary action imposes any sanction it shall go into effect immediately and continue during any subsequent review.
- **Step Seven:** Administrative review by the Review Hearing Authority may be conducted as follows:
  - Upon the conclusion of a hearing where determination that an act or acts of misconduct were proven, notice to the student and parents was given, and discipline imposed, a review may be requested if the penalty imposed was at least as severe as a long term suspension or expulsion, and in-school suspension exceeding one school semester, or a denial or restriction of student privileges for one semester or longer. To arrange such an appeal, the parent(s)/guardian(s) of the student or the student must deliver to the Superintendent a letter directed to the Review Hearing Authority within ten (10) days after receiving written notice of the determination. The letter must describe in detail any objections to the hearing or the decision rendered. Failure to meet the dates or provide the written requirement will result in rejection of the request.
  - The appeal to the Review Hearing Authority will be on the record of the hearing held by the Hearing Authority and no later than fifteen (15) days following the request being received. If the Review Hearing Authority determines that the student was not afforded due process rights or that this policy was not followed in all substantive respects, the student shall be granted another hearing. If the Review Hearing Authority determines that the punishment was not reasonable, they may modify the punishment. The Review Hearing Authority may uphold the Hearing Authority if no substantive errors in procedure are noted.
  - The Review Hearing Authority shall be bound by the Hearing Authority's factual determinations unless the student persuades the Board that a finding of fact was arbitrary, capricious or unsupported by substantial evidence or that new evidence which has come to light since the hearing and which could not with reasonable diligence have been discovered in time for the hearing would manifestly change the factual determination.

- All deliberations and decisions shall be held in closed session to avoid discussion of personally identifiable information in public.
- The Review Hearing Authority shall prepare a written decision, including concise reason in response to legitimate objections of the student or parent/guardian, and mail or deliver it to the administrator, the Hearing Authority, and the student, through the parent, within ten (10) working days after the review is concluded. The decision of the Review Hearing Authority is the final administrative review.

*Adopted: December 2009*

### **I.14.6.3 Suspension for Ten Days or Less (Short Term Suspension) of Special Education Student**

Short Term Suspension may be used for special education students for disciplinary reasons on the same basis as for a regular education student and is not considered a change of placement.

#### **I.14.6.3-A Procedural Steps**

- **Step 1:** The Administrative Authority shall provide the student with notice, written or oral, or the reason for suspension and the evidence the school authorities have of the alleged misconduct.
  - After having received notice, the student will be asked for an explanation of the situation.
  - The Administrative Authority shall make reasonable efforts to verify facts and statements prior to making a judgment.
- **Step 2:** Provided that a written record of the action taken is kept on file, the Administrative Authority may:
  - Suspend the student for up to ten (10) days.
  - Choose other disciplinary alternatives.
  - Exonerate the student
  - Suspend the student for ten (10) days pending a recommendation that the student be given a long-term suspension or expulsion or both.

#### **I.14.6.3-B Parent Notification**

Whenever suspension is involved, a parent/guardian must be notified before the student is allowed to leave campus. If no parent/guardian contact can be made, the student may be isolated until dismissal time and then given a written message to the parents.

A letter to the parents/guardians will be written and mailed by the day after the short-term suspension is imposed to explain the terms and reasons for the suspension and to request a meeting to solicit their help. If a long-term suspension and/or expulsion is being considered, this information shall be included in the letter.

#### **I.14.6.3-C Appeal**

No appeal is available from a short-term suspension.

*Adopted: December 2009*



#### **I.14.6.4 Suspension for Over Ten Days (Long Term Suspension) or Expulsion of Special Education Student**

If a special education student is recommended for a suspension of more than ten (10) days during the school year (a possible change of placement), a manifestation determination conference must be held. Long Term Suspension or Expulsion requires greater due process than a suspension of ten days or less. In cases of Long Term Suspension or Expulsion, steps 1 and 2 in the Short Term Suspension process shall be carried out. These steps shall then be followed by:

- **Step 3:** A recommended suspension of a special education student for more than ten (10) consecutive days, or a series of suspensions totaling more than ten (10) days, may constitute a change of placement and shall require a manifestation determination conference. Such a conference shall be for the purpose of determining whether or not the offense is a manifestation of the student's disability.
- **Step 4:** If the offense is not a manifestation of the disability of the student, the student may be suspended by following the District policies for students in general, provided that the educational services are continued during the period of disciplinary removal for a student with a disability qualified under the Individuals with Disabilities Education Act (IDEA). A student with a disability qualified for educational services under the Americans with Disabilities Act or Section 504 of the Rehabilitation Act of 1973, and not qualified under IDEA, may be suspended or expelled from school, and educational services may be ceased, if nondisabled students in similar circumstances do not continue to receive educational services.
- **Step 5:** If the behaviors are a manifestation of the disability of the student, the District may not extend the suspension of the student beyond the initial ten (10) school days.

*Adopted: December 2009*

##### **I.14.6.4.1 Interim Alternative Setting for Special Education Student**

An exception to the above allows for an IDEA qualified student to be given a change in placement to an interim alternative educational setting for not more than forty-five (45) days, in accord with federal law and regulation, if the removal is for IDEA defined drug or weapons offenses or is based upon a due process Hearing Authority's determination that injury to the child or another is substantially likely if current placement is maintained.

Any interim alternative educational setting must be selected so as to enable the child to continue to progress in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the child's current IEP; and include services and modifications which are designed to prevent the behaviors for which the placement was made from recurring.

*Adopted: December 2009*

#### **I.14.6.4.2 Expulsion of Special Education Student**

A student qualified under IDEA as revised in 1997 may not be expelled from school but in compliance with federal law and regulation may be given a change in placement. The IEP Team generally determines a change in placement of an IDEA qualified student. During any change in placement, the District must provide payment for services to the extent necessary to enable the child to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the child's IEP.

A student with a disability qualified for educational services under the Americans with Disabilities Act or Section 504 of the Rehabilitation Act of 1973, and not qualified under IDEA as revised in 1997, may be suspended or expelled from school, and educational services may be ceased, if nondisabled students in similar circumstances do not continue to receive educational services.

*Adopted: December 2009*

### **I.14.7 Removal of Students from School-Sponsored Activities**

#### **I.14.7-A Definitions**

For the purpose of this policy, activity is defined as:

- Any school-sponsored athletic activity; or
- Any school-sponsored club; or
- Any school sponsored organization such as yearbook, student government, music, vocational student organizations, honor society, or any other organization or class of a similar nature.

This includes activities whether or not a student is receiving or may receive academic credit for the activity.

#### **I.14.7-B Removal of Student for Discipline Policy Violations**

The Principal of a school may remove a student from a school-sponsored activity if the Principal determines that the student has violated a provision of the student discipline policies, rules, and/or regulations or if the Principal determines that such removal is in the best interest of the activity or in the best interest of the school as a whole.

The Principal also may remove a student from a specific position, such as officer, editor, or captain of an activity, without removing the student from the entire activity. This removal may occur whether the student has been elected, appointed, or assigned to or has volunteered for, the activity.

#### **I.14.7-C Removal of Students for Reasons Other than Discipline Policy Violations**

Written notice shall be provided before removing a student from an activity or position for reasons other than a student's violation of the student discipline policies and/or regulations. The notice shall include the reason(s) for the removal and the date that the removal is to become effective. If the student disagrees with the principal's determination, the student may, within five (5) school days, request in writing a conference with the Principal. The conference shall be held as soon as practicable within five (5) school days after the Principal receives the written request. At the conference the student shall be given a full explanation of the reason(s) for the

action taken. The student shall be given an opportunity to present an explanation of the events relating to the action. After the conference, the Principal may:

- Determine that the decision to remove the student from the activity or position is correct; the removal shall become effective on the date indicated in the Principal's notice.
- Determine that action of a less severe nature than removal is warranted, the Principal may impose the less severe action.
- Determine that neither removal nor less severe action is warranted, the prior decision to remove the student shall be rescinded.

#### **I.14.7-D Appeal**

The Principal's determination shall be the final administrative action to which a student is entitled.

*Adopted: December 2009*

### **I.15 Student Conduct**

The Superintendent will establish regulations governing the conduct of student in school, traveling to and from school, at school functions, or affecting the school order. In establishing these regulations, the Superintendent may consult with parents, students, and staff committees. In addition to compliance with regulations established by the Superintendent, students are expected to obey all rules and regulations adopted by the Board, and to obey any order given by a member of the faculty or staff relating to school activities.

A student shall be defined as any person who is enrolled in an educational program provided by or approved by the District and carried on in premises owned or controlled by the District.

Students shall not engage in improper behavior, including but not limited to the following:

- Any conduct intended to obstruct, disrupt, or interfere with teaching, research, service, administrative or disciplinary functions, or any activity sponsored or approved by the Board.
- Physical abuse of or threat of harm to any person on District owned or controlled property or at District sponsored or supervised functions.
- Damage or threat of damage to property of the District, regardless of the location, or to property of a member of the community or a visitor to the school, when such property is located on District controlled premises.
- Forceful or unauthorized entry to or occupation of District facilities, including both buildings and grounds.
- Conduct or speech that violates commonly accepted standards of the District and that, under the circumstances, has no redeeming social value.
- Failure to comply with the lawful directions of District officials or any other law enforcement officer(s) acting in performance of their duties, and failure to identify themselves to such officials or officers when lawfully requested to do so.
- Violation of District rules and regulations.
- Engaging in any conduct constituting a breach of any federal, state, or local law or duly adopted policy of the Board.

- Carrying or possessing a weapon on school grounds.

In addition to the general rules, set forth above, students shall be expected to obey all policies and regulations focusing on student conduct adopted by the Board. Students shall not engage in any activities prohibited herein, nor shall they refuse to obey any order given by a member of the faculty or staff who is attempting to maintain public order. Any student who violates these policies and regulation may be subject to discipline up to expulsion, in addition to other civil and criminal prosecution. The punishments may be in addition to any customary discipline that the District presently dispenses.

Local law enforcement shall be notified by the Superintendent regarding any suspected crime against a person or property that is a serious offense, involves a deadly weapon or dangerous instrument, or that could pose a threat of death or serious injury to employees, students, or others on school property.

The authority of the Superintendent to establish regulations covering students may be delegated to Principals for their individual schools.

*Adopted: December 2009*

## **I.16 Weapons in School**

No student shall carry or possess a weapon or simulated weapon on school premises without authorization by a school administrator. No student shall use or threaten to use a weapon or simulated weapon to disrupt any activity of the District.

Any employee who observes any person in possession of a weapon or simulated weapon on school premises shall immediately report the matter to the school administrator. An administrator who observes or receives a report of a student possessing a weapon on school premises shall immediately take appropriate safety and disciplinary actions in accordance with District policies and shall immediately report a violation of this policy to law enforcement officials.

A student who violates this policy by carrying or possessing a firearm shall be:

- Placed in an alternative education program for a period of not less than one (1) year; or
- Suspended for a period of not less than one (1) year (Long Term Suspension); or
- Expelled and not be readmitted within a one (1) year period, if ever.

The Superintendent may modify the one (1) year duration of such disciplinary action on a case-by-case basis.

A student who violates the policy by any means other than carrying or possessing a firearm shall be subject to disciplinary action, including but not limited to expulsion.

### **I.16-A Definitions**

- Weapon means any of the following:
  - A firearm.
  - A knife, regardless of length of blade.
  - A destructive device.
  - A dangerous instrument.
- Simulated Weapon means an instrument displayed or represented as a weapon.
- Firearm means any of the following:
  - Any loaded or unloaded gun that will, that is designed to, or that may readily be converted to expel a projectile by the action of an explosive.
  - The frame or receiver of any such firearm.
  - Any firearm muffler or silencer.
  - Any explosive, incendiary, poison gas, bomb, grenade, rocket having a propellant charge of more than four (4) ounces, missile having an explosive charge of more than one-fourth (1/4) ounce, mine, or similar device.
  - Any combination of parts that could be readily assembled to form a firearm.
- Destructive device means:
  - Any device other than a firearm that will, or is designed to, or may be readily converted to expel a projectile by any means of propulsion, such as a BB/pellet gun, slingshot, bow, or crossbow.
  - Any collection of parts that could be readily assembled to form a destructive device.
- Dangerous instrument means any thing other than a firearm, knife, or destructive device that is carried or possessed by a student for the purpose of being used or being available for use to cause death or inflict serious physical injury.
- School premises means the school, school grounds, school buses, or any premises, grounds, or vehicles used for school purposes and includes premises where school-sponsored events are held away from District property.
- Deadly weapon means any weapon designed for lethal use, including a firearm.

### **I.16-B Special Rule as to Students with Disabilities**

For purposes of this special rule as applied to students with disabilities who may be placed in an interim alternative educational setting for bringing a weapon to a school or school function, the definitions of a weapon set forth above shall not include a pocket knife with a blade of less than 2 ½ inches in length.

*Adopted: December 2009*

### **I.17 Vandalism/Damage to Property**

Damage to school property consists of intentionally damaging or defacing personal property of the school or of school personnel without the consent of the school or school personnel.

Any student who commits damage to property (vandalism) shall himself/herself or parent/guardian be liable to the school or owner for the cost of repair or full restitution of the property or for payment to the school or individual owner for any amount equal to the fair

market value of the property, less salvage value in addition to sanctions for discipline code violations. In the event such a pupil or parent/guardian shows financial inability to restore to the school or individual owner the fair market value less salvage, an installment payment plan or a work plan for the student shall be established.

If a student or parent/guardian is financially able to restore the value either fully, in an installment plan, or a work plan and fails or refuses to do so, the student will be recommended to the Superintendent for long term suspension until such time compliance begins. If the act is judged criminal, referral to the Juvenile Probation Officer or the District Attorney may be made.

*Adopted: December 2009*

## **I.18 Gang Activity**

The Board recognizes that the harm done by the presence and activities of gangs in the public schools exceeds the immediate consequences of such activities such as violence and destruction of property. Gang activities also create an atmosphere of intimidation in the entire school community. Both the immediate consequences of gang activity and the secondary effects are disruptive and obstructive of the process of education and school activities.

It is therefore the policy of the Board of Education that gangs and gang activities are prohibited in the schools.

### **I.18-A Definitions**

- **Gang** - any group of two or more persons whose purposes include the commission of illegal acts or acts in violation of disciplinary rules of the school district.
- **Gang Member** - an individual, including a student, who is or professes to be a member of a gang as defined herein, regardless of the location of the gang, or who engages in any of the acts prohibited by this policy.

### **I.18-B Prohibitions**

No student on or about school property or at any school activity shall:

- Wear, possess, use, distribute, display, or sell any clothing, jewelry, emblem, badge, symbol, sign or other items that evidences or reflects membership in, or affiliation with any gang;
- Engage in any act, either verbal or nonverbal, including gestures or handshakes, showing membership or affiliation in any gang; and/or
- Engage in any act in furtherance of the interests of any gang or gang activity, including, but not limited to:
  - Soliciting membership in, or affiliation with, any gang;
  - Soliciting any person to pay for “protection,” or threatening any person, explicitly or implicitly, with violence or with any other illegal or prohibited act;
  - Painting, writing, or otherwise inscribing gang-related graffiti, messages, symbols, or signs, on school property;
  - Engaging in violence, extortion, or any other illegal act or other violation of school policy; or
  - Soliciting any person to engage in physical violence against any other person.

### **I.18-C Application and Enforcement**

- In determining, as part of the application and enforcement of this policy, whether acts, conduct, or activities are gang related, school officials are encouraged to exercise discretion and judgment based upon current circumstances in their schools, neighborhoods, and areas.
- Students who violate this policy shall be subject to the full range of school disciplinary measures, in addition to applicable criminal and civil penalties.
- The removal of gang-related graffiti shall be a priority in maintenance of school property. All such graffiti on school property shall be removed or covered within 24 hours of its first appearance to school officials, or as soon thereafter as possible, unless additional time is needed to obtain replacements for damaged items.
- School officials should also encourage private property owners to promptly remove or cover gang-related graffiti on private property in school neighborhoods.
- School officials are strongly encouraged to work closely with local law enforcement officials in controlling gang-related activities. Local law enforcement can provide school officials with information regarding gang activities in the area, including names and characteristics of local gangs.
- The Superintendent, in consultation with the appropriate building Principals, should report instances of gang-related criminal acts or acts of serious disruption to local law-enforcement authorities for further action.

*Adopted: December 2009*

### **I.19 Prohibition Against Bullying**

The prohibition against bullying shall be publicized by including the following statement in the student handbook(s):

“Bullying behavior by any student in the Capitan Municipal School District is strictly prohibited, and such conduct may result in disciplinary action, including suspension and/or expulsion from school. “Bullying” means any repeated and pervasive written, verbal or electronic expression, physical act or gesture, or a pattern thereof, that is intended to cause distress upon one or more students in the school, on school grounds, in school vehicles, at a designated bus stop, or at school activities or sanctioned events. Bullying includes, but is not limited to, hazing, harassment, intimidation or menacing acts of a student which may, but need not be based on the student’s race, color, sex, ethnicity, national origin, religion, disability, age or sexual orientation that a reasonable person under the circumstances should know will have the effect of:

- Placing a student in reasonable fear of physical harm or damage to the student’s property; or
- Physically harming a student or damaging a student’s property; or
- Insulting or demeaning any student or group of students in such a way as to disrupt or interfere with the school’s educational mission or the education of any student.

Students and parents may file verbal or written complaints concerning suspected bullying behavior to school personnel and administrators. Any report of suspected bullying behavior will

be promptly reviewed. If acts of bullying are verified, prompt disciplinary action may be taken against the perpetrator, up to and including suspension and/or expulsion.”

Staff will be reminded at the beginning of each school year about the Anti-Bullying Policy, as well as their responsibilities regarding bullying behavior. A copy of the policy will be disseminated annually.

The Anti-Bullying Policy will be available on the Capitan Municipal School District website, and in all student, staff, and parent handbooks.

**Additional policies associated with this section may be found in the Capitan Municipal School District Anti-Bullying Policy Manual.**

*Adopted: December 2009*

## **I.20.0 Drug/Alcohol and Tobacco Use by Students**

### **I.20.1 Philosophy**

The Capitan Municipal School District recognizes that alcohol, tobacco and drug abuse are treatable health problems. Health problems of youth are primarily the responsibility of the family and community, but the schools share that responsibility because misuse, abuse, and dependency problems often interfere with school behavior, student learning, and the maximum possible development of each student.

Inasmuch as tobacco is responsible for more than three times the fatalities of other drugs, and in recognition of the devastating effect that smoking has on the health of both smokers and non-smokers, it shall be the policy of the Capitan Municipal School District to maintain and enforce “smoke free schools”. This policy prohibits both smoking and “smokeless” forms of tobacco use.

The schools shall reserve the right to take appropriate action concerning violations of the school dress code as it applies to the wearing of clothing which advertises, publicizes or promotes, through symbols, slogans or pictures, any type of drugs, tobacco or alcohol.

The schools have a responsibility to help students avoid the problems of alcohol, tobacco and drug abuse by protecting and preparing children with education and the opportunity to achieve and develop self-esteem. The schools shall endeavor to educate and counsel students concerning abuse of alcohol, tobacco, illegal drugs, and/or controlled substances. The schools shall intervene with persons manifesting a sign of misuse or abuse and make an effort to educate and aid them. While assisting in prevention and rehabilitation efforts, the schools must also attempt to eradicate the drug, tobacco and alcohol abuse problems that already exist among students. Every reasonable effort shall be made to provide for students and staff an environment that is free of alcohol, tobacco, illegal drugs, and/or controlled substances, while giving consideration to the health, safety, educational, and due process rights of all students when prescribing intervention or disciplinary actions for students under this policy.



Each student shall receive a written copy of this policy and the procedures at the beginning of each school year or upon admission for students entering during the school year.

*Adopted: December 2009*

### **I.20.2 Prohibition**

Students are prohibited from using, possessing, distributing or being under the influence of drugs, alcohol, or tobacco, e-cigarettes, nicotine liquid containers, and from possessing, using or distributing drug paraphernalia while on school property or at school sponsored activities, including transit and lodging.

*Adopted: December 2009*

### **I.20.3 Definitions**

The terms used in this policy are defined as follows:

- Alcohol: Any liquor, wine, beer, or other beverage containing alcohol.
- Distribution: Selling, passing on, or giving away any controlled substance.
- Drugs: Any drug including illegal drugs, legal prescription, marijuana or inhalants that are used, possessed or distributed for unauthorized purposes including counterfeit (look-alike) substances.
- Substance Abuse: The use of drugs or alcohol in violation of state or federal law, or in violation of school policy.
- Nonmedical Use: a purpose other than the prevention, treatment, or cure of an illness or disabling condition consistent with accepted practices of the medical profession.
- Tobacco: Any product containing tobacco which can be smoked or used in non smoking form, i.e. “snuff”, chewing tobacco, e-cigarettes and nicotine liquid containers.

The non-medical use, possession, distribution, delivery, or sale of drugs or counterfeit substances on school property or at school events is prohibited.

Students attending school in the District who are in violation of the provisions of this policy shall be subject to disciplinary actions in accordance with the provision of school rules and /or regulations. Students in violation of the provisions of the above may be subject to removal from school property and be subject to prosecution in accordance with the provisions of the law.

For the purposes of this policy, “drugs” shall include, but not be limited to:

- All dangerous controlled substances prohibited by law.
- All alcoholic beverages.
- Any prescription or over-the-counter drug, except those for which permission to use in school has been granted pursuant to Board policy.
- Hallucinogenic substances.
- Inhalants.

*Adopted: December 2009*

#### **I.20.4 Enforcement of Policy**

The Capitan School District reserves the right to search a student's person, personal effects, and vehicle in enforcing this policy.

- A pat-down search of a student may be conducted upon reasonable, individualized suspicion that such student is in possession of a controlled substance in violation of this policy. Any such search shall be conducted in private by an authorized school official of the same sex as the student to be searched and in the presence of a witness of the same sex. As soon as possible after a search conducted by school officials, the student's parent/guardian will be notified regarding the fact that the search occurred and what items were discovered as a result of the search.
- Lockers, desks, and similar storage facilities are school property and remain at all times under the control of the school. Students have no reasonable expectation of privacy in such school property. Periodic general inspection of lockers, desks, and similar facilities may be conducted by school officials for any reason, at any time, without notice and without consent.
- Students are permitted to park on school premises as a matter of privilege, not of right. The District retains the authority to conduct routine patrols of school parking lots and inspections of the exteriors of automobiles, and so much of the interiors as may be observed from the exteriors, on school property. Such patrols and inspections may be conducted without notice and without consent. The interiors of student vehicles on school property may be inspected whenever a school official has a reasonable suspicion that illegal items or unauthorized substances are within such a vehicle.
- In any of the foregoing enforcement actions, the administration is authorized to use dogs whose reliability and accuracy for sniffing and detecting illegal or unauthorized substances has been established. The dogs will be accompanied by a qualified and authorized dog handler who will be responsible for the dog's actions. Any indication by the dog that an illegal or unauthorized substance is present on school property or on student's person or personal object or in a vehicle on school property shall be reasonable cause for a search by school officials.

*Adopted: December 2009*

#### **I.20.5 Intervention Component**

The purpose of this component is to help student with substance related problems. To achieve this, the following system has been developed:

- If a Capitan Employee has a reasonable suspicion of a student using and abusing drugs, alcohol, or tobacco, the employee may contact the student in a respectful, dignified, and confidential manner and offer assistance to the student in entering the school directed rehabilitation program.
- Should a student refuse to cooperate, the employee shall request a meeting of the Student Assistance Team (SAT).
- The SAT will meet to determine the course of action to be taken.
- If the SAT determines there is a reasonable suspicion that the student is using drugs, alcohol, or tobacco they will meet with the student and request that the student

voluntarily accesses services available in the area. A listing of such services will be provided.

- Parents will incur the cost of all out of school rehabilitation programs, such as treatment in a private or state drug treatment rehabilitation center.

*Adopted: December 2009*

## **I.20.6 Staff Reporting Procedure**

### **I.20.6-A Statutory Basis**

Section 22-5-4.4, NMSA 1978, requires that school employees who know or in good faith suspect any student of using or abusing alcohol, tobacco or drugs shall report such use or abuse pursuant to procedures established by their local school boards. So long as such report is made in good faith, the reporting school employee shall be immune from any civil damages for his/her action. This policy is enacted to provide a procedure to be followed by all school district employees in reporting known or suspected use or abuse of alcohol, tobacco or drugs by students.

### **I.20.6-B Duty to Report**

All school employees have a mandatory, non-discretionary duty to report known or suspected alcohol, tobacco or drug use or abuse by any student of the District. All reports made hereunder shall be on a uniform reporting form shall be given to the Principal. The reporting form is found in Appendix I – 5. Reports required hereunder shall be made within a reasonable time after the employee first learns or suspects the use or abuse of drugs, tobacco or alcohol by a student.

The failure of any school employee to report knowledge or suspicion of student alcohol, tobacco or drug use or abuse in a timely manner may be cause for discipline of the employee.

It is not the duty of the school employee making the required report to conduct an investigation to determine whether or not the student identified has in fact used or abused drugs, tobacco or alcohol. The duty to investigate shall be upon the responsible school official to whom the report is made; provided, however, that the reporting employee shall cooperate with the responsible school official during the course of any investigation.

*Adopted: December 2009*

### **I.20.6-C Discrimination Prohibition**

This policy and these procedures shall not be enforced in a manner which discriminates against any student on the basis of race, religion, color, national origin, ancestry, sex, or handicap. This statement shall not be construed as requiring identical treatment of students for violation of the same rule: it shall be read as prohibiting differential treatment which is based on race, religion, color, national origin, ancestry, sex, or handicap rather than on other differences in individual cases of students.

*Adopted: December 2009*

## **I.21.0 Student Interrogations**

A parent may be present during an interview except when interviews are conducted pursuant to a report of child abuse and the interview is by a worker from the Children, Youth and Family Department or a peace officer.

The following policy shall be observed in connection with all contacts by law enforcement officials and child protective services social workers with students. A copy of this policy shall be provided to all licensed school personnel, who shall be responsible for observing it. A copy of this policy shall also be provided to all local law enforcement and child protective services agencies so that mutual cooperation may be promoted.

The following provisions govern school personnel's cooperation with law enforcement and child protective service agencies in regard to criminal law enforcement and child abuse investigations, and are not in derogation of the customary authority of school administrators to conduct interviews and investigations, or otherwise to take action as part of the enforcement of school discipline and order.

Upon a student reaching their 18<sup>th</sup> birthday, parental notification procedures will no longer be required.

*Adopted: December 2009*

### **I.21.1 Official Contact with Students in School**

Law enforcement officers, including investigators employed by public agencies authorized to investigate child abuse and the juvenile probation parole officer, may not be permitted contact with any student except by the building Principal or his/her designee, or by the Superintendent, and pursuant to the procedures and requirements set forth in this policy.

#### **I.21.1-A Verification**

Prior to any student being produced by a school Principal for any contact with officer(s), juvenile probation parole officer(s) or child protective services social worker(s), the Principal or his/her designee shall:

- Write down the name, badge number, and agency of the officer(s), juvenile probation parole officer(s) or child protective services social worker(s) together with the date and time of appearance using the form for "Official Contact with Students in School" (Appendix I-6).
- If the officer(s), juvenile probation parole officer(s) or child protective services social worker(s) is unknown, confirm by telephone with the agency that employs that person their identity and authorization in seeking contact with the student, record the name and position of the person confirming such information and the time of such confirmation, and contact the local agency if the investigator is from out of this area;
- In instances in which the officer(s) have appeared at the school to interview or make an arrest of a student for suspected criminal activity, the principal shall also determine and write down the agency's justification for conducting an interview or arrest of a student at school when such criminal activity has **not** been:
  - committed at the school;

- committed during school sponsored activities;
- committed on school grounds; or
- when such criminal activity involves crimes committed at the school for which assistance has **not** been requested by the principal.
- In instances in which the officer(s) is acting pursuant to an arrest warrant, a search warrant, or other court document, the principal shall obtain a copy of such document.

#### **I.21.1-B Parent Notification**

Except in child abuse and abandonment situations, upon the request of a peace officer to interview a student, the school office shall contact the student's parent/guardian. The parent will be asked if they wish the student to be interviewed and, if so, will be requested to be present or to authorize the interview in their absence. If the parent/guardian cannot be reached, the peace officer should be requested to contact the parent/guardian and make arrangements to question the student at another time and place.

If upon the initial request for contact by the officer(s) or agency, the principal is directed by either not to attempt to notify the student's parent/guardian or to obtain the attendance of the student's parent/guardian, the following procedures should be followed:

- That direction should be added to the information recorded by the principal pursuant to this section; and
- The officer should be asked to sign the statement; and
- If the officer refuses to sign the statement, the principal should note on the statement that the officer refused to sign. The principal shall then contact the agency supervisor to inform them of the refusal to sign.

*Adopted: December 2009*

#### **I.21.1-C Administrative Monitoring of Contact with Students**

After completion of the verification, documentation, parental notification procedures, and upon administrative authorization, as described in this policy, the law enforcement officer may conduct an investigation within the school building and upon school grounds and interview students as possible witnesses in the principal's office or other administrative office. The following procedures shall be followed:

- The Principal or his/her designee shall be present during the interview.
- Reasonable attempts shall be made to keep the identity of those interviewed confidential.
- Neither the Principal nor his/her designee shall disclose any written statements made or the content of statements given during the interview, except he or she may disclose statements made or the content of statements given during the interview to:
  - the student interviewed and to his/her attorney or parents;
  - to the district attorney, or other law enforcement agencies; and
  - if the principal deems it appropriate to legitimate disciplinary goals, to other school officials.

If the investigation focuses on a particular student as a suspect of a crime, the school principal and the police officer shall follow the general guidelines set forth in this policy with respect to

interrogation, search, and arrest. In addition, the Principal shall follow the provisions of policy I.19.4 below.

*Adopted: December 2009*

## **I.21.2 Police Investigations**

### **I.21.2-A Investigations at the Request of School Authorities**

A school principal may exercise his/her discretion in determining whether to request assistance of police in investigating any crime contrary to the laws of the State of New Mexico or of the United States, or any allegation of such crimes, including delinquent activities committed at school or on school grounds during school hours, or during school sponsored activities.

If drugs, narcotics, etc. are found by the Principal, Superintendent or designee on school grounds, the items shall not be removed from site unless the area cannot be secured. Items are then to be given to the responding officer with an inventory of items given to the school for its records.

### **I.21.2-B Investigation Without Request of School Authorities**

It should not ordinarily be necessary for police officers to interview students at school during school hours for criminal activity not committed at the school, during school sponsored activities, or on school grounds, or for crimes committed at the school for which assistance has **not** been requested by the Principal. If the police have determined that exigent circumstances exist to interview students at school regarding such crimes, the law enforcement agency shall follow these procedures:

- Contact the school Principal regarding the planned visit and shall give the principal the reason for conducting the investigation during school hours, school sponsored activities, or on school property and shall obtain his/her approval;
- The Principal shall approve and cooperate with the police during the investigation **unless** the Principal determines that the investigation is being conducted for the purpose of harassment or for reasons not related to a criminal investigation. In the event that the Principal declines to approve the interview he/she shall immediately report his/her opposition to the Superintendent, who shall notify and discuss the opposition with the appropriate police supervisor. Approval shall not be unreasonably withheld.
- A Principal may also designate a reasonable time and place for law enforcement contact with students, including for service of process upon students under his/her control, in order to ensure that the education process is not disrupted.

*Adopted: December 2009*

## **I.21.3 Requests for Police Assistance**

Building Principals or his/her designee are authorized by the Superintendent, to summon and seek assistance from law enforcement authorities in any case in which the activities of students or others is creating a threat to the health or safety of students or of others, or is disrupting or

threatening to disrupt the educational program, normal operation, or lawful functions of the school.

*Adopted: December 2009*

## **I.21.4 Interview of Student Suspects**

### **I.21.4-A Interview of Student Suspect by Law Enforcement**

If law enforcement officers deem it necessary to interview student suspects in school during school hours or school sponsored activities, no interview shall commence unless:

- A parent/guardian is present to counsel the student under the age of 18 years; and
- The student suspect has been advised of his/her basic rights and, understanding those rights, has knowingly and voluntarily waived those rights as follows:
  - Before interviewing, the law enforcement officer has advised the student of the nature of the delinquent activity for which he/she is a suspect, and
  - Advised the student that he/she has the right to remain silent, that anything he/she says may be used against him/her in criminal or juvenile court and that he/she has the right to have an attorney present, or a court appointed attorney if the parents are indigent, and the student or parent may stop the interview at any time, in order to obtain an attorney and have him/her present at further interviews.
  - Obtained the student's written consent.
- The school Principal or designee cannot waive these rights on behalf of the student, nor may he/she compel the student to submit to an interview.
- The school Principal shall use his/her discretion and his/her knowledge of a student's age and mental or physical condition and shall not permit the interview in an instance in which a parent is not present if the Principal does not believe that the student can knowingly, intelligently, and voluntarily waive his/her rights.
- It is not the responsibility of the school Principal to advise the student suspect of his/her basic rights as set forth in the Children's Code, Section 32A-1-16 NMSA 1993.
- The school Principal shall not permit a student suspect age thirteen or under to be photographed or fingerprinted unless the law enforcement officer presents a court order authorizing it.

### **I.21.4-B Interview of Student Suspect by School Personnel at Request of Law Enforcement**

If a student is being interviewed by a school administrator at the request or instigation of the police for law enforcement purposes, the interview may be conducted only if:

- The student is advised of his/her constitutional rights;
- The student knowingly, intelligently, and voluntarily waives his/her constitutional rights; and
- A reasonable attempt to notify his/her parents is made before the interview takes place.

*Adopted: December 2009*

## **I.22 Arrest of Students in School**

It should not ordinarily be necessary for police officers to arrest students at school during school hours for delinquent activity not committed at the school, during school sponsored activities, or on school grounds, or for crimes committed at the school for which assistance has **not** been requested by the Principal.

### **I.22-A Arrests with Advance Notice**

In cases where a law enforcement agency deems it necessary to arrest a student during school hours or activities at school, the agency should notify the Principal of the intended arrest prior to dispatching officers to the school.

### **I.22-B Arrests in Emergency Circumstances**

In emergency situations, where the immediate arrest of a student is deemed necessary by the police, including instances where the commission of a felony or serious breach of the peace has been witnessed by a police officer or if the police officer is in “hot pursuit” of the student for such crime, the police shall be entitled to take action to arrest the student on school property without a warrant.

In cases in which an arrest of a student has been made in an emergency situation and the police have taken custody of a student without providing school authorities the opportunity to conduct the verification, documentation, and parental notification procedures outlined in Section I.19.1, school authorities shall make every reasonable effort to have the arresting officer(s) comply with the verification, documentation, and parental notification procedures **before** removing the student from school grounds.

If the student has been removed from school grounds by law enforcement officers prior to compliance with the verification, documentation, and parental notification procedures, school authorities shall contact the arresting agency and complete the verification, documentation, and parental notification procedures as soon as possible after learning of the removal.

*Adopted: December 2009*

### **I.22-C Signature of Arresting Officer**

When a student is taken into custody, the arresting officer shall be asked to complete and sign a “Form for Signature of Arresting Officer.” (Appendix I - 7) School personnel shall make every reasonable effort to make sure parents have been notified that a student has been taken into custody. The personnel of the District shall cooperate fully with the police.

*Adopted: December 2009*

## **I.23 Searches**

School property assigned to a student and a student’s person or property while under the authority of the public schools are subject to search, and items found are subject to seizure in accordance with the requirements below. The administration has the right to search and seize



property, including school property temporarily assigned to students, when there is a reasonable suspicion that a crime or other breach of disciplinary rules is occurring or has occurred.

Items provided by the District for storage (e.g., lockers, desks) of personal items are provided as a convenience to the student but remain the property of the school and are subject to its control and supervision. Students have no reasonable expectancy of privacy, and lockers, desks, storage areas, etc., may be inspected at any time with or without reason, or with or without notice by school personnel.

A school official may conduct a search when he or she has a reasonable suspicion that a crime or other breach of disciplinary rules is occurring or has occurred. An administrative authority may direct or conduct a search under the same conditions and also when he or she has reasonable cause to believe that a search is necessary to help maintain school discipline.

*Adopted: December 2009*

### **1.23.1 Persons Authorized to Search**

Certificated school personnel, law enforcement officers, and school bus drivers during the time they are transporting students are “authorized persons” to conduct searches when a search is permissible as set forth below. An authorized person who is conducting a search may request the assistance of some other person, who upon consent becomes an authorized person for the purpose of that search only.

*Adopted: December 2009*

### **1.23.2 Search and Seizure by Law Enforcement**

#### **1.23.2-A Search By Request of School Authorities**

- **Emergency Circumstances** - Upon request of a school Principal, police officers may make a general search of students’ lockers and desks, or students’ automobiles on school property, for drugs, weapons, or items of an illegal or prohibited nature if, in the Principal’s judgment, public health or safety is threatened.
- **Non-emergency circumstances** - If a Principal has received reliable information, which he/she believes to be true, that evidence of a non-school related delinquent activity or stolen goods is located in a certain student’s locker, desk, or in a student’s or a non-student’s automobile parked on school property, and there is no immediate threat to the health or safety of student or employees, he/she shall request police assistance for a search by the police pursuant to a search warrant.

#### **1.23.2-B Search Without Request of School Authorities**

Law Enforcement officers may not search a student’s locker, desk, or automobile unless they have a search warrant, or a knowing, intelligent, and voluntary consent is given by the student.

A student’s person may not be searched in school unless:

- the police have a search warrant, or
- the student is under arrest, or
- the police are acting upon probable cause to believe that the student is concealing contraband, or

- a knowing, intelligent, and voluntary consent is given by the student, or
- a student is under court order.

Notwithstanding the foregoing, a search of a student's person, locker, automobile on school grounds, or desk, may be conducted by any police officer on school grounds during school hours if emergency circumstances exist and the police are acting upon probable cause to believe that the health and safety of the student or of others requires a search.

*Adopted: December 2009*

### **I.23.3 Conduct of Searches**

The following requirements govern the conduct of permissible searches by authorized person:

- The student, if available, shall be present during any search of his/her locker, desk, or automobile
- The administration is authorized to use dogs whose reliability and accuracy for sniffing and detecting contraband has been established. The dogs will be accompanied by a qualified and authorized dog trainer handler who will be responsible for the dog's actions. Any indication by the dog that an illegal or unauthorized substance or object is present on school property or in a vehicle on school property shall be reasonable cause for a search by school officials.
- A school official may not consent to a warrantless search of a student's locker, desk, or automobile on school property by law enforcement unless law enforcement personnel are acting at the direction and under the supervision of the school administration.
- The building principal or his/her authorized person designee shall accompany law enforcement officers in conducting searches.
- Physical searches of a student's person may be conducted only by an authorized person who is of the same sex as the student, and except when circumstances render it impossible may be conducted only in the presence of another authorized person of the same sex. The extent of the search must be reasonably related to the infraction, and the search must not be excessively intrusive in light of the student's age and sex and the nature of the infraction.
- Student searches shall be done in private with at least two (2) authorized persons present.
- If any contraband is found, a chain of custody shall be established as follows:
  - The item is placed in a container and labeled
  - The label should identify the object, the identity of the person from whom it was taken and the date, time, and place of the search
  - The searcher and witness(es) who were present for the search shall sign the label
  - Labeled container is turned over to administration and placed in secure location until turned over to law enforcement authorities if law enforcement was not present for the search
  - Illegal contraband shall be turned over to law enforcement as soon as possible.
- No person shall be physically compelled to submit to a search. However, refusal to cooperate may be a basis for discipline, including suspension and expulsion in the case of students.

*Adopted: December 2009*

### **I.23.4 Seizure of Items**

Illegal items, legal items which threaten the safety or security of others, and items which disrupt or interfere with the educational process may be seized by authorized persons. Seized items shall be released to the appropriate authorities or a student's parent/guardian or returned to the student when and if the administrative authority deems appropriate.

*Adopted: December 2009*

### **I.24 Investigations by Child Protective Agencies**

Pursuant to Section 32A-4-3 NMSA 1993, it is the duty of any school nurse, school teacher or administrator who knows or suspects that a child is or has been abused or neglected upon penalty of fine to report this information immediately to:

- Child Abuse/Neglect Hotline number in New Mexico 1-800-797-3260

The individual making the report may report anonymously; however, if a staff member chooses to give his/her name it will be treated as confidential. The person suspecting the child abuse or neglect should be the one to make the call. Teachers should file a confidential log with the building Principal so the Principal may serve as a contact person with the state agencies. (Appendix I – 8 Administrative Report Child Abuse/Neglect Form)

School employees and officials shall cooperate with investigators from law enforcement, the district attorney's office, or county Child Protective Service workers investigating suspected instances of child abuse and neglect, subject to the safeguards and procedures provided by this policy. The following guidelines shall be followed:

- Investigators employed by public agencies authorized to investigate child abuse, including those seeking to remove students from school for purposes of maintaining protective custody as part of a child abuse investigation, are subject to the verification, documentation and parental notification procedures set for in Section I.21.1, **except:**
  - In observing the verification, documentation, and parental notification procedures, the school Principal or designee shall determine from the investigator whether it is appropriate to notify the parent or guardian of the requested interview or the removal of the student from the school which can only be made by a uniformed, commissioned police officer; or
  - In the event the investigator directs that such notice not be given, as in cases where a parent or close family member is the suspected abuser, the Principal shall record such direction as part of the verification, documentation, and parental notification procedures.

*Adopted: December 2009*

### **I.25 Student Concerns, Complaints, and Grievances**

A student who complains or grieves regarding constitutional rights, equal access to programs, discrimination, harassment, bullying, intimidation or personal safety issues may complain directly to the school administrator or to a professional staff member. The matter may not be the subject of disciplinary or other proceedings under other policies and regulations of this District,

and shall not apply to any matter for which the method of review is prescribed by law, or the board of Education is without authority to act. A complaint/grievance may be raised regarding one (1) or more of the following:

- Violation of the student's constitutional rights.
- Denial of an equal opportunity to participate in any program or activity for which the student qualifies that is not related to the student's individual capabilities.
- Discriminatory treatment on the basis of race, color, religion, sex, age, national origin, or disability.
- Harassment of the student – a pattern of conduct that is intended to annoy, alarm, or terrorize another person.
- Intimidation by another student.
- Bullying by another student.
- Concern for student's personal safety.

The Superintendent shall determine whether a complaint/grievance falls within this policy.

Retaliatory or intimidating acts against any student who has made a complaint under this policy, or a student who has testified, assisted, or participated in any manner in an investigation relating to a complaint or grievance, are specifically prohibited and constitute grounds for a separate complaint.

*Adopted: December 2009*

### **I.25.1 Procedure for Filing Complaint/Grievance**

An accusation must be made with thirty (30) calendar days of the time the student knew or should have known that there were grounds for the complaint/grievance. Students should file complaints on their own behalf. A parent/guardian may initiate the complaint process on behalf of an elementary school student. A parent/guardian (other than on the behalf of an elementary student) should refer to Policy Section J for procedures and forms.

A student who complains/grieves may do so directly to the school administrator or to a professional staff member. The individual receiving the student complaint must retrieve sufficient detail from the student to complete the form designated for such a purpose. (see Appendix I- 9). If the complaint is received by a staff member, the staff member will transmit it to the school administrator not later than the next school day following the date the complaint/grievance was received. If the complaint/grievance involves the school administrator, the professional staff member shall forward the complaint/grievance to the next administrative level.

At a minimum, the complaint/grievance shall contain the identifying information on the complainant and such specificity of names, place, and times as to permit an investigation to be carried out. The written complaint/grievance should contain a requested solution and the submission should be signed and attested to by the complainant. However, an unsigned form will be processed in the same manner as a signed form.

*Adopted: December 2009*

### **I.25.2 Investigation of Complaint/Grievance**

The complaint/grievance will be investigated by the school administrator or a supervising administrator. The student shall be contacted not later than the school day following the date the investigator receives the information. The procedure shall be as follows:

- An investigation of the reported incident or activity shall be made within ten (10) school days when school is in session or within fifteen (15) days during which the school offices are open for business when school is not in session. Extension of the time line may only be by necessity as determined by the Superintendent.
- The investigator shall meet with the student who submitted the complaint/grievance at or before the end of the time period and shall discuss the conclusions and actions to be taken as a result of the investigation. Confidentiality of records and student information shall be observed in the process of making such a report.
- The investigator shall prepare a written report of the findings and a copy of the report shall be provided to the Superintendent as the Compliance Officer for discrimination. The Superintendent will determine if the policies of the District have been appropriately implemented and will make such reports and/or referrals to the Board as may be necessary.

Where disciplinary action is necessary, District policies and regulations pertaining to permissible penalties and procedures shall be followed.

*Adopted: December 2009*

### **I.25.3 Withdrawal of Complaint/Grievance**

A complaint/grievance may be withdrawn at any time. Once withdrawn, the process cannot be reopened if the resubmission is longer than thirty (30) calendar days from the date of the occurrence of the alleged incident. False or unproven complaint documentation about harassment, intimidation or bullying shall not be maintained.

*Adopted: December 2009*

### **I.25.4 Making a False Report**

Knowingly submitting a false report or making false accusations under this policy shall subject the student to discipline up to and including suspension or expulsion.

*Adopted: December 2009*

## **I.26 First Amendment Restraints**

Students are within the protection of the First Amendment, although their rights are not co-extensive with those of adults. Therefore, administrative authorities may exercise reasonable prior restraint upon the exercise of students' First Amendment rights, including standards of decency.

All student meetings in school buildings or on school grounds shall function only as a part of the formal education process or as authorized by the principal. There is an appropriate time and

place for the expression of opinions and beliefs. Conducting demonstrations which interfere with the operation of the school or classroom are inappropriate and prohibited.

*Adopted: December 2009*

### **I.27 Student Appearance**

Students are expected to dress neatly, cleanly, and modestly and not draw undue attention to themselves in the learning environment: this includes hair, jewelry or clothing. Clothing or jewelry with vulgar, racial, or indecent slogans or pictures shall not be permitted. Clothing or jewelry advertising or promoting merchandise which is not allowed on the campus is prohibited.

School officials will reserve the right to use their discretion regarding appropriate appearance, and also reserve the right to send students home.

Each building will publish annually a student handbook, to be approved by the Board, which includes specific policies for student appearance and sanctions therein.

*Adopted: December 2009*

### **I.28 Care of School Property by Students**

Each student is expected to take pride in the physical appearance of the school grounds. Teachers and students should be observant at all times to prevent damage or destruction of school property. Any marking or marring of school property should be reported to the office at once.

No student shall damage or deface any property belonging to the District. The type of discipline that may be imposed for damage to school property by students depends upon the circumstances.

A school may withhold the grades, diploma, and transcripts of a student responsible for damage or loss of school library or instructional material until the parent/guardian or student has paid for the damage or loss. Students may be subject to discipline for willful damage or destruction of school property.

If any minors engage in conduct that results in damage to District property, the District may institute formal charges for the purpose of having the court order the minors, or their parents, to make full or partial restitution to the District in accordance with the law.

*Adopted: December 2009*

### **I.29 Student Government**

The organization of a representational Student Council/Student Senate is encouraged.

Student government is expected to be “of the students, by the students, for the students,” representing the school in communications with the administration and in the organization of student activities.

Members are to be elected democratically. The rights and responsibilities of the Student Council/Student Senate should be clearly set forth by each school. Each Student Council/Student Senate must have a faculty advisor.

*Adopted: December 2009*

### **I.30 Student Publications**

Student publications intended for distribution to the students shall be submitted to the Principal for approval prior to distribution. Student publications must not contain material that is libelous, obscene, or presents attacks of a personal nature. Student publications must also be approved as outlined below:

- Material to be considered for distribution or posting must be submitted to the principal for review and approval at least three (3) days before such contemplated distribution or posting.
- The principal must notify the requestor of his/her decision by 4:00 p.m. the day previous to the contemplated distribution or posting.
- Failure to make such notification on the part of the principal will be interpreted to mean approval is granted for such distribution or posting.
- If the principal disapproves the distribution or posting of materials, the requestor may appeal the decision to the Superintendent and finally to the Board of Education.

Unauthorized solicitation will not be allowed on school property at any time.

*Adopted: December 2009*

### **I.31 Married Students**

Married students must report any name changes to their guidance counselor or Principal if school records are to reflect the married name on school transcripts. A student’s marital status does not reduce the requirements or opportunities of the educational system in the District.

*Adopted: December 2009*

### **I.32 Limited Open Forum**

The Capitan Municipal Schools Board of Education hereby requires that each school in the District create a limited open forum so that student groups may meet on school premises during non-instruction time regardless of whether or not such student groups are curriculum related. Student-initiated religious, political and philosophical groups shall have the right, guaranteed by the Equal Access Act of 1984, to meet on the same basis and are subject to the same controls as any other student-initiated group. Subject to reasonable control of the time, place, and manner of

the speech, the secondary schools shall not use the content of a student speech to discriminate against those students requesting access to the limited open forum.

The Principal of each secondary school shall have the authority to determine other requirements for access to the limited open forum which satisfy the spirit and letter of the Equal Access Act, and also satisfy minimum standards of fairness. In satisfying the secondary school's obligations under the Equal Access Act where a limited open forum is provided, school employees shall not:

- influence the content of any prayer or other religious activity in the school;
- require any person to participate in prayer or other religious activity in the school;
- provide any public funding of any religious activity other than the cost incidental to the space for the student meetings;
- compel school employees to attend any meeting if content of the speech at the meeting is contrary to the beliefs of the employees;
- sanction meetings which would otherwise be unlawful;
- sponsor such religious meetings;
- attend such religious meetings other than in a non-participatory capacity;
- allow meetings which materially and substantially interfere with the orderly conduct of educational activity within the school;
- allow nonschool persons to direct, conduct, control, or regularly attend activities of such religious meetings; or,
- limit the authority of the school to maintain order and discipline on school premises, to protect the well being of students and faculty, to assure that attendance at such religious meetings is voluntary, and to make such regulations as required by considerations of space, safety, and the common good.

*Adopted: December 2009*

### **I.33 Student Performances/Exhibits/Competitions (Not Inclusive of NMAA-Sponsored Activities)**

Any student or group of students planning to give public performances representing the District shall first secure permission from the Principal. Such performances shall be in keeping with the general goals and objectives of the education program and the following:

- Funds, if collected, shall be credited to the appropriate student activities account.
- The participation in the project will not deprive students of time needed in acquiring basic skills.
- The regular schedule will not be interrupted unless the majority of the students benefit through their participation.
- The activity shall contribute to the educational program.

*Adopted: December 2009*



### **I.34 Student Fund Raising Activities**

Fund raising activities by students on school premises or elsewhere as representatives of the school will be permitted only when connected with specific school activities approved by the Superintendent.

Participation in contests or fund raising activities shall be governed by the following criteria:

- The aim of the activity shall benefit youth in educational, civic, social, and ethical development.
- The activity shall not be detrimental to the regularly planned instruction.
- Students are not to be directed or encouraged to conduct door-to-door solicitation

The proceeds of all fund raising activities shall be reported in the appropriate Activity Fund and funds from such activities shall be used only as specified in the Manual of Procedures for Public School Accounting and Budgeting.

*Adopted: December 2009*

### **I.35 Student Activity Funds**

The Superintendent shall require the establishment of appropriate procedures whereby all persons having any duties relating to student activity funds are advised of the requirements and responsibilities therefore. All such person shall be held strictly accountable for the manner in which these guidelines are followed.

The Superintendent shall ensure that an accurate, detailed record of all revenues and expenditures of student activity funds is kept. The record shall be made in such form as the Board prescribes.

*Adopted: December 2009*

### **I.36 Class Valedictorian and Salutatorian**

The class Valedictorian shall be the student with the highest GPA in the graduating class. The Salutatorian shall have the next highest GPA. The additional criteria associated with this determination shall be:

- GPA shall be determined by averaging all classes taken when the student enters ninth (9<sup>th</sup>) grade continuing for eight (8) consecutive semesters.
- The student must have completed all graduation requirements
- Students who have not attended Capitan High School for their last four (4) consecutive semesters will be unranked and will not be eligible for Valedictorian or Salutatorian honors.
- Should there be a GPA tie, the following procedure will be used to determine ranking:
  - The GPA will be computed to two (2) places past the decimal.
  - If a tie still exists, the core subjects will be averaged (English, Science, Social Studies, Math)
  - Should there still be a tie, consideration will be give to the more rigorous academic curriculum (Advanced Placement, Dual Credit, Honors, etc)

- If the students remain tied, they shall be honored as co-valedictorians and co-salutatorians

*Adopted: December 2009*

### **I.37.0 Interscholastic Sports**

The purpose of interscholastic competition is both educational and recreational. The school sports program should encourage participation by as many students as possible, although a tryout process may occur for participation, and should always be conducted with the best interests of the participants as the first consideration. Comparable athletic opportunity in interscholastic sports shall be offered for both sexes.

District participation in interscholastic athletics shall be subject to approval by the Board. This shall include approval of membership in any leagues, associations, or conferences, and any new agreements with other schools for a series of games or events.

The following rules shall be observed for participation by individual students:

- For each type of sport in which the student engages, the parent/guardian must give written consent.
- The student must be determined by a physician to be physically fit for the sport.
- The student must obtain catastrophic health and accident insurance.

The Superintendent shall establish other regulations in accordance with policies of the District and regulations and recommendations of the NMAA and New Mexico PED.

*Adopted: December 2009*

### **I.37.1 Health and Safety of Participants**

The health and safety of participants in interscholastic athletic activities must receive careful consideration. Participants must be provided access to water at all times during practice sessions, games, or other interscholastic athletic activities.

The Superintendent shall require that regulations for health and safety of participants in interscholastic athletics be implemented and enforced.

*Adopted: December 2009*

### **I.38 Extracurricular/Co-Curricular Activities**

Students involved in extracurricular and co-curricular activities in grades six (6) through twelve (12) are subject to all aspects of the regular school discipline policies, the drug, alcohol, and tobacco policies, and shall comply with all portions of the Athletic Code regarding student participation and conduct appropriate for that activity. Students shall follow all attendance requirements.

Students will set the highest possible standard in school, in their classes, at home, in the community, and in the area of competition and sportsmanship so others will respect them and so

they will add something to the program they represent. Participation is a major commitment. If a student chooses to violate the standards set for the program, that student will be subject to athletic/activity and/or school sanctions for their behavior.

Hazing will not be tolerated in any form. Violations will result in sanctions consistent with the school discipline matrix.

*Adopted: December 2009*

### **I.38.1 Eligibility**

It is realistic to have the interscholastic extracurricular activities function within a realistic framework of control. In order that overenthusiastic students do not place a social or athletic function on a higher plane than the academic program, the following policy will be adhered to:

- All class work counted for eligibility must be acceptable for graduation.
- The students must be enrolled in at least five (5) classes excluding the athletic period.
- Regular attendance must be maintained. No more than fifteen (15) days or fifteen (15) class periods of a particular class may be missed each semester due to interscholastic extracurricular activities.
- Students must meet academic eligibility criteria:
  - Following the semester, a cumulative passing grade average of 2.0 on a 4.0 scale adjusted for Honors or AP points with no more than one (1) *F* or Failure. Semester grades may only be used at the beginning of the semester. Incomplete grades will be considered an *F* until the incomplete status is replaced with a final grade; OR
  - The grades from the grading period immediately preceding participation must be a 2.0 on a 4.0 scale adjusted for honors or AP points with no more than one (1) *F* or failure. Incomplete grades will be considered an *F* until the incomplete status is replaced with a final grade.

If a student does not meet the eligibility requirements the penalty will be removal from participation in any athletic team or extracurricular performances or travel. A student that demonstrates academic progress toward eligibility may practice with the team or group.

Students whose behavior presents a problem or jeopardized school discipline may be ineligible for participation until such time as their behavior warrants reinstatement.

*Adopted: December 2009*

### **I.38.2 Notification**

The Superintendent is responsible for developing procedures of notification of eligibility requirements and for the enforcement of eligibility regulations.

Students and parents/guardians shall be notified of ineligibility in a manner that maintains confidentiality. This notification should take place when a ineligibility is pending or an ineligibility is necessary.

*Adopted: December 2009*

### **I.38.3 Additional Regulations**

The Superintendent shall establish regulations to ensure that:

- Necessary documents in support of this policy are maintained.
- Necessary data related to ineligible students are collected and reported as required.
- The cultural traditions of students are considered when establishing or enforcing rules related to participation in extracurricular and co-curricular activities.
- The requirements of this policy are met.

The Superintendent may develop additional rules or procedures for the proper conduct of extracurricular and co-curricular programs and the implementation of the provision of this policy.

*Adopted: December 2009*

### **I.39.0 Student Wellness**

The Capitan Board of Education is committed to the development and implementation of a comprehensive school district wellness plan and guidelines to enhance the academic success of all students and lifelong well-being of all students and staff. The plan will include the following: Family, School, and Community Involvement, Physical Education, Healthy and Safe Environment, Health Services, Social and Emotional Well-Being, and Staff Wellness. The Plan has been developed in accordance with all Public Education Department regulations and New Mexico State Statues including: 6.12.6.6 NMAC and the requirements of Section 204 of Public Law 108-265-June 30, 2004 – Child Nutrition and WIC Reauthorization Act of 2004.

The School Health Advisory Council (SHAC), whose membership may include parents, school food authority personnel, school board members, staff, administrators, students, and community members, will review the plan annually and develop recommended amendments, as appropriate. (Reference: Capitan Schools Wellness Plan and Guidelines).

The Board of Education of Capitan School District shall establish the Capitan Municipal School District's school health advisory council (CMSD SHAC) that may consist of parent(s), school food authority personnel, school board member(s), school administrator(s), school staff, student(s), and community member(s).

The Capitan Municipal Schools SHAC shall meet a minimum of two times per year and submit a written report to the Board of Education of Capitan School District. This report may consist of:

- Evaluation of food services program
- Recommendations for policy and/or program revisions.

- Review of foods and beverages sold in school for compliance with established nutritional guidelines
- Assessment of school environment regarding student wellness issues.
- Listing of activities and programs conducted to promote nutrition and physical activity.
- Providing feedback received from District staff, students, parents/guardians, and community members.

In accordance with the National School Lunch Act (42 U.S.C.1751 *et seq.*) and Child Nutrition Act (42 U.S.C 1771 *et seq.*), an assurance that district guidelines for reimbursable meals are not less restrictive than regulations and guidelines issued for school in accordance with federal law shall be provided annually. The Superintendent shall receive assurances from the health advisory council and all appropriate administrators and supervisors prior to making the annual report.

Vending machine sales and other competitive food sales during school hours shall meet the requirements as set forth by the Competitive Food Grid (Appendix I - 10). “Competitive Food” means a food or beverage sold at school other than one served as part of the United States Department of Agriculture school meal program. The term includes any item sold in vending machines, a la carte or through other school fundraising efforts during normal school hours.

*Adopted: December 2009*

### **I.39.1 Student Insurance Programs**

Students involved in sports shall obtain catastrophic health and accident insurance coverage.

Additionally, the Board may choose to provide or make available a student health benefits insurance program for the District. The program will be conducted at no expense to the District. The Superintendent will provide to parents/guardians information on student health benefits insurance if such insurance is available.

*Adopted: December 2009*

### **I.39.2 Physical Examinations for Students**

Each student participating in high school and middle school interscholastic athletics is required to submit to a physical examination when required by the New Mexico Activities Association or submit evidence of being physically fit, as verified by competent medical personnel.

*Adopted: December 2009*

### **I.39.3 Vision Screening of Students**

A person trained to administer vision screening in accordance with the standards of the Department of Health shall administer a vision screening test to students in pre-kindergarten (Pre-K), kindergarten (K), first (1<sup>st</sup>) grade, third (3<sup>rd</sup>) grade, and all new or transfer students in

those grades unless a parent affirmatively prohibits the screening. Such affirmation shall be accepted in writing and kept as part of the student's health record. If the parent affirmatively prohibits the vision screen verbally, the action shall be put in writing, witnessed, and placed in the student's health record.

Should the vision screening of a student indicated the need for further evaluation, the parent of the student shall be notified of that need.

*Adopted: December 2009*

### **I.39.4 Immunization of Students**

All students shall be required to have immunizations in accordance with State Laws unless exempt for religious reasons. This regulation is promulgated pursuant to Section 24-5-2, NMSA 1978 Comp., and Section 24-5-3, NMSA 1978 Comp., and PED Regulation No. 76-16.

#### **I.39.4-A Limitations on Enrollment**

No student shall be enrolled in Capitan Municipal Schools unless:

- The student has been immunized in accordance with the immunization schedule of the New Mexico Department of Health, and the student can present satisfactory evidence to the administrative authority that the immunizations have been completed; or,
- The student seeking enrollment can produce satisfactory evidence that he/she has begun the process of immunization pursuant to the immunization schedule; or,
- Homeless student shall not be prevented from attendance until the fifth (5<sup>th</sup>) calendar day after enrollment.

#### **I.39.4-B Exemptions from Immunization**

An exemption from obtaining the required immunizations is valid for a period not the exceed nine (9) months and will not extend beyond the end of the school year in which it is submitted. Exemptions must be renewed each school year.

- **Medical Exemption**

Any student under the age of 18, through his/her parent or guardian, or any student over the age of 18, may obtain an exemption from obtaining the required immunizations for a period not to exceed nine (9) months, and not to extend beyond the end of a school year in which the student is currently enrolled by filing a statement or certificate with the Secretary signed by a licensed physician stating that the physical condition of the student seeking enrollment is such that immunization would seriously endanger the life or health of the student.

- **Religious Exemption**

- Exemption by membership in a recognized religious denomination: Any parent/guardian belonging to a recognized religious denomination whose religious teaching requires reliance upon prayer or spiritual means alone for healing shall present affidavits from the officer of the denomination stating that the parents or guardians are bona fide members of the denomination, and that the religious teaching of the denomination requires reliance upon prayer or spiritual means alone for healing.
- Exemption by certificate of religious objection: A parent/guardian who cannot obtain an affidavit from an officer of a recognized religious denomination as described in

Paragraph 1 hereof, but whose religious beliefs, held either individually or jointly with others, do not permit the administration of vaccine or other immunizing agents, may apply for an exemption from immunization by submitting a certificate of conscientious objection to immunization.

- Oath: The certificate must be signed in the presence of a notary public.
- Conditional enrollment: Upon presentation of a notarized certificate to the Principal of the school to which a student seeks enrollment, the Principal shall allow the student to be enrolled conditionally until such time as the certificate is either approved or disapproved by the Secretary of the New Mexico Department of Health.
- Grounds for disapproval: The Secretary may disapprove a certificate for failure to fully complete it, or failure to allege beliefs and practice sufficient to warrant an exemption from immunization for religious reasons consistent with the legislative intent of Section 24-5-3, NMSA 1978 Comp.
- Role of Superintendent: Every Principal receiving a certificate of conscientious objection to immunization shall deliver the same to the Superintendent within seven (7) days of the time the certificate has been received; the Superintendent shall note on his/her records that a religious exemption has been claimed on behalf of each student so claiming and forward the original certificate to the Secretary within seven (7) days of the time it has been received from the Principal.
- Duties of Secretary: Pursuant to authority granted in Section 24-5-3, NMSA 1978 Comp., supra, within sixty (60) days of his/her receipt of a certificate of conscientious objection to immunization, the Secretary shall (i) determine whether the certificate has been duly completed and notarized; (ii) make or cause to be made such investigation as may be appropriate to ascertain that the exemption is a bona fide claim of religious beliefs and practice; and (iii) advise in writing the parent or guardian of the subject student, the Superintendent of the school district in which the student's school is located, and the principal of the school at which the student has been conditionally enrolled, that the claimed religious exemption has been approved or disapproved. In the case of disapproval of claim to religious exemption, the Secretary shall state the reason(s) in the letter of notification.
- Right to appeal: Every parent/guardian of a student, whose claim on behalf of that student for religious exemption from the student immunization requirements is disapproved by the Secretary, shall have the right to pursue an administrative appeal from such disapproval. The manner and method of administrative appeal shall be determined by the Secretary.

#### **I.39.4-C Immunization Records**

Immunization records shall be kept current and available to the Public Health Division. A completed Immunization Roster shall be filed annually with the Public Health Division as per guidelines.

#### **I.39.4-D Disenrollment**

If satisfactory evidence of immunization is subsequently determined to be incorrect for any reason, and the student enrolled has not completed the required immunizations, or, if a student having begun the process of immunization does not complete the process in within the time limits set forth in the prescribed schedule by the Department of Health, or an exemption is determined to be invalid, the administrative authority shall disenroll the student.

*Adopted: December 2009*

#### **I.39.5 Communicable/Infectious Diseases**

Any student with, or recovering from, a communicable disease will not be permitted in school until the period of contagion is passes or until a physician recommends a return. Parents/Guardians will be requested to provide a history of the communicable diseases for each student, and such records will be kept and maintained by the District.

A student suffering from a communicable disease shall be excluded from school to protect the student's own welfare and to protect other students from illness. Early recognition of a communicable disease is of prime importance.

Any District administrator having knowledge of any person having or suspected of having a notifiable condition, shall immediately report the instance to the office of public health in accordance with New Mexico Administrative Code (NMAC) 7.4.3.8.

*Adopted: December 2009*

##### **I.39.5.1 Pediculosis (Lice Infestation)**

Students with pediculosis shall be excluded from school until treatment specific for pediculosis has been initiated and the student is symptom free.

*Adopted: December 2009*

##### **I.39.5.2 Acquired Immune Deficiency Syndrome/Human Immunodeficiency Virus Infections**

Students ill with HIV or AIDS have a right to receive a public education. The Board has a responsibility to assure that the school provides a safe environment for all students and employees. The Board directs that:

- Infected student receive a public education.
- Information is provided for parents, faculty, and staff members and other concerned persons concerning the actual and potential dangers of transmission of the disease.



- Decisions concerning the educational placement of infected students be determined upon the best medical knowledge available and on a case-by-case basis.
- Restrictions be placed upon a student as required by state laws and regulations, and advice of a physician selected by the District.
- Protection for the rights of privacy of each infected student shall be a primary consideration.

Decisions regarding the type of educational setting for the student who is infected with HIV shall be based upon the behavior, neurologic development, and physical and mental condition of the student. Recommendations will be made upon consultation with public health personnel, school officials, the student’s physician and parents, and, at the discretion of the District, a physician selected by the District.

*Adopted: December 2009*

### **I.39.6 Administering Medicine**

Medicine may be given to students by the school nurse or staff only when the form “Permission to Administer Medications” (Appendix I-11) is completed and signed by the parent or guardian and doctor.

The medicine must come to the school in the prescription container, or, if it is over-the-counter medication, in the original container with all warnings and directions intact. All medications shall be kept in a locked cabinet. A log shall be kept documenting that the student has received the medication.

A high school student may bring one pill to school and carry it on his-her person to be taken at the appropriate time if the above requirements have been met.

The District reserves the right to disallow the use or administration of any medication on school premises if the threat of abuse or misuse of the medicine may pose a risk of harm to member(s) of the student populations.

This policy and any related policies or amendments to such policies shall be forwarded to the District liability insurance carrier for review.

#### **I.39.6-A Asthma Medication and Emergency Anaphylaxis**

When a physician feels it is necessary for the student to carry and self-administer either of these medications, the physician shall provide written recommendations, to be attached to the signed parent permission form, including a written treatment plan for managing asthma or anaphylaxis episodes.

Backup medication may be provided by the parent. Such medication must come in the prescription container as prepared by the pharmacist with a written permission to administer on an emergency basis from a parent and shall be kept in a locked areas in the office.

*Adopted: December 2009*

### **I.39.7 Do Not Resuscitate (DNR) Orders**

The decision not to resuscitate a student or initiate life-saving measures is a medical judgment best made by a physician in the context of a clinic, hospital, or other medical facility, based upon the particular circumstances presented by the student. The District's ability and responsibility to make such judgments is substantially limited. The CMS Board of Education takes the position that its paramount responsibility is to protect the health and well-being of all student and school personnel. Being unable to render aid to a student in distress could result in great emotional trauma. Accordingly, the Capitan Municipal Schools shall not accept nor retain DNR orders present by parents or physicians.

*Adopted: December 2009*

### **I.39.8 Health Curriculum**

It is the desire of the Capitan Municipal Schools Board of Education to provide a healthy and safe environment for students. A Health Committee made up of staff members and community members shall be commissioned to develop curricular guidelines concerning all health issues taught by Capitan teachers/staff in grades K-12. The guidelines shall be in conjunction with any New Mexico Public Education Department health standards. The guidelines shall be brought to the Board of Education for review and approval as needed.

*Adopted: December 2009*

### **I.40 Student Safety**

Teachers will be responsible for their classes at all times. At no time are students to be left unsupervised. Students are not to be sent on errands from the school premises.

Teachers have the authority to prohibit the use of and/or to confiscate any article that is a hazard to a student or that may damage school property. In the case of an emergency, the teacher will seek help from the Principal.

Instruction in courses such as Industrial Arts, Science, Culinary Arts, Art, Physical Education, Health, etc., will include an emphasis on accident prevention and safety. The objectives of the safety instruction will include the following as applicable to each unit of work in each course:

- Help students learn how to work, play, and exercise safely and how to prevent accidents;
- Teach proper procedures to reduce the possibility of accidents;
- Teach development of habits of good housekeeping, proper storage and handling of materials;
- Help students become familiar with personal protective equipment and the proper clothing to be worn for safety purposes;
- Help student develop safe skills for the safe use of tools and equipment;
- Help student learn how to cooperate with others in the promotion and operation of a safety program in the school.

Safety instruction will precede the use of materials and equipment by students applicable units of work in the courses listed above, and instructors will teach and enforce all safety rules set up

for the particular courses. These will include the wearing of protective eye devices in appropriate activities.

In addition, school buildings, playgrounds, and equipment will be regularly inspected for health, fire, and safety hazards.

*Adopted: December 2009*

### **I.41 Supervision of Students**

When students are in school, engaging in school-sponsored activities, or traveling to and from school on school buses, they are responsible to the school and the school is responsible for them.

Public school authorities, including School Boards, administrators, teachers and others in positions where supervision of public school students is part of their responsibility shall stand “in Loco Parentis” with regard to those students during such times that they have the responsibility of supervising, instructing or otherwise controlling such students. During such periods public school authorities shall have the right of supervision and control over the conduct of such students.

This regulation is intended to reflect the common law with regard to the rights, duties and liabilities of public school authorities in supervising, controlling and disciplining students and nothing herein shall be construed as enlarging the liability of public school authorities beyond that imposed by statute, common law or regulation of the Public Education Department.

Supervision shall include being within the physical presence and, whenever possible, within a line of vision of the students so that school personnel will have a reasonable opportunity to control the behavior of and assist the students if necessary. Teachers shall exercise supervision as appropriate from the commencement of the school day, before classes begin, during class sessions, between classes, and at any other time when performing teaching or related duties on behalf of the school.

If it should be necessary in an emergency situation for a teacher to leave the physical presence of the students, then the teacher shall make a reasonable effort to obtain a school employee to supervise the students during the teacher’s absence. In no case shall the teacher leave students unsupervised if there is a reasonable possibility that harm to students or property will result from the students being left unattended.

School administrators, teachers, and other staff members will ensure that anyone who wishes to contact a student during the day is doing so for proper reasons and follows proper school procedure.

*Adopted: December 2009*

### **I.41.1 Student Dismissal Precautions**

No student will be removed from the school grounds, from any school building, or from any school function during school hours except by a person authorized to do so by the student's parent/guardian except as provided by law. Before a student is removed, the person seeking to remove the student must present, to the satisfaction of the Superintendent/Superintendent designee, evidence of proper authority to remove the student. If any police or court official requests the dismissal of a student during school hours, parents/guardians should be notified as soon as possible (see section I.20)

*Adopted: December 2009*

### **I.42 Extra Class Activities**

Extra class activities shall be held to a minimum during the regular school day. These activities must be approved by the school Principal in advance and should be of such a nature that they will complement the approved school program.

*Adopted: December 2009*

### **I.43 Student Involvement with Board of Education**

The Capitan Municipal Schools Board of Education encourages the student body representatives and other interested students to attend Board meetings and be involved in the development of rules, regulations and policies affecting the student body.

*Adopted: December 2009*

### **I.44 Student Volunteers for School and Community Service**

The CMS Board of Education encourages the utilization of student volunteers in the educational program and in useful community services. However, student volunteers must be capable of carrying out the additional load without endangering their academic achievement. All student volunteers shall be expected to maintain their grades, attend all classes, and recognize that the activity to which they are volunteering there is secondary to their primary goal of getting and education.

*Adopted: December 2009*

### **I.45 Student Gifts**

Students are discouraged from collecting money or purchasing gifts for faculty members. Gifts from students shall be limited to small expressions of condolence, remembrance, or appreciation.

*Adopted: December 2009*

## I.46 Student Records

Required student records – regular and special education – will be prepared in a manner consistent with the federal and state laws. For the purpose of this policy, Capitan Municipal Schools uses the following definitions of terms:

- **Students:** Any person who is enrolled and attends or has attended a school in the District.
- **Eligible Student:** A student or a former student who has reached age 18 or is attending a postsecondary school.
- **Parent:** Either natural parent of a student, a guardian, or an individual authorized to act as a parent or guardian in the absence of the student’s parent or guardian.
- **School Official:** A person employed by the District as an administrator, supervisor, instructor, or support staff member, including health or medical staff; a person elected to the School Board; a person employed by or under contract to the District to perform a special task, such as an attorney, auditor, medical consultant, or therapist; a person who is employed by the District for law enforcement purposes.
- **Legitimate Educational Interest:** An interest is deemed legitimate if the School Official is performing a task that is specified in his or her position description or by contractual agreement in connection with the operation, maintenance, or management of programs and functions of the School District; performing a task related to the student’s education; performing a task related to the discipline of a student; providing a service or benefit relating to the student or student’s family, such as healthcare, counseling, job placement, or financial aid; maintaining the safety and security of the campus.
- **Education records:** Any record (in handwriting, print, tapes, film, or other medium) maintained by the District, or an agent of the District which contains information directly related to a student *except*:
  - A personal record kept by a staff member if it is kept in the sole possession of the maker of the record and is not accessible or revealed to any other person except a temporary substitute for the maker of the record.
  - Records created and maintained by the District Law Enforcement Unit for law enforcement purposes.
  - An employment record which relates exclusively to an individual in his or her capacity as an employee of the District and which is not available for other use.
  - Alumni records which contain information about a student after he or she is no longer in attendance at the District and do not relate to the person as a student.
  - Medical treatment records maintained for “eligible students.”
  - Records containing only information about a person after that individual is no longer a student in the District.
- **Personally identifiable information:** Any data or information that makes the subject of a record known. This includes the student’s name, the name(s) of the student’s parent(s) or other family member(s), the student’s address, the student’s Social Security number, a list of personal characteristics, or other information that would make the student’s identity easily traceable.
- **Signed and dated written consent:** This consent may include a record and signature in electronic form that:
  - Identifies and authenticates a particular person as the source of the electronic consent.

- Indicates such person's approval of the information contained in the electronic consent.

*Adopted: December 2009*

### **I.46.1 Custodian of Student Records**

The Superintendent/Building Principal is the designated custodian of student records. He/she shall be responsible for ensuring that the procedure for the administration of student records is in accordance with state and federal statute. The Superintendent has the responsibility for ensuring the confidentiality of any personally identifiable information [34 C.F.R 300.612].

*Adopted: December 2009*

### **I.46.2 Classification and Maintenance of Records**

The Capitan Municipal Schools shall maintain a cumulative record folder for each student attending its schools. The cumulative record folder shall contain all the written records directly related to the student that are kept by the District.

Cumulative record folders shall be kept in the office of the Principal of the school (preferably in the school vault) that the student attends. The Principal of each school is responsible for maintaining cumulative record folders of students attending his/her school.

The following types of files shall be considered education records and shall be included in the cumulative file:

- Identification information, including name, sex, race, birthplace, and birth date;
- Family data;
- Medical health records and emergency medical information;
- Attendance records;
- Academic or scholastic records;
- Standardized test scores;
- Records of educational or vocational plans;
  - Records of interests, activities and honors;
  - Teacher evaluations, if shared with anyone else;
  - Counselor evaluations, if shared with anyone else;
  - Information pertaining to special services provided for students;
  - Records of incidents of unsatisfactory behavior or imposition of discipline.

Records that may be purged shall be removed from the record and properly disposed of unless a request for a review by a parent or student is pending. At a minimum, the student's record shall be reviewed for records to be purged when the student has completed elementary school, middle school, and high school. Records which may be purged include those previously designated as such. The following is a list of types of records that the District maintains, their locations, and their custodians.

<u>TYPES</u>	<u>LOCATION</u>	<u>CUSTODIAN</u>
Cumulative School Records (Current Students)	Each Building Vault	Principal
Cumulative School Records (Former Students)	Each Building Vault	Principal
Health Records	Elementary Nurse's Office	School Nurse
Speech Therapy Records/Psychological Records	Special Education Office	Special Services Director
Special Test Records	Special Education Office	Special Services Director
School Transportation Records	Administration Building	Business Manager
Standardized Test Records	Building Vault	Principal

*Adopted: December 2009*

### **I.46.3 Confidentiality of Student Records**

The right to inspect and review education records and the release of or access to such records, other information, or instructional materials will be consistent with federal law I the Family Educational Rights and Privacy Act (FERPA), Title 20, United States Code, sections 1232g and 1232h, the USA Patriot Act, NCLB, and with federal regulations issued pursuant to such act.

The schools must make every effort to keep student records confidential and out of the hands of those who might use these for other than legitimate purposes. Information of a highly confidential and personal nature about students that counselors, teachers, and other school personnel acquire must be respected as confidential.

An educational agency or institution may disclose personally identifiable information from an education record only on the condition that the party to whom the information is disclosed will not disclose the information to any other party without the prior consent of the parent/guardian or eligible student.

*Adopted: December 2009*

#### **I.46.4 Procedure to Inspect Education Records**

Parents of students or eligible students may inspect and review the student's education records upon request. Parents or eligible students should submit to the student's Principal a written request which identifies as precisely as possible the record or records he or she wishes to inspect.

The Principal (or appropriate school authority) will make needed arrangements for access as promptly as possible and notify the parent or eligible student of the time and place where the records may be inspected. Access must be given in 45 days or less from the date of receipt of the request.

Parents or eligible students who wish to inspect records and who live within 50 miles of the place where the records are kept must do so at a place designated by the District. After inspection, the parent or eligible student may request copies of the records inspected. Parents or eligible students who live farther than 50 miles from the place where the records are kept may request copies of the records without first inspecting them at the District's designated place. In such a case, the District will copy the records at the requestor's expense and mail the records by registered mail, return receipt requested.

The contents of the official folder of a student should not be sent outside the office of the Registrar or other records office except in circumstances specifically authorized by the Principal or the custodian of the other records. A permanent records card should never leave the office of the Principal or other official since copies can readily be prepared.

*Adopted: December 2009*

#### **I.46.5 Refusal to Provide Copies**

The District reserves the right to deny a parent or eligible student a copy of the student's education records in the following circumstances, unless failure to provide a copy would effectively prevent the parent or eligible student the right to inspect and review education records:

- The parent or student has an unpaid financial obligation to the District.
- The education record requested is an exam or set of standardized test questions, covered by the publisher's restriction or copyright.

*Adopted: December 2009*

#### **I.46.6 Fees for Copies of Record**

All records subject to disclosure under this procedure shall be available for inspection free of charge. If copies are desired, they shall be furnished by the District to the parent or eligible student on request and free of charge. Additional copies may be sent to other schools or agencies without charge. However, the District reserves the right to charge up to thirty-five cents (\$0.35) per page for multiple or excessive requests. Copies of available records shall be produced as promptly as possible upon receipt of the request. No fee will be charged for search and retrieval of records [34 C.F.R 300.617].

*Adopted: December 2009*



### **I.46.7 Disclosure of Educational Records**

The District will disclose information from a student's education records only with the written consent of the parent or eligible student, except that the District may disclose or permit inspection or disclosure, without consent when disclosure is for the reasons enumerated below:

- To school officials who have a legitimate educational interest in the records, including for purposes related to financial aid.
- To officials of another school, upon request, in which a student seeks or intends to enroll. In such a case, the parent or eligible student shall receive notice of the request.
- To certain officials of the U.S. Department of Education, the Comptroller General, the State and local educational authorities, in connection with an audit or evaluation of certain State or federally-supported education programs.
- In connection with a student's request for or receipt of financial aid to determine the eligibility, amount, or conditions, of the financial aid, or to enforce the conditions of the aid.
- To state and local officials or authorities if specifically required by State law adopted before November 19, 1974.
- To properly identified representatives from federal, state or local government, these agencies may be given the following information if expressly requested:
  - verification of date and place of birth;
  - school or division of enrollment and class;
  - dates of enrollment;
  - home and local addresses and telephone numbers; and
  - name and address of parent or guardian.

*Concerning release of further information, it should be noted that government investigative agencies as such have no inherent legal right to access student files and records. When additional information is requested, it should be released only on written authorization from the student or parent/guardian. If such authorization is not given, the information should be released only on court order or subpoena. If a subpoena is served, the student whose record is being subpoenaed should be notified and that subpoena should be referred to the school's legal counsel.*

- To organizations conducting education-related studies for or on behalf of the District. No information revealing the student's name shall be supplied.
- To accrediting organizations to carry out their functions.
- To parents of an eligible student if the student is a dependant for tax purposes.
- To comply with judicial order or a lawfully issued subpoena. In such a case, School Officials shall make reasonable efforts to notify the parent of eligible student to permit them to challenge disclosure if desired.
- To appropriate parties in a health or safety emergency, or in connection with any investigation of child abuse or neglect if knowledge of the information is necessary to protect the health or safety of the student or other individuals.
- State and local authorities, within a juvenile justice system, pursuant to specific State law.
- The disclosure is to an alleged victim of any crime of violence, as that term is defined in Section 16 of title 18, United State Code, of the results of any disciplinary proceeding

conducted by an institution of post secondary education against the alleged perpetrator of that crime with respect to that crime.

- To individuals requesting directory information as designated by the District.

*Adopted: December 2009*

### **I.46.8 Disclosure in Response to Telephone Inquiries**

Extreme caution must be used when any information is released in response to telephone inquiries and should be limited to:

- whether or not the student is currently enrolled;
- the school or division in which he/she was enrolled and his/her class; and
- dates of enrollment.

Release of addresses or telephone numbers should be consistent with school policy governing distribution of student directories.

Urgent requests for student information, e.g., address, telephone number, or immediate whereabouts, based upon an apparent emergency, should be handled by the Principal, including the reference to other appropriate office or individual.

*Adopted: December 2009*

### **I.46.9 Record of Request for Access and Disclosure**

The District will maintain a record of all requests for and/or disclosures of information from a student's education records. The record shall be kept with but shall not be a part of each student's cumulative file and shall indicate the name of the party making the request, any additional information to whom the information may be re-disclosed, and the legitimate interest the party had in requesting or obtaining the information. The record may be reviewed by the parent/guardian or eligible student, the record custodian, or federal, state, or local officials for the purpose of auditing or enforcing federally supported educational programs [34 C.F.R. 99.32].

*Adopted: December 2009*

### **I.46.10 Directory Information**

The District designates the following items as Directory Information:

- Student name,
- Parent's name, address,
- Telephone number,
- Student's electronic mail address,
- Student's date and place of birth,
- Major field of study,
- Grade level,
- Enrollment status,
- Participation in officially recognized activities and sports,
- Weight and height of members of athletic teams,

- Dates of attendance (this does not include specific daily records of attendance but refers to periods of time such as an academic year, semester, or quarter),
- Degrees and awards received,
- Most recent previous school attended, and
- Student's photograph.

Within the first three (3) weeks of school of each school year the District will publish in a District communication or send home with each student the above list, or a revised list, of the items of directory information designated as directory information. For a student who enrolls after the notice is published, the list will be given to the parent or eligible students at the time of enrollment.

According to state and federal law, if the Board permits the release of directory information relating to students to persons or organizations who inform students of educational opportunities, the Board shall provide access to directory information on the same basis to military official recruiting representatives for the purpose of informing students of educational and occupational opportunities available to them unless the parent or eligible student requests that such information not be released without prior signed and dated written consent.

After the parents or eligible student have been notified, they will have fourteen (14) calendar days to advise the District in writing of any or all of the items they refuse to permit the District to designate as directory information about that student. (See form, Appendix I - 12)

*Adopted: December 2009*

### **I.46.11 Use of Student Education Records**

To carry out their responsibilities, school officials will have access to student education records for legitimate purposes. The District will use the following criteria to determine who is considered a school official [34 C.F.R 99.31]:

- A person duly elected to the Board (under limited circumstances).
- A person licensed by the state and appoint by the Board to an administrative or supervisory position.
- A person licensed by the state and under contract to the Board as an instructor.
- A person employed by the Board as a temporary substitute for administrative, supervisory, or instructional personnel for the period of such performance as a substitute.
- A person employed by or under contract to the Board to perform a special task, such as a secretary, a clerk, the board attorney, or auditor, for the period of such performance as an employee or contractor.

The school officials who meet the criteria listed above will have access to a student's records if they have a legitimate educational interest in doing so [34 C.F.R. 99.32]. A legitimate education interest is the person's need to know in order to:

- Perform an administrative task required in the school employee's position description approved by the Board.
- Perform a supervisory or instructional task directly related to the student's education.
- Perform a service or benefit for the student or the student's family, such as health care, counseling, student job placement, or student financial aid.

#### **I.46.11-A Special Education Records**

Records of students placed in special educational programs will be under the direct supervision of the Program administration. All persons collecting or using personally identifiable information in records of students determined to be a student with a disability will receive training or instruction regarding new Mexico's policies and procedures for the protection of these records at the collection, storage, disclosure, and destruction stages in accordance with FERPA and IDEA [34 C.F.R. 300.623]

The District will maintain for public inspection a current listing of the names and positions of employees who have access to personally identifiable information maintained on students placed in special education [34 C.F.R. 300.623]. When the information is no longer needed to provide educational services to the student, the District will notify the parent of their right to have the personally identifiable information destroyed [34 C.F.R. 300.624]. Destruction of records will be accomplished in accordance with the requirements of New Mexico laws and regulations of the New Mexico Commission of Public Records [34 C.F.R. 300.623].

*Adopted: December 2009*

#### **I.46.12 Release of Information or Permission to Access**

The District will release information from or permit access to a student's education records only with a parent's or eligible student's prior signed and dated written consent, except that the Superintendent or a person designated in writing by the Superintendent may permit disclosure [34 C.F.R. 99.30, 99.31, and 99.37]:

- When a student seeks or intends to enroll in another school district or a postsecondary school, the District will not further notify parents or eligible students prior to such a transfer of records. Parents and student have a right to obtain copies of records transferred under this provision.
- When certain federal and state officials need information in order to audit or enforce legal conditions related to federally supported education programs in the District.
- To parties who provide or may provide financial aid to a student to:
  - Establish a student's eligibility for aid.
  - Determine the amount of financial aid.
  - Establish the conditions for the receipt of the financial aid.
  - Enforce the agreement between the provider and the receiver of financial aid.
- When the District has entered into a written agreement or contract for an organization to conduct studies on the District's behalf to develop tests, administer student aid, or improve instruction.
- To accrediting organizations to carry out their accrediting functions.
- To parents of an eligible student if the parents claim the student as a dependent as defined by the Internal Revenue Code of 1954.
- To comply with a judicial order or lawfully issued subpoena. The District will make a reasonable effort to notify the parent or eligible student before making a disclosure under this provision unless directed otherwise by a court of competent jurisdiction.
- To comply with an *ex parte* (*without notice to the adverse party*) order from a court of competent jurisdiction requiring the District to permit the U.S. Attorney General or U.S.

Attorney General's designee to collect education records in the possession of the District that are relevant to an authorized investigation or prosecution of an offense listed in 18 U.S.C. 2332b(g)(5)(B) for an act of domestic or international terrorism as defined in 18 U.S.C. 2331. A disclosure pursuant to this order will not be recorded as a disclosure of information from a student's education records by the District.

- If the District initiates legal action against a parent or student, the District may disclose to the court, without a court order or subpoena, the education records of the student that are relevant for the District to proceed with the legal action.
- If a parent or eligible student initiates legal action against the District, the District may, without a court order or subpoena, disclose the student's education records that are relevant for the District to defend itself.
- To comply with the request of authorized law enforcement officials conducting an investigation of act of terrorism.
- The District will permit any school official to make the needed disclosure from student education records in a health or safety emergency if:
  - The official deems the disclosure is warranted by the seriousness of the threat to the health or safety of the student or other persons.
  - The information is necessary and needed to address the emergency.
  - The persons to whom the information is to be disclosed are qualified and in a position to deal with the emergency.

*Adopted: December 2009*

### **I.46.13 Correction of Education Records**

Parents/guardians or eligible students have the right to ask to have records corrected that they believe are inaccurate, misleading, or in violation of their privacy rights. The following procedures apply to requests for correction of records:

- Parents or the eligible student must ask the District to amend a record. In so doing, they should identify the part of the record they want changed and specify why they believe it is inaccurate, misleading or in violation of the student's privacy rights.
- The District may comply with the request or it may decide not to comply. If it decides not to comply, the District will notify the parents or eligible student of the decision and advise them of their right to a hearing to challenge the information believed to be inaccurate, misleading, or in violation of the student's privacy rights.
- Upon request, the District will arrange for a hearing, and notify the parents or eligible student, reasonably in advance, of the date, place, and time of the hearing.
- The hearing will be conducted by a hearing officer who is a disinterested party; however, the hearing officer may be an official of the District. The parents or eligible student shall be afforded a full and fair opportunity to present evidence relevant to the issue raised in the original request to amend the student's education records. The parents or student may be assisted by one or more individuals, including an attorney.
- The District will prepare a written decision based solely on the evidence presented at the hearing. The decision will include a summary of the evidence presented and the reasons for the decision.

- If the District decides that the information is inaccurate, misleading, or in violation of the student’s right of privacy, it will amend the record and notify the parents or eligible student, in writing, that the record has been amended.
- If the District decides that the challenged information is not inaccurate, misleading, or in violation of the student’s right of privacy, it will notify the parents or eligible student that they have the right to place in the record a statement commenting on the challenged information and/or statement setting forth reasons for disagreeing with the decision.
- The statement will be maintained as part of the student’s education records as long as the contested portion is maintained. If the District discloses the contested portion of the record, it must also disclose the statement.

*Adopted: December 2009*

#### **I.46.14 Complaints**

If a parent or eligible student believes that the District is violating the FERPA, that person has a right to file a complaint with the U.S. Department of Education. The address is:

The Family Compliance Office  
 U.S. Department of Education  
 400 Maryland Avenue, SW  
 Washington, DC 20202-4605

Telephone number: (202) 260-3887

*Adopted: December 2009*

#### **I.46.15 Method of Annual Obligation for FERPA Notification**

In compliance with 34 C.F.R. Section 99.7 of the regulations adopted pursuant to the Federal Educational Rights and Privacy Act, parents shall be notified of their rights under such statute by each District building level annually publishing in its student handbook the “Notification of Rights under FERPA”.

*Adopted: December 2009*