

A REGULAR MEETING of the Board of Education of the West Babylon Union Free School District, of the Town of Babylon, Suffolk County, New York was held on Tuesday, February 13, 2012, in the Board room of the Administration Building adjacent to the High School and in the PAC.

Those present: Trustees James F. Bocca, Wendy DeGaetano, Patrick Farrell, Carmine Galletta, Cathy Gismervik, Kathleen Jennings, Diane Klein, Peter Scarlatos and Diane Thiel

Also present: Mr. Anthony Cacciola, Superintendent of Schools; Dr. Dominick Palma, Assistant Superintendent for Curriculum and Student Services; Mrs. Yiendhy Farrelly, Assistant Superintendent for Human Resources; Mrs. Jennifer Buscemi, Executive Director for Finance and Operations; Mrs. Amy E. Jones, District Clerk; Mr. William C. Morrell, Attorney; and residents.

The President opened the meeting at 7:02 pm and led those present in the Pledge to the Flag.

**POETRY OUT LOUD PRESENTATION** — Hans Haugen, Grades 6-12 English Chairperson and Brooke Berger, HS English Teacher  
Student Presenters: 1<sup>st</sup> Place Winner- Wasiq Ahmad, 2<sup>nd</sup> Place Winner- Brain Phillips and 3<sup>rd</sup> Place Winner - James Moran

Mr. Cacciola explained that Mrs. Varsalona (due to surgery) and Dr. Vassallo (due to a wake), were unable to attend this evening. Mr. Haugen thanked the Board of Education, central and high school administrators, and his colleagues for their support of the Poetry Out Loud. He noted that the three winners are all students in Mrs. Briody's class. Mr. Haugen said that the students will be moving on in the competition on Wednesday in Brooklyn. Mrs. Berger introduced the students and each read their poem for the audience. Mr. Cacciola thanked all for the presentation and a photo was taken.

Mr. Farrell announced that the 8:00 portion of the meeting will take place in the high school PAC.

Trustee Thiel seconded by Trustee Scarlatos made a motion to executive session for personnel and legal matters at 7:15 p.m.

The motion was **CARRIED** by all present

The public portion reconvened at 8:12 p.m.

Trustee Jennings seconded by Trustee Scarlatos made a motion to approve the minutes of the regular meeting of January 24, 2012 and the special meeting of January 31, 2012.

The motion was **CARRIED** by all present

**Statement of the Superintendent and/or Board of Education:**

Mr. Cacciola noted that the 7:00 Poetry Out Loud Presentation by 1<sup>st</sup> Place Winner- Wasiq Ahmad, 2<sup>nd</sup> Place Winner- Brain Phillips and 3<sup>rd</sup> Place Winner - James Moran was excellent. The students will compete in Brooklyn on Wednesday. Mr. Cacciola said that the high school production of Sweeney Todd was excellent. He said that he can't remember a more memorable show, the sets, the scenery changes, it was all magic. He congratulated the faculty and students for this unbelievable production.

**Statement of West Babylon Teachers Association:**

WBTA President Patt Squicciarini thanked the trustees and administrators for their work on this year's Herculean task of the budget. She asked that the Board and Administrators consider piercing the cap, in light of all of the new rigorous standards and the need for the electives and the need to create a strong foundation.

**Statement of West Babylon Administrators' Association:**

WBAA President James Lynch congratulated the staff and students for the Sweeney Todd production. He also thanked the Board and administrators for their work on the budget and for their efforts in the contract negotiations.

**Statement of CSEA Representative:**

None

**Statement of Student Association Representative:**

None

**Statement of PTA Council Representative:**

PTA Council President Kathrine Campbell invited all to attend the PTA Founder's Day celebration on Friday, February 17 at 7:00 p.m. in the PAC. She also thanked the trustees and administrators for their work on the budget. She said it is her hope that the public will listen and learn. She noted that the trustees are all volunteers and asked that everyone be constructive in their comments because everyone is here for the same reason.

**Statement of Residents:**

**Superintendent's Report/Educational Presentation:**

Trustee DeGaetano seconded by Trustee Scarlatos made a motion to approve the **Consent Agenda**

The motion was **CARRIED** by all present

**BOARD OF EDUCATION**

**#BE-1**

**RESOLVED:** that the annual school election of the West Babylon Union Free School District, Town of Babylon, Suffolk County, New York, shall be held on Tuesday, May 15, 2012, from 7:00 A.M. to 9:00 P.M. in the two designated election districts in said school district for the purposes set forth in the Notice of Annual Meeting.

**RESOLVED:** that the Notice of Annual Meeting be published four times during the seven weeks preceding and beginning 45 days prior to the meeting in the *Babylon Beacon* and *South Bay Newspaper*, two newspapers having general circulation in the district.

**RESOLVED:** that Patrick M. Farrell is designated as permanent chairperson of election in accordance with Section 2026 of the Education Law.

**#BE-2**

**RESOLVED:** that the West Babylon Board of Education approves the following school district to provide health services to West Babylon School District resident students for the 2011-2012 school year:

Uniondale Union Free School District

**#BE-3**

**RESOLVED:** that the West Babylon Board of Education approves the following school district to provide health and welfare services to West Babylon School District resident students for the 2011-2012 school year:

Jericho Union Free School District

**#BE-4**

**RESOLVED:** that the West Babylon Board of Education approves the following school district to provide health services to West Babylon School District resident students for the 2011-2012 school year:

Massapequa Union Free School District

**#BE-5**

**RESOLVED:** that the West Babylon Board of Education approves the following school district to provide special education and related services to West Babylon School District resident students for the 2010-2011 school year:

Babylon Union Free School District

**PERSONNEL**

**#PE-1**

**RESOLVED:** that the following schedules, as attached, are approved:

11-P-14 Professional Personnel

11-C-14 Civil Service Personnel

**SCHEDULE 11-P-14 Professional Personnel Schedule**

<b>NAME</b>	<b>POSITION</b>	<b>SCHOOL/ AREA</b>	<b>STEP/ SALARY</b>	<b>BEG/END APPT.</b>	<b>COMMENTS</b>
<b><u>S.A.T. Proctors:</u></b>					
Connors, Lucia			\$21.97/hr.	1/28/12	5 hrs.
Borgo, Danielle					6 hrs.
Carson, Jeffrey					6 hrs.
Goodwin, Deborah					6 hrs.
Heaton, Bryan					6 hrs.
Heaton, Elise					6 hrs.
Iaquinto, Christine					6 hrs.

**SCHEDULE 11-P-14 Professional Personnel Schedule**

NAME	POSITION	SCHOOL/ AREA	STEP/ SALARY	BEG/END APPT.	COMMENTS
<b>S.A.T. Proctors (cont'd):</b>			\$21.97/hr.	1/28/12	
Kohler, Amy					6 hrs.
Kunzig, Christopher					6 hrs.
McArdle, Patrick					6 hrs.
Mendoza, Aimee					6 hrs.
Ruiz, Lawrence					6 hrs.
Shaffer, Donna					6 hrs.
Simone, Linda					6 hrs.
Whitfield, Constance					6 hrs.
O'Leary, Daniel					6.5 hrs.
Powers, Brian					7.5 hrs.
Powers, Daniel					7.5 hrs.
Montalvo, Andrea					9 hrs.
Montalvo, Christina	Test Supervisor				9 hrs.
<b>Coaches:</b>				Spring, 2012	
McCabe, James	Varsity Asst.	Lacrosse(G)	\$5,074.		
Kern, James	JV Asst.	Lacrosse(B)	\$4,077.		[resignation]
TBA	JV Asst.	Lacrosse(B)	\$4,077.		
Enriquez, Jonathan	JHS Head	Baseball	\$4,077.		[resignation]
TBA	JHS Head	Baseball	\$4,077.		
<b>Student Teachers/Observers:</b>				Spring, 2012	
DellaPorta, Danielle	Elementary/Special Ed	FA			
Napolitano, Cody	Spanish	HS			
Stacy, Erin	Elementary	SB			
Velasquez, Patricia	Social Studies	HS			
Williams, Corita	Mathematics	HS			
<b>Per Diem Substitutes:</b>		DW	\$90./day	2011-2012	
Ferretti, Heather					
LaRosa, Nicole					

**SCHEDULE 11-C-14 Civil Service Personnel Schedule**

NAME	POSITION	SCHOOL/ AREA	STEP/ SALARY	BEG/END APPT.	COMMENTS
Goldenbaum, Adrienne	School Lunch Director	B.O.		11/28/11 -	Family Medical Leave
Odwaszny, Cheryl	School Bus Driver	Trans.		12/5/11 -	Family Medical Leave
Robertson, Kathleen	Clerk Typist	B.O.		1/9/12 -	Family Medical Leave
Alfredson, Evelyn	School Bus Driver	Trans.		1/19/12 -	Family Medical Leave

**SCHEDULE 11-C-14 Civil Service Personnel Schedule**

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<b>NAME</b>	<b>POSITION</b>	<b>SCHOOL/ AREA</b>	<b>STEP/ SALARY</b>	<b>BEG/END APPT.</b>	<b>COMMENTS</b>
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Cascio Plezia, Deborah	Paraprofessional (school monitor)	JK		1/27/12	Resignation
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**Compensated Absences:**

Palminteri, MaryAnn	Senior Clerk Typist	SB	\$8,633.10	2/3/12	[retirement payment for 42 accrued vacation days]
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**The following position is established effective 2/14/12:**

[action taken per C.S. audit]

(1.0) 12-month Clerk Typist Transportation Department

**The following clerk typist is being recalled from the Preferred Eligibility List:**

Niven,Gelsomina	Clerk Typist	Trans.	Step 1/ \$29,637. (prorate)	2/15/12	
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Messina, Victoria	School Bus Driver	Trans.	\$19.53/hr.	2/14/12	Probationary Appt.
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Ippolito, Kristine	Paraprofessional (special ed. aide)	TA	Step 1/ \$13.37/hr.	2/27/12	Probationary Appt.
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Ryan, Meghan	Paraprofessional (special ed. aide)	TA	Step 1/ \$13.37/hr.	2/14/12	Probationary Appt.
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**Per Diem Substitute:**

Cascio-Plezia, Deborah		DW	\$9./hr.	2011-2012	
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**FINANCE**

**#FI-1**

**RESOLVED:** that the West Babylon Board of Education gratefully accepts a donation, in the amount of \$26.95, from Ohiopyle Print Company. The donation will be deposited into the Senior High School's Trust and Agency account.

**#FI-2**

**RESOLVED:** that the West Babylon Board of Education gratefully accepts a grant in the amount of \$10,000 from Optimum Lightpath. The grant monies will be used for technology professional development and for the creation of a museum collection, for public viewing, at the Van Bourgondien Farm House Interpretive Center, a local historical landmark.

**#CU-1**

**RESOLVED:** that the West Babylon Board of Education gratefully accepts the following donation of 20<sup>th</sup> Century artifacts from Mr. Kenneth Powers of "Junk to Gems":

1930 Bottle; Boy's Hair Brush; and Vintage cowboy pins

These items are from LI Artifacts circa Pre and Post WWII. The donations will be used for the "In Grandma's Attic" project.

**CURRICULUM**

**#CU-2**

**RESOLVED:** that the West Babylon Board of Education declares 105 library materials, located in the Senior High School library, obsolete. The materials are either damaged or out-of-date.

**#CU-3**

**RESOLVED:** that the West Babylon Board of Education declares 380 books and a film strip projector, located in the Senior High School Foreign Language Department, obsolete. The materials are out-of-date and the projector is beyond repair.

**STUDENT SERVICES**

**#SS-1**

**RESOLVED:** that the West Babylon Board of Education approves the recommendations of the Committee on Special Education.

**FACILITIES**

**#FA-1**

**RESOLVED:** that the West Babylon Board of Education gratefully accepts the donation of a bucket of golf balls from Mr. Tom Kelly, a West Babylon resident.

**#FA-2**

**RESOLVED:** that the West Babylon Board of Education gratefully accepts the following donation from Mrs. Carol Varsalona, Director of Language Arts and Testing:

a Linksys Wireless Router

**#FA-3**

**RESOLVED:** that the West Babylon Board of Education declares the following equipment obsolete:

Year:	1989
Make:	B&G 30D (Garbage Truck)
Plate:	K50832
VIN #:	1HTLDTVR8KH677976

The vehicle requires expensive repairs and based on its overall condition, repair is not feasible. The truck will be removed from the transportation roster.

**#FA-4**

**RESOLVED:** that the West Babylon Board of Education declares the following equipment obsolete:

Year:	1988
Make:	B&G 90 Dodge Pick Up
Plate:	K50833
VIN #:	1B7KW2456JS682283

The vehicle requires expensive repairs and based on its overall condition, repair is not feasible. The pick up truck will be removed from the transportation roster.

**POLICY: The following policies were all on the agenda for Second Time Discussion**

Trustee DeGaetano seconded by Trustee Jennings made a motion to move the policies to third time adoption.

- 5181 Open Lunch Policy
- 8414.5 Alcohol and Drug Testing of Bus Drivers
- 8414.5-R Alcohol and Drug Testing of Bus Drivers - Regulation
- 9140.1 Staff Complaints and Grievances
- 9140.1-R Staff Complaints and Grievances - Regulation
- 9260 Conditional Appointment - Student Safety
- 9500 Compensation and Benefits

**Open Lunch Policy**File: [JEF and JEF-R] **5181**

High school students in their senior year, *who are minors* and who are in good standing, may leave school during their lunch period, if it occurs in periods five, six, seven, eight, or nine providing they submit a signed parental permission document. *High School students who are 18 or over are required to complete the document for themselves.*

[The school administration shall establish the criteria to be acceptable as "good standing".] *The Open Lunch Policy is available to students in their senior year who are in good standing. A senior in good standing is one who is on schedule to graduate at the end of the academic year and there is no attendance or disciplinary issues. There will be quarterly reviews of the students who utilize the program to assess whether a student remains in good standing.*

A student who leaves school during school hours without permission shall be considered insubordinate and is subject to suspension from school.

**Cross References:**

JED - Student Absences and Excuses  
 JEDA - Truancy  
 JGD/JGE - Student Suspension/Expulsion

Replaces former policy JEF and JEF-R

Adopted: 09/02/86

Revised: 02/23/98

Revised: 09/22/09

**8414.5****ALCOHOL AND DRUG TESTING OF BUS DRIVERS**

*The Board of Education recognizes the dangers inherent in alcohol and controlled substance use by employees especially those in safety-sensitive positions. To ensure the safety of its students and to comply with federal regulations, the Board requires alcohol and controlled substance testing of school bus drivers and other covered employees.*

*The district shall directly, by contract, or through a consortium, implement and conduct a program to provide alcohol and controlled substance testing of employees who operate a commercial motor vehicle, perform in a safety-sensitive position, and are required to hold a commercial driver's license. Such employees include:*

1. *drivers of buses designed to transport 16 or more passengers, including the driver;*
2. *drivers of commercial motor vehicles whose manufacturer's rating is 26,001 lbs. or more; or*
3. *any other employee who may drive a listed vehicle (e.g. a mechanic who performs test drives).*

*Controlled substance and alcohol tests\* will be conducted at the time of employment and randomly throughout the school year. In addition, testing will be conducted when a supervisor has a reasonable suspicion that an employee has engaged in prohibited alcohol or controlled substance use; after certain accidents; prior to return to duty when the employee has been found to violate district policy and federal regulations; and after the employee's return to duty.*

*In accordance with federal and state law, a bus driver will not be permitted to drive if he or she:*

1. *possesses, consumes or is reasonably believed to possess or have consumed alcohol or a controlled substance, while on duty;*
2. *uses or is under the influence of alcohol or a controlled substance within six hours or less before duty;*
3. *has an alcohol concentration of 0.02 or higher, or tests positive for a controlled substance; or*
4. *refuses to take a required alcohol or controlled substance test.*

*Also, no driver shall use alcohol after being involved in an accident in which there was a fatality or in which the bus driver was cited for a moving violation and a vehicle was towed from the scene or an injury was treated away from the scene until he/she has been tested or 8 hours have passed, whichever occurs first.*

*Any employee who is tested and found to have an alcohol concentration of at least 0.02, but less than 0.04, shall be removed from the position until his or her next regularly scheduled duty period, but not less than 24 hours following administration of the test. Any employee found to have violated this requirement may be disciplined in accordance with the provisions of the applicable collective bargaining agreement, district policy, and/or law.*

*If a driver has an alcohol concentration of 0.04 or greater, or has engaged in prohibited alcohol or controlled substance use, he or she will be removed from driving duties, and referred to a substance abuse professional. The employee may be required to complete a treatment program and/or be disciplined pursuant to district policy and/or collective bargaining agreement. No driver who has abused controlled substances and/or alcohol may return to duty unless he/she has successfully passed a required return to duty test. Thereafter, the driver will be subject to follow-up testing.*

*Should the district receive a dilute test result in which the creatinine concentration is greater than 5mg/dL in the case of any pre-employment, return-to-duty, follow-up, reasonable suspicion, or random test, it is the policy of the district that the individual shall be re-tested and that re-test will become the test of record.*

*The Superintendent of Schools shall ensure that a copy of this policy, the district's policy on misuse of alcohol and use of controlled substances, information on alcohol and drug abuse and treatment resources and any other information prescribed by federal regulations is provided to all school bus drivers and other appropriate personnel prior to the initiation of the testing program and to each driver subsequently hired or transferred to a position subject to testing.*

*\*The district has the option to require pre-employment alcohol testing as part of district policy. However, pre-employment controlled substance testing and random alcohol and controlled substance tests are mandatory under federal regulations.*

Cross-ref: 8414.1, Bus Driver Qualifications and Training

9320, Drug-Free Workplace

9610, Staff Substance Abuse

Ref: Omnibus Transportation Employee Testing Act of 1991, 49 U.S.C. §§31136; 31306

49 U.S.C. §521(b), 49 CFR Part 391

49 CFR Part 382, 49 CFR Part 40

49 CFR §395.2, Vehicle and Traffic Law §§509-1; 1192; 1193

Will v. Frontier CSD Bd. of Educ., 97 N.Y.2d 690 (2002)

*Replaces former policy GDPE*

*Adoption date:*

**8414.5-R**

### **ALCOHOL AND DRUG-TESTING OF BUS DRIVERS REGULATION**

*Any employee who operates a commercial motor vehicle and is in a safety-sensitive function shall be subject to alcohol and controlled substance testing. An employee having any questions concerning the district's policy or regulation, state law or the federal regulations shall contact the Superintendent of Schools.*

*Any treatment, rehabilitation program or discipline will be provided in accordance with district policy and/or collective bargaining agreements.*

#### **I. Covered Employees**

*Covered employees include district employees who operate a commercial motor vehicle, perform in a safety-sensitive position, and are required to obtain a commercial driver's license. Such employees include:*

- 1. drivers of buses designed to transport 16 or more passengers, including the driver;*
- 2. drivers of commercial motor vehicles whose manufacturer's rating is 26,001 lbs. or more; or*
- 3. any other employee who may drive a listed vehicle (e.g., a mechanic who performs test drives).*

*Such employees include, but are not limited to full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner-operator contractors who are either directly employed or under lease to an employer or who operate a commercial motor vehicle at the direction or with the consent of the district.*

*Drivers will be removed from their safety-sensitive functions if they violate the district's policy or federal regulations pertaining to the possession or consumption of alcohol or controlled substances. A driver is performing a safety-sensitive function when:*

- 1. waiting to be dispatched, unless the driver has been relieved from duty;*
- 2. inspecting, servicing or conditioning any commercial motor vehicle;*
- 3. driving a commercial motor vehicle;*

4. attending a vehicle being loaded or unloaded;
5. performing the driver requirements of the federal regulations pertaining to accidents; and
6. attending to a disabled vehicle.

*Covered employees are required to be in compliance with district policy and regulation:*

- *when performing any on-duty safety-sensitive functions, including all time from the time a driver begins to work or is required to be in readiness to work until the time the driver is relieved from work and all responsibility; and*
- *during all time spent providing a breath sample, saliva sample or urine specimen and travel time to and from the collection site in order to comply with random, reasonable suspicion, post-accident, return-to-duty or follow-up testing.*

## **II. Prohibitions and Consequences**

*The Supervisor of Transportation or his/her designee shall prohibit an employee from driving a school bus or performing other safety-sensitive duty if the employee:*

1. *possesses, consumes or is reasonably believed to possess or have consumed alcohol or a controlled substance, while on duty;*
2. *has consumed or is under the influence of alcohol or a controlled substance within six hours before duty;*
3. *has an alcohol concentration of 0.02 or higher, or tests positive for controlled substances; or*
4. *refuses to take a required alcohol or controlled substance test. Refusal to submit shall mean the failure to provide adequate breath or urine without a valid medical explanation or to engage in conduct that clearly obstructs the testing process, such as a failure to arrive for the drug testing or failure to sign the alcohol testing form prior to specimen collection.*

*An employee is prohibited from consuming alcohol within eight hours after being involved in an accident, or before undergoing a post-accident test, if such a test is required. Illegal drug use by drivers is prohibited on or off duty.*

*Any employee who tests 0.02 or greater but less than 0.04 will be removed from driving and other safety-sensitive duties until the start of the driver's next regularly scheduled duty period, but not less than 24 hours following administration of the test.*

*In the event that an employee has a breath alcohol concentration of 0.04 or greater, has tested positive for a controlled substance or has refused to take a test, he or she will, in addition to immediate removal from driving and any other safety-related duties, not be returned to duty until he or she:*

1. *has been evaluated by a substance abuse professional;*
2. *has complied with any treatment recommendations; and*
3. *has received a satisfactory result from a return to duty test. Upon return to duty, the employee will be subject to follow-up testing.*

## **III. Types of Testing**

*The Superintendent of Schools and the Director of Transportation shall ensure that the following alcohol and drug tests are implemented and that any employee who is required to take an alcohol or controlled substance test shall be notified prior to the test that it is required pursuant to federal regulations or, in the case of pre-employment alcohol testing, district policy.*

1. **Pre-employment:** *Controlled substance and alcohol\* tests will be conducted before applicants are hired or after an offer to hire, but before actually performing safety-sensitive functions for the first time. These tests will also be given when employees transfer to a safety-sensitive function.*
2. **Post-accident:** *Alcohol and controlled substance tests will be conducted if a driver is involved in an accident in which:*
  - a. *there has been a fatality; OR*
  - b. *the driver has received a citation for a moving violation in connection with the accident AND EITHER*
    1. *there is an injury treated away from the scene of the accident; or*
    2. *there is a disabled vehicle towed from the scene.*
3. **Reasonable Suspicion:** *Alcohol and controlled substance tests will be conducted if the Transportation Supervisor or other school official who has completed the minimum two hours of training has a reasonable suspicion that the driver has violated district policy and regulation. A "reasonable suspicion" must be based on specific, contemporaneous, coherent observations concerning the driver's behavior, appearance, speech or body odors that are characteristic of controlled substance or alcohol misuse. Alcohol tests can only be done just before, during or just after the employee drives a school bus or performs other safety-sensitive duties. The supervisor who makes the determination of reasonable suspicion cannot do the testing.*
4. **Random Testing:** *Random alcohol tests shall be conducted annually at a minimum rate of 25 percent of the average number of positions subject to such testing pursuant to federal regulation. Random alcohol tests must be conducted just before, during or just after the employee drives a bus or performs other safety-sensitive duties.*
5. **Return-to-Duty Testing:** *An employee who refused to take a test or has engaged in prohibited alcohol and controlled substance use, except for alcohol concentration of between 0.02 and 0.04, shall be required to take an alcohol or controlled substance test and achieve a*



satisfactory result before returning to duty in the safety-sensitive position. If removal was due to alcohol use, a satisfactory result will be less than 0.02 alcohol concentration. If removal was due to controlled substance use, a satisfactory result will be one that is verified as negative. The test will not be administered until the employee has been evaluated by a substance abuse professional and has complied with any treatment recommendations.

6. Follow-Up Testing: After an employee who was found to violate the district's policy against alcohol and controlled substance use returns to duty, he or she will be subject to at least six unannounced tests in the first 12 months following the employee's return to duty. Follow-up testing may be extended for up to 60 months from the date of the employee's return to duty. Follow-up alcohol testing may only be conducted before, during or after the driver has performed his or her driving duties.

#### **IV. Testing Procedures**

##### **A. Alcohol Testing Procedures**

Alcohol testing will be conducted with evidential breath testing (EBT) devices approved by the National Highway Traffic Safety Administration. An approved non-evidential screening device may be used to perform screening tests but not for confirmation alcohol tests. The employee and the Breath Alcohol Technician conducting the test must complete the alcohol testing form to ensure that the results are properly recorded.

1. Two breath tests are required to determine if a person has a prohibited alcohol concentration. A screening test is conducted first. Any result less than 0.02 alcohol concentration is considered a "negative" test.
2. If the alcohol concentration is 0.02 or greater, a second or confirmation test must be conducted. The confirmation test must be conducted using an EBT that prints out the results, date and time, a sequential test number, and the name and serial number of the EBT to ensure the reliability of the results.
3. If the confirmation test results indicate an alcohol concentration from 0.02 to 0.03999, the employee will be restricted from duty for at least 24 hours from the time of the test.
4. If the confirmation test results indicate an alcohol concentration equal to or greater than 0.04, the employee will be removed from all safety-sensitive duties and no return to duty will be permitted until the employee has successfully passed required return-to-duty tests. The employee must also be reviewed by a Substance Abuse Professional and comply with his/her recommendations. Follow-up tests will also be required.
5. For post-accident testing, the results of breath or blood tests conducted by law enforcement officials will be accepted as long as the testing conforms with federal and state requirements for alcohol testing and the results are made available to the district.

All testing procedures will conform to the requirements outlined in federal regulations (49 CFR Part 40) for ensuring the accuracy, reliability and confidentiality of test results. These procedures include training and proficiency requirements for Breath Alcohol Technicians, quality assurance plans for the EBT devices including calibration, requirements for suitable test location, and protection of employee test records.

##### **B. Drug Testing Procedures**

The employee must provide a urine specimen which will be analyzed at a laboratory certified and monitored by the U.S. Dept. of Health and Human Services.

1. Regulations require that each urine specimen be divided into one "primary" specimen and one "split" specimen.
2. All urine specimens are analyzed for the following drugs:
  - a. Marijuana (THC metabolite)
  - b. Cocaine
  - c. Amphetamines
  - d. Opiates (including heroin)
  - e. Phencyclidine (PCP)
3. If the primary specimen confirms the presence of one or more of these drugs, the employee has 72 hours to request that the split specimen be sent to another certified lab for analysis. [Note: The employee must be removed from driving duties at this time--pursuant to federal regulations, the driver's removal cannot await the result of split sample.]
4. If the screening test has a drug-positive result, a confirmation test will then be performed for each identified drug using gas chromatography/mass spectrometry (GC/MS) analysis.
5. All drug test results will be reviewed and interpreted by a physician (also called a Medical Review Officer) before they are reported to the district.
6. If the laboratory reports a positive result to the Medical Review Officer (MRO), the MRO shall interview the employee to determine if there is an alternative medical explanation for the drugs found in the employee's urine specimen. If the employee

*provides appropriate documentation and the MRO determines that it is legitimate medical use of a prohibited drug, the drug test result is reported as negative.*

7. *If the MRO reports a positive drug result, the employee must be evaluated by a substance abuse professional and follow his/her recommendations prior to taking a return-to-duty test. Follow-up testing is also required.*
8. *For post-accident testing, the results of urine tests conducted by law enforcement officials will be accepted as long as the testing conforms with federal and state requirements for controlled substance testing and the results are made available to the district.*

*All controlled substance testing shall comply with the requirements of the federal regulations (49 CFR Part 40) including procedures for the proper identification, security and custody of the sample, use of certified laboratories, gas chromatography/mass spectrometry analysis testing, assurance that all drug test results are reviewed and interpreted by a physician, and ensuring confidentiality of employee test records.*

#### **V. Dilute Specimen Testing**

*If the district receives a drug test result which is negative but dilute and the creatinine concentration is greater than 5mg/dl, the district shall require a re-test to be conducted in each of the following cases:*

- *Pre-employment tests*
- *Return-to-duty tests*
- *Follow-up tests*
- *Reasonable suspicion tests*
- *Random tests*

*The result of the re-test shall become the test of record. If the employee refuses to take the re-test it will be considered the same as a positive test result.*

#### **VI. Training**

*The Supervisor of Transportation and every other person designated to determine whether reasonable suspicion exists to require an employee to undergo reasonable suspicion testing must receive at least one hour of training on alcohol misuse and at least one additional hour of training on controlled substance use which they will use in making their determinations.*

#### **VII. Record keeping and Reporting**

*The Transportation Supervisor shall ensure that alcohol and drug testing records are maintained and are available, if requested, for submission to the federal government or any State or local officials with regulatory authority over the employer or any of its drivers.*

#### **VIII. Required Notification**

*Every affected employee shall receive information about the signs, symptoms, and effects of alcohol misuse and controlled substance use as well as a copy of the district's policy and procedures, the consequences of testing positive and who to contact within the district to seek further information and/or assistance.*

*Each covered employee is required to sign a statement certifying that he/she has received this information. The district shall maintain the original signed certification until the employee's employment is discontinued. The district will provide a copy of the certification to the covered employee upon request.*

#### **IX. Penalties**

*Any employer or driver who violates the requirements of the federal regulations of the Omnibus Transportation Employee Testing Act of 1991 may be subject to civil penalties.*

*In addition, in accordance with New York State law, a bus driver convicted of driving a school bus with one or more student passengers while impaired by the use of drugs or alcohol will have his/her license revoked for one year and is subject to fines ranging from \$500 to \$5,000 and/or imprisonment.*

*Any bus driver convicted more than once in 10 years for such crimes will have his/her license revoked for three years and is subject to a fine of \$1,000 to \$5,000 and/or imprisonment.*

*Promulgated:*

**9140.1**

#### **STAFF COMPLAINTS AND GRIEVANCES**

*The Board of Education recognizes that staff complaints and grievances regarding work rules arise from time to time. In many instances the complaint process is covered by collective bargaining agreements, and in those instances, the grievance procedure outlined in the agreement shall be*

used. In order to address staff complaints not covered by bargaining agreements, and/or for those employees not covered by such an agreement, the Board establishes this policy. The Board acknowledges that staff members have the right to present complaints and grievances in accordance with these procedures free from coercion, interference, restraint, discrimination or reprisal.

The district shall implement a multi-stage grievance procedure and an appellate stage for the settlement of grievances pursuant to the General Municipal Law.

This policy and regulation shall be filed with the District Clerk and the State Civil Service Commission within 15 days of adoption and/or amendment, as required by law.

Staff complaints that are not covered under the General Municipal Law, or cannot be resolved under procedures of policies 0100, Equal Opportunity and Non-discrimination or 0110, Sexual Harassment, shall be subject to the discretion of the Board of Education as to the method by which the complaint may be brought.

Replaces former policy GBM

Cross-ref: 0100, Equal Opportunity and Nondiscrimination  
0110, Sexual Harassment

Ref: General Municipal Law, Article 15-c  
Civil Service Law, Article 14  
Matter of Gatje, 24 EDR 191 (1984)

Adoption date:

**9140.1-R**

## **STAFF COMPLAINTS AND GRIEVANCES REGULATION**

It is the Board's intention to work toward resolving complaints at the level closest to their origin and to take reasonable steps to avoid litigation. Generally, the procedure outlined below should be followed.

### **Definitions**

1. Grievant shall mean an employee who alleges a grievance.
2. Grievance shall mean any alleged violation of laws, regulations, rules or governing procedures which relates to employee health or safety, physical facilities, materials or equipment furnished. It does not include complaints regarding compensation or benefits.

This regulation and accompanying policy (9140.1) provide grievance procedures for those employees not covered by collective bargaining agreements or whose negotiated agreements do not include grievance procedures. The resolution of staff complaints shall be dealt with in the following manner:

### **Stages**

#### **A. Stage I—Supervisor**

1. Within 10 days after the events giving rise to the grievance, the grievant shall present the grievance in writing to their supervisor. The supervisor may informally discuss the grievance with the grievant. He/She shall promptly investigate the complaint. All employees of the school district shall cooperate with the supervisor in such investigation.
2. Within 15 days of written notification of the grievance, the supervisor shall make a finding in writing that there has or has not been a violation of the applicable work rule or other governing procedure. In the event the supervisor finds that there has been a violation, he/she shall propose a resolution of the complaint.
3. If the grievant is not satisfied with the finding of the supervisor, or with the proposed resolution of the grievance, the grievant may, within 5 days after he/she has received the report of the supervisor, file a written request for review by the Superintendent of Schools.

#### **B. Stage II—Superintendent of Schools**

1. The Superintendent may request that the grievant, the supervisor, or any member of the school district staff present a written statement to him/her setting forth any information that such person has relative to the grievance and the facts surrounding it.
2. The Superintendent shall notify all parties concerned as to the time and place when an informal hearing will be held where such parties may appear and present oral and written statements supplementing their position in the case. The grievant may be accompanied by representation. Such hearing shall be held within 15 school days of the receipt of the appeal by the Superintendent.
3. Within 15 days of the hearing, the Superintendent shall render his/her determination in writing. Such determination shall include a finding that there has or has not been a violation of the applicable work rule or other governing procedure and a proposal for equitably resolving the complaint.
4. If the grievant is not satisfied with the determination of the Superintendent, the grievant may, within 5 days after its receipt, file with the Clerk of the Board of Education, a written request for review by the Board.

*C. Stage III--Board of Education*

1. *When a request for review by the Board has been made, the Superintendent shall submit all written statements and other materials concerning the case to the President of the Board.*
2. *The Board shall notify all parties concerned of the time and place when a hearing will be held. Such hearing will be held within 15 school days (or at the discretion of the Board of Education) of the receipt of the request of the grievant. All parties concerned shall have the right to present further statements and testimony at such hearing.*
3. *The Board shall render a decision in writing within 15 days after the hearing has been concluded. The decision shall be final and binding.*

*Promulgated:*

**9260**

**CONDITIONAL APPOINTMENT - STUDENT SAFETY**

*The Board of Education recognizes that there may be instances in which it is necessary, upon recommendation of the Superintendent of Schools, for the Board to conditionally appoint or to make an emergency conditional appointment of a prospective employee. To provide for the safety of students who have contact with an employee holding a conditional appointment or an emergency conditional appointment, the Board adopts the following policy.*

*No district employee who holds a conditional or emergency conditional appointment shall be in contact with students other than to provide instruction and/or other required services.*

*No district employee who holds a conditional or emergency conditional appointment shall teach a class or provide services to students with his/her classroom or office door closed unless the Building Principal has provided express prior permission to do otherwise.*

*The Building Principal or his/her designee shall, at least twice a week, monitor the activities of such employees while on school district property during the period of their conditional or emergency conditional appointment.*

*In addition, the district will ensure that all personnel, including conditional and emergency conditional appointed employees, are aware of and receive training regarding the prohibition against child abuse in an educational setting and of their responsibility for reporting any such abuse. All conditionally appointed and emergency conditionally appointed employees receive this training at the time of their initial contingency appointment.*

*For purposes of this policy, the terms "conditionally appointed" and "emergency conditional appointment" shall refer to any employee holding conditional or emergency conditional appointment, as defined in Section 1709 of the Education Law.*

*Replaces GCDB*

*Cross-ref: 9620, Child Abuse in an Educational Setting*

*Ref: Education Law §§1125-1133; 1604(39); 1709(30); 1804(9); 1950(4)(II); 2503(18); 2554(25); 2854(3)(a-2) (As extended by L.2001, c. 147; L.2003, c. 100; L.2005, c. 127; L.2007, c. 90)  
8 NYCRR §§100.2(hh); Part 87*

*Adoption date:*

**9500**

**COMPENSATION & BENEFITS**

*The Board of Education believes that the district's employees should receive fair compensation and benefits for the work they provide in serving the children of our community. To this end, the Superintendent of Schools shall be responsible for establishing and administering the compensation and benefits provided to the district's employees, consistent with collective bargaining agreements.*

*The Board and the school district will comply with all applicable federal and state laws that require minimum compensation, overtime and benefits be provided to certain employees.*

**Determination of Employment Status**

*Before enrolling an individual in the district's compensation and benefits program, the district will determine the individual's employment status. In accordance with regulations issued by the State Comptroller and as set forth by the Internal Revenue Service, the Executive Director for Finance and Operations will determine if the person is an employee and thus entitled to benefits. If the individual is not an employee based on the specified criteria, they will not be enrolled in any of the benefit programs offered by the district or the State. When the district hires an attorney, physician, engineer, architect, accountant or auditor as an employee and not an independent contractor, the Board of Education President must certify to the applicable New York State Retirement System the factors supporting that determination using the form prescribed by the State Comptroller.*

*The Board of Education President shall be responsible for reporting to the appropriate retirement system those individuals eligible for membership. This reporting shall take place at the time of an individual's employment, and at the intervals required by the appropriate retirement system.*

**Employees Covered by Collectively Negotiated Agreements**

*The compensation and benefits (except for State Retirement System benefits) for employees who are represented by recognized or certified employee organizations are established by collectively negotiated agreements between the employee organizations and the district. The district will negotiate in good faith over these issues, as required by law, and will fully comply with the requirements of the Taylor Law and the applicable collectively negotiated agreements.*

*The Board reserves its right to approve all additional funding required by the provisions of a tentative collectively negotiated agreement, in addition to any right of ratification that is secured by the district's negotiation representative(s).*

**Employees Not Covered by Collectively Negotiated Agreements**

*The compensation and benefits for employees who are not represented by recognized or certified employee organizations shall be determined by the Board of Education upon the recommendation of the Superintendent.*

*Cross-ref: 6741, Contracting for Professional Services/6800, Payroll Procedures/9420, Recruiting and Hiring*

*Ref: Consolidated Omnibus Budget and Reconciliation Act of 1985 (COBRA), 42 USC §§ 300bb-1 et seq. (federal law that requires the continuation of health insurance benefits under certain circumstances)*

*Fair Labor Standards Act (FLSA), 29 USC §§ 200 et seq. (federal law that requires a minimum wage and overtime for non-exempt employees)*

*Family and Medical Leave Act of 1993 (FMLA), 29 USC §§ 2610 et seq. (federal law that requires an unpaid leave of absence for certain family and medical situations)*

*Civil Service Law §§ 200 et seq. ("Taylor Law," requires school districts to negotiate with unions)*

*Education Law § 3005-b (requires a minimum sick leave allotment and accumulation for teachers)*

*Local Finance Law § 2.00(5)(e) (designates Board of Education President as Chief Fiscal Officer)*

*2 NYCRR Part 315.2 and 315.3 (criteria for determining employment status)*

*Adoption date:*

Trustee Jennings seconded by trustee Thiel made a motion to waive reading the policies and moved them to second time discussion.

The motion was **CARRIED** by all present

**COMMITTEES:**

Curriculum - Diane Thiel

Trustee Thiel noted that the Board has received a list of the clubs with the supporting information. She said she will provide the curriculum report at the next meeting.

Policy — Diane Thiel said that the code of conduct was discussed and she will provide a report at the next meeting.

**OLD/NEW BUSINESS: Budget Draft #3 — Superintendent Anthony Cacciola and Executive Director of Finance Jennifer Buscemi**

Mr. Cacciola and Mrs. Buscemi reviewed budget draft #3 and highlight the changes from #2. They noted that the budget will have to be adopted by April 17 and that nothing that is on this draft is etched in stone. Mr. Cacciola explained that the rollover budget would result in a 6.93% tax rate increase. Mrs. Buscemi explained that the tax levy limit that was once thought to be 2.42% for our district looks like it will be 2.1%. She said that the state changed its original position that the district could take the TRS exclusion and now it is no longer allowed. This resulted in the lower levy amount. She said she will be attending an informational meeting on Wednesday and hopes to receive additional information. However, they felt it best to err on the conservative side. Reduction recommendations were reviewed and Mr. Cacciola explained that none of the reductions are good. He said that developing an educationally sound budget while meeting the needs of the community is a difficult situation and no one is thrilled with the recommendations. He recommended rescheduling the special education presentation until after the budget vote because there will be no further reductions in that area. Items addressed were removal of the JHS 9 period day, trying to preserve the HS 9 period day, changing the full day kindergarten program to a partial day program, reductions to the sports, music and art programs, the elimination of the SAIL program, elimination of clubs. Cuts to support staff including one clerical position, one custodial position, eight paraprofessional positions and reductions to security were all discussed. He said that if the district is to stay within the 2.1% cap, all of the items discussed would have to go. Mr. Cacciola said that for every 1% in override, \$650,000 would be added to the budget. He added that with a 1.6% override \$985,000 would be added to the budget and that would restore kindergarten to its current format and maintain the varsity sports program. This information will all be available on the district's website. It was noted that to maintain all programs the average home assessed at \$3,500 would see an increase of \$36 per month.

The next Board meeting will be on Tuesday, February 28. Mr. Cacciola said that he and Mrs. Buscemi will be working to refine the budget and revenue, all next week. He said that this is a multi-year challenge and he wants to ensure that the 2013-'14 budget cycle will not be more devastating. He is

awaiting any concessions from the bargaining units which he has requested they provide by February 27<sup>th</sup>. He also noted that by March 1<sup>st</sup> the Comptroller's office wants to know if the district plans to override the cap. Mr. Cacciola said that most schools are closed next week, making this deadline more of a challenge.

There will be a special meeting on March 6<sup>th</sup> to discuss transportation and undistributed fringe benefits. On March 28<sup>th</sup> there will be the first budget presentation in the PAC.

#### **STATEMENT OF RESIDENTS**

In response to resident Lucy Campasano's question, Mr. Cacciola said that the district receives State Aid for textbooks and that money is shown on the revenue side of the budget. In addition, she would like to see how much each option for varying tax increases would actually cost the homeowner in a prioritized list.

In response to resident Dennis Kranz question Mr. Cacciola said that the district applied 5.1 million dollars of reserves to the current year's budget and is recommending 4.244 million dollars be applied to the budget next year. He said that if the district uses 5 million in 2013-2014 and 2014-2015, the district will be out of money. Mrs. Buscemi added that there are four reserves and explained how these reserves are being used.

Resident Desiree Ventura expressed her concern about the program cuts that have happened in the five years since she moved into the district and the taxes are still increasing. In response to her questions, Mr. Cacciola explained that the problem is statewide and that there has been no increase to state aid causing the homeowner to pay the additional costs.

In response to resident Dawn Conboy's question, Mr. Cacciola explained the fringe benefits line includes contributions to FICA, Medicare, NYS retirement funds, and insurance for the workforce. He also explained what the PR firm and the K-12 insight did for the district and that he will be discussing with them, what the district can receive for less money in the future. He added that both of these contracts are BOCES aidable. She asked for more clarity in discussing reductions verses cuts.

Resident Karen Thompson expressed concern about changing the kindergarten program to partial day and the challenges that would place on the students to meet the new core curriculum. Dr. Palma said that this is a difficult decision and which may be a trend in NYS in the future. He said two years ago two districts had part-time kindergarten and last year four districts had part-time kindergarten.

In response to resident Thomas Lano's question, Mr. Cacciola said there is no cap on the override. However, the budget would have to pass by a super majority.

In response to resident Janet Kuhner's question Dr. Palma said that it would not financially help the district to move away from NCLB because the waiver doesn't save the district any money.

In response to resident William Smith's question, Mr. Cacciola said that it is speculation right now about how a backlash for passing the override could affect the district. Mr. Smith also expressed concern about the change to kindergarten while keeping the nine period day at the high school.

In response to resident Kristen Catapano's question, Mr. Cacciola said that the district can survey the community to see if the budget would pass with a super majority. However, it could not be done through Connect-Ed because that would not reach all community members; it could be done through the newsletter.

In response to resident Raymond Cascio's question, Mr. Cacciola explained that the district could not charge to transport students to school. In addition, the only way to change the limits to transportation is through a referendum. It was also explained that the district cannot charge students/parents for sports.

In response to resident John Watt's question, Mr. Cacciola said that the cost for the nine period day is approximately the same at the JHS and SHS levels. Dr. Palma explained that the decision to keep the program at the high school level was made after hearing a lengthy and informative presentation. It enables students to take electives and for some to achieve enough graduation credits. In addition, the graduation rate would be difficult to achieve if the district returned to the eight period model.

In response to resident Ron Smith's question, the average tax increase over the past fourteen year period was 4.25%. Mr. Cacciola added that if the district commits to piercing the cap by 4.28% all programs are kept.

In response to resident Eva Donahue's question, Mr. Cacciola said that the results of the recent survey should be received next week. He added that out of the approximately 3,500 responses county-wide, 85% were from West Babylon.

In response to resident Lisa Granieri's question, Mr. Cacciola said that the 2% cap is in effect until 2016 and piercing the cap would help the district with future budgets.

In response to resident Lisa DiGeloromo's question, Mr. Cacciola said that all equipment lines were zeroed out and a contingency was set aside for equipment only. The laundry is for reconditioning uniforms at the end of the season.

In response to resident M. Henshaw's questions, Mr. Cacciola said that the district would have to review the law to determine how sports could be funded through fundraising. Attorney William Morrell added that the funds would have to cover the entire program. Mrs. Farrelly said that high school programs (other than mandatory special education classes) with only a few students would not run.

In response to resident Robert Daulton's question, Mr. Cacciola said that the \$3,500 dollar amount is the average assessed rate of homes, not the average tax bill.

Mr. Cacciola explained that retiree sick pay is contractual pay for unused employee sick days. The amount varies per contract.

Dr. Palma explained to resident Dawn Conboy that the district is obligated by law to provide home teaching to students who are sick, suspended and even to students in prison. He said that the district has worked out a program in which students attend an evening program and do not receive the one on one tutoring, saving the district money.

Mr. Cacciola said that the district has not done in depth studies regarding using outside transportation companies. He said the transportation department does an excellent job and has always had exemplary passing rates from the state. He added that many of our transportation department staff members are parents in the district. In addition, if we use an outside company they will own the fleet.

Mrs. Farrelly explained to resident Lucy Campasano that there are so many programs within the BOCES programs that it would be difficult and even more costly to bring all of those services in house. In addition, the district would lose its BOCES aid.

Trustee Scarlatos noted that last year the district passed a budget with a 6.4% increase and lost programs. This year, if the district passes a 6.93% budget, all programs will be saved. He added that this amounts to an additional \$441 annual tax increase for the average homeowner.

Mr. Farrell thanked everyone for coming this evening.

Trustee Bocca seconded by Trustee Scarlatos made a motion to adjourn at 9:50 p.m.

The motion was **CARRIED** by all present

Attested to: \_\_\_\_\_  
District Clerk