

# Article 4 Personnel

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## PERSONNEL

### Section 1      Employment of Personnel

#### A.      Recruitment and Selection

The administration is to recruit and recommend for employment the best qualified personnel to implement and fulfill the mission, goals and policies of the ESU. All applicants so selected and recommended must satisfy the standards set by the Board and any applicable legal requirements.

All personnel shall be recommended for hiring by the Administrator with the final approval by the Board prior to hiring. The final approval by the Board should generally follow closely the recommendation of the Administrator, but such approval of recommendation is not mandatory on the Board.

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| Legal Reference:  |                |
| Date of Adoption: | April 13, 2010 |

#### B.      Equal Opportunity Employment

ESU 17 is an equal opportunity employer. It is the policy of ESU 17 to employ the best qualified applicant for each position without regard to race, color, religion, sex, age, marital status, disability, national origin, or any other protected status or activity.

Actions with regard to employment, discharge, compensation, and terms and conditions of employment shall not be taken based on race, color, religion, sex, age, marital status, disability, or national origin or other legally protected status. There shall be no discrimination against an applicant or employee because of membership or activity in an employee organization or because of protected free speech activities.

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| Legal Reference:  | Title VI--34 CFR §100 et seq.<br>Title VII--42 U.S.C. §2000e, et seq.<br>Title IX--20 U.S.C §1681; 34 CFR 106.1 et seq.<br>ADEA--29 U.S.C. §621 et seq.<br>ADA-42 U.S.C. §12101 et seq.; 28 CFR §35.101 et seq.<br>Rehabilitation Act of 1973, Section 504--29 U.S.C. §791, et seq.; 34 CFR §104, et seq.<br>Nebraska Fair Employment Practices Act, Neb. Rev. Stat. §§48-1101 to 48-1126; Neb. Rev. Stat §20-168 |
| Date of Adoption: | April 13, 2010  |

### Section 2      Staff Handbooks

The administration is responsible for preparing and distributing staff handbooks and job descriptions. Staff handbooks and job descriptions approved by the Board shall have the effect of Board-approved policy and, if approved by the Board later in time to any conflicting Board policy, shall control over conflicting Board policy.

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| Legal Reference:  |                |
| Date of Adoption: | April 13, 2010 |

**Section 3 Conflicts of Interest**

**A. Employment of Board Members**

No board member of ESU 17 shall be employed by ESU 17.

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| Legal Reference:  | § 79-1219      |
| Date of Adoption: | April 13, 2010 |

**B. Employment of Immediate Family Members**

A member of the Board or an employee with supervisory responsibilities may employ or recommend or supervise the employment of an immediate family member only if:

1. He or she does not abuse his or her official position. Abuse of an official position includes, but is not limited to, employing an immediate family member:
  - (a) Who is not qualified for and able to perform the duties of the position;
  - (b) For an unreasonably high salary; or
  - (c) Who is not required to perform the duties of the position.
2. He or she makes a full disclosure on the record to the Board and a written disclosure to the Administrator and/or Secretary of the Board; and
3. The Board approves the employment or supervisory position.

No immediate family member of a Board member or of an employee with supervisory responsibilities shall be employed by the ESU:

1. Without first having made a reasonable solicitation and consideration of applications for such employment;
2. Who is not qualified for and able to perform the duties of the position;
3. For an unreasonably high salary; and
4. Who is not required to perform the duties of the position.

Neither the Board nor an employee with supervisory responsibilities shall terminate the employment of an employee so as to make funds or a position available for the purpose of hiring an immediate family member.

This policy shall not apply to an immediate family member of a member of the Board or an employee with supervisory responsibilities who was previously employed in a position with the ESU prior to the election or appointment of the Board member or of the supervisory employee. Prior to or as soon as reasonably possible after the official date a Board member takes office or an employee assumes supervisory responsibilities, such Board member or employee shall make a full disclosure of any immediate family member employed in a position subject to this policy.

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| Legal Reference:  | § 49-1499.04; § 49-1499.05 |
| Date of Adoption: | April 13, 2010             |

#### **Section 4 Fitness for Duty**

Applicants must be physically and mentally capable of performing the essential functions of the position for which application is made, with or without reasonable accommodations. Some positions have physical requirements which must be demonstrated by satisfactorily completing a post-offer physical exam or post-offer questionnaire to establish the ability to perform the essential functions of the position. This will only be required after a conditional offer of employment has been made.

Employees must be physically and mentally capable of performing the essential functions of their position, with or without reasonable accommodations. Employees shall be required, upon request of the Administrator or designee, to respond or submit to medical inquiries or examinations which are related and necessary to performance of essential functions of their position where there is evidence of a job performance or safety problem and when required or otherwise permitted by law.

Employees are required to disclose any medical restrictions that limit their ability to perform the essential functions of the assigned position to their supervisor or the Administrator and are to request a meeting with the ADA Coordinator to discuss the provision of reasonable accommodations. Supervisors are required to notify the Administrator of any employees with restrictions that limit their ability to perform the essential functions of their assignment. The ESU shall make reasonable accommodations to qualified individuals with a disability in accordance with law.

The ESU complies with all federal and state laws regarding the collection and maintenance of health and medical information.

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| Legal Reference:  | ADA-42 U.S.C. §12101 et seq.; 28 CFR §35.101 et seq. Rehabilitation Act of 1973, Section 504--29 U.S.C. §791, et seq.; 34 CFR §104, et seq. Nebraska Fair Employment Practices Act, Neb. Rev. Stat. §§48-1101 to 48-1126; Neb. Rev. Stat §20-168 |
| Date of Adoption: | April 13, 2010   |

#### **Section 5 Standards of Conduct**

##### **A. Drug-Free Work Place**

It is the policy of ESU 17 to eliminate the influence of drugs, alcohol and other chemicals within the work environment and to educate students against the usage of drugs, alcohol and illegal substances. The ESU will implement regulations and practices which will insure compliance with laws relating to drugs and alcohol, including: the Drug-Free Workplace Act and the Omnibus Transportation Employee Testing Act of 1991, and all regulations and rules promulgated pursuant thereto.

The ESU has established a drug-free workplace. The drug-free workplace for this purpose includes ESU property, ESU-utilized vehicles, any place in which ESU employees perform duties, and any place in which ESU activities are held. The ESU recognizes that the use, possession, or being under the influence of illicit drugs or alcohol constitutes a hazard to the positive development of students and employees and a substantial interference with the ESU's mission and goals.

1. The unlawful manufacture, distribution, disposition, possession, or use of a controlled substance is prohibited in the work place. Employees are also prohibited from possessing, using or distributing illicit drugs or alcohol, or being under the influence of illicit drugs or alcohol, on any ESU property or at any ESU sponsored event. Any level of impairment from illicit drugs, alcohol, or inhalants, and the presence of any odor of illicit drugs (such as marijuana) or alcohol in the work place or on duty time shall be a violation of the drug-free workplace.
2. The possession or distribution of a look-alike drug or look-alike controlled substance is prohibited. In addition, employees are expected to serve as role models for students and will be considered to have violated the ESU's expectations in the event the employee commits a criminal drug or alcohol offense off the work place or off duty time.
3. As a condition of employment, employees will abide by the ESU's drug-free workplace policies and notify the Administrator or designee of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction.
4. Disciplinary sanctions, up to and including termination of employment and referral for prosecution, will be imposed upon employees who violate the aforementioned standards of conduct. If employment is not terminated, sanctions may include the requirement that the employee complete an appropriate rehabilitation program.
5. Employees shall be advised through employee publications about drug and alcohol counseling and rehabilitation and reentry programs that are available.

The ESU will implement a drug and alcohol testing program in compliance with law for all employees whose position requires a commercial driver's license (CDL) or who are otherwise in "safety-sensitive" positions as defined by federal or state law. Refusal to submit to pre-employment testing, or testing positive, shall disqualify an applicant for any position requiring such testing from employment. Reasonable suspicion, random, post-accident, return-to-duty, and follow-up testing shall also be conducted. Employees who test positive shall be immediately removed from safety-sensitive positions and be terminated from employment.

This policy supplements and is in addition to all other policies, regulations, practices, procedures and contractual provisions regarding or related to the improper or unlawful possession, use, or distribution of illicit drugs and alcohol.

Employees shall be furnished with a copy of this policy.

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| Legal Reference:  | 41 U.S.C. §§ 701 to 707 (Drug-Free Workplace Act of 1988)<br>49 U.S.C. § 31306 and 49 CFR Part 382 (Omnibus Transportation Employee Testing Act of 1991) |
| Date of Adoption: | April 13, 2010   |

B. Notification of Arrest, etc.

Employees must notify the Administrator by the next business day after:

1. Arrest or Criminal Charges. The employee is arrested, ticketed, or issued a criminal charge where:
  - a. The maximum penalty for the crime equals or exceeds six months incarceration;
  - b. The crime relates to abuse, neglect or endangerment of a minor, a minor was allegedly a victim or a witness, or the crime involves alleged sexual misconduct;
  - c. Conviction would impact performance of employee's job responsibilities, including offenses that:
    - i. Would impact the responsibility to be a role model for students or relations with other employees of the ESU or schools served by the ESU;
    - ii. Would impact the employee's ability to operate a motor vehicle if the employee at times needs to travel during duty time or the employee at times drives students; or
    - iii. Would impact the employee's Commercial Drivers License if the employee's job requires that the employee have a CDL.
  - d. The arrest or the alleged criminal activity occurred while the employee was on duty, on property of the ESU or a school, or in an ESU or school owned or utilized vehicle, or at a school-supervised activity or school-sponsored function.

Employees must also promptly report to the Administrator whenever the employee has been sentenced to be incarcerated for any period of time, even if the offense is not otherwise reportable.

2. Certificate or License. The employee becomes aware that a complaint has been filed against the employee that could affect a certificate or license required for the employee's position. This includes proceedings of the Nebraska Department of Education related to an alleged violation of the NDE Standards of Conduct and Ethics, Chapter 27, and proceedings of the Health and Human Services related to an alleged violation of the professional standards of conduct for the employee's position.
3. Child Abuse. The employee becomes aware that a report of child abuse or neglect has been made against the employee under the Child Protection Act.

Further, employees must give full disclosure of any Child Protection Act investigation that resulted in an “inconclusive” determination that occurred at any time. Current employees must give such disclosure within ten days following adoption of this Policy. As a condition of employment, applicants for employment must give such disclosure prior to commencement of employment. Any hiring made without such disclosure shall be subject to being immediately revoked in the event the required disclosure was not given.

Employees must give full disclosure of the existence and nature of the above proceedings and must also promptly notify the Administrator of the disposition of the proceedings.

Legal documents relating to the proceedings shall be treated and maintained as part of the employee’s confidential criminal background file.

Failure to notify as required under this policy may subject the employee to disciplinary action, up to and including termination.

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| Legal Reference:  |                |
| Date of Adoption: | April 13, 2010 |

C. Weapons

Employees shall not bring or possess a weapon in any facility or in any vehicle owned or under the control of ESU 17 or, while on duty, on any school property or at any ESU or school activity. This prohibition includes employees with a permit to carry a concealed handgun. Possession of a weapon includes, without limitation, a weapon in an employee’s personal possession or control, including a weapon in an employee’s motor vehicle, desk, locker, backpack or purse. Any employee found to be in violation of this policy shall be subject to disciplinary action, up to and including termination.

An exception may be allowed for an employee to carry mace or other similar chemical agents in quantity and/or concentration typically designed for individual personal defensive purposes for self-defense where it is established that the employee is presented with a clear and substantial risk to personal safety. An exception may also be allowed where the employee requests to possess a weapon for instructional purposes.

Any exception must receive prior approval of the Administrator and be cleared with the school(s) at which the employee is assigned, where applicable. Any exception must be limited to a non-lethal weapon. Further, the weapon must be possessed and used only in the manner approved and must be maintained in such manner as the Administrator has directed so as to prevent it from being used by any non-permitted person or from causing anxiety or harm to others.

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| Legal Reference:  | § 69-2441      |
| Date of Adoption: | April 13, 2010 |

D. Civility

All employees shall behave with civility, fairness and respect in dealing with fellow employees, students, parents, patrons, visitors, and anyone else having business with the ESU. Uncivil behaviors are prohibited. Employees may be subject to disciplinary action up to and including termination for engaging in uncivil behaviors.

Uncivil behaviors are any behaviors that are physically or verbally threatening, either overtly or implicitly, as well as behaviors that are coercive, intimidating, violent or harassing. Such interactions are prohibited in all forms of communication, including telephone conversations, voice mail messages, face-to-face conversations, written communications, and email messages.

Any employee aware of another employee's uncivil behavior shall report the conduct to the employee's immediate supervisor or to the Administrator. There will be no retaliation against a person for making the report.

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| Legal Reference:  |                       |
| Date of Adoption: | <u>April 13, 2010</u> |

E. Relationships with Students

Employees are prohibited from establishing an inappropriate personal relationship with students in ESU member school districts or with students otherwise served by the ESU. An inappropriate personal relationship between an employee and a student is defined as including, but not necessarily limited to: dating; any touching of an intimate or sexual nature, sexual contact or sexual relations, any touching otherwise prohibited by law or objected to by the student; giving a gift having a sexual overtone; making comments of a sexual nature or reflecting sexual innuendo to or about a student; or any similar activity.

Such conduct is further prohibited with former students where the inappropriate personal relationship commences within a period of time or in a manner such that there is an appearance that the employee's position with the ESU created the opportunity to establish the relationship. As a guideline, relationships that commence within one year of the time the employee last had employment-related contact with the student are prohibited.

Employees may be subject to disciplinary action up to and including termination for engaging in uncivil behaviors.

Any employee who has knowledge or reasonably suspects that another employee engaged in or may have engaged in an inappropriate personal relationship with a student must immediately report this information to either the employee's supervisor or the Administrator. There will be no retaliation against a person for making the report.

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| Legal Reference:  |                       |
| Date of Adoption: | <u>April 13, 2010</u> |

F. Visitors to Employees

Employees are not to have visitors while on duty other than as appropriate for the performance of their duties except on a short-term basis and only with permission of the Administrator or their supervisor. Included in the definition of visitors are family members of the employee. Employees are responsible for ensuring that their visitors follow posted procedures for being on ESU or school property. Employees are not to bring their children to work with them in lieu of taking them to childcare.

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| Legal Reference:  |                       |
| Date of Adoption: | <u>April 13, 2010</u> |

G. Other Employment

Employees shall not perform duties unrelated to their employment duties during their regularly assigned schedule. In addition, employees shall not engage in employment which conflicts with their duties for the ESU.

Employees are to notify the ESU of outside employment to the extent such is required for the ESU to comply with Nebraska School Employees Retirement System Act or other laws, or Board policy.

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| Legal Reference:  |                       |
| Date of Adoption: | <u>April 13, 2010</u> |

**Section 6 Risk Management and Safety Committee**

ESU 17 is committed to providing and maintaining a safe and healthful work environment. The administration is to make the safety of employees an integral part of the management function. Each employee is to make safety an integral part of their duties by following established safety regulations and procedures, assisting in accident prevention activities by reporting any job-related injury to the administration immediately, reporting unsafe conditions immediately, and providing suggestions to eliminate accidents and injuries. Failure to follow safety rules may lead to disciplinary action up to and including termination.

Safety and health management is the ultimate responsibility of the Board. Functional authority for continued development and implementation of health and safety is hereby delegated to the Administrator or the Administrator's designee.

The Administrator or designee is to establish and maintain the Safety Committee or committees as required by law. The Safety Committee(s) shall be made up of members, hold meetings, and perform such functions as required by law. The Safety Committee(s) shall adopt and maintain an effective written Injury Prevention Program for the ESU. The Administrator or the Administrator's designee is delegated authority and responsibility as required or allowed by law over such Injury Prevention Program.

Management shall participate in the Safety Committee(s), and in safety education and training, and the establishment of safety rules, policies and procedures as provided in Board policy, the

ESU’s written Injury Prevention Program, and as otherwise provided by law. The Administrator shall ensure that records of safety law compliance and workplace injuries are created and retained as required by law.

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| Legal Reference:  | § 48-443 to § 48-445 |
| Date of Adoption: | April 13, 2010       |

## **Section 7 Employee Files and Privacy**

### **A. Employee Files**

The administration shall protect the confidentiality of personal information in records regarding personnel other than salaries and routine directory information. Job application materials submitted by applicants, other than finalists, who have applied for employment, shall also be maintained as confidential records. Such confidential records information shall be released only to the extent required by law or as appropriate for the operations of the ESU.

The following information is designated as “directory information” and may be given to parents or guardians of students served by the ESU upon request:

1. Whether a certificated staff member has met State qualifications and licensing criteria for the grade levels and subject areas in which the certificated staff member provides instruction.
2. Whether the certificated staff member is teaching under an emergency or provisional teaching certificate.
3. The baccalaureate degree major of the certificated staff member, along with information about other graduate certification or degrees held by the certificated staff member, and the field of discipline of the certification or degree.
4. Whether the child has been assigned, or has been taught for four or more consecutive weeks, by a certificated staff member who does not meet the requirements of the No Child Left Behind Act.
5. The qualifications of a paraeducator assigned to their child.

Information regarding an employee’s medical condition or history is to be maintained in a separate medical file and treated as confidential, including employment background checks related to physical or mental condition and records pertaining to FMLA leaves for health related reasons. Records maintained pursuant to the federal drug and alcohol testing laws, including drug and alcohol tests of employees and driver investigation history files for new or prospective drivers, are to be maintained in a separate file in a location with controlled access.

To the extent the ESU conducts any functions within the purview of HIPAA, which may include group health plans or student health services, it designates the ESU as a hybrid entity as to any

such functions. The administration shall develop and implement all necessary practices and procedures to comply with laws governing protected health information (PHI) to the extent applicable and to maintain the privacy of PHI that the ESU receives, obtains, or transmits. The Administrator is designated as the HIPAA privacy officer for the ESU.

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| Legal Reference:  | § 84-712.05 (7) and (15) (Public Records Act)<br>34 CFR 200.61 (NCLB)<br>29 CFR § 1630.14 (ADA regulations)<br>29 CFR § 825.500 (FMLA regulations)<br>49 CFR 391.23 (Drug Testing regulations)<br>Health Insurance Portability and Accountability Act (HIPAA) |
| Date of Adoption: | April 13, 2010  |

B. Social Security Numbers

Employee social security numbers shall be kept confidential to the extent required by law. Use of more than the last four digits of an employee’s social security number shall be made by the ESU only for:

1. Legal Mandates. Compliance with state or federal laws, rules, or regulations.
2. Internal Administration. Internal administrative purposes, including provision of employee social security numbers to third parties for such purposes as administration of personnel benefits and employment screening and staffing. However, the internal administrative uses shall not permit use of employee social security numbers:
  - a. As an identification number for occupational licensing.
  - b. As an identification number for drug-testing purposes except when required by state or federal law.
  - c. As an identification number for ESU meetings.
  - d. In files with unrestricted access within the ESU.
  - e. In files accessible by any temporary employee unless the temporary employee is bonded or insured under a blanket corporate surety bond or equivalent commercial insurance.
  - f. For posting any type of ESU information.
3. Voluntary Transactions. Commercial transactions freely and voluntarily entered into by the employee with the ESU for the purchase of goods or services.

The ESU will not use or require an employee to use more than the last four digits of an employee’s social security number for:

1. Public Posting or Display. Any public posting or display available to the general public or to an employee’s co-workers.
2. Internet Transmission. Transmission over the Internet unless the connection is secure or the information is encrypted.

3. Internet Access. To access an Internet web site unless a password, unique personal identification number, or other authentication device is also required to access the Internet web site.
4. Identifier. As an employee number for any type of employment-related activity.

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| Legal Reference:  | § 48-287;<br>5 USC § 552a (note) (Privacy Act of 1974) |
| Date of Adoption: | April 13, 2010   |

C. Shredding Consumer Reports (Background Checks)

The administration shall take reasonable measures to protect against unauthorized access to consumer information from consumer reports.<sup>1</sup> A consumer report includes criminal background checks performed on applicants or employees by a third party. It does not include criminal checks performed by ESU staff.

Reasonable measures to protect against unauthorized access to or use of consumer information in connection with its disposal include the following examples. These examples are illustrative only and are not exclusive or exhaustive methods for complying with this directive.

1. Shredding of papers containing consumer information so that the information cannot practicably be read or reconstructed. Burning or pulverising such papers are also options where appropriate.
2. Destruction or erasure of electronic media containing consumer information so that the information cannot practicably be read or reconstructed.
3. After due diligence,<sup>2</sup> entering into and monitoring compliance with a contract with another party engaged in the business of record destruction to dispose of material in a manner consistent with this directive.

This policy does not require that the consumer reports information be disposed of. Rather, it specifies the action to be taken whenever such disposal occurs. Questions regarding the disposal of consumer reports information should be directed to the Administrator or the Administrator’s designee.

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| Legal Reference:  | FTC Rule on Disposal of Consumer Report Information and Records, 16 CFR Part 682 |
| Date of Adoption: | April 13, 2010   |

<sup>1</sup> “The term ‘consumer report’ means any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for . . . employment purposes.” Fair Credit Reporting Act, 15 U.S.C. § 1681a(3).

<sup>2</sup> The FTC rule states: “In this context, due diligence could include reviewing an independent audit of the disposal company's operations and/or its compliance with this rule, obtaining information about the disposal company from several references or other reliable sources, requiring that the disposal company be certified by a recognized trade association or similar third party, reviewing and evaluating the disposal company's information security policies or procedures, or taking other appropriate measures to determine the competency and integrity of the potential disposal company.”

## **Section 8 Fair Labor Standards Act (Minimum Wage & Overtime)**

Work week: The work week for overtime purposes shall be 12:00 a.m. Sunday until 11:59 p.m. Saturday. The Administrator may establish a different 7-day period workweek from time to time for specified employees or employee groups.

Overtime: Overtime will be paid to non-exempt employees as required by law; that is, when a non-exempt employee works more than 40 hours in a work week. Compensatory pay in-lieu of overtime pay may be implemented in accordance with law. A non-exempt employee shall not work overtime without the express approval of the employee's supervisor.

Deductions from Salary: The ESU's policy is to not permit improper deductions from the salary of exempt employees who are required to meet a "salaried basis" test in order to be exempt from overtime. (Note: Teaching professionals are not subject to the salaried basis test). An employee who feels an improper deduction affecting exemption status has occurred may submit a complaint to the Administrator or the Administrator's designee, who shall promptly investigate the complaint. Reimbursement shall be made and a good faith commitment to comply in the future will be given in the event it is determined that an improper deduction affecting overtime exemption has been made.

The ESU's policy is to authorize unpaid disciplinary suspensions of a full day or more for infractions of workplace conduct rules and to apply such policy uniformly to all similarly situated employees, including exempt employees who are required to meet a "salaried basis" test in order to be exempt from overtime. Unpaid disciplinary suspensions of a partial day or of a full day or more may be implemented for infractions of safety rules of major significance. Deductions of pay of a partial day or of a full day or more may be made for FMLA leaves and in the first and last weeks of employment. In addition, based on principles of public accountancy, deductions from pay of a partial day or of a full day or more will be made for absences for illness, injury or personal reasons when accrued leave is not used or not available, and for absences due to any budget-required furlough.

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| Legal Reference:  | Fair Labor Standards Act, 29 U.S.C. § 201 et seq.;<br>29 CFR §§ 541.303; 541.602-03; 541.710; 553.20-.28; 771.105 |
| Date of Adoption: | April 13, 2010  |

## **Section 9 Attendance and Leaves of Absence--Generally**

### **A. Attendance**

The ESU depends on each employee to be reliable and punctual in reporting for work in order to provide its services and programs safely and efficiently. Regular, dependable attendance at work is an essential function of each employment position.

Employees are to be absent from scheduled work only to the extent reasonably unavoidable. Appointments are to be scheduled for non-work hours whenever possible.

Leaves are to be used for the purpose intended. Abuse of leave privileges will not be tolerated. Such abuse may result in disciplinary action, up to and including termination of employment.

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| Legal Reference:  |                |
| Date of Adoption: | April 13, 2010 |

B. Reporting Absences and Making Leave Requests

Employees are to utilize the appropriate notification and approval procedures for all absences. It is important to give as much advance notice of the need to take a leave as possible.

1. *Requesting Use of Leave Days.* An employee who wants to use available leave is to submit a Request for Leave form to the employee's supervisor. The request is to be submitted at least 5 duty days prior to the leave. The supervisor may require that more advance notice be given depending on the nature of the employee's duties or the need to schedule a substitute. Leave requests should be made as soon as practicable under the circumstances.
2. *Giving Notice of Unscheduled Absences.* An employee who is unable to request prior advance approval for an absence because of the nature of the circumstance requiring the absence (such as personal illness or unforeseen emergency) is to report the need to be absent as soon as the situation is known. Before the end of the day on the first day of the absence, and on each subsequent day of absence, the employee is to report whether the employee will be able to return to work on the next duty day.

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| Legal Reference:  |                |
| Date of Adoption: | April 13, 2010 |

C. Returning from Absences

1. *Justification for Absences Taken Without Prior Approval.* If an employee is absent without prior approval either the day immediately preceding or immediately following a regularly scheduled school break (such as winter break, spring break, and quarter or semester breaks) the employee will be required to give verification (for example, a doctor's note) to establish that the employee was unable to work for an excusable condition or reason.
2. *Establishing Fitness for Duty.* Employees must present a written statement from their physician or health care provider to their supervisor when the employee is absent for any period of time because of injury requiring care from a physician or health care provider, or absent from work for 10 days or more due to a personal health condition. The statement is to clearly verify that the employee is mentally and physically able to return to duty. This statement is to be presented in person to the employee's supervisor before the employee returns to duty in order that the readiness to perform work can be observed and discussed.

Employees are required to disclose any medical restrictions that limit their ability to perform the essential functions of their position to their supervisor and to request a meeting with the

Americans with Disabilities Act (ADA) Coordinator to discuss the provision of reasonable accommodations. The ESU will not discriminate against any employee due to disability and will provide reasonable accommodations. Information provided about medical conditions or disabilities shall be treated as confidential, as required by state and federal statutes, and will be divulged only to the extent necessary to provide reasonable accommodations.

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| Legal Reference:  |                |
| Date of Adoption: | April 13, 2010 |

D. Paid Leaves

1. *Paid Leaves Available.* ESU 17 makes the following forms of paid leaves available: Sick Leave, Personal Leave, Bereavement Leave, and Professional Leave. In addition, ESU 17 complies with laws that require leaves to be allowed without loss of pay, such as for military service and jury duty.
2. *Negotiated Agreement.* Paid leaves are provided for in the negotiated agreement with the designated association of certified employees. The negotiated agreement will control where there is any direct conflict with this policy.
3. *Nature of Paid Leave.* Paid leave is available to employees when the following specific conditions are met: (1) the employee is currently employed by the ESU; (2) the paid leave day is taken on a day the employee would otherwise be expected to be at work; and (3) the employee has met the conditions that are applicable to the type of paid leave that has been requested.
4. *Leave Year.* The leave year for paid leaves begins at the employee’s contract date.
5. *Leave Days.* Paid leave days are provided based on the same number of hours the employee is scheduled to work on the day the leave is taken, except for any day in which premium pay may be paid. For example, if an employee is scheduled to work 6 hours on a day that sick leave is used, the use of the sick leave on that day constitutes the use of 1 full sick day. Paid leave days may not be used in increments of less than one-fourth day unless otherwise specified or approved.
6. *Eligibility Based on Employment Status.* For purposes of eligibility for paid leave days, employees are identified as:
  - i. *Full-Time Employees*—Employees scheduled to work in one position at least 1,250 hours per leave year. Eligibility for full-time status treatment based on combinations of positions is subject to prior written approval of the Administrator.
  - ii. *Part-Time Employees*—Employees who are contracted to work at least 9 months in the leave year and who are scheduled to work at least 17.5 hours per week. Except as otherwise specified, Part-Time Employees are provided paid leaves on a pro rata basis measured against a 1,480 hour work year (185 days x 8 hours).

- iii. *Ineligible Employees*—Employees who are not Full-Time or Part Time Employees, as defined above, including any employees employed on a substitute or temporary basis. Ineligible Employees are not eligible for any paid leaves.
- iv. *New Classified Employees*—Employees who have been employed with the ESU less than 4 months and who are employed in a position that does not require an NDE or Department of Health certificate or license. New Classified Employees are not eligible for paid leaves. Upon reaching the 4 month employment anniversary, the employee becomes eligible for paid leaves for the remainder of the leave year on a pro rata basis.

7. *Unused Days.* There is no pay for unused paid leave either during or upon ending of employment except as may be provided in the negotiated agreement with the designated association of certified employees or in written employment contracts approved by the Board, and except as required by law. A condition of paid leave being available is that the employee not engage in misconduct warranting termination. Accordingly, in the event the Administrator or the Board determines that an employee has engaged in misconduct, there shall be no pay for unused leave days. In the event unused leave days are required to be paid, the employee will be paid at the employee’s daily rate of pay at the time the unused paid leave days first became available.

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| Legal Reference:  | §§ 48-1228 to 48-1232 (Wage Payment and Collection Act) |
| Date of Adoption: | April 13, 2010  |

E. Sick Leave

- 1. *Days Per Leave Year.* Employees have 9 days sick leave available per leave year.
- 2. *Availability.* Sick leave is a paid work day when the employee may be absent from duties. Sick days are only available when the employee is unable to perform assigned duties due to the illness or temporary disability of the employee or due to the employee needing to care for a member of the employee’s immediate family who is ill or has a serious health condition. Immediate family for purposes of sick leave means the employee’s spouse, child, parent, grandparent, sibling, and the employee’s spouse’s parent. Employees are to use sick leave when unable to work. Activities other than caring for their own health or that of an immediate family member reflect an abuse of sick leave.
- 3. *Carry-over and Accumulation.* Unused sick leave may be carried over from one leave year to the next succeeding leave year to a maximum of 60 sick leave days. Once the maximum is accumulated, no further sick leave days will be available or granted for the ensuing leave year or years until the accumulated number of days is less than 60, and then only to the extent necessary to restore the total number of available sick leave days to the maximum of 60 days.

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| Legal Reference:  |                |
| Date of Adoption: | April 13, 2010 |

F. Personal Leave

1. *Days Per Leave Year.* Employees have 2 days of personal leave available per leave year.
2. *Availability.* Personal leave is available when all other forms of paid leave have been exhausted. The availability of personal leave is to be determined in the discretion of the Administrator.
3. *Carry-over and Accumulation.* There is no carry-over or accumulation of unused personal leave.

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| Legal Reference:  |                        |
| Date of Adoption: | <u>April 13</u> , 2010 |

G. Bereavement Leave

1. *Immediate Family.* Paid family bereavement leave of 3 consecutive days is available in the event of the death of an immediate family member. The term “immediate family” for this purpose means the employee’s spouse, child, parent, grandparent, grandchild and sibling; and family members standing in the same relation to the employee’s spouse (in-laws). Family bereavement leave of 3 days is available for each such death, provided that the total paid family bereavement taken in a leave year not exceed 10 days.
2. *Non-Immediate Family.* Non-family bereavement leave of 1 day is available for the death of a person who is not an immediate family member, but with whom the employee was so close that the employee would be expected to attend the person’s funeral. Non-family bereavement leave requires advance approval of the employee’s supervisor. The combination of family and non-family bereavement leave may not exceed 10 days in the leave year.
3. *Use of Bereavement Leave.* Bereavement leave is to be used for purposes of addressing issues related to the death and to attend funeral services. The taking of a bereavement leave without attending funeral services would be an abuse of bereavement leave, except in the case of the death of the employee’s parent, child or spouse, where grief would be expected to impair the employee’s ability to function at work.
4. *Carry-over and Accumulation.* There is no carry-over or accumulation of unused bereavement leave.

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| Legal Reference:  |                        |
| Date of Adoption: | <u>April 13</u> , 2010 |

H. Professional Leave

1. *Availability.* Professional leave is available for attendance at local, regional, state, or national functions provided attendance is judged by the Administrator or designee to be for professional development of the employee in an aspect of the employee’s employment duties or of potential benefit to the ESU or schools served by the employee. Attendance at such functions is to be determined in the

discretion of the Administrator. Expenses for attendance, including transportation, meals, registration fees, and other function-related expenses deemed necessary and approved by the Administrator will be paid by in accordance with the Coffee Act Policy.

2. *Carry-over and Accumulation.* There is no carry-over or accumulation of unused professional leave.

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| Legal Reference:  |                |
| Related Policy:   |                |
| Date of Adoption: | April 13, 2010 |

J. Unpaid Leaves

Should an employee be absent from work in excess of the employee’s available paid leaves, the absence will be an unpaid leave. The employee’s salary and fringe benefits (including the cost of premiums for group health insurance) will be subject to reduction for the day or days of work missed.

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| Legal Reference:  |                |
| Date of Adoption: | April 13, 2010 |

K. Discretionary Leave of Absence

An employee may apply to the Board for a leave of absence from duties. The Board will consider such requests on a case-by-case basis. No leave of absence shall extend beyond one leave year. All discretionary leaves shall be without pay except as may be individually negotiated.

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| Legal Reference:  |                |
| Date of Adoption: | April 13, 2010 |

L. FMLA

Family and medical leaves shall be allowed under the terms and conditions of the Family and Medical Leave Act of 1993, as amended (FMLA).

The “leave year” for purposes of the FMLA shall be a “rolling” twelve-month period, measured backward from the date an employee uses any FMLA leave.

Substitution of accrued paid leaves for otherwise unpaid FMLA leaves may be required in the discretion of the Administrator or the Board.

Employees shall be required to submit medical certifications to support a request for FMLA leave because of a serious health condition, or a sick leave, when such leave is for a duration in excess of five successive days, and in such other cases as deemed appropriate by the Administrator or the Board based on the nature of the illness or other circumstances surrounding the leave. Second and third medical opinions may, in the Administrator or the Board’s discretion, be required. Employees shall be required to report periodically, at such times as

requested by the Administrator or the Board, on their intent to return to work from FMLA leaves and other leaves. Employees shall be required to submit a fitness-for-duty certification from their health care provider as a condition of returning to work from a FMLA leave taken because of the employee's serious health condition, or from a sick leave taken by reason of the employee's illness, when such leave was of a duration in excess of five successive days, and upon request of the Administrator or the Board when such is deemed appropriate by the Administrator or the Board based upon the nature of the illness or other circumstances surrounding the leave.

Upon return from FMLA leave, an employee shall be assigned to the same position originally held, or to an equivalent position. In the case of certificated employees an "equivalent position" means any certificated employment position for which the employee is qualified by reason of endorsement, college preparation, experience, or other similar factors. In the case of other employees or positions, an "equivalent position" means a position with or at equivalent pay, benefits, and working conditions, involving similar or related duties, as determined by the Administrator or the Board.

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| Legal Reference:  | 29 U.S.C.A. §§ 2611, et seq. (FMLA) |
| Date of Adoption: | April 13, 2010                      |

M. Military and Family Military Leave

Military leave and family military leave will be granted to the extent required by state and federal law.

Employees requesting military leave must notify the Administrator as soon as they receive notification of activation. Employees are to attach a copy of their orders to a leave request form when they prepare the request for military leave.

Employees requesting to take family military leave under the Nebraska statutes must notify the Administrator at least 14 days in advance of taking such a leave if the leave will be for 5 or more consecutive days, consult with their supervisor to schedule the leave so as to not unduly disrupt operations of the ESU. For leaves of less than 5 days, the employee is to notify the Administrator of the leave request as soon as practicable.

Family military leave under the FMLA will be provided in accordance with that law and subject to the provisions of the Board policy pertaining to FMLA leave.

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| Legal Reference:  | Neb. Rev. Stat. §§ 55-160 to 55-166<br>Neb. Rev. Stat. §§ 55-501 to 55-507<br>29 U.S.C. §§ 2611, et seq.; 29 CFR Part 825 (FMLA)<br>38 U.S.C. §§ 4301 to 4333; 20 CFR Part 1002 (USERRA) |
| Date of Adoption: | April 13, 2010   |

N. Adoption Leave

Adoption leave will be permitted to be taken by an adoptive parent for the same time and on the

same terms as an employee is permitted to take a leave of absence upon the birth of the employee's child.

The adoptive parent leave of absence begins following the commencement of the parent-child relationship. The parent-child relationship commences, for purposes of adoption leave, when the child is placed with the employee for purposes of adoption. The employee shall be deemed to have waived any adoptive leave days not taken following the commencement of the parent-child relationship, except as the Administrator and the employee may otherwise agree. Advance notice of an anticipated adoption shall be provided by the employee to the Administrator as early as possible.

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| Legal Reference:  | § 48-234       |
| Date of Adoption: | April 13, 2010 |

O. Jury Duty Leave

An employee who is summoned for jury service must promptly notify the employee's immediate supervisor. The employee will be allowed time off for jury duty.

There will be no loss of salary or deduction in leave time for time spent in jury service, except the ESU will reduce salary by an amount equal to any compensation, other than expenses, paid by the court for jury duty. Employees are to notify the employee's immediate supervisor of the amount received for such jury duty.

If an employee reports for jury duty in the morning and is then dismissed from jury duty for the remainder of the day, the employee is to report for work and resume duties for the balance of the day, except as may be otherwise arranged by the employee's immediate supervisor.

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| Legal Reference:  | § 25-1640      |
| Date of Adoption: | April 13, 2010 |

P. Subpoena to Testify Leave

An employee must promptly notify the employee's immediate supervisor when the employee receives a lawfully issued subpoena to testify in court or to give a deposition that may require an absence from duty.

In the event the subpoena involves a job-related matter in which the employee is testifying on behalf of the ESU, the absence will be treated similar to a jury duty leave.

In the event the subpoena involves a personal matter, the employee will be required to use available leave days. A subpoena will be considered to involve a personal matter whenever the employee or a family member or friend of the employee is a party to the legal proceeding, unless the employee's involvement in the legal matter is solely due to actions taken in connection with the employee's work duties, the actions of the employee were not inappropriate, and the ESU is not an opposing party in the legal matter.

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| Legal Reference:  |                |
| Date of Adoption: | April 13, 2010 |

Q. Voting Leave

Employees will be allowed paid time off to vote in an election if the employee: (a) is a registered voter; (b) does not have 2 consecutive hours during which the employee is not required to be present at work in the period between the time of the opening and closing of the polls; and (c) applies for voting leave prior to or on election day.

Voting leave will not be available to most employees because elections are typically scheduled for 8 a.m. to 8 p.m. Most employees are off duty on or before 6 p.m. If not off work by 6 p.m., the employee is usually not on duty before 10 a.m.

When voting leave is available, an employee will be entitled to be absent from work on election day for such period of time as will, when considering the employee’s non-working time, total 2 consecutive hours between the time of the opening and closing of the polls. When voting leave is used, no deduction shall be made from the employee’s salary or wages on account of such absence. The employee’s supervisor may specify the hours during which the employee may be absent for voting leave.

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| Legal Reference:  | § 32-922       |
| Date of Adoption: | April 13, 2010 |

**Section 10    Certified Employees**

A. Certificated Employee Defined

Certificated employee, for purposes of the Board policies, means any teacher, nurse, or other employee in a position or assignment which requires a certificate issued by the Commissioner of Education.

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| Legal Reference:  | § 79-1234(2)   |
| Date of Adoption: | April 13, 2010 |

B. Qualifications and Assignment

All ESU staff who have teaching responsibilities for students shall hold valid Nebraska teaching certificates pursuant to 92 NAC 21. Teaching assignments shall be made only to ESU teachers who hold valid Nebraska teaching certificates having appropriate endorsements, provided such endorsements are being offered by a Nebraska standard institution of higher education.

Special service certificate holders shall be limited to providing those services specified on their Nebraska Special Services Certificate.

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| Legal Reference:  | NDE Rule 84, sections 5.02-.04 |
| Date of Adoption: | April 13, 2010                 |

C. Supervision, Assignment and Evaluation When Serving Schools

The policies governing the supervision, assignment and evaluation of ESU employees when they are serving on the instructional or service faculty of a school are as follows:

1. Supervision. Employees assigned to serve a school remain responsible for adhering to the policies of the ESU and to the directives of their ESU supervisor. Employees must further adhere to the policies of the school applicable to their assignment and duties and to the directives of the school’s Superintendent or designated administrator of the school; provided such are consistent with ESU policies and directives and with the employee’s assignment. The employee’s supervisor is to coordinate and communicate with the employee and with the school’s administration and make such personal visits to the employee at the school as needed to ensure that the employee is adhering to such responsibilities and receiving the necessary resources and proper treatment. The employee’s supervisor is to establish a protocol to ensure that the employee is at the school at the times the employee is responsible to be at the school.
  
2. Assignment. In making assignments of employees to serve schools, consideration will be given to the wishes of the employee and the schools. However, the ESU reserves the right to assign and reassign in the best interests of ESU as determined by the Administrator.
  
3. Evaluation. When evaluating the performance of an employee assigned to serve a school, the evaluator is to consider, and solicit as needed, information from the school administration related to the performance of the employee while performing duties at schools. Observations of performance of the employee at the school should be made as appropriate to complete the evaluation.

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| Legal Reference:  | NDE Rule 84, section 3.04C |
| Date of Adoption: | April 13, 2010             |

D. Professional Development

The equivalent of at least two days of professional growth shall be provided to all ESU professional staff annually. The equivalent of two days means professional growth activities over a period of hours equaling the total number of hours in two regular days of employment.

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| Legal Reference:  | NDE Rule 84, section 3.04E |
| Date of Adoption: | April 13, 2010             |

E. Standards of Ethical and Professional Performance for Certificated Staff

The State of Nebraska and the Board of ESU 17 recognize that teaching and its related services, including administrative and supervisory services, are a profession with all of the rights, responsibilities, and privileges accorded other recognized professions. The Board recognizes and endorses the Standards of Ethical and Professional Performance as established by the Nebraska Department of Education.

As a minimal performance expectation, all certificated staff shall comply with the ethics standards set forth by the Nebraska Department of Education as such standards may be modified from time to time. The ethics standards which certificated staff shall follow shall further include the standards set forth in this policy. References to “educator” includes all certificated employees of the ESU.

#### Preamble to Certificated Employees’ Code of Ethics

The educator shall believe in the worth and dignity of human beings. Recognizing the supreme importance of the pursuit of truth, the devotion to excellence and the nurture of democratic citizenship, the educator shall regard as essential to these goals the protection of the freedom to learn and to teach and the guarantee of equal educational opportunity for all. The educator shall accept the responsibility to practice the profession to these ethical standards.

The educator shall recognize the magnitude of the responsibility he or she has accepted in choosing a career in education, and engages, individually and collectively with other educators, to judge his or her colleagues, and to be judged by them, in accordance with the provisions of this code of ethics.

The standards listed in this section are held to be generally accepted minimal standards for all educators with respect to ethical and professional conduct.

#### *Principle I - Commitment as a Professional Educator:*

Fundamental to the pursuit of high educational standards is the maintenance of a profession possessed of individuals with high skills, intellect, integrity, wisdom, and compassion. The educator shall exhibit good moral character, maintain high standards of performance and promote equality of opportunity.

In fulfillment of the educator's contractual and professional responsibilities, the educator:

1. Shall not interfere with the exercise of political and citizenship rights and responsibilities of students, colleagues, parents, patrons, or ESU board members.
2. Shall not discriminate on the basis of race, color, creed, sex, marital status, age, national origin, ethnic background, or handicapping condition.
3. Shall not use coercive means, or promise or provide special treatment to students, colleagues, patrons, or ESU board members in order to influence professional decisions.
4. Shall not make any fraudulent statement or fail to disclose a material fact for which the educator is responsible.
5. Shall not exploit professional relationships with students, colleagues, parents, patrons, or ESU board members for personal gain or private advantage.
6. Shall not sexually harass students, parents or patrons, employees, or ESU board members.

7. Shall not have had revoked for cause in Nebraska or another state a teaching certificate, administrative certificate, or any certificate enabling a person to engage in any of the activities for which an educator's certificate is issued in Nebraska.
8. Shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation in the performance of professional duties.
9. Shall promptly report to the Administrator any known violation of these standards.
10. Shall seek no reprisal against any individual who has reported a violation of these standards.

*Principle II - Commitment to the Student:*

Mindful that a profession exists for the purpose of serving the best interests of the client, the educator shall practice the profession with genuine interest, concern, and consideration for the student. The educator shall work to stimulate the spirit of inquiry, the acquisition of knowledge and understanding, and the thoughtful formulation of worthy goals.

In fulfillment of the obligation to the student, the educator:

1. Shall permit the student to pursue reasonable independent scholastic effort, and shall permit the student access to varying points of view.
2. Shall not deliberately suppress or distort subject matter for which the educator is responsible.
3. Shall make reasonable effort to protect the student from conditions which interfere with the learning process or are harmful to health or safety.
4. Shall conduct professional educational activities in accordance with sound educational practices that are in the best interest of the student.
5. Shall keep in confidence personally identifiable information that has been obtained in the course of professional service, unless disclosure serves professional purposes, or is required by law.
6. Shall not tutor for remuneration students assigned to his or her classes unless approved by the ESU Board.
7. Shall not discipline students using corporal punishment.

*Principle III - Commitment to the Public:*

The magnitude of the responsibility inherent in the education process requires dedication to the principles of our democratic heritage. The educator bears particular responsibility for instilling an understanding of the confidence in the rule of law, respect for individual freedom, and a responsibility to promote respect by the public for the integrity of the profession.

In fulfillment of the obligation to the public, the educator:

1. Shall not misrepresent an institution with which the educator is affiliated, and shall take added precautions to distinguish between the educator's personal and institutional views.
2. Shall not use institutional privileges for private gain or to promote political candidates, political issues, or partisan political activities.
3. Shall neither offer nor accept gifts or favors that will impair professional judgment.

4. Shall support the principle of due process and protect the political, citizenship, and natural rights of all individuals.
5. Shall not commit any act of moral turpitude, nor commit any felony under the laws of the United States or any state or territory.
6. Shall, with reasonable diligence, attend to the duties of his or her professional position.

*Principle IV - Commitment to the Profession:*

In belief that the quality of the services to the education profession directly influences the nation and its citizens, the educator shall exert every effort to raise professional standards, to improve service, to promote a climate in which the exercise of professional judgment is encouraged, and to achieve conditions which attract persons worthy of the trust to careers in education. The educator shall believe that sound professional relationships with colleagues are built upon personal integrity, dignity, and mutual respect.

In fulfillment of the obligation to the profession, the educator:

1. Shall provide upon the request of an aggrieved party, a written statement of specific reasons for recommendations that lead to the denial of increments, significant changes in employment, or termination of employment.
2. Shall not misrepresent his or her professional qualifications, nor those of colleagues.
3. Shall practice the profession only with proper certification, and shall actively oppose the practice of the profession by persons known to be unqualified.

*Principle V - Commitment to Professional Employment Practices:*

The educator shall regard the employment agreement as a pledge to be executed both in spirit and in fact. The educator shall believe that sound personnel relationships with governing boards are built upon personal integrity, dignity, and mutual respect.

In fulfillment of the obligation to professional employment practices, the educator:

1. Shall apply for, accept, offer, or assign a position or responsibility on the basis of professional preparation and legal qualifications.
2. Shall not knowingly withhold information regarding a position from an applicant or employer, or misrepresent an assignment or conditions of employment.
3. Shall give prompt notice to the employer of any change in availability of service.
4. Shall conduct professional business through designated procedures, when available, that have been approved by the ESU Board.
5. Shall not assign to unqualified personnel tasks for which an educator is responsible.
6. Shall permit no commercial or personal exploitation of his or her professional position.
7. Shall use time on duty and leave time for the purpose for which intended.

*Competent Professional Performance*

Educators must possess the abilities and skills necessary to accomplish the designated task. Therefore, each educator shall:

1. Keep records for which he or she is responsible in accordance with law and policies of the school system;
2. Supervise others in accordance with law and policies of the ESU;
3. Recognize the role and function of community agencies and groups as they relate to the ESU and to his or her position, including but not limited to health and social services, employment services, community teaching resources, cultural opportunities, educational advisory committees, and parent organizations.

Each teacher and special services provider shall:

1. Utilize available instructional materials and equipment necessary to accomplish the designated task;
2. Adhere to and enforce written and dated administrative policy of the ESU which has been communicated to the teacher or special services provider;
3. Use channels of communication when interacting with administrators, community agencies, and groups, in accordance with policy.

Each administrator shall:

1. Use available instructional personnel, materials and equipment necessary to accomplish the designated task;
2. Adhere to and enforce school law, state board regulation, and written and dated board policy which has been communicated to the administrator;
3. Use channels of communication when interacting with teachers, community agencies and groups in accordance with policy.

*Individual Needs and Individual Potential:* The educator shall utilize or promote the utilization of diagnostic techniques to analyze the needs and the potential of individuals. These may include but need not necessarily be limited to:

1. Personal observation;
2. Analysis of individual performance and achievement;
3. Specific performance testing.

*Instructional Procedures:* Each educator shall seek accomplishment of the designated task through selection and utilization of appropriate instructional procedures. Therefore, each educator shall:

1. Create an atmosphere which fosters interest and enthusiasm for learning and teaching;
2. Use procedures appropriate to accomplish the designated task;
3. Encourage expressions of ideas, opinions and feelings.

Each teacher shall:

1. Create interest through the use of materials and techniques appropriate to the varying abilities and background of students;
2. Consider individual student interests and abilities when planning and implementing instruction.

Each administrator shall:

1. Support the creation of interest by providing the materials, equipment and encouragement necessary for the teacher to accomplish the designated task;
2. Make reasonable assignment of tasks and duties in light of individual abilities and specialties and available personnel resources.

*Communication Skills:* In communicating with students and other educators, each educator, within the limits prescribed by his or her assignment and role, shall:

1. Utilize information and materials that are relevant to the designated task;
2. Use language and terminology which are relevant to the designated task;
3. Use language which reflects an understanding of the ability of the individual or group;
4. Assure that the designated task is understood;
5. Use feedback techniques which are relevant to the designated task;
6. Consider the entire context of the statements of others when making judgments about what others have said;
7. Encourage each individual to state his ideas clearly.

*Management techniques:* The educator shall:

1. Resolve discipline problems in accordance with law, board policy, and administrative regulations and policies;
2. Maintain consistency in the application of policy and practice;
3. Use management techniques which are appropriate to the particular setting such as group work, seat work, lecture, discussion, individual projects and others;
4. Develop and maintain positive standards of conduct.

*Competence in Specialization:* Each educator shall:

1. Possess knowledge, within his or her area of specialization, consistent with his or her record of professional preparation;
2. Be aware of current developments in his or her field;
3. Possess knowledge of resources which may be utilized in improving instruction in his or her area of specialization.

*Evaluation of Learning and Goal Achievement:* An educator shall accept responsibility commensurate with delegated authority to evaluate learning and goals achievement. Each educator shall:

1. Utilize several types of evaluation techniques;
2. Provide frequent and prompt feedback concerning the success of learning and goal achievement efforts;
3. Analyze and interpret effectively the results of evaluation for judging instruction, the achievement of stated goals, or the need for further diagnosis;
4. Utilize the results of evaluation for planning, counseling and program modification;
5. Explain methods and procedures of evaluation to those concerned.

*Human and Interpersonal Relationships:* Educators shall possess effective human and interpersonal relations skills and therefore:

1. Shall allow others who hold and express differing opinions or ideas to freely express such ideas;
2. Shall not knowingly misinterpret the statement of others;
3. Shall not show disrespect for or lack of acceptance of others;
4. Shall provide leadership and direction for others by appropriate example;
5. Shall offer constructive criticism when necessary;
6. Shall comply with reasonable requests and orders given by and with proper authority;
7. Shall not assign unreasonable tasks;
8. Shall demonstrate self-confidence and self-sufficiency in exercising authority.

*Personal Requirements:* Each educator within the scope of delegated authority shall:

1. Be able to engage in physical activity appropriate to the designated task except for temporary disability;
2. Be able to communicate so effectively as to accomplish the designated task;
3. Appropriately control his or her emotions;
4. Possess and demonstrate sufficient intellectual ability to perform designated tasks.

*Continuance in Professional Service:* Continuance in professional service requires the maintenance of a valid teaching, administrative, or special services certificate in accordance with the laws of the State of Nebraska.

*Contractual Obligations:* Educators shall adhere fully to the terms of a contract or appointment.

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| Legal Reference:  | NDE Rule 27                |
| Date of Adoption: | _____ April 13 _____, 2010 |

F. Private Tutoring or Services

A certificated employee may not provide private tutoring or professional services in exchange for compensation from a source other than the ESU or an ESU member school without advance approval of the Administrator:

1. to a child that the certificated employee teaches or provides professional services in the course and scope of the employee’s duties to the ESU; or
2. in an ESU facility or in an ESU member school facility; or
3. during the certificated employee’s duty hours.

Certificated employees who accept engagements to provide private tutoring or professional services are to make clear that the services are not being provided on behalf of the ESU to the extent the recipient of the services may in any way otherwise be caused to believe the services are provided through the ESU.

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| Legal Reference:  | NDE Rule 27, sections 27.402E, 27.403F and 27.404B |
| Date of Adoption: | _____ April 13 _____, 2010                         |

## G. Evaluations

The Board delegates to the Administrator the responsibility of developing, organizing and implementing a system-wide program for evaluating certificated employees. The Administrator shall develop effective evaluation procedures and instruments. The evaluation process is to be conducted in such a manner as to be consistent with and advance the mission and goals of ESU.

This evaluation policy is intended to set forth expectations for the administration and not to give rights to employees. As such, a failure to complete observations or evaluations of the designated duration and frequency shall not give the certificated employee rights with regard to continued employment. Such failures, however, are to be considered in evaluating the responsible evaluator's performance.

### 1. Communication of Evaluation Process.

Annual written communication of the evaluation process to those being evaluated shall be made by distributing a copy of the evaluation instrument to the certificated staff at the beginning of each evaluation year.

### 2. Duration and frequency of observations and written evaluations

The duration and frequency of observations and written evaluations are to be as follows:

#### a. Probationary Employees.

- i. Formal observations of probationary teachers are to be based upon actual classroom observations for an entire instructional period. For probationary employees other than teachers, the formal observations shall consist of in-person observations comparable to that for teachers.
- ii. Probationary employees are to be formally observed and evaluated at least once each semester.
- iii. The responsible evaluator is expected to complete the second semester evaluations of probationary teachers prior to April 15 of each year.

#### b. Permanent Employees.

- i. Formal observations and evaluations of permanent teachers are to be based upon actual classroom observations for an entire instructional period. For permanent employees other than teachers, the formal observations shall consist of in-person observations comparable to that for teachers.
- ii. Permanent employees are to be formally observed and evaluated at least once every three years.

#### c. Employees' Responsibility. Employees are expected to inform the responsible evaluator of instructional periods that would be conducive to an evaluation and to make themselves readily available for evaluations. In the event the responsible evaluator has not initiated the evaluation process nearing the time within which an evaluation is to be completed, the employee has the responsibility to notify the responsible evaluator such that the evaluation can be completed when due.

- d. Informal Observations and Evaluations. Informal observations and evaluations may be conducted as the administration determines to be appropriate.
  - e. Additional Observations and Evaluations. The duration and frequency of observations and written evaluations is specified as a minimum expectation for the evaluators. Observations and evaluations of greater frequency or number than required may be conducted and made at the request of the employee or in the discretion of the evaluator.
3. Evaluation Criteria

Certificated staff performing instructional duties shall be evaluated based upon the following evaluation criteria:

- Instructional Performance
- Classroom Organization and Management
- Personal and Professional Conduct

For certificated staff in non-instructional capacities, the Administrator shall establish such other evaluation criteria as the Administrator determines appropriate given the duties of the employee; provided that personal and professional conduct be included.

In preparing summative evaluations, evaluators are to consider not only the formal observations conducted, but also informal observations and other relevant information concerning the performance of the employee in each of the evaluation criteria. Further, evaluators are to consider the input of administrators and other professional staff of the schools served by the employee, as applicable.

4. Communication of Deficiencies

The evaluation process is to include written communication and documentation to the evaluated employee specifying deficiencies, specific means for the correction of the noted deficiency, and an adequate timeline for implementing the concrete suggestions for improvement.

As professionals, certificated employees may be assigned responsibility to provide suggestions for improvement plans or job growth strategies and shall have the duty of complying with such requests. Further, in the event improvement plans or other similar performance measures are implemented, certificated employees shall have the duty to comply with such plans. Certificated employees are expected to be cooperative, professional, and to exhibit a willingness to improve performance and to accept the constructive criticisms and suggestions of the evaluator.

5. Responses to Evaluations

Certificated employees will be given seven calendar days from receipt of an evaluation in which to give a written response to the evaluation.

6. Plan for Training Evaluators

All evaluators shall possess a valid Nebraska Administrator’s Certificate and be trained to use the evaluation system. Training sessions in the use of the evaluation system will be provided by the Administrator or designee to all evaluators prior to their participation in evaluations. Refresher training is to be conducted as the Administrator determines to be needed.

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| Legal Reference:  | NDE Rule 10 (as guidance only; not directly applicable to the ESU) |
| Date of Adoption: | April 13, 2010   |

H. Grievance Procedure

The purpose of this grievance procedure is to secure, at the lowest possible level, equitable solutions to problems that may from time to time arise concerning the terms and conditions of employment that are set forth in the negotiated agreement with the recognized bargaining unit(s) within the ESU (the “Association”).

Step One (Informal to Supervisor)

- a. If the Association or an employee has a grievance, the Association representative is to first discuss the matter with the administrator at the most-direct level or, in the case of an employee-grievant, the employee’s immediate supervisor.
- b. Step One is to be taken within 20 business days of the occurrence of the circumstance or action that creates the basis for the grievance.
- c. An employee-grievant may have a local representative present.
- d. The administrator or immediate supervisor to whom the grievance is presented is to give an oral or written response within 5 business days.

Step Two (Written to Supervisor)

- a. If the Association or the employee-grievant feels that the grievance is not satisfactorily resolved at Step One, the Association or the employee-grievant is to prepare a written grievance statement and give the statement to the administrator or immediate supervisor to whom the oral grievance was submitted.
- b. Step Two is to be taken within 5 business days of the immediate supervisor’s response, or the passage of the response deadline in the event of a failure to respond at Step One.
- c. The administrator or immediate supervisor is to give a written response within 5 business days.

Step Three (Written to Administrator)

- a. If the grievance is not resolved at Step Two to the satisfaction of the Association or the employee-grievant, the Association or the teacher-grievant is to give the

written grievance statement to the Administrator and request a response to the grievance from the Administrator.

- b. Step Three is to be taken within 5 business days of the Step Two response, or the passage of the response deadline in the event of a failure to respond at Step Two.
- c. The Administrator may request that the Association or the employee-grievant give additional information in support of the grievance.
- d. The Administrator is to give a written response within the 5 business days of receipt of any information requested by the Administrator.

Step Four (To Board)

- a. If the grievance is not resolved at Step Three to the satisfaction of the Association or the employee-grievant, the Association or the employee-grievant is to give the Administrator or the Board President a written grievance statement and request a response from the Board.
- b. Step Four is to be taken within 5 business days of the Administrator's response, or the passage of the response deadline in the event of a failure to respond, at Step Three.
- c. The Association or the employee-grievant and the administrators may provide Board members with written information concerning the grievance dispute in advance of the meeting at which the Board or a committee of the Board will consider the grievance.
- d. The Board or a committee of the Board is to give a decision on the grievance. If the grievance is submitted to the Board at least 2 weeks prior to the next regularly scheduled Board meeting, the decision is to be given at (or if a committee is used, on or before the date of) that Board meeting. If the grievance is submitted to the Board within 2 weeks of the next regularly scheduled Board meeting, the decision on the grievance is to be given at (or if a committee is used, on or before the date of) the next following regularly scheduled Board meeting. The Board may give its decision at a special meeting so long as the decision is given within the foregoing time frames.
- e. The decision at Step Four shall be final.

Conditions of Grievance Procedures

- a. Time limits herein are provided in business days, which excludes time periods when the business office of the ESU are closed for regular operations.
- b. Time limits may be extended by agreement of the grievant and the ESU administrator responsible at each particular grievance Step.
- c. Failure of a grievant to comply with the time limits shall constitute a waiver of right to proceed to the next step.
- d. Failure of an administrator to comply with the time limits at any level shall permit the grievant to proceed to the next step.
- e. Administrators and employees shall not retaliate against the Association or a employee-grievant for good-faith use of the grievance procedure.

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| Legal Reference:  |                |
| Date of Adoption: | April 13, 2010 |

## I. Reduction in Force

Reductions-in-force of certificated staff may occur due to decreasing enrollments in schools served, limited financial support, changes in financial support, budget restrictions, changes in programs, changes in services provided, changing needs for services by school districts, changes in full time equivalencies, or other changes in circumstances. If a change in circumstances occurs necessitating a reduction in force, the Administrator or designee shall recommend to the Board those certificated employees to be reduced, and the Board shall take action thereon, in accordance with applicable laws.

Reductions in force may include termination of an employee's contract, amendment of an employee's contract to reduce the employee's full time equivalency from full-time to part-time or from part-time to a lesser part-time, amendment of an employee's contract to eliminate positions or assignments and compensation related to such positions or assignments, and any other change that is a termination, non-renewal, or amendment of an employee's contract under the continuing contract laws.

The criterion for determining the employee or employees to be reduced in force are as follows (not listed in order of importance):

1. Areas of certification and endorsement. It shall be the responsibility of all certificated employees to file with the Administrator a copy of their teaching certificate or administrative and supervisory certificate or other license, including endorsements, upon initial employment with the ESU. On or before March 15th of each year thereafter, for so long as the employee is employed in the ESU or has rights of recall, the employee shall file with the Administrator evidence of any changes in the employee's certification, endorsements, or licensure which have occurred since March 15th of the previous year or which are pending.
2. Special qualifications that may require specific training and/or experience.
3. Existing school assignment.
4. Staffing requests from schools.
5. Location of schools and assignments.
6. Programs to be offered.
7. State and federal regulations which may mandate certain employment practices.
8. Contributions beyond the standard duties of the certificated employee's position, including contributions to activity programs of the schools.
9. Qualifications based on past performance and competence as determined by the Administrator or the evaluator of the affected employees through employee evaluation procedures. The criteria for employee evaluations (including frequency of the evaluation, evaluation forms, number and length of classroom observations, if applicable) used for purposes of this policy consists of the ESU 17 Board policies and administrative rules, regulations, forms and practices related to the periodic evaluation of certificated employees in effect as of the time the evaluation was completed. Such evaluation policies, etc., are incorporated herein as though set forth in full.

10. The organizational and educational impact created by multiple part time certificated employees.
11. Any other criteria which are rationally related to the instruction and services provided by, and the administration of, the ESU.

No permanent employee may be reduced through a reduction-in-force while a probationary employee is retained to perform a service in a position that the permanent employee is qualified by certification and endorsement to perform or where certification is not applicable, by reason of college credits in the teaching area.

Due to the often intimate, confidential, and unique personal working relationship necessary between the administration and the Board, a certificated employee who is not currently serving in a predominantly administrative capacity shall have no rights under this policy to any administrative position within the ESU.

If, after consideration of the above, it is the opinion of the Administrator that no significant difference exists between certificated employees being considered for reduction-in-force, then the employee with the longest uninterrupted service to the ESU shall be retained. Uninterrupted service time shall accrue the same for all certificated employees regardless of their full time equivalency. Uninterrupted service time for employees employed less than a full school year shall accrue according to the number of contract days worked. Uninterrupted service time shall not accrue for certificated employees on leave of absence for more than forty days.

A certificated employee whose contract is terminated because of reduction-in-force shall be considered to have been dismissed with honor. The employee shall, upon request, be provided a letter to that effect. The employee shall have preferred rights to re-employment for a period of twenty-four months commencing at the end of the contract year. The employee shall be recalled on the basis of length of uninterrupted service to the ESU to any position for which the employee is qualified by endorsement or college preparation to teach. The employee shall, upon reappointment, retain any benefits which had accrued to the employee prior to the reduction, but such leave of absence shall not be considered as a year of employment by the ESU. An employee under contract to another educational institution may waive recall but such waiver shall not deprive the employee of his or her right to subsequent recall.

Any certificated employee whose employment contract is reduced as a result of reduction-in-force shall, during the period of recall, report current address information to the Administrator and inform the Administrator of any changes of address thereafter. If a vacancy occurs for which the employee has rights of recall, the offer of such employment may be sent by the Administrator to the employee's last reported address. If no acceptance of such offer is received from the employee within fourteen days of mailing and the Administrator has no personal knowledge of the whereabouts of the employee (other than said last known address), the employee shall be deemed to have waived rights to recall to that employment position.

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| Legal Reference:  | §§ 79-846 to 79-848<br>§§ 79-1234 to 79-1239 |
| Date of Adoption: | April 13, 2010                               |

## Section 11 Non-Certificated Employees

### A. Non-Certificated Employee Defined

Non-certificated employees, for purposes of the Board policies, mean any employee or assignment which does not require a certificate issued by the Commissioner of Education and not otherwise defined as a certificated employee. Non-certificated employees may sometimes be referred to as a classified employee.

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| Legal Reference:  |                        |
| Date of Adoption: | <u>April 13</u> , 2010 |

### B. “At Will” Status

All non-certificated employees and non-certificated assignments shall be on an “at will” basis. Non-certificated employees shall have no property right in continued employment and need not be given a hearing or any other procedural or substantive due process prior to termination of employment.

Nothing in board policy, administrative regulations or practices, employee handbooks, or in any evaluation instrument or in the evaluation process for non-certificated employees shall or is intended to create or be a contract or part of a contract with a non-certificated employee which shall in any way be construed to be contrary to the “at will” employment of non-certificated employees. No administrator or other employee of the ESU has any authority to enter into any agreement of employment with a non-certificated employee for any specific period of time or to make any agreement contrary to an at-will employment relationship without specific Board approval.

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| Legal Reference:  |                        |
| Date of Adoption: | <u>April 13</u> , 2010 |

### C. Hiring, Assignment and Dismissal

The Board delegates to the Administrator the authority to hire, assign, reassign, suspend and dismiss non-certificated employees. Such authority shall be exercised in compliance with the policies of the Board. The Board reserves the authority to modify or reverse any such action taken by the Administrator.

Dismissal of non-certificated employees shall be on an at-will basis, as such employees are subject to termination at any time without cause, without prior disciplinary action or progressive discipline, and irrespective of the lack of any evaluation or the irregularity in any evaluation process.

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| Legal Reference:  |                        |
| Date of Adoption: | <u>April 13</u> , 2010 |

D. Standards of Ethical and Professional Performance for Non-Certificated Staff

In fulfillment of an employee's minimum responsibilities, each employee:

1. Shall not interfere with the exercise of political and citizenship rights and responsibilities of other employees, students, parents, patrons, or ESU board members.
2. Shall not discriminate on the basis of race, color, religion, sex, marital status, age, national origin, ethnic background, religion, disability or sexual orientation.
3. Shall not use coercive means, or promise or provide special treatment to other employees, students, parents, patrons, or ESU board members in order to influence professional decisions.
4. Shall not make any fraudulent statement or fail to disclose a material fact for which the employee is responsible.
5. Shall not exploit relationships for personal gain or private advantage.
6. Shall not harass in any manner students, parents or ESU patrons, employees, or board members.
7. Shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation in the performance of duties.
8. Shall keep in confidence personally identifiable student or employee information that has been obtained in the course of service to the ESU, unless disclosure serves professional purposes or is required by law.
9. Shall not discipline students using corporal punishment.
10. Shall not misrepresent the ESU, and shall take added precautions to distinguish between the employee's personal and institutional views.
11. Shall abide by policies and regulations of the Board and the rules and standards established by the administration and the employee's supervisor.
12. Shall seek no reprisal against any individual who reports a violation of these standards.

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| Legal Reference:  | NDE Rule 27 (as a guide) |
| Date of Adoption: | April 13, 2010           |

E. Evaluations

The Board delegates to the Administrator the responsibility to develop, organize and implement a program to evaluate non-certificated employees. The evaluation process is to be conducted in such a manner as to be consistent with and to advance the mission and goals of ESU.

A failure to properly complete evaluations shall not give a non-certificated employee rights with regard to continued employment. Such failure, however, is to be considered in evaluating the responsible evaluator's performance.

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| Legal Reference:  |                |
| Date of Adoption: | April 13, 2010 |