

REFERENCE COPY

FILE: ~~DD-EGG-AP~~
BasicCritical

GRANTS (State and Federal Programs Administration)

Securing Grants

Steps to be followed in securing grants are:

1. ~~Based on the district's Comprehensive School Improvement Program (CSIP), identify an~~ **Based on the district's Comprehensive School Improvement Program (CSIP), identify an** ~~district problem or need for program~~ **area in need of** improvement that may be helped through outside funds.
2. Match the need or problem with a funding source that subscribes to a relevant purpose.
3. Study the background, resources and funding prospects of the agency.
4. Clear with the superintendent or designee the general idea for a proposal.
5. Involve prospective participants in planning for a proposal. Secure parents' written permission if children are to be involved in experimental types of instruction: ~~(See JHDA-)~~.
6. Prepare the application using the format and following the timeline prescribed by the funding agency.
7. Discuss the funding of personnel, including the project director, with the personnel director, making sure to apply for full outside funding of all fringe benefits, including unemployment insurance.
8. Submit copies ~~as required~~ **of the grant application** to the superintendent for recommendation to the Board for approval. **If matching funds or resources are required, discuss the district's obligations with the superintendent or designee to ensure adequate resources are available.**
9. If approved, complete the process of submission to the funding agency and its subsidiaries as required and provide copies to participants.

~~Grants requiring local matching funds or grants for schools or the district~~ **All grants** must be approved by the Board of Education prior to submission. Match-free grants for individual teachers or groups of teachers must be approved by the building principal prior to submission.

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Note: The reader is encouraged to review policies and/or forms for related information in this administrative area.

Implemented: 04/21/2003

Last Revised:

Cape Girardeau School District No. 63, Cape Girardeau, Missouri

EXPLANATION: This procedure has been recoded to correspond with MSBA's new policy DD.

GRANTS

Application for Grants

The district directs the superintendent or designee to pursue all grants and other alternative sources of funds, goods and services that are consistent with the district's goals and educational strategies and that will enhance the educational offerings of the district.

All grants must:

- ▶ Be based on a specific set of internal objectives that relate to the established goals and objectives of the district.
- ▶ Provide measures for evaluating whether project objectives are being or have been achieved.
- ▶ Conform to state and federal laws and to the policies of the Board in the execution of the project.

All grant proposals shall be approved by the Board before being submitted to the funding agency regardless of the amount of funding involved. Before a grant application is presented to the Board, the superintendent or designee will determine whether the district has the appropriate staff to support the grant project and to maintain accurate records required by the granting entity, as well as adequate resources if matching funds are required.

All grants that involve district property, students or personnel in their capacity as employees are considered district grants and are subject to the requirements of this policy. No individual will use grant proceeds in the district without district permission.

Administration of Grants

Every grant involving the district must have a designated contact for the grant who is an employee of the district to oversee grant activity and ensure the appropriate records, evaluations and procedures are used.

All grant funds received must be deposited in district accounts. District policies regarding purchasing, expenditure of funds and employment will be followed when expending grant funds. Staff positions created through grant funding will be filled pursuant to Board policy.

Accurate records will be kept of all grant expenditures. An annual report will be provided to the superintendent or designee on the status of the grant program, participation in the program and the success of the program.

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Note: The reader is encouraged to review administrative procedures and/or forms for related information in support of this policy area.

Adopted:

Cross Refs: GCD, Professional Staff Recruiting and Hiring
GDC, Support Staff Recruiting and Hiring

Cape Girardeau School District No. 63, Cape Girardeau, Missouri

EXPLANATION: This is a NEW policy for district consideration. As school districts reach out to their communities and the corporate world for additional funding, this is a good time to examine and enforce the district's rules regarding grants. MSBA encourages districts to set guidelines for administrators and staff on the application and administration of grants.

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BIDDING REQUIREMENTS

~~The purchasing procedure of the school district shall not only ensure the best possible price for goods and services, but shall also operate efficiently and economically. The district will conduct competitive bidding for the construction of facilities which may that are projected to exceed an expenditure of \$12,500\$15,000; for all materials and services that may exceed \$15,000; and for insurance contracts, bank depository services and other products or services shall be advertised and submitted for bid in the manner required by law. In addition, contracts for insurance shall be bid as required by law. The district has the option to use less formal bidding procedures at all other times.~~

Other purchases or contractual services may be advertised and submitted for bid as directed by the Board or when, in the opinion of the superintendent, the welfare of the district will be served.

- ~~▶ The term "bid" shall pertain to projected expenditures of \$1,000 or greater for supplies, materials, furniture, equipment, contractual services, insurance and other fixed charges, site/facility improvements, construction, renovations and the disposal of any district property declared no longer needed for district operation. A formal bidding process may be used in any of these circumstances. It shall always be used in the case of construction of facilities in excess of \$12,500 and for contracts of insurance in accordance with state law.~~
- ~~▶ The term "quotation" shall pertain to projected expenditures of \$2,499.99 or less for supplies, materials, furniture, equipment and miscellaneous items. Purchasing of these items may be completed after the securing of either oral or written price quotations.~~
- ~~▶ The term "contract" shall pertain to an agreement entered into by the Board of Education for the sale or purchase of supplies, materials, equipment or the rental thereof or the construction, alteration, repair or maintenance of real or personal property. A formal bidding process may be used in contractual agreements.~~
- ~~▶ The formal bidding procedure may be implemented any time when, in the opinion of the superintendent, the welfare of the school will be served.~~

Bidding Procedure

When formal bidding procedures are used, bids shall be advertised appropriately. Except for equipment or other capital improvements, all categories requiring bids shall be publicly advertised in accordance with state law and any additional requirements approved by the Board. For equipment or other capital improvement items the Board may use either the method of advertising for bids as specified in the statutes, or may be selective in its request for bids. Suppliers shall be invited to have their names placed on mailing lists to receive invitations to bid. When specifications are prepared, they will be mailed to all firms who have indicated an interest in bidding.

All bids must be submitted in sealed envelopes, addressed to the Board and plainly marked with the name of the bid and the time of the bid opening. Bids shall be opened and examined publicly.

The Board may require a bidder to submit a cashier's check or bidder's bond. The Board reserves the right to reject any or all bids or any part of any bid and to accept ~~that~~the bid ~~which~~that appears to be in the best interest of the school district. The Board reserves the right to waive ~~any informalities~~minor technical deficiencies in any bid. Any bid may be withdrawn prior to the scheduled time for the opening of bids. Any bid received after the time and date specified shall not be considered.

Generally, bids accepted by the Board pertaining to contracts, services and/or benefits shall be on an annual basis; ~~however, this does not preclude the Board from approving multi-year agreements so long as the total debt does not cause expenditures to exceed revenues for the current year plus unencumbered balances.~~ However, the Board may enter into multi-year agreements as long as the payments under the contract for any given year do not exceed the district's income and revenue for the year plus any unencumbered balances from previous years.

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Note: The reader is encouraged to review administrative procedures and/or forms for related information in support of this policy area.

Adopted: 08/09/1993

Revised: 05/19/1997;

Cross Refs: BBFA, Board Member Conflict of Interest and Financial Disclosure
EIA, Property and Liability Insurance
FEF, Construction Contracts Bidding and Awards
GCBC, Professional Staff Health Insurance Benefits
GDBC, Support Staff Health Insurance Benefits

Legal Refs: §§ 67.150, 105.458, 165.211, 177.086, 376.696, RSMo.
Mercantile Bank of Illinois v. School Dist. of Osceola, 834 S.W.2d 737 (1992)

Cape Girardeau School District No. 63, Cape Girardeau, Missouri

EXPLANATION: Previously, school districts were required to advertise and bid facilities construction projects that were projected to exceed \$12,500. That amount has now been raised to \$15,000 by SB 686 (2003). Additionally, SB 686 clarifies the types of publications that can be used to advertise

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and clarifies that bids for these construction projects are to be advertised once a week for two (2) weeks.

Pursuant to Chapter 493, a qualified newspaper is:

1. For first-class counties and the City of St. Louis -- newspapers of general circulation approved by a board consisting of the judges of the county circuit court.
2. For cities of 100,000 or more -- daily newspapers that have been continuously published for three (3) consecutive years prior to publication of the notice and have been approved by a board consisting of the judges of the county circuit court.
3. All other areas -- a daily, triweekly, semiweekly or weekly newspaper of general circulation in the county where located that has been admitted to the post office and published regularly and consecutively for three (3) years.

MSBA has also revised the policy to include the legal requirement to bid depositories. School districts are also required to conduct bidding if a Board member would like to provide products or services that exceed \$500 per transaction or \$1,500 per year.

In addition, many districts customize their policies to include additional items that the School Board has directed to be bid, although such items are not legally required to be bid. If your district has additional bidding rules, this policy should be customized to include them.

ADDITIONAL COMMENTS:

MSBA encourages the district to review the customized portion of this policy. In particular, two provisions seem to conflict. The district defines "bid" as a projected expenditure of \$1,000 or greater. However, "quotation" applies to expenditures of \$2,499.99 or less. As written, a district MAY formally bid everything expected to cost \$1,000 or more and at the same time MAY use the "quotation" method for purchases of \$2,499.99 or less. However, the district does not have to use formal bidding procedures until the expense is expected to exceed \$12,500 (now \$15,000).

These options obviously overlap. Is this intentional? Why not simply state that the district must formally bid all materials and services that may exceed \$15,000, and that the district has the option to use less formal bidding procedures at all other times?

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~~POSTING OF VACANCIES/PROFESSIONAL STAFF~~ **RECRUITING AND HIRING**

Posting of Vacancies

~~It is the responsibility of the superintendent, with the assistance of the administrative staff, to determine the professional staff personnel needs of the school district and the individual schools, and to locate suitable candidates to recommend to the Board for employment.~~

~~The search for qualified teachers and other professional employees will extend to a wide variety of educational institutions and geographical areas. Care will be used in the recruitment of personnel to avoid any action that might tend to encourage a prospective employee to default obligations to another school district.~~

~~Recruitment procedures will not overlook the talents and potential of individuals already employed by the school system. Any current employee with proper certification meeting the stated requirements may apply for any position. The request for reassignment or application for a new position within the district shall be according to the established procedures.~~

Professional Staff Hiring

~~Because the quality of the staff hired by the Board is the major component of an effective and productive educational program~~ **an effective educational program requires quality staff members**, the Board and the administration of the Cape Girardeau School District No. 63 will make every effort possible to attract and retain the best-qualified personnel. ~~Contracted professional staff employees will be officially employed by t~~ **The Board of Education will employ personnel** in accordance with provisions of state law.

~~The district's hiring procedures~~ **will** comply with all federal and state ~~hiring practices~~ **laws, including laws prohibiting discrimination**. The district is an equal opportunity employer, ~~and as required by the Immigration Reform and Control Act.~~ **The district hires only American citizens of the United States** and ~~aliens~~ **persons** who are **legally** authorized to work in the United States.

Recruiting

Efforts will be made to recruit the best-qualified candidate for the position. New or vacant positions will be posted for at least five (5) business days in the district's buildings and publicized externally by other means as determined appropriate by the superintendent or designee. However, if the superintendent or designee determines that it would be detrimental to wait five (5) business days or that a longer period is necessary, the position will be advertised for as many days as is appropriate. Further, if the same or similar position was recently advertised, the superintendent or designee may utilize applications previously received without re-advertising the position. A position is not

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considered vacant if the Board, superintendent or designee assigns an existing employee to the position.

Recruitment procedures will not overlook the talents and potential of individuals already employed by the school district. Any current, qualified employee meeting the stated requirements may apply for positions in the district.

All requests for information concerning professional staff vacancies in the district shall be directed ~~in writing~~ to the superintendent **or designee**. Teaching and administrative personnel must be properly certificated in the State of Missouri. ~~Applications for positions in the school district shall be made in writing upon official application blanks furnished by the Board of Education, through the superintendent of schools. Applicants shall complete the official application blank and return it to the superintendent's office.~~ **Persons interested in positions in the district must complete a formal application and provide all necessary information requested by the superintendent or designee.** Applicants may be asked to submit a police record and DFS check with their application form prior to employment. The ~~office of the superintendent~~ **or designee** shall ~~investigate the personal, professional, and experiential background of applicants~~ **conduct interviews, review references and obtain other information as deemed necessary.**

The superintendent or designee will conduct background checks on employees and applicants for employment in accordance with law and Board policy.

Hiring

~~The approval of the application and the employment of a professional employee by the Board of Education shall be made only upon~~ **A position other than the superintendent's position will be filled by the Board of Education only after receiving the recommendation of the superintendent of schools or designee. It is the policy of the Board of Education to employ highly qualified teachers with the appropriate teaching certificates.** ~~Professional staff employees are formally elected by the Board of Education upon the recommendation of the superintendent of schools. In making recommendations, the superintendent~~ **or designee** shall give first consideration to applicants who, in addition to proper general education qualifications, ~~shall~~ have special training and other qualifications for the particular type of vacancy to be filled. If a candidate is not acceptable to the Board, ~~then~~ the superintendent **or designee** should recommend another candidate. ~~All teachers employed by the Board shall be chosen with reference to qualifications for the position.~~

~~Notifications to teachers of their employment and notice of acceptance by teachers shall be in full conformity with state laws governing the employment of teachers. Candidates who were considered but not offered contracts will be promptly notified.~~

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~~It shall be the policy of the Board of Education to employ those persons who have earned a Bachelor's Degree, and who may be properly certificated by the Missouri State Department of Elementary and Secondary Education to teach in the appropriate curriculum areas. Before any teacher's contract shall be considered valid, a teaching certificate which legally qualifies the teacher for the assigned work shall be duly filed in the office of the superintendent.~~

All applicants will be promptly notified once a decision has been made on the position. As required by law, non-tenured professional staff will receive written notice on or before April 15 if they will not be re-employed for the following school year. Principals, assistant principals and other certificated employees in positions ineligible for tenure, except the superintendent, shall be notified in writing concerning re-employment on or before April 15 of the year in which the current contract expires.

A spouse of a Board member will only be hired to fill a vacant or new position if the position has been advertised in accordance with this policy and if the superintendent has submitted a written recommendation supporting the employment of the spouse. If the spouse of a Board member is hired, the names of all applicants for that position as well as the name of the individual hired will be included in the appropriate Board minutes.

If the district determines that it has a shortage of certificated teachers, the district may hire retired certificated teachers receiving retirement benefits from the Missouri Public School Retirement System to teach full time for up to two (2) years without loss of benefits to the teacher, if the district meets the requirements set by state law. The district may only hire retired teachers under this program if it has:

- ▶ Made a good-faith effort to fill positions with candidates who have not retired.
- ▶ Not offered early retirement incentives for either of the previous two (2) years.
- ▶ Posted the vacancy for at least one (1) month and solicited applications through local newspapers, other media or teacher education programs.
- ▶ Determined that there is an insufficient number of eligible applicants.
- ▶ Declared a critical shortage of certificated teachers that is active for one (1) year.

The total number of retired teachers hired under this section cannot exceed at any one (1) time the lesser of ten (10) percent of the total teacher staff in the district or five (5) certificated teachers. This provision does not apply to a retired certificated teacher employed as a superintendent.

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Note: The reader is encouraged to review administrative procedures and/or forms for related information in support of this policy area.

Adopted: 08/09/1993

Revised: 06/21/1999;

Cross Refs: AC, Prohibition Against Illegal Discrimination and Harassment
BBFA, Board Member Conflict of Interest and Financial Disclosure
DD, Grants

Legal Refs: §§ 162.261, .301, 168.101 - .1303, .303, 169.331, .596, 213.010, .055, .070, 290.400, .410, RSMo.
Immigration Reform and Control Act of 1986, 8 U.S.C. § 1324a
Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681
Equal Pay Act, 29 U.S.C. § 206(d)
Age Discrimination in Employment Act, 29 U.S.C. §§ 621 - 634
The Rehabilitation Act of 1973, Section 504, 29 U.S.C. § 794
Family and Medical Leave Act, 29 U.S.C. § 2615
Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d - 2000d-7
Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e -2000e-17
Age Discrimination Act of 1975, 42 U.S.C. §§ 6101 - 6107
Americans with Disabilities Act, 42 U.S.C. §§ 12101 - 12213

Cape Girardeau School District No. 63, Cape Girardeau, Missouri

EXPLANATION: 2003 Updates

Added the requirements of SB 686 (2003) that prohibit the employment of spouses of School Board members unless certain procedures are followed. Pursuant to SB 686, if the spouse of a School Board member applies for a newly created or vacant position in the district where that Board member serves, the School Board must have (1) advertised the position in accordance with Board policy and (2) received a written recommendation from the superintendent that the spouse be hired.

If the spouse of a School Board member is hired, the names of all applicants and the person hired must be included in the Board minutes. MSBA considers applications for employment closed records pursuant to the Sunshine Law (§ 620.021(13), RSMo.) and recommends that the district comply with this law by listing the names of the applicants in a closed record. Pursuant to § 621.021(3) and (13), RSMo., the names of individuals hired by the district are available to the public.

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Please keep in mind that the new law does not apply to spouses currently employed by the district or employees whose spouses become School Board members subsequent to employment. Even if the spouse's position is subject to contract renewal, the spouse is not applying for a "new" or "vacant" position, and the law arguably does not apply.

Also made revisions pursuant to House Bill 346 (2003). This legislation permits the hiring of retired teachers on a full-time basis under certain circumstances without the loss of retirement benefits. Note that there are several steps the district must take before it can hire teachers pursuant to this statute. The district must have "posted" the vacancies for a full month and advertised the positions in a variety of media as well as at teacher education programs. No definition of "posted" is provided. The district also cannot have offered an early retirement incentive in either of the past two (2) years.

The district is also required to have made a "good-faith effort" to employ non-retired teachers before hiring retired teachers. If, after meeting these requirements the district determines that there are an insufficient number of eligible applicants, the district may declare a critical shortage of certified teachers. This declaration is good for only one (1) year.

Most districts may employ only the lesser of ten (10) percent of the total teacher staff or five (5) certificated teachers at any one time pursuant to this law. Teachers employed under the provisions of this statute are considered "new hires" for the purposes of Social Security income and eligibility verification. MSBA anticipates that forthcoming regulations will further define the limitations of this legislation. Also added legal references and modified policy for clarification.

2004 Update

House Bill 1453 (2004) requires school districts to:

[E]nsure that a criminal background check is conducted on any person employed after January 1, 2005, authorized to have contact with pupils and prior to the individual having contact with any pupil. Such persons include, but are not limited to, administrators, teachers, aides, paraprofessionals, assistants, secretaries, custodians, cooks, and nurses.

MSBA presumes that this statute only applies to persons newly hired after January 1, 2005, and not existing employees. The statute also states that the background check must be done through the FBI.

Currently, FBI background checks must be submitted through the Department of Elementary and Secondary Education (DESE). For more information, contact the Professional Conduct

and Investigations unit at DESE at (573) 751-0051, (573) 522-8761 or 8316. These background checks cost \$38. School districts will need to decide whether they will reimburse employees for this expense. When the decision is made, it should be reflected in this policy.

DESE has been conducting FBI background checks as a condition of certification since 2000. When hiring a new certificated staff member, the district should contact the Professional Conduct unit at the above number to obtain information regarding the teacher or administrator's background check, so that the background check is not replicated.

The statute does not define "conducted." FBI background checks may take several weeks to process. Districts will need to decide what they will do with employees between the time the employees are hired and the time the district receives the results of the background check. Currently, it is taking the Highway Patrol 10-12 weeks to process background checks and send them to the FBI.

Districts should review all employment contracts with their private attorneys to ensure employment is conditioned upon the completion of a background check satisfactory to the Board. Districts should also have their private attorneys review the district's employment applications.

2005 Update

MSBA has amended this policy to clarify that internal assignments to new or vacant positions do not require posting. Of course, the district may adopt a different policy or practice. However, the district needs to apply its rules consistently to avoid claims of discrimination.

MSBA has moved some of the detail regarding conducting employee background checks from this policy to policy GBEB, where it is covered in more depth.

Senate Bill 287 (2005) amended a previous statute that allowed the employment of retired teachers without loss of retirement benefits to exclude retired certificated personnel employed as superintendents. A sentence has been added to the policy to reflect this change.

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PROFESSIONAL STAFF HIRING *(Administrative Rules and Procedure for Employment of Personnel)*

Rules

1. The administrative staff shall execute employment procedures in accordance with the adopted policy of the Board of Education.
2. The candidate shall apply in person or by personal letter -- not by representation of someone else or some group.
3. Channels of communication shall be observed by the candidate either through the office of assistant superintendent or the superintendent.
4. The policy is to obtain the best qualified candidate for a particular teacher situation to bring education to the youth of our community.

Procedures

1. Candidate should write a formal letter of application.
2. A copy of our application form is sent to the applicant to be completed and returned.
3. Transcript of college credit and credentials from the placement office are secured.
4. References obtained.
5. Screening of candidates for interviews.
6. Extensive interviews by administrative staff.
7. Selection of best candidate for a particular teaching situation by administrative staff.
8. Final recommendation by assistant superintendent to the superintendent to the Board of Education for employment.
9. Approval of Board.
10. Assignment of staff to buildings.

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Note: The reader is encouraged to review policies and/or forms for related information in this administrative area.

Approved/Implemented: 08/09/1993

Revised:

Cape Girardeau School District No. 63, Cape Girardeau, Missouri

EXPLANATION: Material is being recoded as an administrative procedure. In essence, this document sets out the procedure that must be followed in making hiring decisions. The administrative staff needs the ability to change this procedure, as needed and within the scope of the Board policy. However, school board members should not need to worry about the fine details of completing an application for a position with the district. MSBA encourages the district to review this procedure for accuracy - particularly since it was adopted over 10 years ago. In particular, is it necessary for the applicant to write a formal letter of application as long as the applicant fills out the district's application?

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CLASSIFIED STAFF RECRUITING/~~POSTING OF VACANCIES~~/ AND HIRING

To provide a positive educational environment for students, the district must employ quality staff members. It is the responsibility of the superintendent or designee, ~~with the assistance of the administrative staff,~~ to determine the classified staff personnel needs of the school district and to locate suitable classified staff candidates. The superintendent will make recommendations for employment of classified staff members for the Board's approval. **The Board will employ personnel in accordance with law.**

The district's hiring procedures **will** comply with all federal and state ~~hiring practices~~ laws, including laws prohibiting discrimination. The Cape Girardeau School District No. 63 is an equal opportunity employer, ~~and as required by the Immigration Reform and Control Act.~~ **The district hires only American citizens of the United States and aliens persons who are legally authorized to work in the United States.**

Recruiting

Efforts will be made to recruit the best-qualified candidate for the position. New or vacant positions will be posted for at least five (5) business days in the district's buildings and publicized externally by other means as determined appropriate by the superintendent or designee. However, if the superintendent or designee determines that it would be detrimental to wait five (5) business days or that a longer period is necessary, the position will be advertised for as many days as is appropriate. Further, if the same or similar position was recently advertised, the superintendent or designee may utilize applications previously received without re-advertising the position. A position is not considered vacant if the Board, superintendent or designee assigns an existing employee to the position.

Recruitment procedures will not overlook the talents and potential of individuals already employed by the school district. Any current, qualified employee meeting the stated requirements may apply for positions in the district.

All requests for information concerning vacancies in the district shall be directed to the superintendent or designee. Persons interested in positions in the district must complete a formal application and provide all necessary information requested by the superintendent or designee. The superintendent or designee shall conduct interviews, review references, process background checks and obtain other information as deemed necessary.

The superintendent or designee will conduct background checks on employees and applicants for employment in accordance with law and Board policy.

Hiring

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A position will be filled by the Board of Education only after receiving the recommendation of the superintendent or designee. All candidates will be considered on the basis of qualifications, training, experience and ability to fulfill the requirements of the position. ~~Efforts will be made to recruit the best qualified candidate for the position.~~

A spouse of a Board member will only be hired to fill any vacant or new position if the position has been advertised in accordance with this policy and if the superintendent has submitted a written recommendation supporting the employment of the spouse. If the spouse of a Board member is hired, the names of all applicants for that position as well as the name of the individual hired will be included in the appropriate Board minutes.

In accordance with law, the district will hire individuals receiving retirement benefits from the Missouri Public Education Employee Retirement System to work full time only if the district has determined that it has a shortage of noncertificated employees. The district may only hire retired employees under this program if it has:

- ▶ Made a good-faith effort to fill positions with candidates who have not retired.
- ▶ Not offered early retirement incentives for either of the previous two (2) years.
- ▶ Posted the vacancy for at least one (1) month and solicited applications through local newspapers or other media.
- ▶ Determined that there is an insufficient number of eligible applicants.
- ▶ Declared a critical shortage of noncertificated employees that is active for one (1) year.

The total number of retired noncertificated employees hired under this section cannot exceed at any one (1) time the lesser of ten (10) percent of the total noncertificated staff in the district or five (5) noncertificated employees.

~~Recruitment procedures will not overlook the talents and potential of individuals already employed by the school district. Any current qualified employee meeting the stated requirements may apply for any position in the district.~~

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Note: The reader is encouraged to review administrative procedures and/or forms for related information in support of this policy area.

Adopted: 08/09/1993

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Legal Refs: §§ 162.261, .301, 168.133, 213.010, .055, .070, 290.400, .410, RSMo.
Immigration Reform and Control Act of 1986, 8 U.S.C. § 1324a
Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681
Equal Pay Act, 29 U.S.C. § 206(d)
Age Discrimination in Employment Act, 29 U.S.C. §§ 621 - 634
The Rehabilitation Act of 1973, Section 504, 29 U.S.C. § 794
Family and Medical Leave Act, 29 U.S.C. § 2615
Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d - 2000d-7
Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e - 2000e-17
Age Discrimination Act of 1975, 42 U.S.C. §§ 6101 - 6107
Americans with Disabilities Act, 42 U.S.C. §§ 12101 - 12213

Cape Girardeau School District No. 63, Cape Girardeau, Missouri

EXPLANATION: 2003 Update

Added the requirements of SB 686 (2003) that prohibit the employment of spouses of school Board members unless certain procedures are followed. Pursuant to SB 686, if the spouse of a School Board member applies for a newly created or vacant position in the district where that Board member serves, the School Board must have (1) advertised the position in accordance with Board policy and, (2) received a written recommendation from the superintendent that the spouse be hired.

If the spouse of a School Board member is hired, the names of all applicants and the person hired must be included in the Board minutes. MSBA considers applications for employment closed records pursuant to the Sunshine Law (§ 620.021(13), RSMo.) and recommends that the district comply with this law by listing the names of the applicants in a closed record. Pursuant to § 621.021(3) and (13), RSMo., the names of individuals hired by the district are an open record.

Please keep in mind that the new law does not apply to spouses currently employed by the district or employees whose spouses become School Board members subsequent to the employee's employment. Even if the spouse's position is subject to contract renewal, the spouse is not applying for a "new" or "vacant" position, and the law arguably does not apply.

Also made revisions pursuant to HB 346 (2003). This legislation permits the hiring of retired noncertificated employees on a full-time basis under certain circumstances without the loss of retirement benefits. Note that there are several steps the district must take before it can hire noncertificated employees pursuant to this statute. The district must have "posted" the vacancies for a full month and advertised the positions in a variety of media. No definition of "posted" is provided. The district also cannot have offered an early retirement incentive in either of the past two (2) years. The district is required to have made a "good-faith effort" to employ non-retired noncertificated employees before hiring retired noncertificated employees. If, after meeting these requirements the district determines that there are an insufficient number of eligible applicants, the district may declare a critical shortage of noncertificated employees. This declaration is good for only one (1) year.

This legislation only applies to districts located in a city of a population of 300,000 or fewer people and such districts may employ only up to ten (10) percent of the total noncertificated staff not to exceed a maximum of five (5) employees at any one time. Noncertificated employees employed under the provisions of this statute are considered "new hires" for the purposes of Social Security income and eligibility verification. MSBA anticipates that forthcoming regulations will further define the limitations of this legislation.

Also added legal references.

2004 Update

House Bill 1453 (2004) requires school districts to:

[E]nsure that a criminal background check is conducted on any person employed after January 1, 2005, authorized to have contact with pupils and prior to the individual having contact with any pupil. Such persons include, but are not limited to, administrators, teachers, aides, paraprofessionals, assistants, secretaries, custodians, cooks, and nurses.

The statute goes on to clarify that the background check conducted for bus driver permits will satisfy this requirement for bus drivers. Other employees must submit fingerprints for an FBI background check. MSBA presumes that this statute only applies to persons newly hired after January 1, 2005, and not existing employees.

Currently, FBI background checks must be submitted through the Department of Elementary and Secondary Education. For more information, contact the Professional Conduct and Investigations unit at DESE at (573) 751-0051, (573) 522-8761 or 8316. Currently, these background checks cost \$38. School districts will need to decide whether they will reimburse employees for this expense. When the decision is made, it should be reflected in this policy.

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FILE: GDC
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DESE has been conducting FBI background checks as a condition of certification since 2000. When hiring new a new staff member who has a certificate, the district should contact the Professional Conduct unit at the above number to obtain information regarding the teacher or administrator's background check, so that the background check is not replicated.

The statute does not define "conducted." FBI background checks may take several weeks to process. Districts will need to decide what they will do with employees between the time the employees are hired and the time the district receives the results of the background check. Currently, it is taking the Highway Patrol 10-12 weeks to process background checks and send them to the FBI.

Districts that contract with support staff should review all employment contracts with their private attorneys to ensure employment is conditioned upon the completion of a background check satisfactory to the Board. Districts should also have their private attorneys review the district's employment applications.

2005 Update

MSBA has amended this policy to clarify that internal assignments to new or vacant positions do not require posting. Of course, the district may adopt a different policy or practice. However, the district needs to apply its rules consistently to avoid claims of discrimination.

MSBA has moved some of the detail regarding conducting employee background checks from this policy to policy GBEB, where it is covered in more depth.

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FILE: JCB
Critical

INTRADISTRICT TRANSFERS

The district maintains the ability to transfer students between schools as needed.

At least one (1) of the following criteria shall be used in determining student residency within the district and specific elementary attendance area:

1. The student physically resides and is domiciled in the district and the specific elementary attendance area. The domicile of a minor child shall be the domicile of a parent, military guardian pursuant to a military-issued guardianship or court-appointed legal guardian. A “power of attorney” document alone is insufficient to satisfy the “court-appointed legal guardian” requirement.
2. The student is otherwise proven to be legally domiciled within the district and specific elementary attendance area.

Students with disabilities may be assigned to attend a school outside the student’s attendance area by the 504 team or pursuant to the student’s Individualized Education Program (IEP). Administrators participating in these decisions will notify the admissions office as soon as the decision is made to place a student outside his or her attendance area.

The superintendent or designee may direct the intradistrict transfer of students for the health, safety or ~~family~~ welfare of the student, to maintain discipline and safety in the schools, to better meet the educational needs of the student or to address overcrowding in school.

Once a child has begun attendance at an elementary school, that child and any siblings who begin attending that elementary school while that child is attending that elementary school shall be entitled to continue to attend that elementary attendance area regardless of the residence of the parents/guardians until such time as those children complete elementary school. Such residence must continue to be within the boundaries of the Cape Girardeau Public School District.

Transportation will not be provided to students attending schools outside the student's attendance area, unless required by law.

Voluntary Transfers to Schools Outside Attendance Areas

Students enrolled in a school identified for school improvement or identified as persistently dangerous pursuant to federal **and state** law may transfer to another public school within the district that has not been so identified. **A student who has been a victim of a violent criminal offense on school property as defined by state regulation may, upon request, transfer to another public school in the district.** The transfer will be allowed in accordance with law.

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Note: The reader is encouraged to check the index located at the beginning of this section for other pertinent policies and to review administrative procedures and/or forms for related information.

Adopted: 10/20/2003

Revised: 09/22/2008;

Cross Refs: IGBA, Programs for Students with Disabilities

Legal Refs: ~~No Child Left Behind Act, P.L. 107-110~~ § 162.1190, RSMo.
5 C.S.R. 50-355.100

Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 - 1487

The Rehabilitation Act of 1973, Section 504, 29 U.S.C. § 794

Americans with Disabilities Act, 42 U.S.C. §§ 12101 - 12213

~~No Child Left Behind Act of 2001, P.L. 107-110~~

34 C.F.R. Part 104

34 C.F.R. Part 300

Cape Girardeau School District No. 63, Cape Girardeau, Missouri

EXPLANATION:

2003 Legal Changes – The district may have adopted these changes at some point in time, but MSBA is not aware of it. Since the district has now revised the policy otherwise, I am resubmitting these changes from 2003.

Added legal references and changed policy to comply with state and federal statutes and regulations.

Senate Bill 666 (2003) requires the School Board of each district in the state that has multiple attendance areas containing the same grade levels to adopt and make available to the public a policy regarding these transfers by July 1, 2004.

Policy JCB was developed by MSBA in 2002 in response to requirements of the No Child Left Behind Act. At the time there was no state law requiring an intradistrict transfer policy, and the state had not yet developed regulations defining persistently dangerous schools. Consequently, many districts did not see the need to adopt an intradistrict transfer policy

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because the district did not anticipate that it would have schools identified for improvement and be required to offer the transfer option.

Now every school district in Missouri that has multiple attendance centers that offer the same grade level must adopt such a policy. Additionally, students who are victims of a violent criminal offense on school property, including buses, must be allowed to transfer to another school in the district. This language was previously omitted from the policy because the state had not defined "violent criminal offense."

Federal guidelines implementing the No Child Left Behind Act have made it quite clear that students eligible for transfer pursuant to that law must be given a choice as to which school to attend. According to guidance from the U.S. Department of Education, that choice may not be limited based on class size, student/teacher ratios or MSIP considerations. In fact, a student's choice may only be limited by health and safety concerns or geography. A school district may develop reasonable attendance zones as long as these zones provide students with a choice of schools.

For many districts in Missouri there may only be one or two other buildings that have the same grade level as the building from which the student is transferring. In this case, the student must be given all available options.

School districts should keep in mind that although they may allow intradistrict transfers, they are not required to unless:

- ▶ A school is identified for improvement or as persistently dangerous.
- ▶ A student has been a victim of a violent criminal offense.
- ▶ It is necessary due to the needs of a student with a disability.

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STUDENT DISCIPLINE

It is essential that the district maintain a classroom environment that allows teachers to communicate effectively with all students in the class and allows all students in the class to learn. To assist district staff in maintaining the necessary classroom environment, the Board of Education has created a discipline code that addresses the consequences, including suspension or expulsion, for students whose conduct is prejudicial to good order and discipline in the schools or impairs the morale or good conduct of other students. The Board authorizes the immediate removal of a student upon a finding by a principal or superintendent that the student poses a threat of harm to self or others, as evidenced by the prior conduct of such student. Any such removal will be subject to the appropriate due process procedures and in accordance with law.

These policies, regulations and procedures will apply to all students in attendance in district instructional and support programs as well as at school-sponsored activities. All district staff are required to enforce these policies, regulations and procedures in a manner that is fair and developmentally appropriate and that considers the student and the individual circumstances involved.

Off-campus misconduct that adversely affects the educational climate will also be subject to these policies, regulations and procedures. Students who have been charged, convicted or pled guilty in a court of general jurisdiction for commission of a felony may be suspended in accordance with law.

Building principals are responsible for the development of additional regulations and procedures regarding student conduct needed to maintain proper behavior in schools under their supervision. Principals, subject to appropriate due process procedures, may summarily suspend any student for up to ten (10) school days for violation of these policies, rules and regulations. Notice of suspension shall be given immediately to the parent or guardian, and to the superintendent.

Flagrant disregard for policies, rules and regulations, or continued truancy may result in suspension by the superintendent or expulsion by the Board, both subject to appropriate due process procedures. The superintendent may suspend a student for up to 180 school days; however, expulsion of students is a function only of the Board of Education.

The Board authorizes the immediate removal of a student upon a finding by a principal, superintendent or Board that the student poses a threat of harm to self or others, as evidenced by the prior conduct of such student. Any such removal will be subject to the appropriate due process procedures set forth for suspensions.

Teachers have the authority and responsibility to make and enforce necessary rules for internal governance in the classroom, subject to review by the building principal. The Board expects each teacher to maintain a satisfactory standard of conduct in the classroom.

All employees of the district shall annually receive instruction related to the specific contents of the district's discipline policy and any interpretations necessary to implement the provisions of the policy in the course of their duties including, but not limited to, approved methods of dealing with acts of school violence, disciplining students with disabilities and instruction in the necessity and requirements for confidentiality.

The comprehensive discipline policy of the district is composed of this policy and includes, but is not limited to, the following policies and regulations: ~~JG-R1, JG-R2,~~ JGA, JGB, JGD, JGE and JGF. A copy of the district's comprehensive discipline policy will be provided to every student and parent or guardian of every student at the beginning of each school year and will be available in the superintendent's office during normal business hours.

* * * * *

A student who engages in inappropriate behavior may be subject to disciplinary action initiated and carried out by school personnel responsible for the supervision of the student at the time of occurrence. Consequences for inappropriate behavior are based upon severity of the infraction/behavior and the maturation, educational growth and general level of educational functioning of the student. The imposition of these consequences shall be carried out in conformity with the dictates of Constitutional due process.

Any time a referral that warrants formal disciplinary action is submitted, every reasonable effort will be made by the principal to contact the parent/guardian of all parties involved by written notice delivered by the student, through the mail, or by direct telephone contact. The content of any notices or other written communications to parties other than the student who is the subject of the formal disciplinary action, and his or her guardian or parent, may be circumscribed by applicable laws governing records of students.

Included among the disciplinary actions/consequences are:

INFORMAL TALK - School personnel talk with the student and develop an agreement regarding how the student should behave.

CONFERENCE - A formal conference is conducted between the student and school personnel.

PARENT INVOLVEMENT - Parent/Guardian is notified by telephone, personal contact, letter or certified letter of the occurrence of inappropriate behavior. A parent/guardian-student-school personnel conference may be conducted.

AFTER-SCHOOL DETENTION - The student is assigned to stay after school in a supervised area and complete assigned tasks. The parent/guardian may be notified.

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IN-SCHOOL SUSPENSION - The placement of the student in time-out, in a paired classroom, in the principal's office or other location other than that student's regular classroom, or in an in-school suspension classroom (PAT, SAC, SHAPE) for a portion of a school day up to a maximum of ten (10) school days. The student is required to complete all assignments, and take all tests, and academic credit is earned/granted. The parent/guardian is notified of the in-school suspension.

ALTERNATIVE SCHOOL - The placement of the student in an alternative classroom, maintained on or off campus by the district, for a portion of a school day for up to ten (10) school days. The student is required to complete all assignments and take all tests, and academic credit is earned/granted. The parent/guardian is notified of the alternative school assignment.

SATURDAY SCHOOL - The assignment of the student to attend school on Saturdays, from a portion of one (1) to ten (10) days total, to do school work and assignments under teacher supervision. Academic credit is earned and granted.

SUSPENSION OF BUS RIDING PRIVILEGES: PRINCIPAL - The student is forbidden to ride the bus for a portion of a school day for up to ten (10) school days. The superintendent and parent/guardian will be notified.

SUSPENSION OF BUS RIDING PRIVILEGES: SUPERINTENDENT - The student is forbidden to ride the bus for up to 180 school days. The parent/guardian is notified and appeal procedures reviewed.

SUSPENSION OUT-OF-SCHOOL: PRINCIPAL - The student is forbidden to attend school for a portion of a school day up to ten (10) school days. The student is provided the opportunity to complete all assignments and take all tests issued during the suspension period. Academic credit earned is granted for work and tests completed. The student is expected to complete the assigned work and tests within a reasonable time period following return to school. The superintendent and parent/guardian are notified of the out-of-school suspension.

CORPORAL PUNISHMENT - Corporal punishment is permitted by recommendation of the principal, and administered by the principal/assistant principal with the witness of one (1) certified employee, in the form of swatting the buttocks with a paddle (one to four swats). The superintendent and the parent/guardian are notified of the corporal punishment.

SUSPENSION OUT-OF-SCHOOL: SUPERINTENDENT - The student is forbidden to attend school for up to 180 school days. The parent/guardian is notified, and appeal procedure reviewed.

EXPULSION - The student is forbidden to attend the Cape Girardeau Public Schools by the Board of Education. The parent/guardian is notified and appeal procedure reviewed.

* * * * *

The Student Code of Conduct is designed to foster student responsibility, respect for ~~the rights of~~ others, and to ~~ensure~~ **provide for** the orderly operation of district schools. No code can be expected to list each and every offense that may result in ~~the use of~~ disciplinary action. The intent of this code is to establish consistency, fairness and predictability in the punishment of students who commit the more serious offenses. Any conduct not included herein, ~~or any~~ aggravated circumstance of any offense, or ~~any~~ action involving a combination of offenses, may result in disciplinary consequences that include but are not limited by this code of conduct as determined by the principal, superintendent and/or Board of Education. In extraordinary circumstances where the minimum consequence is judged by the superintendent or designee to be manifestly unfair or not in the interest of the district, the superintendent or designee may reduce the consequences listed in this policy, as allowed by law. This code includes, but is not necessarily limited to, acts of students on school **property, including** playgrounds, parking lots; **and** school ~~buses~~ **transportation**, or at a school activity, whether on or off school property.

Reporting to Law Enforcement

It is the policy of the Cape Girardeau School District No. 63 to report all crimes occurring on school grounds to law enforcement, including, but not limited to, the crimes the district is required to report in accordance with law. A list of crimes the district is required to report is included in policy JGF.

The principal shall also notify the appropriate law enforcement agency and superintendent if a student is discovered to possess a controlled substance or weapon in violation of the district's policy.

In addition, the superintendent shall notify the appropriate division of the juvenile or family court upon suspension for more than ten (10) days or expulsion of any student who the district is aware is under the jurisdiction of the court.

Documentation in Student's Discipline Record

The principal, designee or other administrators or school staff will maintain all discipline records as deemed necessary for the orderly operation of the schools and in accordance with law and policy JGF.

Participation in Activities

Students who are suspended or expelled for any reason are prohibited from attending or taking part in any district-sponsored activity, regardless of location, or any activity that occurs on district property. Students who violate this provision will be required to leave the activity and may face further discipline, including an additional period of suspension or expulsion.

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Prohibition against Being on or near School Property during Suspension

All students who are suspended or expelled are prohibited from being on school property for any reason unless permission is granted by the superintendent or designee.

Any student who is suspended for any offenses listed in § 160.261, RSMo., or any act of violence or drug-related activity defined by policy JGF as a serious violation of school discipline shall not be allowed to be within 1,000 feet of any public school in the district unless one (1) of the following conditions exist:

1. The student is under the direct supervision of the student's parent, legal guardian or custodian.
2. The student is under the direct supervision of another adult designated by the student's parent, legal guardian or custodian. The designation must be made in advance and in writing to the principal of the school that suspended the student.
3. The student is in an alternative school that is located within 1,000 feet of a public school in the district.
4. The student resides within 1,000 feet of a public school in the district and is on the property of his or her residence.

If a student violates this prohibition he or she may be suspended or expelled in accordance with the offense, "Failure to Meet Conditions of Suspension," listed below.

Prohibited Conduct

The following are descriptions of prohibited conduct as well as potential consequences for violation. In addition to the consequences specified here, school officials will notify law enforcement and document violations in the student's discipline file pursuant to law and Board policy.

Academic Dishonesty/Cheating – The deliberate misrepresentation of academic, artistic, mechanical or athletic work, accomplishments, achievements or aptitudes as that student's creation, product, possession or property.

First Offense:	Principal/Student conference, in-school suspension, or 1-180 days out-of-school suspension and possible documentation in the student's discipline record*.
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Subsequent Offense:	In-school suspension, and possible documentation in student's discipline record*.
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Arson –Starting or attempting to start a fire or causing or attempting to cause an explosion.

First Offense:	Detention, in-school suspension, ±1-180 days out-of-school suspension, or expulsion, notification to law enforcement officials, and documentation in student's discipline record. Restitution if appropriate
Subsequent Offense:	1-180 days out-of-school suspension or eExpulsion, possible notification to law enforcement officials, and documentation in student's discipline record. Restitution if appropriate.

Assault –Acting with violence toward another person, either physically or nonphysically.

1. **Hitting, striking and/or a** Attempting to cause injury to another person; placing a person in reasonable apprehension of imminent physical injury; physically injuring another person.

First Offense:	Principal/Student conference, detention, i n-school suspension, 1-180 days out-of-school suspension, or expulsion, notification to law enforcement officials, and possible documentation in the student's discipline record.
Subsequent Offense:	In-school suspension, ±1-180 days out-of-school suspension, or expulsion, notification to law enforcement officials, and possible documentation in student's discipline record.

2. Attempting to kill or cause serious physical injury to another; killing or causing serious physical injury to another.

First Offense:	Expulsion, notification to law enforcement officials, and documentation in student's discipline record.
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Automobile/Vehicle Misuse – Driving and parking on school property are privileges granted by the Board of Education to persons who have reasons to be in the schools or on school property. Students are expected to use all acceptable courtesies and safe driving practices on and around school property. Building principals shall establish rules and procedures necessary for the safe operation and parking of automobiles, trucks, motorcycles and other vehicles on school property. All student motor vehicles parked on school property must be registered with the school. Students are not to

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~~move or be in automobiles/vehicles during the school day without permission from school officials. Failure to follow these rules and procedures may result in suspension or revocation of driving and parking privileges as well as other disciplinary action.~~ **Uncourteous or unsafe driving on or around school property, unregistered parking, failure to move vehicle at the request of school officials, failure to follow directions given by school officials or failure to follow established rules for parking or driving on school property.**

First Offense:	Suspension or revocation of parking privileges, detention, in-school suspension, or 1-10 days out-of-school suspension.
Subsequent Offense:	Revocation of parking privileges, detention, in-school suspension, or 1-180 days out-of-school suspension.

Bullying (see Board policy JFCF) – Repeated and systematic intimidation, harassment and attacks on a student or multiple students, perpetuated by individuals or groups. Bullying includes, but is not limited to: physical violence, verbal taunts, name-calling and put-downs, threats, extortion, theft, damaging property, and exclusion from a peer group.

First Offense:	Detention, in-school suspension, or 1-180 days out-of-school suspension.
Subsequent Offense:	1-180 days out-of-school suspension or expulsion.

Bus or Transportation Misconduct (see Board policy JFCC/JFCC-R) – Any offense committed by a student on a ~~district-owned or contracted bus~~ **transportation provided by or through the district** shall be punished in the same manner as if the offense had been committed at the student's assigned school. In addition, ~~bus riding~~ **transportation** privileges may be suspended or revoked.

~~**Disparaging or Demeaning Language**~~—Verbal, written pictorial or symbolic words or gestures meant to harass or injure another person; i.e., threats of violence or defamation of a person's race, religion, gender or ethnic origin. ~~Constitutionally protected speech will not be punished.~~

~~First Offense:~~ Principal/Student conference, in-school suspension, or 1-10 days out-of-school suspension.

~~Subsequent Offense:~~ In-school suspension, 1-180 days out-of-school suspension, or expulsion, and possible documentation in student's discipline record*.

Disrespectful or Disruptive Conduct or Speech (see Board policy AC if illegal harassment or discrimination is involved) – Verbal, written, pictorial or symbolic language or gesture that is directed at a staff member **any person** that is in violation of district policy or is otherwise rude, vulgar, defiant, or considered inappropriate to public in educational settings or that materially and substantially disrupts classroom work, school activities or school functions. Students will not be disciplined for speech in situations where it is protected by law.

First Offense:	Principal/Student conference, detention , in-school suspension, or 1-10 days out-of-school suspension.
Subsequent Offense:	Detention , in-school suspension, 1-180 days out-of-school suspension, or expulsion, and documentation in student's discipline record*.

~~**Disruptive Speech or Conduct** – Conduct or verbal, written, pictorial or symbolic language, that materially and substantially disrupts classroom work, school activities, school functions, or participating in or inciting a disruption.~~

Dress Code Violations – Violations of Board policy JFCA or procedure JFCA-AP.

First Offense:	Principal/Student conference, in-school suspension, or 1-10 days out-of-school suspension.
Subsequent Offense:	In-school suspension, 1-180 days out-of-school suspension, or expulsion, and possible documentation in student's discipline record*.

Drugs/Alcohol (see Board policies JFCH and JHCD)

1. Possession, sale, purchase or distribution of any over-the-counter drug, herbal preparation or imitation drug or herbal preparation.

First Offense:	In-school suspension or 1-180 days out-of-school suspension.
Subsequent Offense:	1-180 days out-of-school suspension or expulsion.

2. Possession and/or Use-The presence upon school property, or attendance at any school function with the possession of or the "being under the influences of," or soon after consuming alcohol, narcotic drugs or substances, unauthorized inhalants, unauthorized prescription drugs, counterfeit drugs, **imitation controlled substances** or drug-related

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paraphernalia, including controlled substances and illegal drugs defined as substances identified under schedules I, II, III, IV or V in section 202(c) of the Controlled Substances Act.

First Offense:	In-school suspension, 1-180 days out-of-school suspension, notification to law enforcement officials, and documentation in student's discipline record.
Subsequent Offense:	1-180 days out-of-school suspension or eExpulsion, notification to law enforcement officials, and documentation in student's discipline record.

- Sale, purchase or distribution of any prescription drug, alcohol, narcotic substance, unauthorized inhalants, counterfeit drugs, imitation controlled substances and/or drug-related paraphernalia, including controlled substances and illegal drugs defined as substances identified under schedules I, II, III, IV or V in section 202(c) of the Controlled Substances Act.

First Offense:	11-180 days out-of-school suspension or expulsion, notification to law enforcement officials, and documentation in student's discipline record.
Subsequent Offense:	1-180 days out-of-school suspension or expulsion.

Extortion – Threatening or intimidating any student person for the purpose of obtaining money or anything of value.

First Offense:	Principal/Student conference, detention, in-school suspension, or 1-10 days out-of-school suspension.
Subsequent Offense:	In-school suspension, 1-180 days out-of-school suspension, or expulsion, and possible documentation in student's discipline record*.

Failure to Meet Conditions of Suspension – Coming within 1,000 feet of any public school in the district while on suspension for an offense that requires reporting to law enforcement or for an act of school violence or drug-related activity defined by district policy as a serious violation of the district's discipline policy. See the section of this regulation titled, "Prohibition against Being on or near School Property during Suspension."

In determining whether to suspend or expel a student, consideration shall be given to whether the student poses a threat to the safety of any child or school employee and whether the student's

presence within 1,000 feet of the school is disruptive to the educational process or undermines the effectiveness of the school's discipline policy.

First Offense:	Verbal warning, detention, in-school suspension, 1-180 days out-of-school suspension, or expulsion.
Subsequent Offense:	Verbal warning, detention, in-school suspension, 1-180 days out-of-school suspension, or expulsion.

False Alarms (see also "Threats or Verbal Assault") – Tampering with emergency equipment, setting off false alarms, making false reports; communicating a threat or false report for the purpose of frightening; or disturbing people, disrupting the educational environment or causing the evacuation or closure of school property.

First Offense:	Restitution. Principal/Student conference, detention , in-school suspension, 1-180 days out-of-school suspension, or expulsion, and possible documentation in student's discipline record* ; immediate report to law enforcement.
Subsequent Offense:	Restitution. In-school suspension, 1-180 days out-of-school suspension, or expulsion, and possible documentation in student's discipline record* ; immediate report to law enforcement.

Fighting (see also, "Assault") – Mutual combat in which both parties have contributed to the conflict either verbally or by physical action.

First Offense:	Principal/Student conference, detention , in-school suspension, or 1-180 days out-of-school suspension, and possible documentation in student's discipline record* .
Subsequent Offense:	In-school suspension, 1-180 days out-of-school suspension, or expulsion, and possible documentation in student's discipline record* .

Gambling – The wagering, betting or risking money or other stakes on a school-related activity or event ~~and the act of gambling while on school property.~~ **Betting on an uncertain outcome, regardless of stakes; engaging in any game of chance or activity in which something of real or symbolic value may be won or lost.** Gambling includes, but is not limited to, betting on outcomes of activities, assignments, contests and games.

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First Offense:	Principal/Student conference, loss of privileges, detention , in-school suspension, or 1-180 days out-of-school suspension.
Subsequent Offense:	In-school suspension; or 1-180 days out-of-school suspension; notification to law enforcement officials, and possible documentation in student's discipline record* .

Gang-Related Activity – The participation of students in gangs, hate groups or cults is forbidden in the schools. Evidence of participation in gangs, hate groups or cults may include, but is not limited to, wearing gang colors, clothing or jewelry; tagging, wearing or drawing gang symbols and signs; speaking, giving or displaying gang language, symbols or emblems, etc. Gang "want-to-bes," as well as actual members, may be considered to be participants in gangs, hate groups or cults. **As used herein, the phrase "gang-like activity" shall mean any conduct engaged in by a student 1) on behalf of any gang; 2) to perpetuate the existence of any gang; 3) to effect the common purpose and design of any gang; or 4) to represent a gang affiliation, loyalty or membership in any way while on school grounds or while attending a school function. These activities include recruiting students for membership in any gang and threatening or intimidating other students or employees to commit acts or omissions against his/her will in furtherance of the common purpose and design of any gang. For purposes of district policy, the term "gang" shall be defined as any ongoing organization, association or group of three (3) or more persons, whether formal or informal, having as one of its primary activities the commission of a criminal act, which has a common name or common identifying sign or symbol, whose members individually or collectively engage in or have engaged in a pattern of gang activity.**

First Offense:	Principal/Student conference, in-school suspension or 1-180 days out-of-school suspension; notification of law enforcement and possible documentation in student's discipline record* .
Subsequent Offense:	In-school suspension; or 1-180 days out-of-school suspension; notification of law enforcement officials and possible documentation in student's discipline record.

Hazing (see Board policy JFCF) – Any activity that a reasonable person believes would negatively impact the mental or physical health or safety of a student or put the student in a ridiculous, humiliating, stressful or disconcerting position for the purposes of initiation, affiliation, admission, membership or maintenance of membership in any group, class, organization, club or athletic team including, but not limited to, a grade level, student organization or school-sponsored activity. Hazing may occur even when all students involved are willing participants.

First Offense:	In-school suspension or 1-180 days out-of-school suspension.
Subsequent Offense:	1-180 days out-of-school suspension or expulsion.

Incendiary Devices – Possessing, displaying or using matches, lighters or other devices used to start fires unless required as part of an educational exercise and supervised by district staff.

First Offense:	Confiscation. Warning, principal/student conference, detention, or in-school suspension.
Subsequent Offense:	Confiscation. Principal/Student conference, detention, in-school suspension, or 1-10 days out-of-school suspension.

Insubordination – The refusal to obey legal orders and directives, as issued by voice command or by written policy or procedure, by the school district's administrators, teachers and employees.

First Offense:	Principal/Student conference, in-school suspension, or 1-180 days out-of-school suspension and possible documentation in student's discipline record* .
Subsequent Offense:	In-school suspension, 1-180 days out-of-school suspension, or expulsion, and possible documentation in student's discipline record* .

Public Display of Affection – Physical contact that is inappropriate for the school setting, including, but not limited to, kissing and groping.

First Offense:	Principal/Student conference, detention , in-school suspension, 1-180 days out-of-school suspension, and possible documentation in student's discipline record* .
Subsequent Offense:	Detention , in-school suspension, 1-180 days out-of-school suspension, or expulsion, and possible documentation in student's discipline record* .

Sexual Activity – Acts of sex or simulated acts of sex including, but not limited to, intercourse or oral or manual stimulation.

First Offense:	Principal/Student conference, detention , in-school suspension, or 1-180 days out-of-school suspension.
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Subsequent Offense:	Detention, in-school suspension, 1-180 days out-of-school suspension, or expulsion.
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Sexual Harassment (see Board policy AC and regulation AC-R)

1. Use of **unwelcome** verbal, written or symbolic language ~~that is sexually harassing~~ based on gender or of a sexual nature. Examples of sexual harassment include, but are not limited to, sexual jokes or comments, requests for sexual favors and other unwelcome sexual advances.

First Offense:	Principal/Student conference, detention , in-school suspension, 1-180 days out-of-school suspension, or expulsion, and possible documentation in student's discipline record* .
Subsequent Offense:	In-school suspension, 1-180 days out-of-school suspension, or expulsion, and possible documentation in student's discipline record* .

2. **Unwelcome physical** contact ~~that is sexually harassing~~ based on gender or of a sexual nature. Examples include, but are not limited to, touching or fondling of the genital areas, breasts or undergarments, regardless of whether or not the touching occurred through or under clothing.

First Offense:	In-school suspension, 1-180 days out-of-school suspension, or expulsion, and possible documentation in student's discipline record* .
Subsequent Offense:	1-180 days out-of-school suspension or expulsion, and documentation in student's discipline record.

Sexually Explicit, Vulgar or Violent Material – Students may not possess or display, electronically or otherwise, sexually explicit, vulgar or violent material including, but not limited to, pornography or depictions of nudity, violence or explicit death or injury. This prohibition does not apply to curricular material that has been approved by district staff for its educational value. Students will not be disciplined for speech in situations where it is protected by law.

First Offense:	Confiscation. Principal/Student conference, detention, in-school suspension, or 1-180 days out-of-school suspension.
Subsequent Offense:	Confiscation. Detention, in-school suspension, 1-180 days out-of-school suspension, or expulsion.

Tardiness – The late arrival of a student to class or school event due to student or parent negligence.

First Offense:	Parent/Guardian notification, principal/student conference, assignment of detention.
Subsequent Offense:	Assignment of detention, in-school suspension, or 1-180 days out-of-school suspension, and possible documentation in the student's discipline record*.

Technology Misconduct (see Board ~~policy~~ policies EHB and regulation ~~EHB-RKKB~~ and procedure EHB-AP)

- Attempting, regardless of success, to: gain unauthorized access to a technology system or information; to use district technology to connect to other systems in evasion of the physical limitations of the remote system; to copy district files without authorization; to interfere with the ability of others to utilize district technology; to secure a higher level of privilege without authorization; to introduce computer viruses, hacking tools, or other disruptive/destructive programs onto or using district technology; or to evade or disable a filtering/blocking device.

First Offense:	Restitution. Principal/Student conference, loss of user privileges, detention, in-school suspension, or 1-180 days out-of-school suspension, suspension or loss of user privileges, possible notification of law enforcement and documentation in student's discipline record*.
Subsequent Offense:	Restitution. Loss of user privileges, 1-180 days out-of-school suspension, or expulsion, suspension or loss of user privileges, possible notification of law enforcement and documentation in student's discipline record*.

- Using, displaying or turning on pagers, phones, personal digital assistants, personal laptops or any other electronic communication devices during the regular school day, including instructional class time, class change time, breakfast or lunch.

First Offense:	Confiscation, principal/student conference, detention, or in-school suspension.
Subsequent Offense:	Confiscation, principal/student conference, detention, in-school suspension, 1-180 days out-of-school suspension, or expulsion.

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3. Violation other than those listed in "a" (1), (2) or of Board policy EHB and regulation EHB-~~R~~procedure EHB-AP, administrative procedures or netiquette rules governing student use of district technology.

First Offense:	Restitution. Principal/Student conference, detention, in-school suspension, or 1-180 days out-of-school suspension, suspension or loss of user privileges, possible notification of law enforcement and documentation in student's discipline record* .
Subsequent Offense:	Restitution. Loss of user privileges, in-school suspension, 1-180 days out-of-school suspension, or expulsion, suspension or loss of user privileges, possible notification of law enforcement and documentation in student's discipline record* .

4. Use of audio or visual recording equipment in violation of Board policy KKB.

First Offense:	Confiscation. Principal/Student conference, detention, or in-school suspension.
Subsequent Offense:	Confiscation. Principal/student conference, detention, in-school suspension, or 1-10 days out-of-school suspension.

Theft – Theft, attempted theft or knowing possession of stolen property.

First Offense:	Return of or restitution for property. Principal/Student conference, detention, in-school suspension, or 1-180 days out-of-school suspension, possible notification to law enforcement officials, and possible documentation in student's discipline record* .
Subsequent Offense:	Return of or restitution for property. 1-180 days out-of-school suspension or expulsion, notification to law enforcement officials, and documentation in student's discipline record.

Threats or Verbal Assaults – Verbal, written, pictorial or symbolic language or gestures that create a reasonable fear of physical injury or property damage.

First Offense:	Principal/Student conference, detention, in-school suspension, 1-180 days out-of-school suspension, or expulsion.
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Subsequent Offense:	In-school suspension, 1-180 days out-of-school suspension, or expulsion.
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Tobacco--Possession and Use

1. Possession of any tobacco products on school grounds, school transportation or at any school activity.

First Offense:	Confiscation of tobacco product. Principal/Student conference, detention , or in-school suspension; confiscation of tobacco product, possible notification of law enforcement officials.
Subsequent Offense:	Confiscation of tobacco product. Detention, i n-school suspension, or 1-10 days out-of-school suspension; confiscation of tobacco product, possible notification of law enforcement officials.

2. Use of any tobacco products on school grounds, school transportation or at any school activity.

First Offense:	Confiscation of tobacco product. Principal/Student conference, detention, i n-school suspension, or 1-3 days out-of-school suspension; confiscation of tobacco product, possible notification of law enforcement officials.
Subsequent Offense:	Confiscation of tobacco product. 1-10 days out-of-school suspension; confiscation of tobacco product, possible notification of law enforcement officials.

Truancy (see Board policy JEDA and procedures JED-API and JED-AP2) – Absence from school without the knowledge and consent of parents/guardians and/or the school administration; excessive non-justifiable absences, even with the consent of parents/guardians.

First Offense:	Principal/Student conference, detention , or 1-3 days in-school suspension.
Subsequent Offense:	Detention or 3-10 days in-school suspension.

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Unauthorized Entry – Entering or assisting any other person to enter a district facility, office, locker, or other area that is locked or not open to the general public; entering or assisting any other person to enter a district facility through an unauthorized entrance; assisting unauthorized persons to enter a district facility through any entrance.

First Offense:	Principal/Student conference, detention, in-school suspension, or 1-180 days out-of-school suspension.
Subsequent Offense:	1-180 days out-of-school suspension or expulsion.

Vandalism (see Board policy ECA) – Willful damage or the attempt to cause damage to real or personal property belonging to the school, staff or students.

First Offense:	Restitution. Principal/Student conference, detention, in-school suspension, 1-180 days out-of-school suspension, or expulsion, possible notification to law enforcement officials, and possible documentation in student's discipline record*.
Subsequent Offense:	Restitution. In-school suspension, 1-180 days out-of-school suspension, or expulsion, notification to law enforcement officials, and documentation in student's discipline record.

Weapons (see Board policy JFCJ)

1. Possession or use of any instrument or device **weapon as defined in Board policy**, other than those defined in 18 U.S.C. § 921, 18 U.S.C. § 930(g)(2) or § 571.010, RSMo, which is customarily used for attack or defense against another person; any instrument or device used to inflict physical injury to another person.

First Offense:	In-school suspension, 1-180 days out-of-school suspension, or expulsion, possible notification to law enforcement officials, and possible documentation in student's discipline record*.
Subsequent Offense:	1-180 days out-of-school suspension or expulsion, possible notification to law enforcement officials, and documentation in student's discipline record.

2. Possession or use of a firearm as defined in 18 U.S.C. § 921 or any instrument or device defined in § 571.010, RSMo. or any instrument or device defined as a dangerous weapon in 18 U.S.C. § 930(g)(2).

First Offense:	One (1) calendar year suspension or expulsion, unless modified by the Board upon recommendation by the superintendent, notification to law enforcement officials, and documentation in student discipline record.
Subsequent Offense:	Expulsion.

3. Possession or use of any explosive device is included in this policy.

First Offense:	One (1) calendar year suspension or expulsion, notification to law enforcement officials, and documentation in student discipline record.
Subsequent Offense:	Expulsion.

* ~~Any offense which constitutes a "serious violation of the district's discipline policy" as defined in Board policy JGF will be documented in the student's discipline record.~~

* * * * *

Note: The reader is encouraged to review administrative procedures and/or forms for related information in support of this policy area.

Adopted: 08/09/1993

Revised: 03/18/2002; 10/20/2003; 09/18/2006;

Cross Refs: AC, Prohibition Against Illegal Discrimination and Harassment
 ECD, Traffic and Parking Controls
 EGAAA, Reproduction of Copyrighted Materials
 GBH, Staff/Student Relations

MSIP Refs: 6.6

Legal Refs: §§ 160.261, 167.161 - .171, 171.011, RSMo.
 Safe and Drug-Free Schools and Communities Act, P.L. 107-110

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Beussink v. Woodland R-IV School District, 30 F.Supp.2d 1175 (E.D. Mo. 1998)

Cape Girardeau School District No. 63, Cape Girardeau, Missouri

EXPLANATION: 2003 Update

MSBA has separated out the consequences of "notification of law enforcement" and "documentation in student's discipline record" for clarity. We added the offenses of bullying, dishonesty, hazing and unauthorized entry. We have also created offenses for threats and combined disparaging or demeaning language, disrespectful or disruptive conduct or speech, and disruptive speech or conduct for clarity.

Districts should carefully examine this regulation with the following considerations in mind:

1. Do the consequences for the offenses accurately reflect the district's philosophy?
2. Are there additional consequences that do not disrupt the learning process that should be added? For example, some districts have alternative schools or Saturday schools as consequences.
3. What changes will need to be made to the district's handbooks after these policy revisions are adopted?

ADDITIONAL COMMENTS:

MSBA encourages the district to review the offense "Gang Activity." In Stephenson v. Davenport Community School District, 110 F.3d 1303 (8th Cir. 1997), the district had a policy that called for suspension of students for gang-related activities such as "the display of colors, symbols, signs, etc.." Stephenson tattooed a small cross between her thumb and forefinger that the district considered a "gang symbol" and when Stephenson refused to remove the tattoo she was suspended. The court found the district policy unconstitutional because prohibition of "gang symbols" without further explanation was too vague to actually notify students of what was prohibited. MSBA recommends using the phrase "gang-related activity" and providing a definition. A sample definition has been provided.

Notably, the district's policy is not more instructive than the policy in Stephenson and could likewise be challenged as unconstitutionally vague.

2004 Update

This policy was revised to reflect revisions in the law pursuant to Senate Bill 968 (2004) that require districts to have a policy that prohibits students suspended from school for 1) one of the crimes listed (see page 1 of this regulation) in § 160.261, RSMo., or 2) any act of violence or drug-related activity that constitutes a "serious violation of school discipline" as defined in policy JGF from coming within 1,000 feet of any school in the district, with a few listed exceptions. If the student violates this prohibition, he or she may receive an additional suspension or expulsion.

In addition, the policy was revised for clarity and to include detention as an available consequence.

2007 Update

Revised for consistency with policies and procedures concerning technology usage and attendance.

2008 Update

MSBA has revised this policy for clarity and to add new offenses districts have encountered. As always, districts are encouraged to examine this policy closely and customize the consequences as appropriate for the district according to community standards and district needs.

- 1. Reporting to Law Enforcement and Documentation in Student's Discipline Record – Information has been removed from these sections because it is repeated in greater detail in policy JGF and is quite lengthy. Please note that this information is required to be in district policy under the Safe Schools Act, so it should not be removed from both this regulation and JGF.**

Senate Bill 818 (2008) changed the list of offenses that school districts must report to law enforcement to add harassment under § 565.090, RSMo., and stalking under § 565.225, RSMo. If for some reason the district decides not to remove the language struck from this regulation under Reporting to Law Enforcement, the district should add these offenses to the list.

- 2. Academic Dishonesty – MSBA added this offense to this regulation at the request of several districts. MSBA had been hesitant to add academics to the student discipline code because the due process requirements for discipline differ from those for academics. Courts give school districts great latitude on academic decisions including grades, retention and credit. Courts give far less latitude on discipline matters, especially suspension. By putting academic behavior in the student discipline code, the**

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district risks blurring the line between academic penalties and disciplinary action. MSBA has only allowed for academic penalties as consequences in this sample regulation and encourages districts to do so as well. Extra hours of attendance at which students are provided tutoring or direct instruction would also be appropriate consequences.

- 3. Gambling – MSBA also added this offense at the request of many districts. Before adopting this language, districts should examine district-sponsored activities because some of them may inadvertently fall into the category of illegal gambling. Many school districts are surprised to learn that raffles sponsored by school districts are not legal. Raffles can only be conducted by religious or charitable organizations in Missouri under Section 29(f) of the Missouri Constitution. School districts are not considered "charitable" organizations.**
- 4. Incendiary Devices and Sexual Activity – Both offenses were added at the request of districts.**
- 5. Sexual Harassment – MSBA has removed technical language from the offense. In a civil lawsuit for sexual harassment against the district, a student would need to prove the actions of another student unreasonably interfered with the student's educational performance or created an intimidating, hostile or offensive educational environment. However, the district certainly can and should intervene long before the actions reach this level. Removing this language allows administrators to take preventive steps.**
- 6. Sexually Explicit, Vulgar or Violent Material – MSBA has received an increasing number of calls about students possessing pornography or nude pictures of other students or themselves on their cell phones. This offense was drafted primarily to address those situations, but includes other depictions that are inappropriate as well.**

Administrators should be careful when enforcing this prohibition because they could inadvertently discipline for possession of materials that are protected under the First Amendment or that are protected by §167.166.7, RSMo:

No employee of or volunteer in or school board member of or school district administrator of a public school or charter school shall direct a student to remove an emblem, insignia, or garment, including a religious emblem, insignia, or garment, as long as such emblem, insignia, or garment is worn in a manner that does not promote disruptive behavior.

7. **Technology Misconduct (Use of Audio or Visual Recording Equipment) – Policy KKB outlines the situations where students are allowed to use audio or visual recording equipment. Unfortunately, districts are experiencing situations where students are secretly recording (using cell phones and other devices) teachers, district staff and other students.**

District staff should be aware that it is not illegal or a criminal act for a student to record a conversation in which the student is a participant, even if the staff member conversed with is not aware that the conversation is being recorded. However, such behavior is rude and inappropriate at school, which is why this offense is necessary.

8. **Weapons – This offense has not been changed. MSBA has simply removed language that is repeated in more detail in another policy.**

MSBA recommends that copies of this document be routed to the following areas because the content is of particular importance to them. The titles on this list may not match those used by the district. Please forward copies to the district equivalent of the title indicated.

	Board Secretary		Business Office	X	Coaches/Sponsors
	Facility Maintenance		Food Service		Gifted
	Human Resources	X	Principals		Library/Media Center
	Health Services	X	Counselor		Special Education
	Transportation		Public Info/Communications	X	Technology

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CORPORAL PUNISHMENT AND USE OF REASONABLE PHYSICAL FORCE

~~Corporal punishment is the use of force by persons with the responsibility for care, discipline or safety of others, and is reasonably administered to maintain discipline in a school without causing substantial risk of death, physical or emotional injury, disfigurement or extreme pain.~~

~~Corporal punishment is permitted by recommendation of the principal (assistant principal), and is administered by the principal (assistant principal) only after other alternative forms of discipline have been attempted without effect.~~

~~Corporal punishment is administered by swatting the buttocks (one to four swats) with a paddle. Care is to be exercised by the principal to ensure that the administration of corporal punishment is safe and private, and that one certified employee witnesses the punishment. **No person employed by or volunteering on behalf of the Cape Girardeau School District No. 63 shall administer or cause to be administered corporal punishment upon a student attending district schools.**~~

District employees may, **however**, administer reasonable physical force without principal authorization in emergency situations. The administration of reasonable force by employees is justified when good order and discipline in or about the schools is compromised by the illegal or inappropriate actions of pupils or others. The actions of the employee are protected when it is reasonable that inaction may result in the physical injury to an employee or to a pupil, physical damage to school property, or the loss of a safe and orderly school learning environment.

* * * * *

Note: The reader is encouraged to check the index located at the beginning of this section for other pertinent policies and to review administrative procedures and/or forms for related information.

Adopted: 08/09/1993

Revised: 07/23/1998;

Legal Refs: §§ 160.261, 171.011, 563.061, RSMo.

Cape Girardeau School District No. 63, Cape Girardeau, Missouri

EXPLANATION:

Revised because the district no longer uses corporal punishment.