

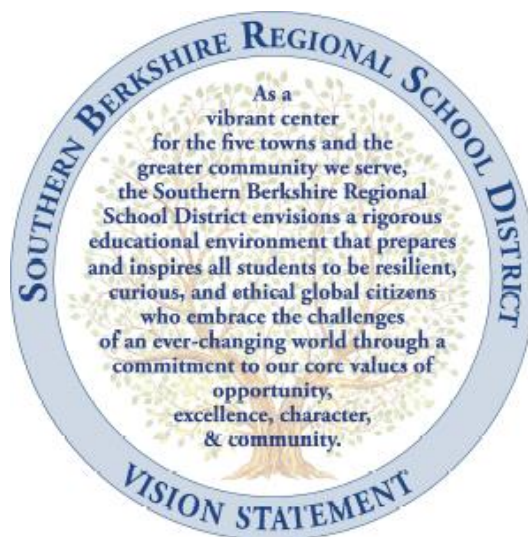
# ***Southern Berkshire Regional SCHOOL DISTRICT***



## **EMPLOYEE HANDBOOK**

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### ***2019–2020***



*Approved by School Committee September 12, 2019*

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## ***Southern Berkshire Regional SCHOOL DISTRICT***

### **SCHOOL COMMITTEE**

Arthur Batacchi - Sheffield  
Jeffrey Blaugrund - Alford  
Jane Burke – New Marlborough  
Maryellen Brown - Monterey  
Jonathan Bruno - Sheffield  
Marcella Bush - Egremont  
Danile Kelly - Egremont  
Dennis Sears - Sheffield  
E. Bonnie Silvers - Sheffield  
David Travis – New Marlborough

### **DIRECTORY OF ADMINISTRATION**

#### **Superintendent of Schools, Beth Regulbuto**

491 Berkshire School Rd, Sheffield, MA 01257  
*Phone (413) 229-8778*  
*Fax (413) 229-2913*

#### **Director of Curriculum, Instruction and Professional Development, Peter Dufresne**

491 Berkshire School Road, Sheffield, MA 01257  
*Phone (413) 229-8778*

#### **Director of Student Services, Sandra Hubbard**

491 Berkshire School Road, Sheffield, MA 01257  
*Phone (413) 229-8754*  
*Fax (413) 229-3211*

### **DISTRICT COORDINATORS**

#### **Harassment and Title IX**

Peter Dufresne, Director of Curriculum, Instruction & Professional Development  
491 Berkshire School Road, Sheffield, MA 01257  
Phone (413) 229-8778  
Fax (413) 229-2913

#### **Section 504 Coordinator**

Amy Lynn, Douglas Daponde, 504 Coordinators  
Sandra Hubbard, Director of Student Services  
Southern Berkshire Regional School District, P. O. Box 326, Sheffield MA 01257  
Phone (413) 229-8754 ext. 391

#### **ADA Coordinator**

Sandra Hubbard, Director of Student Services  
491 Berkshire School Road, Sheffield, MA 01257  
Phone (413) 229-8778  
Fax (413) 229-2913

#### **Homeless Education Liaison, Brenda Ullrich**

491 Berkshire School Road, Sheffield, MA 01257  
Phone (413) 229-8734  
Fax (413) 229-2044

## **DIRECTORY OF SCHOOLS**

### **South Egremont School (*Grades Early K – K*)**

Charles Miller, Principal  
Amy Lyn, Assistant Principal  
42 Main Street, South Egremont, MA 01258  
*Phone (413) 528-1430*

### **New Marlborough Central (*Grades PreK-4*)**

Charles Miller, Principal  
Amy Lyn, Assistant Principal  
44 Hartsville-Mill River Road, Mill River, MA 01244  
*Phone (413) 229-8867 Fax (413) 229-7872*

### **Undermountain Elementary (*PreK-6*)**

Charles Miller, Principal  
Amy Lyn, Assistant Principal  
491 Berkshire School Road, Sheffield, MA 01257  
*Phone (413) 229-8754 Fax (413) 229-3211*

### **Mount Everett Regional Middle and High School**

*Jesse Carpenter, Secondary Principal*  
*Douglas Daponde, Assistant Secondary Principal*  
491 Berkshire School Road, Sheffield, MA 01257  
*Phone (413) 229-8734 Fax (413) 229-2044*

## **Introduction**

This guide is intended to provide employees of the District with information, practices and resources needed to carry out their duties and responsibilities effectively. Employees should refer to the SBRSD Policy Manual which is online at the SBRSD website ([www.sbrsd.org](http://www.sbrsd.org)) for matters specific to policy, and to their respective Unit Contract Agreement for additional terms of employment.

This handbook contains official rules and regulations under which the District and the buildings operate. It is updated annually and provided to each employee. Principals or their designees review this handbook with new staff during their orientation process.

**Please sign the acknowledgement of all SBRSD policies at the end of this handbook.**

## **Contractual Agreements**

Each employee will have access to copies of the contract(s) (Units A, D, and E) which includes the salary schedule, information on benefits, and leave request procedures. It is the responsibility of the employee to read and become familiar with the language of their contract.

### **I. PERSONNEL**

Employees should contact the Central Office to obtain information about payroll processing and benefits. Please refer to Appendix B of this handbook for a list of corresponding forms.

#### **Substitute Teachers**

All substitutes will be expected to provide educational services, rather than to assume merely a student/supervisory role. These services will be based upon lesson plans provided by the classroom teacher. They will be provided with as much support as possible by building administrators and teachers.

Staff responsibilities regarding the use of substitutes:

1. All certified and paraprofessional staff that will require substitute coverage due to personal or family illness, other approved leave, or attendance at an approved professional development activity should refer to the Aesop web-based system at <http://www.frontlineK12.com/aesop>.
2. When teacher absence is anticipated, teachers are expected to create detailed lesson plans with specific instructions for the use of books, supplies and other materials corresponding to the daily lessons.
3. In addition, each teacher should have a substitute folder that outlines homeroom and other routines such as attendance, lunch count and basic emergency response protocols. This folder should also contain emergency lesson plans prepared for unexpected absences. These plans should be left in an emergency substitute folder and stored in a visible location (i.e. top center drawer of the desk). In the event of an extended absence, it is recommended that teachers collaborate with long- term substitutes in order to ensure continuity of instruction and evaluation.

#### **School Volunteers**

Staff should be aware that all school volunteers who are working in any capacity in the school setting are bound by the laws of confidentiality and standards of professionalism. Information obtained through observation or participation in classrooms is completely confidential. All volunteers will be expected to work under the guidelines as defined by current State and Federal regulations. Employees should be aware that no individual may be left alone with a student or students, unless a current Criminal Offense Record Investigation (CORI) is on file. Criminal Offender Record Information (CORI) is a record of Massachusetts and Federal criminal history, including arraignment in court on a criminal charge, no matter the final outcome of the charge. Expectations are described in the School Volunteer Agreement form, signed by the volunteer and collected by the school secretary and/or administrator.

#### **School Council**

The District encourages participatory decision making at all levels. Staff members, parents and students are important contributors to the decision-making process. Each school shall establish site-based school councils as defined by the Massachusetts Educational Reform Act of 1993. Members of the school council serve a two-year consecutive term. School councils should be constituted based on the [Educational Reform Act of 1993](#).

#### **Conflict of Interest Law**

Chapter 28 of the Acts of 2009, the ethics reform law, imposes mandatory education and training requirements on public employers and public employees. The requirements may be summarized as follows:

1. By the last week of September, and on an annual basis thereafter, all District employees must be provided with a summary of the conflict of interest law.
2. Once every two years thereafter, all District employees must complete an online training program prepared by the State Ethics Commission, print the certificate of completion, and present it to the Superintendent's office. All certificates will be kept on file in the Superintendent's office.
3. The link for this ethics training is <https://www.mass.gov/online-conflict-of-interest-law-training>

A Summary of the Conflict of Interest Law can be found in Appendix A.

**For further information**, about how the law applies in many situations, please visit the State Ethics Commission's website at <http://www.mass.gov/ethics> or contact the Commission's Legal Division via the website, by telephone, or by letter.

For *Employee's Disclosure Forms* visit the website at <http://www.mass.gov/service-details/municipal-employee-disclosure-forms>

### **Global Compliance Network (GCN) Tutorials**

1. Log on to the GCN website at <http://www.gcntraining.com/site.cfm>
2. Click on 'Login to View Training' on the next two screens.
3. Click on 'Existing User' and 'next' (*if you are a 'New User', please contact Peter Dufresne at [pdufresne@sbrsd.org](mailto:pdufresne@sbrsd.org) for further instructions*).
4. The 'Organization ID' is 1569785.
5. Your personal ID is, for example: 'jsmith' (*no need to update the fields, just click 'submit'*).
6. You will be instructed to complete the required trainings chosen by our district.

The completed trainings are saved in the GCN database, so it is not necessary to print a certificate. If you are unable to access the training using your personal ID, or if you need further assistance, please contact Peter Dufresne at [pdufresne@sbrsd.org](mailto:pdufresne@sbrsd.org).

### **Civil Rights and Equal Educational Opportunity and Confidentiality (FERPA)**

The Civil Rights and Equal Educational Opportunity and Confidentiality (FERPA) presentations are included in the GCN tutorials. Please refer to the GCN tutorial instructions above.

### **Confidentiality**

District employees may be exposed to confidential and sensitive information regarding our students and staff. All district employees are expected to act with discretion when dealing with any confidential issues within the workplace and this information should never be discussed verbally and/or electronically inside or outside the workplace. Any employee found violating this confidentiality will be subject to discipline up to and including termination.

### **Personnel Records**

A personnel record for each present and former employee will be actively maintained in the Central Office. In addition to the application for employment and references, the folders will contain records and information relative to compensation, evaluations, and any other pertinent information. Letters of complaint or commendation will not normally become part of the individual's file. In order for a letter of this type to be placed in the file, the individual's direct supervisor shall attach a letter stating the reason for submittal. The Superintendent shall be the final judge of accepting said letter. The Superintendent will be the official custodian for personnel files and will have overall responsibility for maintaining and preserving the confidentiality of the files within the provisions of the law.

Staff members maintain the right to view and/or copy information from their official file in the presence of a Central Office employee.

### **Complaints**

On occasion, concerns may arise regarding personnel and programs of the District. Such complaints should be directed to the appropriate supervisor. Complaints made to an inappropriate party will be re-directed. All collective

bargaining unit employees may file a grievance per the procedures in their respective agreements.

### **Professional Staff Responsibilities and Conduct**

The District values its staff and recognizes their efforts on behalf of children. Professional development is viewed as a responsibility of both the District and the individual teacher. Professional staff are responsible for developing an atmosphere conducive to education and promoting high standards of excellence. Personal professionalism is expected and serves as a model for student achievement and behavior.

The District expects all employees to be aware of the policies under which the District operates and to abide by these policies and the procedures designed to implement them. Annually, all District personnel will be required to acknowledge in writing that they have access to a copy of the District Policy Manual and agree to abide by its provisions.

In the area of personal conduct, the School Committee expects that teachers and others will conduct themselves in a manner that not only reflects credit to the District, but also sets forth a model worthy of emulation by students. Faithfulness and promptness in reporting to work, care and protection of school property, effective home/school communications, and concern for the safety and welfare of students are among the priorities for staff members.

### **Mandated Reporting**

School personnel are mandated reporters. If school personnel have reasonable cause to suspect physical or emotional abuse, or substantial risk of harm or neglect, they are obligated by M.G.L., ch. 119, Section 51A, to report these conditions to the Department of Children and Families (DCF). If the reportable incident involves criminal conduct, including physical abuse, violation of a restraining order, assault and battery, indecent assault and battery or rape, school officials shall also report the incident to the police department, and further action may be taken by the District Attorney's office.

**Additional information** can be found in *A Mandated Reporter's Guide to Child Abuse and Neglect Reporting* available at <https://www.mass.gov/doc/dcf-mandated-reporter-guide/download>

### **Family Medical Leave Act (FMLA)**

The federal Family and Medical Leave Act (FMLA) require covered employers to grant eligible employees with a maximum of twelve workweeks of leave in a 12-month period. The leave may be unpaid, upon exhaustion of accrued paid leave (such as vacation or sick leave). Eligible employees may take leave for the birth of a child, for placement with the employee of a child for adoption or foster care, for the employee's own serious health condition, or for the serious health condition of the employee's spouse, parent or child. Employees who need to access Family and Medical Leave coverage should refer to the following steps:

1. The employee who needs the leave of absence will send a formal letter to the Superintendent requesting the leave of absence. The letter should include the reason for the request, the estimated time needed and the effective date of the request. Requests must be made in writing via hard copy letter.
2. A letter in response to the request will be written by the Superintendent. If the request is granted, the employee will receive FMLA forms to be completed.
3. Prior to responding to the request, the Superintendent may require further information.
4. Employees will receive a copy of the letter for their records.

Employees may contact their building principal or the Superintendent's office for additional information.

## **II. HEALTH, SAFETY AND SECURITY**

In accordance with the provisions of M.G.L. Chapter 71, Section 37H, the School Committee hereby adopts a safety policy on behalf of the students and staff of the District. The responsibility for implementation of a safety program will rest with many individuals, including principals, teachers, custodial/maintenance employees and other staff, as directed by the Superintendent. It is the goal and responsibility of the District to ensure that all District programs and facilities are maintained at a consistent level designed to protect the health, safety and welfare of the students, employees and public who use those facilities.

Each building has a District Emergency Management Guide (red flipchart) that delineates staff roles and responsibilities during an emergency situation, and every employee is expected to review relevant procedures at

least annually, participate in all related drills and exercises (such as evacuation and lockdown procedures) as scheduled by district and/or town emergency managers, and follow outlined procedures during an actual event.

Routine protocols are clearly outlined in the guides located in each classroom and other common areas of every building.

### **Security**

Public school buildings and grounds are one of the greatest investments of the towns and it is deemed in the best interests of the District and the towns to protect these assets. The Superintendent will provide technical and administrative assistance to principals in maintaining the buildings and grounds in a secure manner conducive to learning.

Access to school buildings and grounds outside regular school hours will be limited to persons whose approved activity requires it. For information regarding community use of buildings please see the "Facilities" section of this handbook. An adequate key control system will be established, which will limit access to buildings to authorized personnel and will safeguard against the entrance into buildings by unauthorized persons. Valuable records will be kept in a safe place, and backup copies of key financial and student records will be kept in a safe, protected off-site location.

The School Committee recognizes that acts of vandalism committed against public and private properties are costly. Individuals who are found responsible for acts of vandalism will be dealt with in accordance with state and local laws. If it is ascertained that students are responsible for any vandalism, they, and/or their parents or guardians, will be held accountable and reimbursement will be sought for damages.

### **Staff Photo Identification Badges (IDs)**

SBRSD Photo Identification Badges (IDs) are issued to all district staff. It is the expectation that all staff and faculty will wear and visibly display IDs at all times. Staff IDs are designed to work with proximity scan/door-locking devices at designated main entrances. "Visitor" and "Guest Staff" IDs are not equipped with proximity scan chips and do not allow access.

Because the staff ID authorizes access within the building and functions as an exterior door key, all staff and faculty must observe the following security practices:

1. Lost IDs must be reported immediately to the building secretary.
2. Defective IDs should also be reported to the building secretary.
3. IDs are the property of SBRSD and should not be altered or modified in any way. IDs must be collected upon termination of employment.

### **Building Entry Protocol and Intruder Awareness**

All visitors are expected to "buzz" in and wait to be admitted by the receptionist so that arrivals and departures can be logged. Parents/guardians and guests should not bypass this system by entering with a staff member. Employees should ask any visitors not wearing a visitor label to return to the front desk and sign in and remind parents/guardians and guests to sign out when they are leaving a classroom or meeting area.

Please note that according to the District Emergency Management procedures an intruder is defined as any unauthorized presence in the building and any person who does not comply with established safety protocols. This includes any individual appearing to be unidentified, disruptive, or otherwise suspicious.

All staff members observing behaviors that could in any way compromise the safety and security of the school environment are expected to report these concerns to an administrator and to call 911 if the situation is urgent.

### **Reporting of Threats and Harmful Behaviors**

For the protection of students and staff, any staff member who observes or becomes aware of a potentially threatening situation must report this immediately to a building administrator, and/or call 911 if the situation requires. This includes awareness of any verbal, written or electronically communicated threat and observation of any suspicious behavior including a student under the influence of alcohol or other drugs, or in possession of a weapon. Modifications of Schedule and Assigned Duties during Critical Incidents Under any emergency, it may be necessary to reassign personnel to assist or supervise student evacuation or lockdown. As determined by the Superintendent or emergency manager, circumstances may require off site evacuation to another facility, or



extension of the school day when routine dismissal procedures cannot be followed. All employees are expected to react calmly and professionally, and to develop personal contingency plans that will support the priority of our students' needs during a crisis. Failure to do so may result in disciplinary action up to and including termination.

### **Fire Prevention**

The District will cooperate with each town's fire department in maintaining fire-safe conditions within all school buildings. The principal of each school has the responsibility for insuring periodic fire safety inspections of every room, corridor and space in the school.

There will be at least one evacuation drill in each school once per quarter. The first drill will be held during the first five days of the school year. Instructions regarding fire exits will be posted in a prominent place near the door of each room. Upon evacuation of the building, teachers will take student attendance and each child in school that day must be accounted for at this time. There may be occasion, in an emergency, where evacuation may not be the best course of action. Each school will develop "lockdown procedures" that will attempt to provide safe havens within the building.

### **School Emergency Management**

In case of an emergency that would necessitate the evacuation of the building, evacuation drill procedures will be followed. Employees should refer to the District Emergency Management Guide (red flipchart) for protocols pertaining to specific emergencies. All staff is required to review the guide and visitor protocol on the SBRSD website.

### **Emergency Closing, Delayed Opening, Early Dismissal, Lockdown and Evacuation**

The Superintendent, following established procedures, may close schools, delay openings, or dismiss students early in the event of hazardous weather or other emergencies that threaten the health or safety of students and staff members. While it may be prudent, under certain circumstances, to excuse all students from attending school, to delay the opening, or to dismiss students early, the Superintendent has the responsibility to see that as much of the administrative, supervisory, and operational activity is continued as may be possible. If conditions affect only a single school, only that school will be closed.

The following procedures apply for the opening and closing of schools during winter storms or emergency situations:

1. When weather conditions warrant, school will be cancelled. "No School" announcements will be made via School Messenger, the automated telephone notification system; posted on the District's website at [www.SBRSD.org](http://www.SBRSD.org); and broadcast on local radio and television stations. When school is cancelled, school activities, school-related meetings and athletic events are also cancelled.
2. When morning weather conditions are improving, the schools may open on a "delayed opening" basis. On these days, school will start two (2) hours later. Consequently, all activities, commencing with the start of the bus runs, will follow a 2-hour later pattern. When school is delayed, there will be no morning Preschool Program.
3. Parents are reminded that while schools may operate on the basis of improving weather conditions, they should exercise their own good judgment as to the attendance of their children.
4. When the start of school is operating on a "delayed opening" basis, dismissal will be at the regular dismissal times.

In severe weather or similar emergencies when road conditions are expected to deteriorate, it is sometimes best to dismiss students early. Parents will be informed of dismissal times through the advisories listed above. For Kindergarteners and first graders, our policy is to return bus riders to their school or Superintendent's office if no one is at the usual drop-off point and no alternate adult (neighbor, relative) has been authorized to receive them (via the Emergency/Non-Prescription Medication Form). For older children, families should have a procedure that could be followed in case of an unanticipated early dismissal.

The need to evacuate the students from a building before the regularly scheduled closing time could arise from a relatively minor incident such as a power failure, or from a major event such as a fire or bomb threat. During evacuation, students are guided to the nearest exit and assemble at a pre-determined location. During an evacuation, release times, communication with school officials, admission into the school and/or transportation services may be temporarily disrupted and families will receive information and instructions from the above-listed communication resources.

Lockdown or shelter-in-place is implemented when it has been determined that conditions outside of the classroom or building are potentially unsafe. Situations that may activate a lockdown/shelter-in-place response include a hazardous materials situation near the school, police activity close by or potential intruder alerts. While lockdowns are extremely rare, lockdown drills are conducted periodically to ensure that all staff members and students are prepared to respond professionally and calmly. During a lockdown drill, as with an actual event, students and staff remain quietly in a designated location within the room or are guided to a secure location to wait for the "All Clear" signal. It is not possible to enter the building until an "All Clear" signal is given by the principal or public safety official. Information concerning the lockdown is given to families through the above-listed communication resources. Parents are discouraged from attempting to pick up their child. In these cases, parents will be directed to an emergency communication center.

In an extreme emergency when a school has been evacuated and it is not possible to return, an off-site meeting place may be needed. Parents will be directed, through the above advisories, to go to the closest available school building or designated information center in the community. The Superintendent, with public safety personnel, will determine the location that best meets the needs of the specific emergency, and staff will be on site to assist with dismissal procedures utilizing the following guidelines:

- No student will be dismissed from a primary or secondary evaluation site unless a parent (or individual designated by a parent on the student's Emergency/Non Prescription Medication Form comes for him/her and is able to present photo ID to identify him/herself upon request.
- All parents, or designated persons, who come for students, will be required to sign out at the front office or from a designated alternate release location.
- In addition to the above notification resources, signs will be posted if an alternate location is needed.

### **Smoking and Tobacco Free Policy**

The Education Reform Act of 1993 prohibits the use of any tobacco products within school buildings and school facilities, on the school grounds, or on school busses, by any individual. Furthermore, student possession, as well as the use of tobacco products (e.g., cigarettes, chewing tobacco, cigars, electronic or vapor cigarettes), is prohibited within the school building, on school grounds, at school-sponsored activities off school grounds, and on school busses at any time.

### **Policy Concerning the Illegal Drug and Alcohol Drug-Free Workplace Act of 1988, and the Drug-Free Schools and Communities Act Amendments of 1989**

In March 1988, the federal government passed the Drug-Free Workplace Act of 1988, which requires all federal contractors and all federal grant recipients to certify that they have established a drug-free workplace environment. Failure to comply with certification requirements may result in loss of contract, suspension or debarment from grant programs for up to five years.

Certification requires that the District:

1. Publish a policy statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in the workplace is prohibited and that specified actions, including discipline, will be taken for violation of the policy.
2. Establish a drug-free awareness program informing employees about:
  - a. The dangers of drug abuse in the workplace.
  - b. The policy of the District of maintaining a drug-free workplace.
  - c. The availability of drug counseling/rehabilitation/and employee assistance programs.
  - d. The penalties imposed for drug-abuse violations.
3. Provide a copy of the policy statement against drug use in the workplace as provided in item 1, above, to each employee.
4. Notify employees that employment on a grant is conditioned upon:
  - a. Abiding by the terms of the drug-free workplace policy.
  - b. Notifying the employer of any criminal drug statute conviction (including pleas of guilty or nolo contendere) resulting from workplace conduct no later than five days after such conviction. A conviction report form is included with and made a part of this policy.
5. Notify the grant-providing agency within ten (10) days of receipt of notice of conviction.
6. Impose sanctions, up to and including termination, upon, or require satisfactory participation in a drug-abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency by, an employee who is so convicted, within thirty (30) days of learning of said employee's conviction for workplace-based drug abuse.

In 1989, the federal Drug-Free Schools and Communities Act Amendments of 1989 were passed, which require that each Local Educational Agency (LEA) certify that it has adopted and implemented a program to prevent the use of illicit drugs and alcohol by students and employees in order to remain eligible to receive any federal funds of any sort. Regulations further set out the requirements of this law.

A certifiable program is defined by the federal regulations to include:

1. Age-appropriate, developmentally based drug and alcohol education and prevention programs for students in all grades from early childhood through grade twelve.
2. Conveying to students that the use of illicit drugs and the unlawful possession and use of alcohol is wrong and harmful.
3. Standards of conduct applicable to students and employees that clearly prohibit the unlawful possession, use or distribution of illicit drugs and alcohol on school premises or as a part of any of its activities.
4. A clear statement that sanctions, up to and including expulsion or termination of employment and referral for prosecution, will be imposed on students and employees who violate the standards of conduct and a description of those sanctions.
5. Information about any available drug and alcohol counseling, rehabilitation, and re-entry programs available to students and employees.
6. A requirement that parents, students, and employees be given a copy of the standards of conduct and statement of sanctions.
7. Notifying parents, students, and employees that compliance with required standards of conduct is mandatory.
8. A biennial review by the LEA applicant of its program to determine its effectiveness, implement changes if needed, and ensure that the sanctions are consistently enforced.

Illegal drug and alcohol abuse in the workplace are a danger to us all. They impair safety and health, promote crime, lower productivity and quality, and undermine public confidence in the work we do. In compliance with the Drug Free Workplace Act of 1988 and the Federal Drug-Free Schools and Communities Act Amendments of 1989, the District is committed to maintaining a drug and alcohol free workplace.

Employees have the right to know the dangers of drug and alcohol abuse in the workplace, the District's policy about them, and the assistance available to combat drug and alcohol problems. The District shall use its reasonable best efforts to maintain privacy and confidentiality to those employees seeking and/or accepting services. Employees shall not be under the influence or engage in manufacture, possession, consumption, use, or distribution of either illegal drugs or alcohol on school premises or during a school-sponsored activity at any location.

Any employee violating the above policy is subject to appropriate disciplinary action, up to and including termination and referral for prosecution. However, the recommended course of action is to have employees prior to a drug or alcohol-related incident subjecting the employee to disciplinary action, obtain rehabilitative help through a referral assistance program, up to and including those benefits under their health coverage. Employees may self-refer, may be referred by their immediate supervisor and/or bargaining unit representative, or may be referred by their families.

As a condition of employment, all employees of the District are required to comply with the prohibition against drugs and alcohol in the workplace, and to notify the Superintendent within five (5) days, after any criminal drug statute conviction (including pleas of guilty, nolo contendere, or any other disposition which does not result in an acquittal), for a violation occurring within the workplace.

Under Federal law, the Superintendent must notify the grant providing federal agency within ten (10) days of receipt of notice of a criminal drug statute conviction for a violation occurring within the workplace. Within thirty (30) days of receiving notice, the School Committee must take appropriate personnel action against the employee, up to and including termination and referral for prosecution, and/or require the employee to satisfactorily participate in an approved substance abuse assistance or rehabilitation program. Such programs may, or may not, be fully covered by health insurance benefits.

Any disciplinary action in connection with employee violations of this policy will be conducted in accordance with the provisions of any applicable collective bargaining agreements and statutes in effect at the time of such disciplinary action.

In the event any provision or part of this policy shall, for any reason, be in conflict with, or rendered illegal or non-enforceable by, the federal Drug-Free Workplace Act of 1988 and/or the federal Drug-Free Schools and Communities Act Amendments of 1989, or any existing or future regulations promulgated hereunder, said laws and/or regulations shall supersede any such provision or part and the provision or part so affected shall no longer be operative but the remaining provisions or parts shall continue in full force and effect. The words used herein will be construed under, and as defined by, the federal Drug- Free Workplace Act of 1988 and/or the federal Drug- Free Schools and Communities Act Amendments of 1989.

**Please refer to the appropriate employee contract for sanctions regarding violations of the drug, alcohol, and tobacco/smoke-free policies.**

**All employees are asked to acknowledge that they have read the above alcohol and drug free policy and agree to abide by it in all respects.**

**By law, this acknowledgment is required of you as a condition of continued employment.**

### **Contagious Diseases**

Contagious diseases present the schools with unique challenges. Sometimes parental notification is appropriate in an attempt to limit the spread of such diseases. Head lice is not a contagious disease. Nurses will use nursing judgment regarding the scope of necessary notifications regarding head lice cases.

In instances of contagious diseases, notification in compliance with State laws and as thought appropriate by the health staff, will be made. The health staff will keep parents informed of Massachusetts regulations relative to communicable diseases.

### **Acquired Immune Deficiency Syndrome (AIDS)**

The District recognizes that AIDS (Acquired Immune Deficiency Syndrome) and infection with HIV (Human Immunodeficiency Virus), the virus that causes AIDS, are serious public health concerns. Schools must play a major role in the concerted effort to stop the spread of the virus by helping students make healthy choices about their personal behavior. A developmentally appropriate curriculum will be delivered to students within the District covering the various aspects of the AIDS/HIV epidemic.

Students with AIDS and HIV are entitled to the same rights as other students. The District will abide by guidelines established by the Department of Public Health and the Department of Elementary and Secondary Education regarding disclosure privacy and precautionary procedures.

### **First Aid**

It is the policy of the District to provide first aid for its students and employees that will be administered by the school nurse or another first aid certified person. First aid is defined as the immediate and temporary care given in case of an accident or sudden illness, which enables the individual to be taken safely home or to a physician. It does not include diagnosis or treatment. Procedures are in place at each school for the proper handling of an injury to, or sudden illness of, a student or staff member. These are approved by the Superintendent and reviewed annually with staff members and students.

### **Medications**

Only the school nurse, or trained designee, will administer medication. This can only be done under a physician's order. The District reserves the right to reject requests for administration of medication.

### **Administration of Medications**

The District will follow the procedures for the administration of medications as outlined by the Department of Public Health and developed locally. A copy of these procedures will be included in the school handbooks and be available at each school.

Staff members are prohibited from making recommendations or suggestions regarding a student's need for medication. If a teacher or other staff member suspects that a child has not taken a prescribed medication, the student should be referred to the school nurse.

### **Injectable Epinephrine**

In the case of a child who has severe allergies, it will be the responsibility of the parent, guardian, or person who has legal custody of such child, to supply the District with an Epi-pen auto injector at the school. It shall be the responsibility of the District to safely keep the Epi-pen and provide willing staff training on proper procedures. In the case of a staff member who has severe allergies, it will be the responsibility of that person to inform the nurse and carry their own Epi-pen.

### **Automated External Defibrillator (AED)**

Willing District employees shall be trained and certified through the American Heart Association in CPR and in the use of an AED. Recertification is required every two years. Employees shall use the AED solely in the manner in which they were trained.

Each employee willing to be trained shall be temporarily issued an American Heart Association manual entitled "Heartsaver AED" in order to prepare for the class. The handbooks will be available through the nurse leader and may be requested to periodically review the material. Only persons trained and certified may access and operate the AED.

## **III. CURRICULUM AND INSTRUCTION**

The School Committee Curriculum and Instruction Policy, provides information about the following:

- Classroom visitations
- Curriculum adoption
- Curriculum development
- Evaluation of instructional program
- Field trips
- Foreign trips
- Homework
- Instructional materials/resources
- Instructional support services
- School year and day

### **District Curriculum Accommodation Plan (DCAP)**

The SBRSD District provides guidelines and resources to meet the needs of diverse learners within general education classrooms. The District Curriculum Accommodation Plan (DCAP), a reference tool located in the principal's office, is designed to assist teachers in their efforts to employ quality teaching strategies for all students. Teachers are expected to document these efforts on the students' instructional services record, a blue form located on the inside cover of the student's cumulative folder. These strategies for success should be updated at the end of each school year, and reviewed by receiving teachers for incorporation into the students' regular educational program.

### **Instructional Support Team (IST)**

When typical classroom strategies have not produced the desired outcomes for students, additional consultation should be sought through the building Instructional Support Team (IST). Each building has an established protocol for IST meetings. The referral process is reviewed annually at the beginning of each school year. Referral forms and additional information about the building IST can be obtained from the building principal or the designated IST liaison.

### **Student Services**

The District's special education program provides services to disabled students in accordance with both Federal, (Individuals with Disabilities Education Act "IDEA" (20 U.S.C. 1400 et seq.) and State (M.G.L. c. 71B "Chapter 766") laws, and State regulations, (603 CMR 28.00 et seq.). *These programs are coordinated through the Student Services Department.*

Special Education is comprised of two main functions:

1. Evaluation and specialized instruction and/or
2. Related services (e.g. physical therapy, occupational therapy, speech therapy, assistive technology, and school adjustment counseling).

The District has the critical responsibility to determine whether a student's inability to make appropriate progress within the general curriculum is due to the existence of a disability as defined by State guidelines. Once the link between disability and progress is established, the manner of intervention becomes the basis for the TEAM (teachers, parents, and related service providers) to determine. Central to this decision is the belief that the general education placement is, in almost all cases, the most appropriate placement for students with disabilities.

The Individualized Educational Program (IEP) is considered a legal document. All staff members designated as service providers are expected to comply with services that have been determined through the TEAM process. All members of a student's instructional team are expected to participate to the fullest extent possible in the evaluation and monitoring of the student's progress, including input at scheduled TEAM meetings.

English as a Second Language services will be provided to students and families for whom instruction in English may be a barrier to effective academic progression.

Academic tutoring will be provided for students who may be absent for academic instruction due to a validated medical or psychiatric issue for the equivalent of 14 school days or longer. Given this validation of extended school absence, tutorial support will be provided at District expense.

### **Field Trips**

A school sponsored field trip is an excursion of students that is organized on school property and/or on school time and/or utilizes school funds or equipment and receives the approval of the Superintendent or his/her designee. School sponsored field trips may be conducted during school or non- school time.

The School Committee delegates to the Superintendent or his/her designee authority to approve field trips (within budgetary limitations) so long as each individual trip meets all of the following conditions:

1. Is directly related to either the curriculum or a school sponsored and school-approved extra- curricular activity (e.g., band, student councils, etc.).
2. Field trips must be completed within one day, unless special permission for an overnight trip is received from the School Committee.
3. Written parental permission is required before any student is allowed to participate in a field trip.
4. Reasonable accommodations will be provided to allow eligible students with disabilities to participate in scheduled field trips.
5. The school staff member planning the field trip must notify the school nurse of the field trip as soon as possible, but at least three weeks in advance. This time is needed for the nurse to identify a need and secure a nurse to accompany the students on the field trip and to put plans in place for safe management of any health conditions including medication administration.
6. Some out of state field trips, where it is identified that a nurse is needed, may require an application for a temporary nurse license travel permit that the nurse needs to complete in advance. The school nurse will need at least six weeks advance notice of an out of state field trip to make the necessary arrangements.

School staff will be sensitive to the participants' costs when organizing field trips.

### **Guest Speakers**

The School Committee recognizes the value of guest speakers. They enrich our curriculum and provide additional resources for the classroom teacher.

Building administrator approval must be obtained before engaging guest speakers and, if needed, an appropriate notice, along with the option for the student to be excluded, will be provided to parents. Administrative approval is also required for any handouts to be distributed, with an additional set available in the office for parental viewing in advance of the material's distribution to the students. Staff should be sensitive to their responsibility to safeguard the integrity of the educational program. Care should be taken to ensure that presentations are objective and present all viewpoints.

### **Informal Classroom and School Visitations**

The District supports and encourages the active involvement of parents in their children's learning. In an effort to develop home-school partnerships, the District welcomes parental visits to their children's classrooms. Informal visitations, distinguished from formal observations (see below), are opportunities for parents to support their

children's participation in a school/classroom activity or event. Informal visitations are not to be used in determining the appropriateness of a program, and/or to become more familiar with the program and staff, or to evaluate academic programs or staff. The following procedures must be followed during informal classroom and school visitations:

- All parents must follow District protocol for safety when visiting our schools.
- Parents must make prior arrangements with the building principal and teacher.
- All visits shall be of such reasonable length and at such a time as to be non-disruptive to the instruction of students, as determined by the teacher and building principal.
- All visitors are to report first to the building principal's office. No unauthorized person will be permitted access to any classroom.
- The schools reserve the right to limit the number of visits to classrooms to protect the learning process and the confidentiality rights of students.

### **Formal Parent Observations in Classrooms**

The Southern Berkshire Regional School District believes parents are important partners in educating students and welcomes parental participation in determining a child's appropriate educational program. To that end, we open our classrooms to parents or a parent representative who want to observe a child in the school setting. For the purposes herein, parent representative means an independent evaluator, educational consultant, or an individual who preferably holds certification or licensure from the Commonwealth of Massachusetts in a field directly related to the child's educational program. The following procedures shall be followed when an observation is requested:

1. A request to observe a child in the child's current or potential educational placement must be scheduled at least five (5) days in advance through the building principal;
2. The building principal shall contact the parent(s) to schedule a meeting or phone conference within five (5) days of receipt of the parents' request to discuss the purpose(s) of the observation;
3. The observation will be scheduled at a mutually- agreed upon time and date after consultation with the classroom teacher(s);
4. The principal will consult with the classroom teacher and the observer to set up the parameters of the observation (including, but not limited to, conferences with school staff, review of work products, and placement of the observer in the classroom);
5. The number, frequency, and duration of observation periods will be determined on an individual basis. The start and end time and day(s) of observation periods will be determined in advance. In order to minimize classroom disruption, the length and number of individual observation periods may be limited. The complexity of the child's needs, as well as the program(s) to be observed, should determine what the observation will entail and what amount of time is needed to complete it.
6. The parent must sign a release for a parent representative to observe a child;
7. The parent or parent representative must be silent at all times and not interrupt the educational process in the classroom. If the observer's presence disrupts the learning environment, he/she will be asked to leave. This notice is particularly important since the presence of parents can influence the performance of the child being observed as well as other children;
8. The parent or parent representative shall not record at any time during their observation, by any recording device. This prohibition against recording includes, but is not limited to, the use of cell phones, tablets, or pocket recorders. Parent and parent representatives are hereby advised that under Massachusetts law, any such recording is illegal.
9. The parent or parent representative is not observing for the purpose of evaluating a teacher's ability to perform his or her contractual duties;
10. The parent or parent representative must report to the school office (as do all visitors) as part of the District's Safety Protocol. A school administrator or designee will accompany the observer and may remain and take notes as to what is observed, paying particular attention to anything that is atypical during the observation period; and
11. Observations during MCAS testing or during the first or last weeks of school are highly discouraged and will generally not be scheduled.

#### **IV. ADDITIONAL STATUTORY AND LEGAL REFERENCES**

##### **Homelessness**

Any staff member who has reason to believe that a student may be homeless should report their concern to the building principal, school nurse or school adjustment counselor, who will refer the situation to the District's McKinney-Vento liaison. **For further information** on understanding homeless eligibility as defined by the McKinney-Vento Homeless Education Assistance Act, please visit the website at <http://www.doe.mass.edu/mv/haa>

##### **McKinney-Vento Homeless Education Assistance Act**

Under the McKinney-Vento Homeless Education Assistance Act, school districts are obligated to identify students who may be homeless and, once homeless status is determined, provide certain accommodations and services to those students and their families.

Under this federal legislation, children are defined as homeless if they:

- Lack a fixed, regular, and adequate nighttime residence.
- Reside in temporary, emergency or transitional shelters.
- Are awaiting foster care placement, or are abandoned, or not in the physical custody of a parent or guardian.

Homeless students are eligible for special consideration and services specified by McKinney-Vento. These services could deviate from regular school policy in matters of transportation, immunization requirements, residency verification, free lunch eligibility, etc., as noted in the following eligibility clarifications:

- A family, whose home is destroyed or uninhabitable in the event of a fire, would be eligible for consideration under the McKinney-Vento Homeless Education Assistance Act. If the family temporarily relocates to a nearby community, transportation may be arranged by the District.
- Students who are homeless are immediately presumed eligible for free lunch. The USDA has waived all restrictions and eligibility formulas.
- Likewise, students who are homeless are automatically qualified or available for Title I services.
- Determinations are made case-by-case. "Unaccompanied Youth" (typically high school students who have left or been sent out of their homes) may be eligible for homeless services, even if they are "doubled up" with another family. Depending on the age of the student, DSS or DYS may be involved. Students under DSS custody may also be eligible for consideration if the placement is temporary.

Access to education and services for homeless students shall not be delayed while awaiting records, including proof of residency or immunization. It is to be presumed that these records exist, and the homeless liaison should be contacted to facilitate their access without disrupting the student's enrollment.

If you suspect that a student is homeless, please contact the building principal, nurse, or counselor immediately. With your assistance, they will initiate a referral form that will be used to determine eligibility and to document available resources and services that are offered and/or provided.

##### **Gender Identity**

On July 6, 2016, the General Court of the Commonwealth of Massachusetts enacted an Act Relative to Transgender Anti-Discrimination. The Act makes it unlawful to discriminate on the basis of gender identity. M.G.L. c.272 §92A mandates that admission to, and the full enjoyment of, a place of public accommodation or a portion thereof, may not be denied on the basis of a person's gender identity.

M.G.L. c. 76, §5 prohibits discrimination on the basis of gender identity against students who attend public schools. Gender identity is defined as "a person's gender related identity, appearance or behavior, whether or not that gender related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth..."

The District strives to provide a safe, respectful, and supportive learning environment in which all students can thrive and succeed in its schools. The SBRSD prohibits discrimination on the basis of gender identity and is committed to ensuring that all of its students have equal rights of access to and equal enjoyment of the District's opportunities, courses of study, programs, advantages, and privileges.

Consistent with the statutory standard, the SBRSD will accept a student's assertion (or parent's in the case of young students not yet able to advocate for themselves) of his or her gender identity when there is "consistent and



uniform assertion of the gender related identity, or any other evidence that the gender related identity is sincerely held as part of a person's core identity, provided, however, that gender-related identity shall not be asserted for any improper purpose." 603 CMR 26.01

The District shall uphold the privacy and confidentiality of school records, including school health records related to gender identity. Transgender students (and parents) and school administrators should meet to discuss the students' access to restrooms, locker rooms, and changing areas. While each situation needs to be addressed individually, students may access school facilities that correspond to their gender identity.

In sum, in addition to prohibiting discrimination on the basis of gender identity, transgender students (and parents) should contact and meet with their building principal to develop a plan that provides for the students' safety and comfort in the school environment.

All students and staff members shall report to the building principal, conduct that has the effect of marginalizing, stigmatizing, and excluding students, whether they are gender nonconforming or not.

### **Equal Employment Opportunity**

The School Committee subscribes to the fullest extent to the principle of the dignity of all people and of their labors and will take action to ensure that any individual within the District who is responsible for hiring and/or personnel supervision understands that applicants are employed, assigned, and promoted without regard to their race, creed, color, age, sex, national origin, disability or sexual orientation. Every available opportunity will be taken in order to assure that each applicant for a position is selected on the basis of qualifications, merit and ability.

### **Non-Discrimination**

In compliance with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act (ADA) of 1990; the Individuals with Disabilities Education Improvement Act (IDEIA) of 2004; M.G.L. c. 76, sec. 5, M.G.L. c. 151B; and M.G.L. c. 151C, no person in the District shall, on the grounds of race, color, age, creed, national origin, disability, sex, religion, limited English proficiency, housing status, actual or potential marital status or parental status, gender identity or sexual orientation, be denied the benefits of, or be subjected to discrimination under any program or activity offered in the Southern Berkshire Regional School District

Any student, parent, or guardian who believes he or she has been discriminated against, denied a benefit, or excluded from participation in any district program or activity on the basis of race, color, sex, religion, national origin, sexual orientation, gender identity, or disability in violation of this policy may file a written grievance with the Superintendent of Schools or designee. Copies of the laws and regulations may be obtained from the Office for Civil Rights, Region I, 33 Arch Street, Boston, MA (617) 289-0111.

The Southern Berkshire Regional School District does not discriminate based on disability. Program applicants, participants, members of the general public, employees, job applicants, and others are entitled to participate in and benefit from all agency programs, activities, and services without regard to disability. Copies of this notice are available, upon request, in alternate print formats (large print, audiotope, Braille, computer disk, etc.). Our grievance procedure, self-evaluation, as well as ADA policies, practices and procedures are available upon request. Inquiries, requests, and complaints should be directed to the Superintendent of Schools or designee. Copies of the laws and regulations may be obtained from the Office for Civil Rights, Region I, 33 Arch Street, Boston, MA (617) 289-0111.

### **Non-Discrimination against Students with Disabilities**

The SBRSD is committed to a policy of non- discrimination against qualified students with disabilities, in accordance with Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 and the Massachusetts Anti- Discrimination Law (M.G.L. c. 151B). Qualified students with a disability may not be excluded from, denied the benefits of, or denied access to any program or activity based solely on their disability.

### **Section 504**

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination against persons with a disability in any program receiving federal financial assistance. Section 504 defines a person with a disability as anyone who:

1. Has a mental or physical impairment which substantially limits one or more major life activities such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working;

2. Has a record of such impairment; or,
3. Is regarded as having such an impairment

The Southern Berkshire Regional School District acknowledges its responsibility under Section 504 to avoid discrimination in policies and practices regarding its personnel and students. No discrimination against any person with a disability shall knowingly be permitted in any program or practice in the school district. Under Section 504, the District has the responsibility to identify, evaluate, and, if the student is determined to be eligible under Section 504, to afford access to appropriate educational services.

If the parent or person in parental relationship disagrees with the determination made by the professional staff of the District, he/she has a right to a hearing with an impartial hearing officer. Any questions may be directed to:

Amy Lynn, Douglas Daponde, 504 Coordinators  
Sandra Hubbard, Director of Student Services  
Southern Berkshire Regional School District  
P. O. Box 326  
Sheffield MA 01257  
413-229-8754 ext. 391

No student, parent, or guardian will be subject to coercion, intimidation, interference, or retaliation for registering a complaint or for assisting in an investigation of any alleged violation of laws prohibiting discrimination on the basis of disability.

### **Fundraising**

All fundraising projects must be approved by the administration. Tickets or goods of any kind, other than those associated with school-sponsored activities, are not to be sold on school property by students or outside organizations. The selling of candy is prohibited on school property or transportation.

It is the desire of the School Committee that school groups conduct fundraising activities only for specifically stated charitable or educational purposes with this exception: Classes may conduct fund raising events to finance school activities approved by and under the general supervision of the principal. Faculty groups and/or student groups, with advice from administration, may select their own fundraising activities.

### **Online Fundraising and Solicitations - Crowdfunding ([Policy GBEED](#))**

School District employees shall comply with all of the following provisions relating to online solicitations and the use of crowdfunding services for school-related purposes as well as all applicable laws, regulations and district policies. No online fundraising may occur except as provided below.

The Superintendent shall have final authority to approve any online fundraising activities by school district employees and shall determine and communicate to Principals the circumstances under which online fundraising proposals shall require Superintendent or School Committee approval in accordance with law and school district policy (KCD). The Principal of each school shall approve all online fundraising activities within their buildings prior to any employee posting any such fundraising solicitation.

Any solicitation shall be for educational purposes only (field trips, supplies, supplemental materials, books, etc.). The solicitation of personal items (coats, nutritional snacks, etc.) shall only be to benefit students directly. To the extent an employee solicits any technology or software, the employee shall secure the prior written approval of the Director of Technology or designee prior to any such solicitation. Any employee seeking to display or post a photograph of a student in conjunction with a fundraising solicitation must first secure the written consent of the student's parent or guardian.

Employees shall not use a crowdfunding source, or set up their appeal in such a way, that they are asking for donations directly from people over whom the employee making the request has authority, or with whom the public employee is having official dealings (such as parents of student's in a teacher's classroom - the solicitation can say "Classroom X needs tissues and crayons," but it shouldn't be directed to parents who have shared email addresses with the teacher for purposes of communicating about their student).

Employees using crowdfunding services shall periodically disclose in writing to the Superintendent the names of all individuals whom the employee has directly solicited in any manner including but not limited to oral, written, or electronic solicitation. The Superintendent shall maintain these disclosures as public records available for public review.

Employees may only use crowdfunding services that send the items or proceeds solicited by the employee directly to the employee's school or to the school district. Employees must verify under the crowdfunding service's terms and conditions that they meet all requirements for such solicitation. Items or proceeds directly sent to employees are considered gifts to the employee and may result in violation of state ethics laws.

If an employee's proposal is approved by the crowdfunding service, the employee agrees to use the donated materials solely as stated in the employee's proposal.

If a solicitation is not fully funded within the time period required by the crowdfunding service, or the solicitation cannot be concluded for any reason, every attempt will be made to return donations to the donors. Donations unable to be returned shall only be used as account credits for future solicitations.

Unless otherwise approved by the Superintendent in writing, all goods and/or proceeds solicited and received through any online solicitation shall become the property of the School Committee, and not of the individual employee who solicited the item(s) or funds. The employee is prohibited from taking any such item(s) or funds to another school or location, without the Superintendent's written approval.

## **Restraint Prevention and Behavior Support Policy and Procedures**

### **Overview**

The Southern Berkshire Regional School District seeks to ensure that every student is free from the use of physical restraint that is inconsistent with the requirements of 603 C.M.R. 46.00. Physical restraint is an emergency measure of last resort. It may be administered only when necessary to protect a student and/or school community member from assault or imminent, serious physical harm. When, based on this standard, physical restraint is necessary, staff will strive to prevent or minimize any harm to the student as a result of the use of physical restraint. The District will annually review its Restraint Prevention and Behavior Support Policy and Procedures, provide it to all District staff, and make it available to parents of enrolled students.

### **Definitions**

*Mechanical Restraint:* the use of any device or equipment to restrict a student's freedom of movement. The term does not include devices implemented by trained school personnel, or utilized by a student that have been prescribed by an appropriate medical or related services professional, and are used for the specific and approved positioning or protective purposes for which such devices were designed. Examples of such devices include: adaptive devices or mechanical supports used to achieve proper body position, balance, or alignment to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports; vehicle safety restraints when used as intended during the transport of a student in a moving vehicle; restraints for medical immobilization; or orthopedically prescribed devices that permit a student to participate in activities without risk of harm.

*Medication Restraint:* the administration of medication for the purpose of temporarily controlling behavior. Medication prescribed by a licensed physician and authorized by the parent for administration in the school setting is not medication restraint.

*Physical Escort:* a temporary touching or holding, without the use of force, of the hand, wrist, arm, shoulder, or back for the purpose of inducing a student who is agitated to walk to a safe location.

*Physical Restraint:* direct physical contact that prevents or significantly restricts a student's freedom of movement. Physical restraint does not include: brief physical contact to promote student safety, providing physical guidance or prompting when teaching a skill, redirecting attention, providing comfort, or a physical escort.

*Principal:* instructional leader of a public school education program or his or her designee.

*Prone Restraint:* a physical restraint in which a student is placed face down on the floor or another surface, and

physical pressure is applied to the student's body to keep the student in the face-down position.

*Seclusion:* involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving. Seclusion does not include a time-out as defined below.

*Time-Out:* a behavioral support strategy, developed pursuant to 603 CMR 46.04(1), in which a student temporarily separates from the learning activity or the classroom, either by choice or by direction from staff, for the purpose of calming. During time-out, a student must be continuously observed by a staff member. Staff shall be with the student or immediately available to the student at all times. The space used for time-out must be clean, safe, sanitary, and appropriate for the purpose of calming. Time-out shall cease as soon as the student has calmed.

DESE's *Technical Assistance Advisory SPED 2016-1*, issued on July 31, 2015, provides the following additional definitions pertaining to time-out:

*Inclusionary time-out:* when the student is removed from positive reinforcement or full participation in classroom activities while remaining in the classroom.

*Exclusionary time-out:* the separation of the student from the rest of the class either through complete visual separation or from actual physical separation.

### **Prohibitions**

Chemical restraint, mechanical restraint and seclusion are prohibited in all public school education programs.

### **Specific Rights**

Neither 603 C.M.R. 46.00 nor this policy prohibits: (1) any teacher, employee or agent of the District from using reasonable force to protect students, others or themselves from imminent, serious, physical harm; (2) any individual from reporting to appropriate authorities a crime committed by a student or other individual; (3) law enforcement, judicial authorities or school security personnel from exercising their responsibilities, including the physical detainment of a student or person alleged to have committed a crime or posing a security risk; or (4) an individual from reporting neglect or abuse to the appropriate state agency, pursuant to M.G.L. c. 119 § 51A.

### **DESE Technical Assistance on Use of Time-Out**

DESE's *Technical Assistance Advisory SPED 2016-1*, issued on July 31, 2015, explains the differences between "inclusionary time-out" and "exclusionary time-out" as follows:

*"Inclusionary time-out":* when the student is removed from positive reinforcement or full participation in classroom activities while remaining in the classroom.

The use of "inclusionary time-out" functions well as a behavior support strategy while allowing the student to remain fully aware of the learning activities of the classroom. "Inclusionary time-out" includes practices used by teachers as part of their classroom behavior support tools, such as "planned ignoring," asking students to put their heads down, or placing a student in a different location within the classroom. These strategies, used to reduce external stimuli in the student's environment while keeping the student physically present and involved in learning, have proven to be useful tools for classroom management.

If the student is not "separated from the learning activity" or the classroom, the student will be in "inclusionary time-out" and the requirements that accompany the use of "exclusionary time-out," listed below, do not apply. A student is not "separated from the learning activity" if the student is physically present in the classroom and remains fully aware of the learning activities.

"Inclusionary time-out" does not include walled off "time-out" rooms located within the classroom; use of those is considered to be "exclusionary time-out."

*"Exclusionary time-out":* the separation of the student from the rest of the class either through complete visual separation or from actual physical separation.

## The following requirements apply to the use of “exclusionary time-out”:

- “Exclusionary time-out” may be used only for the purpose of calming;
- During “exclusionary time-out,” the student must be continuously observed by a staff member;
- The staff member will either be with the student or immediately available to the student at all times;
- The space used for “exclusionary time-out” must be clean, safe, sanitary and appropriate for calming;
- ***Unless it poses a safety risk, a staff member must be physically present with the student who is in an exclusionary time-out setting;***
- If it is not safe for the staff member to be present with the student, the student may be left in the time-out setting with the door closed. However, in order to ensure that the student is receiving appropriate support, a school counselor or other behavioral support professional must be immediately available outside of the time-out setting where the individual can continuously observe and communicate with the student as appropriate to determine when the student has calmed;
- ***Students must never be locked in a room;***
- For students displaying self-injurious behavior, a staff member must be physically present in the same setting with the student;
- An “exclusionary time-out” must be terminated as soon as the student has calmed; and
- An “exclusionary time-out” may not extend beyond thirty (30) minutes without the approval of the Principal. A Principal may grant an extension beyond thirty (30) minutes based only on the individual student’s continuing agitation.

## Requirements for Use of Physical Restraint

### *Legal Standard for Use*

Physical restraint is considered an emergency procedure of last resort. This means that it may be used only when the student’s behavior poses a threat of assault or imminent, serious, physical harm to self and/or others; *and* the student is not responsive to verbal directives or other lawful and less intrusive behavior interventions, or such interventions are deemed to be inappropriate under the circumstances.

Physical restraint may never be used for punishment. Physical restraint may not be used as a response to a student’s property damage, disruption of school order, refusal to comply with rules/directions, or verbal threats, unless the above harm standard is also met.

Brief physical contact to promote safety is not considered a restraint. DESE’s *Question and Answer Guide to Implementation of 603 CMR 46.00, The Regulations for the Prevention of Physical Restraint and Requirements if Used*, issued on July 31, 2015, states that “brief physical contact to promote safety refers to measures taken by school personnel consisting of physical contact with a student for a short period of time solely to prevent imminent harm to a student, for example, physically redirecting a student about to wander on to a busy road, grabbing a student who is about to fall, or breaking up a fight between students.”

Physical restraint may not be used as a standard response for any student. No IEP or written behavioral plan may include physical restraint as a standard response to any behavior.

### *Safety*

To ensure student safety, staff will review and consider a student’s medical and psychological limitations, known or suspected trauma history, and/or behavior intervention plans. Physical restraint will not be used when it is medically contraindicated for reasons including, but not limited to, communication-related disorders, asthma, seizures, cardiac condition, obesity, bronchitis, or risk of vomiting.

During a physical restraint, staff will continuously monitor the student's physical status, including skin temperature, color and respiration, and make certain that the student is able to breathe and to speak. Staff will use the safest physical restraint method available and appropriate for the situation, and will use only the amount of force necessary to protect the student or others from physical injury or harm. Whenever possible, another adult who is not a participant in the restraint will witness the administration of the restraint.

#### *Duration*

A physical restraint must be terminated as soon as the student is no longer an immediate danger to himself or others, or the student demonstrates or expresses significant physical distress (e.g., difficulty breathing, sustained or prolonged crying, sustained or prolonged coughing). If a student demonstrates or expresses significant physical distress, staff will release the restraint and seek medical assistance immediately. **For any student to be restrained for more than twenty (20) minutes, staff must obtain the Principal's approval.** This approval must be based on the student's continued agitation justifying the need for continued restraint.

#### *Follow-up*

Follow-up procedures will be implemented after the release of the student from physical restraint. These will include reviewing the incident with the student to address the precipitating behavior, reviewing the incident with staff who administered the restraint to discuss whether proper restraint procedures were followed, and considering whether any follow-up is appropriate for students who witnessed the incident.

#### *Prone and Floor Restraints*

Prone restraints are prohibited, except on an individual basis and when all of the following conditions, which require specific documentation, are met: (1) the student has a documented history of repeatedly causing serious self-injuries and/or injuries to other students or staff; (2) all other forms of physical restraint have failed to ensure the safety of the student and/or others; (3) there are no medical contraindications, as documented by a licensed physician; (4) there is psychological or behavioral justification for the use of prone restraint and no psychological or behavioral contraindications, as documented by a licensed mental health professional; (5) the program has obtained consent to use prone restraint in an emergency as set out in 603 CMR 46.03(1)(b), and the use of prone restraint is approved in writing by the Principal; and (6) the program has documented all of the above before using prone restraint and maintains the documentation. The only staff authorized to administer a prone restraint are staff who have received in-depth restraint training in accordance with 603 C.M.R. 46.04(3).

Floor restraints are prohibited unless the staff administering the restraint have received in-depth training in accordance with 603 C.M.R. 46.04(3), and these trained staff members determine that such method of restraint is required to provide safety for the student or others.

### **Reporting Physical Restraint Use**

All physical restraints, regardless of duration, will be reported.

#### *Reporting within School and to Parents*

The reporting process within the school and to the student's parents is as follows: The staff will immediately verbally inform the Principal, and the Principal will make reasonable efforts to verbally inform the student's parents within 24 hours of the restraint. The staff will file a detailed written report no later than the next school day, and the Principal will e-mail or mail the written report to the parents within three (3) school days of the restraint. There are no individual waivers permitted for these reporting requirements.

#### *Report Contents*

The report will include: names and job titles of those involved, including observers; date and time the restraint began and ended; the name of the administrator who was verbally informed; the name of the Principal or designee who approved extending the restraint beyond twenty (20) minutes, when such approval was obtained; what was happening before the restraint; the efforts staff used to prevent escalation of the student's behavior, including the specific de-escalation strategies that the staff used; the alternatives to restraint that staff attempted; the justification for initiating the restraint; a description of the holds used and why they were necessary; a description of the student's behavior and reaction during the restraint, and any medical care given; information regarding any further actions the school has taken or may take; and information regarding opportunities for the student's parents to discuss the restraint with the school.

## *Reporting to the Department of Elementary and Secondary Education*

The reporting process to the Department of Elementary and Secondary Education (DESE) is as follows:

The District will report to DESE all restraints that result in an injury to either a student or a staff member within three (3) working days of the restraint. The District will also send DESE a copy of the record of physical restraints maintained by the principal pursuant to 603 CMR 46.06(2) for the thirty (30) day period prior to the date of the reported restraint.

Additionally, the District will provide DESE with an annual report of its physical restraint use.

### **Administrative Reviews of Physical Restraint Use**

Two types of administrative reviews will be conducted in regards to the use of physical restraint. The Principal will conduct a Weekly Individual Student Review and a Monthly School-Wide Review.

#### *Weekly Individual Student Review*

A Weekly Individual Student Review will be conducted in regards to any student who has been restrained multiple times during the week. The Principal will convene a review team to assess the progress and needs of any such student, with the goal of reducing or eliminating future restraint. This team will review and discuss the written restraint reports, analyze the factors that led to the restraint, consider the factors that may have contributed to the escalation of the student's behavior, and develop a written action plan.

#### *Monthly School-Wide Review*

A Monthly School-Wide Review will also be conducted by the Principal. In this review, the Principal will consider patterns of restraints, number of restraints, duration of restraints and any injuries caused by restraints. The Principal will assess whether the restraint prevention and management policy needs to be modified and/or whether there is a need for additional staff training on restraint reduction and restraint prevention strategies.

### **Training Requirements**

#### *General Training*

The Principal will ensure that all staff receive training on the District's Restraint Prevention and Behavior Support Policy and Procedures and the requirements for the use of restraint. This training will comply with the requirements of 603 C.M.R. 46.04(2).

#### *In-Depth Training*

The Principal will identify and authorize certain staff to serve as a school-wide resource to assist in ensuring the proper administration of physical restraint. These identified staff will participate in an in-depth training that complies with the requirements of 603 C.M.R. 46.04(3) and 603 C.M.R. 46.04(4).

### **Specific Procedures**

The District has developed and implemented the following specific procedures regarding appropriate responses to student behavior that may require immediate intervention.

#### *Methods to prevent student violence, self-injurious behavior, and suicide*

The District utilizes a range of techniques in an effort to prevent student violence, self-injurious behavior and suicide, including, but not limited to: individual crisis planning, de-escalation techniques, Signs of Suicide curriculum at secondary level, Second Steps Social Emotional and Positive Behavior Supports Curriculum, Response to Intervention team meetings and planned interventions. At TEAM meetings and at District-sponsored parent/student informational events at various levels (led by school administrators, BCBA, and counselors, the District will provide support and strategies for parents/youth about restraint prevention (at least once per school year).

#### *Alternatives to physical restraint*

Alternatives to physical restraint that may be used in the District include, but are not limited to: verbal prompting, physical escort, time-out, de-escalation techniques, positive behavior support plan, and other interventions that are age-appropriate for the student involved.

### *Description of physical restraints used in emergency situations*

The specific holds that may be used by the District include: therapeutic standing side holds, guided escorts, seated holds. These will be administered by trained staff members, with administration present, whenever possible and only after verbal intervention strategies and other alternatives have been attempted.

### *Restraint prevention information and complaint procedure*

Parents are welcome to contact Sandra Hubbard, Director of Student Services, at any time to discuss the District's Restraint Prevention and Behavior Support Policy and Procedures. Additionally, any individual with a concern or complaint regarding the use of a physical restraint should report it to the attention of Sandra Hubbard, Director of Student Services or Peter Dufresne, Director of Curriculum. An investigation of the incident leading up to the physical restraint including a full review of the physical techniques utilized and of the space in which the physical restraint occurred will follow. The Complainant will be notified of the results of the investigation.

### **Wellness Policy (Policy ADF)**

The School Committee has adopted wellness policy, available on the SBRSD website at [www.SBRSD.org](http://www.SBRSD.org), which further strengthens the District's commitment to safety and wellness. Teachers, administrators, and staff will act as facilitators of the guidelines addressed in the policy. We ask that parents and guardians comply with and support the guidelines.

#### Student Rewards:

Foods and beverages will not be provided to students during the regular school day as rewards for academic performance or good behavior.

#### Classroom Parties and Celebrations:

- District schools will adopt food free celebrations during the regular school day.
- Alternate ways to celebrate birthdays, holidays, and special events that do not include food sharing will be posted on the District website.

#### Food Allergies:

It is recognized by the Southern Berkshire Regional School District that food allergies can pose a serious risk to vulnerable students. Therefore, guidelines must be followed. These guidelines apply to the consumption of food during the regular school day as it relates to an individual student's snack, school meal program, or for those approved curriculum-based lesson plans that will involve the group sharing of food.

- Food items sent to school for the consumption by more than one student cannot contain nuts or nut oils.
- The school may prohibit specific food products from entering the classroom. Home baked or food items prepared at home will not be allowed for group consumption in a classroom for a student identified with a life threatening food allergy. In school buildings identified with a significant number of students with life threatening food allergies, home baked or food items prepared at home will not be allowed for group consumption in any classroom.
- Store bought food items for group consumption must be in the original packaging and include a food label.
- A peanut free eating area will be provided in each school as needed.
- Student food allergy alerts will be programmed into the cafeteria point of sale system.
- Information about students' food allergies will be kept in the classroom. These foods will not be used for class projects, arts, crafts, science experiments, cooking or other projects.
- A letter will be sent home to parents of elementary students informing the families of any specific classroom allergies and corresponding restrictions as it relates to snacks sent in for individual consumption in the classroom.

### **Student Nutrition and Physical Activity**

#### Cafeteria Environment

A cafeteria environment that provides students with a relaxed, enjoyable climate shall be developed. The cafeteria environment is a place where students have:

- Adequate space to eat, and clean, pleasant surroundings.
- Adequate time to eat meals.
- Convenient access to hand washing or hand sanitizing facilities before meals.



### Food Based Fundraising

All fundraising projects that occur on school grounds, where the sale of the product will result in the consumption of the product before or during the school day must follow the Nutrition Standards for Competitive Foods and Beverages in Public Schools (105 CMR 225.000) when determining the items being sold. All fundraising projects for sale and consumption after the instructional day are strongly encouraged to follow the same standards.

Organizations operating concessions at school functions will be encouraged to include healthy food choices in their offerings. It is recommended that groups market these healthy options at a reasonable price to encourage selection by students.

### Teacher-to-Student Rewards

The use of food items as part of a student reward program is strongly discouraged. Should teachers feel compelled to utilize food items as a reward, they are required to adhere to the Nutrition Standards for Competitive Foods and Beverages in Public Schools (105 CMR 225.000).

### Staff Nutrition and Physical Activity Education

Nutrition and physical activity education opportunities will be provided to all school staff at the elementary, middle and high school levels with the purposes of:

- Encouraging all school staff to improve their own personal health and wellness.
- Improving staff morale.
- Creating positive role modeling.
- Building the commitment of staff to promote the health of students.
- Building the commitment of staff to help improve the school nutrition and physical activity environment.

These educational opportunities may include, but not be limited to, the distribution of educational and informational materials and the arrangement of presentations and workshops that focus on nutritional value and healthy lifestyles, health assessments, fitness activities, and other appropriate nutrition and physical activity-related topics. The District will collaborate with the Berkshire Health Group (BHG) to provide opportunities and incentives to engage in health promotion activities.

### **Equal Educational Opportunity**

Equal educational opportunity and non-discrimination laws protect the rights of students to participate in all activities pertaining to their education. Under Massachusetts law, no person shall be excluded from, denied the benefits of, or discriminated against in admission to a public school of any town, or in obtaining the advantages, privileges, and courses of study of such public school on account of race, color, sex, religion, disability, national origin, sexual orientation, or gender identity. Equal educational opportunity is available to all students with respect to enrollment, programs, and participation in school, athletic, and extracurricular activities, including those students who are pregnant or parenting. Refer to *Physical Limitations* in this Handbook.

In addition, the District believes that students should learn in an atmosphere free of discriminatory harassment or bullying, and will take affirmative steps to eliminate any inappropriate conduct brought to its attention.

The Southern Berkshire Regional School District, pursuant to Title II of the Americans with Disabilities Acts (ADA), Section 504 of the Rehabilitation Act of 1973, M.G.L. c. 76, sec.5, M.G.L. c. 151B, M.G.L. c. 151C, Title IX of the Education Amendments of 1972, and Titles VI and VII of the Civil Rights Act of 1964, does not discriminate against:

1. Any adult on the basis of race, color, age, creed, national origin, disability, sex, religion, limited English proficiency, housing status, actual or potential marital status or parental status, gender identity, sexual orientation, or veteran status in any employment status or access to programs available to such adults; and
2. Any student on the basis of race, color, age, creed, national origin, disability, sex, religion, limited English proficiency, housing status, gender identity, sexual orientation, in equal access or admission to school programs, courses, and/or extra-curricular activities.

Any student, parent, faculty, staff, or guardian who believes he or she has been discriminated against, denied a benefit, or excluded from participation in any district program or activity on the basis of race, color, religion, national origin, sexual orientation, or gender identity in violation of this policy may file a grievance with the

Superintendent of Schools or designee. For complaints of disability discrimination, contact the Title IX Coordinator, at (413) 229-8778.

## **Glossary of Relevant Definitions Related to Bullying and Discriminatory Harassment Bullying**

### **Bullying**

For the purposes of requirements related to Chapter 92 of the Acts of 2010 legislation, bullying is defined as the following: The repeated use by one or more students or staff [aggressor(s)] of a written, verbal or electronic expression or a physical act or gesture or any combination thereof, directed at a student (target) that: (i) causes physical or emotional harm to the target or damage to the target's property; (ii) places the target in reasonable fear of harm to him/herself or of damage to his/her property; (iii) creates a hostile environment at school for the target; (iv) infringes on the rights of the target at school; or (v) materially and substantially disrupts the education process or the orderly operation of a school. For the purposes of requirements related to this law, bullying shall include cyber-bullying. See section 5 of the legislation for more details on the definition of cyber-bullying and more. **Refer to the *Bullying Prevention and Intervention Plan* at [www.SBRSD.org](http://www.SBRSD.org).**

**Discriminatory harassment** is unwelcome verbal, physical or other conduct that is sufficiently severe, pervasive, or persistent to create a hostile environment resulting in a denial or limitation in a student's ability to participate or benefit from the school's program. To determine whether the conduct denies or limits benefits or services consideration must be given to subjective and objective perspectives. Under the subjective standard, the conduct must actually be perceived by the student/victim as offensive in order to interfere with his/her participation in the program.

Under the objective standard, consider whether a reasonable person in the student's position (including the student's age, sex, and any other relevant factors) would find the conduct offensive. In addition, consideration must be given to whether conduct is sufficiently severe or serious. The more severe the conduct, the less need to show repeated incidents, and the effect of the conduct on the student's education. Other relevant considerations might include the type, frequency, location, and duration of conduct; number of students involved; and the relationship/roles of the parties.

### **Types of Discriminatory Harassment**

- 1. Disability Harassment:** Intimidation or abusive behavior toward a student based on disability that creates a hostile environment by interfering with or denying a student's participation in or receipt of benefits, services, or opportunities in the institution's program. Harassing conduct may take many forms, including verbal acts and name-calling, as well as nonverbal behavior, such as graphic and written statements, or conduct that is physically threatening, harmful, or humiliating. When harassing conduct is sufficiently severe, persistent, or pervasive that it creates a hostile environment, it can violate a student's rights under the Section 504 and Title II regulations. A hostile environment may exist even if there are no tangible effects on the student victim where the harassment is serious enough to adversely affect the student's ability to participate in or benefit from the educational program.
- 2. Racial Harassment:** Harassing conduct (physical, verbal, graphic, or written) based on race, color and/or national origin that is sufficiently severe, pervasive or persistent so as to interfere with or limit the ability of an individual to participate in or benefit from the services, activities or privileges provided by the District.
- 3. Sexual Harassment:** Conduct that is of a sexual nature; is unwelcome; and creates a hostile environment that denies or limits a student's ability to participate in or receive the benefits, services or opportunities of the District's programs.
- 4. Gender Identity:** The law and its accompanying regulations have a broad definition of "gender identity". It is defined as "a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth."  
This definition is intended to encompass two groups: "gender non-conforming" and "transgender" students.  
➤ Transgender students are those youth whose assigned sex at birth differs from their clearly and persistently identified sex.

➤ Gender non-conforming students are those youth who do not meet the stereotypically expected norms associated with their assigned sex at birth.

**5. Hazing:** Any conduct or method of initiation, even if consented to, into any student organization, whether on public or private property, which willfully or recklessly endangers the physical or mental health of any student or other person. Such conduct shall include, but is not limited to, whipping, beating, branding, forced calisthenics, exposure to the weather, forced consumption of any food, liquor, beverage, drug or other substance or any other brutal treatment or forced physical activity which is likely to adversely affect the physical health or safety of any such student or person, or which subjects such student or other person to extreme mental stress, including extended deprivation of sleep or rest or extended isolation.

### **Types of Hazing**

- 1. Subtle Hazing:** Behaviors that emphasize a power imbalance between new members/rookies and other members of the group or team. Termed "subtle hazing" because these types of hazing are often taken-for-granted or accepted as "harmless" or meaningless. Subtle hazing typically involves activities or attitudes that breach reasonable standards of mutual respect and place new members/rookies on the receiving end of ridicule, embarrassment, and/or humiliation tactics. New members/rookies often feel the need to endure subtle hazing to feel like part of the group or team. (Some types of subtle hazing may also be considered harassment hazing).
- 2. Harassment Hazing:** Behaviors that cause emotional anguish or physical discomfort in order to feel like part of the group. Harassment hazing confuses, frustrates, and causes undue stress for new members/rookies. (Some types of harassment hazing can also be considered violent hazing).
- 3. Violent Hazing:** Behaviors that have the potential to cause physical and/or emotional, or psychological harm.
- 4. Retaliation:** Retribution or other coercive, threatening or intimidating actions taken against any individual or associates of that individual because that individual or associates of that individual made a charge, testified, assisted, participated in any manner in an investigation, or advocated for rights protected under SBRSD's applicable policy and applicable Federal laws.

### **Title IX Coordinator Job Description**

1. Oversee the Title IX grievance procedure for use by students, parents, staff and third party individuals accessing SBRSD programs or facilities. The Coordinator will provide information about the availability and use of the grievance procedure.
2. Maintain a record of all grievances and resolutions as well as conduct an annual review of the Title IX grievance procedures to assess the process and identify patterns.
3. Inform District personnel of the Coordinator's responsibilities and assure periodic meetings of the Coordinator to update staff on Title IX activities.
4. Immediate reporting is required for any issues that potentially would result in a Title IX investigation by contacting the building principal/designee or the District Title IX Coordinator, at (413) 229-8778.
5. Provide ongoing review of District bulletins, catalogs, Board of Education policies, counseling procedures, yearbooks, and administrative regulations and practices related to compliance with Title IX.
6. Ensure that annual notice of the Title IX Coordinator's name, address, and telephone number is placed on the District's web-site, handbooks, etc.
7. Review student sponsored organizations and suggest criteria for compliance with Title IX.
8. Become familiar with resources/information for technical assistance on Title IX available from the Office for Civil Rights. Take advantage of on-going training opportunities on sexual harassment and/or sexual violence.
9. Oversee the systematic procedure for monitoring compliance with Title IX, as well as conduct periodic surveys of schools to determine the climate on Title IX issues.
10. Disseminate information about student rights in relation to Title IX.
11. Assure that cooperative training agreements and/or SBRSD contracts have appropriate nondiscrimination statements.
12. Students, parents, employees and third party individuals are welcomed to arrange a meeting with the District Title IX Coordinator to discuss any Title IX concern by calling (413) 229-8778.

13. If someone wishes to file a complaint regarding the Title IX Coordinator, the person would contact the Superintendent of Schools at (413) 229-8778.
14. The District Title IX Coordinator will consult with the School Resource Officers in each town annually to review the Memorandum Of Understanding (MOU) and procedures for reporting such cases. The Title IX Coordinator will work parallel with law enforcement but understanding that the District is obligated to comply with Title IX, and it is the role of the District Title IX Coordinator to coordinate Title IX compliance.

### **Title IX Grievance Procedures**

Students, parents of elementary and secondary school students, employees, applicants for admission and employment, third parties, and sources of referral of applicants for admission and employment with Southern Berkshire Regional School District have the right to file a complaint alleging noncompliance with the regulations outlined in Title IX of the Education *Amendments of 1972*. Complaints may be filed with the building principal or the District Title IX Coordinator.

### **Statement of Assurances**

1. The District will not require the reporting party to resolve the issue with the alleged offender without the appropriate involvement of the District. The alleged victim retains the right to stop any informal resolution attempts and proceed with a formal complaint.
2. The District will consider the potential impact of sexual harassment beyond the school campus of the grievant that may have an impact on his or her environment within the school campus.
3. The District will consider providing interim measures in relation to those involved in the complaint while the District conducts an investigation, including separating the parties, providing counseling, making academic adjustments, etc. The building principal has the authority to implement such measures.
4. The District will use the legal definition of preponderance of evidence standard to determine whether sexual harassment or sex discrimination under Title IX has occurred.
5. The District shall annually review Title IX complaints for the purpose of identifying potential patterns at a particular school(s) or population.
6. The District will take steps, reasonably calculated, to end discrimination that has been found, prevent reoccurrence of any discrimination, such as harassment, and correct its discriminatory effects on the grievant and others, if appropriate.
7. Both the grievant and accused have a right to access the appeals process.
8. Title IX protects the grievant and others involved from retaliation for reporting allegations of sexual harassment, and/or participating in an investigation of sexual harassment, and District officials will take steps to address and prevent retaliation.

### **Procedures**

#### ***Level 1: Principal or Immediate Supervisor***

Employees or students claiming sexual harassment or other sex discrimination may first discuss the grievance with their principal or immediate supervisor, with the object of resolving the matter informally. A student, parent, employee, or third party individual with a sex discrimination/harassment complaint may discuss it with the teacher, counselor, or building administrator involved. Level 1 of the grievance procedure is informal and optional and may be passed by the grievant.

#### ***Level 2: Principal or Immediate Supervisor***

If the grievance is not resolved at Level 1 with the principal or designee and the grievant wishes to pursue the grievance, or if Level 1 is not appropriate for resolving the grievance, the grievance may be formalized by filing a written complaint, providing an interview, or an assisted written complaint when necessary. The principal or designee will seek a list of witnesses or evidence from the grievant, the accused, and others as relevant, as part of the investigation. The principal will conduct a formal investigation under the direct supervision of the District Title IX Coordinator.

The complaint shall state the nature of the grievance and the remedy requested. The filing of the formal, written complaint at Level 2 must be within six months from the day of the event giving rise to the grievance or from the date the grievant could reasonably become aware of such an occurrence. The grievant may request that a meeting concerning the complaint be held with the Title IX Coordinator. A minor student may be accompanied at that meeting by a parent or guardian. A written report from the principal to the grievant and accused regarding action taken will be sent within fifteen (15) working days after receipt of the complaint.

### **Level 2: Investigation Procedures Investigating the Complaint**

- The principal or designee will conduct a prompt investigation of the complaint and complete the investigation in a timely manner. The building principal or designee will inform and consult with the District Title IX Coordinator prior, during and after the investigative process. The principal will document the investigative activities (e.g., takes notes of interviews conducted). The time to complete the investigation will vary depending on the nature and complexity of the issue but generally will not take more than ten (10) working days after receipt of the complaint.
- The investigation may include interviews of the grievant, the individual(s) accused of engaging in discriminatory or harassing behavior, and any other witness who may reasonably be expected to have relevant information. All interviewed parties and witnesses will be provided an opportunity to present any evidence they reasonably believe could be relevant to the situation.
- The SBRSD will respect the privacy of the grievant, the individual(s) against whom the complaint is made, and the witnesses to the extent possible consistent with the SBRSD's legal obligations to investigate and take appropriate action and to comply with discovery and disclosure obligations. All records generated in connection with the investigation will be maintained as confidential to the extent permitted by law.
- If a complaint is made about any of the persons having responsibility for the implementation and enforcement of the policy forbidding sex discrimination and harassment, the District will appoint an independent person to assume those responsibilities.
- At the conclusion of the investigation, the building principal or designee will obtain a signature from the Title IX Coordinator indicating proper oversight of the investigation. In addition to providing a written report to the grievant and accused regarding action taken within fifteen (15) working days after receipt of the complaint, as described above, the principal or designee will also prepare a written report to deliver to the Superintendent summarizing the evidence gathered during the investigation, providing a determination whether or to what extent the complaint has been substantiated, and recommending the corrective action if appropriate.

The corrective action should be designed to stop the harassment/discrimination, prevent it from recurring, and remedy its effects, including services to the victim(s), if appropriate.

### **Level 3: Superintendent**

If the complaint is not resolved at Level 2, the grievant or accused may proceed to Level 3 by presenting a written appeal to the Superintendent within ten (10) working days after the grievant receives the report from the principal or designee. The grievant or accused may request a meeting with the Superintendent or his/her designee. The Superintendent or his/her designee has the option of meeting with the grievant or accused to discuss the appeal. A written decision will be rendered by the Superintendent or his/her designee within ten (10) working days after receiving the written appeal.

The procedure in no way denies the right of the grievant or accused to file a formal complaint at any time with the Massachusetts Commission Against Discrimination, United States Department of Education's Office for Civil Rights, or other agencies available for mediation or rectification of grievances, or to seek private counsel for complaints alleging discrimination. *For further information about these guidelines or help with sexual harassment problems or any other form of harassment, consult the District Title IX Coordinator, at (413) 229-8778.*

### **Legal References**

1. Title VII of the 1964 Civil Rights Act, Section 703
2. Title IX of the Education Amendments of 1972.
3. M.G.L. c. 151C
4. M.G.L. c. 76 § 5
5. M.G.L. c. 269 § 17, 18, 19
6. M.G.L. c. 71, §§82, 84

### **Alternative Procedures**

Individuals are not limited to a formal complaint procedure through SBRSD but may seek resolution through other agencies.

## **Equal Employment Opportunity Commission**

475 Government Center, Boston, MA 02203  
(800) 669-4000

## **Massachusetts Commission against Discrimination**

1 Ashburton Place, Room 601, Boston, MA 02108  
(617) 727-3990

## **U.S. Department of Education Office for Civil Rights**

5 Post Office Square, 8<sup>th</sup> Floor, Boston, MA 02109  
(617) 289-0111

### **Bullying, Hazing, and Intimidation Policy**

It is the policy of the Southern Berkshire Regional School District to provide a learning, working atmosphere for students, employees, and visitors free from bullying, hazing, and intimidation. Such action may constitute discriminatory harassment when it occurs on the basis of race, color, religion, national origin, age, gender, sexual orientation, gender identity, or disability, as defined above. **Refer to Title IX Grievance Procedures in Part 1, for complaints of discrimination on the basis of sex, including harassment based on sex.**

Bullying, cyber-bullying, hazing, intimidation, and retaliation are prohibited:

1. At school and at all school facilities.
2. At school-sponsored or school-related functions, whether on or off school grounds.
3. At school bus stops and on school buses or any other vehicle owned or used by the District.
4. Through the use of technology or an electronic device owned, licensed or used by a school.
5. At non-school-related locations and through non-school technology or electronic devices, if the bullying creates a hostile environment at school; infringes on the rights of the victim at school; or materially and substantially disrupts the education process or the orderly operation of a school.

### **Bullying, Harassment or Cyberbullying**

The Southern Berkshire Regional School District has developed a bullying prevention and intervention plan in accordance with the guidance issued by the Massachusetts DESE on September 2013. The complete Bullying Prevention/Intervention and Education Plan (2014) is available on the school's website [www.SBRSD.org](http://www.SBRSD.org).

**Priority Statement:** SBRSD will investigate promptly all reports and complaints of bullying, cyberbullying, and retaliation, and take prompt action to end that behavior and restore a sense of safety.

The principal is responsible for implementing the Bullying Prevention and Intervention Plan, which includes the following provisions:

- Strategies for protecting those who report bullying.
  - Notice to the parents or guardians of students involved in bullying, including perpetrators and victims.
  - Appropriate services for students who have been bullied or who are bullies.
  - Inclusion of age-appropriate summaries of the student-related sections of the Bullying Prevention Plan in the Student Handbook.
  - Annual review of available data on bullying and behavioral incidents and assessment of available resources including curricula, training programs, and behavioral health services.
  - Any retaliatory action of any kind taken by an employee or student of the SBRSD against anyone as a result of that person's advocacy for rights protected under SBRSD's applicable policy and applicable Federal laws, seeking help, cooperating in an investigation, or otherwise participating in any proceeding is prohibited.
1. It is a violation of the Bullying Policy for any administrator, teacher or other employee, or any student to engage in or condone bullying in school or to fail to report or otherwise take reasonable corrective measures when they become aware of an incident of bullying.
  2. This policy is not designed or intended to limit the school's authority to take disciplinary action or take remedial action when such bullying occurs out of school but has a connection to school, or is disruptive to an employee's or student's work or participation in school related activities.
  3. It is the responsibility of every employee, student and parent to recognize and report acts of bullying and take every action necessary to ensure that the applicable policies and procedures of this school district are implemented.

4. Any student who believes that he or she has been subjected to bullying has the right to file a complaint and to receive prompt and appropriate handling of the complaint. Further, all reasonable efforts shall be made to maintain the confidentiality and protect the privacy of all parties, but proper enforcement of this policy may require disclosure of any or all information received.
5. The building principal or designee shall be responsible for assisting employees and students seeking guidance or support in addressing matters relating to any form of bullying.
6. Retaliation in any form against any person who has made or filed a complaint relating to bullying is forbidden. If it occurs, it could be considered grounds for dismissal of staff personnel and/or removal from the educational setting for a student. A referral to law enforcement may be made.
7. Reports of bullying should be confidential, consistent with necessary investigation procedures, with the goal of protecting the victim and stopping the behavior.
8. Preventing bullying to create a more positive school climate and to prevent as much bullying as possible, age-appropriate instruction on bullying prevention, for students in each grade, must be incorporated in a school's curriculum. Professional development is required for teachers and other staff to help them prevent and stop bullying. In addition, schools must offer education to parents about bullying prevention.
9. Children on the Autism spectrum must have provisions in their Individualized Educational Programs (IEPs) to ensure they obtain the skills to avoid and respond to bullying, an especially challenging task for Autistic children.
10. Reporting and Stopping Bullying - To stop bullying as soon as it occurs, all school staff are required to promptly report bullying when they witness or become aware of it. A building principal or his designee must immediately investigate and take appropriate disciplinary action.

### **Procedures for Reporting and Investigating Bullying, Hazing, and Intimidation Claims**

In school systems, bullying may take many forms and cross many lines. The situation may be an instance of staff member to student, or student to student. Guidelines for dealing with any charge of bullying are as follows:

1. By law, bullying is defined by the victim's perception in combination with objective standards or expectations. What one person may consider acceptable behavior may be viewed as bullying by another. Therefore, in order to protect the rights of both parties, it is important that the victim make it clear to the bully that the behavior is objectionable.
2. In all charges of bullying, the victim should report the specifics of the complaint to ensure that the subsequent investigation is focused on the relevant facts. At the middle and high school levels, anonymous reporting can be submitted through Edline on the schools home page. At the elementary level, anonymous reporting can be accessed by phone or by using the form on the district website. Oral and anonymous complaints will be reviewed but are inherently difficult to investigate and may not be procedurally fair; as a result, no disciplinary action shall be taken on anonymous complaints unless verified by clear and convincing evidence. All other complaints will be reviewed based on a preponderance of evidence standard.
3. Any school employee that has reliable information that would lead a reasonable person to suspect that a person is a target of bullying, hazing, or intimidation shall immediately report it to the administration; each school shall document any prohibited incident that is reported and confirmed, and report all incidents of hazing, intimidation, bullying or cyber-bullying and the resulting consequences, including discipline and referrals, in accordance with state laws and regulations.
4. A good faith report from a staff member renders the staff member immune from discipline for making a report and is considered to have been made in the course of the staff member's employment for purposes of M.G.L. c. 258. School staff will be indemnified from any cause of action arising out of a good faith report of bullying or the district's subsequent actions or inaction in connection thereto.
5. If an instance of student to student bullying is reported to a staff member other than an administrator, the staff member must inform the assistant principal or the building principal.
6. If the alleged bully is responsible for conducting an investigation, the Superintendent or Committee shall designate an alternative Coordinator, who is immediate Supervisor of the alleged bully.
7. If a situation involving a charge of staff member to student bullying is brought to the attention of any staff member, the staff member should notify the building principal or the Title IX Coordinator.
8. Once a charge of bullying has been made, including charges of mental, emotional or physical bullying as well as threats to a person's safety or position in the school or work environment, the following course of action should be taken:
  - The building principal should investigate the charge through discussions with the individuals involved.
  - In situations involving allegations against a staff member, he/she should be informed of his/her rights to have a third party present at the time of the discussion.
  - In situations involving students the principal should engage the appropriate classroom or special subject area

- teacher. Parents will be informed of the situation in incidences involving students.
- It is important that the situation be resolved as confidentially and as quickly as the circumstances permit.
9. After an investigation with the involved parties, if the building principal determines that disciplinary action must be taken, the following could occur:
- In instances involving student to student or student bullying, the student may be subject to discipline including but not limited to counseling, suspension, and in appropriate cases expulsion.
  - In instances involving staff member to student bullying, findings will be reported to the Superintendent of Schools for further action. Personnel action may also be initiated at this point, consistent with the applicable law and collective bargaining agreement.
  - In all cases a referral to law enforcement will be considered by the principal or Superintendent based on the circumstances. School officials will coordinate with the Police Department to identify a police liaison for bullying cases.

The SBRSD Bullying Prevention Plan, as well as notification of updates, can be found in its entirety, on the district website at [www.SBRSD.org](http://www.SBRSD.org) and is subject to modifications by state legislation.

## **Staff Use of District's Computer Network and Internet Services**

### **User Responsibilities**

It is the responsibility of any person using the SBRSD network (local area network/Intranet/Internet) to read, understand, and follow this policy. In addition, users are expected to exercise reasonable judgment in interpreting this policy and in making decisions about the use of the SBRSD network. Any person with questions regarding the application or meaning of this policy should seek clarification from the Technology Coordinator or the Superintendent. Failure to observe this policy may subject individuals to disciplinary action, including termination of their network account.

[\(SBRSD SC Policy GBEE\)](#)

### **Acceptable Uses**

The SBRSD firmly believes that the SBRSD network empowers users and makes their jobs more fulfilling by allowing them to serve the children of the SBRSD. As such, users are encouraged to use the SBRSD network to the fullest extent in pursuit of the SBRSD's goals and objectives.

### **Unacceptable Uses of the SBRSD Network**

It is unacceptable for any person to use the SBRSD network:

- in furtherance of any illegal act;
- for any political purpose;
- for any commercial purpose;
- to access or share sexually explicit, obscene, or otherwise inappropriate materials;
- for any use that causes interference with or disruption of network users and resources;
- to intercept communications intended for other persons;
- to misrepresent either the SBRSD or a person's role at the SBRSD;
- to distribute chain letters; and/or
- to send messages intended to harass, intimidate, or threaten any individual.

### **Data Confidentiality**

In the course of performing their jobs, SBRSD network subscribers may have access to confidential or proprietary information, such as personal data about identifiable individuals or commercial information about business organizations. Under no circumstances is it permissible to acquire access to confidential data unless such access is required by their jobs. Under no circumstances may they disseminate any confidential information that they have rightful access to, unless such dissemination is required by their jobs.

### **Copyright Protection**

Computer programs are valuable intellectual property. Software publishers can be very aggressive in protecting their property rights from infringement. In addition to software, legal protections can also exist for any information published on the Internet, such as the text and graphics on a web site. As such, it is important that users respect the rights of intellectual property owners. Users should exercise care and judgment when copying or distributing computer programs or information that could reasonably be expected to be copyrighted.



## **Computer Viruses**

Users should exercise reasonable precautions in order to prevent the introduction of a computer virus into the SBRSD network. Users should not open e-mails from unknown senders. Furthermore, users should show caution in visiting websites from questionable sources. Anti-virus software will be installed on all district owned computers. While that software should update and scan automatically, users are to contact the Technology Coordinator if they perceive the software is not functioning correctly. District personnel bringing external hard drives to school, such as USB, flash or pen drives, shall ensure that these drives are scanned by the systems anti-virus prior to accessing files in them.

## **E-mail**

District personnel should consider e-mail messages to be the equivalent of letters sent on official letterhead since e-mail addresses identify the organization that sent the message (username@sbrsd.org). District personnel shall ensure that all e-mails are written in a professional and courteous tone. Staff e-mail is for use in performing daily duties related to the District; personal e-mail accounts should be used outside of school. When contacting students via e-mail, staff should only contact students through the students' school provided e-mail address (i.e. student name@sbrsd.org). Finally, users should remember that email can be stored, copied, printed, or forwarded by recipients. As such, users should not write anything in an e-mail message that they would not feel just as comfortable putting into a memorandum. Note: E-mails generated and/or received on the District's system are public records unless covered by a specific exemption.

## **Staff Personal Device Use**

The District prohibits employee use of personal-owned electronic devices to communicate student information to parents via text message. All communication to parents should be through face-to-face contact, telephone contact, or district email.

A personal-owned electronic device, that is configured to provide access to a district assigned email account, is considered public property and subject to public records law and release upon appropriate request. Text messages sent to and from a personal electronic device, with respect to district business, is also considered public property and subject to public record law and release upon appropriate request.

## **No Expectation of Privacy**

The SBRSD network is the property of the SBRSD and is to be used in conformance with this policy. The SBRSD retains, and when reasonable and in pursuit of legitimate needs for supervision, control, and the efficient and proper operation of the service, the SBRSD will exercise the right to inspect any user's local hard drive, the SBRSD network user's directory

(H drive), email account or personal web space, any data contained in it, and any data sent or received. Users should be aware that network administrators, in order to ensure proper network operations, routinely monitor network traffic. Use of the SBRSD network (local area network/Intranet/Internet) constitutes express consent for the network administrators to monitor and/or inspect any data that users create or receive, any messages they send or receive, and any web sites that they access.

## **Disclaimer:**

THE SBRSD DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. SBRSD shall not be liable for any damage that user may suffer arising out of use, or inability to use, the SBRSD network service. IN NO EVENT WILL SBRSD BE LIABLE FOR ANY OTHER DAMAGES, INCLUDING LOSS OF DATA, OR OTHER SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, ARISING OUT OF OR IN CONNECTION WITH THE PURCHASE, USE OR PERFORMANCE OF THE SBRSD NETWORK SERVICE.

## Appendix A

Adapted from: <https://www.mass.gov/service-details/summary-of-the-conflict-of-interest-law-for-municipal-employees>

### Summary of the Conflict of Interest Law for Municipal Employees

This summary of the conflict of interest law, General Laws chapter 268A, is intended to help municipal employees understand how that law applies to them. This summary is not a substitute for legal advice, nor does it mention every aspect of the law that may apply in a particular situation. Municipal employees can obtain free confidential advice about the conflict of interest law from the Commission's Legal Division at our website, phone number, and address above. Municipal counsel may also provide advice.

The conflict of interest law seeks to prevent conflicts between private interests and public duties, foster integrity in public service, and promote the public's trust and confidence in that service by placing restrictions on what municipal employees may do on the job, after hours, and after leaving public service, as described below. The sections referenced below are sections of G.L. c. 268A.

When the Commission determines that the conflict of interest law has been violated, it can impose a civil penalty of up to \$10,000 (\$25,000 for bribery cases) for each violation. In addition, the Commission can order the violator to repay any economic advantage he gained by the violation, and to make restitution to injured third parties. Violations of the conflict of interest law can also be prosecuted criminally.

#### I. Are you a municipal employee for conflict of interest law purposes?

You do not have to be a full-time, paid municipal employee to be considered a municipal employee for conflict of interest purposes. Anyone performing services for a city or town or holding a municipal position, whether paid or unpaid, including full- and part-time municipal employees, elected officials, volunteers, and consultants, is a municipal employee under the conflict of interest law. An employee of a private firm can also be a municipal employee, if the private firm has a contract with the city or town and the employee is a "key employee" under the contract, meaning the town has specifically contracted for her services. The law also covers private parties who engage in impermissible dealings with municipal employees, such as offering bribes or illegal gifts.

#### II. On-the-job restrictions.

##### (a) Bribes. Asking for and taking bribes is prohibited. (See Section 2)

A bribe is anything of value corruptly received by a municipal employee in exchange for the employee being influenced in his official actions. Giving, offering, receiving, or asking for a bribe is illegal.

Bribes are more serious than illegal gifts because they involve corrupt intent. In other words, the municipal employee intends to sell his office by agreeing to do or not do some official act, and the giver intends to influence him to do so. Bribes of any value are illegal.

##### (b) Gifts and gratuities. Asking for or accepting a gift because of your official position, or because of something you can do or have done in your official position, is prohibited. (See Sections 3, 23(b)(2), and 26)

Municipal employees may not accept gifts and gratuities valued at \$50 or more given to influence their official actions or because of their official position. Accepting a gift intended to reward past official action or to bring about future official action is illegal, as is giving such gifts. Accepting a gift given to you because of the municipal position you hold is also illegal. Meals, entertainment event tickets, golf, gift baskets, and payment of travel expenses can all be illegal gifts if given in connection with official action or position, as can anything worth \$50 or more. A number of smaller gifts together worth \$50 or more may also violate these sections.

**Example of violation:** A town administrator accepts reduced rental payments from developers.

**Example of violation:** A developer offers a ski trip to a school district employee who oversees the developer's work for the school district.

**Regulatory exemptions.** There are situations in which a municipal employee's receipt of a gift does not present a genuine risk of a conflict of interest, and may in fact advance the public interest. The Commission has created

exemptions permitting giving and receiving gifts in these situations. One commonly used exemption permits municipal employees to accept payment of travel-related expenses when doing so advances a public purpose. Another commonly used exemption permits municipal employees to accept payment of costs involved in attendance at educational and training programs. Other exemptions are listed on the Commission's website.

**Example where there is no violation:** A fire truck manufacturer offers to pay the travel expenses of a fire chief to a trade show where the chief can examine various kinds of fire-fighting equipment that the town may purchase. The chief fills out a disclosure form and obtains prior approval from his appointing authority.

**Example where there is no violation:** A town treasurer attends a two-day annual school featuring multiple substantive seminars on issues relevant to treasurers. The annual school is paid for in part by banks that do business with town treasurers. The treasurer is only required to make a disclosure if one of the sponsoring banks has official business before her in the six months before or after the annual school.

**(c) Misuse of position. Using your official position to get something you are not entitled to, or to get someone else something they are not entitled to, is prohibited. Causing someone else to do these things is also prohibited. (See Sections 23(b)(2) and 26)**

A municipal employee may not use her official position to get something worth \$50 or more that would not be properly available to other similarly situated individuals. Similarly, a municipal employee may not use her official position to get something worth \$50 or more for someone else that would not be properly available to other similarly situated individuals. Causing someone else to do these things is also prohibited.

**Example of violation:** A full-time town employee writes a novel on work time, using her office computer, and directing her secretary to proofread the draft.

**Example of violation:** A city councilor directs subordinates to drive the councilor's wife to and from the grocery store.

**Example of violation:** A mayor avoids a speeding ticket by asking the police officer who stops him, "Do you know who I am?" and showing his municipal I.D.

**(d) Self-dealing and nepotism. Participating as a municipal employee in a matter in which you, your immediate family, your business organization, or your future employer has a financial interest is prohibited. (See Section 19)**

A municipal employee may not participate in any particular matter in which he or a member of his immediate family (parents, children, siblings, spouse, and spouse's parents, children, and siblings) has a financial interest. He also may not participate in any particular matter in which a prospective employer, or a business organization of which he is a director, officer, trustee, or employee has a financial interest. Participation includes discussing as well as voting on a matter, and delegating a matter to someone else.

A financial interest may create a conflict of interest whether it is large or small, and positive or negative. In other words, it does not matter if a lot of money is involved or only a little. It also does not matter if you are putting money into your pocket or taking it out. If you, your immediate family, your business, or your employer have or has a financial interest in a matter, you may not participate. The financial interest must be direct and immediate or reasonably foreseeable to create a conflict. Financial interests which are remote, speculative or not sufficiently identifiable do not create conflicts.

**Example of violation:** A school committee member's wife is a teacher in the town's public schools. The school committee member votes on the budget line item for teachers' salaries.

**Example of violation:** A member of a town affordable housing committee is also the director of a non-profit housing development corporation. The non-profit makes an application to the committee, and the member/director participates in the discussion.

**Example:** A planning board member lives next door to property where a developer plans to construct a new building. Because the planning board member owns abutting property, he is presumed to have a financial interest in the matter. He cannot participate unless he provides the State Ethics Commission with an opinion from a qualified independent appraiser that the new construction will not affect his financial interest.

In many cases, where not otherwise required to participate, a municipal employee may comply with the law by simply not participating in the particular matter in which she has a financial interest. She need not give a reason for not participating.

There are several exemptions to this section of the law. An appointed municipal employee may file a written disclosure about the financial interest with his appointing authority, and seek permission to participate notwithstanding the conflict. The appointing authority may grant written permission if she determines that the financial interest in question is not so substantial that it is likely to affect the integrity of his services to the municipality. Participating without disclosing the financial interest is a violation. Elected employees cannot use the disclosure procedure because they have no appointing authority.

***Example where there is no violation*** : An appointed member of the town zoning advisory committee, which will review and recommend changes to the town's by-laws with regard to a commercial district, is a partner at a company that owns commercial property in the district. Prior to participating in any committee discussions, the member files a disclosure with the zoning board of appeals that appointed him to his position, and that board gives him a written determination authorizing his participation, despite his company's financial interest. There is no violation.

There is also an exemption for both appointed and elected employees where the employee's task is to address a matter of general policy and the employee's financial interest is shared with a substantial portion (generally 10% or more) of the town's population, such as, for instance, a financial interest in real estate tax rates or municipal utility rates.

**Regulatory exemptions**. In addition to the statutory exemptions just mentioned, the Commission has created several regulatory exemptions permitting municipal employees to participate in particular matters notwithstanding the presence of a financial interest in certain very specific situations when permitting them to do so advances a public purpose. There is an exemption permitting school committee members to participate in setting school fees that will affect their own children if they make a prior written disclosure. There is an exemption permitting town clerks to perform election-related functions even when they, or their immediate family members, are on the ballot, because clerks' election-related functions are extensively regulated by other laws. There is also an exemption permitting a person serving as a member of a municipal board pursuant to a legal requirement that the board have members with a specified affiliation to participate fully in determinations of general policy by the board, even if the entity with which he is affiliated has a financial interest in the matter. Other exemptions are listed in the Commission's regulations, available on the Commission's website.

***Example where there is no violation***: A municipal Shellfish Advisory Board has been created to provide advice to the Board of Selectmen on policy issues related to shell fishing. The Advisory Board is required to have members who are currently commercial fishermen. A board member who is a commercial fisherman may participate in determinations of general policy in which he has a financial interest common to all commercial fishermen, but may not participate in determinations in which he alone has a financial interest, such as the extension of his own individual permits or leases.

**(e) False claims. Presenting a false claim to your employer for a payment or benefit is prohibited, and causing someone else to do so is also prohibited. (See Sections 23(b) (4) and 26)**

A municipal employee may not present a false or fraudulent claim to his employer for any payment or benefit worth \$50 or more, or cause another person to do so.

***Example of violation*** : A public works director directs his secretary to fill out time sheets to show him as present at work on days when he was skiing.

**(f) Appearance of conflict. Acting in a manner that would make a reasonable person think you can be improperly influenced is prohibited. (See Section 23(b) (3))**

A municipal employee may not act in a manner that would cause a reasonable person to think that she would show favor toward someone or that she can be improperly influenced. Section 23(b) (3) requires a municipal employee to consider whether her relationships and affiliations could prevent her from acting fairly and objectively when she performs her duties for a city or town. If she cannot be fair and objective because of a relationship or

affiliation, she should not perform her duties. However, a municipal employee, whether elected or appointed, can avoid violating this provision by making a public disclosure of the facts. An appointed employee must make the disclosure in writing to his appointing official.

**Example where there is no violation:** A developer who is the cousin of the chair of the conservation commission has filed an application with the commission. A reasonable person could conclude that the chair might favor her cousin. The chair files a written disclosure with her appointing authority explaining her relationship with her cousin prior to the meeting at which the application will be considered. There is no violation of Sec. 23(b) (3).

**(g) Confidential information. Improperly disclosing or personally using confidential information obtained through your job is prohibited. (See Section 23(c))**

Municipal employees may not improperly disclose confidential information, or make personal use of non-public information they acquired in the course of their official duties to further their personal interests.

**III. After-hours restrictions.**

**(a) Taking a second paid job that conflicts with the duties of your municipal job is prohibited. (See Section 23(b) (1))**

A municipal employee may not accept other paid employment if the responsibilities of the second job are incompatible with his or her municipal job.

**Example:** A police officer may not work as a paid private security guard in the town where he serves because the demands of his private employment would conflict with his duties as a police officer.

**(b) Divided loyalties. Receiving pay from anyone other than the city or town to work on a matter involving the city or town is prohibited. Acting as agent or attorney for anyone other than the city or town in a matter involving the city or town is also prohibited whether or not you are paid. (See Sec. 17)**

Because cities and towns are entitled to the undivided loyalty of their employees, a municipal employee may not be paid by other people and organizations in relation to a matter if the city or town has an interest in the matter. In addition, a municipal employee may not act on behalf of other people and organizations or act as an attorney for other people and organizations in which the town has an interest. Acting as agent includes contacting the municipality in person, by phone, or in writing; acting as a liaison; providing documents to the city or town; and serving as spokesman.

A municipal employee may always represent his own personal interests, even before his own municipal agency or board, on the same terms and conditions that other similarly situated members of the public would be allowed to do so. A municipal employee may also apply for building and related permits on behalf of someone else and be paid for doing so, unless he works for the permitting agency, or an agency which regulates the permitting agency.

**Example of violation:** A full-time health agent submits a septic system plan that she has prepared for a private client to the town's board of health.

**Example of violation:** A planning board member represents a private client before the board of selectmen on a request that town meeting consider rezoning the client's property.

While many municipal employees earn their livelihood in municipal jobs, some municipal employees volunteer their time to provide services to the town or receive small stipends. Others, such as a private attorney who provides legal services to a town as needed, may serve in a position in which they may have other personal or private employment during normal working hours. In recognition of the need not to unduly restrict the ability of town volunteers and part-time employees to earn a living, the law is less restrictive for "special" municipal employees than for other municipal employees.

The status of "special" municipal employee has to be assigned to a municipal position by vote of the board of selectmen, city council, or similar body. A position is eligible to be designated as "special" if it is unpaid, or if it is part-time and the employee is allowed to have another job during normal working hours, or if the employee was not paid for working more than 800 hours during the preceding 365 days. It is the position that is designated as "special" and not the person or persons holding the position. Selectmen in towns of 10,000 or fewer are

automatically "special"; selectman in larger towns cannot be "specials."

If a municipal position has been designated as "special," an employee holding that position may be paid by others, act on behalf of others, and act as attorney for others with respect to matters before municipal boards other than his own, provided that he has not officially participated in the matter, and the matter is not now, and has not within the past year been, under his official responsibility.

**Example :** A school committee member who has been designated as a special municipal employee appears before the board of health on behalf of a client of his private law practice, on a matter that he has not participated in or had responsibility for as a school committee member. There is no conflict. However, he may not appear before the school committee, or the school department, on behalf of a client because he has official responsibility for any matter that comes before the school committee. This is still the case even if he has recused himself from participating in the matter in his official capacity.

**Example:** A member who sits as an alternate on the conservation commission is a special municipal employee. Under town by-laws, he only has official responsibility for matters assigned to him. He may represent a resident who wants to file an application with the conservation commission as long as the matter is not assigned to him and he will not participate in it.

**(c) Inside track. Being paid by your city or town, directly or indirectly, under some second arrangement in addition to your job is prohibited, unless an exemption applies. (See Section 20)**

A municipal employee generally may not have a financial interest in a municipal contract, including a second municipal job. A municipal employee is also generally prohibited from having an indirect financial interest in a contract that the city or town has with someone else. This provision is intended to prevent municipal employees from having an "inside track" to further financial opportunities.

**Example of violation:** Legal counsel to the town housing authority becomes the acting executive director of the authority, and is paid in both positions.

**Example of violation:** A selectman buys a surplus truck from the town DPW.

**Example of violation:** A full-time secretary for the board of health wants to have a second paid job working part-time for the town library. She will violate Section 20 unless she can meet the requirements of an exemption.

**Example of violation:** A city councilor wants to work for a non-profit that receives funding under a contract with her city. Unless she can satisfy the requirements of an exemption under Section 20, she cannot take the job.

There are numerous exemptions. A municipal employee may hold multiple unpaid or elected positions. Some exemptions apply only to special municipal employees. Specific exemptions may cover serving as an unpaid volunteer in a second town position, housing-related benefits, public safety positions, certain elected positions, small towns, and other specific situations. Please call the Ethics Commission's Legal Division for advice about a specific situation.

**IV. After you leave municipal employment. (See Section 18)**

**(a) Forever ban. After you leave your municipal job, you may never work for anyone other than the municipality on a matter that you worked on as a municipal employee.**

If you participated in a matter as a municipal employee, you cannot ever be paid to work on that same matter for anyone other than the municipality, nor may you act for someone else, whether paid or not. The purpose of this restriction is to bar former employees from selling to private interests their familiarity with the facts of particular matters that are of continuing concern to their former municipal employer. The restriction does not prohibit former municipal employees from using the expertise acquired in government service in their subsequent private activities.

**Example of violation:** A former school department employee works for a contractor under a contract that she helped to draft and oversee for the school department.

**(b) One year cooling-off period. For one year after you leave your municipal job you may not**

**participate in any matter over which you had official responsibility during your last two years of public service.**

Former municipal employees are barred for one year after they leave municipal employment from personally appearing before any agency of the municipality in connection with matters that were under their authority in their prior municipal positions during the two years before they left.

**Example:** An assistant town manager negotiates a three-year contract with a company. The town manager who supervised the assistant, and had official responsibility for the contract but did not participate in negotiating it, leaves her job to work for the company to which the contract was awarded. The former manager may not call or write the town in connection with the company's work on the contract for one year after leaving the town.

A former municipal employee who participated as such in general legislation on expanded gaming and related matters may not become an officer or employee of, or acquire a financial interest in, an applicant for a gaming license, or a gaming licensee, for one year after his public employment ceases.

**(c) Partners. Your partners will be subject to restrictions while you serve as a municipal employee and after your municipal service ends.**

Partners of municipal employees and former municipal employees are also subject to restrictions under the conflict of interest law. If a municipal employee participated in a matter, or if he has official responsibility for a matter, then his partner may not act on behalf of anyone other than the municipality or provide services as an attorney to anyone but the city or town in relation to the matter.

**Example:** While serving on a city's historic district commission, an architect reviewed an application to get landmark status for a building. His partners at his architecture firm may not prepare and sign plans for the owner of the building or otherwise act on the owner's behalf in relation to the application for landmark status. In addition, because the architect has official responsibility as a commissioner for every matter that comes before the commission, his partners may not communicate with the commission or otherwise act on behalf of any client on any matter that comes before the commission during the time that the architect serves on the commission.

**Example:** A former town counsel joins a law firm as a partner. Because she litigated a lawsuit for the town, her new partners cannot represent any private clients in the lawsuit for one year after her job with the town ended.

\* \* \* \* \*

This summary is not intended to be legal advice and, because it is a summary, it does not mention every provision of the conflict law that may apply in a particular situation. Our website, <http://www.mass.gov/ethics> contains further information about how the law applies in many situations. You can also contact the Commission's Legal Division via our website, by telephone, or by letter. Our contact information is at the top of this document.

**Staff Gifts and Solicitations**

In accordance with Massachusetts General Law 268A and State Ethics standards, school personnel are prohibited from accepting personal gifts from a contributor (single or collective) that total more than \$50.00 over the course of a single school year.

No employee of the District will accept a personal gift from a business concern supplying, or with an interest in supplying goods, materials, equipment, or services to the District. This restriction does not relate to the acceptance of gifts for the school system or to the acceptance of small and clearly identifiable advertising and promotional materials.

All gifts to the District or proposal of gifts should be recommended by the Superintendent and approved by the Committee. Major fundraising efforts by outside parties must seek recommendation of the Superintendent and approval of the committee.

On occasion throughout the year, parents or students may wish to express personal appreciation to a teacher or other staff member. The School Committee urges them to find modes of expression that do not involve personal gifts.

No solicitation of funds for charitable purposes will be made among staff members except with specific approval of the Superintendent. Employees are under no obligation to participate.

**For further information** or example scenarios, please visit this website: <http://www.mass.gov/ethics/education-and-training-resources/educational-materials/explanations-of-the-conflict-of-interest-law/public-school-teacher-faqs.html>

Throughout the year, organizations may contact the district to offer donations, services or proposed collaborations. All such requests should be approved by the Superintendent or designee. Requests for distribution of any material or advertising must be directed to the Superintendent's office. Communications that have not been pre-authorized should not be disseminated.



## **Employee Acknowledgement and Agreement**

I understand that the information in the Southern Berkshire Regional School District Employee Handbook represents guidelines only and that the District reserves the right:

1. To modify this Handbook; and
2. To amend or terminate any policies, procedures, or employee benefit programs whether or not described in this Handbook at any time, unless provided by contract, collective bargaining agreement, or statute.

As many of our employees are represented by a collective bargaining unit, or are working under an individual contract, I understand that the policies in this Handbook apply to those employees, except as provided by collective bargaining agreement, or individual contract. If covered by an individual contract or collective bargaining agreement, I understand that I should consult the terms of my applicable agreement.

I also understand that any changes made by the District with respect to its policies, procedures, or programs can supersede, modify, or eliminate any of the policies, procedures, or programs outlined in this Handbook, except as provided by contract, collective bargaining agreement, or statute. I accept responsibility for familiarizing myself with the information in this Handbook and will seek verification or clarification of its terms or guidance where necessary.

Furthermore, I acknowledge that this Handbook is neither a contract of employment nor a legal document and nothing in the Handbook creates an express or implied contract of employment, nor a guarantee of employment for any specific duration between the District and me, and that I should not view it as such. I understand that I should consult my supervisor or the Human Resources Director if I have any questions that are not answered in this Handbook.

I also understand that no administrator or representative of the District other than the Superintendent has any authority to enter into any agreement guaranteeing employment for any specified period of time. I understand that any such agreement, if made, shall not be enforceable unless it is a formal written agreement signed by both the previously mentioned District representative and me.

- I hereby acknowledge that I have read and understand the contents of the Southern Berkshire Regional School District Employee Handbook.
- I understand that I am expected to be familiar with, and adhere to the policies contained herein, and all District policies.
- I acknowledge that I am in receipt of the Summary of the Conflict of Interest Law for Municipal Employees included as Appendix A in this Handbook.
- I acknowledge that I have read the alcohol and drug free policy and agree to abide by it in all respects.

\_\_\_\_\_  
Print Name of Employee

\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
Date

***All employees must sign and deliver to the Central Office an original copy of this Employee Acknowledgement and Agreement, which will be maintained in the employee's personnel file. Please keep a copy for your own records.***