

PUBLIC SCHOOL SYSTEM RULES AND REGULATIONS

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Chapter Authority: CNMI Const., art. XV; 1 CMC §§ 2251-2273; 3 CMC §§ 1101-1192.

Chapter History: Amdts Adopted 46 Com. Reg. 51494 (Dec. 15, 2024); Amdts Proposed 46 Com. Reg. 51225 (Aug. 15, 2024); Amdts Adopted 41 Com. Reg. 41658 (May 28, 2019); Amdts Proposed 41 Com. Reg. 41554 (Mar. 28, 2019); Amdts Adopted 41 Com. Reg. 41646 (May 28, 2019); Amdts Proposed 41 Com. Reg. 41504 (Mar. 28, 2019); Amdts Adopted 40 Com. Reg. 40899, 40903 (Aug. 28, 2018); Amdts Proposed 40 Com. Reg. 40698, 40682 (May 28, 2018); Amdts Adopted 38 Com. Reg. 38406 (Aug. 28, 2016); Amdts Proposed 38 Com. Reg. 37969 (May 28, 2016); Amdts Adopted 38 Com. Reg. 38197 (June 28, 2016); Amdts Proposed 38 Com. Reg. 37980 (May 28, 2016); Amdts Adopted 36 Com. Reg. 35891 (Dec. 28, 2014); Amdts Proposed 36 Com. Reg. 35634 (Oct. 28, 2014); Amdts Adopted 36 Com. Reg. 35889 (Dec. 28, 2014); Amdts Proposed 36 Com. Reg. 35626 (Oct. 28, 2014); Amdts Adopted 36 Com. Reg. 35887 (Dec. 28, 2014); Amdts Proposed 36 Com. Reg. 35614 (Oct. 29, 2014); Amdts Adopted 35 Com. Reg. 33262 (Jan. 28, 2013); Amdts Proposed 34 Com. Reg. 33047 (Oct. 29, 2012); Amdts Adopted 33 Com. Reg. 31847 (Aug. 23, 2011); Amdts Proposed 33 Com. Reg. 31728 (June 27, 2011); Amdts Adopted 33 Com. Reg. 31845 (Aug. 23, 2011); Amdts Proposed 33 Com. Reg. 31720 (June 27, 2011); Amdts Adopted 33 Com. Reg. 31843 (Aug. 23, 2011); Amdts Proposed 33 Com. Reg. 31711 (June 27, 2011); Amdts Adopted 33 Com. Reg. 31659 (June 27, 2011); Amdts Proposed 32 Com. Reg. 30195 (Dec. 20, 2010); Amdts Emergency 32 Com. Reg. 30623 (Sept. 22, 2010) (effective for 120 days from Sept. 20, 2010); Amdts Adopted 32 Com. Reg. 30251 (May 21, 2010); Amdts Proposed 31 Com. Reg. 29988 (Dec. 22, 2009); Amdts Adopted 31 Com. Reg. 29986 (Dec. 22, 2009); Amdts Proposed 31 Com. Reg. 29888 (Sept. 28, 2009); Amdts Adopted 29 Com. Reg. 26433 (Feb. 15, 2007); Amdts Proposed 28 Com. Reg. 26397 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26217 (Oct. 30, 2006); Amdts Adopted 27 Com. Reg. 25398 (Dec. 30, 2005); Amdts Proposed 27 Com. Reg. 25027 (Oct. 24, 2005); Amdts Adopted 27 Com. Reg. 24774 (Aug. 22, 2005); Amdts Proposed 27 Com. Reg. 24615 (June 20, 2005); Amdts Adopted 26 Com. Reg. 21759 (Jan. 22, 2004); Amdts Emergency and Proposed 25 Com. Reg. 21065 (Sept. 18, 2003) (effective for 120 days from Sept. 2, 2003); Amdts Adopted 24 Com. Reg. 19939 (Dec. 27, 2002); Amdts Proposed 24 Com. Reg. 19502 (Sept. 27, 2002); Amdts Adopted 24 Com. Reg. 19413 (July 29, 2002); Amdts Proposed 24 Com. Reg. 18852 (Jan. 29, 2002); Amdts Adopted 24 Com. Reg. 19410 (July 29, 2002); Amdts Proposed 24 Com. Reg. 19132 (May 20, 2002); Amdts Adopted 24 Com. Reg. 19045 (Mar. 19, 2002); Amdts Proposed 23 Com. Reg. 18765 (Dec. 21, 2001); Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001); Amdts Adopted 22 Com. Reg. 17361 (Aug. 18, 2000); Amdts Proposed 22 Com. Reg. 17257 (June 20, 2000); Amdts Proposed 20 Com.

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Reg. 16083 (Aug. 15, 1998);** Amdts Proposed 20 Com. Reg. 15929 (June 15, 1998);** Amdts Proposed 20 Com. Reg. 15901 (June 15, 1998);** Amdts Adopted 20 Com. Reg. 15966 (June 15, 1998); Amdts Adopted 20 Com. Reg. 15965 (June 15, 1998); Amdts Proposed 19 Com. Reg. 15423 (Aug. 15, 1997); Amdts Adopted 19 Com. Reg. 15452 (Aug. 15, 1997); Amdts Adopted 19 Com. Reg. 15449 (Aug. 15, 1997); Amdts Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Amdts Proposed 18 Com. Reg. 14484 (Nov. 15, 1996);** Amdts Adopted 18 Com. Reg. 14668 (Nov. 15, 1996); Amdts Proposed 17 Com. Reg. 13767 (Nov. 15, 1995);** Amdts Emergency 17 Com. Reg. 13754 (Nov. 15, 1995) (effective for 120 days from November 13, 1995); Amdts Proposed 17 Com. Reg. 13653 (Aug. 16, 1995);** Amdts Proposed 17 Com. Reg. 13505 (June 15, 1995);** Amdts Proposed 17 Com. Reg. 13008 (Mar. 15, 1995);** Amdts Proposed 17 Com. Reg. 12699 (Jan. 15, 1995);** Amdts Adopted 17 Com. Reg. 13064 (Mar. 15, 1995); Amdts Proposed 16 Com. Reg. 12517 (Nov. 15, 1994); Amdts Adopted 17 Com. Reg. 12972 (Feb. 15, 1995); Amdts Proposed 16 Com. Reg. 12651 (Dec. 15, 1994); Amdts Adopted 16 Com. Reg. 12673 (Dec. 15, 1994); Amdts Proposed 16 Com. Reg. 12462 (Oct. 15, 1994); Amdts Proposed 16 Com. Reg. 12379 (Sept. 15, 1994); Amdts Adopted 16 Com. Reg. 12466 (Oct. 15, 1994); Amdts Proposed 16 Com. Reg. 11669 (Feb. 15, 1994); Amdts Proposed 15 Com. Reg. 10989 (Oct 15, 1993);** Amdts Adopted 15 Com. Reg. 10999 (Oct. 15, 1993); Certified 15 Com. Reg. 10683 (June 15, 1993); Amdts Proposed 15 Com. Reg. 10677 (June 15, 1993); Amdts Adopted 14 Com. Reg. 9530 (Aug. 15, 1992); Amdts Proposed 14 Com. Reg. 9226 (May 26, 1992); Amdts Adopted 14 Com. Reg. 9285 (May 26, 1992); Amdts Proposed 13 Com. Reg. 8164 (Oct. 15, 1991); Amdts Adopted 13 Com. Reg. 7666 (Mar. 15, 1991); Amdts Proposed 13 Com. Reg. 7518 (Jan. 15, 1991); Amdts Adopted 13 Com. Reg. 7538 (Jan. 15, 1991); (Amdts Proposed 12 Com. Reg. 7426 (Oct. 15, 1990); Amdts Adopted 13 Com. Reg. 7541 (Jan. 15, 1991); Amdts Adopted 12 Com. Reg. 7438 (Oct. 15, 1990) (adopting certain proposed amendments and reserving others); Amdts Proposed 12 Com. Reg. 7205 (Aug. 15, 1990);* Amdts Adopted 11 Com. Reg. 6707 (Dec. 15, 1989); Amdts Proposed 11 Com. Reg. 6568 (Oct. 15, 1989); Amdts Adopted 11 Com. Reg. 6604 (Oct. 15, 1989); Amdts Proposed 11 Com. Reg. 6481 (Sept. 15, 1989); Amdts Proposed 11 Com. Reg. 6358 (Aug. 15, 1989); Amdts Adopted 11 Com. Reg. 6243 (June 15, 1989); Amdts Proposed 11 Com. Reg. 6144 (Apr. 15, 1989); Amdts Adopted 11 Com. Reg. 6155 (Apr. 15, 1989); Amdts Proposed 11 Com. Reg. 6042 (Feb. 15, 1989); Proposed 11 Com. Reg. 5878 (Feb. 15, 1989); Amdts Adopted 10 Com. Reg. 5739 (Nov. 15, 1988); Public Notice 10 Com. Reg. 5729 (Oct. 15, 1988) (suspending publication of the proposed housing policy); Amdts Proposed 10 Com. Reg. 5688 (Sept. 15, 1988); Amdts Adopted 10 Com. Reg. 581 (July 15, 1988); Amdts Proposed 10 Com. Reg. 5533 (Apr. 15, 1988); Amdts Adopted 9 Com. Reg. 5242 (Sept. 15, 1987); Amdts Proposed 9 Com. Reg. 4928 (May 15, 1987); Amdts Adopted 8 Com. Reg. 4692 (Oct. 22, 1986); Amdts Proposed 8 Com. Reg. 4601 (Sept. 15, 1986); Amdts Adopted 8 Com. Reg. 4220 (Apr. 18, 1986); Amdts Proposed 8 Com. Reg. 4213 (Feb. 17, 1986); Amdts Adopted 7 Com. Reg. 4162 (Dec. 17, 1985); Amdts Proposed 7 Com. Reg. 3976 (Sept. 16, 1985); Amdts Adopted 7 Com. Reg. 3972 (Sept. 16, 1985); Amdts Proposed 7 Com. Reg. 3820 (July 22, 1985); Amdts Adopted 7 Com. Reg. 3723 (July 22, 1985); Amdts Proposed 7 Com. Reg. 3495 (Apr. 16, 1985); Amdts Adopted 6 Com. Reg. 2565 (Feb. 15, 1984); Amdts Proposed 5 Com. Reg. 2494 (Nov. 15, 1983); Amdts Adopted 5 Com. Reg. 2504 (Dec. 15, 1983); Amdts Proposed 5 Com. Reg. 2470 (Oct. 20, 1983); Amdts Adopted 5 Com. Reg. 2484 (Oct. 20, 1983); Amdts Proposed 5 Com. Reg. 2191 (June 30, 1983); Amdts Proposed 5 Com. Reg. 2127 (May 27, 1983); Amdts Emergency and Proposed 5 Com. Reg. 1950 (Mar. 31, 1983) (effective for 120 days from Mar. 31, 1983);** Amdts Proposed 4 Com. Reg. 1703 (Dec. 10, 1982);** Amdts Emergency 4 Com. Reg. 1677 (Oct. 15, 1982); Proposed 3 Com. Reg. 1254 (June 30, 1981);** Proposed 3 Com. Reg. 1158 (Mar. 30, 1981);** Proposed 1 Com. Reg. 334 (July 16, 1979);** Proposed 1 Com. Reg. 330* (July 16, 1979);** Adopted 1 Com. Reg. 385 (July 16, 1979); Proposed 1 Com. Reg. 244 (June 16, 1979).

*In Commonwealth Register, volume 1, number 10, pages 328 and 332 are misdated June 16, 1979. In the Commonwealth Register, volume 12, number 8, the pages are mislabeled "Volume 12 No. 7."

**Notices of adoption for the July 1979, March 1981, June 1981, December 1982, March 1983, October 1993, January 1995, March 1995, June 1995, August 1995, certain provision of the November 1995, certain provisions of the November 1996, June 1998, and the August 1998 proposed regulations were never published.

Commission Comment: Title 3, division 1 of the Commonwealth Code contains the education laws of the Commonwealth. PL 6-10, the "Education Act of 1988," codified as amended at 1 CMC §§ 2251-2273 and 3 CMC §§ 1101-1192, took effect on October 25, 1988. PL 6-10 § 1 created the Public School System as a nonprofit corporation within the Commonwealth government, headed by the Board of Education. See 1 CMC §§ 2251 and 2261. The Board of Education is empowered to formulate policy and exercise control over the Public School System and to establish rules, regulations and policies for the operation of the Public School System. See 1 CMC § 2268(b).

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PL 6-10 repealed and reenacted PL 3-43 (effective Jan. 19, 1983), a comprehensive revision of the Commonwealth's education laws. See the commission comment to 3 CMC § 1101.

Prior to October 25, 1988, the Commonwealth government included a Department of Education and Board of Education, which are the predecessors of the current Public School System and Board of Education. See PL 1-8 (effective August 10, 1978) and PL 3-43. Throughout the development of education law in the Commonwealth, the Board of Education has been the entity with the authority to promulgate rules and regulations.

On June 16, 1979, the Board of Education published a Nondiscrimination Policy Statement. See 1 Com. Reg. 323 (June 16, 1979). On July 16, 1979, the Board published "Employment of Teachers for Elementary and Secondary School Regulations." See 1 Com. Reg. 343 (July 16, 1979). Although never specifically repealed, these publications are superseded by later revisions and regulations.

The Board of Education proposed and adopted a resolution endorsing multi-track year-round education at Marianas High School and Hopwood Jr. High School for the 1995-96 school year. See 17 Com. Reg. 13383 (May 15, 1995); 17 Com. Reg. at 14014 (Mar. 15, 1995).

On June 15, 1995, the Board of Education proposed to increase the cost of PSS meals. See 17 Com. Reg. at 13509. A notice of adoption for the proposed increase was never published.

In 1997, the Board of Education rescinded former policy 500, entitled "Personnel, Staff & Certification," consisting of policies 501 through 507. Policy 500 was replaced by the 1997 Regulations for the Public School System Employment of Certified and Non-certified Personnel. See NMIAC, title 60, chapters 30.2 and 30.3; see also 19 Com. Reg. 14943 (Jan. 15, 1997); 18 Com. Reg. 14484 (Nov. 15, 1996). For the history of former policy 500 see the following:

16 Com. Reg. 12673 (Dec. 15, 1994); 16 Com. Reg. 12462 (Oct. 15, 1994); 16 Com. Reg. 12379 (Sept. 15, 1994); 12 Com. Reg. 7438 (Oct. 15, 1990); 12 Com. Reg. 7205 (Aug. 15, 1990); 8 Com. Reg. 4692 (Oct. 22, 1986); 8 Com. Reg. 4601 (Sept. 15, 1986); 7 Com. Reg. 4162 (Dec. 17, 1985); 7 Com. Reg. 3976 (Sept. 16, 1985); 7 Com. Reg. 3723 (July 22, 1985); 7 Com. Reg. 3495 (Apr. 16, 1985); 6 Com. Reg. 2565 (Feb. 15, 1984); 5 Com. Reg. 2494 (Nov. 15, 1983); 5 Com. Reg. 2484 (Oct. 20, 1983); 5 Com. Reg. 2127 (May 27, 1983); 5 Com. Reg. 1950 (Mar. 31, 1983) (effective for 120 days from Mar. 31, 1983); 4 Com. Reg. 1703 (Dec. 10, 1982); 4 Com. Reg. 1677 (Oct. 15, 1982); 3 Com. Reg. 1158 (Mar. 30, 1981); 1 Com. Reg. 334 (July 16, 1979); 1 Com. Reg. 330 (July 16, 1979).

A notice of adoption for the July 1979 proposed regulations was never published. However, the Teacher Certification Program Regulations § 6 stated: "This Regulation shall take effect thirty (30) days after its initial publication in the Commonwealth Register." See 1 Com. Reg. at 333 (July 16, 1979). The July 1979 Teacher Certification Program Regulations were repealed by the March 1981 Department of Education Regulations. See § 60-20-1101 and the commission comment thereto; see also the commission comment to § 60-20-001.

Part 001 - General Provisions

§ 60-20-001 Authority for Adoption

The regulations in this chapter are adopted pursuant to the authority of section 9 of chapter 14 of Public Law no. 1-8, and in accordance with the provisions of title 17 of the Trust Territory Code [1 CMC §§ 9101, et seq.].

Modified, 1 CMC § 3806(b), (d), (f).

History: Proposed 3 Com. Reg. 1254 (June 30, 1981); Proposed 3 Com. Reg. 1158 (Mar. 30, 1981).

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Commission Comment: This section was originally policy 1001. See 3 Com. Reg. at 1187 (Mar. 30, 1981); 3 Com. Reg. at 1279 (June 30, 1981). For consistency in the administrative code, the Commission moved the provision to part 001.

Notices of adoption for the March 1981 and June 1981 proposed regulations were never published. The public notice of proposed regulations for the March 1981 regulations provided: “If no comments have been received at the expiration of the notice period provided for herein, the said Regulations shall become effective without further notice or publication.” 3 Com. Reg. at 1159 (Mar. 30, 1981). However, according to policy 1003, entitled “Effective Date,” codified at § 60-20-1105:

§ 60-20-1105 Effective Date

This chapter shall take effect forty days following the publication of their proposed adoption, in the manner provided in section (4)(1) of title 17 of the Trust Territory Code.

3 Com. Reg. at 1188 (Mar. 30, 1981).

The June 1981 proposed regulations included “Policy 1003,” entitled “Effective Date,” as follows:

Policy 1003. Effective Date.

These policies shall take effect upon publication of notice of their adoption, in the manner provided in Section 4(1) of Title 17 of the Trust Territory Code.

3 Com. Reg. at 1280 (June 30, 1981). The Commission has included the 1981 regulations in this chapter despite the lack of notice of adoption in the Commonwealth Register because it is evident that the Board of Education considered the regulations effective without further announcement and later promulgations amend the 1981 regulations. It should be noted that this conflicts with the current practice of the Attorney General’s Office, and other agencies, interpreting the Administrative Procedure Act to require notice of proposed regulations and an adoption notice before such regulations take effect. See 1 CMC §§ 9101, et seq.

§ 60-20-005 Retention of Board Discretion

(a) The State Board of Education retains full discretion to act in the best interests of the Public School System. These Regulations, and all other Regulations promulgated by the Board are promulgated for the convenience of the System and the community it serves. Nothing herein creates any substantive rights of any kind, including but not limited to property rights, privacy rights or liberty interests. Nor are any procedural rights of any kind created by any regulation herein. Nothing in NMIAC 60-20 creates any substantive rights of any kind, including but not limited to property rights, privacy rights or liberty interests. Nor are any procedural rights of any kind created by any regulation promulgated by the Board.

(b) In these regulations, unless the context requires a different construction, the words “Commissioner” and “Superintendent” are used interchangeably.

History: Adopted 46 Com. Reg. 51494 (Dec. 15, 2024); Proposed 46 Com. Reg. 51225 (Aug. 15, 2024).

Part 100 - Organization, Philosophy and Goals

§ 60-20-101 School Board Organization; Board Officers

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This section addresses the terms and duties of officers elected by members of the Board. The terms and duties of Board members are also addressed in the Board by-laws, Public Law 6-10 and the Commonwealth Constitution.

(a) **Officer Titles**

There shall be three officers of the Board: a Chairperson, a Vice-chairperson and a Secretary/Treasurer. These officers shall be elected by a majority of the voting members of the Board during the regular January meeting of each year. Each officer shall serve for a term of one year except for death, resignation or removal. In the event that the regular January meeting is delayed, postponed, or cancelled, each officer shall retain office until the next emergency, special or regular meeting occurs at which an election must be held. The same members may be re-elected.

(b) **Removal**

An officer chosen by the Board pursuant to Board policy and the by-laws shall be removed by the concurrence of three voting Board members for a conviction of a felony or mental incapacitation. An officer shall be removed by a concurrence of four voting members for neglect of duty or upon a vote of no confidence. Neglect of duty shall occur when the officer has accumulated three consecutive unexcused absences from regular board meetings as reflected in the Board minutes. The Board members shall state on the record during the vote for removal the officer's actions resulting in a no confidence vote.

(c) **Vacancy**

A vacant officer position because of death, resignation or removal of a Board member shall be filled when elected by a majority of the voting members of the Board at the regular Board meeting following the Governor's appointment of the new Board member. If the officer who resigned or was removed by the Board is still a Board member then the majority of the Board will elect a new officer at the regular Board meeting following the officer's removal or resignation.

(d) **Duties of Chairperson**

The Chairperson shall preside at all meetings of the Board, appoint members to committees and designate the Chairperson thereof, sign all contracts, internal documents or correspondence as appropriate by virtue of approval of the Board, and call special meetings of the Board when in the Chairperson's judgment such meetings are necessary. He or she shall have such powers and perform such duties as may from time to time be specified by the Board.

(e) **Duties of Vice-chairperson**

In the absence of the Chairperson, the Vice-chairperson shall assume the duties and responsibilities of the Chairperson. He or she shall also have such powers and shall perform such duties as may from time to time be specified in resolutions or other directives of the Board.

(f) **Duties of Secretary/Treasurer**

The Secretary/Treasurer shall review Board meeting minutes prior to adoption and assist the Board with the review and adoption of the budget. He or she shall also perform such duties as may from time to time be specified in directives of the Board.

Modified, 1 CMC § 3806(d), (e), (f).

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History: Amdts Adopted 46 Com. Reg. 51494 (Dec. 15, 2024); Amdts Proposed 46 Com. Reg. 51225 (Aug. 15, 2024); Amdts Adopted 26 Com. Reg. 21759 (Jan. 22, 2004); Amdts Emergency and Proposed 25 Com. Reg. 21065 (Sept. 18, 2003) (effective for 120 days from Sept. 2, 2003).

Commission Comment: The January 2004 amendments repealed previous Board of Education Policies 101, “General Philosophies,” 102, “Instructional and Academic Goals,” and 103, “Institutional Goals for the Public School System.” See 16 Com. Reg. 12466 (Oct. 15, 1994); 16 Com. Reg. 11669 (Feb. 15, 1994); 12 Com. Reg. 7438 (Oct. 15, 1990); 12 Com. Reg. 7205 (Aug. 15, 1990); 3 Com. Reg. 1158 (Mar. 30, 1981). See also the commission comment to § 60-20-001.

On October 15, 1993, the Board of Education proposed to added a new section to this part entitled “Policy 104 Sexual Harassment.” The notice of adoption for the October 1993 proposed amendments omitted policy 104 and, therefore, the Commission has not incorporated the proposed section. See 16 Com. Reg. 11679 (Feb. 15, 1994); 15 Com. Reg. 10989 (Oct 15, 1993).

The January 2004 amendments also repealed Board of Education Policies 201 through 206, regarding the operation of the Board of Education and Board membership. Policy 207, entitled “Officers,” although not specifically repealed, was superseded by § 60-20-101.

See 11 Com. Reg. 6707 (Dec. 15, 1989); 11 Com. Reg. 6568 (Oct. 15, 1989); 6 Com. Reg. 2565 (Feb. 15, 1984); 5 Com. Reg. 2494 (Nov. 15, 1983); 3 Com. Reg. 1158 (Mar. 30, 1981); 3 Com. Reg. 1158 (Mar. 30, 1981). See also the commission comment to § 60-20-001.

§ 60-20-105 School Board Organization; Code of Ethics

- (a) The responsibilities of the PSS Board of Education members include:
- (1) Attend Board of Education meetings insofar as possible.
 - (2) Be mindful and support the mission, goals and objectives of the PSS and to use them as the basis for all decisions concerning the PSS.
 - (3) Respect the rights and opinions of others, respect the Chairperson’s authority, and courteously debate the motions.
 - (4) Work with other Board members in a harmonious and cooperative manner despite any differences of opinion that may arise during debate of an issue.
 - (5) Recognize that only the Board, by official action as Board, can exercise its legal authority; an individual member has no authority to speak for the Board; and that in relations with the local citizenry, the PSS staff, and the media, Board members must speak and act accordingly.
 - (6) Board members shall base decisions on Board actions on the available facts in each situation, and vote in honest conviction in a nonpartisan manner.
 - (7) Be forthright so individual opinions may be heard and understood as decisions of the Board are being made.
 - (8) Abide by and uphold the final decision of the Board.
 - (9) Act on behalf of the Board, or in the name of the Board, only when the Board has explicitly granted prior authority.
 - (10) Refrain from using the position as a Board member to benefit oneself or other individuals or agencies in any manner whatsoever.
 - (11) Take responsibility for setting the goals and general direction for the PSS while leaving the administration of programs and the conduct of the PSS business to the Commissioner of Education and designated staff. Board members shall work with other Board members to establish effective Board policies and to delegate authority for the administration of the schools to the Commissioner.

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Board members shall not attempt to by-pass, undermine, or usurp the Commissioner's authority and responsibility for the daily operation of the schools.

(12) If contacted by a vendor requesting information about PSS's bidding procedures, whether of a general nature or with regard to specific goods or services to be bid, shall provide the vendor with the name and business telephone number of the administrator responsible for purchasing such goods or services. The member shall request that the vendor contract the relevant administrator and direct all questions and concerns to that administrator.

(13) Abide by all established laws, regulations, policies and bylaws that pertain to the responsibilities as a Board member.

(b) Board of Education members of the PSS, shall recognize that:

(1) The Commonwealth community entrusted the Board members with the responsibility of ensuring, in concert with other members of the Board of Education, that the Public School System fulfills its mission of providing quality education to the children of the CNMI.

(2) This trust requires that personal and professional integrity and ethical values guide words and actions.

(3) The Public School System must be concerned with the best interests of each and every student, regardless of race, color, sex, gender, sexual orientation, religion, national origin, disability or cultural or political background.

(4) The future welfare of individuals within the community, and the welfare of the Commonwealth as a whole, will be affected by the quality of education the PSS provides.

(5) Since it is through educational programs that the PSS fulfills its mission, it is imperative that the Board members be knowledgeable about the goals and objectives of programs offered by the PSS.

(6) The basic authority of the Board derives from the Commonwealth Constitutional Amendments No. 38, and Public Law 6-10.

(7) Being an elected Board member is a privilege bestowed as a Commonwealth citizen to serve the PSS without financial advantage or reward to the Board members immediate family or oneself.

(8) Failing to attend the meeting of the Board for three consecutive regular meetings, unless excused by a majority of the Board for reasons satisfactory to the Board, shall be deemed to be neglect of duty. Board members may be sanctioned or removed for neglect of duty as provided by law. Board members understand that attendance for purposes of this provision shall be defined as actual, physical attendance at the Board meeting until all of the business of the Board has been completed unless a member is excused by a majority of the Board.

(9) The members of the Board have been elected to make difficult decisions on behalf of the students, parents, patrons and employees of the PSS. The concept of trusteeship requires each member to review the issues under the Board's consideration and to take a stand regarding those issues. A member who has conformed to the above-described tenets of knowledge, open discussion, independent judgment and civility should be prepared to cast a vote on each of the issues before that member.

(10) Members should avoid being placed in a position of conflict of interest, and may not use the Board position for personal or partisan gain. Board members shall conduct themselves in accordance with the conflict of interest policy and disclosure requirements prescribed by statute and Board policy.

(11) Board members shall not disclose confidential information.

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- (i) Information is confidential if it is
 - (A) Communicated during executive session; or
 - (B) Otherwise communicated with a mutual understanding of confidentiality.
- (ii) If Board members do reveal confidential information, other Board members in compliance with Board by-laws, policies and regulations may appropriately censure Board members.
- (12) Members shall not solicit or accept gifts, payments, or anything greater than a nominal value item or holiday gift of nominal value from any person, organization, group, or entity doing business or desiring to do business with the PSS as indicated in the Code of Ethics.
- (13) Board members may be censured by a majority vote of the voting members for violating Board policies or regulations or for any conduct the majority of the Board deems not to be in the best interests of the Board, the PSS or the students in the CNMI.

Modified, 1 CMC § 3806(f), (e), (g).

History: Amdts Adopted 26 Com. Reg. 21759 (Jan. 22, 2004); Amdts Emergency and Proposed 25 Com. Reg. 21065 (Sept. 18, 2003) (effective for 120 days from Sept. 2, 2003).

Commission Comment: In subsection (a)(10), the Commission changed “to other” to “or other” to correct a manifest error.

The January 2004 notice of adoption changed the proposed language of subsections (a)(5) and (a)(6).

See also the commission comment to § 60-20-101.

§ 60-20-110 Standing Committees

The following standing committees are hereby established: Committee on Fiscal, Personnel and Administration (FPA); Committee on Instructional Services and Assessment (ISA); Committee on Capital Improvement and PSS Property (CIP); Committee on Student Issues and Community and Parent Programs (SICPP); Committee on Legislative & Intergovernmental Affairs (LIA). Standing committees shall have such duties and responsibilities as are provided by the Board. Special committees may be established by the Board from time to time. The Chairperson of the Board shall appoint the Chairpersons and members of all committees provided, however, that in so doing the Chairperson shall give due recognition to the desire of each member to serve upon a particular committee or committees. No member of the Board may serve upon more than two standing committees. No member of the Board may be the chairperson of more than one standing committee. The Chairperson of the Board may not serve as the chairperson of a standing committee.

History: Amdts Adopted 46 Com. Reg. 51494 (Dec. 15, 2024); Amdts Proposed 46 Com. Reg. 51225 (Aug. 15, 2024); Proposed 3 Com. Reg. 1158 (Mar. 30, 1981).

Commission Comment: The Board of Education promulgated regulations on January 22, 2004 that repealed and superseded Board of Education Policies 201-207. See 26 Com. Reg. 21759 (Jan. 22, 2004); 25 Com. Reg. 21065 (Sept. 18, 2003) (effective for 120 days from Sept. 2, 2003). Board Policies 208-216 were not repealed or specifically superseded and therefore the Commission has retained them as §§ 60-20-110 through 60-20-155.

§ 60-20-115 Powers and Duties

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(a) The Board is the governing and policy-making body of the Department of Education. The Board establishes policy, and the Department of Education implements policy and administers programs, which shall include but are not limited to the following:

- (1) Education in public schools
- (2) Adult education
- (3) Vocational training, including on-the-job training
- (4) Bilingual and bicultural education programs
- (5) Supervision of all educational programs funded in whole or in part by the Department of Education
- (6) Special cultural programs and seminars
- (7) Enforcement of standards of attendance and laws pertaining to compulsory attendance
- (8) The licensing or certification of teachers and teacher aides
- (9) The performance of any and all other duties required or permitted by law.

(b) In addition to those powers and duties provided for elsewhere in this chapter, and without limitation of the generality of subsection (a), above, the Board of Education shall have the following specific powers and duties:

- (1) To establish and maintain schools and classes to meet the needs of pupils of the Northern Mariana Islands in grades one through twelve, and such adult classes as it deems necessary
- (2) To adopt textbooks and courses of study consistent with the needs of students upon the recommendations of the professional staff through the Superintendent of Education
- (3) To require proper accounting for receipts and expenditures and to provide for an annual audit as required by law
- (4) To authorize the expenditure of funds of the Department of Education
- (5) To determine the building needs of the school system, provide for the construction of school buildings and approve the plans for the buildings
- (6) To establish the certification standards for all professional positions within the Department
- (7) To develop long-range plans for the orderly growth of the school system
- (8) To appraise and review its policies and actions and the program of education and the performance of the staff
- (9) To ratify administrative procedures promulgated by the Superintendent for the purpose of implementing Board policy.

Modified, 1 CMC § 3806(c), (d), (g).

History: Proposed 3 Com. Reg. 1158 (Mar. 30, 1981).

Commission Comment: See the commission comments to §§ 60-20-110 and 60-20-001.

In subsection (b)(8), the Commission changed “action” to “actions” to correct a manifest error. The Commission also inserted a period at the end of subsection (b)(9).

§ 60-20-120 Meetings of the Board

(a) The Board shall hold an annual organizational meeting during the regular January meeting of each year to elect its officers. The Chairperson of the Board for the preceding year will preside at this meeting until the chairperson for the new fiscal year is elected. If the former Chairperson is not still a member or is absent, the Vice-chairperson of the preceding year will preside. If the

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former Vice- chairperson also is not still a member or is absent, the members present shall select a temporary chairperson to preside until a chairperson is elected. This meeting is a regular meeting.

(b) The Board will hold regular meetings at the place determined by the Board at its annual organizational meeting. Regular meetings of the Board are open and shall be held at least once every three months.

(c) Special meetings may be called by the Chairperson of the Board, by requesting the Commissioner to send a written notice to all members no less than seventy-two hours before the meeting.

(d) Members of the Board shall be notified of regular meetings by the Superintendent, in writing, at least two weeks before the date of the regular meeting.

(e) Notices of meetings, as provided for herein, shall specify the time and place of the meeting and the business to be transacted; and shall, whenever possible, include copies of any documents relevant to matters which will be before the Board for its consideration at the meeting.

(f)(1) Electronic Meetings Authorized. In the event that a member is in the Commonwealth of the Northern Mariana Islands but is unable to attend a meeting in person, such member may appear via Internet or online video conferencing, teleconferencing, or other means of communication. Members appearing pursuant to this subsection are counted as physically present for purposes of quorum, voting, or otherwise.

(2) Forced disconnections. The chairperson may direct the muting of a member's connection if it is causing undue interference with the meeting.

(3) Technical requirements and malfunctions. Each member is responsible for his or her audio and Internet connections; no action shall be invalidated on the grounds that the loss of, or poor quality of, a member's individual connection prevented participation in the meeting.

Modified, 1 CMC § 3806(f), (g).

History: Amdts Adopted 46 Com. Reg. 51494 (Dec. 15, 2024); Amdts Proposed 46 Com. Reg. 51225 (Aug. 15, 2024); Proposed 3 Com. Reg. 1158 (Mar. 30, 1981).

Commission Comment: See the commission comments to §§ 60-20-110 and 60-20-001.

§ 60-20-125 Agenda

The agenda for each regular meeting of the Board shall be submitted with the notice of the meeting. The agenda shall include items substantially as follows: call to order, determination of attendance and quorum, adoption of previous minutes, public comment, presentation of communications, committee reports, Commissioner's report, discussion of unfinished business, discussion of new business, legal counsel's report, executive session if necessary, miscellaneous matters, proposals for subsequent meetings, and adjournment. The agenda shall be prepared by the Commissioner, subject to the direction of the Board.

History: Amdts Adopted 46 Com. Reg. 51494 (Dec. 15, 2024); Amdts Proposed 46 Com. Reg. 51225 (Aug. 15, 2024); Proposed 3 Com. Reg. 1158 (Mar. 30, 1981).

Commission Comment: See the commission comments to §§ 60-20-110 and 60-20-001.

§ 60-20-130 Conduct of Meetings

The conduct of all meetings of the Board and its committees shall follow acceptable standards of parliamentary procedure. The Chairperson shall decide all questions of order, subject to appeal to the membership. Voting shall ordinarily be by voice vote.

History: Amdts Adopted 46 Com. Reg. 51494 (Dec. 15, 2024); Amdts Proposed 46 Com. Reg. 51225 (Aug. 15, 2024); Proposed 3 Com. Reg. 1158 (Mar. 30, 1981).

Commission Comment: See the commission comments to §§ 60-20-110 and 60-20-001.

§ 60-20-135 Minutes

The Board shall record or cause to be recorded a summary of the proceedings before it at its meetings. The minutes of the Board meetings shall be prepared by the secretary to the Board, who shall be selected by the Superintendent.

Modified, 1 CMC § 3806(f).

History: Proposed 3 Com. Reg. 1158 (Mar. 30, 1981).

Commission Comment: See the commission comments to §§ 60-20-110 and 60-20-001.

§ 60-20-140 Communications from the Public

Members of the Board will refer in writing to the Superintendent any suggestions, grievances or other communications concerning the schools. The Superintendent will follow established administrative procedures for handling such suggestions, grievances or other communications, including formal presentation to the Board if appropriate, and, in any case, notification, to the reporting Board member concerning disposition of the matter.

Modified, 1 CMC § 3806(g).

History: Proposed 3 Com. Reg. 1158 (Mar. 30, 1981).

Commission Comment: See the commission comments to §§ 60-20-110 and 60-20-001.

The Commission corrected the spelling of “superintendent.”

§ 60-20-145 Removal of Members

The Board shall recommend to the Governor the removal of a member who impedes the function of the Board due to excessive, unexcused absences from regular Board meetings and/or for other just cause as determined by the Board.

History: Proposed 3 Com. Reg. 1158 (Mar. 30, 1981).

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Commission Comment: See the commission comments to §§ 60-20-110 and 60-20-001.

§ 60-20-150 Public Records

(a) In order to promote confidence in and support of the Public School System, the Board of Education declares that citizens of the Commonwealth shall have access to information contained in its public records as required by the Open Government Act.

(b) Public records as defined in this section are open for inspection during office hours of the school system. Every citizen has a right to inspect any public school record except those records for which disclosure is exempted or prohibited by law or regulation.

(c) “Public records” means any record which the Board or Public School System is required by law to keep or which it is necessary to keep in discharge of duties imposed by law. Such public records may include, but are not limited to, any written or printed report, book or paper, map or plan, but shall not include records which invade the right of privacy of an individual or business entity.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 46 Com. Reg. 51494 (Dec. 15, 2024); Amdts Proposed 46 Com. Reg. 51225 (Aug. 15, 2024); Amdts Adopted 12 Com. Reg. 7438 (Oct. 15, 1990); Amdts Proposed 12 Com. Reg. 7205 (Aug. 15, 1990); Proposed 3 Com. Reg. 1158 (Mar. 30, 1981).

Commission Comment: The 1990 amendments amended subsections (b) and (c). The 1990 amendments referred to this section as “Policy 205.” See 12 Com. Reg. at 7214 (Aug. 15, 1990). In the 1981 regulations it was “Policy 216.” See also the commission comments to §§ 60-20-110 and 60-20-001.

§ 60-20-155 Board of Education Official Representation Fund

There will be a Board of Education Official Representation (OR) Fund as approved in the budget of the Board of Education.

(a) Official representation funds shall only be used for the official purpose of entertaining official guests of the Board of Education or the PSS in the conduct of official business and to purchase refreshments for consumption at public Board of Education meetings.

(b) The Chairperson of the Board of Education shall authorize use of OR funds as follows:

(1) Request for an advance of OR funds shall be made in writing to the Chairperson of the Board by Board members or the Commissioner of Education stating the official purpose, time, place, names and titles of persons to be entertained, and the advance amount requested. OR amounts shall be advanced as approved by the Chairperson.

(2) Within 5 working days after the expenditure of funds advanced for official representation purposes on island, or within 5 working days after completion of official travel, the official receiving OR funds shall submit to the Comptroller of PSS all receipts evidencing expenditure of the funds. The Comptroller shall determine whether the expenditures are within the authorized amounts and purpose and shall recommend to the Board Chairperson the approval or disapproval

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of the expenditure. Any amount not expended, or approved for expenditure shall be returned to the OR account.

(3) Request for reimbursement for OR expenses not advanced shall be made directly to the Comptroller. The request shall be accompanied by the documents and receipts showing the time, place, official purpose, names or individuals and their titles, and other information pertaining to the reimbursement. The Comptroller shall transmit these documents with his recommendation to the Chairperson of the Board for review and for approval or disapproval of reimbursement. Reimbursement of expenditures for items not granted advance authorization by the Chairperson is not guaranteed.

(4) Official representation funds shall not be used to pay for expenses while conducting routine business with PSS staff. OR funds shall not be used while on travel status except for official business with off-island non-PSS education officials or similar types of individuals.

(5) Official representation funds may also be used by Board staff to purchase refreshments for consumption at public Board of Education meetings.

(c) It is expected that Board members and the Commissioner shall exercise reasonable and prudent judgement in the use of OR funds. The Chairman of the Board of Education shall be the ultimate official to make the final decision with regard to the use of OR funds following the adopted Board policy on official representation funds.

Modified, 1 CMC § 3806(f), (g).

History: Amdts Adopted 11 Com. Reg. 6707 (Dec. 15, 1989); Amdts Proposed 11 Com. Reg. 6568 (Oct. 15, 1989).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (c).

The 1989 amendments adopted an “Official Representation Fund Policy.” See 11 Com. Reg. at 6572 (Oct. 15, 1989). The 1989 amendments did not specify a policy number for the Official Representation Fund Policy. The Commission codified it at the end of part 100 as § 60-20-155.

In subsection (b)(2), the Commission changed “amount” to “account” to correct a manifest error. In subsections (b)(3) and (b)(5), the Commission corrected the spelling of “expenses” and “consumption,” respectively.

§ 60-20-160 Teacher Representative Election Process

(a) Eligibility

(1) Candidate. Each candidate shall have been employed by PSS for no less than two consecutive years immediately preceding the election and, shall be a “teacher” as defined by § 60-30.2-205(c).

(2) Voter. All “teachers” as defined by § 60-30.2-205(c) shall be eligible to vote in the primary, general election, and run-off election.

(b) Primary Election

(1) Purpose. A primary election shall be held in order to determine the candidates for the general election.

(2) Announcement of Candidacy. A teacher wishing to run for teacher representative may announce her candidacy each election year by the last working day of August. Teachers wishing to have their name on the primary ballot shall submit a written letter to the Commissioner's office

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stating their name, school, position with PSS, and intent to run for the position of teacher representative.

(3) **Multiple Candidates.** Each teacher who meets the requirements above may run for teacher representative. There is no limit to the number of teachers who can run and schools may have multiple candidates.

(4) **Certification of Candidates.** By the end of the first week of September, of an election year, the Commissioner shall certify the qualifying candidates and place their names on the ballot for voting.

(5) **Electronic Voting.** All teachers eligible to vote shall cast their ballot electronically, via a voting portal available on the PSS website (cnmipss.org). Each teacher may only vote once and a candidate is able to vote for themselves or others.

(6) **Time for Voting.** Voting shall be open for no longer than one week after the certified candidates are announced on the ballot by the Commissioner.

(7) **Certification for General Election.** After voting is closed the top five candidates with the most votes cast for them shall move on to the general election.

(c) **General Election**

(1) **Date.** A general election shall be held the first week of October of every election year.

(2) **Candidates.** The top five candidates of the primary election shall be on the ballot for the general election.

(3) **Electronic Voting.** All teachers eligible to vote shall cast their ballot electronically via a voting portal available on the PSS website. Each teacher may only vote once and a candidate is able to vote for themselves or others.

(4) **Voting Time.** The commissioner shall announce the opening and closing of the polls to eligible voters within the first week of October of that election year. Eligible voters will have only that one week to submit their vote electronically.

(d) **Run-off Election**

(1) **Candidates.** The two candidates with the most votes shall be automatically placed on the ballot for the run-off election.

(2) **Date.** The run-off election will be held the first week of November of each election year. The Commissioner will announce the dates and times when the polls will open and close within the first week of November of that election year.

(3) **Electronic Voting.** All teachers eligible to vote shall cast their ballot electronically via a voting portal available on the PSS website. Each teacher may only vote once and a candidate is able to vote for themselves or others.

(e) **Campaigning**

(1) **On School Grounds.** candidates may campaign on school grounds and during working hours so long as:

(i) No PSS resources are used in the production of campaign materials and resources shall mean but not be limited to, copiers, public bulletin boards, classroom time, or the efforts of any student.

(ii) Conversations with other teachers during breaks or before and after school, while on campus are permitted.

(2) **Work Email.** A candidate shall not be permitted to use their work email to campaign.

(f) Protest

(1) Filing. Any teacher, eligible to vote, may file a protest with the office of the Commissioner of Education at any time during the election but no later than 10 calendar days after the results are certified.

(2) In Writing. Protests shall be in writing and shall briefly describe the event or thing protested and the parties involved.

(3) The Commissioner shall immediately investigate any protest and issue a finding within 10 calendar days of the filing of a protest. If the protest is in regard to the final election result, the certification of election results shall not occur until the protest is decided.

(4) Appeal. Within five days of the issuance of the Commissioner's findings, the protesting party may appeal, in writing, to the Board of Education. The Chairman of the Board will select three members to hear the appeal. The hearing will be informal and both parties will be allowed to call witnesses and present evidence. The Board must hold a hearing within 20 calendar days from the filing of the appeal.

Modified, 1 CMC § 3806(a), (e), (f), (g).

History: Amdts Adopted 38 Com. Reg. 38197 (June 28, 2016); Amdts Proposed 38 Com. Reg. 37980 (May 28, 2016).

Commission Comment: The Commission renumbered sections 1–6 to sections (a)–(f) pursuant to 1 CMC § 3806(a). The Commission struck the figures in subsections (a)(1), (b)(6)–(7), (c)(2), and (d)(1) as mere repetitions of written words pursuant to 1 CMC § 3806(e). The Commission changed the capitalization of “all” in subsection (a)(2), “Voters” in subsection (c)(4), and “within” in subsection (f)(4) for the purpose of conformity pursuant to 1 CMC § 3806(f). The Commission changed colons to periods in subsections (a)–(f), struck the first “only” in subsection (c)(4), and changed “5” to “five” and “3” to “three” in subsection (f)(4) pursuant to 1 CMC § 3806(g).

Part 200

[Reserved.]

Part 300 - General Administration

Subpart A - School/Community Relations

§ 60-20-301 Community Use of School Facilities

(a) Use of Buildings

(1) In accordance with the law, buildings may be used for free discussion of public questions and subjects of general public interest, for the meeting of organizations of citizens and for such other civic, social and educational purposes as will not interfere with the use of the building for school purposes. No Public School System facility, equipment or property shall be used without the expressed approval of the principal or administrative head.

(2) All requests for the use of public school facilities from organizations outside of the Public School System shall be made in writing on the designated form (available in the principal’s office) to the school principal at least three days in advance of the proposed usage.

(3) Each request must state the purpose and nature of the proposed use, and the name(s) of the responsible party. For the use of a building, the applicant must state the approximate time involved,

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the estimated number of people to be in attendance, and any other pertinent information requested by the principal.

(4) An appropriate certificate of insurance must be provided as evidence of liability, comprehensive and collision insurance for the full replacement cost of the equipment by all groups requesting the use of school buses, except when this coverage is already provided by the Board. The Public School System, the Board of Education, and the Commonwealth government must be named as insured parties by endorsement in the certificate. The Commissioner shall establish required liability limits.

(5) The school principal shall have the authority to grant such approval, provided no approval whatsoever shall be granted for any use which will impose on or adversely effect the school's normal operations. However, the Commissioner has the right to overrule the principal's decision if, in his/her opinion, it is in the best interest of the Public School System.

(b) Applications for Use

(1) Applications for the use of the premises shall be made in writing and shall state the date and purpose of the use, and, if an admission charge is to be made, the purpose of raising said funds and such other information as the Board or the Commissioner may require. Parent organizations and other school activity organizations that have been granted use of certain rooms for regular meeting purposes shall not use other rooms in the building to hold meetings or entertain or use the premises other than the regular meeting night unless receiving prior written application as provided above.

(2) Any cancellation of reserved dates must be made in writing at least twenty-four hours before the date on which meetings are scheduled. The Board reserves the right to cancel any arrangements for use of buildings upon advanced due notice.

(c) Rental Charges

(1) No charge will be made for any "strictly school" activities or for regular meetings of parent organizations. The Commissioner may waive charges so long as no additional cost is incurred in custodial support who would not normally be on duty and if no extra work is incurred in setting up chairs, equipment, etc.

(2) All rental charges for use of buildings are due and payable at least twenty-four hours before the date on which the building is to be used. When the buildings are rented on Saturday or Sunday, an additional charge over and above the minimum charge may be required. Other payment arrangements may be made with the Commissioner/designee.

(3) The Commissioner of Education will set fee schedules.

(d) Requirements

(1) Any person or agency using public school system facilities, equipment or property for a non-public school system activity shall agree in writing to be responsible for any damage, losses, repairs, etc. arising from the usage and shall indemnify the PSS against all lawsuits and other causes of action arising from the use of PSS property.

(2) Special permission must be received to serve meals.

(3) The sale, consumption or possession of alcoholic beverages shall not be permitted on PSS premises at any time. Nor shall any person who is in a drunken or intoxicated condition, or who is under the influence of liquor, be permitted on PSS premises. The person in charge of the meeting will be held responsible for the enforcement of this rule.

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- (4) The requesting party is solely liable for returning facilities to the previous condition after use. Damage or breakage occurring in any building or grounds on account of the activities of an organization using it as a meeting place shall be paid for by the organization.
- (5) No use of equipment shall be granted unless an instructor or attendant, approved by the Commissioner/designee, is in charge of the rooms or equipment.
- (6) Smoking, the use of any tobacco product or betel nut is not permitted in any school building at any time.
- (7) The use of profane language or gambling in any form is not permitted in any school building.
- (8) In the event a school is declared by the Governor to be a typhoon shelter, the persons occupying the school shall be responsible for cleaning and restoring the facility to its previous condition.

Modified, 1 CMC § 3806(e), (f), (g).

History: Amdts Adopted 26 Com. Reg. 21759 (Jan. 22, 2004); Amdts Emergency and Proposed 25 Com. Reg. 21065 (Sept. 18, 2003) (effective for 120 days from Sept. 2, 2003).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (d).

In subsection (a)(3), the Commission inserted the word “in” before “attendance” to correct a manifest error.

The January 2004 notice of adoption changed the proposed language of subsections (a)(1) through (a)(5) and (b)(1).

The January 2004 amendments repealed former Board of Education policy 301, “Appointment of Superintendent of Education,” policy 302, “Functions of the Commissioner,” policy 303 “Duties and Responsibilities of the Superintendent,” policy 304, “Staff Organization and Assignments,” policy 305, “Administrative Procedures,” policy 306, “Public Observances,” policy 307, “School Attendance Districts,” policy 308, “Leaving Campus During School Hours,” policy 309, “Charter of Non-public Schools,” policy 310, “Student Transportation,” policy 311, “Food Vendor Restriction,” policy 312, “Solicitation” and policy 313, “General Education Development Testing Program.” For the history of these policies see: 20 Com. Reg. 16083 (Aug. 15, 1998); 17 Com. Reg. 13653 (Aug. 16, 1995); 16 Com. Reg. 12517 (Nov. 15, 1994); 13 Com. Reg. 7541 (Jan. 15, 1991); 12 Com. Reg. 7438 (Oct. 15, 1990); 12 Com. Reg. 7205 (Aug. 15, 1990); 13 Com. Reg. 7538 (Jan. 15, 1991); 12 Com. Reg. 7426 (Oct. 15, 1990); 12 Com. Reg. 7438 (Oct. 15, 1990); 12 Com. Reg. 7205 (Aug. 15, 1990); 10 Com. Reg. 5739 (Nov. 15, 1988); 10 Com. Reg. 5688 (Sept. 15, 1988); 7 Com. Reg. 3972 (Sept. 16, 1985); 7 Com. Reg. 3820 (July 22, 1985); 6 Com. Reg. 2565 (Feb. 15, 1984); 5 Com. Reg. 2494 (Nov. 15, 1983); 5 Com. Reg. 2484 (Oct. 20, 1983); 5 Com. Reg. 2191 (June 30, 1983); 3 Com. Reg. 1254 (June 30, 1981); 3 Com. Reg. 1158 (Mar. 30, 1981); 1 Com. Reg. 385 (July 16, 1979); 1 Com. Reg. 244 (June 16, 1979). See also the commission comment to § 60-20-001.

§ 60-20-305 Procedural Guidelines for Visitors in the Schools

- (a) It is expected that all employees and students will practice cordial manners and friendly public relations toward invited guests in PSS buildings. Unauthorized visitors, however, shall be considered trespassers and subject to arrest and prosecution.
- (b) There should be signs directing visitors to report to the principal’s office.
- (c) Parents, guardians, Board members and volunteers are welcomed and encouraged to come into the schools. However, they must report to the principal’s office on entering the buildings so that the office will be aware of their presence. When a patron of the school has a need for a

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conference with a teacher or counselor, an appointment should be made so the staff member may proceed with his/her assigned duties without undue interruption.

(d) Students dismissed earlier in one school than others are not permitted to roam around in any other school in the system. All students are to be directed to proceed toward their homes, work or other destinations after school is dismissed.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 26 Com. Reg. 21759 (Jan. 22, 2004); Amdts Emergency and Proposed 25 Com. Reg. 21065 (Sept. 18, 2003) (effective for 120 days from Sept. 2, 2003).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (d).

See also the commission comment to § 60-20-301.

§ 60-20-310 Code of Conduct - Adults

In order to ensure a safe and orderly environment, in which our students can maximize their educational and social development, the following regulations are enacted with respect to the conduct of adult visitors:

(a) Verbally aggressive behavior, which would include, but not be limited to, threats, intimidation, and profanity, will result in limited access to school premises and school activities for up to one year. The length of the restriction will be determined by the Commissioner of Education.

(b) Physical or violent behavior will result in a ban by the Commissioner/designee or the Board of Education from school premises and activities and will be referred to law enforcement.

(c) Visitors shall not chew betel-nut or use tobacco products while on school property.

(d) No visitor may use, possess or be under the influence of alcohol or illegal drugs while on school property.

(e) Failure to comply with the restricted access provided in the regulations in this section will result in the filing of civil and/or criminal charges.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 26 Com. Reg. 21759 (Jan. 22, 2004); Amdts Emergency and Proposed 25 Com. Reg. 21065 (Sept. 18, 2003) (effective for 120 days from Sept. 2, 2003).

Commission Comment: See the commission comment to § 60-20-301.

§ 60-20-315 Solicitations on School Property

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Solicitation by vendors is strictly prohibited during working hours and on any Public School System premises or during any functions sanctioned by the Public School System.

History: Amdts Adopted 26 Com. Reg. 21759 (Jan. 22, 2004); Amdts Emergency and Proposed 25 Com. Reg. 21065 (Sept. 18, 2003) (effective for 120 days from Sept. 2, 2003).

Commission Comment: See the commission comment to § 60-20-301.

§ 60-20-320 Research Requests

The researcher must take the following steps:

- (a) Obtain a copy of the PSS's policies statement on research requests.
- (b) Present a letter of introduction and authentication from the responsible official (i.e., department chairman or above) of an institution of higher education or a professional organization along with evidence of approval by the sponsoring institution's human subjects committee, institutional review board, or comparable committee.
- (c) Submit a copy of the research proposal to include an outline of the research design, copies of the instruments to be used, and an outline or summary of techniques and procedures to be used in the study, including an anticipated date the PSS can expect a report of the findings.
- (d) Obtain approval by the Commissioner/designee.
- (e) If a survey is to be used, a copy of the survey questions with an estimated time to complete the survey must be provided to the Commissioner's office.
- (f) When appropriate, the researcher must agree to provide the Commissioner with a copy of the results of the research.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 26 Com. Reg. 21759 (Jan. 22, 2004); Amdts Emergency and Proposed 25 Com. Reg. 21065 (Sept. 18, 2003) (effective for 120 days from Sept. 2, 2003).

Commission Comment: See the commission comment to § 60-20-301.

§ 60-20-325 Public Access to PSS Board Documents

Citizens of the CNMI will have access to all Board public records, except minutes of executive sessions, personnel and student files, and any other information specifically exempted under 1 CMC § 9918.

- (a) Request for Inspection and/or Duplication
 - (1) Requests for access or duplication of the Board's public records must be made to the Commissioner of Education.

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(2) Upon receipt, the Commissioner/designee will provide or deny access within ten days of the request. The date of request will not be counted as one of the ten days provided for response.

(3) If access is denied, the Commissioner/designee will provide the person requesting access with an explanation of the reason for denial of access. The written explanation will provide the specific provision of law relied upon in denying access and will be provided within ten days of the request.

(4) Fees for duplication of the Board's public records must be received prior to copying unless the Board has waived the fee. Upon request of the person requesting the duplication, the Commissioner/designee will certify that the actual cost of document search and duplication is fair and reasonable.

(b) Unauthorized Removal of Public Records

No person is permitted to remove original public records from PSS facilities without written permission of the custodian of records/designee. Employees who violate this provision are subject to discipline up to and including termination. Violators may be referred to law enforcement officials.

(c) Commercial Use of Records

No person or business entity will be provided with the exclusive right to have access to, control over, duplication of, and dissemination of the public records of the PSS.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 26 Com. Reg. 21759 (Jan. 22, 2004); Amdts Emergency and Proposed 25 Com. Reg. 21065 (Sept. 18, 2003) (effective for 120 days from Sept. 2, 2003).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (c). See the commission comment to § 60-20-301.

Part 400 - Students

Subpart A - Nondiscrimination and Student Rights

§ 60-20-401 Discrimination and Harassment Prohibited

(a) All students, employees and parents have the right to be free from discrimination and harassment on the basis of race, creed, religion, color, sex, sexual orientation, national origin, age, cultural or socio-economic status or disabling condition. Employees shall not participate in, or permit others to engage in, any act of discrimination against students, parents or coworkers based on the above factors or in retaliation for the exercise of any of their rights.

(b) Definitions

(1) Discrimination is the singling out of a person or persons for different treatment, regardless whether good or bad, based on the factors listed above. Discrimination includes not only the creation of a hostile environment, but also favoritism based on any of these factors. Simply put, students and employees are required to treat all persons equally.

(2) Harassment may be defined as abusive behavior or other verbal or physical conduct towards a person based on that person's sex, sexual orientation, race, creed, color, religion,

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national origin, age, cultural or socio-economic status or disabling condition which has the purpose or effect of creating an intimidating, hostile or offensive environment that interferes with a student's participation in or receipt of benefits, services or opportunities in a school's programs and activities. Examples of harassment include, but are not limited to, jokes, comments, slurs, epithets and disparaging remarks.

(c) Complaints

- (1) Any student who believes that he or she is a victim of discrimination or harassment should report the matter immediately to the building principal. If the student feels more comfortable speaking to someone other than the building principal, the student may inform any teacher, counselor or the vice principal. If the situation is not satisfactorily resolved by the building principal, the student or parent should contact the PSS Human Resources Director.
- (2) Students, parents and employees should review § 60-20-402 for more information regarding sexual harassment and follow the procedures set forth in § 60-20-402 to address discrimination or harassment of any kind on the basis of race, creed, religion, color, sex, sexual orientation, national origin, age, cultural or socioeconomic status or disabling condition.
- (3) There will be no retaliation against, or adverse treatment of any student who uses this procedure to resolve a concern when such complaint has been brought in the good faith belief that the complainant has been subjected to discrimination or harassment.
- (4) The responsible administrator shall follow up regularly with the complaining student to ensure that the discrimination and/or harassment has stopped and that no retaliation has occurred.

(d) Discipline/Consequences

- (1) Any student who engages in discrimination and/or harassment while on school property or while participating in school activities will be subject to disciplinary action, up to and including expulsion.
- (2) Any employee who permits or engages in the discrimination and/or harassment of students will be subject to disciplinary action, up to and including dismissal.
- (3) Any employee who receives a complaint of discrimination and/or harassment from a student and who does not act promptly to forward that complaint to the principal shall be disciplined appropriately.
- (4) Any student who brings a false charge of discrimination and/or harassment shall receive appropriate discipline. The term "false charge" means charges brought in bad faith, that is, without the good faith belief that one has been subjected to sexual harassment. The term "false charge" does not include a charge that was brought in good faith but which the PSS was unable to substantiate.

Modified, 1 CMC § 3806(c), (f), (g).

History: Amdts Adopted 41 Com. Reg. 41658 (May 28, 2019); Amdts Proposed 41 Com. Reg. 41554 (Mar. 28, 2019); Amdts Adopted 24 Com. Reg. 19413 (July 29, 2002); Amdts Proposed 24 Com. Reg. 18852 (Jan. 29, 2002).

Commission Comment: [Historical codification comments removed.]

On August 16, 2001, the Board of Education repealed former Board of Education "Instructional Program" policies 400-419 and "Pupil Personnel" policies 600-624 and replaced those policies with the provisions codified in parts 400 and 500. See 23 Com. Reg. 18263 (Aug. 16, 2001); 23 Com. Reg. 17965 (June 19, 2001). Where applicable, the histories of former policies 400-419 and 600-624 are included in the history sections for the replacement provisions.

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Policies that were repealed without specific replacement are as follows: Policy 401, “Responsibility of the Commissioner of Education,” Policy 402, “Distribution of Grade Level,” Policy 414, “Elementary School Teacher Assignment,” Policy 602, “Compulsory Attendance,” Policy 603, “Attendance Records,” Policy 607, “Student Progress Report,” Policy 610, “Student Fund Accounting and Management,” Policy 611, “Corporal Punishment,” Policy 613, “Defining Normal School Age,” Policy 615, “Participation in Graduation,” Policy 620, “Dropout Definition,” Policy 621, “Parental and Community Involvement,” and Policy 640, “Student Rights and Responsibilities.” For the history of these former policies see: Amdts Proposed 17 Com. Reg. 13653 (Aug. 16, 1995); Amdts Adopted 13 Com. Reg. 7666 (Mar. 15, 1991); Amdts Proposed 13 Com. Reg. 7518 (Jan. 15, 1991); Amdts Adopted 13 Com. Reg. 7541 (Jan. 15, 1991); Amdts Adopted 12 Com. Reg. 7438 (Oct. 15, 1990); Amdts Proposed 12 Com. Reg. 7205 (Aug. 15, 1990); Amdts Adopted 5 Com. Reg. 2504 (Dec. 15, 1983); Amdts Proposed 5 Com. Reg. 2470 (Oct. 20, 1983); Proposed 3 Com. Reg. 1254 (June 30, 1981); Proposed 3 Com. Reg. 1158 (Mar. 30, 1981).

§ 60-20-402 Sexual Harassment of Students

The Board of Education is committed to maintaining a learning environment for its students that is free from sexual harassment. Furthermore, the Board of Education strongly believes that no person in the PSS shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity.

(a) Definition of Sexual Harassment

(1) Title IX forbids discrimination on the basis of sex in any educational program or activity that receives federal funds. This includes a prohibition on sexual harassment. The Office for Civil Rights of the U.S. Department of Education defines sexual harassment under title IX as follows: “Verbal or physical conduct of a sexual nature, imposed on the basis of sex, by an employee or agent of a recipient that denies, limits, provides different, or conditions the provisions of aid, benefits, services or treatment protected under title IX.”

(2) Sexual harassment under title IX includes, but is not limited to, unwelcome¹ sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature when:

(i) Submission to such conduct is made either implicitly or explicitly a term or condition of an individual’s academic status or progress, or employment.

(ii) Submission to or rejection of such conduct by an individual is the basis for educational or employment decisions affecting that individual.

(iii) Such conduct creates an intimidating, hostile, or offensive educational or work environment.

(iv) Qualified students are denied educational or employment opportunities or benefits because the opportunities or benefits are given to another student or employee who submitted to sexual advances or requests for sexual favors.

¹Sexual harassment of students by adults who otherwise come within this policy is absolutely prohibited regardless of whether the conduct is “welcome.”

(b) Examples of Sexual Harassment

(1) Unwelcome Sexual Advances

Whether the advance is “unwelcome” is determined on a case-by-case basis. Unwelcome advances may include, but are not limited to, the following:

(i) Any invitation (even subtle) intended to result in a sexual liaison.

(ii) Invitations to dinner or social events, when refusal results in the loss of academic status or in other adverse educational decisions.

(iii) Propositioning a student.

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(2) Unwelcome Verbal Conduct of a Sexual Nature

This may include, but is not limited to, the following:

- (i) Sexually provocative or explicit speech.
- (ii) Publicly expressed sexual fantasies.
- (iii) Jokes of a sexual or crude nature.
- (iv) Derogatory comments directed to males or females as a class (language directed toward a specific student is more likely to be viewed as sexual harassment).
- (v) Demeaning comments.
- (vi) Threats for not agreeing to submit to sexual advances.
- (vii) Writing sexually explicit memos.

(3) Unwelcome Physical Conduct of a Sexual Nature

This may include, but is not limited to, the following:

- (i) Grabbing or twisting an individual's arm.
- (ii) Any unwarranted touching.
- (iii) Sexually offensive pranks.
- (iv) Drawing sexually explicit cartoons, other drawings, or graffiti.
- (v) Gestures indicating sexual behavior.
- (vi) Suggestive winks.
- (vii) Kissing.

(4) Student Specific

In addition to the foregoing examples, students may experience harassment that is unique to their situation, some of which may not be immediately recognized as sexual harassment. Such harassment may include, but is not limited to, the following:

- (i) Unwanted² sexual behavior, such as touching, oral comments, sexual name calling, spreading sexual rumors, jokes, pictures, leers, overly personal conversation, cornering or blocking a student's movement, pulling at clothes, students "making out" on school premises.
- (ii) A student in a predominately single-gender class who is subjected to sexual remarks by a teacher or students who regard the comments as joking and part of the usual class environment.
- (iii) Interfering with a student's achievement in a predominantly or historically single-gender class by hiding tools or equipment, questioning the student's ability to handle the work, or suggesting that the student is "abnormal" for enrolling in the class.
- (iv) Purposefully limiting or denying students access to educational resources because of their gender.
- (v) Teasing a student about the student's enrollment in a predominantly or historically single-gender class.

²Sexual harassment of students by adults who otherwise come within this policy is absolutely prohibited regardless of whether the conduct is "welcome."

(c) Nature of Sexual Harassment

Sexual harassment is not limited to conduct by males toward females. Sexual harassment may occur between any or all of the following:

- (1) Student to student.
- (2) Staff to student
- (3) Student to staff.
- (4) Male to male.
- (5) Female to female.

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- (6) Male to female.
 - (7) Female to male.
- (d) Investigation of Sexual Harassment Complaints
- (1) If a student believes he/she is being sexually harassed, the student should bring the concern to the attention of the building principal.
 - (2) If the student feels that such contact with the building principal would be inappropriate or if the student simply feels more comfortable speaking to someone other than the building principal, the student may inform any teacher, counselor or the vice principal. If the situation is not satisfactorily resolved by the building principal, the student should contact the PSS Human Resources Director.
 - (3) If for any reason the student would prefer to report their concern to another PSS official, the student may contact the PSS Legal Counsel's Office.
 - (4) Any teacher, counselor, or administrator who receives a report, orally or in writing, from any student regarding sexual harassment of that student or another student by a student or adult in the educational setting must forward that report to the building principal and the PSS Human Resources Director within twenty-four hours, or within a reasonable extension of time thereafter, for good cause shown.
 - (5) Oral complaints of sexual harassment will be put in writing by the complainant or by the person who receives the complaint, and should be signed by the complainant. However, the complainant's refusal to sign a complaint does not relieve the PSS of the obligation to investigate the complaint.
 - (6) A student who believes that he/she has been subjected to sexual harassment shall not be required to confront the alleged harasser prior to making the report.
 - (7) Following receipt of the report, PSS personnel will promptly and fully investigate the complaint and will notify the student and the alleged harasser of the results of the investigation. Investigations will be conducted with full recognition of the rights of all parties involved.
 - (8) Upon receipt of the report, the PSS Human Resources Director will appoint an investigator to investigate the complaint. Such investigation shall commence within forty-eight hours after such appointment.
 - (9) The PSS will maintain the confidentiality of the complaint and the details of the investigation to the fullest extent possible.
 - (10) The investigator will put his/her findings in writing and will forward a copy to the principal, the PSS Human Resources Director, and Legal Counsel's Office within two weeks after concluding the investigation, or within a reasonable extension of time thereafter, for good cause shown.
 - (11) If the investigation substantiates the complaint, the PSS will take appropriate disciplinary action against the offender(s), commensurate to the severity of the harassment (up to and including termination of employment). If the offender is another student, disciplinary action will be taken in accordance with Board policies and regulations. If the offender is not an employee of the PSS, the PSS will take appropriate action within the scope of its authority to eliminate and redress the harassment.
 - (12) If the investigation is indeterminate, the matter will still be designated as unresolved, and the investigation file will be maintained by the PSS Human Resources Director in a file separate and apart from any student or personnel file.

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(13) There will be no retaliation against or adverse treatment of any student who uses this procedure to resolve a concern when such complaint has been brought in the good faith belief that the complainant has been subjected to sexual harassment.

(14) The responsible administrator shall follow up regularly with the complaining student to ensure that the harassment has stopped and that no retaliation has occurred.

(e) Enforcement

Each building administrator is responsible for maintaining an educational and work environment free from sexual harassment. Principals shall take appropriate action to ensure that the students are aware of and knowledgeable about these policies and that discipline action is taken whenever warranted. In accordance with their responsibilities, each building administrator, or his/her designee, shall take appropriate actions to enforce the PSS's sexual harassment policy, including but not limited to following:

(1) All vulgar or sexually offensive graffiti shall be removed from the premises.

(2) The building administrator shall provide an in-service regarding sexual harassment (including sexual harassment involving students) to all staff by the end of the first four calendar weeks of school.

(3) Student instruction regarding sexual harassment shall be provided annually by the end of September to all students in grades six through twelve. Age appropriate instruction will also be presented to pre-kindergarten through fifth grade students.

(4) Designated teachers shall discuss this policy with their students within one month after its adoption by the Board and during the first week of the school year thereafter. Written copies of the policy shall be given to each student in grades six through twelve (and in lower grades as may be appropriate) as part of these discussions. Discussion shall be conducted in age appropriate manner and should assure students they need not tolerate any form of sexual harassment.

(5) All teacher, counselors, and administrators shall instruct students on the procedures for reporting sexual harassment within the educational setting on an as-needed basis.

(6) The building administrator shall take prompt action to investigate all complaints of sexual harassment.

(7) The building administrator shall take appropriate disciplinary action, as necessary.

(f) Notifications

A copy of the PSS sexual harassment policy shall:

(1) Be included in the notifications that are sent to parents/guardians at the beginning of each school year.

(2) Be displayed in a prominent location near each school principal's office.

(3) Be included in any orientation program conducted for new students in grades six through twelve.

(4) Appear in any PSS or Board of Education publication that sets forth the PSS or building's comprehensive rules, regulations, procedures, and standards of conduct for students.

(g) Discipline/Consequences

(1) Any student who engages in sexual harassment while on school property or while participating in school activities will be subject to disciplinary action, up to and including expulsion.

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(2) Any employee who permits or engages in the sexual harassment of students will be subject to disciplinary action, up to and including dismissal.

(3) Any employee who receives a complaint of sexual harassment from a student and who does not act promptly to forward that complaint to the principal and PSS Human Resources Director shall be disciplined appropriately.

(4) Any student who brings a false charge of sexual harassment shall receive appropriate discipline. The term “false charge” mean charges brought in bad faith, that is, without the good faith belief that one has been subjected to sexual harassment. The term “false charge” does not include a charge that was brought in good faith but which the PSS was unable to substantiate.

(h) Title IX Grievance Procedure (Sexual Harassment)

(1) Level 1: Principal or Immediate Supervisor (informal and optional -- may be bypassed by grievant)

An informal meeting with the parties and the principal or the Human Resources Office-appointed mediator can solve many problems. A student who believes that he/she has been subjected to sexual harassment is encouraged to first discuss it with the teacher, counselor, or building administrator involved with the objective of resolving the matter promptly and informally. If the individual’s teacher/supervisor is the person alleged to have engaged in sexual harassment then the grievant should skip level 1 and go directly to level 2.

(2) Level 2: The Investigation

(i) If the complaint or issue is not resolved at level 1 or if the grievant chooses to skip level 1, the grievant may file a signed, written grievance stating:

(A) The nature of the grievance;

(B) The remedy requested; and

(C) The date the grievance was submitted.

The level 2 written grievance should be filed with the PSS Human Resources Director within fifteen days of the event or incident, or from the date the grievant could reasonably become aware of such occurrence.

(ii) The PSS Human Resources Director may appoint an investigator to investigate a written grievance. If possible, the investigator will resolve the grievance. If the parties cannot agree on a resolution, the PSS Human Resources Director or appointed investigator will prepare a written report of the investigation that shall include:

(A) A clear statement of the allegations of the grievance and remedy sought by the grievant.

(B) A statement of the facts as contended by each of the parties.

(C) A statement of the facts as found by the appointed investigator and identification of evidence to support each fact.

(D) A list of all witnesses interviewed and documents reviewed during the investigation.

(E) A narrative describing attempts to resolve the grievance.

(F) The appointed investigator’s conclusion as to whether the allegations in the grievance are meritorious.

(iii) The investigator shall consult with the Human Resources Director and/or Legal Counsel’s Office during the investigation and attempted resolution of the grievance.

(iv) The appointed investigator will complete the investigation and file the report within thirty days after receipt of the written grievance. The investigator shall file the report with the Human Resources Director and Legal Counsel’s Office and the Human Resources Director will make any necessary recommendations and forward the report to the Commissioner’s office.

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(v) If the Commissioner/designee agrees with the recommendations of PSS Human Resources Director, the recommendations will be implemented. The Commissioner/designee will inform the grievant in writing of his or her decision and any action that will be taken.

(3) Level 3: The Board of Education

If the Commissioner rejects the recommendations of the Human Resources Director, and/or either party is not satisfied with the recommendations from level 2, either party may make a written appeal within ten days of receiving the report of the Commissioner to the Board of Education. On receipt of the written appeal, the matter shall be placed on the agenda of the Board of Education for consideration within thirty days. A decision shall be made and reported in writing to all parties within thirty days of that meeting. The decision of the Board of Education will be final.

(4) Other Options for Grievant

At any time during this process, a grievant may file a complaint with the U.S. Department of Education, Office for Civil Rights, the Equal Employment Opportunity Commission and/or the Federal Omnibusman to the Commonwealth.

Modified, 1 CMC § 3806(e), (f), (g).

History: Amdts Adopted 41 Com. Reg. 41658 (May 28, 2019); Amdts Proposed 41 Com. Reg. 41554 (Mar. 28, 2019); Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001); Amdts Adopted 20 Com. Reg. 15965 (June 15, 1998); Amdts Proposed 19 Com. Reg. 15423 (Aug. 15, 1997).

Commission Comment: [Historical codification comments removed.]

§ 60-20-403 Bullying

(a) It is the policy of the CNMI State Board of Education to prohibit bullying, harassment, or intimidation of any person on school property or at school-sponsored functions or by the use of electronic technology at a public school. It is the policy of the CNMI State Board of Education to prohibit reprisal or retaliation against individuals who report acts of bullying, harassment, or intimidation or who are victims, witnesses, bystanders, or others with reliable information about an act of bullying, harassment, or intimidation.

(b) Definitions

(1) As used in this regulation, “bullying, harassment, or intimidation” means intentional conduct, including verbal, physical, or written conduct or an intentional electronic communication that creates a hostile educational environment by substantially interfering with a student’s educational benefits, opportunities, or performance, or with a student’s physical or psychological well-being and is:

- (i) Motivated by an actual or a perceived personal characteristic including race, national origin, marital status, sex, sexual orientation, gender identity, religion, ancestry, physical attributes, socioeconomic status, familial status, or physical or mental ability or disability;
- (ii) Threatening or seriously intimidating;
- (iii) Occurs in a school setting and/or with school property; and
- (iv) Substantially disrupts the orderly operation of a school.

(2) Examples of bullying may include but are not limited to:

- (i) Physical: hitting, kicking, pushing, shoving, getting another person to hurt someone;
- (ii) Verbal: racial slurs, name-calling, teasing, taunting, verbal sexual harassment, gossiping, spreading rumors; or

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(iii) Non-verbal: threatening, obscene gestures, isolation, exclusion, stalking, cyber-bullying (bullying that occurs by means of electronic communication).

(3) “Electronic communication” means a communication transmitted by means of an electronic device, including a telephone, cellular phone, computer, or page.

(4) “School setting” means in the school, on school grounds, in school vehicles, at a designated school bus stop or at any activity sponsored, supervised or sanctioned by the school.

(5) “School property” means the school computer or telephone and encompasses the use of electronic technology at a public school.

(c) Complaints

(1) Any student who believes that he or she is a victim of bullying should report the matter immediately to the building principal. If the student feels more comfortable speaking to someone other than the building principal, the student may inform any teacher, counselor or the vice principal. If the situation is not satisfactorily resolved by the building principal, the student or parent should contact the PSS Human Resources Director.

(2) There will be no retaliation against, or adverse treatment of any student who uses this procedure to resolve a concern when such complaint has been brought in the good faith belief that the complainant has been subjected to bullying.

(3) The responsible administrator shall follow up regularly with the complaining student to ensure that the bullying has stopped and that no retaliation has occurred.

(d) Discipline/Consequences

(1) Any student who engages in bullying while on school property or while participating in school activities will be subject to disciplinary action, up to and including expulsion.

(2) Any employee who permits or engages in the bullying of students will be subject to disciplinary action, up to and including dismissal.

(3) Any employee who receives a complaint of bullying from a student and who does not act promptly to forward that complaint to the principal shall be disciplined appropriately.

(4) Any student who brings a false charge of bullying shall receive appropriate discipline. The terms “false charge” means charges brought in bad faith, that is, without the good faith belief that one has been subjected to bullying. The term “false charge” does not include a charge that was brought in good faith but which the PSS was unable to substantiate.

(e) Enforcement

Each building administrator is responsible for maintaining an educational and work environment free from bullying. Principals shall take appropriate action to ensure that the students are aware of and knowledgeable about these policies and that discipline action is taken whenever warranted. In accordance with their responsibilities, each building administrator, or his/her designee, shall take appropriate actions to enforce the PSS’s bullying policy.

Modified, 1 CMC § 3806(f), (g).

History: Amdts Adopted 41 Com. Reg. 41658 (May 28, 2019); Amdts Proposed 41 Com. Reg. 41554 (Mar. 28, 2019); Adopted 33 Com. Reg. 31845 (Aug. 23, 2011); Proposed 33 Com. Reg. 31720 (June 27, 2011).

Commission Comment: [Historical codification comments removed.]

§ 60-20-404 Searches by School Personnel

(a) Reasonable Suspicion

(1) Searches of students shall only be conducted when a school official has reasonable suspicion predicated on one or more of the following:

(i) Reliable reports or information from credible sources made known to school officials. If the source is anonymous, the informant must show that the information has a relationship with the school or students so as to give it credibility.

(ii) Suspicious or evasive behavior suggesting violation of a school policy or law, or concealment of contraband, weapons or stolen property.

(iii) Observation of a student engaging in prohibited conduct or being in a restricted area.

(2) The more of these factors that are found, the greater the inference of reasonable suspicion. The school official may also take into account the student's history in the development of reasonable suspicion.

(b) Reasonable Scope

(1) The scope of the search conducted must be reasonably related to the objective sought and the evidence searched for. The search shall be no more intrusive than necessary to serve the school's legitimate objectives. In determining if the search is related to the objectives sought, the school official should consider:

(i) The nature and severity of the violation to determine the permissible amount of intrusion into the student's privacy rights.

(ii) The area to be searched so that it will be no more extensive than required to serve the school's legitimate objectives.

(iii) The time and place where the search is conducted so that it will be as close as possible to the time and place of the suspected violation.

(iv) The duration of the search so that it will be no longer than necessary to serve the school's legitimate objectives.

(2) Whenever reasonably possible the search should be conducted by school official who is the same sex as the student to be searched.

(c) Locker, Automobile and Desk Searches

Searches of lockers, desks, storage spaces and other property owned jointly by the PSS and the student may be conducted whenever reasonable suspicion exists to believe that contraband, weapons or prohibited items are concealed therein. Notice of the joint ownership of lockers and desks shall be given to the student body at the beginning of each school year or more often as required. (See form 2150 for an example of such a notice).

(d) Canine Searches

Canine searches shall never be conducted on a student's person and if undertaken, shall be restricted to desks, lockers and parking lots.

(e) Surveillance

Surveillance shall only be conducted in hallways, cafeterias, school vehicles, areas open to public view where the students are permitted, rooms storing PSS property, classrooms and areas where students with special needs can be found, and food preparation and service areas.

(f) Consent Searches

Whenever possible the student's voluntary informed consent shall be sought before a search is conducted. However, searches normally should not be based solely on consent.

(g) Police Involvement

Police involvement shall be sought whenever school officials uncover evidence of a violation of Commonwealth or federal law or when school officials deem such involvement necessary or helpful in maintaining school discipline or safety.

(h) Reports

After a search has been conducted, school officials shall prepare a written report, specifically detailing the objectives of the search, the scope of the search, and the circumstances and information giving rise to reasonable suspicion for the search. Copies of the report shall be immediately filed with the Commissioner of Education and PSS legal counsel.

Modified, 1 CMC § 3806(f), (g).

History: Amdts Adopted 46 Com. Reg. 51494 (Dec. 15, 2024); Amdts Proposed 46 Com. Reg. 51225 (Aug. 15, 2024); Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001); Amdts Adopted 20 Com. Reg. 15965 (June 15, 1998); Amdts Proposed 19 Com. Reg. 15423 (Aug. 15, 1997).

Commission Comment: The original paragraphs of subsections (a) and (b) were not designated. The Commission designated subsections (a)(1) and (a)(2) and (b)(1) and (b)(2).

The 1998 amendments added new "policy 612," entitled "Searches of Students, Lockers and Automobiles." The 2001 amendments repealed Board of Education policy 612 and replaced it with this section.

The Commission inserted a period at the end of subsection (c).

§ 60-20-406 Releasing and Referring Students to the Department of Public Safety

The following guidelines are to be used by school administrators when considering referring students to the Department of Public Safety (DPS) for conduct committed on campus:

(a) It is the responsibility of all citizens who have direct knowledge of a committed felony to report it to DPS. If a student is suspected of committing a felony, the school administrator must report it to DPS. (See also policy and regulation 2670 and § 60-20-472 - Reporting Violent Behavior and Student Abuse.)

(b) In cases involving a misdemeanor, the principal must exercise his/her professional judgment whether to report the student to DPS. In general, the more serious the misdemeanor, the greater likelihood it should be referred to DPS. Minor infractions (e.g. a minor caught smoking a cigarette) should be dealt with at the school level.

(c) All incidents involving the use of dangerous weapons should be reported to DPS. (See policy and regulation 2670.)

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(d) If a principal or school administrator has evidence of a crime in progress, he/she has the authority to make a citizen's arrest and then must report the crime to DPS immediately.

(e) Upon arriving on campus, DPS personnel must report first to the principal's office. The only exception to first reporting to principal's office is when there is a crime in progress. DPS then has the right to make an immediate arrest and report afterwards to the principal's office.

(f) No student is to be turned over to a non-uniformed policeman without verifying his/her proper identification.

(g) Whenever a student is turned over to DPS, it is the responsibility of the school administrator to immediately notify the student's parent/guardian.

Modified, 1 CMC § 3806(c), (f).

History: Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001).

Commission Comment: The cross-references to policy and regulation 2670 in this section are unclear. The referenced policy has not been published in the Commonwealth Register.

§ 60-20-408 Employees of Department of Public Safety on Campus

Whenever a student is on campus during school operating hours and is wanted by the Department of Public Safety (DPS) for an alleged offense(s) not reported by the school, the following guidelines shall apply:

(a) In all cases, upon arriving on campus, DPS personnel must report first to the principal's office to inform the principal of the student(s) sought by DPS and to explain the purpose of their visit to the school. The only exception to first reporting to the principal's office is when there is a crime in progress. DPS then has the right to make an immediate arrest and report afterwards to the principal's office. The principal shall immediately notify the parent/guardian of a student who has been arrested by DPS on campus.

(b) In cases involving a felony when DPS personnel wish to question a student during school hours, the parents must be informed before such questioning may begin. The principal may be present during the questioning. A student may be released to DPS if DPS demonstrates to the school that such release is necessary in the interests of law enforcement and public safety, such as a copy of a warrant or indictment. The principal shall immediately notify the parent/guardian of a student who has been released to DPS.

(c) In cases involving a misdemeanor, DPS will make every effort to locate and question a student involved in or knowledgeable of a misdemeanor outside of school operating hours and will only resort to questioning a student during school hours when all other methods fail. In the event that questioning a student during school hours is necessary, the parent must be informed before such questioning may begin and DPS may only question a student when a principal is present. A principal does not need to release a student to DPS in cases involving a misdemeanor.

History: Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001).

§ 60-20-410 Distribution of Non-curricular Publications by Students

(a) Guidelines for Distribution

(1) Students may distribute, at reasonable times and places, unofficial written materials, petitions, buttons, badges, or other insignia, except expressions which:

(i) Are obscene to minors.

(ii) Are libelous.

(iii) Are pervasively indecent or vulgar.

(iv) Advertise any product or service not permitted to minors by law.

(v) Constitute insulting, hateful or fighting words, the very expression of which injures or harasses other people (e.g., threats of violence, defamation of character or of a person's race, religion, or ethnic origin).

(vi) Present a clear and present likelihood that, either because of their content or their manner of distribution, will cause a material and substantial disruption of the proper and orderly operation and discipline of the school or school activities, or will cause the commission of unlawful acts or the violation of lawful school regulations.

(2) Distribution on school premises of material in above categories to any student is prohibited.

(b) Procedures

(1) Any student wishing to distribute unofficial written material must first submit for approval a copy of the material to the principal/designee at least three days in advance of desired distribution time, together with the following information:

(i) Name and phone number of the person submitting request.

(ii) Date(s) and times(s) of day of intended display or distribution.

(iii) Location where material would be displayed or distributed.

(iv) The grade(s) of students to whom the display or distribution is intended.

(2) Within forty-eight hours of submission, the principal/ designee will render a decision whether the material violates the guidelines contained in this section or the time, place and manner restrictions of this section. In the event that permission to distribute the material is denied, the student submitting the request should be informed of the reasons for the denial.

(3) Permission to distribute material does not imply approval of its contents by the school, the administration, the Board, or the individual reviewing the material submitted. Accordingly, the publication shall contain a statement "The opinions expressed are not necessarily those of the PSS or its personnel."

(4) If the student is dissatisfied with the decision of the principal/designee, the student may submit a written request for appeal to the Commissioner/designee. If still not satisfied, the student may appeal the request to the Board for its review.

(c) Time, Place and Manner of Distribution

The distribution of written material shall be limited to a reasonable time, place and manner as follows:

(1) No written material may be distributed during and at the place of a normal school activity (e.g., classroom) if it is reasonably likely to cause a material and substantial disruption of that activity.

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(2) Distribution of written material is prohibited when it blocks the safe flow of traffic within corridors and entrance ways of the school.

(d) Definitions

The following definitions apply to the following terms as used in this policy.

(1) Obscene to minors is defined as:

(i) The average person, applying contemporary community standards, would find that the written material, taken as a whole, appeals to the prurient interests of minors of the age to whom distribution is requested; and/or

(ii) The material depicts and describes, in a manner that is patently offensive to prevailing standards in the adult community concerning how such conduct should be presented to minors of the age to whom distribution is requested, sexual conduct such as intimate sexual acts (normal or perverted), masturbation, excretory functions, and lewd exhibition of the genitals; and/or

(iii) The material taken as a whole lacks serious literary, artistic, political or scientific value for minors. Minor is defined as any person under the age of eighteen.

(2) Material and substantial disruption of a normal school activity is defined as follows:

(i) Any disruption that interferes with or impedes the implementation of any educational or school sponsored program.

(ii) In order for expression to be considered disruptive; there must exist specific facts upon which the likelihood of disruption can be forecast, including past experience in the school and current events influencing student activities and behavior.

(3) School activities is defined as any activity of students sponsored by the school and includes - by way of example, and not by way of limitation - classroom work, library activities, physical education classes, official assemblies, and other similar gatherings, school athletic contests, band concerts, school plays, and in-school lunch periods.

(4) Unofficial written material is defined as all written material except school publications funded and/or sponsored or authorized by the school. Examples include leaflets, brochures, flyers, petitions, placards and underground newspapers, whether written by students or others.

(5) Libelous is defined as a false or unprivileged statement about a specific individual that tends to harm the individual's reputation, or to lower him/her in the esteem of the community.

(6) Distribution is defined as circulation or dissemination of written material by means of handing out free copies, selling or offering copies for sale and accepting donations for copies. It includes displaying written material in areas of the school, which are generally frequented by students.

(e) Disciplinary Action

Distribution by a student of unofficial written material prohibited in this section will be treated as a violation of the student discipline code.

Modified, 1 CMC § 3806(d), (e).

History: Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001).

Commission Comment: The original paragraphs of subsections (a) and (b) were not designated. The Commission designated subsections (a)(1) and (a)(2) and (b)(1) through (b)(4).

§ 60-20-411 Educational Opportunity for Disabled Students

It is the policy of the Board of Education to provide free appropriate education for all students with disabilities. Students with disabilities are those who have been identified by professionally qualified personnel as needing accommodation or special educational planning and related services. Such students with disabilities will be identified pursuant to the requirements of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. §§ 1400 et seq.; 34 C.F.R. Part 300), the Rehabilitation Act of 1973, Section 504 as amended (29 U.S.C. §§ 705, 794; 34 C.F.R. Part 104), and Commonwealth law. The PSS programs and services available to meet the needs of these students will be in accordance with the aforementioned laws.

History: Adopted 29 Com. Reg. 26433 (Feb. 15, 2007); Proposed 28 Com. Reg. 26217 (Oct. 30, 2006).

Subpart B - Admission and Withdrawal

§ 60-20-412 Entrance Age

- (a) A child shall be admitted to the first grade of elementary school at the beginning of the school year if the child's sixth birthday occurs on or before September 30th of the school year for which entrance application is made.
- (b) Any child may be admitted to kindergarten at the beginning of a school year if the child's fifth birthday occurs on or before September 30th of the school year for which application is made. Under no circumstances will a child whose sixth birthday occurs after September 30th but before the completion of the school year applied for be denied admission to school based solely upon the child's age.
- (c) Any child who meets the eligibility requirements of the Head Start Program may be admitted to Head Start at the beginning of a school year if the child's third, or fourth birthday occurs on or before September 30th of the school year for which entrance application is made.
- (d) A birth certificate or other legal document such as a passport will be required as proof of age.
- (e) In the event of extraordinary circumstances surrounding the admission or denial of a child's admission to a school or program, the Commissioner of Education may make exceptions to this regulation if it is in the best interests of the child and the PSS.

History: Amdts Adopted 35 Com. Reg. 34360 (Oct. 28, 2013); Amdts Proposed 35 Com. Reg. 34139 (Aug. 28, 2013); Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001); Amdts Adopted 20 Com. Reg. 15966 (June 15, 1998); Amdts Proposed 19 Com. Reg. 15423 (Aug. 15, 1997); Amdts Adopted 10 Com. Reg. 5739 (Nov. 15, 1988); Amdts Proposed 10 Com. Reg. 5688 (Sept. 15, 1988); Proposed 3 Com. Reg. 1158 (Mar. 30, 1981).

Commission Comment: The 2001 amendments repealed former Board of Education policy 601, entitled "Age of Entrance," and replaced it with this section. See also the commission comment to § 60-20-001.

§ 60-20-414 Students Beyond Normal Age of Attendance

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- (a) No student who has reached the age of seventeen by September 30 of the school year in which attendance is being requested shall be enrolled in grades 1-9, unless an exemption is granted by the Commissioner due to compelling and justifiable circumstances. No student who has reached the age of twenty by September 30 of the school year in which attendance is being requested shall be enrolled in grades 10-12, unless an exemption is granted by the Commissioner due to compelling and justifiable circumstances.
- (b) Students who are seventeen years or older in grades 8-9 or nineteen years or older in grades 10-12 who fail to earn at least five credits in the school year shall not be re-enrolled the following year.
- (c) A student over the compulsory age of attendance may not register for school after the second week of the first quarter of the school year unless he/she is a transferee from another school and has been in attendance during that school year. These restrictions shall not apply to special education students or students who have an excusable reason for late registration, such as illness.
- (d) A student over the compulsory age of attendance who has accumulated a total of thirteen days and/or five consecutive days of unexcused absences shall be dropped from school for the balance of that academic year. Students under block scheduling who incur seven or more unexcused absences during a term shall be dropped from school for the balance of that academic year.
- (e) High school students shall be given six continuous calendar years to complete their graduation requirements, commencing from their first day in the 9th grade. Students who do not complete their graduation requirements by the end of this period may be denied entrance to school in subsequent years. Permission to return to school may, therefore, be denied to dropout students if they would be unable to complete their graduation requirements by the end of the six year period.
- (f) Any actions taken pursuant to this policy with respect to the attendance of special education students must be consistent with the Individuals with Disabilities Act (IDEA) and the disciplinary code for special education students.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 24 Com. Reg. 19413 (July 29, 2002); Amdts Proposed 24 Com. Reg. 18852 (Jan. 29, 2002); Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001); Amdts Proposed 20 Com. Reg. 16083 (Aug. 15, 1998); Amdts Adopted 9 Com. Reg. 5242 (Sept. 15, 1987); Amdts Proposed 9 Com. Reg. 4928 (May 15, 1987).

Commission Comment: The 1987 amendments added “policy 615,” entitled “Students Beyond Normal Age of Attendance.” A notice of adoption for the August 1998 proposed amendments was never published. The 2001 amendments repealed former Board of Education policy 615 and replaced it with this section. The 2002 amendments amended subsection (d) and readopted and republished this section in its entirety.

§ 60-20-416 Admission of Resident Students

- (a) Proof of Residency

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(1) All students, five to twenty-one years of age, who reside within the boundaries of the CNMI, may attend PSS schools tuition free. In order to “reside” within the CNMI, the student must be physically domiciled within CNMI boundaries. The domicile of a minor student is generally the domicile of the student’s parent/guardian.

(2) A student may only register in the PSS if the student provides proof of residency or if the student or parent/guardian requests a waiver from the Board of Education on the basis of hardship or good cause. Parents/guardians will be required to sign a “Proof of Residency” form at the time of enrollment. If the Commissioner has reason to suspect that the admission of a student will create an immediate danger to the safety of others, a hearing will be convened within three working days of the request to register. At the hearing, the Commissioner will determine whether the student may enroll.

(b) Waiver

(1) Students or parents/guardians seeking a waiver of the residency requirement must complete and submit to the Commissioner a “Request for Waiver of Proof of Residency” form stating the reasons for which the waiver is requested. If a waiver is requested, the Board of Education must convene a hearing no later than forty-five days after the request for waiver is filed. If the Board fails to convene a timely hearing, the request for waiver is automatically granted. Following the hearing, the Board will provide written notice of its decision and the reasons for its approval or denial of the waiver request.

(2) In considering whether a waiver of residency should be granted, the presumption that a student’s domicile is in the home of the student’s parent/guardian is not conclusive. Students residing within the Commonwealth, but not within the domicile of their parent/guardian, will be considered residents of the Commonwealth if they reside within the Commonwealth for reasons other than solely to attend Commonwealth schools.

(c) Records Review

Within forty-eight hours of enrolling a new student, the Commissioner/designee will request copies of the new student’s transfer and discipline records from all schools in which the new student attended at any time within a twelve month period preceding enrollment in the PSS. In addition, parents/guardians of students new to the PSS will be required to complete and sign “Prior Discipline Record” form informing the PSS concerning suspension or expulsions incurred at schools previously attended. The Commissioner/designee is responsible for ensuring that all pre-registration residency, waiver request, and prior discipline forms are completed and maintained as PSS records.

(d) Denial of Enrollment for Certain Offenses

(1) However, no student will be enrolled who has been convicted of or charged without final adjudication of the following criminal acts or the corresponding juvenile offenses:

(i) First degree murder as defined by CNMI law or similar offenses in other jurisdictions.

(ii) Second degree murder as defined by CNMI law or similar offenses in other jurisdictions.

(iii) Aggravated assault and battery as defined by CNMI law or similar offenses in other jurisdictions.

(iv) Assault with a dangerous weapon as defined by CNMI law or similar offenses in other jurisdictions.

(v) Sexually violent offenses as defined by CNMI law or similar offenses in other jurisdictions.

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- (vi) Robbery as defined by CNMI law or similar offenses in other jurisdictions.
- (vii) Distribution of a controlled substance to persons under 18 as defined by CNMI law or similar offenses in other jurisdictions.
- (viii) Arson as defined by CNMI law or similar offenses in other jurisdictions.
- (ix) Kidnapping as defined by CNMI law or similar offenses in other jurisdictions.
- (2) Notwithstanding this subsection [§ 60-20-416(d)], the denial of enrollment of a student with a disability for these offenses is only authorized to the extent it is consistent with the IDEA.

Modified, 1 CMC § 3806(d), (e), (f).

History: Amdts Adopted 29 Com. Reg. 26433 (Feb. 15, 2007); Amdts Proposed 28 Com. Reg. 26217 (Oct. 30, 2006); Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001).

Commission Comment: The original paragraphs of subsections (a), (b) and (d) were not designated. The Commission designated subsections (a)(1) and (a)(2), (b)(1) and (b)(2), and (d)(1) and (d)(2).

The 2007 amendments made numerous changes to subsection (d). The title of this section was changed from “Admission and Withdrawal” to the current title in 2007.

§ 60-20-418 Transfers to Different Schools/Zones

The Board of Education understands that parents and students may move to different islands or different villages during their child’s school years. While the Board suggests that parents avoid changing their child’s school in the middle of an academic year, on occasion, a transfer may be unavoidable due to certain family circumstances. In order to honor the request for transfer while protecting the academic needs of the student and minimizing the disruption of the educational process, the Board has adopted this section. This section sets forth the transfer process.

- (a) Request for student transfers during the school year must be submitted to and approved by the principal of both the releasing and the receiving school. The releasing and the receiving principal must communicate regarding the requested transfer. The two principals, in consultation with the school counselor as appropriate, will examine the academic needs of the student and the effect of the transfer on the school and the educational process before approving transfer requests. More than one transfer request by a student in a single school year may be rejected by the PSS and may be referred to the proper authorities in cases of suspected educational neglect.
- (b) Transfer requests must be submitted at least fifteen school days in advance of the proposed transfer. Such requests will not be approved during the final ten school days of any quarter of both schools unless there are extenuating circumstances.
- (c) Students transferring during the summers must notify the releasing school and meet the registration requirements and deadlines of the receiving school.

Modified, 1 CMC § 3806(d), (e).

History: Amdts Adopted 24 Com. Reg. 19413 (July 29, 2002); Amdts Proposed 24 Com. Reg. 18852 (Jan. 29, 2002).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (c).

The notice of adoption for the 2002 amendments changed the proposed language of subsections (a) and (b). See 24 Com. Reg. at 19413 (July 29, 2002).

Subpart C - Attendance

§ 60-20-420 Student Attendance

The Public School System recognizes two types of absences: excused or unexcused.

(a) Excused absence is absence necessitated because of illness or death in the family, or absence with the written approval of parent/guardian when such approval is not inconsistent with the academic needs of the student as determined by the principal.

(b) Unexcused absences are those which are not excused. They may generally be categorized as being of such a nature that prudence would have avoided or precluded the absence. Suspensions and expulsions are considered unexcused absences.

(c) All students who participate in sanctioned school activities that remove the student from regular classroom attendance shall be considered as present. Sanctioned activities must have an educational purpose and students must make up any lesson or assignment missed as a result of such activity. Educational purposes include the discovery and understanding of life skills, community awareness, cultural diversity, language development, natural resources, social structures, political systems, historical perspectives and character development.

(d) School principals/designees have the authority to make determination of whether or not an absence will be considered excused or unexcused.

(e) Student Absences

(1) Secondary school students (grades 6-12) who incur thirteen or more unexcused absences in a course during one semester shall be considered excessively absent and shall not receive a passing grade for that course for that semester. Students under block scheduling who incur seven or more unexcused absences during a term shall be considered excessively absent and shall not receive a passing grade for that course during that term.

(2) Secondary students who do not receive a passing grade for a semester as a result of excessive absences shall receive a “no credit” (NC or 0.00) on their academic record, irrespective of the grade the student would have received before the excessive absences. The course must be repeated and the no credit may be deleted only upon successful completion of the repeated course.

(3) Elementary school students with 25 or more absences in a school year will not receive credit and will not be promoted, unless an exemption is granted by the Commissioner.

(f) Tardiness

(1) The term tardy is defined as being late to school, class or an activity with or without permission of parent/guardian. A student is considered tardy if he/she arrives after the designated time of the class or activity, regardless of how late the student is.

(2) A student who misses more than half of a class or activity shall be considered absent for the entire class or activity.

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(3) For secondary school students, every third unexcused tardy shall be considered one unexcused absence within the term/semester the tardies occurred.

(4) For elementary school students, every third unexcused tardy of 10 minutes or greater shall be considered one unexcused absence within the term/semester the tardies occurred.

(g) Counseling for Absenteeism and Tardiness Problems

The teacher should counsel those students who are developing a pattern of being absent and/or tardy. The teacher will refer to a school administrator specifically designated by the school principal to handle such problems, those students who, in the teacher's judgment, are not making progress toward correcting the problem.

(1) Upon the first referral by a teacher, the administrator should attempt to determine the nature of the problem, inform the student and the student's parent/guardian of the absence and tardy policy and regulation.

(2) The teacher must refer the student to a school administrator and a parent conference must be held to discuss the problem and to explain the Board regulations and any appropriate discipline alternatives under the following circumstances:

(i) Under block scheduling, after the third unexcused absence or sixth tardy in a quarter.

(ii) For secondary schools without block scheduling, after the sixth tardy or sixth unexcused absence in a semester.

(iii) For elementary schools, after the sixth tardy in a semester or the sixth unexcused absence in a semester.

(3) In addition to counseling after teacher referrals, principals shall require doctor's excuses for absences in the following circumstances, unless a waiver for the absence is obtained from the school principal:

(i) Under block scheduling, a doctor's excuse will be required for any absence after the third in a term.

(ii) For secondary schools without block scheduling, a doctor's excuse will be required for any absence after the sixth in a semester.

(iii) For elementary schools, a doctor's excuse will be required for any absence after the sixth in a semester.

(h) Absenteeism and/or tardiness problems for special education students must be referred to the student's IEP team to address the problem and discuss any appropriate learning and/or disciplinary alternatives.

Modified, 1 CMC § 3806(d), (e), (f).

History: Amdts Adopted 41 Com. Reg. 41646 (May 28, 2019); Amdts Proposed 41 Com. Reg. 41504 (Mar. 28, 2019); Amdts Adopted 24 Com. Reg. 19413 (July 29, 2002); Amdts Proposed 24 Com. Reg. 18852 (Jan. 29, 2002); Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001); Amdts Proposed 20 Com. Reg. 16083 (Aug. 15, 1998); Amdts Adopted 20 Com. Reg. 15965 (June 15, 1998); Amdts Proposed 19 Com. Reg. 15423 (Aug. 15, 1997); Amdts Adopted 13 Com. Reg. 7541 (Jan. 15, 1991); Amdts Adopted 12 Com. Reg. 7438 (Oct. 15, 1990) (reserving proposed amendment for further consideration); Amdts Proposed 12 Com. Reg. 7205 (Aug. 15, 1990); Amdts Adopted 5 Com. Reg. 2504 (Dec. 15, 1983); Amdts Proposed 5 Com. Reg. 2470 (Oct. 20, 1983); Proposed 3 Com. Reg. 1254 (June 30, 1981).

Commission Comment: A notice of adoption for the August 1998 amendments was never published. The 2001 amendments repealed former Board of Education policy 604, entitled "Student Absences and Excuses," and replaced it with this section.

The 2002 amendments readopted and republished this section in its entirety with numerous amendments. The 2002 amendments amended subsections (a), (b), (e)(1) and (e)(2) and added (e)(3), (e)(4), (g) and (h). The notice of adoption for the 2002 amendments changed the proposed language of subsection (c). See 24 Com. Reg. at 19413 (July 29, 2002). See also the commission comment to § 60-20-001.

§ 60-20-422 Part-time Attendance

The PSS recognizes the need of some students to attend school on a part-time basis. The Board of Education has established this section regarding part-time attendance. It is the intent of this section to meet the individual needs of each student and at the same time establish rules and regulations that will preserve the discipline, health, and academic standards of the school.

(a) Eligibility Requirements

- (1) To be eligible for part-time attendance, the student must be a resident of the CNMI.
- (2) The student must be more than sixteen years old and less than twenty years unless the IEP of a student under 16 provides for part-time attendance. Students twenty years and older may apply and it will be at the discretion of the principal, and, in the case of a student with a disability, the IEP team, whether to approve part-time attendance for such students.
- (3) The student must have parent/guardian approval if under 18 years of age.
- (4) The student must demonstrate a definite need to attend school on a part-time basis.

Examples are:

- (i) Financial needs of student or family,
- (ii) Health problems of self or family,
- (iii) Vocational training in school or on the job,
- (iv) Enrollment in a school of higher education, and
- (v) Unique curriculum offerings.

(b) Application Procedure

- (1) The student must secure an appointment with the guidance counselor and school principal prior to classification as a part-time student. The student must complete a part-time attendance request form at the conference. Before any decision is given concerning the request, a conference must be held with the student's parent/guardian if the student is under 18 years of age. All applications and conferences must be completed during the time preceding the semester in which the student is to be enrolled on a part-time basis.
- (2) After an application has been submitted, the principal shall rule on the request and report to the Commissioner the names of all students who are to be enrolled on a part-time basis. This same report shall be transmitted to the Board of Education. In the event the principal denies the request, the student may appeal to the Commissioner who must respond in a reasonable time.
- (3) Part-time students are governed by the same rules and regulations that apply to regularly enrolled students.

Modified, 1 CMC § 3806(d), (e), (f).

History: Amdts Adopted 29 Com. Reg. 26433 (Feb. 15, 2007); Amdts Proposed 28 Com. Reg. 26217 (Oct. 30, 2006); Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001); Amdts Proposed 20 Com. Reg. 16083 (Aug. 15, 1998); Amdts Adopted 5 Com. Reg. 2504 (Dec. 15, 1983); Amdts Proposed 5 Com. Reg. 2470 (Oct. 20, 1983).

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Commission Comment: The original paragraphs of subsection (b) were not designated. The Commission designated subsections (b)(1) through (b)(3).

The 1983 amendments added a policy entitled “Part-time Students” without specifying its policy number. The August 1998 amendments proposed to amend a “policy 614,” entitled “Full and Part-time Students.” A notice of adoption for the August 1998 proposed amendments was never published. The 2001 amendments repealed former Board of Education policy 614, entitled “Part-time Students,” and replaced it with this section.

The February 2007 amendments changed the second sentence of subsection (a)(2).

§ 60-20-424 Student Early Dismissal Procedures

(a) The following procedures apply:

- (1) Early dismissal of a student may be approved only by the building principal/designee.
- (2) Requests for early dismissal must be in writing, signed and dated by a parent/guardian unless there is an emergency. In such cases, telephone requests for early dismissal of a student shall be honored only if the caller can be positively identified as the student’s parent/ guardian.
- (3) Children of single-parent families will be released only upon the request of the custodial parent; i.e., the parent whom the court holds directly responsible for the child, and who is identified as such on the school record.
- (4) The parent or guardian removing the student before the end of the school day shall go to the school’s office and complete a log entry.

(b) Additional precautions may be taken by the school administration, appropriate to the age of students, and as needs arise.

(c) Parents/guardians have the obligation to advise and provide up-to-date documentation to the building principal regarding any change in the legal and/or physical custody of the student. The building principal, at all times, has the authority to investigate and confirm the custodial status of a parent/guardian if the principal has inadequate information or reason to suspect that false or incomplete information has been provided to the PSS.

(d) Students shall not be permitted to answer any personal phone calls, except those from the parent/ guardian or other persons having legal custody of said pupils. Emergency messages will be delivered to the students.

History: Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001).

§ 60-20-426 Truancy and Educational Neglect Procedures

(a) Truancy

- (1) The principal upon receiving a report from a teacher that a student has accumulated two unexplained absence shall immediately provide counseling to the truant student and promptly issue a truancy report to the student’s parent/guardian with a copy provided to the Commissioner of Education. The report shall include recommendation(s) by the school prescribing corrective measures for parent/guardian and student. Any repeated truancy by the student shall be reported

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to the Division of Youth Services, Community and Cultural Affairs Offices for counseling and other necessary actions, and parent-teacher conferences may also be held.

(2) The Division of Youth Services shall have access to student records with or without prior parent/guardian approval as stated in § 60-20-428. However, such privilege is limited only to the particular caseworker and/or counselor assigned to the case.

(3) All communication with a student's parent/guardian and student contact and reports from referral agencies must be accurately recorded in writing and filed in the student's cumulative folder.

(b) Educational Neglect

(1) Commonwealth law requires that any parent, guardian or other person responsible for a child between the age of six and sixteen shall send the child to a public or nonpublic* unless the Commissioner of Education grants a waiver. 3 CMC § 1141.

(2) Educational neglect may be defined as when a person who is responsible for a child six through sixteen who through willful or negligent act or omission fails to provide the child with adequate supervision to ensure attendance at school. Individuals who commit educational neglect are subject to criminal prosecution in accordance with the law.

(3) School employees who suspect that a child is subject to educational neglect shall report this as soon as possible to the principal/designee.

(4) The principal/designee shall review the report and confer with the parent/guardian to resolve the situation. When appropriate, a school counselor, social worker, or nurse may be instructed to offer any appropriate social or health services.

(5) If appropriate school intervention does not correct the student's truancy, and reasonable cause for educational neglect has been determined, the principal/ designee shall call the Division of Youth Services and report the alleged child educational neglect. A report of this call shall be forwarded to the Commissioner and carbon copied to PSS legal counsel.

*So in original.

Modified, 1 CMC § 3806(c), (e), (f).

History: Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001); Amdts Adopted 13 Com. Reg. 7541 (Jan. 15, 1991); Amdts Adopted 12 Com. Reg. 7438 (Oct. 15, 1990) (reserving proposed amendment for further consideration); Amdts Proposed 12 Com. Reg. 7205 (Aug. 15, 1990); Proposed 3 Com. Reg. 1254 (June 30, 1981).

Commission Comment: The 2001 amendments repealed former Board of Education policy 605, entitled "Truancy," and replaced it with this section. See also the commission comment to § 60-20-001.

Subpart D - Student Records

§ 60-20-428 Student Educational Records

(a) Definitions

(1) Permanent records shall include the following information:

(i) The name and sex of the student as given in a legal document, such as a birth certificate, court order or official record of school previously attended.

(ii) Any other name(s) by which the student may be identified.

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- (iii) The student's date of birth and the method of verification of the date of birth for the student.
 - (iv) The name and address of the student's parent/ guardian if the student is a minor.
 - (v) The student's primary language and ethnic background.
 - (vi) A record of the entering and leaving dates for all school sessions previously attended by the student.
 - (vii) A record of the instruction in which the student participated, and of the student's rating or achievement in instruction (student progress report or equivalent).
 - (viii) Test score records.
 - (ix) Any specific health problem and verification of immunization.
 - (x) Insurance company.
 - (xi) Disciplinary records related to all suspensions and expulsions.
 - (xii) Other pertinent educational information, including attendance.
- (2) Directory information means information contained in the education record of a student which would not generally be considered harmful or an invasion of privacy if disclosed. Directory information, under this section, includes, but is not limited to, the student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous school attended.
- (3) Educational record means those records that are directly related to a student and are maintained by the PSS.
- (4) Disclosure means to permit access to or the release, transfer, or other communication of education records, or the personally identifiable information contained in those records, to any party, by any means, including oral, written or electronic means.
- (5) Eligible student means a student who has reached 18 years of age or attends an institution of post-secondary education.
- (6) Parent means a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent/guardian in the absence of a parent/guardian.
- (7) Personally identifiable information includes, but is not limited to the student's name; the name of the student's parent/guardian or other family member; the address of the student or student's family; a personal identifier, such as the student's social security number or student number; a list of personal characteristics that would make the student's identity easily traceable, or other information that would make the student's identity easily traceable.
- (8) Student means any individual who is or has been in attendance in the Commonwealth and about whom the PSS maintains education records.
- (b) General Guidelines
- (1) The PSS shall give full rights under this section to either parent/guardian of a student; unless the PSS is provided with a court order, state law or other legally binding document that specifically revokes the parent/ guardian's rights to access under this section.
- (2) When a student reaches the age of 18, or attends a post-secondary institution of education the parent/ guardian rights under this policy will transfer from the parent/guardian to the student.
- (3)(i) The PSS will annually disseminate a notice of the rights available under this section to parent/guardian and eligible students. The annual notification will include a statement that the parent/guardian or eligible student is entitled:
- (A) To inspect and review the student's educational records.

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- (B) To request changes to the educational records to ensure that the records are not inaccurate, misleading, or otherwise in violation of the student's privacy or other rights.
- (C) To consent to disclosures of personally identifiable information contained in the student's educational records, except to the extent that federal and state law authorize disclosure without such consent; and
- (D) To obtain a copy of this section and guidelines.
- (ii) The annual notification will also inform parent/ guardian and eligible students where copies of the section and guidelines are located.
- (4) Prior to making directory information public, the PSS will notify the parent/guardian regarding the categories of information that it has designated as directory. In addition, the PSS will allow a reasonable period of time after such notice for the parent/guardian or eligible student to inform the PSS that any or all of the designated directory information should not be released without the parents/guardians' or eligible student's consent.
- (5) Principal/designee of the school where access to student records is being requested shall provide a space or room for authorized agency or person requesting access to review records.
- (6) If necessary and requested by the student, parent or guardian, qualified personnel to interpret records will be made available.
- (c) Procedures for Inspection and Review of Educational Records
- (1) The PSS's regulation permits parent/guardian and eligible students to inspect and review the education records of the student.
- (2) After a request for access to records, the PSS will allow access within a reasonable period of time, but in no case more than five days after receipt of the request. All requests for access should be directed to the building administrator.
- (3) After the parent/guardian or eligible student has had an opportunity to inspect and review the student's education records, the parent/guardian may make a request for explanations and interpretations of the records to building administrator. The PSS's designee shall respond to all reasonable requests for explanation or interpretation.
- (4) The PSS will not destroy any education record if there is an outstanding request to inspect and review that record.
- (5) The PSS may charge a fee for copies of education records that are made for a parent/guardian or eligible student, unless that fee would prevent a parent/guardian or eligible student from exercising their rights to inspect and review the student's education records. The PSS will not charge a fee to search for or retrieve a student's education records.
- (6) If a student's education records contain information on more than one student, the parent/guardian or eligible student may inspect, review or be informed of only the specific information about that student.
- (d) Procedures Regarding Disclosure of Personally Identifiable Information Where Consent Is Required
- (1) Before the PSS discloses personally identifiable information from a student's records (other than directory information), the PSS will obtain a signed and dated written consent from the parent/guardian or eligible student. The written consent will specify the records that may be disclosed; state the purpose of the disclosure; and identify the party or parties to whom disclosure may be made.

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(2) If the parent/guardian or eligible student so requests, the PSS will provide him/her with a copy of the records disclosed.

(e) Disclosure of Personally Identifiable Information Where Consent Is Not Required

The PSS may disclose personally identifiable information from a student's education records without the written consent of the parent/guardian or eligible student in the following circumstances:

(1) Disclosure may be made to other school officials, including teachers, within the PSS whom the PSS has determined to have legitimate educational interests. The PSS designates the principal to make the determination as to whether a particular school official has a legitimate educational interest in accessing a student's education records. Before making the determination, the principal shall consult with the PSS legal counsel. Before obtaining access any student's education records, the school official seeking access must submit a written request to the principal. The request must include the student's name, the reason for the request, the school official's name and the date of the request. The PSS's designee must provide in writing whether the request was granted or denied and the reason for the decision. If the request is granted, the request and the designee's decision must be maintained with the student's education records.

(2) Disclosure may be made to officials of another school district or post secondary educational institution where the student seeks or intends to enroll.

(3) Disclosure may be made to authorized federal and state agencies and authorities.

(4) Disclosure of acts of school violence, as set forth in policy 2673, to PSS employees who are directly responsible for the student's education or who interact with the student in the performance of the employee's duties.

(5) Disclosure to appropriate staff members of portions of any student's individualized education program that is related to past or potentially future violent behavior.

(6) Disclosure to law enforcement officials, as soon as is reasonably practicable of the commission of the criminal acts listed in policy 2673.

(7) Disclosure to the appropriate division of the juvenile court of the suspension of more than ten days of any student under court jurisdiction.

(8) Disclosure of discipline records within five days to any requesting school district where the student seeks to enroll.

(9) Disclosure may be made if such disclosure is in connection with financial aid for which the student has applied or which the student has received, if the information is necessary to determine eligibility, amount of aid, condition for the aid, or to enforce the terms and conditions of the aid.

(10) Disclosure may be made to organizations conducting studies for, or on behalf of, educational agencies or institutions to develop, validate or administer predictive tests; administer student aid programs; or improve instruction, if the study is conducted in a way that does not permit personal identification of parent/guardian and students, and the information is destroyed when no longer needed for the purposes for which the study was conducted.

(11) Disclosure may be made to accrediting organizations to carry out their accrediting functions.

(12) Disclosure may be made to comply with a judicial order or lawfully issued subpoena and only after the PSS makes a reasonable effort to notify the parent/guardian or eligible student of the order or subpoena in advance of the compliance.

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(13) Disclosure may be made where the disclosure is in connection with a health or safety emergency and the information is necessary to protect the health or safety of the student or other individuals.

(14) Disclosure may be made where the disclosure is of information the PSS has designated to be directory information.

(15) Disclosure may be made to the parent/guardian of a non-eligible student or to an eligible student.

(16) Disclosure may be made without the written consent of the parent/guardian or eligible student as otherwise may be specified by federal or state law.

(17) The PSS may disclose personally identifiable information from an education record only on the condition that the party to whom the information is disclosed will not disclose the information to any other party without the prior consent of the parent/guardian or eligible student. Each party to whom disclosure may be made under this policy must first sign a statement in which he/she agrees to abide by this provision and agrees to use the information disclosed only for the purposes for which the disclosure was made. This does not apply to disclosures of directory information or to any information that the PSS is required to disclose.

(f) **The Division of Youth Services (DYS) Access to Student Records**

Pursuant to 1 CMC § 2378 the Division of Youth Services (DYS) shall have access to student records with or without the consent or authorization of the student's parent/guardian if that student is a minor, or the consent of the student if that student is eighteen years of age or older. Provided however, that the DYS shall, in writing:

(1) Demonstrate its interest in the student record.

(2) Specify the particular record or information requested.

(3) List the name or names of agency personnel authorized to have access to information being sought.

(g) **Procedures to Request Amendment of a Student's Educational Records**

(1) If a parent/guardian or eligible student believes the education records for that student contain information that is inaccurate, misleading, or in violation of the student's rights of privacy or other rights, he/she may ask the PSS to amend the record. All such requests should be directed to the building administrator.

(2) The PSS's designee, in consultation with the administration or Board of Education as needed, shall decide whether to amend the record as requested within a reasonable time after the request.

(3) If the PSS's designee decides not to amend the record, he/she shall inform the parent/guardian or eligible student of that decision and of their right to request a hearing.

(4) If a hearing is requested, the PSS will hold the hearing within a reasonable time after it has received the request and will give the parent/guardian or eligible student reasonable advance notice of the date, time and place of the hearing. Any individual, including an employee of the PSS, who does not have a direct interest in the outcome of the hearing, may conduct the hearing. The PSS will give the parent/guardian or eligible student a full and fair opportunity to present evidence relevant to the issue(s) raised by the parent/guardian or eligible student's request. The parent/guardian or eligible student may, at their own expense, be assisted or represented at the hearing by any individual of their choice, including an attorney.

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(5) The PSS will make its decision in writing within a reasonable period of time after the hearing. The decision will be based solely on the evidence presented at the hearing, and will include a statement of the evidence and the reasons for the decision.

(i) If the PSS decides, as a result of the hearing, that the information is inaccurate, misleading or violates the student's rights, the PSS shall amend the record and inform the parent/guardian or eligible student of the amendment in writing.

(ii) If the PSS decides, as a result of the hearing, that the information is not inaccurate, misleading, or otherwise in violation of the student's rights, the PSS shall inform the parent/guardian or eligible student of that decision and shall inform the parent/guardian or student of his/her right to place a statement in the record commenting on the contested information or stating why he/she disagrees with the PSS's decision, or both. If the parent/guardian or eligible student submits such a statement, the PSS will maintain that statement with the student's education records as long as the record is maintained and will disclose the statement whenever it discloses the portion of the record to which the statement relates.

(h) Record Keeping Procedures

(1) The PSS will maintain a record of each request for access to and each disclosure of personally identifiable information from the educational records of each student. The building administrator or designee will be responsible for keeping such records of requests and disclosures.

(2) The PSS will maintain the record of each request and disclosure with the educational records of the student as long as the records are maintained by the PSS.

(3) For each request or disclosure, the PSS's record will include the parties who have requested or received personally identifiable information from educational records and the legitimate interests the parties had in requesting or obtaining the information.

(4) If the PSS discloses personally identifiable information from an educational record under the exceptions enumerated in the earlier sections, the PSS will record the names of those persons to whom that party may disclose the information on behalf of the PSS and the legitimate interests which each of the additional parties has in requesting or obtaining the information.

Modified, 1 CMC § 3806(c), (d), (e), (f).

History: Amdts Adopted 24 Com. Reg. 19413 (July 29, 2002); Amdts Proposed 24 Com. Reg. 18852 (Jan. 29, 2002); Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001); Amdts Proposed 20 Com. Reg. 16083 (Aug. 15, 1998); Amdts Adopted 13 Com. Reg. 7541 (Jan. 15, 1991); Amdts Adopted 12 Com. Reg. 7438 (Oct. 15, 1990) (reserving proposed amendment for further consideration); Amdts Proposed 12 Com. Reg. 7205 (Aug. 15, 1990); Proposed 3 Com. Reg. 1254 (June 30, 1981).

Commission Comment: The original paragraphs of subsection (b)(3) were not designated. The Commission designated subsections (b)(3)(i) and (b)(3)(ii).

A notice of adoption for the August 1998 amendments was never published. The 2001 amendments repealed former Board of Education policy 606, entitled "Student Records," and replaced it with this section. The 2002 amendments amended subsection (c)(2) and readopted and republished this section in its entirety. See also the commission comment to § 60-20-001.

In subsections (e)(4) and (e)(6), the references to "policy 2673" are in error. The Board of Education has not published a "policy 2673" in the Commonwealth Register.

The following forms appeared after "Regulation 2420," codified at § 60-20-424:

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Form 2420 FERPA Educational Rights Annual Notification

To All PSS Parents:

The Family Educational Rights and Privacy Act (FERPA) affords parents and students over 18 years of age (eligible students) certain rights with respect to the student's education records.

They are:

1. The right to inspect and review the student's education records within 5 days of the day the PSS receives a request for access. Parents or eligible students should submit to the school principal a written request that identifies the record(s) they wish to inspect. The principal will make arrangement for access and notify the parents or eligible students of the time and place where the records may be inspected.

2. The right to request the amendment of the student's education records that the parents or eligible students believe are inaccurate or misleading. Parents or eligible students may ask the Public School System to amend a record that they believe is inaccurate or misleading. They should write the school principal, clearly identify the part of the record they want changed, and specify why it is inaccurate or misleading.

If the PSS decides not to amend the record as requested by the parent or eligible student, the PSS will notify the parent or eligible student of the decision and advise them of their right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the parent or eligible student when notified of the right to a hearing.

3. The right to consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that FERPA authorizes disclosure without consent.

One exception that permits disclosure without consent is disclosure to school officials with legitimate educational interests. A school official is a person employed by the PSS as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel); a person serving on the School Board; a person or company with whom the PSS has contracted to perform a special task (such as an attorney, auditor, medical consultant, or therapist); or a parent or student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks.

A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.

Upon request, the PSS may disclose education records without consent to officials of another school district in which a student seeks or intends to enroll.

4. Upon request, parents are entitled to a copy of the complete Board policies and regulations regarding student records. Please contact the principal for a copy.

5. The right to file a complaint with the U.S. Department of Education concerning alleged failures by the PSS to comply with the requirements of FERPA. The name and address of the Office that administers FERPA is:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue S.W.
Washington, D.C. 20202-4605

RETURN TO BUILDING PRINCIPAL

I have received and read the annual notice of my rights and those of my child under the Family Educational Rights and Privacy Act (FERPA). Those rights are the:

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Right to inspect.
Right to request amendment.
Right to prevent disclosures.
Right to complain to FERPA office.
Right to obtain a copy of the policy from the PSS.

Parent/Guardian Signature _____ Date _____

History: Amdts Adopted 24 Com. Reg. 19413 (July 29, 2002); Amdts Proposed 24 Com. Reg. 18852 (Jan. 29, 2002); Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001); Amdts Adopted 20 Com. Reg. 15965 (June 15, 1998); Amdts Proposed 19 Com. Reg. 15423 (Aug. 15, 1997).

Commission Comment: The 1998 amendments added a new “policy 603,” entitled “FERPA Notification.” The 2001 amendments repealed former Board of Education policy 603 and replaced it with this form. The 2002 amendments amended number 1 and added a new number 4.

Form 2420.1 FERPA Notice of Designation of Directory Information

The CNMI Public School System has designated certain information contained in the education records of its students as directory information for purposes of the Family Educational Rights and Privacy Act (FERPA).

The following information regarding students is considered directory information: (1) name, (2) address, (3) telephone number, (4) date and place of birth, (5) major field of study, (6) participation in officially recognized activities and sports, (7) weight and height of members of athletic teams, (8) dates of attendance, (9) degrees and awards received, (10) most recent previous school attended by the student, (11) photograph.

Directory information may be disclosed by the Public School System for any purpose in its discretion without the consent of a parent of a student or an eligible student. Parents of students and eligible students have the right, however, to refuse to permit the designation of any or all of the above information as directory information. In that case, this information will not be disclosed except with the consent of a parent or student, or as otherwise allowed by FERPA.

Any parent or student refusing to have any or all of the designated directory information disclosed must file written notification to this effect with the principal of the school which the student attends.

In the event a notification of refusal is not filed, the Public School System assumes that neither a parent of a student or an eligible student objects to the release of the directory information designated.

History: Amdts Adopted 24 Com. Reg. 19413 (July 29, 2002); Amdts Proposed 24 Com. Reg. 18852 (Jan. 29, 2002); Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001).

Subpart E - Student Academic Achievement

§ 60-20-430 Grade Placement for Transfer Students

(a) All students entering the PSS from other educational settings are required to submit evidence of their achievement in the last grade attended, such as a copy of a transcript or report card. Grade placement of a student may be adjusted on the basis of examination of the student's previous record, achievement tests administered, or other factors, which the principal and staff believe are appropriate under the circumstances.

(b) A student shall not be enrolled at any Public School System school without an official transcript or other official school verification of achievement from the previous school. However,

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a student may be permitted to enroll temporarily until an official record is obtained. A grace period of up to one month may be granted in the case of extenuating circumstances or unusual situations.

(c) Transfer of Credits

(1) Religious courses will be accepted for credit using the following guidelines:

(i) No more than one (1) credit will be accepted as a transfer credit.

(ii) Any religious credit transferred will be counted toward, and factored into the student's overall PSS grade point average (GPA).

(2) Courses taken outside of the Public School System may be transferred which meet any of the following criteria:

(i) It is an U.S. accredited institution;

(ii) The institution's primary language of instruction is English;

(iii) The subject area coverage and time allotment are parallel to PSS; or

(iv) Credit by examination may be used as appropriate.

Modified, 1 CMC § 3806(e), (f).

History: Amdts (addendum) Adopted 40 Com. Reg. 40899 (Aug. 28, 2018); Amdts (addendum) Proposed 40 Com. Reg. 40698 (May 28, 2018); Amdts Adopted 31 Com. Reg. 29986 (Dec. 22, 2009); Amdts Proposed 31 Com. Reg. 29888 (Sept. 28, 2009); Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001); Amdts Adopted 13 Com. Reg. 7541 (Jan. 15, 1991); Amdts Adopted 12 Com. Reg. 7438 (Oct. 15, 1990) (reserving proposed amendment for further consideration); Amdts Proposed 12 Com. Reg. 7205 (Aug. 15, 1990).

Commission Comment: The 1991 amendments added "policy 412," entitled "Transfer of Credits." The notice of adoption for the 1991 amendments changed the proposed language of the policy. See 13 Com. Reg. at 7552 (Jan. 15, 1991). The 2001 amendments repealed former Board of Education policy 412 and replaced it with this section, entitled "Grade Placement for Transfer Students."

The 2018 amendments, proposed in 40 Com. Reg. 40698 (May 28, 2018), included the following language: "Subpart E - Student Academic Achievement, Regulation §60-20-430 Grade Placement for Transfer Students is hereby amended to include an Addendum."

Addendum

Addendum Proposal

Receiving Credits Toward Graduation

- A **Transfer In:** Students who are enrolled in post-secondary or trades institutions OR who transfer to PSS from other schools with transcripts from secondary and/or post-secondary institutions, may receive credit for courses that have met or exceeded the CNMI PSS required courses as assessed by the school counselor and concurred by the principal in meaningful consultation with the Office of Curriculum & Instruction (OCI)

§ 60-20-432 Promotion and Retention

- (a) Promotion

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A student will be promoted to the next grade level when he/she satisfactorily completes the instructional curriculum in a particular grade. Satisfactory completion shall mean:

(1) Elementary School

An elementary school student shall be promoted when he/she meets the minimum requirements as established by the Commonwealth standards and benchmarks as outlined in the policies and regulations regarding instruction and curriculum.

(2) Secondary School

(i) The promotion of a secondary school student will be determined based on the successful completion of the designated number of credits required to advance from grade to grade. The designated number of credits will be established at the start of the school year.

(ii) Class standing for students in grades 9 through 12 shall be:

(A) Freshman: 0 to 7 credits

(B) Sophomore: 8 to 14 credits

(C) Junior: 15 to 21 credits

(D) Senior: 22 - up credits.

(3) Special Education Students

The IEP team shall determine the promotion of special education students.

(b) Retention

(1) Any student not satisfying the above requirements shall be retained with two exceptions:

(i) The Commissioner may waive the promotion requirements based on extenuating circumstances such as illness or other unavoidable circumstances.

(ii) For students who have been retained at any time during their experience in the CNMI public school system, a child study team shall review the performance of the student to determine the appropriate placement.

(2) When reviewing the retention of a student for the second time, the child study team shall consider the following factors:

(i) Academic achievement in all subject areas, especially attainment of grade level objectives, as determined by tests, teacher assignment, and work samples.

(ii) Chronological age.

(iii) Study habits.

(iv) Attendance.

(v) Social and emotional maturity.

(3) During the school year following any retention of a student, a child study team shall meet no less than two times to review the performance and progress of the student.

(c) Notification

As soon as possible after it is determined that a student is not going to satisfactorily complete the instructional curriculum for that semester, the teacher and counselor shall notify the principal. The principal shall notify the parent/guardian and a meeting will be scheduled. The parent/guardian will be informed that the student is not meeting grade level expectations and will be referred to the child study team to determine the appropriate interventions.

(d) Out of Grade Promotion

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The principal in consultation with a teacher and counselor shall consider out of grade promotions only after the completion of the first semester of a school year. Out of grade promotions will be based on the following criteria:

- (1) A student must maintain between a 3.7 to a 4.0 GPA for the first semester of the year;
- (2) A student must take a U.S. standardized aptitude, achievement or subject area test and score in the 90th percentile of U.S. norm or local norm whichever is applicable; and
- (3) The teacher(s) from whom the student receives at least fifty percent of direct instruction shall recommend in writing an out of grade level promotion to the principal. The recommendation shall include a student observation report, periodic student class tests, initial language placement test results, and such other documents as requested by the principal.

Modified, 1 CMC § 3806(f), (g).

History: Amdts Adopted 27 Com. Reg. 24774 (Aug. 22, 2005); Amdts Proposed 27 Com. Reg. 24615 (June 20, 2005); Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001); Amdts Adopted 13 Com. Reg. 7666 (Mar. 15, 1991); Amdts Proposed 13 Com. Reg. 7518 (Jan. 15, 1991); Proposed 3 Com. Reg. 1254 (June 30, 1981).

Commission Comment: The original paragraphs of subsection (a) were not designated. The Commission designated subsections (a)(1) through (a)(3). The Commission also designated subsection (b)(3).

The 2001 amendments repealed former Board of Education policy 405, entitled “Assignment of Grades,” and replaced it with this section. The notice of adoption for the 2001 amendments changed the proposed language of subsections (a) and (b)(2). See also the commission comment to § 60-20-001.

The 2005 amendments added new subsection (a)(2)(ii) and repromulgated this section in its entirety.

In subsection (a)(2)(ii)(D), the Commission inserted the final period.

§ 60-20-434 Promotion and Graduation Requirements

- (a) A student shall be promoted to the next higher grade level when he/she meets the minimum requirements as established by the Commonwealth Standards and Benchmarks as outlined in the policies and regulations regarding instruction and curriculum.

Subject	6th	7th	8th
English Language Arts •English Language Arts in grades 6th, 7th & 8th grade integrate literature, informational text, foundation skills, writing, speaking & listening as outlined in the Common Core. The	Language Arts 1 •Core Emphasis: *The information is too large. Please hold Ctrl + Click to see the hyperlink. http://www.corestandards.org/ELA-Literacy/RL/6	Language Arts 2 •Core Emphasis: *The information is too large. Please hold Ctrl + Click to see the hyperlink. http://www.corestandards.org/ELA-Literacy/RL/7	Language Arts 3 •Core Emphasis: *The information is too large. Please hold Ctrl + Click to see the hyperlink. http://www.corestandards.org/ELA-Literacy/RL/8

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<p>standards are similar from one grade to the next, but become more rigorous in terms of the tasks.</p>			
<p>Mathematics</p> <p>•Mathematic standards in grade 6th, 7th & 8th in the Common Core are integrated. For example, there isn't a distinction between Algebra and Pre-Algebra or Geometry. Rather, the standards address components of each umbrella progressively. With each grade, more concepts from different components of math are added and tasks that draw correlations between the components address the integration and rigor.</p>	<p>Mathematics I</p> <p>(1) connecting ratio and rate to whole number multiplication and division and using concepts of ratio and rate to solve problems;</p> <p>(2) completing understanding of division of fractions and extending the notion of number to the system of rational numbers, which includes negative numbers;</p> <p>(3) writing, interpreting, and using expressions and equations; and</p> <p>(4) developing understanding of statistical thinking</p>	<p>Mathematics II</p> <p>(1) developing understanding of and applying proportional relationships;</p> <p>(2) developing understanding of operations with rational numbers and working with expressions and linear equations;</p> <p>(3) solving problems involving scale drawings and informal geometric constructions, and working with two- and three-dimensional shapes to solve problems involving area, surface area, and volume; and</p> <p>(4) drawing inferences about populations based on samples.</p>	<p>Mathematics III</p> <p>(1) developing understanding of and applying proportional relationships;</p> <p>(2) developing understanding of operations with rational numbers and working with expressions and linear equations;</p> <p>(3) solving problems involving scale drawings and informal geometric constructions, and working with two- and three-dimensional shapes to solve problems involving area, surface area, and volume; and</p> <p>(4) drawing inferences about populations based on samples.</p>
<p>Science</p> <p>•Earth & Space, Life and Physical Sciences, and Engineering will be taught with</p>	<p>Science I</p> <p>(1) Earth & Space Science: Earth systems; Weather & Climate; Human Impacts</p>	<p>Science II</p> <p>(1) Earth & Space Science: History of Earth; Earth systems; Human</p>	<p>Science III</p> <p>(1) Earth & Space Science: History of Earth; Earth systems; Human</p>

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<p>increasing depth and sophistication in each grade level</p>	<p>on the Environment (2) Life Science: Genetics; Growth, Develop & Reproduction of organisms (3) Physical Science: Energy; Waves & Electromagnetic Radiation (4) Engineering Design</p>	<p>Impacts on the Environment (2) Life Science: Ecosystems (3) Physical Science: Matter; Chemical Reactions (4) Engineering Design</p>	<p>Impacts on the Environment (2) Life Science: Genetics; Natural Selection (3) Physical Science: Forces & Interaction; Waves & Electromagnetic Radiation (4) Engineering Design</p>
<p>Social Studies</p> <p>•The CNMI has local standard for Social Students. These standards regulate the course of student specific to each grade level.</p>	<p>Pacific Regional History</p> <p>Students will be explore the history of the pacific Oceania region and draw correlations to the significance of the CNMI.</p>	<p>World History, Civilizations & Geography</p> <p>World physical and cultural terms and geographic features and world chronological events and their relationships</p>	<p>Civics & Economics Values and Principles of American Democracy and the nature and role of government and citizenship.</p>
<p>Foreign Language</p> <p>*•In the both the</p> <p>(1) Communication - Interpersonal, Interpretive, and Presentational (2) Cultures - Practices and Perspectives, and Products and Perspectives (3) Connections - Knowledge of Other Disciplines and distinctive Viewpoints (4) Comparisons - Nature of</p>	<p>Chamorro/ Carolinian Language Heritage Studies I</p> <p>Linguistic Comparison: Compare word roots to determine word meaning and address cultural investigation as well as practice in speaking, listening, & writing in Chamorro or Carolinian.</p>	<p>Chamorro/ Carolinian Language Heritage Studies II</p> <p>Linguistic Comparison: Identify prefixes and suffixes to determine word meanings and identify and discuss less familiar cognates and sentence structure comparisons to improve language skills; additionally, student will continue to investigate Chamorro or Carolinian mores and continue practicing</p>	<p>Chamorro/ Carolinian Language Heritage Studies III</p> <p>Linguistic Comparison: Identify and discuss less familiar cognates and sentence and structure comparisons to improve language skills. Student will continue to discuss the cultural values and mores and practice reading, writing, and speaking in Chamorro or Carolinian.</p>

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<p>Language and Culture (5) Family and Community - Beyond the School Setting and Life-long Learners</p>		<p>speaking, listening, and writing in either language.</p>	
<p>Physical & Health Education (1 semester)</p> <p>Student will explore movement, health and wellness, physical fitness, explore personal and social behaviors and interactions. The curriculum will address healthy lifestyles practices that address adolescent development.</p>	<p>Physical & Health Education I (1 semester)</p> <p>Student will explore movement, health and wellness, physical fitness, explore personal and social behaviors and interactions. The curriculum will address healthy lifestyles practices that address adolescent development.</p>	<p>Physical & Health Education II (1 semester)</p> <p>In order to continue to promote health and wellness student will continue to explore movement, health and wellness, physical fitness, explore personal and social behaviors and interactions. The curriculum will address healthy lifestyles practices that address adolescent development.</p>	<p>Physical & Health Education III (1 semester)</p> <p>In order to continue to promote health and wellness, student will explore movement, health and wellness, physical fitness; explore personal and social behaviors and interactions. The curriculum will address healthy lifestyles practices that address adolescent development.</p>
<p>Computer Literacy (1 semester)</p> <p>•In order to address the technology standards, the recommendation is to have student complete two years of course work in computer literacy to address the 6 technology standards. Additionally, the recommendation is to</p>	<p>Computer Literacy I (1 semester)</p> <p>•The essential goal of CNMI PSS Technology Plan is founded on improving student achievement through the use of technology. By the year 2015, every student in the CNMI PSS will achieve technology literacy by being able to use</p>	<p>Computer Literacy II (1 semester)</p> <p>•The essential goal of CNMI PSS Technology Plan is founded on improving student achievement through the use of technology. By the year 2015, every student in the CNMI PSS will achieve technology literacy by being able to use</p>	<p>Computer Literacy III (1 semester)</p> <p>•The essential goal of CNMI PSS Technology Plan is founded on improving student achievement through the use of technology. By the year 2015, every student in the CNMI PSS will achieve technology literacy by being able to use computers and other</p>

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<p>have student complete this course work prior to the 8th grade.</p>	<p>computers and other technology to improve learning, productivity, and performance across all content areas. The objective is to have 95% of 8th grade students meeting or exceeding standards for technology literacy.</p> <p>Students will demonstrate developmentally appropriate technology operations and concepts, use of basic applications and tools, use of research tools, ability to use telecommunications, use of technology in problem solving and decision making skills, and knowledge of social, ethical, and human issues.</p>	<p>computers and other technology to improve learning, productivity, and performance across all content areas. The objective is to have 95% of 8th grade students meeting or exceeding standards for technology literacy.</p> <p>Students will demonstrate developmentally appropriate technology operations and concepts, use of basic applications and tools, use of research tools, ability to use telecommunications, use of technology in problem solving and decision making skills, and knowledge of social, ethical, and human issues.</p>	<p>technology to improve learning, productivity, and performance across all content areas. The objective is to have 95% of 8th grade students meeting or exceeding standards for technology literacy.</p> <p>Students will demonstrate developmentally appropriate technology operations and concepts, use of basic applications and tools, use of research tools, ability to use telecommunications, use of technology in problem solving and decision making skills, and knowledge of social, ethical, and human issues.</p>
<p>Career and Technical Education Program (1 semester)</p> <p>Students will explore career and workforce related subjects. Additionally, they will be given the opportunity to learn and apply successful professional and</p>	<p>Must complete 1 semester College and Career Technical Courses per year in either one of the following courses:</p> <ul style="list-style-type: none"> ○ Leadership Corps ○ Family and Consumer Science ○ Architecture and Construction ○ Business Education ○ Introduction to College ○ Career Exploration 		

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vocational practices.	
<p>Fine Arts (1 semester)</p> <p>Student will be given an opportunity to explore the visual and performing arts, music, graphic design, and other artistic mediums where available.</p>	<p>Must complete a 1 semester of Fine Arts per year in the either one of the following courses:</p> <ul style="list-style-type: none"> ○ Performing Arts ○ Integrated Art ○ Music ○ Graphic Design

(b) Graduation Requirements for High School Level

(1) A minimum of 28 credits will be required for graduation from the 12th grade. Required subjects constitute 23 credits and are as follows:

English	8 credits
Integrated literature and composition 9th grade	2
Integrated literature and composition 10th grade	2
Technical research/business writing 11th grade	1
American literature 11th grade	1
British literature 12th grade	2
Mathematics	6
Algebra I, geometry, algebra II	
Social Studies	3
NMI history, US/world history and US government/economics	
Science	3
Environmental science, biology, chemistry	
Physical Education	2+
Language other than English	1
TOTAL	23

+ 1 credit of JROTC may be substituted for 1 credit of physical education. 0.5 credits of the physical education credits must include a health course.

(2) Receiving Credits Toward Graduation

(i) Transfer In. Students who are enrolled in post-secondary or trade institutions or who transfer to PSS from other schools with transcripts from secondary and/or post-secondary institutions, may receive credit for courses that have met or exceeded the CNMI PSS required

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courses as assessed by the school counselor and concurred by the principal in meaningful consultation with the Office of Curriculum & Instruction (OCI).

(ii) Career Track. Students who elect a career path may receive credits for content courses aligned with their career track, as assessed by the school counselor and concurred by the principal in meaningful consultation with OCI as long as the content courses meet the requirements prescribed in the career track.

(iii) Other. Other courses may fulfill graduation requirements that meet the required number of credits for each content, as needed and as assessed by the school counselor and concurred by the principal in meaningful consultation with OCI.

(iv) Prescribed Track. There are no changes for students who wish to follow the prescribed education requirements as approved by the State Board of Education.

(3) Credit Equivalency. Credits from other secondary, post-secondary, and/or trade institutions will be transferable as the PSS equivalent for the completed course. The equivalency will be based on a course-to-course assessment. Example. An NMC 3-4 English credit course will transfer to PSS as an ELA 2 credit course.

(c) Residency Requirement. A student must have completed at least one semester immediately prior to obtaining a high school diploma. A student must be enrolled as a full-time student.

*So in original.

Modified, 1 CMC § 3806(d), (e), (f), (g).

History: Amdts Adopted 40 Com. Reg. 40899 (Aug. 28, 2018); Amdts Proposed 40 Com. Reg. 40698 (May 28, 2018); Amdts Adopted 36 Com. Reg. 035887 (Dec. 28, 2014); Amdts Proposed 32 Com. Reg. 35614 (Oct. 28, 2014); Amdts Adopted 27 Com. Reg. 25398 (Dec. 30, 2005); Amdts Proposed 27 Com. Reg. 25027 (Oct. 24, 2005); Amdts Adopted 27 Com. Reg. 24774 (Aug. 22, 2005); Amdts Proposed 27 Com. Reg. 24615 (June 20, 2005); Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001); Amdts Proposed 20 Com. Reg. 15901 (June 15, 1998); Amdts Proposed 18 Com. Reg. 14484 (Nov. 15, 1996); Amdts Proposed 17 Com. Reg. 12699 (Jan. 15, 1995); Amdts Adopted 13 Com. Reg. 7666 (Mar. 15, 1991); Amdts Proposed 13 Com. Reg. 7518 (Jan. 15, 1991); Amdts Adopted 11 Com. Reg. 6604 (Oct. 15, 1989); Amdts Proposed 11 Com. Reg. 6481 (Sept. 15, 1989); Amdts Proposed 11 Com. Reg. 6358 (Aug. 15, 1989); Amdts Adopted 8 Com. Reg. 4692 (Oct. 22, 1986); Amdts Proposed 8 Com. Reg. 4601 (Sept. 15, 1986); Amdts Adopted 5 Com. Reg. 2504 (Dec. 15, 1983); Amdts Proposed 5 Com. Reg. 2470 (Oct. 20, 1983).

Commission Comment: The 1983 amendments added a section entitled “Grade Level Assignment and Promotion,” without specifying a policy number. The 2001 amendments repealed former Board of Education policies 400-419 and 600-624, regarding the instructional program in the PSS and students. Although it is not clear whether the “Grade Level Assignment and Promotion” policy was specifically repealed, it is duplicative of and inconsistent with this section. The Commission, therefore, removed the policy from the PSS Rules and Regulations and cited it as history to this section.

The 1983 amendments also added a section entitled “Graduation Requirements” without specifying its place in the then-existing regulations. The 1986 amendments referred to this policy as “policy 408” and amended the original 1983 provisions. The 1989 amendments adopted a “Graduation Policy.” Although it did not specifically amend former policy 408, section A of the 1989 Graduation Policy, entitled “Graduation Requirements” duplicated and amended the provisions of former policy 408. The 1991 amendments readopted and republished policy 408 in its entirety.

Notices of adoption for the January 1995, November 1996 and June 1998 proposed amendments were never published.

The 2001 amendments repealed former Board of Education policy 408, entitled “Graduation,” and replaced it with subsections (a) and (b) of this section and § 60-20-436.

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The December and August 2005 amendments amended subsections (a) and (b). The 2005 amendments did not address subsection (c) and, therefore, the Commission has retained this provision.

In December 2014, the Commission reformatted the table in this section, changed the word “Identify” to “Identify” in column three of the table, and changed the word “Principals” to “Principles” in column four pursuant to 1 CMC § 3806(g). Because the notice and proposed language did not contain or address any subsections, the Commission did not retain any existing subsections and codified the section as proposed by the Board of Education.

In January 2016, upon receiving clarification concerning the December 2014 amendments, the Commission retained subsections (b) and (c) and applied the December 2014 amendments to subsection (a) only.

§ 60-20-436 Ceremonies and Awards

High school graduation ceremonies will be held at the end of each school year.

(a) Valedictorian and the Salutatorian

During the graduation ceremony, two students who are school’s highest achievers shall deliver the valedictory and salutatory speeches. The Valedictorian shall have earned the highest grade point average at the school. The Salutatorian shall be the student with the second highest grade point average at the school. Both the Valedictorian and the Salutatorian must meet the following criteria:

- (1) The student must be enrolled for three complete school years in any public high school in the CNMI.
- (2) Students achieved the highest and second highest grade point averages in all courses for graduation as computed in percentages;
- (3) The students must not have taken a remedial course or repeated a course during the last three years of high school.
- (4) The students’ completed courses must include a minimum of fifty percent honor or AP courses in the core subject areas of language arts, math, science and social studies offered during the students enrollment with the high school unless such courses are not offered.
- (5) The students must not have had significant disciplinary problems as determined by the principal.
- (6) If either of the students with the highest grade point average do not qualify, the award shall go the student with the highest grade point average who meets the criteria.

(b) High School Graduation Awards⁺

The following awards may be distributed during graduation. Any other awards will be distributed during special award ceremonies. The graduation awards may include:

- (1) The Board of Education Award shall go the Valedictorian.
- (2) The Commissioner’s Award shall go the Salutatorian.
- (3) The Presidential Academic Fitness Awards (PAFA) shall go to the student who meets the requirements as stipulated in the PAFA.
- (4) The Principal’s Award shall go to the student who meets the requirements as established by the principal.
- (5) The Educational Achievement/Top Ten Award shall go to the Valedictorian, the Salutatorian and the next eight students with the highest grade point averages as computed in percentage. These students must have attended any public high school for three years in the CNMI. Student who are in the top ten must not have taken remedial courses or repeated any course.

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(6) Honorable Mention shall go to the students who would have earned the Educational Achievement/Top Ten Award but have not met the school attendance requirement of three years shall be accorded honorable mention during the graduation ceremony and awards may be presented as appropriate.

(c) Special Award Ceremonies⁺

Special award ceremonies may be held to honor and recognize students who are eligible for any other awards. Special awards may include:

(1) Department Awards

Department awards shall be presented to the two highest achievers for each academic department and the highest in each vocational education department in terms of grade point average as computed in percentage.

(2) Outstanding Female Graduate (OFEGRA)

This award shall be presented to a graduating female student based on the criteria established by the Office of Women's Affairs, the school principal, teachers and counselors, and concurred by the Board of Education.

(3) School Leadership/Governor's Award

This award shall be given to the graduating student who exhibits the highest leadership qualities as determined by the principal, counselor and teaching staff.

(4) Parents/Teachers Association Award

This award shall be presented to graduating students who meet the criteria established by the PTA.

(d) 8th Grade Special Awards⁺

(1) Board of Education's and Commissioner's Awards

These awards go to the two highest grade point average holders as computed in percentage, respectively. These students must be enrolled in a CNMI public school in the 7th and 8th grade. These students must not have taken any remedial courses or repeated any courses.

(2) President Academic Fitness Awards (PAFA)

These awards are determined by the PAFA requirements.

(3) Subject Awards

Students who maintained the highest grade point average in the respective subject areas as computed in percentage for the last two years, 7th and 8th grades.

(4) School Leadership Award

A leadership award shall be presented to the student who exhibits leadership qualities as determined by the principal, counselor and teaching staff.

(5) Honorable Mention

This recognition shall be given to those students who would have received the Board of Education or the Commissioner's Award but who did not attend the respective school for both the 7th and 8th grade.

⁺Each school may establish additional written criteria for the selection of graduation and special awards recipients. Schools may refuse to offer awards to qualified students for disciplinary reasons.

Modified, 1 CMC § 3806(e), (f).

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History: Amdts Adopted 24 Com. Reg. 19413 (July 29, 2002); Amdts Proposed 24 Com. Reg. 18852 (Jan. 29, 2002); Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001); Amdts Proposed 20 Com. Reg. 15901 (June 15, 1998); Amdts Proposed 18 Com. Reg. 14484 (Nov. 15, 1996); Amdts Proposed 17 Com. Reg. 12699 (Jan. 15, 1995); Amdts Adopted 13 Com. Reg. 7666 (Mar. 15, 1991); Amdts Proposed 13 Com. Reg. 7518 (Jan. 15, 1991); Amdts Adopted 11 Com. Reg. 6604 (Oct. 15, 1989); Amdts Proposed 11 Com. Reg. 6481 (Sept. 15, 1989); Amdts Proposed 11 Com. Reg. 6358 (Aug. 15, 1989); Amdts Adopted 8 Com. Reg. 4692 (Oct. 22, 1986); Amdts Proposed 8 Com. Reg. 4601 (Sept. 15, 1986); Amdts Adopted 5 Com. Reg. 2504 (Dec. 15, 1983); Amdts Proposed 5 Com. Reg. 2470 (Oct. 20, 1983).

Commission Comment: The Commission designated subsections (a)(6).

The 1983 amendments added a policy entitled “Graduation Requirements” without specifying its place in the then-existing regulations. The 1986 amendments referred to this section as “policy 408” and amended the original 1983 provisions. The 1989 amendments adopted a “Graduation Policy.” Although it did not specifically amend former policy 408, section A of the 1989 Graduation Policy, entitled “Graduation Requirements” duplicated and amended the provisions of former policy 408. The 1991 amendments readopted and republished policy 408 in its entirety.

Notices of adoption for the January 1995, November 1996 and June 1998 proposed amendments were never published.

The 2001 amendments repealed former Board of Education policy 408, entitled “Graduation,” and replaced it with this section and § 60-20-434.

The 2002 amendments amended subsections (a)(2) and (a)(4) and readopted and republished this section in its entirety.

Subpart F - Discipline

§ 60-20-438 Jurisdiction

(a) The student discipline regulations apply in all situations in which students are involved, including, but not limited to:

- (1) School activities on property owned, rented, leased, or otherwise occupied by the CNMI Board of Education, Public School System (PSS), or Commonwealth government;
- (2) Any travel to and from the school site, whether on school buses, school vehicles, or during official school sanctioned trips;
- (3) Off-site school sponsored activities;
- (4) On or off-site school-related problems which are the result or cause of disruptive behavior on school grounds; or
- (5) Violent acts or behavior that occur off school property, pose a threat to the safety of students and/or faculty, or disrupt the learning environment.

(b) The fact that a student withdraws from PSS or transfers to another school after the alleged commission of a prohibited act shall not be construed to deprive PSS of jurisdiction to suspend or expel the student.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 40 Com. Reg. 40903 (Aug. 28, 2018); Amdts Proposed 40 Com. Reg. 40682 (May 28, 2018); Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001); Amdts Adopted 22 Com. Reg. 17361 (Aug. 18, 2000); Amdts Proposed 22 Com. Reg. 17257 (June 20, 2000); Amdts Proposed 20 Com. Reg. 16083 (Aug. 15, 1998); Amdts Adopted 18 Com. Reg. 14668 (Nov. 15, 1996); Amdts Proposed 17 Com. Reg. 13767 (Nov. 15, 1995); Amdts Emergency 17 Com. Reg. 13754 (Nov. 15, 1995) (effective for 120 days from November 13, 1995).

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Commission Comment: The 1996 amendments adopted a new policy 609, entitled “Student Disciplinary Code,” and rescinded and replaced former policies 609, entitled “Daily Operational Discipline Guidelines,” and 610, entitled “Student Suspension and Expulsion.” See 18 Com. Reg. at 14668 (Nov. 15, 1996). The notice of adoption for the 1996 amendments also stated that former policy 617 was rescinded and replaced. The Commission could not determine the promulgated policy to which “policy 617” refers.

A notice of adoption for the August 1998 proposed amendments was never published.

The 2000 amendments readopted and republished “policy 609,” entitled “Student Discipline,” in its entirety with numerous amendments. The 2001 amendments repealed former Board of Education policy 609, entitled “Student Discipline,” and replaced it with the sections in subpart F.

The history of former policy 609, entitled “Daily Operational Discipline Guidelines” is as follows: Amdts Adopted 14 Com. Reg. 9285 (May 26, 1992); Amdts Proposed 13 Com. Reg. 8164 (Oct. 15, 1991).

§ 60-20-440 Day to Day Discipline

Principals and designated personnel are specifically authorized by this policy to impose or recommend day to day discipline including, but not limited to, in-house detention, parent conferences, counseling sessions, work detail, community service, appropriate restitution, behavioral intervention plans, and any reasonable disciplinary measures.

History: Amdts Adopted 40 Com. Reg. 40903 (Aug. 28, 2018); Amdts Proposed 40 Com. Reg. 40682 (May 28, 2018); Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001).

Commission Comment: The 2001 amendments repealed former Board of Education policy 609, entitled “Student Discipline,” and replaced it with the sections in subpart F.

§ 60-20-442 Detention

(a) The provisions of a detention program for student violations of policies, rules, and regulations shall provide principals with an additional alternative for dealing with disciplinary problems that occur in the schools. Detention is an assigned before-school and/or after-school period, during which student activity is closely monitored and severely restricted. Students will be required to adhere to all detention rules.

(b) School administrators and certified personnel detain students after normal school hours for a reasonable time provided the following conditions are observed, but not longer than daily instructional hours:

- (1) Parents will be notified before detention so that transportation is arranged beforehand;
- (2) The names of all students detained must be reported to the principal or designee.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 40 Com. Reg. 40903 (Aug. 28, 2018); Amdts Proposed 40 Com. Reg. 40682 (May 28, 2018); Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001).

Commission Comment: The 2001 amendments repealed former Board of Education policy 609, entitled “Student Discipline,” and replaced it with the sections in subpart F.

§ 60-20-444 In-school Suspension

In-school suspension is a structured disciplinary action in which a student is removed from regular classroom activities, but is not dismissed from the school setting. The principal/designee may assign students to the in-school suspension program for a reasonable and specified period of time. All schools are required to have In-School Suspension (ISS) policies that ensure students are provided instructional services during ISS.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 40 Com. Reg. 40903 (Aug. 28, 2018); Amdts Proposed 40 Com. Reg. 40682 (May 28, 2018); Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001).

Commission Comment: The 2001 amendments repealed former Board of Education policy 609, entitled “Student Discipline,” and replaced it with the sections in subpart F.

§ 60-20-446 Offense Categories

The offense categories set out in this section are intended to be illustrative but not an exclusive listing of acts of misconduct and the consequences for each. Misconduct that is not specifically listed in this section may be deemed to warrant discipline up to and including expulsion following provision of all due process procedures. In addition, the disciplinary consequence listed for each offense may be increased or decreased by the administration or the Board due to mitigating or aggravating circumstances.

(a) Category I – Examples of offenses which may result in suspension:

- (1) Academic dishonesty (cheating on tests, copying term papers, forging signature of teacher or parent);
- (2) Disrespect to teacher/staff;
- (3) Gambling;
- (4) Harassment, including, but not limited to, nuisance phone calls to students or staff members; continued comments or passing unofficial notes to another individual who wishes not to hear or receive the notes;
- (5) Igniting matches (when not part of the instructional program);
- (6) Refusing to cooperate with school transportation regulations;
- (7) Refusing to cooperate with school rules and regulations;
- (8) Refusing to serve detention;
- (9) Tardiness (class/classes);
- (10) Tardiness (school day);
- (11) Truancy (class/classes);
- (12) Truancy (school day);
- (13) Possession and/or use of tobacco or cigarette rolling papers;
- (14) Possession and/or distribution of drug paraphernalia;
- (15) Excessive foul or abusive language;
- (16) Possession and/or distribution of pornography;
- (17) Failure to assume responsibility for, or to control his/her behavior.

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- (b) Category II – Examples of offenses for which the student will normally be suspended and which may result in expulsion and referral to law enforcement:
 - (1) Assault on a student;
 - (2) Chronic disruption of the school program and/or activities;
 - (3) Bullying:
 - (i) Physical – includes hitting, kicking, tripping, pinching, and pushing, or damaging property;
 - (ii) Verbal – includes name calling, insults, teasing, intimidation, homophobic or racist remarks, or verbal abuse;
 - (iii) Social – includes:
 - (A) Lying and spreading rumors;
 - (B) Negative facial or physical gestures, menacing or contemptuous looks;
 - (C) Playing nasty jokes to embarrass and humiliate;
 - (D) Mimicking unkindly;
 - (E) Encouraging others to socially exclude another;
 - (F) Damaging someone’s social reputation or social acceptance.
 - (iv) Cyber – includes:
 - (A) Abusive or hurtful texts, emails or posts, images or videos;
 - (B) Deliberately excluding others online;
 - (C) Nasty gossip or rumors;
 - (D) Identity theft: imitating others online or accessing their content.
 - (4) Possession and/or use of electronic devices are prohibited without prior and written approval from the school principal;
 - (5) Destruction and vandalism of school property, personal property of students and/or faculty;
 - (6) Receipt, sale, possession, or distribution of property stolen from CNMI Public School System valued less than \$300;
 - (7) Distribution, attempt to distribute, or possession with intent to distribute a non-controlled substance upon the representation that the substance is a controlled substance;
 - (8) Extortion less than \$300;
 - (9) False fire alarm/false fire report;
 - (10) Harrasment for any reason including, but not limited to, sex, sexual orientation, color, race, religion, national origin, and disability;
 - (11) Indecent exposure;
 - (12) Participating in, or inciting, a school disruption;
 - (13) Possession and/or detonation of an incendiary or explosive material and/or device (firecracker or greater);
 - (14) Possession, use, or distribution of controlled substance-related paraphernalia (other than betel nut or cigarette rolling papers (see category I));
 - (15) Theft and/or knowingly possessing stolen property;
 - (16) Trespassing on school property;
 - (17) Possession and/or use of tobacco or cigratte rolling paper, repeated offense;
 - (18) Posession and/or use of betel nut (pugua) and/or betel nut paraphernalia, repeated offense;
 - (19) Fighting;
 - (20) Conspiracy involving two or more persons to commit a category II offense;
 - (21) Arson;
 - (22) Conspiracy between two or more persons to commit a category III offense;

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- (23) Destruction and/or vandalism of school property, personal property of students and/or faculty valued at more than \$300;
 - (24) Receiving, selling, possessing, or distributing property stolen from the CNMI Public School System valued at \$300 or more;
 - (25) Distribution and/or sale of alcohol;
 - (26) Distribution and/or sale of controlled substances (illegal drugs), excluding betel nut;
 - (27) Possession or use of a weapon or look alike weapon of any kind (other than a firearm) including, but not limited to, knives, throwing star, straight razor, nunchaku, spiked glove, spiked wristband, or any mace, tear gas, or pepper-spray derivative. Mace, tear gas, and peper-spray derivatives may be carried with prior, written approval from the Commissioner of Education;
 - (28) Extortion of \$300 or more;
 - (29) Possession of alcohol;
 - (30) Possession of illegal drugs, including betel nut;
 - (31) Prescription violation (misuse of properly prescribed medicine including, but not limited to, such drugs as amphetamines and barbiturates). Possession of prescription drugs without prior authorization for prescribing medication (office policy);
 - (32) Robbery;
 - (33) Use of alcohol, under the influence of alcohol, or showing evidence of having consumed alcohol;
 - (34) Use of intoxicants which cause a loss of self-control or inebriation which include, but are not limited to, glue and solvents, excluding betel nut;
 - (35) Violent behavior which creates a substantial danger to persons or property;
 - (36) Any crime that is designated a felony by CNMI or federal statutes.
- (c) Category III – Offenses which shall result in expulsion and referral to law enforcement:
- (1) Possession, use, purchase, or sale of a firearm;
 - (i) A firearm is defined as:
 - (A) Any weapon which will, or is designed to or may readily be converted to expel a projectile by the action of an explosive; or
 - (B) The frame or receiver of any weapon which will, or is designed to or may be readily converted to expel a projectile by the action of an explosive.
 - (2) Acts of terrorism (such as bomb threats);
 - (3) Fraud and/or identity theft.

Modified, 1 CMC § 3806(f), (g).

History: Amdts Adopted 40 Com. Reg. 40903 (Aug. 28, 2018); Amdts Proposed 40 Com. Reg. 40682 (May 28, 2018); Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001); Amdts Adopted 22 Com. Reg. 17361 (Aug. 18, 2000); Amdts Proposed 22 Com. Reg. 17257 (June 20, 2000); Amdts Proposed 20 Com. Reg. 16083 (Aug. 15, 1998); Amdts Adopted 18 Com. Reg. 14668 (Nov. 15, 1996); Amdts Proposed 17 Com. Reg. 13767 (Nov. 15, 1995); Amdts Emergency 17 Com. Reg. 13754 (Nov. 15, 1995) (effective for 120 days from November 13, 1995).

Commission Comment: The 1996 amendments adopted a new policy 609, entitled “Student Disciplinary Code,” and rescinded and replaced former policies 609, entitled “Daily Operational Discipline Guidelines,” and 610, entitled “Student Suspension and Expulsion.” See 18 Com. Reg. at 14668 (Nov. 15, 1996). The notice of adoption for the 1996 amendments also stated that former policy 617 was rescinded and replaced. The Commission could not determine the promulgated policy to which “policy 617” refers.

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A notice of adoption for the August 1998 proposed amendments was never published.

The 2000 amendments readopted and republished “policy 609,” entitled “Student Discipline,” in its entirety with numerous amendments. The 2001 amendments repealed former Board of Education policy 609, entitled “Student Discipline,” and replaced it with the sections in subpart F.

The publication of the 2001 amendments omitted a page of the regulations containing the end of “regulation 2505,” entitled “Offense Categories” and the beginning of “regulation 2506,” entitled “Suspension.” See 23 Com. Reg. at 18020-21 (June 19, 2001). The missing language of subsection (c) is as follows:

- (C) Any firearm muffler or firearm silencer;
 - (D) Any explosive, incendiary, or poison gas, bomb, grenade, propellant with a charge of more than four ounces, missile having an explosive or incendiary charge of more than one quarter ounce, mine, or similar device;
 - (E) Any weapon which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter;
 - (F) Any combination of parts either designed or untended for use in converting any destructive device described in the subsection (c)(1)(i)(D) and (E) above, and from which a destructive device may be readily assembled.
- (ii) A firearm is not:
- (A) Class C common fireworks;
 - (B) Any device which is neither designed nor redesigned for use as a weapon; and
 - (C) Any device, although originally designed for use as a weapon, which is redesigned for use as a signaling pyrotechnic, line-throwing, safety, or similar device.
- (2) Conspiracy between two or more persons to commit a category III offense.

See 22 Com. Reg. at 17271-72 (June 20, 2000).

In subsections (a)(23) and (b)(50), the Commission inserted the final periods. In subsection (b)(21), the Commission inserted the final closing parenthesis.

§ 60-20-448 Suspension

- (a) [Reserved.]
- (b) [Reserved.]
- (c) [Reserved.]
- (d) [Reserved.]
- (e) When a student is suspended, the principal/designee shall attempt to reach the student’s parent/guardian to inform them of the school’s action and to request that they come to school for the student. If the parent/guardian is unable to come for the student, the principal/designee may ask the parent/guardian for permission to send the student home. If the parent/guardian cannot be reached or if the above request is refused, the student must remain on school property until the close of the school day.
- (f) The student’s parent or guardian shall also be notified, in writing, on the day the suspension decision is made of the reason(s) for the suspension and the right of the student or parent or guardian to appeal the suspension to the Commissioner of Education within ten calendar days of

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the notification. Copies of all notifications shall be sent to the Commissioner of Education and the PSS legal counsel.

(g) The appeal procedures for suspensions of less than ten days are described in section (h) of this section (below). The appeal procedures for suspensions of ten days or more are described in § 60-20-452.

(h) If the parent and/or student wishes to appeal a suspension of ten days or less, the Commissioner of Education or a designee who shall be someone other than a principal, administrator or teacher in the suspended student's school, shall meet with the student and/or the parent or guardian to discuss the suspension. If the Commissioner of Education or designee finds that the student was suspended unfairly or unjustly, or that the suspension was inappropriate given the nature of the alleged offense, or that the student suffered undue consequences or penalties, the suspension may be overturned and any reference to the suspension in school records will be expunged. Such findings shall be made in writing within ten school days of the conference.

Modified, 1 CMC § 3806(c), (d), (e), (f), (g).

History: Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001); Amdts Adopted 22 Com. Reg. 17361 (Aug. 18, 2000); Amdts Proposed 22 Com. Reg. 17257 (June 20, 2000); Amdts Proposed 20 Com. Reg. 16083 (Aug. 15, 1998); Amdts Adopted 18 Com. Reg. 14668 (Nov. 15, 1996); Amdts Proposed 17 Com. Reg. 13767 (Nov. 15, 1995); Amdts Emergency 17 Com. Reg. 13754 (Nov. 15, 1995) (effective for 120 days from November 13, 1995).

Commission Comment: The 1996 amendments adopted a new policy 609, entitled "Student Disciplinary Code," and rescinded and replaced former policies 609, entitled "Daily Operational Discipline Guidelines," and 610, entitled "Student Suspension and Expulsion." See 18 Com. Reg. at 14668 (Nov. 15, 1996). The notice of adoption for the 1996 amendments also stated that former policy 617 was rescinded and replaced. The Commission could not determine the promulgated policy to which "policy 617" refers.

A notice of adoption for the August 1998 proposed amendments was never published.

The 2000 amendments readopted and republished "policy 609," entitled "Student Discipline," in its entirety with numerous amendments. The 2001 amendments repealed former Board of Education policy 609, entitled "Student Discipline," and replaced it with the sections in subpart F.

The publication of the 2001 amendments omitted a page of the regulations containing the end of "regulation 2505," entitled "Offense Categories" and the beginning of "regulation 2506," entitled "Suspension." See 23 Com. Reg. at 18020-21 (June 19, 2001). The Commission reserved subsections (a) through (d) so that the error can be corrected.

In subsection (g), the original cross-reference to subsection (e) was incorrect. See 23 Com. Reg. at 18021 (June 19, 2001). The Commission changed the cross-reference to "subsection (h)" to correct a manifest error.

The history of former policy 610, entitled "Student Suspension and Expulsion" is as follows: Amdts Proposed 17 Com. Reg. 13505 (June 15, 1995); Amdts Proposed 17 Com. Reg. 13008 (Mar. 15, 1995); Amdts Adopted 14 Com. Reg. 9285 (May 26, 1992); Amdts Proposed 13 Com. Reg. 8164 (Oct. 15, 1991); Amdts Adopted 13 Com. Reg. 7541 (Jan. 15, 1991); Amdts Adopted 12 Com. Reg. 7438 (Oct. 15, 1990) (reserving proposed amendment for further consideration); Amdts Proposed 12 Com. Reg. 7205 (Aug. 15, 1990); Proposed 3 Com. Reg. 1254 (June 30, 1981).

§ 60-20-450 Expulsion

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- (a) Expulsion is permanent exclusion from public school attendance, school activities and school property. Expulsion shall be used only in severe cases, or where other means of corrective disciplinary action have failed, or where no other reasonable alternatives are available. An expulsion may be recommended if the student persistently engages in conduct that warrants suspension, or if the student by means of a single action evidences behavior that is serious enough to warrant removal to protect the rights or safety of others.
- (b) Only the Commissioner of Education may expel a student. The principal recommending expulsion shall prepare written documentation in justification of such action.
- (c) The Commissioner of Education reserves the right to exclude students for other than disciplinary reasons if the expulsion is deemed in the best interest of the student or the operation of the school (i.e. student with a contagious health problem).
- (d) In the event of criminal conduct or other serious action committed by a student, the Commissioner of Education may expel the student immediately and for an unlimited period with a hearing to be held in accordance with § 60-20-452.
- (e) Prior to any expulsion ordered by the Commissioner of Education, the student shall be advised by the principal or his designee of the specific conduct resulting in the action, the student shall be given the opportunity to explain his or her version of the facts surrounding the alleged misconduct and the student shall be advised of the applicable hearing procedures.

Modified, 1 CMC § 3806(c).

History: Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001); Amdts Adopted 22 Com. Reg. 17361 (Aug. 18, 2000); Amdts Proposed 22 Com. Reg. 17257 (June 20, 2000); Amdts Proposed 20 Com. Reg. 16083 (Aug. 15, 1998); Amdts Adopted 18 Com. Reg. 14668 (Nov. 15, 1996); Amdts Proposed 17 Com. Reg. 13767 (Nov. 15, 1995); Amdts Emergency 17 Com. Reg. 13754 (Nov. 15, 1995) (effective for 120 days from November 13, 1995).

Commission Comment: The 1996 amendments adopted a new policy 609, entitled “Student Disciplinary Code,” and rescinded and replaced former policies 609, entitled “Daily Operational Discipline Guidelines,” and 610, entitled “Student Suspension and Expulsion.” See 18 Com. Reg. at 14668 (Nov. 15, 1996). The notice of adoption for the 1996 amendments also stated that former policy 617 was rescinded and replaced. The Commission could not determine the promulgated policy to which “policy 617” refers.

A notice of adoption for the August 1998 proposed amendments was never published.

The 2000 amendments readopted and republished “policy 609,” entitled “Student Discipline,” in its entirety with numerous amendments. The 2001 amendments repealed former Board of Education policy 609, entitled “Student Discipline,” and replaced it with the sections in subpart F.

§ 60-20-452 Hearing Procedures

- (a) A due process hearing will be held if requested by the student parent/guardian for suspensions of more than ten days and expulsions. The hearing will be closed unless the student, parent/guardian or others having custodial care requests an open hearing.

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(b) Upon a determination by the principal or the Commissioner of Education that a suspension of more than ten days or an expulsion is necessary, the student and his/her parents or guardians must be sent on the same day the suspension or expulsion recommendation is made, a copy of PSS's student disciplinary policy and written notice of the following:

- (1) The Public School System's intent to suspend the student for more than ten days or to expel the student;
- (2) The charges that necessitate the suspension or expulsion;
- (3) That a full and fair hearing will be held before an impartial adjudicator if requested, in writing, within ten days of notification; and
- (4) Failure to request a hearing, in writing, within ten school days after being notified of the Public School System's intention to suspend or expel the student shall constitute a waiver of the right to a hearing.

(c) In the event that a hearing is requested, the student may not be suspended for more than ten consecutive school days before the hearing is held and written notice of the following will be sent to the parents or guardian of the student:

- (1) The place, date and time of the proposed hearing (allowing sufficient time for a defense to be prepared);
- (2) The student's right to legal counsel at his/her own expense;
- (3) That the student will be given the opportunity to present evidence at the hearing including the testimony of witnesses;
- (4) That the student will be given the opportunity to cross-examine opposing witnesses at the hearing; and
- (5) The availability of a written record of the hearing. This section shall not be construed to prohibit the use of a recording device to record the hearing.

(d) Within ten school days, if practicable, after a hearing is requested in writing, the hearing shall be held. The hearing shall be an informal proceeding where relaxed evidence rules will apply.

(e) The Commissioner of Education or his/her designee shall preside and ensure that all of the aforementioned rights are afforded the student.

(f) If, based on the evidence presented at the hearing, the Commissioner of Education or his/her designee finds that the student has committed an act which warrants disciplinary action, he or she may order any appropriate disciplinary action, including, but not limited to, suspension or expulsion.

(g) When determining whether the disciplinary action and/or the length of suspension/expulsion is appropriate, the Commissioner of Education or his/her designee may consider the severity of the offense, prior disciplinary actions taken against the student by the Public School System and any other prior bad acts of the student.

(h) Within ten school days after the conclusion of the hearing, the Commissioner of Education or his/her designee shall inform the student, parent or guardian of his/her decision. The decision must be in the form of a final, written opinion regarding whether or not any disciplinary action, such as expulsion or suspension, is warranted.

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Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001); Amdts Adopted 22 Com. Reg. 17361 (Aug. 18, 2000); Amdts Proposed 22 Com. Reg. 17257 (June 20, 2000); Amdts Proposed 20 Com. Reg. 16083 (Aug. 15, 1998); Amdts Adopted 18 Com. Reg. 14668 (Nov. 15, 1996); Amdts Proposed 17 Com. Reg. 13767 (Nov. 15, 1995); Amdts Emergency 17 Com. Reg. 13754 (Nov. 15, 1995) (effective for 120 days from November 13, 1995).

Commission Comment: The 1996 amendments adopted a new policy 609, entitled “Student Disciplinary Code,” and rescinded and replaced former policies 609, entitled “Daily Operational Discipline Guidelines,” and 610, entitled “Student Suspension and Expulsion.” See 18 Com. Reg. at 14668 (Nov. 15, 1996). The notice of adoption for the 1996 amendments also stated that former policy 617 was rescinded and replaced. The Commission could not determine the promulgated policy to which “policy 617” refers.

A notice of adoption for the August 1998 proposed amendments was never published.

The 2000 amendments readopted and republished “policy 609,” entitled “Student Discipline,” in its entirety with numerous amendments. The 2001 amendments repealed former Board of Education policy 609, entitled “Student Discipline,” and replaced it with the sections in subpart F.

§ 60-20-454 Appeal to the Board of Education

- (a) The student and/or his or her parent or guardian shall have the right to appeal to the Commissioner of Education’s or his/her designee’s decision regarding a suspension of more than ten days or an expulsion to the Board of Education.
- (b) The Board of Education must be notified, in writing, of the student’s and/or parent or guardian’s desire to appeal within ten school days from the date the student, parent or guardian was informed of the disciplinary decision.
- (c) Once a disciplinary decision is appealed, the Board shall meet to review the decision within thirty calendar days of when the written notice of the appeal is received by the Board.
- (d) The disciplinary decision of the Commissioner of Education or his/her designee shall remain in effect until the Board issues its own decision.
- (e) The Board’s decision on appeal shall be based solely on the record developed at the expulsion or suspension hearing and the Commissioner of Education or designee’s written opinion. The Board shall review the suspension or expulsion solely on the record of the hearing and decision of the Commissioner of Education or his/her designee. The Board shall receive no new evidence.
- (f) At the hearing the sole issue for the Board to determine is whether the Commissioner of Education’s or his/her designee’s decision to suspend or expel the student constitutes an abuse of authority. The Board of Education shall render its decision by a majority vote of those members in attendance.
- (g) The Board does not have the authority to modify the Commissioner of Education’s or his/her designee’s expulsion decision. In such cases, the Board may either uphold the

Commissioner of Education’s decision, overturn it completely, or overturn it and order that a new hearing be conducted in compliance with their order.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001); Amdts Adopted 22 Com. Reg. 17361 (Aug. 18, 2000); Amdts Proposed 22 Com. Reg. 17257 (June 20, 2000); Amdts Proposed 20 Com. Reg. 16083 (Aug. 15, 1998); Amdts Adopted 18 Com. Reg. 14668 (Nov. 15, 1996); Amdts Proposed 17 Com. Reg. 13767 (Nov. 15, 1995); Amdts Emergency 17 Com. Reg. 13754 (Nov. 15, 1995) (effective for 120 days from November 13, 1995).

Commission Comment: The 1996 amendments adopted a new policy 609, entitled “Student Disciplinary Code,” and rescinded and replaced former policies 609, entitled “Daily Operational Discipline Guidelines,” and 610, entitled “Student Suspension and Expulsion.” See 18 Com. Reg. at 14668 (Nov. 15, 1996). The notice of adoption for the 1996 amendments also stated that former policy 617 was rescinded and replaced. The Commission could not determine the promulgated policy to which “policy 617” refers.

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§ 60-20-456 Discipline of Students with Disabilities

(a) The obligation and the responsibility to attend school regularly and to comply with the Board’s discipline policies applies to all students. When appropriate, the PSS may discipline a student with a disability who is eligible for special education and related services under the Individuals with Disabilities Education Act (IDEA) in a manner that is consistent with the IDEA law and regulations and PSS policies, including the special education procedural manual, and applicable law.

(b) A special education student will be provided a free appropriate public education consistent with the IDEA if the student has been removed from school for more than ten school days in a school year. If a special education student is removed ten cumulative school days or less, special educational services will be provided only if such services are provided to students without disabilities who have been similarly removed.

(c) Please refer to applicable law and special education procedural manual.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 29 Com. Reg. 26433 (Feb. 15, 2007); Amdts Proposed 28 Com. Reg. 26217 (Oct. 30, 2006); Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001); Amdts Adopted 22 Com. Reg. 17361 (Aug. 18, 2000); Amdts Proposed 22 Com. Reg. 17257 (June 20, 2000); Amdts Proposed 20 Com. Reg. 16083 (Aug. 15, 1998); Amdts Adopted 18 Com. Reg. 14668 (Nov. 15, 1996); Amdts Proposed 17 Com. Reg. 13767 (Nov. 15, 1995); Amdts Emergency 17 Com. Reg. 13754 (Nov. 15, 1995) (effective for 120 days from November 13, 1995).

Commission Comment: The Commission designated the paragraphs in this section, which were not designated in the original.

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The 1996 amendments adopted a new policy 609, entitled “Student Disciplinary Code,” and rescinded and replaced former policies 609, entitled “Daily Operational Discipline Guidelines,” and 610, entitled “Student Suspension and Expulsion.” See 18 Com. Reg. at 14668 (Nov. 15, 1996). The notice of adoption for the 1996 amendments also stated that former policy 617 was rescinded and replaced. The Commission could not determine the promulgated policy to which “policy 617” refers.

A notice of adoption for the August 1998 proposed amendments was never published.

The 2000 amendments readopted and republished “policy 609,” entitled “Student Discipline,” in its entirety with numerous amendments. The 2001 amendments repealed former Board of Education policy 609, entitled “Student Discipline,” and replaced it with the sections in subpart F.

In February 2007, the Public School System promulgated “Policy 2610” as set forth in this section and repealed “Regulation 2610” formerly codified in this section. The original sentence constituting subsection (c) was next to the instruction to repeal this section. 28 Com. Reg. 26226 (Oct. 30, 2006). The Commission designated subsection (c), which was not designated in the original.

§ 60-20-458 Enrollment or Return Following Suspension and/or Expulsion

(a)(1) No student shall be readmitted, or permitted to enroll or otherwise attend school (except as may otherwise be required by law), following a suspension or expulsion from any school until the PSS has conducted a conference to review the conduct that resulted in the expulsion or suspension, and any remedial actions needed to prevent any future occurrences of such or related conduct.

(2) Participants in such pre-admission conferences will include:

- (i) Any teacher directly involved in the suspension offense.
- (ii) The student
- (iii) The parent/guardian.
- (iv) The representative of any agency having legal jurisdiction, care, custody, or control of the student.
- (v) PSS staff members designated by the Commissioner/ designee

(b) The PSS shall notify in writing the parent/guardian and all other parties of the time, place, and agenda of any such conference. However, failure of any party to attend this conference shall not preclude holding the conference.

(c) Notwithstanding any provision of this chapter to the contrary, no student shall be readmitted or enrolled in a regular program of instruction if:

- (1) The student has been convicted of one of the offenses listed below.
- (2) The student been charged with one of the offenses and there has been no final judgment.
- (3) A juvenile petition has been filed alleging that the student committed an act, which if committed by an adult, would be one of the offenses listed below, and there has been no final judgment; or
- (4) The student has been adjudicated to have committed an act, which if committed by an adult, would be one of the offenses listed below.

(d) Offenses to which subsection (c) applies

- (1) First degree murder under the laws of the CNMI
- (2) Second degree murder under the laws of the CNMI
- (3) First degree assault under the laws of the CNMI

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- (4) Forcible rape under the laws of the CNMI
- (5) Forcible sodomy under the laws of the CNMI
- (6) Robbery in the first degree under the laws of the CNMI
- (7) Distribution of drugs to a minor under the laws of the CNMI
- (8) Arson under the laws of the CNMI
- (9) Kidnapping under the laws of the CNMI.

(e)(1) Nothing in this section shall be construed to prevent the PSS from imposing discipline under its regulations for conduct underlying the above-listed offenses, even if the adult charge or juvenile charge has been dismissed, or the student has been acquitted or adjudicated not to have committed such acts in a criminal or juvenile court – if by a preponderance of the evidence, it can be established that the student engaged in the underlying conduct. The PSS may enroll a student otherwise excluded under this section, in an alternative education program if the PSS determines that such enrollment is appropriate.

(2) Student denied enrollment because of conviction of one of the acts set out in this section or due to an existing suspension or expulsion from another school will be advised of the reasons for denial of enrollment and will be given an opportunity to respond to those reasons.

Modified, 1 CMC § 3806(d), (g).

History: Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001).

Commission Comment: The original paragraphs of subsections (a) and (e) were not designated. The Commission designated subsections (a)(1) and (a)(2) and (e)(1) and (e)(2).

In the opening paragraph of subsection (c), the Commission replaced the final period with a colon to correct a manifest error. In subsection (d)(9), the Commission inserted the final period.

§ 60-20-460 Closed Campus

(a) Students may not leave school grounds from the time of their arrival until the time they leave at the end of the day unless they have written permission from a parent/ guardian, a signed liability waiver form suitable to the Commissioner and the permission of the principal/ designee.

(b) “Parent/guardian” shall mean the person designated as such in the student’s school registration materials.

History: Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

§ 60-20-462 Student Vehicle Use

Building principals have the authority to regulate student use of automobiles at school. Use of school property for student parking purposes is a privilege that may be denied due to violation of PSS regulations and school policies. Student vehicles parked on PSS property are subject to search by school officials where there is reason to believe a vehicle contains materials prohibited by PSS regulations.

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History: Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001).

§ 60-20-464 Student Attire and Appearance

- (a) It is the responsibility of the Board to ensure that every student has a safe environment in which to learn. Attire worn by students that, in the opinion of the school administration, causes distraction or inhibits learning is forbidden.
- (b) Attire which is prohibited by the Board includes but is not limited to the following:
- (1) Attire and appearance that promotes gang affiliations;
 - (2) Attire and appearance which promotes the use of drugs, alcohol or weapons;
 - (3) Attire and appearance that presents a hazard to the student's safety or the safety of other students or staff;
 - (4) Attire and appearance which advocates prejudice;
 - (5) Attire and appearance that causes a material and substantial disruption of the learning process;
 - (6) Provocative clothing which draws undue attention to themselves, thus disrupting the educational process.
- (c) The definition of attire and appearance should be construed liberally to include items such as bookbags, book-covers, sports-related articles, hats, lunch-boxes, and other similar items that students may bring to school.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001); Amdts Adopted 22 Com. Reg. 17361 (Aug. 18, 2000); Amdts Proposed 22 Com. Reg. 17257 (June 20, 2000); Amdts Proposed 20 Com. Reg. 16083 (Aug. 15, 1998); Amdts Adopted 18 Com. Reg. 14668 (Nov. 15, 1996); Amdts Proposed 17 Com. Reg. 13767 (Nov. 15, 1995); Amdts Emergency 17 Com. Reg. 13754 (Nov. 15, 1995) (effective for 120 days from November 13, 1995).

Commission Comment: In subsection (b)(5), the Commission replaced the final period with a semi-colon to make the punctuation consistent.

The 1996 amendments adopted a new policy 609, entitled "Student Disciplinary Code," and rescinded and replaced former policies 609, entitled "Daily Operational Discipline Guidelines," and 610, entitled "Student Suspension and Expulsion." See 18 Com. Reg. at 14668 (Nov. 15, 1996). The notice of adoption for the 1996 amendments also stated that former policy 617 was rescinded and replaced. The Commission could not determine the promulgated policy to which "policy 617" refers.

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The 2000 amendments readopted and republished "policy 609," entitled "Student Discipline," in its entirety with numerous amendments. The 2001 amendments repealed former Board of Education policy 609, entitled "Student Discipline," and replaced it with the sections in subpart F.

The Board of Education had previously proposed a dress code at 17 Com. Reg. 13653 (Aug. 16, 1995).

§ 60-20-466 Student Participation in Secret Organizations and Gangs

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- (a) The Board of Education prohibits membership in secret fraternities or sororities, or in other clubs or gangs not sponsored by established agencies or organizations recognized by the PSS. The Board feels that the presence of gangs and gang activities can cause a substantial disruption of or material interference with school and school activities.
- (b) A “gang” as defined in this section is any group of two or more persons whose purposes include the commission of illegal acts. By this policy, the Board acts to prohibit existence of gangs and gang activities as follows.
- (c) No student on or about school property or at any school activity:
- (1) Shall wear, possess, use, distribute, display, or sell any clothing, jewelry, emblem, badge, symbol, sign, or other things, which are evidence of membership or affiliation in any gang.
 - (2) Shall commit any act or omission or use any speech either verbal or nonverbal (gestures, handshakes, etc.) showing membership or affiliation in a gang.
 - (3) Shall use any speech or commit any act or omission in furtherance of the interests of any gang or gang activity, including but not limited to:
 - (i) Soliciting others for membership in any gangs.
 - (ii) Requesting any person to pay protection or otherwise intimidating or threatening any person.
 - (iii) Committing any other illegal act or other violation of school PSS policies.
 - (iv) Inciting other students to act with physical violence upon any other person.
- (d) The principal will establish procedures and regulations to ensure that any student wearing, carrying or displaying gang paraphernalia; exhibiting behavior or gestures which symbolize gang membership; or causing and/or participating in activities which intimidate or affect the attendance of another student, shall be subject to disciplinary action.
- (e) Consequences for such actions and/or behaviors may result in suspension or expulsion.
- (f) To further discourage the influence of gangs, PSS administrators shall:
- (1) Provide in-service for staff in gang recognition and special workshops for counselors in the event that gangs become a problem at the schools.
 - (2) Ensure that all students have access to counselors.
 - (3) Work closely with the local law enforcement authorities and county juvenile officers who work with students and parents/ guardians involved in gang activity.
 - (4) Provide classroom or after-school programs designed to enhance individual self-esteem and foster interest in a variety of wholesome activities.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001).

Commission Comment: In subsection (b), the Commission replaced the final colon with a period. In subsection (c)(3)(ii), the Commission inserted the final period.

§ 60-20-468 Student Use and Care of School Property

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(a) The Board of Education recognizes that acts of destruction, defacing, trespassing, burglary and theft of PSS property are contrary to the interests of students, staff and taxpayers. PSS officials will cooperate fully with all law enforcement agencies in the prevention of crimes against PSS property as well as in the prosecution of persons involved in such conduct.

(b) The PSS will seek restitution from students and other persons who have damaged or destroyed PSS property, including text books and other instructional materials. Parents of students who lose or damage school property shall reimburse the school for the value of the lost or damaged articles.

(c) The amount of restitution to PSS for lost, stolen or damaged property shall be determined by the fair value of the lost or stolen property or the cost of reasonable repair if the item is not damaged beyond repair as determined by the principal or Commissioner.

(d) School principals are responsible for enforcing this section and imposing any appropriate discipline and fines.

Modified, 1 CMC § 3806(d), (g).

History: Amdts Adopted 24 Com. Reg. 19413 (July 29, 2002); Amdts Proposed 24 Com. Reg. 18852 (Jan. 29, 2002); Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001).

Commission Comment: The 2002 amendments added new subsections (c) and (d) and amended subsection (b).

In subsection (b), the Commission changed “damage” to “damaged” to correct a manifest error.

§ 60-20-470 Student Use of Tobacco, Alcohol, Drugs and Betel Nut

(a) **Drugs and Alcohol**

The possession, use, sale, distribution and/or intent to distribute any illegal or controlled mood-altering chemical, medication or abused chemical or alcohol or other intoxicants on school property, at school-sponsored events, and on school buses is prohibited.

(b) **Smoking**

Smoking on school campuses and on school buses at all times is prohibited. This prohibition applies to all PSS employees, campus visitors and PSS contractors.

(c) **Betel-nut (Pugua)**

The use, sale or distribution of betel-nut on Public School System campuses and on school buses is prohibited. This prohibition applies to all PSS employees, campus visitors and PSS contractors.

History: Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001).

Subpart G - Student Welfare

§ 60-20-472 Reporting Student Abuse

(a) **Child abuse defined:**

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In the CNMI, child abuse is a crime that penalizes certain actions taken towards a “child” by any person who occupies a special relationship with a “child.” Child abuse can be committed either by a person who has “custody” over a child, or a person who occupies a “position of authority” in relation to that child. If a person has “custody” over a child or occupies a “position of authority” in relation to that child, that person commits child abuse if he or she:

(1) Purposefully strikes, beats or otherwise (by any act or omission) inflicts physical pain, injury or mental distress upon that child, with the result that the child's physical or mental well-being is harmed or threatened,

(2) Purposefully or neglectfully fails to provide adequate supervision, medical care, food, clothing or shelter to that child, with the result that the child's physical or mental health and well-being are harmed or threatened,

(3) Or, commits any act that would be considered any form of sexual abuse of a minor under CNMI law, which would include:

(i) Being over the age of 18 and engaging in “sexual penetration” or “sexual contact” with the child,

(ii) Being over the age of 18 and inducing, causing or encouraging the child to engage in “sexual penetration” or “sexual contact” with anyone,

(iii) Being over the age of 16 and engaging in “sexual penetration” or “sexual contact” with the child (if the child is under the age of 13, or, if over the age of 13, at least three years younger than that person),

(iv) Being over the age of 16 and inducing, causing or encouraging the child to engage in “sexual penetration” or “sexual contact” with anyone,

(v) Being under the age of 16 and engaging in “sexual penetration” or “sexual contact” with the child (if the child is under the age of 13 and three or more years younger than that person).

(b) Definitions:

(1) “Child”: For the purposes of this policy, a person is a “child” if they are under the age of 18.

(2) “Custody”: For the purposes of this policy, a person has “custody” over a child if they are the child's parent (including natural parents, stepparents and adopted parents), legal guardian, foster parent, the employee of a public or private residential home or facility in which the child is living or any other person over the age of 18 responsible for the child's welfare in a residential setting.

(3) “Position of Authority”: For the purposes of this policy, a person occupies a “position of authority” over a child if that person is the child's employer, youth leader, scout leader, coach, teacher, counselor, school administrator, religious leader, doctor, nurse, psychologist, guardian ad litem (a person appointed by a court to look after a child's best interests), babysitter or someone who occupies a substantially similar position, and police and/or probation officers.

(4) “Sexual Penetration”: For the purposes of this policy, “sexual penetration” means genital intercourse, cunnilingus, fellatio, anal intercourse, or an intrusion, however slight, of an object or any part of a person's body into the genital or anal opening of another person's body.

(5) “Sexual Contact”: For the purposes of this policy, “sexual contact” means any touching of the sexual or other intimate parts of another person or any touching of another person by a person's sexual or other intimate parts done with the intent of gratifying or arousing the sexual desire of either party.

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(c) Persons with a duty to report under this policy:

All employees of the CNMI Public School System who, through their employment with the CNMI Public School system, know or have reasonable cause to suspect that an instance of child abuse has occurred or will occur, must report that knowledge according to the procedures outlined in this policy. Failure to do so may expose the employee to disciplinary action according to the appropriate policies and procedures of the CNMI Public School System.

(d) Designation of liaison for purposes of internal reporting:

Each head administrator at each school, and each department head of each PSS department, shall appoint an individual to act as a “child abuse liaison.” Following such designation, the identity of this person shall be made known to all PSS employees at the respective school or department. At no time shall any school or department be without a child abuse liaison. Each child abuse liaison shall be provided contact numbers by which they can reach the Commissioner of Education and PSS Legal Counsel after work hours.

(e) Procedure for reporting:

(1) Reporting to the CNMI Department of Public Safety:

(i) Immediately upon becoming aware that an act of child abuse has occurred or will occur, or developing a reasonable cause to believe that an act of child abuse has occurred or will occur, the PSS employee shall contact the CNMI Department of Public Safety and inform them of such. This contact shall be made within twenty-four (24) hours of the PSS employee first knowing of the act of child abuse has occurred or will occur or first forming a reasonable cause to believe that an act of child abuse has occurred or will occur.

(ii) When reporting to the Department of Public Safety, the PSS employee shall include a statement of the time, date, circumstances and details or information which gave rise to the knowledge or suspicion that the child in question is, or will become, a victim of child abuse.

(iii) The PSS employee’s responsibility to contact the CNMI Department of Public Safety is non-delegable.

(2) Internal Reporting:

(i) Immediately upon becoming aware that an act of child abuse has occurred or will occur, or developing a reasonable cause to believe that an act of child abuse has occurred or will occur, the PSS employee shall contact the designated child abuse liaison in their respective school or department. This contact shall be made by the end of the school day, or as soon as possible on the following school day if after school hours. If the PSS employee in question cannot locate the child abuse liaison in such time, he or she shall contact the head administrator of their respective school or the head of their respective department.

(ii) As soon as the child abuse liaison is contacted, that person shall contact the Commissioner of Education and PSS Legal Counsel who will initiate an investigation into the act or acts of child abuse in question.

(f) Immunity for good faith effort to report:

Any person who makes a good faith attempt to report under this policy and makes a good faith effort to comply with the procedures outlined in this policy, shall be immune from any negative administrative action that otherwise may have resulted from such a good faith effort to report.

(g) Potential administrative action for interference with good faith efforts to report:

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Any person who knowingly and/or willingly interferes or attempts to interfere with another person who is attempting in good faith to make a report under this policy may face disciplinary action according to appropriate PSS policies and procedures.

Modified, 1 CMC § 3806(b), (e), (g).

History: Amdts Adopted 33 Com. Reg. 31847 (Aug. 23, 2011); Amdts Proposed 33 Com. Reg. 31728 (June 27, 2011); Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001).

Commission Comment: The Commission added the opening quotation before sexual contact in subsections (a)(3)(i) and (a)(3)(iii) and changed “knows or has reasonable cause” to “know or have reasonable cause” in subsection (c) to correct a manifest errors.

The notice of adoption for the 2001 amendments changed the proposed language of subsections (a)(1), (b)(1) and (b)(2) and added new subsection (a)(4).

In 2011, the Board of Education adopted significant changes to this section. In the notices of proposed amendment and adoption, the Board of Education appears to have mistakenly identified this section as § 60-20-910 Mandatory Reporting of Child Abuse and Neglect. However, the format and the language of the changes indicate that the Board of Education intended to amend this section, not § 60-20-910. Accordingly, the Commission codified the 2011 changes in this section.

§ 60-20-474 Student Stipends

Qualification criteria for student stipends include but are not limited to the following.

- (a) The student must be a resident of the CNMI.
- (b) The island where the student is attending school does not have the student’s grade level required to graduate from high school.
- (c) The student must not be residing with his/her parent(s) at the time and during his/her attendance at the new school.
- (d) Students who are relocated from their respective island(s) residency not of their choice (evacuated due to volcano eruption, earthquake, etc.) may be eligible regardless of the grade(s) they are in. In this case, subsection (c) above may be waived if neither parent has gained employment yet. Once a parent is employed the stipend shall be terminated.
- (e) Application for student stipend shall be submitted annually by the student’s sponsor where the student will reside and at least thirty days in advance to the Commissioner of Education. The Commissioner will notify the applicant if the application is approved or disapproved ten days after receipt of the application.
- (f) If the application is submitted as indicated in subsection (e) above and approved by the Commissioner, the stipend will commence on the first day of the school year and will cease at the closing of the school year where the student is attending. If the application is submitted after the school opens then the effective date will be the date the Commissioner approved the application.

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(g) The student stipend check will be issued at the end of every month to the legal sponsor who signed the application.

(h) The eligible student will receive a stipend of \$10.00 a day as long as he/she meets the above criteria.

Modified, 1 CMC § 3806(c), (e).

History: Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001); Amdts Adopted 13 Com. Reg. 7666 (Mar. 15, 1991); Amdts Proposed 13 Com. Reg. 7518 (Jan. 15, 1991).

Commission Comment: The 1991 amendments added “policy 622,” entitled “Student Stipends.” The 2001 amendments repealed former Board of Education policy 622 and replaced it with this section.

Subpart H - Student Services

§ 60-20-476 Student Physical Examination

(a) Prior to entering the school for the first time, each child shall provide a certificate of physical examination to the school.

(b) The Board of Education may require any student to be examined by a physician for the purpose of determining whether the student is afflicted with a contagious or infectious disease or has the liability of transmitting the disease.

(c) The Board may also require certification from a physician indicating a student’s fitness to participate in specific educational programs or extra-curricular activities.

(d) Refusal on the part of parent/guardian to obtain the required examination and to submit the certification indicating freedom from contagious or infectious disease may result in student exclusion from school.

(e) Students may be excused from engaging in required educational activities upon proper certification from a physician advising the school of a particular restriction.

(f) All costs of physical or other examinations shall be at the expense of students unless otherwise specifically mandated by law.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 13 Com. Reg. 7666 (Mar. 15, 1991); Amdts Proposed 13 Com. Reg. 7518 (Jan. 15, 1991).

Commission Comment: In subsection (b), the Commission changed “have” to “has” to correct a manifest error.

§ 60-20-478 Immunizations and Vision and Hearing Tests

(a) Every parent of a child shall, at the time of first enrollment of the child in any Commonwealth public or non-public school and for each subsequent school year, irrespective of

grade level, must provide the school of attendance with proof that the child has received vision and hearing tests and all of the immunizations required by the Department of Public Health. Every parent/guardian of a child whose health records show incomplete tests and immunizations shall be immediately notified of the test or immunization deficiency. Parents are required to initiate all required examinations, tests and immunizations for their child within two weeks after the date of such notice.

(b) Except as provided in 3 CMC § 1164, failure to comply shall be grounds for suspension of the child from school until the examination, testing or immunization standards have been met.

History: Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001); Amdts Adopted 11 Com. Reg. 6155 (Apr. 15, 1989); Amdts Proposed 11 Com. Reg. 6042 (Feb. 15, 1989).

Commission Comment: The 1989 amendments added a new “policy 616,” entitled Requirements for Vision and Hearing Tests.” The 2001 amendments repealed former Board of Education policy 616 and replaced it with this section.

§ 60-20-480 Students with Communicable Diseases or Contagious Conditions

(a) A student shall not attend classes or other school-sponsored activities, if the student

(1) Has, or has been exposed to, an acute (short duration) or chronic (long duration) contagious or infectious disease or condition, and

(2) Is liable to transmit the contagious or infectious disease or condition, unless the Commissioner/designee has determined, based upon medical evidence and the certification of a physician, that the student:

(i) No longer has the disease or condition.

(ii) Is not in the contagious or infectious stage of an acute disease or condition.

(iii) Has a chronic infectious disease or condition that poses little risk of transmission in the school environment with reasonable precautions.

(b) School officials may require any child suspected of having a contagious or infectious disease or condition to be examined by a physician and may exclude the child from school, in accordance with the procedures authorized by this regulation, so long as there is a substantial risk of transmission of the disease or condition in the school environment.

(c) A student who has a chronic infectious disease or condition, and who is permitted to attend school, may be required to do so under specified conditions. Failure to adhere to the conditions will result in the student being excluded from school. A student who has a chronic infectious disease or condition and who is not permitted to attend school or participate in school activities will be provided instruction in an alternative educational setting in accordance with Board policy.

(d) Students with acute or chronic contagious or infectious diseases or condition and their families have a right to privacy and confidentiality. Only staff members who have a medical reason to know the identity and condition of such students will be informed. Willful or negligent disclosure of confidential information about a student’s medical condition by staff members will be cause for disciplinary action.

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(e) All employees will follow the most recent guidelines issued by the Centers for Disease Control, including applicable universal precautions in cleaning up body fluid spills, (a copy of which shall be on file in the PSS department addressing health services and in the principal's office of each school), regardless whether an individual infected with a body fluid or blood-borne pathogen is known to be present in the school environment or related activities. Willful or negligent disregard for these precautions by any staff member will be cause for disciplinary action.

(f) Acute Infectious Disease or Contagious Condition

(1) A staff member who has reason to believe that a student has been exposed to a contagious or infectious disease or condition, or who observes symptoms of such a disease or condition, shall inform the principal. The principal will consult with a medical professional about the child.

(2) If the medical professional determines that the student has an acute contagious or infectious disease or condition, the principal will exclude the student from school for the number of days specified in the latest revision, or until a physician certifies that the student no longer is liable to transmit the disease or condition.

(3) If a student has been excluded from school by the principal because the student has or is suspected of having an acute contagious or infectious disease or condition, the student and his/her parent/guardian may appeal such decision in writing to the Commissioner. The Commissioner may require the student to be examined by a physician designated by the PSS, the child's own physician, or both, at the option of the Commissioner. The student shall not attend classes or participate in school activities during the appeal period.

(g) Chronic Infectious Disease or Condition

(1) If the principal, after consulting with a medical professional, determines that a student may have a chronic infectious disease or condition, the student may be excluded from school and provided an education in an alternative setting until the following procedures have been concluded.

(2) The principal shall immediately report any student who has or is suspected of having a chronic infectious disease or condition to the Commissioner or his/her designee and PSS legal counsel.

(3) Prior to any long-term exclusion of a student, the student's parents/guardians shall receive written notification of the intent to exclude and written notice of their procedural safeguards pursuant to section 504 of the Rehabilitation Act of 1973.

(4) The Commissioner or his/her designee shall within ten working days appoint a review committee to assess the student's medical condition. The Committee should include the following:

(i) The student's parents/guardians.

(ii) A physician.

(iii) The principal who shall serve as chairperson.

(iv) Others mutually agreed upon by the PSS and the parents/guardians.

(v) The PSS legal counsel may serve on the committee in an advisory capacity.

(5) If the student has been identified as a student with disabilities pursuant to the Individuals with Disabilities Education Act (IDEA), the student may be excluded from school and provided with an education in an alternative setting, so long as such exclusion does not constitute a change in placement pursuant to the IDEA. If the exclusion constitutes a change in placement, the IDEA standards and procedures shall apply to such change. The student's medical condition and educational placement will be evaluated in accordance with the procedures set forth above, with the following additional provisions:

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- (i) Prior to excluding the student, the student's parents/guardians shall receive written notification of their procedural safeguards pursuant to the IDEA in addition to written notice of their procedural safeguards pursuant to section 504 of the Rehabilitation Act of 1973.
- (ii) The review committee shall include the chairperson of the student's Individual Educational Program Committee or his/her designee.
- (6)(i) The members of the review committee shall determine the fitness of the student to attend school. The committee will assess the student's condition, the school conditions, and the risks of exposing others to the disease or contagious condition in the school environment, and shall determine whether the student should
- (A) Be permitted to attend school without restrictions;
- (B) Attend school under stated restrictions and conditions; or
- (C) Be excluded from attending school and provided an alternative educational program.
- (ii) The committee will prepare a written individual school health care plan for the student and establish dates and/or conditions under which the student's status will be reviewed. The committee will also identify the persons who have a medical need to know the identity of the student because they are responsible for providing proper health care, and will provide the names of those persons to the Commissioner or his/her designee.
- (7) Within five working days after the committee is convened, the committee will make a determination and prepare findings of fact, which the chairperson shall communicate in writing to the student's parents/guardians, the principal, and the Commissioner. The parents/guardians shall again receive written notification of their procedural safeguards under section 504 of the Rehabilitation Act of 1973 (and in the PSS's compliance plan for implementing the IDEA, if applicable). The meetings, records, and votes of the review committee shall not be open to the public. The determination will be final unless reversed on appeal pursuant to the complaint procedures set out in the PSS's compliance plan for section 504 or the IDEA, if applicable.
- (8) If a student with a chronic infectious disease or contagious condition is permitted to attend school, the Commissioner will notify those persons who were identified by the review committee as having a medical need to know the student's identity and conditions under which the student is attending school. Willful or negligent disclosure of confidential information will be cause for disciplinary action.
- (9) Staff members who have a medical need to know the identity of a student with a chronic infectious disease or contagious condition include
- (i) Those who are designated by the PSS to determine the fitness of the student to attend school;
- (ii) Those who are responsible for providing health care to the student, such as the school nurse; and
- (iii) Those who are most likely to be in a position to render first aid to the student in case of an accident or medical emergency.
- (10) A student who has a chronic infectious disease or contagious condition shall be evaluated to determine whether any accommodations or related services are necessary for the student to receive a free appropriate public education. If accommodations or related services are necessary, the PSS shall develop and implement a plan for the delivery of all needed services. This evaluation shall be conducted regardless whether the student is permitted to attend school with or without conditions and restrictions, or is excluded from school.

Modified, 1 CMC § 3806(d), (e), (f), (g).

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History: Amdts Adopted 29 Com. Reg. 26433 (Feb. 15, 2007); Amdts Proposed 28 Com. Reg. 26217 (Oct. 30, 2006); Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001).

Commission Comment: The original paragraphs of subsection (g)(6) were not designated. The Commission designated (g)(6)(i) and (g)(6)(ii).

In subsection (e), the Commission inserted the closing parenthesis. In subsection (g)(3), the Commission deleted the repeated phrase “their procedural safeguards.” The Commission inserted periods at the end of subsections (g)(4)(i) and (g)(4)(ii). In subsection (g)(6)(ii), the Commission changed “student” to “student’s” to correct a manifest error.

The February 2007 amendments added the second sentence to subsection (g)(5).

§ 60-20-481 Head Lice

(a) To ensure that the CNMI Public School System children are provided with a healthy and clean environment, PSS classrooms shall be kept lice-free. Support and education shall be given to all families to help prevent spreading of lice.

(b) No person, adult or child shall attend school with lice or nits. No person (adult or child) shall attend classes if that person has head lice or nits.

(1) Clearance for admission into the classroom must be issued by the school administrator after the student’s hair is physically checked by the designated school personnel or the school administrator.

(2) Accumulated absences after two days “release-time” from school shall be counted as unexcused absences. Parents/guardians are encouraged to address the head lice problem immediately upon notification from the school.

(3) Excessive or continuous referrals for head lice may result in further action as a safeguard and protection for the child's health and welfare.

(c) Head lice checks:

(1) Trained staff shall check all students at enrollment to ensure that they begin classes lice-free.

(2) All students shall be checked at a minimum monthly or as need arises.

(3) When any student attending PSS is found to have head lice, students within close proximity with the affected student must be checked for lice to minimize spreading.

(d) Exclusion from class:

(1) Students or adults with lice or nits shall not be allowed to attend class.

(2) Staff and volunteers shall handle cases of head lice with respect and care so as not to embarrass anyone. Students should not be belittled for having lice or nits.

(3) Upon discovery of lice/nits on a student, the teacher or designated person shall contact the parent(s)/guardian(s) to pick the child up from the school. The child should avoid physical contact with other students while waiting to be picked up from school by his or her parent(s)/guardian(s).

(4) Parent(s)/guardian(s) shall be offered guidance and/or recommendations for obtaining lice treatment and instructions on treatment and cleaning of their home environment.

(5) Parent(s)/guardian(s) need to bring the student to the school main office for clearance before reporting back to class.

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(6) Students shall be allowed to resume classes when found to be nit/lice-free. A clearance notification from the school main office shall allow a student to resume classes.

(e) Head lice treatment and prevention

All parents/guardians shall be provided the following information:

- (1) How to tell their child about what they have (head lice), why they need to be treated before going back to class (other children can get the lice), and why they need to get rid of the lice (they bite and causes a disruption to self).
- (2) Use shampoo for head lice, following instructions and cautions on the package.
- (3) Use the lice comb to completely remove all lice and nits.
- (4) Wash all linens, clothing, and hair accessories of the infected individual. Do not share towels or beds.
- (5) Items that cannot be washed, such as toys and stuffed animals, should be put in a sealed plastic bag for 14 days.
- (6) Vacuum all carpets, upholstery and mattresses thoroughly.
- (7) Clean combs and brushes in hot water.
- (8) Repeat shampoo on non-affected family members. The shampoo does not prevent lice infestation and is an insecticide and should only be used when needed.
- (9) Animals do not carry head lice and do not need treatment.

Modified, 1 CMC § 3806(a), (f), (g).

History: Adopted 33 Com. Reg. 31843 (Aug. 23, 2011); Proposed 33 Com. Reg. 31711 (June 27, 2011).

Commission Comment: The Commission changed “any students” to “any student” and “minimized” to “minimize” to correct manifest errors in subsection (a)(3).

§ 60-20-482 Human Immunodeficiency Virus (HIV)

(a) Planning Groups and Panels

(1) There is a statewide planning group, the Community Planning Group (CPG), that addresses awareness and prevention programs, testing guidelines, health care procedures and laws relating to HIV and AIDS for the Commonwealth. Within the school system, there is a PSS HIV Review Panel that coordinates with CPG and develops instruction, curriculum and guidelines relating to HIV.

(2) The Commissioner of Education shall designate a coordinator to oversee the PSS’s HIV education plans and to work closely with the CPG to develop HIV awareness and prevention programs. The Coordinator shall serve as chairman to the PSS HIV Review Panel and serve as the PSS representative for the CPG. Members of the PSS HIV Review Panel shall include teacher, counselor, administration, parent and student representatives.

(b) School Attendance

(1) HIV is not, in itself, a disabling condition, but it may result in conditions that are disabling. To the extent that a student who has HIV is determined to meet the criteria for eligibility for accommodations under state and federal nondiscrimination laws or for special education services, the PSS shall meet all procedural and substantive requirements.

(2) School authorities will determine the educational placement of a student known to be infected with HIV on a case-by-case basis by following established policies and procedures for

students with chronic health problems or students with disabilities. Decision-makers must consult with the student's physician and parent or guardian; respect the student's and family's privacy rights; and reassess the placement if there is a change in the student's need for accommodations or services.

(3) School staff members will always strive to maintain a respectful school climate and not allow physical or verbal harassment of any individual or group by another individual or group. Such harassment may include taunts directed against a person living with HIV infection, a person perceived as having HIV infection, or a person associated with someone with HIV infection.

(c) Confidentiality, Privacy, Disclosure and Testing

(1) To maintain an atmosphere of trust with staff members, students, families, and the community, a policy that encourages confidentiality is essential. It is important that people who have HIV and their families feel certain that their names will not be released against their wishes to others without a need to know. A policy on confidentiality that is strictly enforced will also provide protection to the PSS from legal action and from potentially adverse reactions that might result.

(2) A student or student parent/guardian or an applicant/ employee, may, but is not required to, report HIV status to anyone in the education system. HIV antibody testing is not required for any purpose.

(3) Every employee has a duty to treat as highly confidential any knowledge or speculation concerning the HIV status of a student or other staff member. Violation of medical privacy is cause for disciplinary action, criminal prosecution, and/or personal liability in a civil suit.

(4) Except as otherwise permitted by law, no school personnel shall disclose any HIV-related information regarding prospective or current school personnel or students to anyone except in accordance with the terms of a written consent. The Commissioner of Education shall develop a written consent form (form 2865) which details the information the signatory permits to be disclosed, to whom it may be disclosed, its specified time limitation, and the specific purpose for the disclosure. The PSS shall not discriminate against any individual who does not provide written consent.

(5) All health records, notes and other documents that reference a person's HIV status will be kept confidential. Access to these confidential records is limited to those named in written permission from the person (or parent or guardian) and to emergency medical personnel. Information regarding HIV status will not be added to a student's permanent education or health record without written consent.

(d) Procedures for Maintaining Confidentiality

To promote confidentiality and to avoid the violation of state and federal laws that protect the confidentiality of medical records, the following procedures are suggested:

(1) All medical information in any way relating to the HIV status of any member of the school community, including written documentation of discussion, telephone conversations, proceedings, and meetings shall be kept in a locked file. Access to this file shall be granted only to those persons identified in writing by the student or student's parent/guardian, or the employee, as having a direct need to know. Only persons named in the written consent may perform filing and photocopying of related documents.

(2) No medical information shall ever be faxed.

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(3) Medically related documents that are to be mailed shall be marked “Confidential.” Names of persons mailing document and those receiving the documents shall be identified on the written consent form by the student or a student’s parent/guardian, or the applicant/employee.

(4) A written consent form (form 2865) shall be completed prior to each disclosure and release of HIV-related information.

(5) Each disclosure made shall be noted and a list of such disclosures shall be made available to the students, parent/guardian, or employee upon request.

(e) Infection Control and Universal Precautions.

(1) All PSS employees are required to consistently follow infection control and universal precaution guidelines in all settings and at all times, including playgrounds and school buses. Schools will operate accordingly to standards promulgated by the US Occupational Health and Safety Administration for the prevention of blood- borne infections. Equipment and supplies needed to apply the infection control guidelines will be maintained and kept reasonable accessible. Commissioner of Education shall implement the precautions and investigate, correct and report on instances of lapse.

(2) A school staff member is expected to alert a person responsible for health condition or behavior presents a reasonable risk of transmitting any infection.

(3) If a situation occurs at school in which a person might have been exposed to an infectious agent, such as an instance of blood-to-blood contact, school authorities shall counsel that person (or, if a minor, alert a parent or guardian) to seek appropriate evaluation.

(4) The Commissioner of Education/designee shall provide training to all staff and student about: the hazards of bloodborne pathogens; the recommended operating procedures of universal precautions; the existence of the OSHA required exposure control plan; individuals or job classes to be notified in order to safety handle or clean up a blood or other body fluid spill safety; and the location and use of appropriate protective equipment and first aid devices.

(f) Education and Instruction for Students

(1) The PSS shall provide systematic and extensive elementary and secondary comprehensive health education, which includes education on HIV infection, other sexually transmitted diseases as well as other communicable diseases, and the prevention of disease, as required by state law.

(2) The PSS shall provide age-appropriate, ongoing HIV instruction for the kindergarten through 12th grades, in accordance with the coordinated and comprehensive Health and HIV/AIDS standards and benchmarks. This instruction shall use methods demonstrated by sound research to be effective, be consistent with community standards and be appropriate to students’ developmental levels, behaviors, and cultural backgrounds. The instruction will include current HIV epidemiology, methods of transmission and prevention, universal precautions and psychosocial aspects of HIV as part of a skills-based youth development principals through its integration into other subject areas.

(g) Responding to Questions

When students raise questions or makes comments relating to information not included in the approved curriculum, the teacher should answer the students’ questions by first referring the student to their parents, qualified instructors who are currently teaching sexuality or HIV/AIDS education, or counselors. Teachers shall respond to questions at the level of each student’s maturity within the confines of the guidelines.

(h) Using Additional Teaching Methods/Library and External Resources

(1) Only methods, teaching aids, and resources approved by the HIV Panel and stated in the BOE approved curriculum guidelines shall be used in teaching sexuality and HIV/AIDS education.

(2) Materials located in the school library shall reflect the values of the CNMI community. When guest speakers are used, or students assigned to hear speakers or other media not approved in the curriculum, the teacher shall make a request to the program supervisor for approval. Resource personnel should have an understanding of the scope of the curriculum content and how the presentation will tie in with the overall program. Teachers must be present when guest speakers are in the classroom.

(i) Public and Parental Concerns Regarding Curriculum

(1) Parents should be informed of their right to have their children withdrawn from sexuality and HIV/AIDS education lessons. Whenever a parent questions the curriculum or teaching methods, a written report regarding the nature of the question and subsequent response should be filed with the appropriate personnel including the program coordinator, HIV Chairperson and Review Panel.

(2) When a parent or citizen questions the content of the curriculum or teaching method, appropriate school authorities should be notified. If a teacher is questioned, the teacher should answer the parent's question in a logical and straightforward manner. At the discretion of the teacher and principal, the coordinator of the program may be present. Parents or citizens should also be informed that their concerns may be addressed to the Review Panel.

(j) Staff Development

The Commissioner of Education and the PSS HIV Review Panel shall create a plan to ensure that all school employees, including newly hired staff, receive training regarding current HIV policies and procedures. The plan will convey factual and current information; provide guidance on infection control procedures, HIV epidemiology, methods of transmission and prevention, universal precautions; inform about current law and school policies and regulations concerning HIV; discuss the psycho-social aspects of HIV-related school policies and procedures, assist staff to maintain productive parent and community relations; and includes specialized training as appropriate to their positions and responsibilities, including teaching strategies.

(k) HIV and Athletics

(1) The privilege of participating in physical education classes, athletic programs, competitive sports, and recess is not conditional on person's HIV status. School authorities will make reasonable accommodations to allow students living with HIV infection to participate in school-sponsored physical activities.

(2) All employees must consistently adhere to infection control guidelines in locker rooms and all play and athletic settings. Rulebooks will reflect these guidelines. First aid kits must be on hand at every athletic event.

(3) All physical education teachers and athletic program staff will complete an approved first aid and injury prevention course that includes implementation of infection control guidelines. Student orientation about safety on the playing field will include guidelines for avoiding HIV infection.

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(l) Related Services

Students will have access to voluntary, confidential, age and developmentally appropriate counseling about matters related to HIV infection. School administrators will maintain confidential linkage and referral mechanisms to facilitate voluntary student access to appropriate HIV counseling and testing programs, and to other HIV-related services as needed. Public information about resources in the community will be kept available for voluntary student use. However, Public Health is required to routinely offer on a voluntary basis with informed consent, HIV prevention counseling and HIV laboratory testing services to anonymous youth and adolescent programs.

(m) Enforcement

A person who violates this section may be subject to remedial and/or disciplinary action in accordance with applicable laws, regulations, policies and/or disciplinary code.

(n) General Provisions

(1) On an annual basis, school administrators will notify students, their family members, and school personnel about current policies concerning HIV infection, and provide convenient opportunities to discuss them. Information will be provided in major primary languages of students' families.

(2) The policy is effective immediately upon adoption. In accordance with the established policy review process, or at least every three years. Commissioner of Education shall report on the accuracy, relevance, and effectiveness of this policy and, when appropriate, provide recommendations for improving and/or updating the policy.

Modified, 1 CMC § 3806(d), (f), (g).

History: Amdts Adopted 24 Com. Reg. 19413 (July 29, 2002); Amdts Proposed 24 Com. Reg. 18852 (Jan. 29, 2002); Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001).

Commission Comment: The original paragraphs of subsections (h) and (i) were not designated. The Commission designated subsections (h)(1) and (h)(2) and (i)(1) and (i)(2).

On June 15, 1998 the Board of Education published proposed regulation § 623, entitled "Comprehensive HIV Regulations." See 20 Com. Reg. 15929 (June 15, 1998). A notice of adoption for the proposed section was never published.

The 2002 amendments amended subsection (f)(2) and readopted and republished this section in its entirety.

In subsection (d)(3), the Commission moved the period after "confidential" inside of the closing quotation mark. In subsection (l), the Commission changed "anonymously" to "anonymous" to correct a manifest error.

§ 60-20-484 Administering Medicines to Students

PSS shall not be responsible for administering or dispensing medication. However, the Board recognizes that some students may require medication for chronic or short-term illness/injury during the school day to enable them to remain in school and participate in their education. The following requirements must be met before the school will be able to assist students with such needs.

(a) Prescription Medication and Over-the-Counter Medication

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(1) A parent/guardian must request in writing that the PSS comply with an authorized prescriber's request to give medication. The student's authorized prescriber shall provide a written request that the student must receive the medication during school hours. The request shall state the name of the student, name of drug, dosage, frequency of administration, route of administration, and the prescriber's name.

(2) The diagnosis/indication for use of the medicine shall be provided. When applicable, the prescriber should state adverse effects and applicable emergency instructions. The PSS will not administer the initial dose of any new medication.

(b) **Emergency Medication**

Written standing orders will be obtained annually for the administration of emergency medication.

(c) **Storage and Administration of Medication**

A parent/guardian or other responsible party designated by the parent/guardian will deliver all medication to be administered at school to the principal or designee. All medication, prescription or over-the-counter, must be in a pharmacy or manufacturer-labeled container. The PSS shall provide secure, locked storage for medication to prevent diversion, misuse, or ingestion by another individual.

(d) **Self-administration of Medication**

Students with asthma or any potentially life-threatening respiratory illness may carry with them for self-administration metered-dose inhalers containing "rescue" medication. Possession and self-administration of these prescription medications must comply with prescription instructions and applicable law. Notification of the student's possession and use of such medication must be provided to the school principal. The notification shall state the name of the student, name of drug, dosage, frequency of administration, route of administration, the prescriber's name, the diagnosis/indication for use of the medicine, any adverse effects and applicable emergency instructions.

(e) **Parent/Guardian Administration**

In situations where the above requirements are not met, or any time the parent/guardian chooses, the parent/guardian may come to school to administer medicine to his/her student.

History: Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001).

Subpart I - Activities and Athletics

§ 60-20-486 Student Group Use of School Facilities

(a) An activity is to be considered curricular if the subject matter is or will be taught in a regularly offered class; if the subject matter concerns the body of courses as a whole; if participation in the group is a requirement for a course; or if academic credit is available for participation.

(b) Extracurricular activities include activities organized and supervised under the auspices of the school. Extracurricular activities primarily involve students in activities occurring outside academic class time, for which no units of credit are awarded.

(c) Any activity that does not meet the definition of a curricular or extracurricular activity will be considered non-curricular.

(d) Secondary schools will provide an opportunity for student-initiated non-curricular groups to meet on school premises during non-instructional time when the following criteria have been met:

(1) A meeting must be voluntary and student-initiated. No student shall be in any way coerced to participate in religious or other activity. Teachers and school administrators, when acting within the course and scope of their employment will strictly observe a policy of official neutrality regarding religious activity.

(2) No school employee may sponsor, promote, lead, or participate in any student-initiated, non-curricular meeting. However, a teacher, administrator, or other school employee may be assigned to monitor the group's facility use and student conduct.

(3) Employees and agents of the school may be present at student-initiated religious meetings only in a non-participatory capacity.

(4) The meeting does not materially and substantially interfere with the orderly conduct of educational activities within the school.

History: Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001).

§ 60-20-488 Split Campus Concept

9th grade students at Hopwood have their credits counted toward high school graduation. If a 9th grade student at Hopwood fails 3 or more credits, then the student will be retained at Hopwood.

History: Amdts Adopted 5 Com. Reg. 2504 (Dec. 15, 1983); Amdts Proposed 5 Com. Reg. 2470 (Oct. 20, 1983).

Commission Comment: The 1983 amendments added this section without specifying its place in the then-existing regulations. It was, therefore, unclear whether this policy was intended to be repealed in 2001. See 23 Com. Reg. at 18263 (Aug. 16, 2001) (repealing policies 400-419 and 600-624). Because the intent was unclear, the Commission retained the provision.

Subpart J - Restraint and Seclusion Policy and Procedures

§ 60-20-490 Policy

The Board of Education believes that maintaining an orderly, safe environment conducive to learning is an expectation of all staff members of the CNMI Public School System. An individual who is a teacher, administrator or school employee may, within the scope of that person's employment, use the amount of force as is reasonable and necessary to accomplish the following purposes:

(a) To restrain a student from an act of wrongdoing;

(b) To quell a disturbance threatening physical injury to self or others.

History: Adopted 35 Com. Reg. 33262 (Jan. 28, 2013); Proposed 34 Com. Reg. 33047 (Oct. 29, 2012).

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Commission Comment: The Commission changed a semicolon to a period at the end of subsection (b) to correct a manifest error pursuant to 1 CMC § 3806(g).

§ 60-20-491 Definitions

- (a) “Extended restraint”: A physical restraint the duration of which is more than twenty minutes. Extended restraints increase the risk of injury and, therefore, require additional written documentation as described in this regulation.
- (b) “Physical escort”: Touching or holding a student without the use of force for the purpose of directing the student.
- (c) “Physical restraint”: The use of bodily force to limit a student's freedom of movement.
- (d) “Restraint” – Other: Limiting the physical freedom of an individual student by mechanical means or seclusion in a limited space or location, or temporarily controlling the behavior of a student by chemical means. The use of chemical or mechanical restraint is prohibited unless explicitly authorized by a physician and approved in writing by the parent or guardian.
- (1) “Mechanical Restraint”: The use of a physical device to restrict the movement of a student or the movement or normal function of a portion of his or her body. A protective or stabilizing device ordered by a physician shall not be considered mechanical restraint.
- (2) “Seclusion Restraint”: Physically confining a student alone in a room or limited space without access to school staff. The use of “time out” procedures during which a staff member remains accessible to the student shall not be considered “seclusion restraint.”
- (3) “Chemical restraint”: The administration of medication for the purpose of restraint.

History: Adopted 35 Com. Reg. 33262 (Jan. 28, 2013); Proposed 34 Com. Reg. 33047 (Oct. 29, 2012).

Commission Comment: The Commission struck the figure “20” in subsection (a) as a mere repetition of written words pursuant to 1 CMC § 3806(e). The Commission added quotation marks around the words and phrases being defined pursuant to 1 CMC § 3806(g).

§ 60-50-492 Procedures and Training

- (a) Procedures. The Commissioner of Education or his/her designee shall develop written procedures regarding appropriate responses to student behavior that may require immediate intervention. Such procedures shall be annually reviewed and provided to school staff and made available to parents of enrolled students. Such procedures shall include, but not be limited to:
- (1) Methods for preventing student violence, self-injurious behavior, and suicide, including de-escalation of potentially dangerous behavior occurring among groups of students or with an individual student;
- (2) PSS policy regarding restraint that provides a description and explanation of the method of physical restraint, a description of the training requirements, reporting requirements and follow-up procedures, and a procedure for receiving and investigating complaints regarding restraint practices.

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(b) Required training for all staff. Each principal or director shall determine a time and method to provide all program staff with training regarding the PSS's restraint policy. Such training shall occur within the first month of each school year and, for employees hired after the school year begins, within a month of their employment. Training shall include information on the following:

- (1) The program's restraint policy;
- (2) Interventions that may preclude the need for restraint, including de-escalation of problematic behaviors;
- (3) Types of restraints and related safety considerations, including information regarding the increased risk of injury to a student when an extended restraint is used; and
- (4) Administering physical restraint in accordance with known medical or psychological limitations and/or behavioral intervention plans applicable to an individual student.

(c)(1) In-depth staff training in the use of physical restraint. At the beginning of each school year, the Commissioner or his/her designee shall identify PSS staff that are authorized to serve as a school-wide resource to assist in ensuring proper administration of physical restraint. Such staff shall participate in in-depth training in the use of physical restraint.

(2) Content of in-depth training. In-depth training in the proper administration of physical restraint shall include, but not be limited to:

- (i) Appropriate procedures for preventing the need for restraint, including the de-escalation of problematic behavior, relationship building and the use of alternatives to restraint;
- (ii) A description and identification of dangerous behaviors on the part of students that may indicate the need for physical restraint and methods for evaluating the risk of harm in individual situations in order to determine whether the use of restraint is warranted;
- (iii) The simulated experience of administering and receiving physical restraint, instruction regarding the effect(s) on the person restrained, including instruction on monitoring physical signs of distress and obtaining medical assistance;
- (iv) Instruction regarding documentation and reporting requirements and investigation of injuries and complaints; and
- (v) Demonstration by participants of proficiency in administering physical restraint.

History: Adopted 35 Com. Reg. 33262 (Jan. 28, 2013); Proposed 34 Com. Reg. 33047 (Oct. 29, 2012).

Commission Comment: The Commission corrected the capitalization of "Commissioner of Education" in subsection (a) pursuant to 1 CMC § 3806(f). The Commission changed a semicolon to a period at the end of subsection (b)(4) to correct a manifest error pursuant to 1 CMC § 3806(g). The Commission redesignated paragraph 4 as subsection (c)(2) pursuant to 1 CMC § 3806(a).

§ 60-20-493 Determining When Physical Restraint May Be Used

(a) Use of restraint. Physical restraint may be used only in the following circumstances:

- (1) Non-physical interventions would not be effective; and
- (2) The student's behavior poses a threat of imminent, serious, physical harm to self and/or others.

(b) Limitations on use of restraint. Physical restraint in a public education program shall be limited to the use of such reasonable force as is necessary to protect a student or another member of the school community from assault or imminent, serious, physical harm.

- (c) Prohibitions. Physical restraint is prohibited in the following circumstances:
 - (1) As a means of punishment; or
 - (2) For the convenience of staff; or
 - (3) As a substitute for less restrictive alternatives; or
 - (4) As a response to property destruction, disruption of school order, a student's refusal to comply with a school rule or staff directive, or verbal threats that do not constitute a threat of imminent, serious, physical harm; or*

- (d) Referral to law enforcement or other public agencies. Nothing in these regulations prohibits:
 - (1) The right of any individual to report to appropriate authorities a crime committed by a student or other individual;
 - (2) Law enforcement, judicial authorities, or school security personnel from exercising their responsibilities, including the physical detainment of a student or other person alleged to have committed a crime or posing a, security risk; or
 - (3) The exercise of an individual's responsibilities as a mandated reporter pursuant to BOE, CNMI and Federal regulation. These regulations shall not be used to deter any individual from reporting neglect or abuse to an appropriate public agency.

* So in original.

History: Adopted 35 Com. Reg. 33262 (Jan. 28, 2013); Proposed 34 Com. Reg. 33047 (Oct. 29, 2012).

Commission Comment: The Commission inserted a comma after “judicial authorities” in subsection (d)(2) to conform with style guidelines pursuant to 1 CMC § 3806(g). The Commission changed the capitalization of “regulation” in subsection (d)(3) to conform with style guidelines pursuant to 1 CMC § 3806(f).

§ 60-20-494 Proper Administration of Physical Restraint

- (a) Trained personnel. Only school personnel who have received training pursuant to this subpart shall administer physical restraint on students. Whenever possible, the administration of a restraint shall be witnessed by at least one adult who does not participate in the restraint. The training requirements contained herein shall not preclude a teacher or employee of PSS from using reasonable force to protect students, other persons or themselves from assault or imminent, serious, physical harm.

- (b) Use of force. A person administering a physical restraint shall use only the amount of force necessary to protect the student or others from physical injury or harm.

- (c) Safest method. A person administering physical restraint shall use the safest method available and appropriate to the situation subject to the safety requirements. Floor or prone restraints shall be prohibited unless the staff member administering the restraint has received in-depth training and, in the judgment of the trained staff member, such method is required to provide safety for the student or others present;

- (d) Duration of restraint. A person administering physical restraint shall discontinue such restraint as soon as possible. If, due to unusual circumstances, a restraint continues for more than

twenty minutes, it shall be considered an “extended restraint” for purposes of the reporting requirements.

- (e) Safety requirements. Additional requirements for the use of physical restraint:
 - (1) No restraint shall be administered in such a way that the student is prevented from breathing or speaking. During the administration of a restraint, a staff member shall continuously monitor the physical status of the student, including skin color and respiration. A restraint shall be released immediately upon a determination by the staff member administering the restraint that the student is no longer at risk of causing imminent physical harm to him or herself or others.
 - (2) Restraint shall be administered in such a way so as to prevent or minimize physical harm. If, at any time during a physical restraint, the student demonstrates significant physical distress, the student shall be released from the restraint immediately, and school staff shall take steps to seek medical assistance.
 - (3) Program staff shall review and consider any known medical or psychological limitations and/or behavioral intervention plans regarding the use of physical restraint on an individual student.
 - (4) Following the release of a student from a restraint, the program shall implement follow-up procedures. These procedures shall include reviewing the incident with the student to address the behavior that precipitated the restraint, reviewing the incident with the staff person(s) who administered the restraint to discuss whether proper restraint procedures were followed, and consideration of whether any follow-up is appropriate for students who witnessed the incident.

History: Adopted 35 Com. Reg. 33262 (Jan. 28, 2013); Proposed 34 Com. Reg. 33047 (Oct. 29, 2012).

Commission Comment: The Commission changed “this regulation” to “this subpart” in subsection (a) pursuant to 1 CMC § 3806(d). The Commission struck the figure “20” in subsection (d) as a mere repetition of written words pursuant to 1 CMC § 3806(e).

§ 60-20-495 Reporting Requirements

- (a) Circumstances under which a physical restraint must be reported.
 - (1) PSS staff shall report the use of physical restraint after administration of a physical restraint that results in any injury to a student or staff member, or any physical restraint of duration longer than five minutes.
- (b) Informing school administration.
 - (1) The PSS staff who administered the restraint shall verbally inform the administration of the restraint as soon as possible and by written report no later than the next school working day.
 - (2) The written report shall be provided to the principal or his/her designee, except that the principal or director shall prepare the report if the principal or director has administered the restraint
 - (3) The principal or director or his/her designee shall maintain an on-going record of all reported instances of physical restraint.
- (c) Informing parents.

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(1) The principal or his/her designee shall verbally inform the student's parents or guardians of the restraint as soon as possible, and by written report no later than three school working days following the use of restraint.

(d) Contents of report. The written report shall include:

(1) The names and job titles of the staff who administered the restraint, and observers, if any; the date of the restraint; the time the restraint began and ended; and the name of the administrator who was verbally informed following the restraint.

(2) A description of the activity in which the restrained student and other students and staff in the same room or vicinity were engaged immediately preceding the use of physical restraint; the behavior that prompted the restraint; the efforts made to de-escalate the situation; alternatives to restraint that were attempted; and the justification for initiating physical restraint.

(3) A description of the administration of the restraint including the holds used and reasons such holds were necessary; the student's behavior and reactions during the restraint; how the restraint ended; and documentation of injury to the student and/or staff, if any, during the restraint and any medical care provided.

(4) For extended restraints, the written report shall describe the alternatives to extended restraint that were attempted, the outcome of those efforts, and the justification for administering the extended restraint.

(5) Information regarding any further action(s) that the school has taken or may take, including any disciplinary sanctions that may be imposed on the student.

(6) Information regarding opportunities for the student's parents or guardians to discuss with school officials the administration of the restraint, any disciplinary sanctions that may be imposed on the student, and/or any other related matter.

History: Adopted 35 Com. Reg. 33262 (Jan. 28, 2013); Proposed 34 Com. Reg. 33047 (Oct. 29, 2012).

Commission Comment: The Commission inserted apostrophes after "the outcome of those efforts" in subsection (d)(4) and after "imposed on the student" in subsection (d)(6) to conform with style guidelines pursuant to 1 CMC § 3806(g).

§ 60-20-496 Students with Disabilities

(a) Students with Disabilities. Restraint administered to a student with a disability pursuant to an Individualized Education Plan ("IEP") or other written plan developed in accordance with local and federal law shall be deemed to meet the requirements of this regulation, except that the limitations on chemical, mechanical, and seclusion restraint, the training requirements, and the reporting requirements set forth in this subpart shall apply.

History: Adopted 35 Com. Reg. 33262 (Jan. 28, 2013); Proposed 34 Com. Reg. 33047 (Oct. 29, 2012).

Commission Comment: The original regulation designated subsection (a), but did not designate any other subsections. The Commission changed "this regulation" to "this subpart" pursuant to 1 CMC § 3806(d).

Part 500 - Instructional Services

§ 60-20-501 Placement and Inclusion

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(a) The Board believes that similarly aged children of different educational levels will thrive both academically and socially if they are not segregated based on academic achievement. Accordingly, the Board precludes the schools in the Commonwealth from establishing remedial, intermediate and advanced classes in the core subjects.

(b) However, nothing in this section prevents the development of at-risk programs, gifted and talented programs, advanced placement (AP) or honors programs or individualized education programs (IEP) that may call for students to be provided educational opportunities to meet their unique needs.

(c) Except for the bilingual instruction, students shall not be organized into classes consisting solely of one ethnic or language group. No students shall be segregated into a class consisting of one ethnic or language group for the entire school day.

Modified, 1 CMC § 3806(d), (g).

History: Amdts Adopted 24 Com. Reg. 19413 (July 29, 2002); Amdts Proposed 24 Com. Reg. 18852 (Jan. 29, 2002); Amdts Adopted 13 Com. Reg. 7666 (Mar. 15, 1991); Amdts Proposed 13 Com. Reg. 7518 (Jan. 15, 1991); Proposed 3 Com. Reg. 1254 (June 30, 1981).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (c).

The 1991 amendments readopted and republished policy 406, entitled “Grouping of Students” in its entirety. On August 16, 2001, the Board of Education repealed policy 406. See 23 Com. Reg. 18263 (Aug. 16, 2001). The 2002 amendments adopted this new section, which contains some provisions of former policy 406. See also the commission comment to § 60-20-001.

In subsection (b), the Commission changed “met” to “meet” to correct a manifest error.

§ 60-20-505 Instructional Time

(a) Elementary School

(1) Kindergarten

Each public elementary school will provide a minimum of 180 minutes of instructional time to kindergarten students in the thematic approach to instruction.

(2) First through Sixth Grades

Each public elementary school will provide 360 minutes daily instructional time for students in grades one through six. The subjects and daily time allotments set forth below shall apply. Any departure from the time and/or subject requirements will require express prior approval from the Commissioner of Education that is subject to Board review upon request.

Subject	Grades 1 through 6
Language Arts (Social Studies Content)	120 minutes
Math	40 minutes

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Science	40 minutes
Chamorro/Carolinian	40 minutes
Physical Education/Health	40 minutes
Art (1 semester per school year) Music (1 semester per school year)	40 minutes
Social Studies	40 minutes

(b) Junior High School

(1) Each public junior high school will provide a minimum of 300 minutes daily instructional time for students in grades seven and eight. The required courses shall be taught for a minimum of 50 minutes per class. Any departure from the subject, time and/or credit requirements will require express prior approval from the Commissioner of Education which is subject to Board review upon request.

Required Courses+	
Language Arts Integrated literature/reading/speaking and listening - grade 7 Integrated writing and grammar - grade 7 Integrated literature/reading/speaking and listening - grade 8 Integrated writing and grammar - grade 8	2 credits
Math Pre-algebra, algebra	2 credits
Science Life science, physical science Integrated science: life, earth and physical science (A) 7th Integrated science: life, earth and physical science (B) 8th	2 credits
Social Studies CNMI civics, geography Geography .5 - 7th History .5 - 7th	2 credits

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Civics .5 - 8th Economics .5 - 8th	
Physical Education 0.5 credits of the physical education credits must include a health course	1 credits
Chamorro and/or Carolinian	0.5 credits
Vocational	0.5 credits
Computer Literacy	0.5 credits
Art/Music	0.5 credits

+ The [2005] amendments to this subsection shall be effective for students entering seventh grade school year 2005-2006.

(2) A minimum of eleven credits is required for promotion from 8th grade to the 9th grade.

(c) High School

(1) A minimum of 300 minutes daily instructional time shall be provided in CNMI public high schools. All required courses shall be for a minimum of fifty minutes per class. Any departure from the subject, time and/or credit requirements will require express prior approval from the Commissioner that is subject to Board review upon request. Honors/Advanced Placement courses are recommended by the principals and approved by the Commissioner of Education.

(2) A minimum of twenty-eight credits are required for graduation from the 12th grade. Required courses constitute twenty-three credits of the minimum credit and are as follows:

Required Courses+	
English Composition I and II Integrated literature and composition - 9th Integrated literature and composition - 10th Technical research/business writing - 11th American literature 11th British literature 12th	8 credits
Math Algebra I - 9th Geometry - 10th Algebra II - 11th	6 credits

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Science Environmental science - 9th General biology - 10th Chemistry - 11th	3 credits
Social Studies NMI history - 10th US/world history - 11th US government/economics - 12th	3 credits
Physical Education 0.5 credit of physical education must include a health course.	2 credits ⁺⁺
Language other than English	1 credit

+ The [2005] amendments to this subsection shall be effective for students entering ninth grade school year 2005-2006.

++ JROTC may be substituted for 1 credit of Physical Education.

Modified, 1 CMC § 3806(d), (e), (f), (g).

History: Amdts Adopted 27 Com. Reg. 25398 (Dec. 30, 2005); Amdts Proposed 27 Com. Reg. 25027 (Oct. 24, 2005); Amdts Adopted 24 Com. Reg. 19413 (July 29, 2002); Amdts Proposed 24 Com. Reg. 18852 (Jan. 29, 2002); Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001); Amdts Proposed 17 Com. Reg. 13767 (Nov. 15, 1995); Amdts Adopted 15 Com. Reg. 10999 (Oct. 15, 1993); Certified 15 Com. Reg. 10683 (June 15, 1993); Amdts Proposed 15 Com. Reg. 10677 (June 15, 1993); Amdts Adopted 14 Com. Reg. 9285 (May 26, 1992); Amdts Proposed 13 Com. Reg. 8164 (Oct. 15, 1991); Amdts Adopted 13 Com. Reg. 7541 (Jan. 15, 1991); Amdts Adopted 12 Com. Reg. 7438 (Oct. 15, 1990) (reserving proposed amendment for further consideration); Amdts Proposed 12 Com. Reg. 7205 (Aug. 15, 1990); Amdts Adopted 5 Com. Reg. 2504 (Dec. 15, 1983); Amdts Proposed 5 Com. Reg. 2470 (Oct. 20, 1983); Proposed 3 Com. Reg. 1254 (June 30, 1981).

Commission Comment: The 1983 amendments readopted and republished “policy 407,” entitled “Subject Time Allotments for Elementary, Jr. High & High School.” The 1991 amendments readopted and republished policy 407 in its entirety with numerous amendments. The notice of adoption for the 1991 amendments changed the proposed language. See 13 Com. Reg. at 7549-51 (Jan. 15, 1991). The 1993 amendments readopted and republished policy 407 in its entirety with numerous amendments. A notice of adoption for the November 1995 proposed amendments was never published

The 1983 amendments also readopted and republished “policy 403,” entitled “Daily School Sessions.” The 1991 amendments readopted and republished policy 403 in its entirety. The notice of adoption for the 1991 amendments changed the proposed language. See 13 Com. Reg. at 7547 (Jan. 15, 1991). The 1992 readopted and republished policy 403 in its entirety.

The 2001 amendments repealed former Board of Education policies 403 and 407 and replaced them with this section. The notice of adoption for the 2001 amendments changed the proposed language of subsections (a)(1) and (b)(1).

The 2002 amendments amended subsections (a)(2), (b)(1) and (c)(1) and readopted and republished this section in its entirety.

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In subsection (c)(2), the Commission changed “credit” to “credits.”

The December 2005 amendments amended subsections (a)(2), (b)(1), (c)(1) and (c)(2) and republished this section in its entirety.

§ 60-20-510 Student Teacher Ratios

(a) The Public School System (PSS) will strive to meet the following student to teacher general guidelines governing class size for instruction.

(1)	Elementary School Class Size, Regular Program		
	Grades K	Maximum 20/1	Minimum 10/1
	Grades 1-3	Maximum 25/1	Minimum 15/1
	Grades 4-6	Maximum 25/1	Minimum 20/1
(2)	Jr. High School Class Size, Regular Program		
	Grades 7-8	Maximum 30/1	Minimum 15/1
(3)	High School Class Size, Regular Program		
	Grades 9-12	Maximum 30/1	Minimum 15/1
(4)	Vocational Education Class Size		
	Teacher Program	Maximum 30/1	Minimum 15/1
	Business Program	Maximum 30/1	Minimum 15/1
	Trades Program	Maximum 20/1	Minimum 10/1
	Co-op Program	Maximum 40/1	Minimum 20/1

(b) Special education and Head Start classes shall be governed by the applicable federal regulations.

(c)(1) Special programs at all levels, such as gifted and developmental programs, and single class offerings at the secondary level (such as typing) shall not be governed by this section.

(2) The maximum student-teacher ratios for the programs listed below should be as follows:

- (i) 25/1 in core academic classrooms
- (ii) 15/1 in vocational education classrooms
- (iii) 10/1 in special education classrooms.

(d) Exceptions to the parameters established by the guidelines in this section will be made only with the express approval of the Commissioner, with review by the Board upon request.

Modified, 1 CMC § 3806(d), (f), (g).

History: Amdts Adopted 24 Com. Reg. 19413 (July 29, 2002); Amdts Proposed 24 Com. Reg. 18852 (Jan. 29, 2002); Amdts Proposed 17 Com. Reg. 13008 (Mar. 15, 1995); Amdts Adopted 13 Com. Reg. 7541 (Jan. 15, 1991); Amdts Adopted 12 Com. Reg. 7438 (Oct. 15, 1990) (reserving proposed amendment for further consideration); Amdts Proposed 12 Com. Reg. 7205 (Aug. 15, 1990); Proposed 3 Com. Reg. 1158 (Mar. 30, 1981).

Commission Comment: The original paragraphs of subsection (c) were not designated. The Commission designated subsections (c)(1) and (c)(2).

The Commission inserted the final period in subsection (c)(2)(iii).

The 1991 amendments readopted and republished policy 404, entitled “Student Teacher Ratios” in its entirety. The notice of adoption for the 1991 amendments changed the proposed language of the policy. See 13 Com. Reg. at 7548 (Jan. 15, 1991). A notice of adoption for the 1995 amendments was never published. On August 16, 2001, the Board of Education repealed policy 404. See Adopted 23 Com. Reg. 18263 (Aug. 16, 2001). The 2002 amendments adopted this section, which incorporated parts of former policy 404. See also the commission comment to § 60-20-001.

§ 60-20-515 Curriculum Services; Field Trips

(a) Field trips are recognized as an important component of the curriculum services and instructional programs at PSS. Classroom teachers are permitted to take their classes on field trips that are educational in nature and that relate to the curriculum being taught or to school-sanctioned extracurricular activities. Regulations and procedures governing field trips must be followed as established by the Commissioner of Education. No field trip shall be approved where a threat or hazard to the reasonable safety of the students exists.

(b) In conducting educational field trips the following provisions will apply:

(1) All students and chaperones must purchase travel insurance for all off-island field trips sanctioned by the Commissioner of Education.

(2) A minimum chaperone-student ratio of 1 to 10 is required for both on and off-island field trips.

(3) In a situation where there are mixed female and male students, adult male and female chaperones are required.

(4) No PSS student shall be allowed on a field trip without a specific, written parental permission slip. For each field trip the parent/guardian must be provided a written explanation of the location where the field trip will occur, the anticipated length of the field trip, who will be chaperoning the field trip, the anticipated method of transportation, the anticipated financial requirements that the parent/guardian will be required to shoulder, the anticipated instructional content and any anticipated costs to the parent of the field trip. In addition, for out-of-the-CNMI field trips, the student must show proof of valid medical insurance and provide parental consent to medical treatment before the student will be allowed to attend the field trip.

(5) All parental consent slips shall clearly state the date(s) that the consent covers and “blanket permission forms” (open-ended as to date, place to be visited, or instructional content and goals of field trip(s)) shall not be permitted.

(6) Vehicular transportation to the field trip site, or the airport for off-island field trips, shall be provided by either the individual student’s parent/guardian or by the Public School System vehicles designed to transport students. In no instance shall students be transported to or from a field trip site in the bed of a pick-up truck or in a PSS employee’s personal vehicle.

Modified, 1 CMC § 3806(b).

History: Amdts Adopted 24 Com. Reg. 19413 (July 29, 2002); Amdts Proposed 24 Com. Reg. 18852 (Jan. 29, 2002); Amdts Adopted 20 Com. Reg. 15965 (June 15, 1998); Amdts Proposed 19 Com. Reg. 15423 (Aug. 15, 1997); Amdts Adopted 7 Com. Reg. 3972 (Sept. 16, 1985); Amdts Proposed 7 Com. Reg. 3820 (July 22, 1985).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

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The 1985 amendments adopted policy 411, entitled “Field Trips.” On August 16, 2001, the Board of Education repealed policy 411. See Adopted 23 Com. Reg. 18263 (Aug. 16, 2001). The 2002 amendments adopted “Regulation 6190,” entitled “Field Trips,” which incorporated parts of former policy 411.

§ 60-20-520 Textbook Usage; Students

(a) At the beginning of each term, or semester as applicable, students are to be informed by each teacher of the school’s expectations of responsibility for school property and the need for care and return of books. A constructive and educational approach to the students is desirable, including a discussion of reasons for treating books with respect, caring for them, using them wisely, and returning them in good condition. Penalties for lost or damaged books are to be outlined. A monitoring process is to be devised such as textbook receipt cards or other charge-out system that requires the students signature for use of the book(s).

(b) Parents/guardians are to be informed by the principal/designee as to the textbook status in the building or department; i.e., in which subject students are provided with individual copies, class sets, consumable materials, etc. Newsletters to the homes, open house presentations and PTO meetings may be used as means of communication.

(c) Parents/guardians are to be informed of the penalties for lost or damaged textbooks early in the school year. Penalties may include a reasonable system off fines or repayments. For example, the student or the student’s parents/guardians could be required to pay the fair value for replacement of a lost or destroyed book or for repair of a book. The student could choose to do some work for the school instead, if the principal finds that to be the best option.

(d) The principal may enforce a fine or penalty by withholding the issuance of certified transcripts or diplomas, or other reasonable enforcement methods.

(e) No student is to be penalized if a book is lost because of factors beyond his/her control. All students will be made aware that if such losses are reported immediately, and if the administration agrees that the loss was beyond the students control, fines will be canceled. The reporting procedure will be publicized in Student Handbooks and other school publications. Principals will handle cases individually.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001).

§ 60-20-525 Challenged Materials

On occasion, honest differences of opinion may arise about books or materials used in the public schools. In order to handle questions that might arise in an impartial and orderly manner, the following procedures shall be followed:

(a) All complaints shall be reported immediately to the building principal involved, whether these come by telephone, letter, or personal conference.

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- (b) The person making the complaint shall receive the form “Review of Instructional Materials.” A copy of this form may be picked up in the administrator’s office.
- (c) This form must be completed and returned by the person making the complaint.
- (d) The Commissioner of Education shall, within fifteen days of receipt of the written request, appoint a review committee of nine people. The committee shall consist of the administrator of the building involved, one teacher, and one member of the PTA or other parent association at the school.
- (e) The classroom teacher appointed shall be represented by the grade level or subject area where the media is used.
- (f) The PTA or other parent association at the school shall select the parent member appointed.
- (g) Within twenty days of the appointment of the committee, the committee shall meet, review the written request for reconsideration, read the questioned materials, evaluate, and prepare a written report of its findings and recommendations to the Commissioner.
- (h) The committee may recommend that the questioned materials be:
 - (1) Retained without restriction;
 - (2) Retained with restriction; or
 - (3) Not retained.
- (i) The Commissioner shall make a final decision within 10 days of the committee report. The decision shall be reported to the principal of the school, to the complainant, to all school principals and to other appropriate professional personnel. The principals shall see that the decision of the Commissioner is carried out.
- (j) The principals shall keep on file all pertinent information concerning the questioned materials or any books or materials likely to be questioned.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001).

§ 60-20-530 Alternative Learning Settings

- (a) Pursuant to CNMI law (3 CMC § 1132), the Board “shall establish and provide such academic and vocational programs as are appropriate and beneficial to the students and shall serve the needs of the community.” As part of this responsibility, the Board has adopted this section to address instructional programs for students at-risk and to establish alternative learning settings to enable students to achieve their educational goals and requirements, such as grade promotions and high school graduation.
- (b) Advanced Development Institute (ADI)

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(1) ADI is an alternative high school program. The purpose of ADI is to allow students aged sixteen and older, who have not completed high school, to achieve success by making a positive connection with academic and vocational training, employers and work, mentors and tutors, families and community in an atmosphere that is welcoming, comfortable and sensitive to their individual needs, skills and learning styles. ADI teaches students to develop their critical, creative, communication and occupational skills through course offerings including reading and writing, consumer economics, health, government and law, occupational knowledge, and community resources. Graduates of ADI move into the private and public workforce with the skills necessary to achieve success.

(2) The CNMI Board of Education is authorized by law and Board regulations to award diplomas for secondary education. Graduates of ADI must complete two phases to receive an alternative high school diploma. The first phase consists of the ADI academic courses, including English, math, community resources, consumer economics, government and law, occupational knowledge and health. Five academic courses in the first phase must be passed. The second phase requires the students to gain career experience through a vocational or occupational program at a post-secondary institution or by working or volunteering in the community.

(3) A minimum of ninety minutes of daily instructional time shall be provided to students in the alternative high school program of ADI. The subjects are the academic courses in the first phase listed above. Any departure from the time and/or subject requirements will require express prior approval from the Commissioner of Education that is subject to Board review upon request.

(c) Lina'la' Malawasch Academy (LMA)

The Lina'la' Malawasch Academy (LMA) is an alternative learning setting for students grades seven and eight who have demonstrated behavioral problems that require intervention. Lina'la' malawasch means life, well-being and a new beginning in the Chamorro and Carolinian languages. The goal of LMA is to offer a second chance to students by creating an environment for students to improve their behavior, attendance and academic performance to enable them to reenter the general student population and proceed towards graduation from high school. The academic requirements for LMA students are similar to the PSS requirements and Board regulations regarding other junior high school students.

Modified, 1 CMC § 3806(e), (g).

History: Amdts Adopted 24 Com. Reg. 19939 (Dec. 27, 2002); Amdts Proposed 24 Com. Reg. 19502 (Sept. 27, 2002).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (c).

In subsection (b)(3), the Commission changed “minute” to “minutes” to correct a manifest error.

§ 60-20-535 Home Study

Home study programs must meet Commonwealth curriculum and performance standards and the following provisions will apply for all approved home study programs.

(a) Application

An application for home study shall be submitted to the Commissioner no later than sixty days prior to the beginning of a school year. No one will be excused from attending a public or

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nonpublic school unless the Commissioner has granted a waiver. The following information must accompany the application.

- (1) Name, address and telephone of parents and student or tutor
- (2) Justification for the home study program
- (3) Auspices under which the home study will operate and curriculum will be taught
- (4) Description and qualifications of parent-instructor or tutor and, for my hired tutor, police clearance for the past three years
- (5) Dates and hours of instruction
- (6) Negative active tuberculosis records for any hired tutor
- (7) Any other pertinent and necessary information as requested by the Commissioner of Education.

(b) Application Processing

The Commissioner will take action on a timely submitted application before the beginning of the school year. All applicable curricular and other standards of the Board shall be met and any investigation conducted in the review of the application shall be completed before a decision is rendered.

(c) Limitations

- (1) A waiver is granted for home study based on meeting the requirements of the Commissioner and this section.
- (2) Parents/guardians must report in writing to the Commissioner any change in the home study within five days.
- (3) The term of a home study is for one school year. The Commissioner may, however, suspend or revoke the waiver if the holder violates the terms of the application or this section.

(d) Home Study Records

A chartered home study program shall keep adequate records for the student containing persons in attendance, goals and such information as required by the Commissioner. Records of courses taken shall be transferred at the end of the school year to a school where the student would otherwise be attending and shall be kept on file there for at least five years.

(e) Reports

The parent/guardian shall submit to the Commissioner reports on the progress of the program monthly, quarterly and annually.

(f) Other Requirements

- (1) A chartered home study program shall provide 300 minutes of secular instruction daily. It shall be in operation for 180 instructional days in a year.
- (2) Mentors of a home study program shall meet the qualifications stipulated by Board policies.
- (3) The PSS shall monitor the home study program to ensure compliance with its application and this section.

(g) Revocation of Waiver

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- (1) Failure to comply and maintain the standards and conditions required by the Commissioner and this section shall be considered reason for suspension or revocation of the waiver.
- (2) Parents/guardians, including mentors of any home study students, shall cooperate, provide information and access and assist the Commissioner in any inquiry or investigation conducted regarding application, monitoring and related matters. Failure to cooperate constitutes reason for disapproval of an application or suspension or revocation of a waiver.

Modified, 1 CMC § 3806(d), (e), (f).

History: Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001); Amdts Adopted 14 Com. Reg. 9285 (May 26, 1992); Amdts Proposed 13 Com. Reg. 8164 (Oct. 15, 1991).

Commission Comment: The May 1992 amendments added “policy 415,” entitled “Home Study.” The 2001 amendments repealed former Board of Education policy 415 and replaced it with this section.

§ 60-20-540 Library, Media, and Technology Services; Student Internet Usage

The CNMI - Public School System (PSS) is now offering internet access for student use. This section contains the acceptable use regulations for your use of Public School System Educational Systems Network (PSS-ESN).

(a) Educational Purpose

- (1) PSS-ESN has been established for a limited educational purpose. The term “educational purpose” in this policy and regulations includes classroom activities, career development, and limited high-quality self- discovery activities.
- (2) PSS-ESN has not been established as a public access service or a public forum. PSS has the right to place reasonable restrictions on the material you access or post through the system. You are also expected to follow the rules set forth in (disciplinary code)* and the law in your use of PSS-ESN.
- (3) You may not use PSS-ESN for commercial purposes. This means you may not offer, provide, or purchase products or services through PSS-ESN.
- (4) You may not use PSS-ESN for political lobbying. But you may use the system to communicate with elected representatives and to express your opinion on political issues.

*So in original.

(b) Student Internet Access

- (1) The PSS acceptable use policy, set forth will govern all use of the PSS-ESN. The student code of conduct will also govern student use of the system. Employee use will also be governed by (PSS policy, collective bargaining agreement).
- (2) Classroom Accounts. Elementary age students will be granted e-mail access only through a classroom account. Elementary students may be provided with an individual account under special circumstances at the request of their teacher and with the approval of their parent. An agreement will only be required for an individual account, which must be signed by the student and his or her parent. Parents may specifically request that their child(ren) not be provided access through the classroom account by notifying the PSS in writing (or whatever procedure the PSS uses for other permissions).

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(3) Individual E-mail Accounts for Students. Secondary students may be provided with individual e-mail accounts. Secondary students may have dial-up access to the system. An agreement will be required for an individual e-mail account. The student and his or her parent must sign this agreement.

(4) All students will have access to internet world wide web information resources through their classroom, library, or school computer lab.

(5) Students will have e-mail access only under their teacher's direct supervision using a classroom account. Students may be provided with individual e-mail accounts under special circumstances, at the request of their teacher and with the approval of the school principal and the student's parent/ guardian.

(6) You and your parent/guardian must sign an account agreement to be granted an individual e-mail account on PSS-ESN. The agreement will not exceed a year in duration, but may be renewed on an annual basis. Your parent can withdraw their approval at any time.

(7) If approved by your school principal, you may create a personal web page on PSS-ESN. All material placed on your web page must be pre-approved in a manner specified by the school. Material placed on your web page must relate to your school and career preparation activities.

(c) Parental Notification and Responsibility

(1) The PSS will notify the parents about the PSS network and the policies governing its use. Parents must sign an agreement to allow their student to have an individual account. Parents may request alternative activities for their child(ren) that do not require internet access.

(2) Parents have the right at any time to investigate the contents of their child(ren)'s e-mail files. Parents have the right to request the termination of their child(ren)'s individual account at any time.

(3) The PSS acceptable use policy contains restrictions on accessing inappropriate material. There is a wide range of material available on the internet, some of which may not be fitting with the particular values of the families of the students. It is not practically possible for the PSS to monitor and enforce a wide range of social values in student use of the internet. Further, the PSS recognizes that parents bear primary responsibility for transmitting their particular set of family values to their children. The PSS will encourage parents to specify to their child(ren) what material is and is not acceptable for their child(ren) to access through the PSS-ESN.

(4) The PSS will provide students and parents with guidelines for student safety while using the internet.

(5) (Optional, if dial-up access is provided) Parents are responsible for monitoring their student's use of the internet when they are accessing the system from home.

(d) Unacceptable Uses

The following uses of PSS-ESN are considered unacceptable:

(1) Personal Safety

(i) You will not post personal contact information about yourself or other people. Personal contact information includes your address, telephone, school address, work address, etc.

(ii) You will not agree to meet with someone you have met online without your parent's approval. Your parent should accompany you to such a meeting.

(iii) You will promptly disclose to your teacher or other school employee any message you receive that is inappropriate or makes you feel uncomfortable in any way.

(2) Illegal Activities

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- (i) You will not attempt to gain unauthorized access to PSS-ESN or to any other computer system through PSS-ESN or go beyond your authorized access. This includes attempting to log in through another person's account or access another person's files. These actions are illegal, even if only for the purposes of "browsing."
 - (ii) You will not make deliberate attempts to disrupt the computer system or destroy data by spreading computer viruses or by any other means. These actions are illegal.
 - (iii) You will not use PSS-ESN to engage in any other illegal act, such as arranging for a drug sale or the purchase of alcohol, engaging in criminal gang activity, threatening the safety of person, etc.
- (3) System Security
- (i) You are responsible for your individual account and should take all reasonable precautions to prevent others from being able to use your account. Under no conditions should you provide your password to another person.
 - (ii) You will immediately notify a teacher or the school system administrator if you have identified a possible security problem. Do not go looking for security problems, because this may be construed as an illegal attempt to gain access.
 - (iii) You will avoid the inadvertent spread of computer viruses by following the district virus protection procedures if you download software.
- (4) Inappropriate Language
- (i) Restrictions against inappropriate language apply to public messages, private messages, and material posted on web pages.
 - (ii) You will not use obscene, profane, lewd, vulgar, rude, inflammatory, threatening, or disrespectful language.
 - (iii) You will not post information that could cause damage or a danger of disruption.
 - (iv) You will not engage in personal attacks, including prejudicial or discriminatory attacks.
 - (v) You will not harass another person. Harassment is persistently acting in a manner that distresses or annoys another person. If you are told by a person to stop sending them messages, you must stop.
 - (vi) You will not knowingly or recklessly post false or defamatory information about a person or organization.
- (5) Respect for Privacy
- (i) You will not repost a message that was sent to you privately without permission of the person who sent you the message.
 - (ii) You will not post private information about another person.
- (6) Respecting Resource Limits
- (i) You will use the system only for educational and career development activities and limited, high-quality, self-discovery activities. There is no limit on use for education and career development activities. The limit on self-discovery activities is no more than 5 hours per week.
 - (ii) You will not download large files unless absolutely necessary. If necessary, you will download the file at a time when the system is not being heavily used and immediately remove the file from the system computer to your personal computer.
 - (iii) You will not post chain letters or engage in "spamming." Spamming is sending an annoying or unnecessary message to a large number of people.
 - (iv) You will check your e-mail frequently, delete unwanted messages promptly, and stay within your e-mail quota.

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(v) You will subscribe only to high quality discussion group mail lists that are relevant to your education or career development.

(7) Plagiarism and Copyright Infringement

(i) You will not plagiarize works that you find on the internet. Plagiarism is taking the ideas or writings of others and presenting them as if they were yours.

(ii) You will respect the rights of copyright owners. Copyright infringement occurs when you inappropriately reproduce a work that is protected by a copyright. If a work contains language that specifies appropriate use of that work, you should follow the expressed requirements. If you are unsure whether or not you can use a work, you should request permission from the copyright owner. Copyright law can be very confusing. If you have questions ask a teacher.

(8) Inappropriate Access to Material

(i) You will not use PSS-ESN to access material that is profane or obscene (pornography), that advocates illegal acts, or that advocates violence or discrimination towards other people (hate literature). A special exception may be made for hate literature if the purpose of your access is to conduct research and both your teacher and parent have approved.

(ii) When you mistakenly access inappropriate information, you should immediately tell your teacher or school administrator (or disclose this access in the manner specified by your school). This will protect you against a claim that you have intentionally violated this section.

(iii) Your parents should instruct you if there are additional materials that they think are inappropriate for you to access. You and your parent/guardian should inform your teacher of such materials. PSS fully expects that you will follow your parent's instructions in this matter.

(9) Consequences or Unacceptable Uses

(i) Your classroom teacher, your school administrator, or the PSS Technology Coordinator may revoke your privileges under this policy for any unacceptable uses, including uses not specifically listed herein.

(ii) Unacceptable uses by a student may result in disciplinary action, including suspension or expulsion.

(iii) Any illegal uses may be reported to the Department of Public Safety or the Federal Bureau of Investigations.

(e) Your Rights

(1) Free Speech

Your right to free speech applies to your communication on the internet. The exercise of your free speech rights may not disrupt the educational process. The PSS-ESN is considered a limited forum, similar to the school newspaper, and therefore PSS may restrict your speech for valid educational reasons. PSS will not restrict your speech on the basis of a disagreement with the opinions you are expressing.

(2) Searches and Seizure

(i) You should expect only limited privacy in the contents of your personal files on the PSS system. The situation is similar to the rights you have in the privacy of your locker.

(ii) Routine maintenance and monitoring of PSS-ESN may lead to discovery that you have violated this section, the student disciplinary code, or the law.

(iii) An individual search will be conducted if there is reasonable suspicion that you have violated this section, the student disciplinary code, or the law. The investigation will be reasonable and related to the suspected violation.

(iv) Your parents have the right at any time to request to see the contents of your e-mail files.

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(3) Due Process

(i) PSS will cooperate fully with local, state, or federal officials in any investigation related to any illegal activities conducted through PSS-ESN.

(ii) In the event there is a claim that you have violated this section or student disciplinary code in your use of the PSS-ESN, you will be provided the due process and hearing rights set forth in the student disciplinary regulations. Additional restrictions may be placed on your use of your internet account.

(f) Limitation of Liability

PSS makes no guarantee that the functions or the services provided by or through the PSS system will be error-free or without defect. PSS will not be responsible for any damage you may suffer, including but not limited to, loss of data or interruptions of service. PSS is not responsible for the accuracy or quality of the information obtained through or stored on the system. PSS will not be responsible for financial obligations arising through the unauthorized use of the system.

(g) Personal Responsibility

When you are using the PSS-ESN, it may feel like you can more easily break a rule and not get caught. This is not really true because whenever you do something on a network you leave little “electronic footprints,” so the odds of getting caught maybe even more likely than they are in the real world. But the fact that you can do something or think you can do something without being caught does not make it right to do so. Even if you don’t get caught, there is always one person who will know whether you have done wrong — and that person is you. Your use of the internet can be a mirror that will show you what kind of a person you are. Please enjoy learning from your internet access but remember to use this privilege wisely.

Modified, 1 CMC § 3806(d), (f), (g).

History: Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001).

Commission Comment: In subsection (b)(3), the Commission inserted the final period. In subsection (d)(2)(i), the Commission moved the final period inside of the closing quotation mark and in subsection (d)(6)(iii), the Commission moved the period after “spamming” inside of the closing quotation mark to correct manifest errors.

§ 60-20-545 Evaluation Services; Grading System

(a) Elementary School Grading System

(1) The progress of kindergarten through third grade students will not follow a percent or letter grade system. The skills of progress of K-3 students will be reported on a developmental continuum as evidenced by student portfolios, observations and other appropriate assessments.

(2) The fourth through sixth grades shall use a percent/letter grade system as follows:

Percent	Letter Grade
93-100	A
83-92	B

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73-82	C
63-72	D
0-62	F

(3) Each teacher is responsible for keeping accurate records in the grade book provided by the school and will submit the grade book to the principal at the end of the school year or upon request of the principal. All factors involved in computing the final grade shall be maintained in the grade book.

(4) It is recommended to teachers that the measure of grades be based on a variety of factors, none of which should represent over 50% of the grade. The guidelines recommended below are intended to be general and will vary according to the content and activities of each particular course. (For example, there may be no homework assigned for PE, but there may be weekly quizzes in math.) Recommended measures and weights may include:

Activities	Weight	Minimum Frequency
Quarter Exam	15-25%	1
Periodic Tests/Quizzes	30-50%	5
Special Projects	10-20%	1
Homework	5-10%	5

(5) All teachers are required to explain the grading policy to the students and their parents when they begin, or enter the school year.

(b) Secondary School Grading System

(1) The secondary schools will use a percent/letter system as follows:

Percent	Letter Grade
93-100	A
83-92	B
73-82	C

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63-72	D
0-62	F

(2) Grading and Report Procedures 9-12:

(i) “X” - AB - Absent - This grade is used with high school (9-12) level courses to indicate that the student has not been in attendance a sufficient number of days for grading as per the attendance policy of the Board. (Note: “X” is used in the high school report cards only because the computer cannot make a double letter entry.)

(ii) “M” - Medical - This symbol is to be used for students who cannot meet course requirements due to medical reasons.

(iii) “I” - Incomplete - This symbol is to be used in the high school report cards (9-12) to indicate that a grade will be given when certain requirements are met. Incomplete will be changed to “F” if the student did not complete the course of study within a year’s period.

(iv) “W” - Withdrew - This symbol is used with high school (9-12) level courses when a student withdraws from a class in progress.

(3) Each teacher is responsible for keeping accurate records in the grade book provided by the school and will submit the grade book to the principal/designee at the end of the school year.

(4) Students are not permitted to grade tests, record averages, average grades or handle the grade book.

(5) A minimum of three tests per quarter (not including quarter exam) is recommended. Other factors, such as class participation, quizzes, projects, reports, papers, demonstrations, or attendance may also be considered in computing grades. All factors involved in computing the final grade should be maintained in the grade book.

(6) It is recommended that teachers measure quarter grades based on a variety of factors, none of which should represent over 50% of the grade. The guidelines recommended below are intended to be general and will vary according to the content and activities of each particular course. (For example, there may be no homework assigned for P.E. but there may be weekly quizzes in math.) Recommended measures and weights may include:

Activities	Weight	Minimum Frequency
Quarter Exam	15-25%	1
Periodic Tests/Quizzes	30-50%	5
Special Projects	10-20%	1
Homework	5 - 10 %	5

(c) Honor/Advanced Placement Courses

(1) Junior high school shall establish honors classes, at least one course in each of the four main academic core areas of math, social studies, science and language arts. These courses shall be designed to meet the rigorous standards expected of at least senior high courses.

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(2) High schools may establish honors and/or advanced placement (AP) courses in the four core academic areas of math, science, social studies and language arts. Each department may identify two courses as honors or advanced placement courses. These courses should be designed to meet the rigorous standards expected of at least freshman college courses. Courses shall be weighted as follows:

Grade Point Average (GPA)

A = 5
B = 4
C = 3
D = 1
F = 0

(3) Additional honors or AP courses other than the designated core subjects may be established, but such courses shall not be weighted.

Modified, 1 CMC § 3806(e), (f), (g).

History: Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001); Amdts Proposed 20 Com. Reg. 15901 (June 15, 1998); Amdts Adopted 13 Com. Reg. 7541 (Jan. 15, 1991); Amdts Adopted 12 Com. Reg. 7438 (Oct. 15, 1990) (reserving proposed amendment for further consideration); Amdts Proposed 12 Com. Reg. 7205 (Aug. 15, 1990); Amdts Adopted 9 Com. Reg. 5242 (Sept. 15, 1987); Amdts Proposed 9 Com. Reg. 4928 (May 15, 1987); Amdts Adopted 5 Com. Reg. 2504 (Dec. 15, 1983); Amdts Proposed 5 Com. Reg. 2470 (Oct. 20, 1983).

Commission Comment: The original paragraphs of subsection (b)(2) were not designated. The Commission designated subsections (b)(2)(i) through (b)(2)(iv).

The 1987 amendments added “policy 411,” entitled “Elementary School Grading System.” The 1991 amendments readopted and republished the policy in its entirety as “policy 409,” with numerous amendments. The 2001 amendments repealed former Board of Education policy 409 and replaced it with subsection (a) of this section.

The 1983 amendments added a policy entitled “Secondary School Grading System,” but did not designate a policy number. The 1991 amendments amended this section as “policy 410.” The 1991 amendments amended policy 410. The June 1998 amendments proposed to add a new subsection entitled “Honors Courses.” A notice of adoption for the June 1998 proposed amendments was never published. The 2001 amendments repealed former Board of Education policy 410 and replaced it with subsection (b) of this section.

In subsection (b)(6), the Commission inserted a final closing parenthesis.

§ 60-20-550 Special Education Services for Students with Disabilities Enrolled in Private Schools

(a) The Public School System (PSS) will ensure that all children with disabilities residing in the CNMI, including those children attending private schools, are identified and evaluated. PSS will follow the child find and evaluation procedures as outlined in its eligibility document to identify and evaluate students enrolled in private schools by their parents. PSS will locate, identify, and evaluate all children ages three to twenty-one with disabilities enrolled by their parents in

private schools, including religious schools, who may be eligible for special education and related services.

(b) PSS will offer a free, appropriate public education (FAPE) to all children ages three to twenty-one with disabilities voluntarily enrolled by their parents in private schools, including religious schools, who are determined to be eligible for special education and related services. However, pursuant to the Individuals with Disabilities Education Act (IDEA), a child enrolled in a private school by his or her parent has no individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school.

(c) Special education and related services provided to students enrolled in private schools shall be determined in accordance with federal law, state eligibility documents, state performance plans, and special education procedures. PSS will consult, in a timely and meaningful way, with private school representatives and representatives of parentally placed private school children with disabilities during the design and development of special education and related services for parentally placed private school children as required by law and set forth in PSS's Special Education Procedure Manual.

(d) For the details and implementation of this section, please refer to the PSS Special Education Procedural Manual, which sets forth the requirements and PSS procedures for finding, determining and providing services to children with disabilities enrolled by their parents in private schools.

Modified, 1 CMC § 3806 (d), (e), (g).

History: Adopted 29 Com. Reg. 26433 (Feb. 15, 2007); Proposed 28 Com. Reg. 26397 (Dec. 29, 2006).

Commission Comment: The Commission designated subsections (a) through (d), which were not designated in the original. The Commission inserted a comma after “including religious schools” in subsection (b) to correct a manifest error.

This section, which was originally designated as “Core Competencies; Language Arts Performance Standards,” was repealed in August 2005. The history of § 60-20-550 before August 2005 was: Amdts Adopted 27 Com. Reg. 24774 (Aug. 22, 2005); Amdts Proposed 27 Com. Reg. 24615 (June 20, 2005); Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001); Amdts Adopted 17 Com. Reg. 12972 (Feb. 15, 1995); Amdts Proposed 16 Com. Reg. 12651 (Dec. 15, 1994).

§ 60-20-555 Instructional Materials for Print Disabilities

(a) The Public School System (PSS) adopts the National Instructional Materials Accessibility Standard (NIMAS) for the purpose of providing instructional materials to blind persons or other persons with print disabilities, in a timely manner after the publication of the National Instructional Materials Accessibility Standard in the Federal Register.

(b) PSS will coordinate with the National Instructional Materials Access Center as part of any print instructional materials adoption process, procurement contract, or other practice or instrument used for the purchase of print instructional materials enters,* into a written contract with the publisher of the print materials to:

(1) Require the publisher to prepare and, on or before the delivery of the print instructional materials, provide to the National Instructional Materials Access Center electronic files containing

the contents for the print instructional materials using the National Instructional Materials Accessibility Standards; or

(2) Purchase instructional materials from the publisher that are produced in, or may be rendered in, specialized formats.

*So in original.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 29 Com. Reg. 26433 (Feb. 15, 2007); Proposed 28 Com. Reg. 26397 (Dec. 29, 2006).

Commission Comment: The Commission designated subsections (a) and (b), which were not designated in the original.

This section, which was originally designated as “Core Competencies; Math Performance Standards,” was repealed in August 2005. The history of § 60-20-555 before August 2005 was: Amdts Adopted 27 Com. Reg. 24774 (Aug. 22, 2005); Amdts Proposed 27 Com. Reg. 24615 (June 20, 2005); Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001); Amdts Adopted 17 Com. Reg. 12972 (Feb. 15, 1995); Amdts Proposed 16 Com. Reg. 12651 (Dec. 15, 1994).

§ 60-20-560 Core Competencies; Science Performance Standards

[Repealed.]

History: Amdts Adopted 27 Com. Reg. 24774 (Aug. 22, 2005); Amdts Proposed 27 Com. Reg. 24615 (June 20, 2005); Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001); Amdts Adopted 17 Com. Reg. 12972 (Feb. 15, 1995); Amdts Proposed 16 Com. Reg. 12651 (Dec. 15, 1994).

Commission Comment: The 1995 amendments added “policy 418,” entitled “Performance Standards; Science.” The 2001 amendments repealed former Board of Education policy 418 and replaced it with this section. The 2005 amendments repealed this section.

§ 60-20-565 Core Competencies; Social Studies Performance Standards

[Repealed.]

History: Amdts Adopted 27 Com. Reg. 24774 (Aug. 22, 2005); Amdts Proposed 27 Com. Reg. 24615 (June 20, 2005); Amdts Adopted 23 Com. Reg. 18263 (Aug. 16, 2001); Amdts Proposed 23 Com. Reg. 17965 (June 19, 2001); Amdts Adopted 17 Com. Reg. 12972 (Feb. 15, 1995); Amdts Proposed 16 Com. Reg. 12651 (Dec. 15, 1994).

Commission Comment: The 1995 amendments added “policy 419,” entitled “Performance Standards; Social Studies.” The 2001 amendments repealed former Board of Education policy 419 and replaced it with this section. The 2005 amendments repealed this section.

Part 600

[Reserved.]

Commission Comment: On August 16, 2001, the Board of Education repealed former Board of Education “Instructional Program” policies 400-419 and “Pupil Personnel” policies 600-624 and replaced those policies with the provisions codified in parts 400 and 500. See 23 Com. Reg. 18263 (Aug. 16, 2001); 23 Com. Reg. 17965 (June 19, 2001). See also the commission comment to § 60-20-401.

Part 700 - Financial Operation

§ 60-20-701 Financial Management; Petty Cash Procedures

The petty cash fund is established for each school by drawing a check on the regular bank account. Usage of this fund is to address emergency purchases only.

(a) General Rules

- (1) As expenses are paid out of the fund, vouchers are prepared and entered into the petty cash fund check register.
- (2) An employee other than the custodian (i.e. vice- principal) should approve disbursements.
- (3) Vouchers should be numbered, dated and should contain the purpose of the disbursement.
- (4) When the fund requires replenishment, checks with supporting vouchers are summarized on a replenishment report.

(b) Internal Control

The following are safeguards for the petty cash fund:

- (1) All payments should be made by pre-numbered checks.
- (2) A voucher stamped "PAID" should support all payments.
- (3) The custodian should sign checks.
- (4) All payments must be properly controlled and verified.
- (5) The sequence of checks and vouchers must be complete. Voided checks should be listed on the replenishment report.

(c) Treasury Department Responsibilities

- (1) Advance funds from treasury for schools to disburse these funds to pay properly authorized bills.
- (2) Submit bills to the reconciliation section as a basis for replenishing the fund.

(d) Petty Cash Fund Custodian

The designated and authorized disbursing officer for each school is also the designated petty cash fund custodian. In addition to his/her duties and responsibilities as the disbursing officer, the petty cash fund custodian is personally liable for all money in the fund and will be required to replace any amount of the fund that is lost, stolen or misappropriated.

(e) Responsibility of a Petty Cash Fund Custodian

- (1) Disburse funds only for approved vouchers.
- (2) Ensure that the payment vouchers are accurate and supported by appropriate documents. To the extent possible bona fide receipts should be obtained from suppliers. Receipts showing the suppliers name, address, and showing the school as the customer, are preferable to cash register tapes.
- (3) Ensure that the payment is proper and complies with the supplies operations object code.
- (4) Make disbursements only if there are sufficient funds to pay for the expenditure.

(f) Accounting/Replenishment/Reporting of Petty Cash Fund

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- (1) All disbursements processed through the petty cash fund must be posted in the petty cash fund check register. Disbursements from the petty cash fund are replenished through the submission of the replenishment report.
- (2) Petty cash fund replenishment reports submitted must be complete, accurate and supported by payment vouchers and receipts/invoices. Failure to submit a timely, complete and accurate replenishment report could result in the delay of replenishments.
- (3) Approved petty cash fund replenishments shall be process by the Fiscal and Budget Officer through bank transfer procedures.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 24 Com. Reg. 19045 (Mar. 19, 2002); Amdts Proposed 23 Com. Reg. 18765 (Dec. 21, 2001).

Commission Comment: The original paragraphs of subsection (f) were not designated. The Commission designated subsections (f)(1) through (f)(3).

On March 19, 2002, the Board of Education repealed former Board of Education “Finance” policies 700 through 703 and replaced those policies with the provisions codified in part 700. See 24 Com. Reg. 19045 (Mar. 19, 2002); 23 Com. Reg. 18765 (Dec. 21, 2001). Where applicable, the histories of former policies 700-703 are included in the history sections for the replacement provisions. Policies that were repealed without specific replacement are policy 701, entitled “Annual Budget,” and policy 702, entitled “Disposition of Income.” See 3 Com. Reg. 1254 (June 30, 1981).

§ 60-20-705 Financial Management; Advance Payment Procedures

The following procedures shall be followed when making and recording advance payments to vendors for materials and supplies. These procedures do not apply to advances on construction or professional services contracts.

(a) Purpose

- (1) To apply more stringent criteria for the authorization of prepayments to vendors in order to conserve cash flow.
- (2) To better account for prepayment transactions and promote more effective inventory control procedures.

(b) Qualifying Purchase

Only purchase requisitions meeting the following criteria will be approved for prepayment:

- (1) The order must be for a vendor that requires prepayment in order to furnish good or services.
- (2) Before prepayment is issued, two or more of the condition(s) listed below must be present:
 - (i) The vendor supplies a unique product or service and requires prepayment, and or;
 - (ii) All vendors from which quotes were obtained required prepayment, and or;
 - (iii) Because of prior outstanding obligation of PSS, vendor requires PSS to issue payments before shipment of goods can delivered, and or;
 - (iv) The vendor selected submitted the lowest price.

(c) Prepayment Processing and Purchase Requisition (PR)

- (1) In addition to the usual required procurement information, schools or program approval, and fund certification, purchase requisition (PRs) for prepayment must include the following:

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- (i) Indication on the “justification” section that prepayment is required from the vendor.
 - (ii) Supporting documents justifying the uniqueness of the procurement or indicating that all vendors quoting on the supplies or materials required prepayment and the vendor selected was the lowest bidder. Every effort should be made to locate vendors who do not require prepayments even if their quotes are marginally higher than a vendor who required prepayment.
 - (iii) An attached vendor price quotation or pro-forma invoice including the vendor’s written request and justification for the advance.
- (2) The Commissioner of Education or designee, will individually approve each request for prepayment, verifying that the requesting school or program has met all the criteria and submitted the requisite supporting documents.
 - (3) The school program will enter the prepayment encumbrance document code (OA) under the JD Edwards Financial Management System and forward the requisition to the Fiscal and Budget Office.
 - (4) The Fiscal and Budget Office will verify if the vendor has any outstanding advance payments on prior purchase orders where items have not been delivered to PSS. If the vendor has cleared the advance payment verification process, the purchase requisition will be routed for processing of the purchase order for advance payment.
 - (5) The Accounts Payable Department will process the advance payments using the accounts payable section of the J.D. Edwards Financial Management System. General ledger account number 10237 for local account and 20237 under for federal account of the J.D. Edwards Financial Management System for normal purchase order shall be charged.
 - (6) When the goods or materials for which a prepayment was made are received, the schools or program will forward the receiving documents to the Accounting Department of the Fiscal and Budget Office. A journal voucher will be prepared by accounting crediting 10237 for local account and 20237 for federal account and charging the appropriate expense account. The encumbrance number must be indicated on the journal voucher so that the outstanding obligation is liquidated when the expense account is charged.

(d) Prepayment Request After Issuance of Regular Purchase Order

If a purchase order has been issued and the originating school or program subsequently requests that a prepayment be made to the vendor, such request may be approved provided the requirements under subsection (c) above have been retrieved by the Procurement and Supply Office and a request for deobligation is made. A deobligation memo will be sent to the Accounting Section in the Fiscal and Budget Office to credit the appropriate account charged. An indication must be made on the purchase requisition that prepayment is required in compliance to subsection (c) and the school or program will process a new encumbered number using the (OA) document code which then can be processed for advance payment as per subsection (c).

(e) Federal Grants

A prepayment request charging a federal grant account must note that prepayment is required by the vendor and the expiration date of the grant on the “justification” section of the purchase requisition. The requesting department or agency must ensure that the federal account is properly charged before the expiration of the grant within the regulatory grace period subsequent to the termination of the grant (generally this grace period extends ninety days beyond the termination of the grant).

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(f) The school or program placing standing orders or blanket orders (open purchases) requires periodic shipment of goods and prepayment to the vendor must ensure the following:

(1) The outstanding order must be limited to six months or less, and in no event shall the term of the standing order exceed the end of the fiscal year, regardless of funding source.

(2) The originating school or program will instruct the vendor to:

(i) Reference the purchase order number on all invoices.

(ii) Send all original invoices to the accounts payable section of Fiscal and Budget Office.

(iii) Send all packing slips or shipping documents to the Procurement and Supply Office.

(3) Upon receipt of goods or services from the vendor, originating department will sign the original receiving report indicating the P.O. number under which the shipment was made and whether the shipment was “partial (P) or complete (C).” The school or program will forward the receiving reports to accounts payable for appropriate action. Copies of all shipping documents will be retained by the originating school or program and such other perpetual inventory records as are necessary to give a complete and accurate status of all standing blanket orders at any time.

(4) Under receipt of all receiving reports for outstanding purchase order, accounting will prepare a journal voucher transaction crediting account ___237, charging the appropriate expense account and liquidating the encumbrance.

(g) Research and reconciliation of “Open” Encumbrance:

An encumbrance report (121-P) will be provided to all schools and programs at the end of each month. All “open” encumbrances should be reviewed and researched for receipt of goods, and if received, necessary invoices, and or packing slips is sent to accounting as a journal voucher transaction, which can be prepared and processed, and the open encumbrances liquidated.

Modified, 1 CMC § 3806(d), (e), (f), (g).

History: Amdts Adopted 36 Com. Reg. 35889 (Dec. 28, 2014); Amdts Proposed 32 Com. Reg. 35626 (Oct. 28, 2014); Amdts Adopted 24 Com. Reg. 19045 (Mar. 19, 2002); Amdts Proposed 23 Com. Reg. 18765 (Dec. 21, 2001).

Commission Comment: In subsection (f)(3), the Commission moved the period after “complete” inside of the closing quotation mark.

In December 2014, the Commission removed the “-” after “Qualifying Purchase” in the amended subsection (b) and placed the subsequent text on the following line for consistency with the other subsections within the section. The Commission struck the figure “2” from subsection (b)(2) pursuant to 1 CMC § 3806(e).

§ 60-20-710 Payroll; Payroll Deductions

Payroll deductions may be made for the following proposes:

(a) To meet legal requirements.

(b) Medical and life insurance premiums charged by the insurance company that is currently providing coverage purchased by the CNMI Public School System or the employee.

(c) Deductions for annuity contributions at the employee’s option, provided however, that the payments are to be made to:

(1) A company for which the school is currently making deductions;

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- (2) The company with which the school has group health insurance coverage.
- (d) Deductions for contributions to the CNMI Retirement Fund.
- (e) Deductions for money advanced to employee for travel when employee has not repaid PSS or submitted appropriate documentation pursuant to the Board regulations regarding travel.
- (f) Other items as may be agreed upon by the PSS and the employee.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 24 Com. Reg. 19045 (Mar. 19, 2002); Amdts Proposed 23 Com. Reg. 18765 (Dec. 21, 2001).

§ 60-20-715 Financial Management; Non-appropriated Funds (Student Activities and Fundraising)

- (a) Non-appropriated Funds
 - (1) Funds derived from sources other than appropriation of the CNMI government or the federal government shall be known as non-appropriated funds and shall be subject to strict accountability. For purposes of this section, non-appropriated funds include all money raised through fundraising, donations to schools or student groups and other similar activities.
 - (2) Solicitation of funds or other assistance of monetary value from non-governmental sources for support of any activity related to or sponsored by PSS must be approved by the school principal before such solicitation is undertaken.
 - (3) School Treasurer - Each principal shall appoint an employee to function as school treasurer. The school treasurer shall be responsible, in accordance with these policies and other rules and regulations, for receiving and disbursing non-appropriated funds, arranging for their adequate safe keeping and maintaining adequate records thereon.
 - (4) All non-appropriated funds are to be deposited in a checking account. Although the fund is called an “activity fund” other funds are also deposited in the account (examples: teacher’s fund, industrial arts fund, principals fund).
 - (5) All non-appropriated funds other than student organization funds are handled differently from the funds of student organizations. Vouchers for disbursing money from such funds do not require the signature of a student treasurer or sponsor. Only the signature of the person managing the fund is required.
 - (6) Disbursement of any student funds will only be made when one of the teacher sponsors and the treasurer of the activity sign a voucher request for payment. In addition, for all disbursement of funds from student organizations, a majority of the members must vote to approve the expenditure. A copy of the minutes of the meeting must be given to the school treasurer.
 - (7) For expenditure of all non-appropriated funds, a voucher must be obtained from the school treasurer, filled out completely, and returned to the school treasurer, who will then issue a check. The person receiving the check will so indicate on the voucher.
 - (8) The person making the purchase will obtain an itemized invoice or purchase slip from the vendor and give it to the school treasurer to be attached to the voucher. In cases where payments are made for services, a receipt is to be obtained from the person receiving the check.

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(9) Copies of all voucher requests, checks for any disbursements, invoices, purchase slips and receipts shall be maintained by the school treasurer, the teacher sponsor, and the treasurer of the activity, as appropriate.

(10) The school treasurer shall prepare a monthly report showing a reconciliation statement of the school's fund. The report shall show the previous balance, income and expenses for the month, and the current balance for each activity fund. Copies shall be distributed to each club or activity, the Commissioner, the PSS treasurer, and the PSS auditor, by the 15th of the following month. A yearly report of the school's non-appropriated funds shall be given to the Commissioner of Education, the PSS treasurer, and the PSS auditor, by the 15th of the month following the last month of the school year.

(b) Fundraising

(1) Fundraising for the purpose of this section shall be defined as an activity or event undertaken for the purpose of obtaining money over and above the actual cost of the activity or event and conducted under the auspices of the Public School System, its staff or teacher associations, employee organizations and student body councils.

(2) School fundraising activities shall be subject to the approval of the school administration. All funds generated by a fundraising activity shall be used solely for the purposes for which they were approved, except when authorized by the school administration. No fundraising shall be approved unless the funds are to be used in conjunction with PSS programs and activities. The purpose of the fundraising must be to support educational purposes, but may not conflict with instructional time or other policies.

(3) An educational purpose may go beyond the formal study of traditional academic subjects. Educational purposes include, but are not limited to, the discovery and understanding of life skills, community awareness, cultural diversity, language development, natural resources, social structures, political systems, historical perspectives and character development.

(4) No sale or drinking of alcoholic beverages shall take place at any school related activity regardless of where it is held. Sale of food items prior to breakfast or lunchtime in the school will not be allowed unless approved by the principal. Fundraising activities that will hamper operations of the schools or will take away instructional time from the students shall not be allowed. Fundraising activities involving students as candidates for queens will be approved if a majority of the PTA members of the respective schools and the principal agree.

(c) PTA Fundraising

(1) While the PSS recognizes that PTA organizations are entities (usually nonprofit corporations) that are independent from the PSS and the Board, it also recognizes that PTAs oftentimes use the PSS's various school names or good will in the community in order to raise funds. PTAs must live up to the standards of being the quasi-public entities that they are. The PSS, therefore, has an interest in ensuring that money raised and activities planned by the PTAs are done in a manner that will not reflect poorly upon the PSS's good name in the CNMI community.

(2) Accordingly, the Commissioner of Education, in consultation with various PSS staff and PTA members, should establish financial, open records, ethical, accounting and any other necessary requirements that all PTAs must follow in order to be allowed to use the PSS's or any of our schools' names for fundraising or other activities. It is anticipated that the PSS's Internal Auditor will stringently enforce appropriate accounting and the financial record keeping practices.

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Appropriate legal action may be taken against PTAs that do not follow the Commissioner's guidelines.

(3) At the end of each month, each PTA must submit a report including an itemized list of all money or gifts received by the PTA and all items purchased by the PTA or other money spent by the PTA.

(4) The quarterly financial status reports of the Public School System shall include the status report of all funds raised by PTA, students and individual schools. Donations of any kind will also be part of the report.

(d) Audits, Violations and Additional Procedures

(1) All student organization officers, sponsors, or any other individual involved in working with nonappropriated funds shall be made aware of these regulations.

(2) Any violation of this policy will result in the termination of fundraising authorization and possible legal action will be taken by the PSS.

(3) The Commissioner is empowered to establish any additional procedures governing fundraising activities to implement this section.

(4) A fund audit for any school associated groups, which have fundraised under the auspices of PSS, shall be undertaken at the request of the Board, the Commissioner, the school principal or as required by CNMI law.

Modified, 1 CMC § 3806(d), (f), (g).

History: Amdts Adopted 24 Com. Reg. 19045 (Mar. 19, 2002); Amdts Proposed 23 Com. Reg. 18765 (Dec. 21, 2001); Amdts Adopted 19 Com. Reg. 15452 (Aug. 15, 1997); Amdts Proposed 18 Com. Reg. 14484 (Nov. 15, 1996); Amdts Adopted 16 Com. Reg. 12673 (Dec. 15, 1994); Amdts Proposed 16 Com. Reg. 12462 (Oct. 15, 1994); Amdts Adopted 13 Com. Reg. 7541 (Jan. 15, 1991); Amdts Adopted 12 Com. Reg. 7438 (Oct. 15, 1990) (reserving proposed amendment for further consideration); Amdts Proposed 12 Com. Reg. 7205 (Aug. 15, 1990); Amdts Adopted 10 Com. Reg. 5739 (Nov. 15, 1988); Amdts Proposed 10 Com. Reg. 5688 (Sept. 15, 1988).

Commission Comment: The 1988 amendments amended policy 703, entitled "Fundraising," to add sections 703.6 through 703.10. See 10 Com. Reg. at 5742 (Nov. 15, 1988). However, a fundraising policy has not previously been published. The 1991 amendments readopted and republished "existing section 703.4." The 1996 amendments deleted former subsection 703.6 and added two new subsections 703.6 and 703.7. The 2002 amendments repealed former Board of Education policy 703 and replaced it with this section.

In subsection (c)(1), the Commission changed "PTA's" to "PTAs" to correct a manifest error.

§ 60-20-720 Accounting and Reporting; Travel Outside the CNMI

(a) Applicability

This section applies to official travel outside the CNMI performed in the interest of the Public School System by Public School System employees and the Board of Education. Other individuals covered by this section include, but are not limited to, consultants, employees eligible for repatriation and individuals, such as students and parent chaperones, and advisory council members who are traveling on official business for the Public School System. This section shall not apply to travel for repatriation or other travels for which additional regulations may be established and approved by the Board of Education.

(b) General Rules

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Only official travels that are considered necessary to accomplish a specified purpose shall be authorized.

(c) Travel Authorizations (TA)

(1) All official travel shall be authorized with an approved travel authorization (TA). Situations requiring emergency official travel shall be permitted upon approval of a written justification.

(2) Trip-by-trip authorization shall be issued to allow an individual to perform official travel. This authorization shall include:

(i) Specific purpose

(ii) Itinerary (schedule of departure, arrival and destination)

(iii) Estimated cost.

(3) All travel outside of the CNMI by PSS employees, students, parents and appropriate consultants and guests shall be requested by the principal or program manager through the Commissioner and authorized by the Chairperson of the Board or his designee as the approving officer.

(4) All travel outside of the CNMI by the Commissioner, BOE key staff, and BOE members other than the Chairperson of the Board of Education shall be signed by the traveler as requester and the Chairperson of the Board or his designee as the approving officer.

(5) All travels outside of the CNMI by the Chairperson of the Board shall be requested by the Chairperson of the Board and approved by the Vice-chairperson of the Board of Education.

(6) The following information must be attached to the TA before being presented to the Chairperson of the Board and to the Commissioner as appropriate:

(i) Justification memorandum for the travel

(ii) Document of invitation and/or agenda

(iii) Specific purpose

(iv) Itinerary (schedule or departure, arrival and destinations)

(v) Estimated cost.

(7) Out of CNMI travel requests shall be submitted to the Commissioner or the Chairperson of the Board of Education, as appropriate, no later than 10 working days prior to commencement of travel, except for extenuating circumstances.

(8) Instructions for travelers shall be attached to all approved travel authorizations notifying travelers of their responsibilities in accounting for all procurement documents such as unused tickets, coupons, receipts, and other documents that will be required for completion of vouchers or for accounting for travel cancellations.

(9) TAs shall not be issued if there is an outstanding voucher or if an outstanding expense by the traveler has not been verified. Exceptions to this rule may be made at the discretion of the Commissioner or the Chairperson of the Board, as appropriate.

(10) TAs may be amended only upon approval by the requesting and approving officials. A justification memorandum for the amendment must be attached. Any diversion from what was specified on the approved TA must be presented as an amended TA and shall be approved by the appropriate requesting and approving officials. Amendments to TAs must be in the interest of the Public School System.

(d) Travel Expenses

Expenses anticipated in the fulfillment of an official travel may include the following:

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- (1) Transportation: PSS will authorize the mode of transportation which will result in the greatest advantage to the PSS considering factors such as per diem, overtime, lost work-time, transportation costs, distance of travel, number of travelers, and stopovers. Travel by common carrier, which is most efficient and economical to the PSS, shall be selected unless this will impose undue hardship upon the traveler or would seriously interfere with the performance of business by the traveler.
- (2) Individual travel: Payment for ground transportation will be \$30 per day per individual. No receipts are necessary as this is a per diem travel expense. In certain circumstances the traveler may find it more convenient to rent a car. The rate for the car should not be higher than the federal rates for the economy car. Please check with the travel section of PSS for the allowable rate for the rental car. (Rates will vary by city.) The traveler will be paid the difference between the car rental cost and the ground transportation per diem. The traveler will be expected to pay the car rental agency. Receipts for the car rental are necessary for reimbursement. PSS will not pay car rental agencies directly.
- (3) Group Travel: Payment for ground transportation expenses can be handled in either of the following ways if the group is in agreement. If the group cannot agree then the default shall be (i) below.
 - (i) Group travel without vehicle rental: If the group elects to not rent a car then each individual member of the group shall be given a \$30 per diem for such transportation. The travel voucher must show the total ground transportation received.
 - (ii) Group travel with vehicle rental: In the event the group elects to rent a car, a ground transportation per diem shall not be given to any traveler. Instead, the designated driver in the group shall receive an advance to pay or the cost of the vehicle rental. No other person will receive any funds for transportation expenses. The designated driver who receives payment from PSS for the rental shall be responsible for renting the vehicle or be liable for the reimbursement of the funds to PSS. Receipts must be submitted to PSS to certify the rental. Actual cost of the rental is allowable and the difference between the funds advanced and the actual cost will be reconciled upon submission of the travel voucher.
 - (iii) In the event that the travel in question involves students, a “group” shall consist of a chaperone and the children she is immediately responsible for. More than one “group” may be present on any one trip.
- (4) Termination of travel due to illness may be authorized prior to completion of temporary duty assignment. Termination of travel as a result of the travelers own misconduct shall be at the expense of the traveler.
- (5) Travel routes other than what was authorized shall be allowed when there is no additional expense incurred by PSS.
- (6) Insurance for collision damage and liability shall be paid by PSS for official travel requiring the use of a vehicle and as authorized in the TA. Travelers are required to obtain collision damage and liability insurance when renting or otherwise obtaining a vehicle. Damages to rented vehicles may be paid up to the deductible amount shown in the rental contract if it can be proven that the damage occurred while the vehicle was used for official business only. Personal accident insurance is reimbursable.
- (7) Expenses incurred due to cancellation of flights by the airline shall be the responsibility of the airline. Lodging and meal expenses incurred as a result of flight cancellation shall be the responsibility of the airline. It is the responsibility of the traveler to ensure that the airline covers these costs.

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(8) Voluntary cancellation of reservation on the part of the employee shall be at the expense of the employee and not the PSS. Employees on official travel status shall not voluntarily cancel their reservations if it will interfere with performance of official duties. Employees who voluntarily delay their travel while on official duty en-route to home destination shall be charged annual leave for additional hours or days that they miss as a result of voluntary postponement of travel, if approved in advance per the annual leave regulations. Those employees who voluntarily delay their travel while on official duty en-route to home destination without prior approval will be charged absence without leave (AWOL) and may be otherwise disciplined, including losing future travel privileges.

(9) Miscellaneous expenses such as excess baggage, communication costs, gasoline, baggage transfer and others that are incidental to performance of official business shall be reimbursed only when authorized and when accompanied by explanation for each expense item.

(10) Per diem rates shall be established by the Board of Education in accordance with board policy and CNMI law. Per diem rates shall be the standard form of travel reimbursement for PSS travelers unless otherwise requested and authorized. It is assumed that the per diem rate will cover all expenses other than airplane transportation and ground transportation.

(11) Actual subsistence rates may be requested, if appropriate for the nature of business to be conducted, and must be authorized by the Commissioner or Chairperson of the Board. Appropriate circumstances may include conferences held in hotels where the per diem rate would not be sufficient to cover travelers expenses. To determine the actual subsistence rate, reasonable cost of lodging for the number of days authorized plus the amount established by the Board for meals per day. Cost of ground transportation related to official business activity may be reimbursed in addition to the set amount per day for meals and miscellaneous subsistence expenses. Receipts for ground transportation expenses shall be attached to the voucher for reimbursement. Actual subsistence reimbursement shall not exceed 55% of the established per diem rate. Lodging, transportation and receipts for any claimed miscellaneous expenses must be submitted with the travel voucher.

(12) Whenever a traveler interrupts his/her travel for personal reasons or due to illness or injury not due to his/her own misconduct, the proper leave application must be filed with the voucher and approved by the authorized official.

(e) **Travel Authorization with No Expense to PSS**

Travel sponsored by agencies other than PSS must be approved with a travel authorization showing zero travel expense. All travel performed by PSS staff at the expense of agencies other than the PSS must be in the interest of the PSS. Proper leave must be applied if the traveler requires additional days from duty station for personal reasons not related to the purpose of the travel. The leave application must be attached to the TA.

(f) **Travel Advance**

(1) General rules: A travel advance form shall be filed by the traveler to authorize release of checks. The travel advance form shall be submitted with the TA.

(2) Travel advance checks shall be released on a timely basis. Ninety percent of the travel advance allowed shall be issued to the traveler. The remaining ten percent shall be issued only upon travelers completion and filing of the appropriate support documents with the fiscal office within fifteen working days upon completion of travel.

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(3) Travel advance should be considered as a loan to the traveler until proper reconciliation of approved travel expenses has been authorized and no outstanding amount is due to either the traveler or the PSS.

(g) Travel Voucher

(1) Travelers are solely responsible for the preparation and submission of all travel vouchers and shall be held accountable for any missing documents or any failure to file in a timely manner. Travelers must file a travel voucher with supporting documentation within fifteen working days upon completion of travel. Travelers who fail to meet this deadline will forfeit the remaining ten percent of the cost of travel and will be subject to payroll deduction of the entire amount of the advance.

(2) The traveler must complete and file a travel voucher form following these procedures.

(i) Front page (self explanatory)

(ii) Reverse page: Complete the form by filling in the appropriate space the local date, time of arrival and departure, and location. Note any departure from approved travel routes and delays.

(3) For travelers using the per diem rate, the following items must be submitted with the voucher:

(i) An approved detailed trip report explaining the purpose of the travel, the event or meeting attended (if appropriate) and the benefit to the traveler and the PSS. All trip reports must be submitted to the traveler's supervisor for approval before submission to the fiscal office. The sufficiency of the trip report shall be determined by the traveler's supervisor, who shall approve the report and return to traveler for submission to the fiscal office if the report is sufficient. If insufficient and not approved, the supervisor shall return the trip report to the traveler and request more information from the traveler for resubmission to the supervisor;

(ii) Conference receipt, if applicable;

(iii) Airline ticket stub/boarding pass

(iv) Any unused ticket coupons.

(4) For travelers using the actual subsistence rate, the following documents must be submitted with the travel voucher:

(i) An approved detailed trip report following the same procedures set forth above in (g)(3)(i);

(ii) A detailed statement justifying why the actual subsistence rate is/was necessary for the business conducted;

(iii) Airline ticket stub/boarding pass;

(iv) Conference receipt, if applicable;

(v) Lodging receipt;

(vi) Car rental receipt;

(vii) Receipts for any claimed miscellaneous expenses other than for meals; and

(viii) Any lack of receipts must be fully explained.

(5) TAs approved by PSS but at the expense of agencies other than PSS require submission of a voucher upon completion of travel.

(6) Traveler must submit any appropriate leave applications.

(7) Within fifteen working days after the voucher was or should have been submitted, the travel section of the Fiscal and Budget Office will issue the employee a statement notifying him/her of any discrepancies in the submitted documents and all amounts owed to PSS. This statement shall include the following:

(i) The date of each travel resulting in an outstanding balance;

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- (ii) The place of each travel resulting in an outstanding balance;
 - (iii) The amount advanced for each trip;
 - (iv) The amount owed for each trip;
 - (v) The total amount owed;
 - (vi) Any discrepancies or problems with the submitted documents; and
 - (vii) Notification that the amount will be deducted from the employees paycheck for the next pay period unless resolved.
- (8) In no case shall a payroll deduction exceed more than thirty percent of the employee's gross paycheck unless the employee is leaving PSS. Payments owed to PSS may be deducted over several pay periods, if necessary.
- (9) If the travel advance exceeds reimbursement due, the balance will be deducted from the travelers paycheck subsequent to the notice of the balance due, but no later than fifteen days after travel has been officially notified of amount due to PSS. For Board members, deductions shall be made from honorarium payments. For all non-employee travelers, including Board members, if future travel is approved as an exception under subsection (c)(10) of this section, deductions for amounts owed may be made from the per diem advance for the next travel.
- (10) If travel is cancelled for any reason, immediate refund of the travel advance must be made. Employee must notify the travel section that the travel was cancelled and the purchased tickets or unused GTRs must be returned to PSS. Employee will be notified that a payroll deduction shall be made from the employees next pay check and the deduction shall be made no later than 15 days after the notice.
- (11) Responsibility for examination of voucher and supporting documentation rests with the fiscal staff of the PSS. Vouchers must be accurate and expenses claimed authorized. If necessary, the voucher examiner shall initiate the voucher for review by the appropriate officials. Notes shall be made by the examiner if any discrepancy exists and forwarded to the traveler for clarification or correction. Employees must respond with the requested supporting information to avoid forfeiture of the 10% and/or to avoid any paycheck deductions.
- (12) Appropriate procedures including possible legal action may be initiated in case of fraudulent claims. Documentation of this process must be made in writing by the fiscal section and the appropriate official of PSS.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 38 Com. Reg. 38406 (Aug. 28, 2016); Amdts Proposed 38 Com. Reg. 37969 (May 28, 2016); Amdts Adopted 36 Com. Reg. 35889 (Dec. 28, 2014); Amdts Proposed 32 Com. Reg. 35626 (Oct. 28, 2014); Amdts Adopted 33 Com. Reg. 31659 (June 27, 2011); Amdts Proposed 32 Com. Reg. 30195 (Dec. 20, 2010); Amdts Emergency 32 Com. Reg. 30623 (Sept. 22, 2010) (effective for 120 days from Sept. 20, 2010); Amdts Adopted 32 Com. Reg. 30251 (May 21, 2010); Amdts Proposed 31 Com. Reg. 29988 (Dec. 22, 2009); Amdts Adopted 24 Com. Reg. 19410 (July 29, 2002); Amdts Proposed 24 Com. Reg. 19132 (May 20, 2002); Amdts Adopted 24 Com. Reg. 19045 (Mar. 19, 2002); Amdts Proposed 23 Com. Reg. 18765 (Dec. 21, 2001); Amdts Adopted 20 Com. Reg. 15965 (June 15, 1998); Amdts Proposed 19 Com. Reg. 15423 (Aug. 15, 1997); Amdts Proposed 17 Com. Reg. 13008 (Mar. 15, 1995); Amdts Adopted 16 Com. Reg. 12673 (Dec. 15, 1994); Amdts Proposed 16 Com. Reg. 12462 (Oct. 15, 1994); Amdts Adopted 14 Com. Reg. 9530 (Aug. 15, 1992); Amdts Proposed 14 Com. Reg. 9226 (May 26, 1992); Amdts Adopted 11 Com. Reg. 6243 (June 15, 1989); Amdts Proposed 11 Com. Reg. 6144 (Apr. 15, 1989); Adopted 11 Com. Reg. 6155 (Apr. 15, 1989); Proposed 11 Com. Reg. 5878 (Feb. 15, 1989).

Commission Comment: On April 15, 1989, the Board of Education published a notice of adoption of "Travel Rules and Regulations." See 11 Com. Reg. at 5886-5893 (Feb. 15, 1989). The 1992 amendments referred to the Travel Rules and Regulations as Board of Education policy 1002, "General Rules on Travel." A notice of adoption for the 1995 proposed amendments was never published.

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The March 2002 regulations repealed Board of Education policy 1002 and replaced it with regulation 3430, entitled “Travel and Reimbursement,” codified as amended in this section. The July 2002 amendments readopted and republished this section in its entirety with numerous amendments. The July 2002 amendments deleted and replaced former subsection (d)(3), added a new subsection (g)(4), deleted former subsections (g)(5) and (g)(6) and redesignated subsection (g) accordingly. The notice of adoption changed the proposed language for subsections (a), (c)(8), (d)(3), (g)(1), (g)(2), (g)(3) and (g)(9). See 24 Com. Reg. at 19410-11 (July 29, 2002).

Public Law 15-86 (effective Sept. 26, 2007), codified at 1 CMC § 7407(d) and (e), establishes a uniform per diem policy for government travel and prohibits the purchase of first class, business class or other premium airline tickets by the government. The provisions of PL 15-86 supersede subsection (d) to the extent that they conflict.

In June of 2011, the Public School System repealed and replaced this section and changed the title to “Accounting and Reporting; Travel Outside the CNMI.”

§ 60-20-721 Accounting and Reporting; Travel Within the CNMI

(a) Applicability

This section applies to official commutes performed in the interest of the Public School System by Public School System employees and the Board of Education. Other individuals covered by this section include, but are not limited to, consultants, and individuals, such as students and parent chaperones, and advisory council members who are traveling on official business for the Public School System. This section shall not apply to travel outside of the CNMI for which additional regulations may be established and approved by the Board of Education.

(b) General Rules

Commutes are considered to be travel within the CNMI. Only official commutes that are considered necessary to accomplish a specified purpose for PSS shall be authorized.

(c) Commute Form

- (1) All official commutes shall be initiated and authorized with an approved Commute Form.
- (2) Commuters are responsible for the preparation and submission of the Commute Form.
- (3) The Commute Form shall contain:
 - (i) Specific purpose
 - (ii) Name of commuter
 - (iii) Position/Department
 - (iv) Itinerary (schedule of departure, arrival and final destination)
 - (v) Dates and time of travel
 - (vi) Flight numbers for origin and destination
 - (vii) Signature of requesting party

(d) Requesting Party:

- (1) Commutes by PSS employees, students, parents and appropriate consultants and guests shall be requested by the principal or program manager.
- (2) Commutes by the Commissioner, BOE key staff, BOE members and Principals or Program Managers shall be signed by the commuter as requester.

(e) Commute Expenses. Expenses anticipated in the fulfillment of an official commute may include the following:

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- (1) Per diem: Rates shall be established by the Board of Education in accordance with BOE policy and CNMI law. Per diem rates shall be the standard form of commute reimbursement for PSS commuters unless otherwise requested and authorized. Per diem shall cover all travel related expenses other than airfare, ground transportation costs, and other approved reasonable travel expenses necessary to accomplish official duties for PSS.
- (2) Air Fare: Commuters are required to arrange their own airline reservation. Airline tickets will be purchased by the Finance and Accounting office.
- (3) Accommodations: Commuters are required to arrange their own hotel reservations. Accommodations will be paid by the commuter out of the per diem rate received.
- (4) Transportation:
 - (i) Ground transportation will not be authorized unless there is no available PSS vehicle or car rental.
 - (ii) PSS employees should use reasonable efforts to obtain the use of a PSS vehicle during their commute.
 - (iii) Car rental will be authorized as follows:
 - (A) Individual commutes: Reservations must be arranged by the commuter. The rate for the vehicle should not be higher than the federal rates for the economy car. Please check with the commute section of PSS for the allowable rate for the rental car. The commuter will be expected to pay the car rental agency directly. Receipts for the car rental are necessary. PSS will not pay car rental agencies directly.
 - (B) Group commutes: For commuters from the same point of origin commuting on the same dates with the same scope of work one car rental shall be issued per every four commuters in the group. For commuter groups of less than four commuting on the same dates with the same scope of work one rental car shall be authorized for the group. One person in the group shall receive an advance to pay for the cost of the vehicle. No other person in the group will receive funds for car rental. Receipts for the car rental are necessary. PSS will not pay car rental agencies directly.
 - (C) Insurance for collision damage and liability shall be paid by PSS for official commutes requiring the use of a vehicle and as authorized in the Commute Form. Commuters are required to obtain collision damage and liability insurance when renting or otherwise obtaining a vehicle. Damages to rented vehicles may be paid up to the deductible amount shown in the rental contract if it can be proven that the damage occurred while the vehicle was used for official business only. Personal accident insurance is reimbursable.
- (5) Voluntary cancellation of reservation on the part of the employee shall be at the expense of the employee and not the PSS. Employees on official commute status shall not voluntarily cancel their reservations if it will interfere with performance of official duties. Employees who voluntarily delay their commute while on official duty enroute to home destination shall be charged annual leave for additional hours or days that they miss as a result of voluntary postponement of the commute, if approved in advance per the annual leave regulations. Those employees who voluntarily delay their commute while on official duty enroute to home destination without prior approval will be charged absence without leave (AWOL) and may be otherwise disciplined, including losing future commuting privileges.
- (6) Termination of commute due to illness may be authorized prior to completion of temporary duty assignment. Termination of travel as a result of the travelers own misconduct shall be at the expense of the traveler.
- (7) Miscellaneous expenses such as excess baggage fees, necessary communication costs, gasoline reimbursements, baggage transfer and others that are incidental to performance of official

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business shall be reimbursed only when authorized and when accompanied by explanation for each expense item.

(f) Commute Advance:

- (1) Commuters will receive a onetime advance for commuting expenses.
- (2) The commute advance should be considered as a loan to the commuter until proper reconciliation of approved commuting expenses have been authorized and no outstanding amount is due to either the commuter or the PSS.

(g) Travel Voucher

(1) General rules: Commuters are solely responsible for the preparation and submission of all travel vouchers and shall be held accountable for any missing documents or any failure to file in a timely manner.

(2) Commuters must file a travel voucher with supporting documentation within thirty working days upon completion of each individual commute as set forth on the Commute Form.

(i) Commuters who fail to meet this deadline will be subject to loss of future commuting privileges.

(ii) Commuters who fail to submit travel vouchers and supporting documentation within fifteen days will be subject to payroll deduction of the entire amount of the advance and loss of commuting privileges.

(3) The commuter must complete and file a travel voucher form following these procedures.

(i) Front page (self explanatory)

(ii) Reverse page: Complete the form by filling in the appropriate space the date, time of arrival and departure, and location.

(4) The following items must be submitted with the voucher:

(i) Boarding passes (to and from location);

(ii) Gas purchase(s);

(iii) Car rental receipt;

(iv) Parking receipt(s)

(5) Within thirty working days after the voucher was or should have been submitted, the travel section of the Fiscal and Budget Office will issue the employee a statement notifying him/her of any discrepancies in the submitted documents and all amounts owed to PSS. This statement shall include the following:

(i) The date of each commute resulting in an outstanding balance;

(ii) The place of each commute resulting in an outstanding balance;

(iii) The amount advanced for each commute;

(iv) The amount owed for each commute;

(v) The total amount owed;

(vi) Any discrepancies or problems with the submitted documents; and

(vii) Notification that the amount will be deducted from the employee's paycheck for the next pay period unless resolved.

(6) In no case shall a payroll deduction exceed more than thirty percent of the employee's gross paycheck unless the employee is leaving PSS. Payments owed to PSS may be deducted over several pay periods, if necessary.

(7) If the commute advance exceeds reimbursement due, the balance will be deducted from the commuter's paycheck subsequent to the notice of the balance due, but no later than thirty days

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after the commuter has been officially notified of amount due to PSS. For Board members, deductions shall be made from honorarium payments. For all non-employee travelers, including Board members, if future travel is approved as an exception under subsection (10) of this section, deductions for amounts owed may be made from the per diem advance for the next commute.

(8) If the commute is cancelled for any reason, immediate refund of the commute advance must be made. Employee must notify the PSS Commute Section that the commute was cancelled.

(9) Responsibility for examination of voucher and supporting documentation rests with the fiscal staff of the PSS. Vouchers must be accurate and expenses claimed authorized. If necessary, the voucher examiner shall initiate the voucher for review by the appropriate officials. Notes shall be made by the examiner if any discrepancy exists and forwarded to the traveler for clarification or correction. Employees must respond with the requested supporting information to avoid loss of commuting privileges and/or to avoid any paycheck deductions.

(10) Commutes shall not be authorized if there is an outstanding voucher or if an outstanding expense by the traveler has not been verified. Exceptions to this rule may be made at the discretion of the Commissioner or the Chairperson of the Board, as appropriate.

(11) Appropriate procedures including possible legal action may be initiated in case of fraudulent claims. Documentation of this process must be made in writing by the fiscal section and the appropriate official of PSS.

Modified, 1 CMC § 3806(e), (f), (g).

History: Amdts Adopted 38 Com. Reg. 38406 (Aug. 28, 2016); Amdts Proposed 38 Com. Reg. 37969 (May 28, 2016); Amdts Adopted 36 Com. Reg. 35889 (Dec. 28, 2014); Amdts Proposed 32 Com. Reg. 35626 (Oct. 28, 2014); Adopted 33 Com. Reg. 31659 (June 27, 2011); Proposed 32 Com. Reg. 30195 (Dec. 20, 2010); Emergency 32 Com. Reg. 30623 (Sept. 22, 2010) (effective for 120 days from Sept. 20, 2010).

§ 60-20-725 Insurance; Liability

(a) To protect members of the Board of Education, PSS officers, employees, and volunteers in the performance of their duties and responsibilities, the Board will defend its Board members, officers, employees, and volunteers against claims for suits arising out of actions occurring within the scope of their employment pursuant to the Public Employee Legal Defense and Indemnification Act, 7 CMC §§ 2301, et seq.

(b) As a prerequisite to the right of legal representation and indemnification, any person who is served with legal notice commencing any action or proceeding against him/her for which indemnification is sought is required to immediately notify the Commissioner of Education, but not later than seven days after receipt of such legal notice.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 24 Com. Reg. 19045 (Mar. 19, 2002); Amdts Proposed 23 Com. Reg. 18765 (Dec. 21, 2001).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

§ 60-20-730 District Funds; Official Representation Fund

When OR funds are available, the Chairperson of the Board of Education shall authorize use of such funds as follows:

(a) Request for an advance of OR funds shall be made in writing to the Chairperson of the Board by Board members or the Commissioner of Education stating the official purpose, time, place, names and titles of persons to be entertained, and the advance amount requested. OR amounts shall be advanced as approved by the Chairperson.

(b) Within five working days after the expenditure of funds advanced for official representation purposes on island, or within five working days after completion of official travel, the official receiving OR funds shall submit to the Fiscal and Budget Officer of PSS all receipts evidencing expenditure of the funds. The Fiscal and Budget Officer shall determine whether the expenditures are within the authorized Board Chairperson approval or disapproval of the expenditure. Any amount not expended, or approved for expenditure shall be returned to the OR account.

(c) Request for reimbursement for OR expenses not advanced shall be made directly to the Fiscal and Budget Officer. The documents and receipts showing the time, place, official purpose, names or individuals and their titles, and other information pertaining to the reimbursement shall accompany the request. The Fiscal and Budget Officer shall transmit these documents with his/her recommendation to the Chairperson of the Board for review and for approval or disapproval of reimbursement. Reimbursement of expenditures for items not granted advance authorization by the Chairperson is not guaranteed.

(d) Official representation funds shall not be used to pay for expenses while conducting routine business with PSS staff. OR funds shall not be used while on travel status except for official business with off-island non-PSS education officials or similar types of individuals.

(e) Official representation funds may also be used by Board staff to purchase refreshments for consumption at public Board of Education meetings.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 24 Com. Reg. 19045 (Mar. 19, 2002); Amdts Proposed 23 Com. Reg. 18765 (Dec. 21, 2001).

§ 60-20-735 Budget

(a)(1) Budgeting is an essential element of the financial planning, control, and evaluation process of any governmental unit. Annual operating budgets represent plans for current expenditures and the proposed means of financing them. They are also the primary means by which these activities are legally controlled. Because statement 1 of the Governmental Accounting, Auditing and Financial Reporting (GAAFR) requires detailed budgetary comparisons for governmental accounting, and section 203(b) of PL 3-68 requires that financial reporting and

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accounting systems be established in conformity with GAAFR statement 1, the budget will be prepared in conformity with generally accepted accounting principles (GAAP).

(2) As an action plan, the budget represents the Public School System's (PSS) blueprint for the coming months and years, expressed in monetary terms. It reflects the realistic goals and objectives which resulted from the Board of Education's (BOE) decisions concerning the directions the PSS will take in the future. It also serves as a tool for monitoring the financial activity throughout the year. This will allow the BOE to compare actual financial performance with the budget, evaluate the effectiveness of the execution of the financial plan, and control the operation by taking corrective action whenever the comparison indicates a significant deviation from the plan.

(3) Because policies represent a definite course or method of action selected to guide and determine present and future decisions, the BOE adopts the following budgetary policies.

(b) Budgetary Policies

(1) It is the expressed intent of the Board of Education to comply with the provisions of any and all applicable laws that relate to the preparation and presentation of budgets and the budgeting process. Specifically: PL 4-32 (the 1984 Compensation Adjustment Act); PL 3-68 (the Planning and Budgeting Act of 1983); PL 5-31 (Operations Appropriations Act of 1987); PL 5-38 (Fiscal Year 1987 Supplemental Appropriations Act); and any and all applicable legislation subsequent to these laws that either modifies the existing legislation or adds new legislation to this area.

(2) The Board of Educations intends to comply with basic principle 9, including any subsequent official pronouncements, as set forth in Governmental Accounting, Auditing, and Financial (GAAFR) statement 1. This principle states that: an annual budget should be adopted by every governmental unit; the accounting system should provide the basis for appropriate budgetary control; and budgetary comparisons should be included in the appropriate financial statements and schedules for governmental funds for which an annual budget has been adopted.

(3) It is the responsibility of the BOE to provide direction by establishing overall objectives, goals, and relative priorities with input from the Commissioner of the PSS, when required upon which the preparation of the annual operating budget is based. Therefore, the BOE resolves to form a BOE Budget Committee that will be responsible for conveying the BOE's priorities, goals, and objectives to the Commissioner; and for overseeing the preparation of an annual operating budget that meet these criteria. The Commissioner will be responsible for the preparation of the annual operating budget, and the completed budget will be presented to the Budget Committee for its review and approval. Once approved by the committee, the budget will be forwarded to the entire BOE for its review, approval and transmitted to appropriate CNMI agencies and the Legislature.

(4) To coordinate all areas that impact the total financial operating plan, the budgeting process must be integrated at all levels. Without this integration there cannot be efficient and effective coordination between CIP projects, federal programs, and local appropriations. It is the responsibility of the Commissioner to implement procedures that result in a coordinated effort designed to accomplish this integration in an efficient and effective manner.

(5) In the event that the appropriated funds are less than budgeted amounts approved by the BOE, the Board will re-evaluate its relative priorities, goals, and objectives based on the available resources. After this re-evaluation process is completed, the Budget Committee will convey this information to the Commissioner; and oversee the modification of an annual operating budget that

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meets these criteria in light of the funding available. Once the budget has been modified, it will be presented to the Budget Committee by the Commissioner for its review and approval. After approval by the committee is obtained, the budget will be forwarded to the entire BOE for its review and approval.

(6) To add a degree of flexibility needed to accommodate changing conditions and circumstances, the BOE will require the ability to reprogram funds within the limits established in PL 3-68 and other applicable laws of the CNMI. Where PL 3-68 section 402(c) defines the reprogramming authority for agencies and departments, the Chairman of the BOE or his authorized designee will act with the authority equivalent to those public officials listed in section 401(b) through (p).

(7)(i) To meet its future needs, the BOE will establish a Long-Range Budget Planning Committee. This committee will assume the responsibility of preparing a five year financial master plan, and updating the plan on an annual basis. The plan will be based on the goals and objectives that all members can agree upon as being reasonable.

(ii) Because the master plan focuses on goals and objectives in an attempt to establish a purpose and direction for the PSS, associated costs will be considered only after a purpose and direction have been established. At that time, the Commissioner of the PSS along with the appropriate management personnel will work with the committee to prepare realistic cost estimates for the specific goals and objectives established by the committee. Then the means of financing these goals and objectives will be analyzed.

(c) Budget Procedures

These procedures will be used in the preparation of the annual operating budget for the PSS. For the purpose of applying these procedures the terms program directors and principals are interchangeable; program directors will follow these procedures to the extent that the procedures apply to specific programs unless otherwise stated.

(1) The timeline for the budget process is as follows:

(i) Nov. 15th Program managers and principals submit their budget to the fiscal office for compilation and for presentation to the Management Committee.

(ii) Nov. 30th Fiscal office presents compiled budget to the Management Committee for review and comments.

(iii) Dec. 5th Management Committee presents budget through the Commissioner to the Board.

(iv) Dec. 15th Board of Education reviews and acts on the budget.

(v) Dec 15 to January 31st Revisions made as appropriate and as approved by the Board.

(vi) Feb. 1st Budget is presented to the Senate, House and the Office of the Governor.

(2) Projections for student enrollment will be incorporated in budget preparations to assist in determining staffing requirements and amounts to budget for the “all others” category.

(3) BOE approved student/teacher ratios will serve as the basis for hiring teachers in each school.

(4) CIP projects that will impact on the schools will be included.

(5) Teachers will submit a detailed list of supplies and instructional materials showing the most current cost to the principals.

(6) Verifications of all school personnel in terms of their position titles, base salary, grades and step will be made. For all new positions, written justifications must be provided.

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- (7) The principals will review the detailed information provided by their teachers for the “all others” category and add additional requests on all others with justification. Maximum allowable amount in the “all others” category is \$600 per student.
- (8) Principals are responsible for coordinating preparation of their local budget in reference to federal funds allotted for any of their programs requiring supplemental funding from the local budget.
- (9) A Management Committee consisting of the following individuals will coordinate the preparation and presentation of the annual operating budget to the BOE: the Commissioner of Education (COE); the Deputy Commissioners of Instruction and Administration; the Federal Program Coordinator; the Fiscal and Budget Officer; and the Comptroller.
- (10) The principals will submit their completed budgets to the Management Committee for review. After committee review, the Fiscal Office will compile the annual operating budget.
- (11) The completed budget will be submitted by the Commissioner to the BOE for its review and approval. Once approved, the budget will be submitted to the appropriate governmental agencies for processing through the appropriations process.
- (12) Should the approved budget be less than the requested budget, the budget revision process will begin with the Commissioner onward to the principals and the teachers. The revised budget will be presented to the Management Committee for its review and presentation to the Commissioner before it is presented by the Commissioner to the Board for its review and approval.

Modified, 1 CMC § 3806(f), (g).

History: Adopted 11 Com. Reg. 6155 (Apr. 15, 1989); Proposed 11 Com. Reg. 5878 (Feb. 15, 1989).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (c).

The Board of Education adopted the 1989 “Budget Policy” without designating a policy number. It is not clear, therefore, whether the policy was affected by later policy repeals and the Commission retained the policy and codified it in part 700.

In subsection (c)(5), the Commission corrected the spelling of “current.”

§ 60-20-740 Federal Grants

All federal program applications should be reviewed and endorsed by the Board. Existing clearing house procedures will be followed as required by each federally funded program. Board members will be provided copies of program applications.

Modified, 1 CMC § 3806(b).

History: Amdts Adopted 17 Com. Reg. 13064 (Mar. 15, 1995); Amdts Proposed 16 Com. Reg. 12517 (Nov. 15, 1994).

Commission Comment: The 1995 amendments purported to amend “policy 1006,” entitled “Federal Grants.” The federal grant policy had not been published previously. The Commission codified the provisions of policy 1006 in part 700.

Part 800 - Support Services

Subpart A - Buildings and Grounds Management

§ 60-20-801 Buildings and Grounds Maintenance and Inspection

(a) Each school principal is responsible for the condition of the buildings in his/her care as to cleanliness, ventilation and general maintenance, in order to safeguard the health, safety and comfort of the students and employees. The principal of each school shall regularly inspect and identify any hazardous conditions in his/her area of supervision and promptly report them in writing to the Commissioner's designee. The reports will identify any conditions needing attention and suggest corrections. The designee shall regularly report to the Commissioner of Education regarding such conditions and plans to correct.

(b) The Commissioner/designee is directed to maintain a proper preventive maintenance program and ensure adequate funding to sustain this program in the budget recommendation. Provisions of this program should include the following:

- (1) The Commissioner/designee and school principals shall ensure the periodical inspection of the buildings, grounds and playgrounds and report their findings to the Board.
- (2) Improvements and additions to the buildings and grounds will be made as established by capital outlay line items approved in the budget by the Board.
- (3) An adequate custodial services program for all buildings shall be maintained as allowed per yearly appropriations.
- (4) School grounds and fields shall be maintained and improved to ensure a safe, functional and attractive environment.
- (5) PSS buildings and equipment shall be repaired, painted and replaced as needed.
- (6) Obsolete equipment will be identified, replaced when necessary and discarded and reported according to proper procurement and inventory procedures.

History: Amdts Adopted 26 Com. Reg. 21759 (Jan. 22, 2004); Amdts Emergency and Proposed 25 Com. Reg. 21065 (Sept. 18, 2003) (effective for 120 days from Sept. 2, 2003).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

In 1997, the Board of Education rescinded former policy 806, entitled "Policy on Drugs and Alcohol and Smoking." Policy 806 was replaced by the 1997 Regulations for the Public School System Employment of Certified and Non-certified Personnel. See NMIAC, title 60, subchapters 30.2 and 30.3; see also 19 Com. Reg. 14943 (Jan. 15, 1997) (adoption); 18 Com. Reg. 14484 (Nov. 15, 1996) (proposal). For the history of policy 806, see 11 Com. Reg. 6604 (Oct. 15, 1989); 11 Com. Reg. 6481 (Sept. 15, 1989); 11 Com. Reg. 6358 (Aug. 15, 1989).

On April 15, 1998 the Board of Education published a notice of proposed regulations entitled "Public School System Vehicles." A notice of adoption was published on July 15, 1988. The text of the "Public School System Vehicles Regulations" was not published with either notice. See 10 Com. Reg. 581 (July 15, 1988); 10 Com. Reg. 5533 (Apr. 15, 1988).

The January 2004 amendments repealed former Board of Education policy 801, "Operation of Buildings and Grounds," policy 802, "Inventories," policy 803, "Fire Safety," policy 804, "Bus Maintenance," policy 805, "Construction of Classrooms," and policy 811, "Betel-nut (Pugua)." For the history of these policies see: 19 Com. Reg. 15449 (Aug. 15, 1997); 18 Com. Reg. 14484 (Nov. 15, 1996); 17 Com. Reg. 13653 (Aug. 16, 1995); 17 Com. Reg. 13505 (June 15, 1995); 14 Com. Reg. 9285 (May 26, 1992); 13 Com. Reg. 8164 (Oct. 15, 1991); 13 Com. Reg. 7541 (Jan. 15, 1991); 12 Com. Reg. 7438 (Oct. 15, 1990); 12 Com. Reg. 7205 (Aug. 15, 1990); 9 Com. Reg. 5242 (Sept. 15, 1987); 9 Com. Reg. 4928 (May 15, 1987); 8 Com. Reg. 4220 (Apr. 18, 1986); 8 Com. Reg. 4213 (Feb. 17,

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1986); 7 Com. Reg. 3972 (Sept. 16, 1985); 7 Com. Reg. 3820 (July 22, 1985); 3 Com. Reg. 1254 (June 30, 1981). See also the commission comment to § 60-20-001.

The January 2004 amendments also repealed policies 807 through 810 and 900-905. The Commission has found no record of the publication of these policies in the Commonwealth Register.

Subpart B - Safety, Security and Communications

§ 60-20-805 Hazardous Materials

- (a) Each school and programs shall at a minimum comply with the following standards:
- (1) All material safety data sheets (MSDS) shall remain with materials at all times and shall be strictly followed. Additional copies of the MSDS shall be on file in the school office.
 - (2) All purchase orders of chemicals for laboratories shall be cleared for review and approval by the Commissioner's designee before purchase.
 - (3) The PSS should purchase chemicals for the school year only. Such purchases should not be made in bulk quantities. Teachers should justify the purpose for use and strictly follow procedures of use of all chemicals.
 - (4) All schools and programs must purchase cleaning and disinfectant supplies that are non-poisonous and biodegradable.
 - (5) The school principal shall submit an annual report of all hazardous material used in all classrooms and those used by preventative maintenance and custodial staff.
- (b) Overall Recommendations for Chemical Storage, Handling and Disposal.
- (1) All chemicals should be accounted for and a quarterly inventory should be conducted, this includes amount of chemicals used, expiration date, date of storage etc.
 - (2) The chemical storage room shall be cleaned, maintained and regularly inspected.
 - (3) The chemical storage cabinet should be cleaned yearly.
 - (4) The chemical storage cabinet corrosive should be balanced so the cabinet will not move.
 - (5) There shall be adequate storage room ventilation.
 - (6) All chemicals should be stored in one room with proper lock to prevent vandalism.
 - (7) Fire extinguishers must be readily available and in working condition.
 - (8) Emergency wash shall be installed and in working condition.
 - (9) All new chemicals purchased must be accompanied by written information such as material safety data sheet (MSDS) by the manufacturer. MSDS shall be available in the classroom and a copy in the office.
 - (10) Information from chemical manufacturer for proper use and disposal of chemical must be collected and kept on file. Each school shall prepare a disposal plan and submit the plan to the Department of Environmental Quality for review and consideration.
 - (11) Proper personal protective clothing/equipment must be readily available for use by students and teachers.
 - (12) Emergency evacuation plan or fire escape plans shall be established and posted.
 - (13) The high schools shall not be provide any chemicals without proper documentation to any agency, businesses, community or individuals for storage or disposal.
 - (14) Chemicals should be stored per their characteristics (e.g. corrosive, flammable, oxidizer, etc.).

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Modified, 1 CMC § 3806(f), (g).

History: Amdts Adopted 26 Com. Reg. 21759 (Jan. 22, 2004); Amdts Emergency and Proposed 25 Com. Reg. 21065 (Sept. 18, 2003) (effective for 120 days from Sept. 2, 2003).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

In subsection (b)(4), the Commission changed “balance” to “balanced” and in subsection (b)(14), the Commission changed “its” to “their” to correct manifest errors. See the commission comment to § 60-20-801.

The January 2004 notice of adoption added subsection (a), amended subsection (b) and added the following Form 5210.

Form 5210 **Student Classroom Laboratory Safety Procedures**

The chemistry, art, agricultural, film development, automotive and vocational laboratories/areas are a safe place to experiment if you are careful. You must assume responsibility for the safety of yourself and others. The following are safety rules to help guide you in protecting yourself and others from injury in the laboratory.

1. Do not perform experiments without your teacher’s supervision.
2. Read your lab handout assignment before you begin. If you are in doubt about any procedure ask your teacher for help.
3. Safety goggles and a laboratory apron may be required during experiments. Eyeglasses are not a substitute for safety goggles. Contact lenses should never be worn when safety goggles are worn; they absorb vapors and are difficult to remove in an emergency.
4. Know how to use the safety equipment provided for you. Know the location of the fire extinguisher, safety shower, eyewash, fire blanket and the first aid kit.
5. Report any accident, injury or incorrect procedure immediately to your teacher.
6. If you spill any corrosive chemicals, wash it off immediately using plenty of water.
7. Never taste any chemical substance. Eating and drinking are prohibited in the laboratory.
8. If clothing should catch fire, smother it with a fire blanket, or quench it under a safety shower.
9. Handle all chemicals carefully. Check the labels of all bottles before removing contents. Do not return unused chemicals to reagent bottles.
10. Keep combustible materials away from open flames.
11. When heating a substance in a test tube, be careful not to point the mouth of the test tube at another person or yourself.
12. Use caution and the proper equipment to handle hot glassware and metals. Hot glass looks the same as cool glass.
13. Follow the directions for disposal of chemical substances, as well as disposable supplies during, and upon completion of an experiment. Immediately notify your teacher of broken lab equipment and glassware.
14. Long hair should be tied back and shoes must be worn while conducting experiments. Avoid wearing scarves, ties, or clothing with loose sleeves.
15. Wash your hands with soap and water when finished with your laboratory work.

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16. Work areas should be kept clean and tidy at all times. A lab activity is not finished until work areas have been cleaned and all lab equipment has been returned to its original location.

Student Safety Contract

I will:

- Follow all written and verbal instructions provided by the teacher.
- Protect eyes, face, hands and body while conducting experiments.
- Know the location and purpose of all safety equipment in the laboratory.
- Conduct myself in a responsible manner at all times in the laboratory.

I _____, have read all the safety rules and promise to abide by them at all times in the laboratory. I understand that failure to follow these rules may result in injury to myself or others, my dismissal from the lab with an F and/or a disciplinary referral.

Date _____

Student's Signature _____

Parent or Guardian's Signature _____

Parent of Guardian's Name:

Home Phone:

Work Phone:

Parent or Guardian's Name:

Home Phone:

Work Phone:

Name and phone number of a person other than your parent or guardian to contact in case of an emergency.

Name:

Phone:

§ 60-20-810 Accident/Incident Reporting

(a) All schools shall follow emergency procedure guidelines to ensure the health and safety of all students.

(b) All PSS staff involved in or witnessing an accident/ incident on campus that involves personal injury or property damage must immediately make an oral report to his or her supervisor and/or the principal. Supervisors and principals shall inform the Commissioner's officer no later than the end of the school day on which the accident/incident was reported.

(c) Written reports from staff to principal shall be completed within 24 hours when an incident or accident occurs when a student is injured on school property or during a school sanctioned activity.

(1) Written Accident Report Procedures

(i) The person in charge at the time of the accident shall complete the accident/incident report form.

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- (ii) The accident/incident report form shall be returned and forwarded to the principal within 24 hour.
- (iii) The principal reviews the report and makes a necessary recommendation.
- (iv) The principal shall forward a copy to the Commissioner/designee within 24 hours and a copy to the legal counsel if a serious injury/accident and/or hospitalization occurs or results in the absence of the student for a day or more. A copy remains in the school.
- (2) Accident/incident reports will include:
 - (i) Date, time and place of accident.
 - (ii) Name and address of injured person(s).
 - (iii) Name of staff member(s) in attendance.
 - (iv) Type of accident.
 - (v) Personal injuries incurred.
 - (vi) Treatment given.
 - (vii) Description of the accident.
 - (viii) Property damage incurred.
 - (ix) Name and address of any parties with first-hand information regarding the accident.
 - (x) Name of staff member making the report.
 - (xi) Date and time of parent/guardian notification.
 - (xii) If available, the hospital number and insurance number of party involved in the accident.
- (d) All written reports shall be sent to the Commissioner within 24 hours. The Commissioner shall report to the Board all serious accidents and shall also submit to the Board periodic statistical reports on the number and types of accidents occurring in the schools.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 26 Com. Reg. 21759 (Jan. 22, 2004); Amdts Emergency and Proposed 25 Com. Reg. 21065 (Sept. 18, 2003) (effective for 120 days from Sept. 2, 2003).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (d).

The January 2004 notice of adoption added a new subsection (b) and amended the remaining provisions of this section. See also the commission comment to § 60-20-801.

Subpart C - Inventory Management

§ 60-20-815 Inventory Requirements

- (a) Annual Inventory
 - (1) The PSS shall require a physical count of all stock supply and equipment items at least once each year. This inventory for fixed assets shall follow the fixed asset policy.
 - (2) This is done to provide:
 - (i) Complete local property information for ready reference.
 - (ii) Information for insurance purposes.
 - (iii) Audit needs to determine capital worth.
 - (iv) Accountability of the physical property of the PSS.

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- (3) The principal is responsible for the inventory. The person responsible for the room and its contents should take the inventory.
- (4) An inventory of furniture and equipment shall be maintained.

(b) Fixed Assets Policy

(1) To be classified as a fixed asset/equipment, a specific piece of property must possess three attributes:

- (i) Tangible nature;
- (ii) A useful life of two years or more; and
- (iii) A value of \$5,000 or more.

(2) All fixed asset/equipment expenditures shall be recorded initially as a fixed asset. All such assets shall be tagged and identified as Public School System property. All such items will include all costs generally accepted as part of the specific fixed asset. A separate fixed assets ledger will be maintained with the related accumulated depreciation.

(3) All depreciation will be recorded on a straight line basis.

(4) All fixed assets purchased with federal funds shall be identified as such on the property itself, and the property if purchased for an agency shall be so identified. The fixed assets ledger shall include proper identification as to federal or local status.

(c) Custody and Internal Control of Fixed Assets

(1) A fixed asset at its inception shall be assigned to one individual, who will be responsible for the care and maintenance of the specified fixed asset. The employee, who is in direct control of the fixed asset, (not the supervisor of the employee), and who is using the fixed asset, shall sign for the fixed asset. Refusal to sign as the custodian of a fixed asset shall prohibit the employee from custody of the fixed asset. The asset shall not be removed from PSS or one of its agency's properties. If the fixed asset is to be transferred to another location or individual, a transfer of fixed assets form must be completed and forwarded to the Procurement and Supply Department and Fiscal & Budget Division.

(2) All assets shall be depreciated in accordance with Internal Revenue Guidelines. All fully depreciated assets, that are still in use, will remain on the PSS balance sheet as per generally accepted accounting principles.

(3) The custodian of the fixed assets will be responsible for those fixed assets assigned to said employee at date of separation. The fixed assets or cash for the market value of lost fixed assets shall be tendered to the appropriate PSS staff at the date of separation. Except in unusual circumstances (antique, work of art) the market value of the lost fixed asset shall be set at the net book value of the fixed asset. Net book value is the historical cost less the accumulated depreciation at the date of separation of the affected employee.

(4) This policy of reimbursement shall not include motor vehicles.

(5) The Procurement and Supply Department and the Fiscal and Budget Division along with the responsible school principals, program managers and site coordinators shall be responsible for taking an inventory of all fixed assets. During that inventory, all custodians must be matched with the appropriate records of assigned fixed assets maintained at the Central Office. All discrepancies between custodians and their respective fixed assets must be cleared by 90 days after the closing of the fiscal year.

(d) Policy for Consumable Fixed Assets

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(1) A consumable fixed asset is defined as a long lived asset with an original cost of less than \$5,000. Examples of these assets would include text books, calculators, and computers. These assets would be the direct responsibility of the department or agency head, or the principal of the school. The level of care for these assets would be the care given by a reasonably prudent executive. The department head or principal is not responsible for consumable assets at the same level of care as the fixed assets.

(2) The care for consumable assets shall be part of the employee's annual evaluation by the Commissioner of Education. The department head or principal shall account for consumable fixed assets. The department head or principal shall conduct a yearly inventory of consumable fixed assets as an internal control at the end of every school year. The missing consumable assets listed shall be accounted for through police reports or proper reporting submitted to the department head or principal.

(3) The custodian of the consumable fixed asset shall be responsible for those consumable fixed assets assigned to said employee at the end of each school year.

(4) The Central Office of the Public School System would not take direct responsibility for the maintenance and control of these assets. These assets are consumables, and they are not reflected in the balance sheet of the Public School System or its agencies. The consumables are not part of the annual inventory of fixed assets.

(5) Upon separation from the Public School System, the department/agency head or principal is not be financially responsible for consumable assets of the department or school as in the fixed asset policy. However a department/agency head or principal shall be accountable for a fixed asset of \$5000 or more in the same manner as any other employee.

(e) Disposition of Fixed Assets

Disposition of fixed assets shall be in accordance with procedures established by the Commissioner.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 26 Com. Reg. 21759 (Jan. 22, 2004); Amdts Emergency and Proposed 25 Com. Reg. 21065 (Sept. 18, 2003) (effective for 120 days from Sept. 2, 2003).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (e).

See also the commission comment to § 60-20-801.

Subpart D - Transportation

§ 60-20-820 Student Transportation Services

All school bus riders must adhere to the following rules and procedures.

- (a) Leave home early enough to arrive at school bus station on time.
- (b) Wait for school bus in a safe place and remain there quietly. Stay well off the roadway.
- (c) Enter the school bus in an orderly manner and take a seat. Remain quiet.

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- (d) Follow all instructions of the school bus driver. The bus driver is in charge at all times.
- (e) Remain seated at all times while the school bus is in motion.
- (f) Learn emergency drill procedures and follow them at all times.
- (g) Help to keep the school bus clean and in good condition.
- (h) Keep head, arms and other parts of the riders' body inside the school bus at all times.
- (i) Be alert for traffic when leaving the school bus.
- (j) Do not carry tools or equipment to or from school unless turned over to the school bus driver to be returned when disembarking.
- (k) Do not eat, drink, or chew gum while inside the school bus.
- (l) Turn over instruments, such as radio, cassette recorder, guitar, ukulele, etc., to the school bus driver upon entering the bus to be returned when disembarking.
- (m) Place books, lunches, purses and other belongings directly under the seat.
- (n) Be courteous to the school bus driver, conductor and fellow passengers.
- (o) No crossing behind the bus at all times.
- (p) No chewing betel nut inside the school bus.
- (q) No spitting inside the bus or out the window.
- (r) No smoking or use of other tobacco products inside the school bus.
- (s) No fighting inside the school buses.
- (t) Student and/or parent/guardian are responsible to pay for damages or destruction to the bus or property of others.

History: Amdts Adopted 26 Com. Reg. 21759 (Jan. 22, 2004); Amdts Emergency and Proposed 25 Com. Reg. 21065 (Sept. 18, 2003) (effective for 120 days from Sept. 2, 2003).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (t).

The January 2004 notice of adoption changed the proposed language for this section. See also the commission comment to § 60-20-801.

Part 900 - Other Requirements

§ 60-20-905 Retention of Records/Audit

(a) All financial records, inclusive of electronically created or scanned documents, of the PSS shall be retained until the completion and close of the audit for the fiscal year to which the records relate or until five years after the completion of the last activity related to the record, whichever is longer, unless a longer period is provided for by law.

(b) All performance/program records, inclusive of electronically created or scanned documents, required by federal grants or by the PSS shall be retained for five years after the last activity related to the record, unless a longer term is provided by law.

Modified, 1 CMC § 3806(b), (f), (g).

History: Amdts Adopted 36 Com. Reg. 35891 (Dec. 28, 2014); Amdts Proposed 32 Com. Reg. 35634 (Oct. 28, 2014); Amdts Adopted 19 Com. Reg. 15449 (Aug. 15, 1997); Amdts Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

Commission Comment: The August 1997 amendments added this new section as “regulation 1010.” The Commission created part 900 and codified the provisions of regulation 1010 in this part. The Commission struck the figure “5” from subsections (a) and (b) pursuant to 1 CMC § 3806(e).

§ 60-20-910 Mandatory Reporting of Child Abuse and Neglect

(a) Any teacher or other school official who knows or has reasonable cause to suspect that a child is abused or neglected shall report the situation within 24 hours to both the Division of Youth Services and to the Department of Public Safety.

(b) Child abuse and neglect (defined further in 6 CMC § 5312) shall include any sexual or attempted sexual molestation as well as physical maltreatment or a failure to provide a child with adequate supervision or care by a parent or person responsible for the child’s welfare such that the child’s physical or mental health and well-being are harmed or threatened.

(c) The report shall include all information available and necessary for an investigation and shall be as detailed as possible. It shall include at a minimum the date, time and circumstances which gave rise to the belief that abuse or neglect occurred or will occur.

(d) A school may establish internal procedures for coordinating abuse and neglect reports, however such procedures may not delay transmission of the reports.

Modified, 1 CMC § 3806(b).

History: Amdts Adopted 20 Com. Reg. 15965 (June 15, 1998); Amdts Proposed 19 Com. Reg. 15423 (Aug. 15, 1997).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (d).

The 1998 amendments added new “policy 1010,” entitled “Mandatory Reporting of Child Abuse and Neglect.” The Commission codified the provisions of policy 1010 in part 900.

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In 2011, the Board of Education changed its reporting of student abuse procedures. See § 60-20-472 Reporting Student Abuse. In the notices of proposed amendment and adoption, the Board of Education appears to have mistakenly identified this section by number for amendment. However, the title of the amendments and the language of the changes indicate that the Board of Education intended to amend § 60-20-472, Reporting Student Abuse, not this section. Accordingly, the Commission codified the 2011 changes in § 60-20-472. See 33 Com. Reg. 31847 (Aug. 23, 2011) and 33 Com. Reg. 31728 (June 27, 2011) for proposed amendment and adoption notices.

§ 60-20-915 Housing

(a) Authority

(1) Pursuant to the Public Law 6-10 § 1522(b), the Board of Education adopts a housing benefits policy applicable to all employees of the Public School System. Housing benefits included either leased or furnished quarters, paid housing allowance, or furnished government-owned quarters. All contract and agreement forms, procedures and guidelines relating to this policy shall be consistent with all applicable laws, regulations and policies.

(2) It is the policy of the Board of Education to phase out housing benefits for all employees with the exception of hard-to-fill positions which shall be determined by the Commissioner of Education.

(b) Employee Eligibility for Housing Benefits

Only those full-time employees of the Public School System whose contracts provide for a housing benefit and who meet the following criteria shall be eligible for housing benefits:

(1) Employees who are recruited from outside the CNMI; however, in no case shall such benefits extend beyond a total of two years with the exception of hard-to-fill positions.

(2) Employees who are residents of the CNMI and who are assigned to a duty station other than their home island or residence, defined as the senatorial district where the employee is registered to vote; however, in no case shall such benefits extend beyond a total of two years, except for hard-to-fill positions as determined by the Commissioner of Education.

(3) Any PSS employee who on the same island as his/her duty station, owns a home or residence, or whose spouse owns a home or residence, or who holds title in a lease longer than 10 years in a home or residence, or is purchasing a home or residence is not entitled to housing benefits.

(c) Extent of Benefits

(1) Housing quarters or the maximum allowance shall be assigned on the basis of family size as stipulated herein:

Size of Family	Allowance Rate
Employee alone	\$400 monthly
Employee w/spouse	\$400 monthly
Employee w/child	\$500 monthly
Employee w/spouse w/child	\$500 monthly
Employee w/2 or more dependents	\$600 monthly

(2) No employee shall be given the maximum allowance if the lease price is less; no employee shall be given more than the maximum allowance if the lease is more.

(d) **PSS Responsibilities**

PSS will fill all government-owned quarters prior to leasing any private quarters for its employees. PSS shall have the employee complete all required housing agreement forms prior to occupancy. Every effort shall be made to execute lease agreements on or about the actual occupancy date.

(e) **Employee Responsibilities**

Any employee who receives housing benefits as a result of this policy shall enter into an agreement form which specifies the responsibilities of the employee in regards to occupancy, signed by the employee and the Commissioner of Education.

Modified, 1 CMC § 3806(f), (g).

History: Amdts Adopted 11 Com. Reg. 6604 (Oct. 15, 1989); Amdts Proposed 11 Com. Reg. 6481 (Sept. 15, 1989); Amdts Proposed 11 Com. Reg. 6358 (Aug. 15, 1989).

Commission Comment: The original paragraphs of subsections (a) and (c) were not designated. The Commission designated subsections (a)(1) and (a)(2) and (c)(1) and (c)(2).

The 1989 amendments added a new unnumbered “Housing Policy.” The Commission codified the provisions of the housing policy in part 900.

In subsection (e), the Commission deleted the repeated word “a.”

Part 1000

[Reserved.]

Commission Comment: In 1997, the Board of Education rescinded former policies 1003, entitled “Non-employment Contracts & Personal Service Contracts,” 1005, entitled “Personnel System Regulations,” and 1009, entitled “Harassment on the Basis of Race, Color, National Origin, Disability and Sex on PSS Grounds or by PSS Employees.” For the history of policy 1003, see 17 Com. Reg. 13767 (Nov. 15, 1995); 14 Com. Reg. 9285 (May 26, 1992); 13 Com. Reg. 8164 (Oct. 15, 1991). For the history of policy 1009, see 17 Com. Reg. 13064 (Mar. 15, 1995); 16 Com. Reg. 12517 (Nov. 15, 1994). Policy 1005 was not published in the Commonwealth Register.

These policies were replaced by the 1997 Regulations for the Public School System Employment of Certified and Non-certified Personnel. See NMIAC, title 60, subchapters 30.2 and 30.3; see also 19 Com. Reg. 14943 (Jan. 15, 1997) (adoption); 18 Com. Reg. 14484 (Nov. 15, 1996) (proposal).

Part 1100 - Miscellaneous Provisions

§ 60-20-1101 Repealer

All regulations of the Department of Education previously published in the Commonwealth Register and covered by this chapter are hereby repealed. These repealed regulations include those concerning teacher certification, and education and training leave.

Modified, 1 CMC § 3806(d).

History: Proposed 3 Com. Reg. 1158 (Mar. 30, 1981).

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Commission Comment: The repealed regulations referenced in this section are the Teacher Certification Program Regulations published at 1 Com. Reg. 330 (July 16, 1979) and the Educational and Training Leave Program Regulations published at 1 Com. Reg. 334 (July 16, 1979).

See also the commission comment to § 60-20-001.

§ 60-20-1105 Effective Date

This chapter shall take effect forty days following the publication of their proposed adoption, in the manner provided in section (4)(1) of title 17 of the Trust Territory Code [1 CMC § 9104].

Modified, 1 CMC § 3806(d), (e), (f).

History: Proposed 3 Com. Reg. 1254 (June 30, 1981); Proposed 3 Com. Reg. 1158 (Mar. 30, 1981).

Commission Comment: This provision conflicts with the notice of proposed regulations published with the 1981 proposed regulations. See the commission comment to § 60-20-001.

The June 1981 regulations included “Policy 1003,” entitled “Effective Date,” as follows:

Policy 1003. Effective Date.

These policies shall take effect upon publication of notice of their adoption, in the manner provided in Section 4(1) of Title 17 of the Trust Territory Code.

3 Com. Reg. at 1280 (June 30, 1981).