

# **POLICY SERVICES**

## **ADVISORY**

**Volume 15, Number 2**

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### **Policy Advisory Discussion**

**Policy Advisory 157 - Staff Conduct With Students.** The following is a recommended change to policy GBEBB, Staff Conduct With Students. In light of the publicized number of improper interactions with students by educational staff in recent years, Policy Services is proposing a revision to a policy that has been a staple in those recommended to school districts for almost two decades. The policy, Staff Conduct with Students, is being updated to include the concept of staff boundaries and to give direction to staff in the fostering and maintaining of those boundaries. POMS & Associates Insurance Brokers on behalf of the New Mexico Public Schools Insurance Authority sponsored a presentation on these Boundaries at a New Mexico School Boards Association Annual Conference in 2017. The following offering of changes to this policy and the addition of exhibits that provide expectations and directions to the development of those boundaries by staff are taken from the materials developed for that presentation and have been adapted to the format used by Policy Services with the permission of Dr. Linda Paul, the original presenter of the concept, on behalf of POMS & Associates.

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The Policy, Regulation and Exhibits are recommended for adoption by Policy Services. Follow up training with staff should be held to provide opportunities for the staff to read, discuss and incorporate the concepts both immediately with current staff and in the future with new employees. The only regulatory documents supporting the concept are found as the Code of Ethics and Standards of Professional Conduct found in the New Mexico Administrative Code licensure requirements.

This is a recommendation and not a requirement of statute or regulation. The policy, centering on staff conduct, was modified by removing the language that is found in a student conduct policy and introducing the idea of boundaries. The regulation was added to introduce the expectations of the District regarding when and where boundaries between staff and students are needed. The exhibits provide examples, summarize expectations and indicate the prohibitions enforceable by the policy and regulations. Finally, a form is provided for the reporting of violations of the Policy or Regulation.

The materials should be self explanatory. Since this is a non mandatory recommendation, Policy Services suggests a careful reading and modification of any parts the District may consider to be unenforceable or not applicable to their circumstances.

If you have any questions, call Policy Services at (505) 469-0193. Ask for Dr. Donn Williams, Policy Services Director. E-mail address is [nmsbapolicy@cox.net].

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# **ADVISORY**

**157**

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*Policy Services 07/17/18*

## STAFF CONDUCT WITH STUDENTS

~~Employees are expected to exercise general supervision over the conduct of students, not only while in the schoolroom, but also before and after school and during recess.—At all times teachers and other staff members will accord students the dignity and respect that they deserve, and avoid embarrassing any student unnecessarily.~~

~~Students are expected to regard all school employees as individuals who are employed to provide direct or indirect contributions to learning. While students are to have considerable latitude in making choices for themselves, they shall be required to respect the rights of all school employees and other students, and interference with those rights will not be tolerated.~~

~~Students shall not have the right to interfere with the efforts of instructional staff members to coordinate or assist in learning, to disseminate information for purposes of learning, or to otherwise implement a learning program. Nor shall a student have the right to interfere with the motivation to learn or the learning activities and efforts of other students. No student shall have the right to interfere with or disrupt any employee's work activities.~~

All personnel employed by the District are expected to relate to students of the District in a manner that maintains social and moral patterns of behavior consistent with community standards and acceptable professional conduct.

Relationships between staff members and students that include "dating," "courtship," "sexual relationships," or "romantic involvement" are prohibited. These behaviors deviate from ethical or professional standards and shall be deemed unacceptable and contrary to the expectations of District governance.

Staff/student relationships shall reflect mutual respect between staff members and students and shall support the dignity of the entire profession and educational process. Staff members shall establish and maintain appropriate personal boundaries with students and their families and not engage in any behavior that is prohibited by law, regulation, policy, or that creates the appearance of prohibited behavior.

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Violations of this policy above shall be considered serious and may result in severe disciplinary action in accord with policies on discipline of professional and support staff. Retaliatory or intimidating acts against any person who has made a complaint under this policy and its corresponding regulations, or against a person who has testified, assisted or participated in any manner in an investigation relating to a complaint or grievance, are specifically prohibited and constitute grounds for discipline. Knowingly submitting a false report or making false accusations under this policy shall subject that individual to disciplinary action.

*Adopted:* date of manual adoption

LEGAL REF.: 6.60.9.8 NMAC  
6.60.9.9 NMAC

CROSS REF.: EEAG - Student Transportation in Private Vehicles  
GBEA - Staff Ethics  
GBEB - Staff Conduct  
GCQF - Discipline, Suspension, and Dismissal of  
Professional Staff Members  
GDQD - Discipline, Suspension, and Dismissal of  
Support Staff Members  
IJNDB - Use of Technology Resources in Instruction  
JIC - Student Conduct  
JICD - Student Harassment/Bullying/Cyberbullying  
Prevention  
JII - Student Concerns, Complaints, and Grievances  
JLF - Reporting Child Abuse / Child Protection

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**REGULATION****REGULATION****STAFF CONDUCT WITH STUDENTS****(Maintaining Professional Boundaries)**

A boundary invasion is an act, omission, or pattern of behavior by a staff member that does not have an educational purpose and either abuses or compromises the staff/student professional relationship or has the potential to abuse or compromise the staff/student professional relationship.

Clear and reasonable boundaries for interactions between students and staff members are necessary to protect students from sexual misconduct and abuse and to protect staff members from misunderstandings and false accusations. All staff are required to maintain appropriate professional, moral, and ethical relationships in their conduct with students. They shall serve as positive role models for students at all times, whether on or off school property, both during and outside of school hours. Staff will not intrude on a student's physical and emotional boundaries, unless the intrusion is necessary to serve an educational, physical, mental, and/or emotional health purpose or to prevent an immediate risk of injury or harm to the student.

This regulation addresses a range of behaviors that include not only obviously unlawful or improper interactions with students, but also precursor grooming and other boundary-blurring behaviors that have the intention or effect of leading to more egregious misconduct.

All staff have a responsibility to provide and support an atmosphere conducive to learning through consistent, unambiguous, and fairly applied discipline. They shall maintain professional physical and emotional boundaries with students. These boundaries shall be maintained regardless of the student's age, the perceived consensual nature of the relationship or activity, the location of the activity, or whether the staff member directly supervises the student.

***Working with the Community***

Staff shall use good judgment in their relationships with students beyond their work responsibilities and/or outside the school setting. They shall also avoid excessive informal and social involvements with individual students and their families. It is the responsibility of the District staff to maintain a professional relationship with students and their families. Staff members have a responsibility to report to the administration when they suspect, recognize or observe the development of, or suspicion of the development of non-professional or potentially inappropriate personal relationships with students and/or their families.

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Staff working in local communities face additional challenges in managing professional boundaries.

Following the advice offered here will assist staff to enjoy these social engagements without compromising their professional responsibilities. The guiding principles in managing these situations are that:

- Social contact should be generated via the relationship the staff member has with the parents/guardians of children and young people or by an event, such as a sporting event.
- Staff should avoid being alone or in unsupervised settings with children and young people in these situations.
- Staff should politely refuse to discuss matters relating to the workplace and should not discuss children and young people's learning or social progress, other than at times specifically set aside for that purpose.

Any concern a staff member has about whether or not a situation may be compromising or breaching a professional boundary should be discussed with an appropriate administrator.

### **Inappropriate Behavior Initiated by a Student**

In the event that a student initiates inappropriate behavior toward a staff member, the staff member must immediately document the incident and report it to the appropriate administrator. If applicable, the appropriate administrator will intervene and speak with the student and the student's parent/guardian about the alleged inappropriate behavior, and implement necessary follow-up discipline or guidance.

The District shall provide guidelines with respect to the provisions of Policy GBEBB and this regulation to current and new staff, to School Board members and to volunteers who interact with students or routinely work on school grounds.

Contracts with virtual school programs and other vendors providing instructional services to students will include a requirement that those staff members will comply with Policy GBEBB and this regulation.

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### **Exceptions**

An emergency situation or a legitimate educational reason may justify deviation from professional boundaries. The staff member shall articulate the reason for any deviation from policy to that student, to the parent or guardian, to their supervisor and will ensure that an appropriate relationship is maintained with the student.

Under no circumstance will an educational or other reason justify deviation from the "Romantic and Sexual Relationships" prohibition.

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**EXHIBIT****EXHIBIT****STAFF CONDUCT WITH STUDENTS****Working One-On-One with Children and Young People**

The following summary of expectations applies to all situations where staff are providing one-on-one learning assistance or feedback, behavior assistance/monitoring, counseling, testing and/or assessment.

<u>Make it Public</u>	<ul style="list-style-type: none"> <li>• <u>The more visible and/or public the location the better.</u></li> <li>• <u>Use the authorized information technology systems.</u></li> <li>• <u>Do not use personal e-mail, electronic communication, websites, and/or social media platforms to communicate with students or families.</u></li> </ul>
<u>Make it Authorized</u>	<ul style="list-style-type: none"> <li>• <u>Parents/guardians should be informed and give consent.</u></li> <li>• <u>Activity must be authorized by an appropriate administrator.</u></li> </ul>
<u>Make it Timely</u>	<ul style="list-style-type: none"> <li>• <u>Provide support during normal work hours.</u></li> <li>• <u>Do not conduct excessively long sessions.</u></li> </ul>

**Managing Privacy Expectations**

School staff rely in different ways on being able to provide a degree of privacy for students. This may be to protect the student's dignity, to provide an environment conducive to the service/assessment being provided or to respect the student's desire for confidentiality.

Children and young people will often assume a high level of confidentiality when disclosing serious issues of a personal nature or reporting harassment or bullying. For these reasons, staff needs to find a careful balance between respecting the sensitive and private nature of counseling or service provided and the professional's duty of care obligations for the safety and wellbeing of the student.

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Good practice in managing these circumstances is the following:

- Health/physical care should be provided with respect for the student's dignity and in a manner approved by the student, his/her parents/guardians, and within District policy.
- Counseling should be provided in unlocked rooms with part-glass doors, where possible, that are located near staff traffic areas.
- Avoid out-of-hours contact.
- While parental consent is often not applicable in many counseling situations, the school will provide all parents/guardians with written information about the school's counseling services which outlines confidentiality and privacy issues.
- Ensure student appointments and counseling notes are documented properly, while preserving appropriate levels of confidentiality.

**Conducting Home Visits**

Staff must ensure they follow the specific home visiting protocols that apply. The key principle is that a home visit should place no one at unreasonable risk and that identified minor risks are consciously managed.

A summary of general expectations is provided below.

<u>Inform</u>	<u>Home visits must be authorized and documented by the administration and this must include information about when and where visits are being undertaken and the expected departure and return times.</u>
<u>Prepare</u>	<ul style="list-style-type: none"> <li>• <u>All available information about the safety of the proposed visit must be considered and risks managed.</u></li> <li>• <u>Mobile phones must be taken and school ID should be visible.</u></li> <li>• <u>Parents/guardians are to be notified in advance of the intended visit.</u></li> </ul>
<u>Protect</u>	<ul style="list-style-type: none"> <li>• <u>Do not enter the house if parents/guardians are not at home.</u></li> <li>• <u>Speak with the student where the parent/guardian is present or clearly visible.</u></li> </ul>

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	<ul style="list-style-type: none"> <li>• <u>Do not interview or interact with students in bedrooms or other locations not conducive to the purpose of the visit.</u></li> <li>• <u>Have a colleague present if problems are anticipated.</u></li> <li>• <u>Document the visit.</u></li> </ul>
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Examples of Boundary Invasions by staff members, include, but are not limited to the following:

- Making any type of inappropriate physical contact with a student or any other conduct that might be considered harassment under the law or policies addressing the prohibition against Harassment and Retaliation.
- Condoning hazing, initiations or other rituals that causes embarrassment, harassment or ridicule and risks emotional and/or physical harm to students, regardless of the student's willingness to participate.
- Showing inappropriate images to a student, including, but not limited to violent, disturbing or sexually explicit or pornographic subject matter.
- Dating a student, or discussing or planning a future romantic or sexual relationship with a student.
- Making sexual advances toward a student, including but not limited to personalized comments about a student's body, appearance, physical features, attributes or attractiveness, off color jokes, or sexual innuendoes.
- Telling off color jokes or making comments with sexual innuendo.
- Encouraging a flirtatious, romantic, or sexual relationship with a student.
- Unnecessarily invading a student's personal space or privacy.
- Singling out a particular student or students for personal attention and friendship beyond the professional staff/student relationship.
- Socializing where students are consuming alcohol, drugs, or tobacco.
- Providing or offering to provide alcohol, drugs, or tobacco to students.
- For non-guidance/non-counseling staff, excessively encouraging students to confide their personal or family problems and/or relationships. If a student initiates such discussions, staff members are expected to immediately use professional judgment as contained in this training and refer the student to appropriate guidance/counseling staff.

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- Sending students on personal errands unrelated to any educational, athletic, non-curricular or extracurricular purpose.
- Bantering, joking or making comments of a sexual nature with students.
- Asking a student to keep a secret.
- Disclosing inappropriate personal, sexual, family, employment concerns, or other inappropriate private matters to one (1) or more students.
- Addressing students with personalized terms of endearment or pet names that would suggest the staff member feels love or affection for the student. As a staff member, permitting students to address you by your first name, nickname, personalized terms of endearment, pet names, or otherwise in an overly familiar manner.
- Maintaining personal contact with a student outside of school by telephone, text message, e-mail, Instant Messenger, Internet chat rooms, social networking websites or letters beyond homework or other legitimate school business.
- Exchanging gifts cards or letters that are personal or extravagant in nature with a student beyond customary student-staff gifts.
- Socializing or spending time with students outside of school-related or school-sponsored curricular or extracurricular activities or organized community activities, including but not limited to activities such as going out for beverages, meals or movies, shopping, traveling and recreational activities.
- Giving a student a ride alone in a vehicle in a non-emergency situation or in a situation that can be avoided. If a staff member is approved to give a student a ride, the student shall ride in the back seat of the vehicle when possible, and staff member must attempt to gain prior permission from the parent for the transportation arrangement.

Romantic or Sexual Relationship examples, include, but are not limited to the following:

Staff members shall be prohibited from dating, courting, or entering into or attempting to form a romantic or sexual relationship with any student enrolled in the school or any other public or private school, regardless of the student's age. Students of any age are not legally capable of consenting to romantic or sexual interactions with staff members.

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Prohibited romantic or sexual interaction involving students includes, but is not limited to:

- Sexual physical contact.
- Romantic flirtation, propositions, or sexual remarks.
- Sexual slurs, leering, epithets, sexual or derogatory comments.
- Personal comments about a student's body, appearance, attractiveness or physical attributes.
- Sexual jokes, notes, stories, drawings, gestures or pictures.
- Spreading sexual or romantic rumors.
- Touching a student's body or clothes in a sexual or intimate way.
- Accepting massages, or offering or giving massages other than in the course of injury care administered by an athletic trainer, coach, or health care provider.
- Restricting a student's freedom of movement in a sexually intimidating or provocative manner.
- Displaying or transmitting sexual objects, pictures, or depictions.

Inappropriate Social Interactions, including, but not limited to the following:

In order to maintain professional boundaries, staff shall ensure that their interactions with students are appropriate. Examples of prohibited conduct that violates professional boundaries include, but are not limited to:

- Touching students without a legitimate educational reason. Reasons could include, but are not limited to, the need for assistance when injured, restraint or intervention to prevent or separate students who are fighting, threatening to fight or posing a risk of violence or harm to others, a kindergartner having a toileting accident and requiring assistance, appropriate coaching instruction, or appropriate music instruction.
- Taking a student out of class without a legitimate educational reason.
- Being alone with a student behind closed doors without a legitimate educational reason.
- Initiating or extending contact with a student beyond the school day or outside of class times without a legitimate educational reason.
- Inviting a student to the staff member's home.
- Taking a student on outings without prior notification to and approval from both the parent/guardian and the building principal.

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- Engaging in harassing, bullying, discriminatory, or other conduct prohibited by other District policies or by state or federal law and regulations.

### **Appearances of Impropriety**

The following activities are boundary invasions and can create an actual impropriety or the appearance of impropriety. Whenever possible, staff should avoid these situations. If unavoidable, these activities must be pre-approved by the appropriate administrator. If not pre-approved, the staff member must immediately report the occurrence to the principal or other appropriate administrator.

- Conducting ongoing, private conversations with individual students that do not have an educational purpose, are unrelated to school activities or the well-being of the student, and that take place in locations inaccessible to or not observable by others.
- Being alone with an individual student out of the view of others or in an inaccessible location, except in the context of school counselors providing professional counseling support services, teachers working with students in an after-school setting or during testing, or a school nurse providing medical services to a student.
- Inviting students for social contact off school grounds without the prior knowledge and express permission of the parent/guardian and an appropriate administrator.
- Social networking with students for non-educational purposes.

Staff members are expected to be aware of the appearance of impropriety in their conduct with students. Staff members are encouraged to discuss issues with the appropriate administrator whenever they are unsure whether particular conduct may constitute a violation of Policy GBEBB and this regulation.

### **Electronic Communication**

The District supports the use of technology to communicate for educational purposes. However, employees acting in their District capacity are prohibited from inappropriate online socializing, phone calls, texting, skyping, instant messaging, or use of any other telecommunication device, or from engaging in any conduct that violates the law, District policies or other generally recognized professional standards. Employees must conduct themselves in ways that do not distract from or disrupt the educational process. Nothing in Policy GBEBB and this regulation prohibits employees, faculty, staff or students from the use of approved educational websites if such sites are used solely for educational purposes.

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Electronic and online communication between staff members and students must be transparent, contemporaneously accessible to administrators and parents/guardians, and must be professional in content and tone. Such communication must be professional, non-sexual, appropriate to the circumstances, and unambiguous in meaning. Staff members must restrict one-on-one electronic communications with individual students to accounts, systems, and platforms that are provided by and accessible to the District schools or with the prior express permission of the appropriate administrator and the parent/guardian.

As with in-person communications, staff members shall avoid appearances of impropriety and refrain from inappropriate electronic communications with students. Factors that may be considered in determining whether an electronic communication is inappropriate include, but are not limited to:

- The subject, content, purpose, authorization, timing, and frequency of the communication;
- Whether there was an attempt to conceal, shield, or misrepresent the nature of the communication from administrators and/or parents/guardians;
- Whether the communication could be reasonably interpreted as soliciting sexual contact or a romantic relationship; and/or
- Whether the communication contained sexual innuendo, such as for purposes of grooming the student for victimization.

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**EXHIBIT** **EXHIBIT**

**STAFF CONDUCT WITH STUDENTS**  
**REPORTING BOUNDARY VIOLATIONS**  
**AND SUSPECTED BOUNDARY VIOLATIONS**

Name: \_\_\_\_\_

E-mail: \_\_\_\_\_

Phone: \_\_\_\_\_

Describe what happened/what is happening:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

When did it happen? \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_

- Where did it happen?
- At school
  - At school event
  - In a school parking lot
  - On a school playground
  - On the school bus
  - Other: \_\_\_\_\_

Location details:  
\_\_\_\_\_  
\_\_\_\_\_

Who was committing the boundary violation?  
\_\_\_\_\_  
\_\_\_\_\_

Who was the victim of the boundary violation?  
\_\_\_\_\_  
\_\_\_\_\_

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Did anyone else witness the boundary violation?

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Were you or other persons physically or emotionally hurt?

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Have you or the victim missed any school or made changes to your daily routine as a result of the boundary violation?

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Have you told anyone about the boundary violation?

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Has this happened before?

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