

**SECTION 300**  
**PERSONNEL POLICIES**

SECTION 300  
PERSONNEL POLICIES  
APPROVED: April 2024

## SECTION 300 – PERSONNEL POLICIES

3.01. PERSONEL GOALS AND OBJECTIVE .....	80
3.02. EQUAL EMPLOYMENT OPPORTUNITY .....	81
3.03. INDIAN AND VETERAN PREFERENCE POLICY .....	82
3.04. NEPOTISM .....	83
3.05. STAFF INVOLVEMENT IN DECISION-MAKING .....	84
3.06. EMPLOYMENT POSITIONS .....	85
3.07. POSITION VACANCY ANNOUNCEMENTS .....	87
3.08. POSITION RE-ADVERTISEMENT .....	88
3.09. EMPLOYMENT APPLICATION PROCEDURES .....	89
3.10. PERSONNEL HIRING .....	90
3.11. CRIMINAL HISTORY BACKGROUND CHECK AND CHARACTER INVESTIGATION .....	91
3.12. FALSIFICATION OR OMISSION OF APPLICATION INFORMATION .....	95
3.13. FORMER EMPLOYER AND REFERENCE CHECKS .....	96
3.14. NOTIFICATION TO APPLICANT OF EMPLOYMENT OFFER .....	97
3.15. NOTIFICATION TO APPLICANTS NOT SELECTED FOR EMPLOYMENT .....	98
3.16. TEMPORARY APPOINTMENTS .....	99
3.17. PERSONNEL PROBATION .....	100
3.18. PERSONNEL SUPERVISION .....	101
3.19. DEFINITION OF EMPLOYEE .....	102
3.20. PAY SCALE .....	103
3.21. TENURE .....	103
3.22. IN SERVICE AND PARAPROFESSIONAL TRAINING .....	104
3.23. SUBSTITUTE TEACHER TRAINING PLAN .....	105
3.24. CONTRACT EMPLOYEE RENEWAL/NONRENEWAL .....	106
3.25. EMPLOYEE ORIENTATION .....	107
3.26. EMPLOYEE SUPERVISOR .....	108
3.27. EMPLOYEE SUPERVISOR POLICY ADMINISTRATION .....	109
3.28. SUPERVISOR ROLE IN EMPLOYEE GRIEVANCES .....	110
3.29. SUPERVISOR EVALUATION OF EMPLOYEE PERFORMANCE .....	110
3.30. PERSONNEL EVALUATION .....	111
3.31. EMPLOYEE PERFORMANCE EVALUATION OUTCOME GRIEVANCES .....	114
3.32. EMPLOYEE PERSONNEL FILE MAINTENANCE AND ACCESS .....	115
3.33. COMPENSATION GUIDES AND CONTRACTS .....	116
3.34. POSITION CLASSIFICATION .....	118
3.35. QUALIFICATIONS .....	119
3.36. POSITION RECLASSIFICATION .....	120
3.37. HEALTH EXAMINATION .....	121
3.38. COMPENSATORY TIME AND OVERTIME.....	122



3.39. STAFF MEETINGS .....	124
3.40. CONSULTING .....	125
3.41. LEAVES AND ABSENCES .....	126
3.42.a ANNUAL LEAVE .....	127
3.42.b PERSONAL LEAVE .....	129
3.43. JURY LEAVE .....	130
3.44. SICK LEAVE .....	131
3.45. SPIRITUAL LEAVE .....	132
3.46. EDUCATIONAL LEAVE .....	133
3.47. MATERNITY/PATERNITY LEAVE .....	134
3.48. FAMILY CARE LEAVE .....	135
3.49. MILITARY LEAVE .....	136
3.50. BEREAVEMENT LEAVE .....	137
3.51. HOLIDAYS .....	138
3.52. PROFESSIONAL PUBLISHING .....	139
3.53. LABOR, TEACHER, OR EMPLOYEE UNIONS .....	140
3.54. POLITICAL ACTIVITY .....	141
3.55. NEWS RELEASES .....	142
3.56. CONFLICT OF INTEREST .....	143
3.57. PUBLIC APPEARANCES .....	144
3.58. TUTORING PAY .....	145
3.59. GIFTS AND SOLICITATION .....	146
3.60. NON-SCHOOL EMPLOYMENT .....	147
3.61. COMMUNITY INVOLVEMENT .....	148
3.62. EMPLOYEE PROMOTION .....	149
3.63. EMPLOYEE TRANSFER .....	150
3.64. REDUCTION IN-FORCES .....	151
3.65. PERSONNEL RESIGNATION .....	152
3.66. RE-EMPLOYMENT .....	153
3.67. PERSONNEL TIME SCHEDULE .....	154
3.68. EMPLOYEE CODE OF PROFESSIONAL ETHICS .....	155
3.68.a INAPPROPRIATE CONDUCT .....	156
3.69. EMPLOYEE DISCIPLINE .....	157
3.70. GRIEVANCE PROCESS .....	160
3.71. EMPLOYEE ASSISTANCE PLAN OPTIONS (EAP) .....	162
3.72. SEXUAL HARASSMENT .....	163
3.73. TELEPHONES .....	164
3.74. DRUG POLICY .....	165
3.75. CONFIDENTIALITY AND PROTECTION OF CONFIDENTIAL INFORMATION .....	181



### **3.01 PERSONNEL GOALS AND OBJECTIVES**

The School believes in keeping the Community informed and will attempt to understand and remain informed as to the Community attitudes and Community hopes for the School. The School has the responsibility to teach and develop knowledge, skills, and attitudes that aid in supporting and strengthening the family unit. The School Personnel will create a safe climate in which the identity and dignity of its students are recognized and respected. The goal and objective of these Personnel Policies is to focus on the students of *Wounded Knee District School*, not on the employment opportunities at the School.

### **3.02 EQUAL EMPLOYMENT OPPORTUNITY**

Race, creed, color, national origin, religion, gender, gender identity, sexual orientation, age, marital status, physical or mental disability, genetic information or prior civil rights activity should not be a factor in the hiring, assignment, reassignment, promotion, demotion, or dismissal of personnel at *Wounded Knee District School*, with the exception that the Indian preference shall apply. However, *Wounded Knee District School* is an exempt employer under Title VII of the 1964 Civil Rights Act, as amended, and reserves the right to defend itself against any and all claims accordingly.

### 3.03 INDIAN AND VETERAN PREFERENCE POLICY

In accordance with the provisions of federal and tribal law, particularly Public Law 93-638 and Chapter 17 of the Oglala Sioux Tribal Law & Order Code; and all other qualifications being relatively equal, *Wounded Knee District School* shall, to the extent feasible, and consistent with the efficient performance of the school, give preference in employment and training opportunities to qualified Indians.

In determining level of qualification, *Wounded Knee District School* shall assign preference in the following descending order, if the applicant chooses to self-identify as such:

1. Enrolled member of the Oglala Sioux Tribe.
2. Descendant of an Oglala Sioux Tribal member enrolled in another federally recognized Tribe.
3. An enrolled Indian, not a member of the Oglala Sioux Tribe, but is married to such a member.
4. An enrolled Indian who is a member of a federally-recognized (by the BIA) Tribe other than the Oglala Sioux Tribe.

An individual must be capable of proving their membership in a federally-recognized Indian tribe by providing an enrollment number, enrollment certificate, or other acceptable means of showing membership as established under tribal law.

Pursuant to the Vietnam Era Veterans Rehabilitation Act and the Uniform Services Employment and Reemployment Act (USEERA), *Wounded Knee District School* shall also give preference in selection and appointment to veterans and disabled veterans of the Armed Forces of the United States, all other things being equal and Indian preference being considered first. In determining level of qualification, *Wounded Knee District School* shall, if the applicant chooses to self-identify as such, exercise preference in the following descending order:

1. Veteran with service-connected disability.
2. Veterans who served in times of combat.
3. Veterans who served in non-combat periods.

An individual must be capable of proving their veteran status through a DD-214 document from the Veteran's Administration. DD-214 must show Honorable Discharge. A veteran with a general or dishonorable discharge will not be granted the Veteran preference.



### **3.04 NEPOTISM**

Hiring the best qualified applicant is the School's primary objective. No person shall be employed or promoted to a position when he or she would be immediately supervising or receiving immediate supervision from a member of his or her immediate family. Immediate supervision is defined as the first level above or below the person involved. "Immediate family member" is as defined in the Oglala Sioux Tribe's nepotism/personnel policies. "Immediate Family Member" shall mean an individual's spouse, child (including biological, hunka, legally adopted, and step children), siblings (including biological, hunka, legally adopted and step), parent (including biological, hunka, legally adopted, and step parents), grandparent (including hunka, biological, legally adopted and step grandparents).

### **3.05 STAFF INVOLVMENT IN DECISION-MAKING**

The Principal is responsible for ensuring that decision-making processes are designed to incorporate the advice of employees in matters that affect their conditions of employment, program and evaluations, educational planning, community involvement, school climate, student activities, and other related developmental activities. Principal may consult with faculty or staff organizations as a way of obtaining such advice. the principal shall form a Leadership Team to involve ongoing staff involvement in planning and decision-making.

### 3.06 EMPLOYMENT POSITIONS

The *Wounded Knee District School* Board (hereinafter Board) has the authority to establish positions required to provide services to students and other required functions of *Wounded Knee District School*. The Board has the final authority on the approval of ALL EMPLOYEE positions for WKDS.

Position descriptions shall be approved by the Board upon recommendation by or consultation with an immediate supervisor and Principal before advertisement of the position.

Position descriptions will be prepared for all positions in the School to serve as an aid for identifying and delegating responsibilities, coordination and division of work, and prevention of duplication of efforts. The position description shall describe the overall general and specific duties and responsibilities, and the qualifications for the position, ensuring that licensing and/or certification or other requirements are included. These descriptions are only guides and are not all-inclusive of a person's abilities or the requirements for fulfilling their positions; these position descriptions are not intended to be used as work limitations or restrictions, and the Board may assign additional duties as required by the needs of the school or principal. Exempt employees, including teachers, may be required on occasion to work at school activities and functions beyond the normal school day. This work is considered to be a part of an exempt employee's regular duties. No compensatory or overtime pay should be expected for such extra hours for the exempt employee, as this is part of your employment.

Position descriptions should include the following:

- (1) Effective Date: This is the date the description was amended or implemented.
- (2) Title and Department: The employee's title should be short and simple yet as descriptive as possible. The applicable department should be listed.
- (3) Supervisor of employee.
- (4) Summary of Functions: This should be a one or two sentence statement encompassing the basic function and objectives of this position.
- (5) Major Duties and Responsibilities: This section should describe with specificity the major duties and/or responsibilities for performing the job.
- (6) School Relationships: This section should outline the relationships between this position and other key positions including supervisors and positions supervised. This statement should also include the requirements for coordination with other positions or departments.
- (7) Experience, Qualification, or Education: If required, indicate the minimum requirements necessary to be able to fill the position. For example, this can include a description of the minimum years of experience or accomplishments in specific job categories or completion of degrees from post-secondary institutions, technical or trade schools necessary to perform this job.
- (8) The pay scale to which the position is classified.
- (9) Employment status (exempt, non-exempt, part-time, full-time, temporary etc.)



The Principal, in consultation with the Human Resource Managers and others, including, if applicable, supervisors, are responsible for initiating drafts or changes to existing position descriptions when applicable. Whenever practical, supervisors should interact with employees in developing or reviewing descriptions for accuracy and clarity. Job descriptions should mirror the growth and changes of the School. Supervisors should not fall into a routine of allowing individuals or their operations to be governed by preexisting job descriptions when changes would benefit the School.

### **3.07 POSITION VACANCY ANNOUNCEMENTS**

All full-time and part-time positions of *Wounded Knee District School*, except those filled by lateral transfers from within the School (which the School reserves the right to do in the best interests of the School), will be advertised for a minimum of two weeks. Vacancy announcements shall be posted in School buildings throughout the School service area and may be submitted to local, state and national placement agencies or utilize other methods deemed appropriate by the Principal or designated administrator. WKDS Board will approve and authorize all vacancy announcements.

Hiring and selection procedures will be strictly in accordance with job qualifications.

*Section 300 – Personnel Policies.*

**3.08 POSITION RE-ADVERTISEMENT**

The School may re-open position advertisements or extend the closing date of position advertisements in the event that an insufficient number of suitable applicants have applied for the position, or the School is not satisfied with the quality of the pool of applicants. The decision to re-advertise shall be made either by the Board or Principal in consultation with the Board.



### **3.09 EMPLOYMENT APPLICATION PROCEDURES**

The Principal is responsible for the recruitment and making recommendations to the Board as the best personnel for the school. Anyone who believes he/she is qualified for a vacant position may submit a completed application to the Principal or designated administrator. Any vacancy announcements shall clearly set forth that before an applicant can be permanently employed with the School, the applicant shall be subject to a criminal history background check. Failure to pass a criminal background check shall make one's employment contract null and void, and/or shall constitute grounds for immediate dismissal, if employment has already begun.

The Principal or his or her designee is responsible for monitoring the employee application process to ensure that application timelines are adhered to by applicants, and for reviewing employee applications to ensure that applications are complete. Applications for employment which do not include all requested information, references, and other documentation will not be considered in the review of qualified applicants for positions at the school.

All applications, including applications for temporary or volunteer positions shall contain a question asking whether the applicant has ever been arrested, charged, or convicted of a crime involving a child, a crime of violence, sexual assault, sexual molestation, child exploitation, sexual contact or prostitution, or crimes against other persons, an offense involving a child victim, a sex crime, or a drug felony. The application may require the applicant to describe the disposition of the arrest or charge. False or misleading applications shall constitute grounds for declaring the employee's contract null and void, and/or for the immediate dismissal of the employee or volunteer. The School shall adjudicate such findings pursuant to 25 CFR 63.19.

Each applicant is required to complete the Debarment Certification form shown in the appendices. The application shall also inquire as to the applicant's residences within the last five years.

The School shall obtain from the prospective employee his/her signature agreeing that the employee has been informed of the School's obligation to perform a background check, granting permission for the background check to be performed, and authorizing the school to obtain a copy of the employee's criminal history report. Employers and adjudicating officials must not release the actual background investigative report to an applicant, volunteer, or employee. However, they may issue a written summary of the derogatory information. The employee shall also be informed that s/he has the right to obtain a copy of the criminal history report from the originating (Federal, State, or Tribal) agency and the right to challenge the accuracy and completeness of any information contained in the report by commenting, explaining, denying, or refuting the information.

### 3.10 PERSONNEL HIRING

At the earliest possible date following the closing date of a job announcement, the Human Resource Manager will submit applications to the interview committee. The interview committee may be composed of the Principal, Department Manager/Department Supervisor, or his or her designee, of the position to be filled, and one or more Board members. The Principal shall determine appropriate evaluation procedures for job announcements advertised as opened until filled.

The purpose of the committee will be to interview applicants based solely on the information contained in the application and other documentation provided by the applicant, as well as background checks, references, interviews, and other information made available to the committee in the ordinary course of the process. The interview committee will be responsible to interview qualified applicant and the Principal/HR Manager will take the recommendation to the board for final approval

Applications that may not be rated are:

- a. Applications not meeting job qualifications as indicated in job advertisement;
- b. Applications that are not signed by the applicant;
- c. Applications received after job advertisement closing date; and
- d. Applications of former *Wounded Knee District School* employees who were terminated for disciplinary reasons within one year from date of application.
- e. Applications of individuals who have failed the criminal history background check, or who have failed to comply with assistance offered by the school after failing the pre-employment drug and alcohol test.

All applications which meet qualifications will be evaluated and rated based on established criteria. Applicants with the highest overall qualifications may be selected for interviews.

1. Applicants with the highest qualifications shall have at least one interview.
2. The Board will interview all qualified applicants.
- 3.. There will be no interviews conducted by telephone or video-conference unless an in-person interview is waived by the Board.

If, in the opinion of the Board, applicants interviewed for a position are not suitable for the position, the Board may re-advertise the position or require that other applicants screened for the position be scheduled for an interview.

A background check and/or employment verification shall be initiated by the Principal or his/her designee. The Principal shall follow the provisions set forth in this Manual when performing the background check. The contract with the employee, even if signed by the parties, shall not be considered executed, valid or enforceable until all results are returned regarding the background check. The legal effect of negative results coming in after the contract has been signed is that the

*April 2024*

employee's contract shall be considered null and void, as if no employment relationship exists between the employee and *Wounded Knee District School*. The Board has the final decision on all appointments for employment at *Wounded Knee District School*.

The Board reserves the right to select alternate(s) who shall fill a position in the event the selected person declines the job offer or fails to fulfill her/his probation period or becomes ineligible for some other reason.



### 3.11 CRIMINAL HISTORY BACKGROUND CHECK AND CHARACTER INVESTIGATION

All information obtained in a background investigation is subject to privacy requirements imposed by Federal, state, or tribal agencies from whom the information is obtained. The Principal or his/her designee is responsible for making certain that these privacy requirements are complied with by the School. The information shall be in the possession of the Human Resource Managers. This information should only be released to the employee if permitted by law and only to those involved in the determination of the employee's initial or continued employment.

*Wounded Knee District School* must complete a criminal history background check before an employee may be hired without condition and a character investigation on any individual who *Wounded Knee District School* considers hiring. This provision includes volunteers who work in close contact with children or have regular contact or control over children.

This criminal history background check shall be based on a set of the employee's fingerprints obtained by a Human Resource Managers and on other identifying information. The background check shall be conducted through the Identification Division of the Federal Bureau of Investigation and through the State and Tribal criminal history repositories of all States and Tribal Nations that a prospective employee lists as current or former residences in an employment application and questionnaire. The Principal or his/her designee shall be responsible for initiating the check through the personnel program of the applicable Federal agencies. The background check should cover, at a minimum, the applicant's past five years.

An individual may be denied employment or terminated from employment if the individual has been convicted of an offense involving a child victim, a sex crime, or a drug felony. A conviction of other crimes may be considered if it bears on the employee's fitness for the safety and well-being of children. An individual shall be denied employment if the individual was found guilty of or entered into a plea of nolo contendere or guilty to one felony or two misdemeanors and any offenses under Federal, State, or tribal law involving crimes of violence; sexual assault, sexual molestation, child exploitation, sexual contact or prostitution; or crimes against persons Federal law or regulation supersedes these policies, in the event Federal law or regulation changes the prohibitions on hiring, and these policies shall be deemed to be conformed to such Federal law and regulation.

If the background investigation reveals that a potential employee has been charged with one of the offenses listed above, or a current employee is charged with one of the offenses listed above and the charge has not been disposed of, the employer may deny the applicant employment until the charge is resolved, an employer may suspend an employee from having contact with children while on the job until the charge is resolved, the employer may detail or reassign the employee to duties which do not involve contact with children until the charge is resolved, or the employer may place the employee on leave with pay until the charge is resolved.

An individual may be denied employment or disqualified from continued employment or a volunteer position at the School, if it is determined that:

- (1) The individual's misconduct or negligence interferes with or affects a current or prior employer's performance of duties and responsibilities;
- (2) The individual's criminal or dishonest conduct affects the individual's performance or the performance of others;
- (3) The individual made an intentional false statement, deception or fraud on an examination or in obtaining employment;
- (4) The individual's alcohol or substance abuse is of a nature and duration that suggests the individual could not perform the duties of the position or would directly threaten the property or safety of others;
- (5) The individual has illegally used narcotics, drugs, or other controlled substances without evidence of substantial rehabilitation;

This list is not exhaustive and in no way limits disciplinary action otherwise available within this policies and procedure manual.

#### **Character Investigation**

The Principal shall establish a list which identifies those positions which permit contact with or control over Indian children. This list shall be updated yearly.

The Principal shall appoint adjudicating officials. These persons shall serve as the adjudicating officials until they are terminated, resign, or the Principal in his/ her discretion finds it necessary to appoint another adjudicating official. In the event that the adjudicating officials shall appear to the Principal to have a conflict because of the potential applicant involved, the Principal shall appoint an individual to serve as a replacement adjudicating official for the conflicting case.

The School must make certain that the adjudicating officials are well-qualified and trained; that if the adjudicating official is not well-trained that the official is supervised by an individual in the school who is experienced in this area until the adjudicating officials are sufficiently trained; and that the adjudicating officials are familiar with the laws, regulations, and criteria involved in making suitability determinations.

The adjudicating officials shall at a minimum:

1. Review that background investigation provided by the FBI or any other information obtained from any other law enforcement agencies;
2. Review each background investigation form and the employment application and compare the information provided in the potential employee's application with documentation not provided by the employee;
3. If available, review the results of written record searches requested from local law enforcement agencies, former employers, former supervisors, employment references, and schools;

4. Consider whether the employee has met the standards established for suitability of employment.

The following are standards to consider when determining if a potential employee who will have contact with or control over students is suitable for employment. When an adjudicating officer is considering whether an applicant is suitable for employment the adjudicating officer should consider:

- (1) the nature and seriousness of the prior conduct;
- (2) the recency and circumstances surrounding the conduct in question;
- (3) the age of the applicant at the time of an incident, societal conditions that may have contributed to the nature of the conduct;
- (4) the probability the individual will continue the questionable behavior; and
- (5) the applicant's commitment to rehabilitation.
- (6) an individual has not been found guilty of or entered into a plea of nolo contendere or guilty to any offense under Federal, State, or tribal law involving crimes of violence; sexual assault, sexual molestation, child exploitation, sexual contact or prostitution; or crimes against persons.
- (7) what degree of risk does the individual bring to the position;
- (8) past conduct will not interfere with the employee's duties or create long-term risk;

**3.12 FALSIFICATION OR OMISSION OF APPLICATION INFORMATION**

Applicants who are offered employment by *Wounded Knee District School* who falsify or intentionally omit information which would impair the decision of the Board as to the competency or suitability of the applicant or employee shall be immediately terminated from their employment with *Wounded Knee District School*, and their contract shall be null and void.



### 3.13 FORMER EMPLOYER AND REFERENCE CHECKS

The Principal or his/her designee shall have the right to contact applicant references and former employers to verify application information, and to obtain information from these resources pertinent to the job-related strengths and limitations of applicants. Information obtained from applicant former employers and references will be treated in a confidential manner and used only in determining applicant suitability for employment at *Wounded Knee District School*. Potential employees/applicants shall be required to sign a release of information request and waiver of claim against a former employer for releasing information concerning previous employment.

### **3.14 NOTIFICATION TO APPLICANT OF EMPLOYMENT OFFER**

The Human Resource Manager shall be responsible for notifying selected applicants of *Wounded Knee District School's* offer of employment, and for issuing contracts/wage agreements (be signed and returned by the employee within ten (10) calendar days from the receipt of notification of employment), and will include information regarding starting dates, contract term, salary rate, and other appropriate information. Applications of individuals who are employed by *Wounded Knee District School* will be placed in the personnel folder of the new employee. Any offer of employment shall be construed as being rejected if not accepted by the employee within ten (10) calendar days.



**3.15 NOTIFICATION TO APPLICANTS NOT SELECTED FOR EMPLOYMENT**

The Human Resource Manager shall notify applicants, in writing, of their non-selection within five (5) business days from the time a decision was made on the applicant's employment status.

### **3.16 TEMPORARY APPOINTMENTS**

The Board and/or Principal shall have the authority to appoint temporary personnel to work assignments required at the School, dependent upon available funding sources. Temporary employees shall not be entitled to use of the grievance procedures, accrual of annual leave, accrual of sick leave, or any other benefits offered to permanent employees. Temporary employees shall be hired by contract.

Temporary appointment, for other than teaching and transportation personnel, may not exceed twenty (20) business days. All temporary employees shall be paid at a rate established by the Board for actual work performed and recorded. There is no promise of employment to a temporary employee beyond the term described in the letter of appointment. A temporary employee may be reappointed for an additional term by the Board or the Principal.

### 3.17 PERSONNEL PROBATION

**Nature and Purpose:** Probation is established to benefit the employee and the school and is a time for personal adjustment, adaptation, learning the job requirements, and the policies and procedures of the school. This ninety (90) calendar day period shall determine if the new employee meets required standards of employment.

**Conditions Preliminary to Regular Appointment:** The Principal is responsible for obtaining a written statement from the employee's supervisor containing an appraisal of the employee's duties indicating her/his services during the probation period have been satisfactory and the employee is recommended for regular status. The supervisor shall notify the employee in writing if the appointment is to be made a regular employee and a copy of such notice shall be placed in the employee's personnel file.

**Dismissal During Probation:** Any time during the probation period that an employee fails to successfully adapt to the requirements of the position, the department, or the school system, employment shall be terminated immediately, and the employee's employment agreement or contract shall be considered null and void and the offer of employment withdrawn. The supervisor shall make a recommendation to terminate to the Principal who shall notify the employee in writing of such recommendation and the date services will be terminated. The Board shall make the final decision on termination. The employee shall have no right to appeal the Board's decision.

**Travel:** During the probationary period employees are not eligible to receive a travel advance unless approved by the Wounded Knee District School Board

**Attendance of Workshops and Training Sessions/Seminars:** Probationary employees are not eligible to attend workshops and training sessions/seminars that are held off of *Wounded Knee District School* property until that employee's probationary period has ended and the employee has been made a regular employee. The exception to this rule may be training that is required to certify the employee in their job performance on an individual basis.

**Lateral Transfers:** All lateral transfers will be placed on a 30-day probation period.

**90- & 30-Day Evaluation:** The immediate supervisor will conduct a 90-day/30-day evaluation. The supervisor shall notify the employee, in writing, if the probation period has ended or an additional 90/30-day is necessary.

**Continued Contract Employees:** If an employee's contract is renewed for a different position the employee will be placed on a thirty-day probationary period.

**Payroll Deductions during Probationary Period:** Probationary employees are not eligible for payroll deductions until they have satisfactorily met the end of their 90-working day probationary period.

**Access to Leave:** Probationary employees are eligible to access sick leave during the 90-day and 30-day probationary period but are not allowed to access annual leave or personal leave during the 90/30-day probationary period.

### **3.18 PERSONNEL SUPERVISION**

Employee supervision shall be to assist, monitor and support the capabilities of an employee to competently perform their assigned job responsibilities.

Employees shall be notified of their direct supervisor by the Principal or Human Resource Manager at the time of their initial appointment. The employee's direct supervisor shall record time and attendance, evaluate, provide technical assistance, consult with, assist in planning, conflict resolution and problem solving, identify developmental needs and resources, acquire materials, approve/disapprove all leave, and assign duties to the employee.

### 3.19 DEFINITION OF EMPLOYEE

An employee is defined as an individual who has signed an agreement with the organization or has otherwise been employed, by letter or other informal or formal appointment who performs work for *Wounded Knee District School*, who works under the supervision of someone in the organization, and who utilizes the resources of the organization to perform these functions. The classes of employees are defined as follows:

Regular Full-time Employees: Those employees who work at least thirty-two (32) hours per week for fifty-two (52) weeks per year and who maintain regular employment status are considered Regular Full-time Employees. All regular full-time employees are eligible for all employee benefits, personal leave, holidays, and sick leave benefits. These employees may utilize the grievance procedures.

Regular Part-time Employees: Those employees who may work less than thirty-two (32) hours per week or less than fifty-two (52) weeks per year, but who maintain regular employment status are considered Regular Part-time Employees. Regular part-time employees are eligible for all employee benefits, personal leave, holidays and sick leave benefits on a pro-rated basis. These employees may utilize the grievance procedures.

Temporary Employees: An appointment which does not exceed ninety (90) working days, except for teaching substitutes and transportation employees, and which includes, but is not limited to substitute teachers and staff are considered Temporary Employees. These temporary employees shall not be eligible for employee benefits, including but not limited to, leave, and insurance or retirement benefits. (contradictions) These employees may be dismissed with or without cause at any time. These employees may not utilize the grievance procedures.

Non-exempt: An employee who is subject to the Fair Labor Standards Act is considered a Non-Exempt Employee. These employees shall receive overtime pay at a rate of 1 ½ times the hourly rate or will receive compensatory time at a rate of 1-1/2 hour for each hour of overtime worked. All overtime and compensatory time shall be approved in advance, in writing, by the employee's supervisor. The employee has the option of electing, in advance, whether they choose overtime or compensatory time. (Compensatory time is for overtime hours over 40 hours in a pay period.) Overtime is any work done beyond the forty (40) hours per week. Pay periods run from Sunday to Saturday. Flextime will be used first when applicable. Flextime defined as a system of working a set number of hours with the starting and finishing times chosen within agreed limits by the employee.

Exempt: An employee, including but not limited to teachers and supervisors, who is not subject to federal overtime laws is considered an Exempt Employee. These employees do not have to be paid overtime when they work more than forty (40) hours in a workweek. As an exempt employee you may be required as a condition of employment, to work in excess of the regularly scheduled hours. Such work will not result in additional compensation or compensatory time.

**3.20 PAY SCALE**

There shall be a pay scale for certified professionals, paraprofessionals, bus drivers and a pay scale for support staff that the Wounded Knee District School Board will approve as needed.

**3.21 TENURE**

There is no tenure for any employee of *Wounded Knee District School*.



### **3.22 IN SERVICE AND PARAPROFESSIONAL TRAINING**

The Principal is responsible for administering a needs assessment to identify areas of training and for reporting the results to the Board who shall provide funding annually to accommodate the resources needed to implement pre-service and in-service programs.

All employees are required to participate in programs of pre-service and in-service as scheduled, unless they are performing essential services at the time.

*Wounded Knee District School* has a professional development program which aims to provide training to teachers to improve their short-term and long-term professional skills. This plan shall be reviewed every year by the OAO and school administration to determine whether the plans goals are being fulfilled and if any changes or additions to the plan should be incorporated. Classroom paraprofessionals, as required by Every Student Succeeds Act (ESSA), must be pursuing professional development to achieve sixty (60) college credits, preferably toward an education degree, or passing the state test.

### **3.23 SUBSTITUTE TEACHER TRAINING PLAN**

Both non-certified and certified substitute teachers are required to meet with the Human Resource Manager on their initial employment to receive a general orientation of the school and policies.

### **3.24 CONTRACT EMPLOYEE RENEWAL/NONRENEWAL**

There will be no automatic contract renewal for any employee. Rather, the contract renewal of any contract employee shall be based upon work performance as evidenced by performance evaluation(s), supervisor's recommendations, to the Principal, as to contract renewal or non-renewal will be taken into consideration, and consideration of the School's staffing requirements anticipated for the subsequent School term.

The Principal is responsible for recommending renewal or non-renewal to the Board approval prior to the first Monday of March.

If a certified staff breaches their contract, the employee will be penalized \$2,000.00.

A support staff employee will be penalized \$750.00.

And employee may not grieve a contract non-renewal.

### **3.25 EMPLOYEE ORIENTATION**

The Principal and/or his/her designee shall coordinate and conduct a staff orientation session prior to the beginning of each academic year. The purpose of the orientation is to provide clarification to all employees of the expectations, policies, procedures, resources, and goals of the School for each academic year. Supervisors shall be assigned specific roles in carrying out the orientation program.

The Principal and/or his/her designee shall be responsible to work with supervisors to ensure all support staff have the required preparation and training as outlined in her/his job description.

All employees shall be required to participate in staff orientation activities prior to the issuance of salary payment.

The new employee shall also be responsible for certifying understanding of policies, procedures, and other items on the orientation checklist prior to assuming their job role and/or receiving any salary payment.

### **3.26 EMPLOYEE SUPERVISOR**

Each employee of *Wounded Knee District School* will be assigned an immediate supervisor upon their employment at the School based upon the WKDS Organizational Chart. The immediate supervisor of an employee is to be considered a resource to the employee regarding work task assignments, scheduling, planning, in-service training/staff development, advisement regarding policy and procedure and other activities, employee performance expectations and performance outcomes, motivation, and consultation/communication.

### **3.27 EMPLOYEE SUPERVISOR POLICY ADMINISTRATION**

The immediate supervisor of an employee is also responsible for ensuring that the employee functions in accordance with personnel and other policies and procedures, and for administration of these policies and procedures in the event of employee non-compliance.



### **3.28 SUPERVISOR ROLE IN EMPLOYEE GRIEVANCES**

The immediate supervisor of an employee is the initial resource to which the employee is to address any work-related grievances. Therefore, it is essential that a positive working relationship and communication be established between the supervisor of the employee and the employee.

### **3.29 SUPERVISOR EVALUATION OF EMPLOYEE PERFORMANCE**

The immediate supervisor of an employee is responsible for conducting periodic evaluations of the employee's performance in accordance with the process, outcomes, and criteria identified in the employee's performance evaluation plan. The employee's evaluation will include expectations and outcomes to which employee tasks are to be focused. The outcomes of the performance evaluation will be used by the supervisor in issuing any recommendations for continuing employment, including continuation of employment following completion of the employee's probationary period. The Principal is responsible for recommending renewal or non-renewal to the Board approval prior to the first Monday of March.

Cross reference with pages 110, 111, and 113

*Section 300 – Personnel Policies.*

### **3.30 PERSONNEL EVALUATION**

#### **a. PURPOSE**

The evaluation is intended to assist and motivate employees to attain their maximum potential. It is a means of employee self-improvement. The purpose of the evaluation is designed to analyze the strengths and weaknesses of an employee. It enables the Supervisor and the employee to direct their efforts toward those personal characteristics, skills, knowledge, and abilities that will make her/him a more effective employee.

#### **b. POLICY**

It is the policy to conduct an on-the job performance review with each employee on a regular basis as an employee development activity. Promotions, pay increases, and continued employment are based primarily on performance, step increases, educational attainment, and cost-of-living, not on length of service or longevity. Performance evaluations will be considered in decisions affecting training, placement, salary increases, promotions, demotions, layoffs, and dismissals.

#### **c. FREQUENCY OF EVALUATIONS**

The performance of all employees will be reviewed on an on-going informal basis. Formal reviews will be made in accordance with the established schedule outlined below:

##### **1. ANNUAL REVIEW**

- Annual review to be completed by the third Monday of February.
- An employee's performance becomes markedly better or worse; or
- The Supervisor or the Principal deems it necessary or appropriate.

#### **d. RESPONSIBILITIES**

The employee's immediate supervisor will be the rating officer. They will be responsible for evaluating the performance of each employee under their supervision, discussing the completed evaluation with the employee.

The Principal will evaluate the performance of each supervisor under her/his supervision and the Board will evaluate the performance of the Principal.

#### **e. PROCEDURES (Cross reference pg. 112 or Principal Designee)**

Each supervisor will establish performance objectives for each employee or group of employees. The performance objectives will be based on job requirements and will be conveyed to the employee in writing prior to the evaluation that the employee has time to act on them. This will

ensure that the employees know what level of performance is expected and understand the basis for success or failure to meet these objectives when evaluated.

All evaluations will be discussed and reviewed with the employee evaluated.

The following steps may, at the discretion of the supervisor, be observed in accomplishing the evaluation process:

1. Prepare performance requirements by determining how well you expect the employee to do their duties.
2. Discuss the performance requirements with the employee and adjust them as needed.
3. Observe what the employee is doing.
4. Evaluate the performance against the requirements.
5. Discuss the evaluation with the employee.
6. Take appropriate action.

The Principal shall prescribe the form on which the evaluation shall be entered.

**f. EVALUATION**

1. An ongoing review of the techniques and procedures for making evaluations. Techniques and procedures which contribute to a teacher's understanding of their strengths and weaknesses should be used
2. Goals and objectives that are understood by the teaching staff and the administration. Criteria should be built around the established educational philosophy, goals, objectives and educational program developed by the school district and meet any criteria set forth by the State Department of Education.
3. Application of the information gained to the planning of staff development and in-service training, which is designed to improve instruction and increase teacher competence.
4. The evaluation process will include supervisor initiated formal and informal observations.

The formal evaluation will be written and discussed by the evaluator. Copies of the written document will be signed and dated by both parties and will be placed in the personnel files. The signature of both parties does not indicate approval or disapproval only that the evaluation has been read and discussed.

**g. PERFORMANCE REVIEW- INTERVIEW**

Each employee shall be given the benefit of a performance review - interview with the employees' supervisor. The purpose of the interview is to review the ratings and discuss the employee's job performance. The employee will be allowed a reasonable time to enter comments on the review form. The employee will sign the evaluation form, indicating the evaluation has been explained

and discussed. An employee's signature does not mean that the employee agrees with the evaluation, but that he or she understands it and that it has been explained and discussed. The employee can outline agreement or disagreement with the supervisor's appraisal. The review form will not be placed in an employee's personnel file until this has been accomplished.

The evaluation form then will be forwarded to the Principal for appropriate action.

**h. UNSATISFACTORY EVALUATION**

An employee who receives an overall rating of "unsatisfactory" on the annual evaluation may be placed on a 90 (ninety) day probationary period at the Principal's discretion. Job performance will be re-evaluated prior to the end of the probationary period. Employees who again receive overall ratings of "unsatisfactory" will be recommended by the Principal for termination to the Board.

**i. ADMINISTRATION AND COORDINATION**

The Principal or his/her designee has the responsibility to administer and coordinate the performance appraisals completed on the staff. Advice and assistance will be given to rating officers and employees to assure that evaluation and review procedures are carried out in accordance with the provisions of this section.

Each completed evaluation instrument and improvement plan will be placed in the employee's personnel file.



**3.31 EMPLOYEE PERFORMANCE EVALUATION OUTCOME GRIEVANCES**

In the event that any employee is not in agreement with the outcomes of informal or formal performance evaluations completed by their immediate supervisor, the employee shall be required to follow established grievance procedures to process their grievance.

### **3.32 EMPLOYEE PERSONNEL FILE MAINTENANCE AND ACCESS**

The Principal, Human Resource Manager will be responsible for maintaining employee personnel files. The Principal and authorized federal, or state government officials, shall have access to employee personnel files. Employees also have the right to access and review their personnel file, however, may not remove the file from the office in which the file is located, nor remove or alter any information in the file. Employee shall have the right to have a copy of information contained in the file and shall have a right to contest the information in the file.

Personnel files are kept in the Human Resource Office and should include, if applicable, but are not limited to:

1. Job advertisement
2. Job description
3. Application
4. W-4 and I-9 Form
5. Employment Record-Salary
6. Evaluations
7. Employee Contract
8. Health Certificates
9. Personnel Actions
10. Valid Certificate or License
11. Transcripts of Credit
12. Diplomas
- 13 Drug-Free Workplace Form
14. Criminal History Background Check (Must be kept in separate file)
15. Proof of Insurance (if personal vehicle used for school purposes).

All personnel files are considered confidential and are not open for inspection by unauthorized personnel.

Upon her/his written request, each employee has the right to review their own personnel file and to ask for removal of any unnecessary or incorrect information from the file. When any employee is reviewing his or her personnel file, a member of the School administration, or designees of the same, shall be present at all times.

All personnel files shall be reviewed annually by the Principal and/or his/her designee to recommend to the Board the removal of unnecessary or incorrect material from those files. Documentation of personnel actions may be removed annually from the personnel folder upon the recommendation of the Principal and with Board approval.

Documentation of personnel actions resulting from alcohol-related incidents or serious misconduct shall be maintained for a period of three (3) years with removal from the files upon the recommendation of Principal and Board approval.



### 3.33 COMPENSATION GUIDES AND CONTRACTS

Salary ranges shall be established in order to provide a basis for recognizing individual differences among positions. The objective is to insure equal pay for equal work.

No employee shall be paid less than the federal minimum wage. Salary increases may be given no more frequently than annually to reward efficient work and career development.

**1. SALARY AND WAGE SCHEDULES:** Salary and wage schedules will be reviewed every three (3) years. Any adjustments made to salary and wage schedules will be based on the overall financial status of the school. The salary and wage schedules shall be maintained in the school administration office, and available for review by employees. The School Board shall follow these schedules until they are revised by the Board.

**2. SALARY INCREASES:** Each employee will be evaluated annually. At the discretion of the Board, and dependent upon funding availability, salary increases may be granted for one or more of the following reasons: Step increase, educational attainment, or cost of living adjustment.

**3. ENTRANCE SALARY:** Salary granted to new employees will depend on an evaluation of education, experience, and qualifications. New employees may be credited for up to five (5) years of related outside experience. Former *Wounded Knee District School* employees may use prior School experience if directly related to the newly hired position to determine an appropriate entrance salary.

**4. TEMPORARY EMPLOYMENT SALARY:** Salary for temporary employees will be based on established rates approved by the Board, which shall be identified in the salary and wage schedule.

**5. SUBSTITUTE TEACHER SALARY:** Payment for substitute teachers will be based on established rates approved by the Board at the beginning of the school year.

**6. COMPENSABLE:** Compensatory hours are all hours that the employee is required to work for the organization. This shall also include time during which the employee is necessarily required to be on the employer's premises, on duty or at a prescribed work place. This section does not apply to exempt personnel.

Some employees may not be required to remain at work during their lunch periods; however, it will be necessary for certain employees to remain at work during their lunch periods to assist in the supervision of students. Whether an employee is required to remain is within the discretion of the Principal. Upon approval of the employee's supervisor, an employee may waive her/his lunch period and thereby leave her/his work station prior to the end of the normal work day, equal to the length of the lunch break not taken. There are no morning or afternoon breaks, and employees may not leave early because of breaks not taken. Employees shall not take work home without prior approval from the immediate supervisor.

**7. CONTRACTS:** There is no automatic renewal of executive, professional and instructional employee contracts. Rather, all executive, professional, and instructional employees must sign a new contract at the end of each contract term or be automatically terminated. Certain designated administrative positions are also contract positions. Unless otherwise specified, all contracts are for a term of no more than one-year. Failure to timely renew or failure to provide timely notice of a non-renewal of a contract shall not constitute a constructive or automatic renewal of the prior contract. An employment contract or agreement must be signed prior to commencing employment. No salary will be paid without the employee contract on file in the employees' personnel file. Once the Board has offered a contract, the employee has ten (10) calendar days to either accept or reject the contract without alteration absent mutual agreement.

Instructional personnel (teachers) shall sign a contract annually to provide services for a predetermined number of days per school term. Days missed without approved leave will be deducted at a rate calculated by dividing the contract amount by the number of contract days to acquire a daily rate for deductions, which shall be prorated.

Instructional personnel shall receive their salary on a bi-weekly basis for 21 pay periods but may opt to be paid over twenty-six (26) pay periods and shall receive bi-weekly salary payment until the contract amount is fulfilled. The employee shall elect which payment plan he or she seeks at the start of the contract term.

Contract teachers sign a contract to work for the approximate equivalent of nine months, with actual days worked to be established by the Board when it sets the school calendar. Days missed without leave will be deducted from an instructional personnel's paycheck by dividing the contract amount by the number of school days in that year. Before a teacher receives his/her paycheck at the end of the school year, the teacher must complete certain tasks, including but not limited to the following: report cards, promotional summaries, cumulative folders, classroom inventories, classroom cleaning, and orders.

Support Staff are paid bi-weekly at their hourly rate based on hours of service provided during a two (2) week period.

**8. BENEFITS:** Fringe benefits for personnel shall be established by the Board on an annual basis and shall be indicated in the employee's contract or by notice to the employee (non-contract employees).

### 3.34 POSITION CLASSIFICATION

The Principal shall develop and recommend to the Board a classification plan for all positions. The Principal shall be responsible for the operation and maintenance of the position classification plan for the school. The Board considers all positions vital to the smooth functioning of the School and requires all employees to work together as partners to provide the best learning situation for students of the School.

Only those positions approved by the Board may be implemented. Only the Board may create or abolish a position

The purpose of the position classification plan shall be to:

- a. Provide the school employee with a means to identify work distribution, areas of responsibility, lines of authority, and other relationships between positions.
- b. Provide uniform titles for positions.
- c. Establish that all positions will be paid according to specific salary schedules.

The position classification plan shall be based upon the analysis of the duties and responsibilities of each position and will be maintained on a current basis. The plan will include:

- a. An appropriate classification of each kind and level of work.
- b. A description of the duties and responsibilities of each classification.
- c. A statement of the knowledge, skills, and abilities generally needed to perform the work.
- d. A statement of any special qualifications necessary to enter the position.

#### PROCEDURE FOR NEW POSITIONS:

All requests for the establishment of a new position will be made to the Principal who may either approve or disapprove the request after considering the budget and School requirements. If the Principal approves the request, the Principal shall then work with the supervisor to develop a job description. Once the job description is written, the Principal will compare the qualifications to the established plan to establish a pay level to be assigned. The request will then be submitted to the Board for approval. If approved, the Human Resource Manager will take action to fill the position.

### **3.35 QUALIFICATIONS**

Job qualification requirements shall be equivalent to those established by the State of South Dakota licensing and certification authorities.

Teachers and other certified staff must be certified in the State of South Dakota with majors or minors in the field of their employment.

All other staff must have a high school diploma or GED certificate and meet all job requirements.

### **3.36 POSITION RECLASSIFICATION**

A position may be reclassified on the basis of change in or re-evaluation of the duties, responsibilities, and qualification requirements of the position. The Principal shall recommend such reclassification as is justified.

### **3.37 HEALTH EXAMINATION**

All employees of the School shall be required to have a physical examination at their own expense within thirty (30) calendar days of their starting date of work and every three years thereafter and shall file a medical certificate attesting to the employee's freedom from communicable disease(s), including tuberculosis, in their personnel file. TB tests shall be required annually for all school employees and are the financial responsibility of the employee. Employees must take either sick or personal leave to conduct their tests.



### 3.38 COMPENSATORY TIME AND OVERTIME

With effective planning and efficient management, overtime work is not required. Overtime work shall be permitted only upon the authorization of the designated supervisor and Principal and shall be in writing.

All non-exempt, non-salaried employees shall decide during employee orientation whether they wish to receive compensatory (comp) time or overtime pay. The employee shall sign an annual agreement with *Wounded Knee District School* stating their preference. Once an agreement is made with the employee stating their preference, the agreement shall be binding throughout the contracted employment period.

#### Compensatory Time:

Prior to incurring overtime or compensatory time, the employee shall request advance approval in writing, from their immediate supervisor. An agreement regarding compensatory time must be reached before any work is performed that might incur compensatory time.

Compensatory time earned, the length of time worked, the reasons for such overtime, and authorization shall be documented by the immediate supervisor. False claims regarding compensatory time by employees shall subject the employee to suspension or termination.

*Wounded Knee District School* may grant compensatory time to all non-exempt employees who elect compensatory time, if an agreement regarding such compensatory time is reached before any work is performed. Such compensatory time may be given in lieu of cash for overtime for all involuntary or permitted hours beyond forty (40) hours per work week. Compensatory time will be granted at one and one-half hours (1-1/2) for each hour of overtime worked.

Requests for leave for compensatory time shall be done in accordance with personal leave requirements and are approved and scheduled by the supervisor. Compensatory time not used within the school year by non-exempt employees shall be paid at one and one-half (1-1/2) times the hourly rate of such person.

It is anticipated that exempt employees shall be expected to incur some overtime hours as part of their duties and responsibilities, and they shall not receive additional compensation or compensatory time for those hours worked.

**Overtime Pay:**

Prior to incurring overtime which will lead to overtime compensation, the employee shall request advance approval in writing from their immediate supervisor.

Compensation earned, the length of time worked, the reasons for such overtime, and authorization will be documented by the immediate supervisor. False claims regarding compensatory time by employees shall be subject to the employee being suspended or terminated.

"Non-exempt employees" as defined in the Fair Labor Standards Act, and above in this document, who elect to be paid for overtime rather than take compensatory time shall be paid at one and one-half (1 ½) times their hourly rate of compensation for all involuntary or permitted hours in excess of forty (40) hours per work week. False claims regarding overtime by employees shall subject the claimant to immediate discipline up to, and including, termination and shall subject the employee to civil or criminal proceedings.

Exempt employees shall not be entitled to overtime pay for overtime hours worked.

**Involuntary or permitted work:**

Involuntary is defined as work which has been required by *Wounded Knee District School* or the immediate supervisor. Permitted work is defined as work which the employee performs with the written authorization of the employee's supervisor. The Board shall comply with the provision of the Fair Labor Standards Act regarding such work.

The Principal shall maintain a record of all overtime which leads to compensatory time or the payment of overtime pay.

### **3.39 STAFF MEETINGS**

Supervisors shall conduct regular meetings at least once a month that do not significantly interrupt work schedules with the personnel they directly supervise and shall document the outcomes of the meetings, inclusive of agenda items, decisions made, committees formed, tasks delegated, time lines for the completion of activities, and other appropriate information. This information is to be disseminated to those in attendance within five (5) days of the meeting to assist in communications.

### **3.40 CONSULTING**

Personnel wishing to provide consultant services to other agencies are required to submit a request to their immediate supervisor who shall consult with the Principal for approval.

Personnel receiving approval to provide consulting services shall utilize personal leave or leave without pay during time consultant services are required unless consulting is done on a day of legal discontinuance or off-duty hours.

### 3.41 LEAVES AND ABSENCES

Administrative leave is defined as leave granted by the Principal or his/her designee only for specific, unusual circumstances and under unexpected or extraordinary circumstances. Certain situations where administrative leave is utilized include inclement weather or health or safety hazards. The granting and offering of administrative leave are not a right, and administrative leave may be withdrawn if circumstances warrant. The granting and terminating of administrative is wholly within the discretion of the Principal.

#### LEAVE WITHOUT PAY (LWOP):

At the discretion of the Principal or Department Manager/Immediate Supervisor. Leave Without Pay (LWOP) may be granted to an employee for extreme emergencies. Leave without pay refers to unpaid leave and will be considered excessive after three (3) days have been granted and may result in personnel action taken.

There will be no advance leave granted. Advance leave is defined as deductions from future leave not yet earned by the employee.

The Business Manager shall be responsible for submitting any leave report to the Principal for Board review, reporting accumulated leave taken annually.

All payout of unused leave will be contingent upon funding availability.

#### ABSENCE WITHOUT LEAVE (AWOL):

An employee who is absent from duty without the prior approval of his/her supervisor and who fails to properly notify his/her supervisor of the absence in accordance with WKDS Policy, shall be considered AWOL. This shall also apply to situations in which an employee fails to provide timely notice of illness or accidental injury. Supervisors have the discretion to excuse an AWOL if documentation of an emergency is presented which excuses the employee for failing to make a call.

An employee who is absent from duty after being denied leave by his/her supervisor may be charged with insubordination, and is subject to appropriate disciplinary action according to WKDS policy. This would apply even where the request for leave or the notification of the impending absence was timely.

#### JOB ABANDONMENT:

Employees who fail to report to work for three (3) consecutive business days without notifying WKDS immediate Supervisor of the absence will be considered as having voluntarily resigned as a result of job abandonment.

**3.42.a ANNUAL LEAVE**

Annual Leave may be granted if approved 5 days prior to employee taking leave. The use of annual leave is a privilege rather than a right and is subject to supervisory approval. Approval of annual leave which has been scheduled and approved may be withdrawn if warranted by workload requirements and/or the need of the employee's services. Only 80 hours of annual leave shall be carried over.

Employee that are eligible to accrue leave, do so at the following rates, per pay period:

1. 4 years and under - 4 hours personal and 4 hours sick
2. 5 years to 15 years - 6 hours personal and 4 hours sick
3. 15 years and over - 8 hours personal and 4 hours sick

The Leave accrual process includes all Holidays and administrative

leave. 4 years and under-4 hours annual, 4 hours sick:

80-75=4	4
74-70=3.5	3.5
69-65=3	3
64-60=2.5	2.5
59-55=2	2
54-50=1.5	1.5
49-45=1	1
44-41=.5	.5
40-below=0	0

5 years to 15 years-6 hours annual, 4 hours sick:

80-76.5=6	80-75=4
76.5-73=5.5	74-70=3.5
73-69.5=5.3	69-65=3
69.6-66=4.5	64-60=2.5
66-62.5=4	59-55=2
62.5-59=3.5	54-50=1.5
59-55.5=3	49-45=1
55.5-52=2.5	44-41=.5
52-48.5=2	40-below=0
48.5-45=1.5	
45-41.5=1	
41.5-40=.5	
40-below=0	



15 years and over-8 hours annual, 4 hours sick:

80-77.5=8	80-75=4
77.5-75=7.5	74-70=3.5
75-72.5=7	69-65=3
72.5-70=6.5	64-60=2.5
70-67.5=6	59-55=2
67.5-65=5.5	54-50=1.5
65-62.5=5	49-40=1
62.5-60=4.5	44-41=.5
60-57.5=4	40-below=0
57.5-55=3.5	
55-52.5=3	
52.5-50=2.5	
47.5-45=2	
45-42.4=1.5	
42.5-41.5=.5	
41.5-40=0	

**3.42.b PERSONAL LEAVE**

Personal and Sick leave is granted to all nine-month employees, five (5) days of personal leave and nine (9) days of sick leave. The use of personal leave is a privilege rather than a right and is subject to supervisory approval and may granted if approved five (5) days prior to employee taking leave. Approval of personal leave which has been scheduled and approved may be withdrawn if warranted by workload requirements and/or the need of the employee's services.

Personal leave shall not be carried over. Unused personal leave may be purchased by the School at the end of the contract year. Only unused personal leave can be paid out, based upon Board approval and availability of funds.

### **3.43 JURY LEAVE**

Leave shall be granted to any employee duly called and accepted for jury duty, whether or not they have asked the court to be excused. Such leave shall be leave without pay if an employee is compensated for jury duty. If such compensation is less than the employee's salary, the *Wounded Knee District School* shall offset the balance and shall be made with appropriate documentation provided by employee.

#### **3.44 SICK LEAVE**

Failure to notify the Administration by 7:30 a.m. will result in LWOP status unless the injury or illness prohibits such compliance. If compliance is prohibited, the school shall be notified as soon as possible. Sick leave taken in excess of three (3) consecutive school days or twenty-four (24) consecutive work hours, shall require a physician's statement, either for the employee, or the employee's ill family member. At its discretion, the administration may require a physician's statement before approving any sick leave. All employees eligible to accrue sick leave will also be eligible to carry-over all accumulated sick leave into the next school year. Sick leave is not eligible to be paid out and can only be carried-over for one year. All eligible staff who accrue sick leave shall be able to donate up to 40 hours of sick leave. **Such donation must be within the same funding authorization/program and must be allocated proportionate to the earning rate. (e.g., One hour donated by person making \$20 per hour donated to a person making \$10 per hour equals two hours received).**

### **3.45 SPIRITUAL LEAVE**

Employees may be granted paid spiritual leave for up to 32 hours per school year upon approval of the Principal five (5) days in advance.

**3.46 EDUCATIONAL LEAVE**

Paid educational leave will be granted for four (4) hours per week upon approval of the Principal.



### **3.47 MATERNITY/PATERNITY LEAVE**

Employees may take up to ten (10) workdays of paid maternity or paternity leave, which shall be granted upon request by Administrator. Such paid leave shall be concurrent with the leave availability under the Family and Medical Leave Act.

Employees may be granted a family leave of absence not to exceed twelve (12) weeks. Such leave shall be unpaid leave, however benefits other than salary or wages shall be maintained. Employees may use all accrued leave available during this period but no additional leave is accrued during this period.

If both parents are employed at the School, their aggregate leave is limited to twelve (12) weeks for the birth of a child. If the leave is requested because of illness of a child, both parents are entitled to twelve (12) weeks aggregate of unpaid leave. Employees are expected to follow the provisions of the Federal Family and Medical Leave Act, which supersede any contrary provisions in this policy, if applicable.

### **3.48 FAMILY CARE LEAVE**

Employees may be granted up to twelve (12) weeks of unpaid leave in any twelve (12) month period for their own health needs, the birth or placement for adoption or foster care of a child, or to care for a family member (defined as child, parent, or spouse) who has a serious health condition. Employees will also be granted military caregiver leave which authorizes up to 26 weeks of unpaid leave to care for a covered veteran family member with a serious injury or illness. Employees may use accrued leave available during the twelve (12) week unpaid leave

The Board may require certification, on a periodic basis, of the family member's continuing serious health condition by the family member's physician and /or a physician selected by the Board. Employees are expected to follow the provisions of the federal Family and Medical Leave Act which supersede any contrary provisions in this policy, if applicable

*Ref: Family and Medical Leave Act of 1993, as amended.*

### **3.49 MILITARY LEAVE**

An employee shall be allowed approved leave of absence from her/his duties without loss of status or efficiency rating while performing "ordered military duty," with full employment, and compensation reinstated upon return, as provided by law. Military leave must be LWOP to prevent double dipping,

"Ordered Military Duty" means any military duty or while reporting to and returning from duty or while reporting to and from such duty not to exceed a total of fifteen (15) business days in any one calendar year. If an employee is called to duty and has used all his/her military leave, the employee shall be granted leave without pay on request or may be granted annual/personal leave if s/he desires.

Military auxiliary members (ex: American Legion or V.F.W.) may be granted unpaid leave, at the discretion of the Principal with notification to immediate supervisor for purposes relating to their obligations, but may use personal leave, if available.

### **3.50 BEREAVEMENT LEAVE**

For death within the immediate family, employees are eligible for up to five (5) days of bereavement leave with pay for the contract year based upon approve from Principal. "Immediate family member" is as defined in the Oglala Sioux Tribe's nepotism/personnel policies. "Immediate Family Member" shall mean an individual's spouse, child (including biological, hunka, legally adopted, and step children), siblings (including biological, hunka, legally adopted and step), parent (including biological, hunka, legally adopted, and step parents), grandparent (including biological, hunka, legally adopted and step grandparents),

The Principal may grant employees one (1) day of leave to bereave extended family members. Employee must utilize annual, personal, or leave without pay when requesting bereavement of extended family members.

### **3.51 HOLIDAYS**

Personnel and temporary employees shall be provided paid holidays which shall include: Independence Day, Labor Day, Native American Day, Veteran's Day, Thanksgiving Day, Christmas Day, New Year's Day, Martin Luther King Day, President's Day, Spring Break (according to calendar), and Memorial Day. If the holiday falls on a Saturday, the Friday before will be taken as a holiday. If the holiday falls on a Sunday, the Monday after will be taken as a holiday. Only those holidays that fall within the time frame of the employment contract will be considered paid holidays.

### **3.52 PROFESSIONAL PUBLISHING**

Employees are encouraged to write and prepare professional material for publication in their areas of expertise. Employees who prepare material on their own time without use of school facilities or equipment are not required to submit such material for review prior to publication.

Employees who desire to copyright, patent, or market material prepared totally or partially on school time, shall submit a copy of such material to the Principal for review accompanied by:

1. The names of persons who participated in preparation of the material;
2. The percentage of duty time spent by these persons during preparation; and a statement as to whether royalties would be waived in any purchases of the material which might be made by the School.

The Board may authorize the sale of copies or reproduction rights to instructional material prepared by the School to other School systems, organizations or commercial firms. The Board shall own the copyright if copyrightable materials of any kind are produced for school use.



### 3.53 LABOR, TEACHER, OR EMPLOYEE UNIONS

Employees have the right to join or participate in the activities of organizations of their choosing; however, *Wounded Knee District School* does not participate in or recognize any formally-organized employee State, Federal, Tribal, or other labor union for the negotiation of employee salaries, fringe benefits, or any condition of employment. The Principal or her/his designee, and/or the employee's supervisor may, however, informally consult with employees on an annual basis to acquire input into the formulation of employee salary schedules, fringe benefits, and conditions of employment which may be appropriate for the following year's work term.

### **3.54 POLITICAL ACTIVITY**

The Board recognizes and encourages the right of employees to be engaged in activities that exemplify good citizenship. However, employment in the school shall not be offered as a consideration for the support or defeat of any political party or candidate for public office (Tribal; local, Federal; State). Employees are prohibited from using any school property or work time to further political purposes of any kind pursuant to the Hatch Act.

Employees shall not have the right to engage in unorganized labor activities during the academic day, or when they are on school property, unless such activity is protected by and in conformity with federal law, including but not limited to the Indian Self-Determination Act and the Labor Management Relations Act. Unprotected or legally nonconforming behavior related to unorganized labor activities shall be the subject of disciplinary action up to and including dismissal.

### **3.55 NEWS RELEASES**

News releases to the press of a non-controversial nature and stories of general interest may be released through the office of the Administration. When any newsworthy event or other subject is to be released that might stir controversy in the community, it must be submitted to the President of the Board prior to release.

### **3.56 CONFLICT OF INTEREST**

Employees of the School shall be required to refrain from activities that conflict with the policies and procedures of the school, that may result in a conflict of interest, or that may interfere with job performance. No employee shall engage in or have a financial interest in any activity that conflicts or raises a reasonable question of conflict with her/his duties and responsibilities in the school system or engage in any type of private business during school time or on school property.

### **3.57 PUBLIC APPEARANCES**

Personnel making public appearances not on behalf of the Board or Principal shall take appropriate leave to do so. They should represent the school in a positive way. False allegations regarding the School, school officials or employees that are libelous or slanderous shall be grounds for discipline action, up to and including termination.

**3.58 TUTORING PAY**

Teachers or other employees of the school shall be required to submit written documentation to the administration or designee for tutoring students. Additional pay and scheduling will be determined by the administration.



### **3.59 GIFTS AND SOLICITATION**

Employees of the School may not accept money, gifts, or gratuities from persons who vend to or receive benefits or services under *Wounded Knee District School's* programs. In recognition of tradition, those gifts given as part of traditional custom are allowable. In recognition and support of local customs, those gifts given as part of community activities or in exercise of Lakota customs, e.g., funeral giveaways are allowed.

Employees will not sell, solicit for sale, or advertise for sale, merchandise, or services, or organize students for such purposes, without the approval of their respective supervisor.

### 3.60 NON-SCHOOL EMPLOYMENT

Employees have a primary obligation to competently perform the job for which they were employed by the *Wounded Knee District School*. *Wounded Knee District School* recognizes the right of individuals to meet their overall economic needs, and school staff may perform work extending beyond their basic employment responsibilities at the *Wounded Knee District School* as long as these activities do not interfere with or reduce the work performance of the employee at the School, do not result in dual compensation of the employee, and do not cause poor public relations for the School.

Before accepting a second job, employees must receive prior approval of the Principal. Approval by the Principal is subject to the following conditions: (1) that *Wounded Knee District School's* work requirements including necessary overtime will take precedence over employee's other job; (2) employee's job performance will not be sacrificed; (3) the School is not responsible for injuries or sickness resulting from employment outside the School; and (4) employees cannot work in a business which is in direct competition with the School.

### **3.61 COMMUNITY INVOLVEMENT**

The creation of increased community involvement in support of the School's activities is important. Therefore, all employees of the School are expected to commit and provide a reasonable portion of time and effort to support and help with the School/community activities and functions sponsored by the School, without an expectation of additional compensation. Community involvement and support is included as one of the primary criteria for employee performance evaluation, and employees will be required to identify specific activities that they will perform and/or assist with, to enhance community involvement at the School and thereby meet this evaluation criterion.

### **3.62 EMPLOYEE PROMOTION**

Whenever new jobs are created, or vacancies occur in a higher-rated position that may provide salary advancement, present employees who meet job qualifications may be eligible for consideration.

### 3.63 EMPLOYEE TRANSFER

Personnel may transfer within the School on a voluntary or involuntary basis unless position advertising restrictions prohibit such transfer. Transfer may not be used as a means of disciplinary action.

#### Voluntary:

Employees may request transfer of assignment from one department or job to another which may be granted when in the best interest of the employee and the school.

Personnel wishing to transfer to another position within the school shall notify the Principal of reasons for the request and the position to which transfer is desired. The Supervisor shall refer the request for transfer to the Principal who shall make the final decision.

#### Involuntary:

If an involuntary transfer is in the best interest of the school, the Principal will discuss the need for a transfer with the immediate supervisor of the person involved and provide the Board with information concerning the need for a transfer. The Principal shall meet with the person(s) involved to discuss the reasons for a transfer and shall make final recommendations concerning the transfer. Noncompliance with transfer request of the Board may result in loss of employment to person(s) involved. A transferring employee shall be paid at the salary, pay, or grade of the new position, whether more or less than the old position, but the Principal or lead administrator may consider maintaining the transferring employee's former salary, pay, or grade, but is not required to do so.

### 3.64 REDUCTION IN-FORCES

A reduction in force (RIF) is defined as a situation where staff reductions become necessary because of one of the following: (1) a position no longer serves the mission or purpose of *Wounded Knee District School*; (2) reductions in funding sources have occurred; or (3) budget shortfalls have occurred or are reasonably projected.

The Board may lay-off an employee or may reduce an employee's hours if a RIF is determined to be necessary. The Board, whenever possible, will provide as much advance notice as possible to potentially-affected employees.

The Board shall notify all personnel in writing as to their job status in any RIF's action by the Board.

In the event that RIF becomes necessary, the employee contract with *Wounded Knee District School* is considered to be lawfully terminated pursuant to the terms of the employee's contract. Employees who are laid-off or dismissed as a result of RIF shall not have access to the grievance system for employees.

In the event that a RIF becomes necessary, the order in which persons are to be RIF'ed shall be determined using the following order of priority: 1) seniority, 2) job performance as exemplified by evaluations and 3) Indian preference. In the event the two individuals have equivalent seniority and job performance, then retention will be based on Indian preference.



### **3.65 PERSONNEL RESIGNATION**

Once an employee has signed a contract, the employee may not terminate or cancel his/her contract, unless the Board has given its consent. Personnel wishing to voluntarily resign from their position shall give written notice of separation to the Principal fourteen (14) calendar days prior to leaving their employment so that the Principal may obtain Board approval.

A contract employee may resign effective at the end of her/his current contract, and should do so by written notice of separation, however Board approval is not required. If the Principal becomes aware of a situation which may constitute a possible resignation, the principal shall confirm the situation with the employee and then the Principal shall notify the Board within forty-eight (48) hours thereafter

In cases where an employee has breached his/her contract by departing during the contract year, or terminating their contract without the Board's consent, the Board has the right to consider legal action, but is not mandated to take such action. The Board may levy a five percent (5%) penalty on the financial value of the entire current contract of the certified employee as liquidated damages or as a salary penalty. This amount may be deducted from any remaining salary due and owing to the employee.

### **3.66 RE-EMPLOYMENT**

The Principal or his/her designee will, whenever possible, notify an employee up for contract renewal or non-renewal for the following year, whether the contract will be offered for renewal or not by the first Monday in March. Failure of the Board to do so does not constitute an expressed or implied promise to renew the contract for the following year.

The employee must notify the Human Resource Manager in writing whether s/he accepts or rejects the re-employment offer within ten (10) calendar days following the date of notification. Failure to provide such notification, writing new terms into the contract, or signing a contract under protest, shall constitute a rejection of the contract offer and shall mean that the employee is no longer entitled to the requirements of the RIF's policy of this manual. Signing of a contract constitutes acceptance, but the contract shall not be deemed executed until it has been signed by a representative of the School Board.

The employee's supervisor is responsible for recommending contract renewal or non-renewal to the Principal for Board approval prior to the first Monday of March.

The Principal will recommend to the Board which teacher contracts will be recommended for renewal or non-renewal by the first Monday of March.

If an employee was subject to a lay-off, rehiring shall be carried out on the basis of the RIF's policy.

### **3.67 PERSONNEL TIME SCHEDULE**

The Board requires employees to report to work punctually as scheduled and to work all scheduled hours.

It is the responsibility of the supervisor to keep an accurate record of employee time and attendance and to discuss with the employee any difficulties that they may have in this area.

Employees are not to have their own children, family members, friends or significant others at their duty station during the regular business day.

### **3.68 EMPLOYEE CODE OF PROFESSIONAL ETHICS**

All teachers and teacher's aides are expected to conduct duties and responsibilities in accordance to the Code of Professional Ethics, which is included in **APPENDIX A** portion of this Personnel Policies and Procedures Handbook. Failure of any teacher or teacher's aide to conduct duties and responsibilities in accordance with the Code of Professional Ethics may result in disciplinary action appropriate to any specific violation of these items, in accordance with disciplinary policies and procedures incorporated into this manual.

**3.68 a. INAPPROPRIATE CONDUCT**

Communicating on or off duty on any electronic device or social media venue in an unprofessional or unethical manner that reflects negatively on any student, staff, or WKDS and misuse of staff status, and any endeavor which may bring discredit to WKDS may result in disciplinary action in accordance with disciplinary policies and procedures.

### 3.69 EMPLOYEE DISCIPLINE

A grievance is defined as a complaint of an employee concerning interpretation or application of a work-related policy, rule, or regulation by supervisors or fellow employees.

Any information concerning an employee grievance is to be held in strict confidence by Wounded Knee District School administration, staff, and the grieving employee. All written communications regarding any employee grievances shall be maintained in the employee's personnel file.

#### TYPES OF DISCIPLINARY ACTION

Types of disciplinary action are defined below. While disciplinary actions are generally progressive over a period of time, they are not necessarily applied in the order listed below.

The discipline administered depends upon the circumstances of the case and must be documented and put into their Personnel file.

1. Verbal Reprimand

- a. Meet with the employee to discuss the matter.
- b. Inform the employee of the nature of the problem and the action necessary to correct it.
- c. Written Documentation of the verbal reprimand shall be maintained by the supervisor and a copy to the Personnel File.

2. Written Reprimand

- a. If situation does not improve, have another meeting with the employee to discuss the matter.
- b. Issue a written reprimand to the employee that shall include the reason(s) for the action, the expected improvement, and a timeline for improvement.
- c. The supervisor shall warn the employee that a third incident may result in their termination.
- d. A copy of the written reprimand shall be filed in the employee 's personnel file.



3. Suspension Without Pay

- a. An employee may be suspended without pay for serious offenses or for continued low performance or misconduct after previous attempts to correct the situation has failed.
- b. Suspension may occur after one written warning for minor or major offenses. or as the first step if the infraction is serious enough.
- c. All suspension notices will be given in writing by the appropriate supervisor. and will be sent to the Human Resource Manager to be placed in the employee 's Personnel File.
- d. No vacation, holiday or sick leave benefits will be paid by WKDS during suspension nor will such benefits accrue during suspension.

4. Termination

- a. An employee may be discharged when corrective discipline has failed, or when the seriousness of the matter is such that the employee cannot be allowed to remain in his/her position.
- b. Termination will occur immediately after a special meeting with the board members, Immediate Supervisor, Principal and the Human Resource Manager for documentation adequacy and compliance with the WKDS Policy and Procedures Manual. Once review is completed a decision of the WKDS Board shall decide if termination will be approved. WKDS Board shall have final approval of all termination decisions.

Disciplinary action may result from, but is not limited to, the following employee behavior:

- (1) Failure to competently and consistently perform duties that are the responsibility of the employee.
- (2) Theft, embezzlement, or willful misuse of school funding, property, or other school resources.
- (3) Failure to follow established employee grievance procedures.
- (4) Falsification of records or information about an employee, including one 's self-schooling funding, students, or staff.
- (5) Destroying school property.
- (6) Conviction for or pleading guilty to a felony.
- (7) Missing one (1) day of work without personally contacting his/her supervisor.
- (8) Chronic absenteeism, tardiness, or early departure from work.

- (9) Use of alcohol or other illegal drugs while on duty or being under the influence of or having the use of alcohol or other illegal drugs while on duty which affects the safety and quality of services to students.
- (10) Sale or distribution to or consumption of illegal substances with students.
- (11) Sale, distribution, or consumption of alcohol with students who are not legally allowed to consume alcohol because of jurisdiction or age.
- (12) Concealing, removing, mutilating, obliterating, or destroying any school records or documents without expressed approval by appropriate authorities.
- (13) Violation of conditions of the employee contract between the employee and Wounded Knee District School, which includes failure to follow established policies and procedures.
- (14) Lying or misrepresentation by an employee which has a negative impact on the administration of the School or the academic performance of the students.
- (15) Threatening or causing physical injury to students or personnel of the school.
- (16) Involvement with students ethically or morally prohibited by professional or community standards.
- (17) Insubordination.
- (18) Non-compliance with the Code of Ethics.
- (19) Possession of firearms, explosives, explosive devices, knives, or other dangerous weapons.
- (20) Sexual Harassment.

The above listed actions may be classified as serious misconduct if the Supervisor, Principal or Board that the actions were sufficiently egregious feels it.

The Employee Assistance Program may be utilized during any step of the disciplinary procedures to correct the problem(s).

Employees who believe they have been disciplined too severely or without good cause may use the grievance procedures. Grievance procedures are not available to staff whose contracts have not been renewed if the grievance is related to the non-renewal.

An employee's record will be cleared of disciplinary violations if the employee works a full year without further action being instituted under this policy.

Only full-time employees through the employee grievance procedures may appeal employee dismissal

### 3.70 GRIEVANCE PROCESS

Employees are encouraged to attempt to informally resolve their complaints prior to filing a grievance. This may be accomplished by contacting the employee's immediate supervisor or if the supervisor is the subject of the complaint, then contacting the next supervisor in line.

#### Stage One — Informal Resolution

Employees are encouraged to attempt to informally resolve their complaints prior to filing a formal grievance. This may be accomplished by contacting the employee's immediate supervisor or if the supervisor is the subject of the complaint, then contacting the next supervisor in line.

1. When an employee has a complaint, they must file a written grievance with their immediate supervisor within five (5) business days from the time the events leading to the grievance occurred or was discovered. The grievance shall contain the following information:
  - a. Reference to the section or sections of the Policy alleged to be violated, if any.
  - b. A statement describing the circumstances surrounding the alleged violation.
  - c. The remedy requested; and
  - d. The signature of the grievant and the date the grievance was filed.
2. Within three (3) business days from receipt of the grievance, the immediate supervisor shall hold a private conference with the grievant and any parties in interest. The supervisor shall provide the grievant a written decision within two (2) business days from the conference. It shall be the responsibility of the supervisor to advise the grievant of their right to proceed to Stage Two (2) of the Grievance Procedure.

## **Stage Two — Formal Resolution**

If grievant is not satisfied with the decision from Stage One (I) they may appeal for a hearing before the Grievance Committee. An appeal to the Grievance Committee must be filed within twenty-four (24) hours from the receipt of the decision rendered at Stage One (I) and shall be accompanied by a short and specific statement giving the reason for the appeal. The application and statement shall be filed by delivering them in writing to Human Resources. If an application is untimely, the appeal shall be dismissed, and the action and sanction shall become final without further proceedings or notice to the employee.

The members of the Grievance Committee shall be:

1. Supervisor Grievance, in which case another administrator shall be appointed.
2. An employee who is not in the same department as the grieving employee.
3. A teacher who does not teach the same grade as the grieving employee.

After a timely application for a hearing has been filed, the Grievance Committee shall review the documentation filed at Stage One to determine whether a hearing shall be held. If a hearing is granted, the Grievance Committee shall hold the hearing within five (5) business days from the Stage One decision and shall issue a written decision within five (5) business days from the hearing.

## **Stage Three —Administrative Law Hearing**

If the employee is dissatisfied with the decision rendered by the Grievance Committee and the outstanding issues involve employee suspensions or terminations, the employee may file a written grievance complaint with Human Resources within five (5) working days after the dispute is not resolved under Stage Two. The Administrative Law Judge shall conduct a grievance hearing within ten (10) business days from the filing of the grievance complaint. The employee shall have the right to appear, to call witnesses, present evidence, to be represented by legal counsel at the employee's expense, and to access and question the merits of opposing witnesses and evidence.

The decision of the Administrative law Judge shall be final. The decision of the Administrative Law Judge shall be issued within three (3) business days of the hearing. There shall be no right to appeal to the WKDS Board of Directors or the Tribal Court.

### **3.71 EMPLOYEE ASSISTANCE PLAN OPTIONS (EAP)**

Depending upon available funding, the Board, with the immediate supervisor's approval, may consider alternatives to employee suspension and dismissal based upon an employee's request to complete an approved alcohol or other addiction treatment program, or other employee support program (i.e., counseling) that has been identifying as contributing directly to the employee's inability to competently perform their work responsibilities, within the following limitations:

- (1) The employee's reason for consideration of dismissal is not a result of any act that constitutes child abuse;
- (2) The employee's reason for consideration of dismissal is not a result of any act that resulted in the physical injury or endangered the safety of students, staff, administrators, or other community members;
- (3) The employee's reason for consideration of dismissal did not significantly disrupt the operation of the school, the provision of services to students, or severely impair the ability of other school staff to perform their work responsibilities;
- (4) The employee's reason for consideration of dismissal did not result in a conviction of a felony.



### 3.72 SEXUAL HARASSMENT

The School will provide employees and students with a pleasant environment which encourages efficient, productive, and creative work. The Board recognizes that sexual harassment is illegal, unacceptable and will not be tolerated. Any employee or student will be subject to disciplinary action including possible termination of employee or expulsion of student for violation of this policy.

**DEFINITION:** Threatening or insinuating, either explicitly or implicitly, that a student's or employee's refusal to submit to sexual advances will adversely affect their employment, performance appraisal, compensation, advancement, assigned duties, condition of employment, career development or educational endeavors shall be considered sexual harassment. Other sexually harassing conduct in the school system is prohibited and includes:

1. Unwelcome sexual flirtations, touching, advances, or propositions;
2. Verbal abuse of a sexual nature, jokes or stories that the victim has previously or clearly communicated are unwelcome;
3. Graphic or suggestive comments about an individual's dress or body;
4. Sexually degrading words to describe an individual; and
5. The display of sexually suggestive objects or pictures, including photographs.

**RESPONSIBILITY:** Board members, employees, and students are responsible for maintaining a working and learning environment free from sexual harassment. In-service training will be provided for employees at the beginning of each school year to explain policy and law.

**PROCEDURES:** Any employee who believes she or he has been the victim of sexual harassment by another person on the School premises, during school hours, or at school related activities should report such incident immediately. The teacher or counselor shall immediately report the incident to the Principal. Employees shall report any incidents of sexual harassment to their immediate supervisor. If the employee's immediate supervisor is responsible for the harassment, the employee shall report the harassment to the supervisor of the employee's supervisor, or to the Principal. The supervisor is then responsible for reporting the information immediately to the Principal. The school cannot take appropriate action if it does not receive notice of allegations of sexual harassment.

If a full-time or part-time permanent employee is disciplined due to sexual harassment, the employee may proceed with the established grievance procedures if he or she is dissatisfied.

False allegations that are malicious or ill-founded may constitute libel or slander. However, individuals who make good faith reports of sexual harassment shall be fully protected by the School.

### **3.73 TELEPHONES**

All incoming telephone calls will be answered and directed in a prompt, professional manner to project a positive image of the School and assure that customers and vendors are treated in a polite, satisfactory manner.

Although the receptionist is primarily responsible for answering the phones, everyone in the office who may be responsible for answering the phone should understand that answering the telephone correctly is a part of their job. They should be proficient in using the system, transferring calls, and taking messages correctly.

Employees should use a professional, considerate phone manner. Employees should treat the caller the way the employee would like to be treated. An employee should also be prompt in answering the telephone. Generally, a phone call should be answered within three (3) rings.

When answering the telephone, or paging employees, an employee should speak clearly, concisely, and professionally. Callers should always be handled in a polite and courteous manner and should not be kept waiting. For example, before putting a caller on hold, the person answering the phone should politely ask the caller if they mind being put on hold. When the employee returns the employee should thank the caller for holding and ask them how you may direct their call. No one should wait on hold for more than forty (40) seconds.

All personnel are limited to local and administration-approved long-distance calls. Calls to (900) numbers are prohibited under any circumstances and violation shall be grounds for termination.



### 3.74 DRUG POLICY

#### STATEMENT

The *Wounded Knee District School* has a strong commitment to the health, safety and welfare of its students, employees and their families, and to the community. Statistics establish that the incidence of drug and alcohol abuse is increasing and that the effect is devastating to lives, the educational process and the community at large. *Wounded Knee District School* is concerned that due to the potential for abuse among some employees, the safety of our students, employees and general public could be endangered. The *Wounded Knee District School* Board's commitment to maintaining a safe, secure and drug and alcohol-free workplace requires a clear policy and supportive programs relating to the detection, treatment, and prevention of substance abuse by all employees.

#### POLICY

It is the policy of the *Wounded Knee District School* to provide a safe, secure and drug and alcohol-free workplace by implementing a program to detect, treat and prevent the use and abuse of alcohol and drugs or controlled substances by all employees. The *Wounded Knee District School* will comply with all federal, state, and tribal regulations to implement this program.

The contents of this policy shall be made available to each covered employee, and shall include, at a minimum, discussion of:

- (a) Definitions of language used in the manual.
- (b) The identity of the person designated by the *Wounded Knee District School* Board to answer employee questions about the alcohol and drug-free program.
- (c) The categories of employees who are subject to the provisions of this policy.
- (d) Specific information concerning the behavior that is prohibited by this policy.
- (e) The specific circumstances under which a covered employee will be tested for prohibited alcohol and drugs under the provisions of this policy.
- (f) The procedures that will be used to test for the presence of alcohol and drugs, protect the employee and the integrity of the testing process, safeguard the validity of the test results, and ensure the test results are attributed to the correct covered employee.
- (g) The requirement that a covered employee submit to alcohol and drug testing administered in accordance with this part.

- (h) A description of the kind of behavior that constitutes a refusal to take an alcohol or drug test and a statement that such a refusal constitutes presumption of a verified positive test result.
- (i) The consequences for a covered employee who has a verified positive test result or refuses to submit to a test under this part, including the mandatory requirements that the covered employee be removed immediately from his or her safety sensitive function and be evaluated by a substance abuse professional.
- (j) If the *Wounded Knee District School* Board implements elements of an alcohol and drug-free program that are in addition to this policy, the *Wounded Knee District School* Board shall give each covered employee specific information concerning which provisions are mandated by this policy and which are not.

The *Wounded Knee District School* Board shall provide written notice to every covered employee of the *Wounded Knee District School's* alcohol and drug-free policies and procedures.

The *Wounded Knee District School* Board shall establish an employee education and training program for all covered employees, including:

- (a) Education: The education component shall include display and distribution to every covered employee informational material and a community service hot-line telephone number for employee assistance, if available.
- (b) Training:
  - (1) Covered employees. Covered employees shall receive at least 60 minutes of training on the effects and consequences of prohibited alcohol and drug use on personal health, safety, and the work environment, and on the signs and symptoms which may indicate prohibited alcohol and drug use.
  - (2) Supervisors who make reasonable suspicion determinations shall receive prior training on physical, behavioral, and performance indicators for reasonable suspicion and drug use. Training must be completed every two years.
  - (3) Transportation Manager, bus drivers, and all CDL holders must receive training annually on the physical, behavioral, and performance indicators for reasonable suspicion and drug use.

## DEFINITIONS

The following definitions apply to this manual:

**Adulterated Specimen** means a specimen that contains a substance that is not expected to be present in human urine, or contains a substance expected to be present but at a concentration so high that it is not consistent with human urine.

**Alcohol** means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohol's including methyl or isopropyl alcohol.

**Alcohol concentrations** means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test under this part.

**Alcohol & Drug-free program** means a program to detect and deter the use of prohibited drugs and alcohol as required by this part.

**Alcohol confirmation test** means a subsequent test using an EBT, following a screening test with a result of 0.02 or greater that provides quantitative data about the alcohol concentration.

**Alcohol use** means the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

**Board member** means the *Wounded Knee District School*.

**Alcohol screening test** means an analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath or saliva specimen.

**Breath Alcohol Technician (BAT)**. An individual who instructs and assists individuals in the alcohol testing process and operates an EBT.

**Canceled test** means a test that has been declared invalid by a Medical Review Officer. It is neither a verified positive nor a verified negative test, and includes a specimen rejected for testing by a laboratory.

**Collection container**. A container into which the employee urinates to provide the urine sample used for a drug test.

**Collection site**. A place designated by the *Wounded Knee District School* where individuals present themselves for the purpose of providing a specimen of their urine to be analyzed for the presence of drugs.

**Confirmation (or confirmatory) test**. In drug testing, a second analytical procedure to identify the presence of a specific drug or metabolite that is independent of the screening test and that uses a different technique and chemical principal from that of the screening test in order to ensure reliability and accuracy. (Gas chromatography/mass spectrometry (GC/MS) is the only authorized

confirmation methods for cocaine, marijuana, opiates, amphetamines, and phencyclidine.) In alcohol testing, a second test, following a screening test with a Blood Alcohol Concentration (BAC) of 0.02 or greater that provides quantitative data of alcohol concentration.

Contractor means a person or organization that provides a service for *Wounded Knee District School* consistent with a specific understanding or arrangement. The understanding can be a written contract or an informal arrangement that reflects an ongoing relationship between the parties.

Controlled Substance means any substance listed by the Food and Drug Administration on Schedules I-V pursuant to the Controlled Substances Act.

Disabling damage means damage which precludes departure of a motor vehicle from the scene of the accident/incident in its usual manner in daylight after simple repairs.

(1) Inclusion. Damage to motor vehicles that could have been driven but would have been further damaged if so driven.

(2) Exclusions.

- (i) Damage which can be remedied temporarily at the scene of the accident/incident without special tools or parts.
- (ii) Tire disablement without other damage even if no spare tire is available.
- (iii) Headlamp or taillight damage.
- (iv) Damage to turn signals, horn, or windshield wiper which makes them inoperative.

Employee. An individual, including all employees of *Wounded Knee District School*, substitutes, temporary, volunteers, applicants for employment, or transferees. As used in this manual "employee" includes an applicant for employment. "Employee" and "individual" have the same meaning for purposes of this policy.

EBT (or evidential breath testing device). An EBT approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's "Conforming Products List of Evidential Breath Measurement Devices" (CPL) and identified on the CPL as conforming to the model specifications available from the National Highway Traffic Safety Administration, Office of Alcohol and State Programs.

Medical Review Officer (MRO) means a licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the *Wounded Knee District School's* drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information.

Performing (a safety-sensitive function) means an employee is considered to be performing a safety-sensitive function and includes any period in which he or she is actually performing, ready to perform, or immediately available to perform such functions.

Prohibited drug means marijuana, cocaine, opiates, amphetamines, or phencyclidine (PCP).

Refuse to submit means that an employee fails to provide adequate breath for alcohol testing or a urine sample for drug testing without a valid medical explanation, or refuses to report to the collection site, after he or she has received notice of the requirement to be tested in accordance with the provisions of this part or engages in conduct that clearly obstructs the testing process. A valid medical explanation must be supported by a statement from a licensed medical physician.

Safety sensitive position is a job or position where the employee holding this position has the responsibility for his/her own safety or other people's safety. It would be particularly dangerous if such an employee is using drugs or alcohol while on job.

Safety Sensitive positions includes any of the following duties:

- (1) Operating a vehicle;
- (2) Operating a vehicle, when required to be operated by a holder of a Commercial Driver's License;
- (3) Controlling dispatch or movement of a vehicle;
- (4) Maintaining a vehicle or equipment used in service;
- (5) Carrying a firearm for security purposes; or
- (6) Performing a function, this potentially impacts the life, health, or safety of another person.
- (7) Control of Children;
- (8) Access to Children;
- (9) Responsible for the Safety and Well-being of staff and children;
- (10) Establishing policy and procedures for the safety and well-being of staff and children.

Screening test (or initial test). In drug testing, an immune-assay screen to eliminate "negative" urine specimens from further analysis. In alcohol testing, an analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath specimen.

Substance abuse professional (SAP) means a licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission), with knowledge of a clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

Vehicle means a bus, van, or automobile.

Verified negative (drug test result) means a drug test result reviewed by a medical review officer and determined to have no evidence of prohibited drug use.

Verified positive (drug test result) means a drug test result reviewed by a medical review officer and determined to have evidence of prohibited drug use.



The following employees, who perform a safety-sensitive function, will be subject to alcohol and drug testing, pursuant to the federal government's Drug Free Workplace Policy:

- (1) All employees of the *Wounded Knee District School*.
- (2) Any part-time, substitute, temporary employee and volunteers of *Wounded Knee District School* if said employee or volunteer participates in school functions for more than two (2) weeks or supervises students overnight.
- (3) Any applicant selected for employment at *Wounded Knee District School*.
- (4) Casual or occasional driver, leased and independent drivers whether leased or directly employed by *Wounded Knee District School*.
- (5) All *Wounded Knee District School* Board members (annually).

Substances that are prohibited and for which tests will be conducted are marijuana, cocaine, amphetamines, opiates, and phencyclidine (PCP). Testing will also include "Controlled substance" as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812), and as further defined in regulation at 21 CFR 1308.11-1308.15. Testing for alcohol will also be conducted.

The *Wounded Knee District School* shall establish a program which provides for testing for prohibited alcohol and drug use in the following circumstances: pre-employment, post-accident, reasonable suspicion, random, return to duty/follow up and volunteer, as described in detail in the policy.

## PROHIBITIONS

### 1. On-duty use.

The *Wounded Knee District School* shall prohibit an employee from using prohibited alcohol and drugs while performing safety-sensitive functions. A supervisor having actual knowledge that an employee is using prohibited alcohol and drugs while performing safety-sensitive functions shall not permit the employee to perform or continue to perform safety-sensitive functions.

### 2. Pre-duty use.

- (a) General. The *Wounded Knee District School* shall prohibit, whenever the school has actual knowledge, an employee from using prohibited alcohol and drugs prior to performing a safety sensitive function. A supervisor having actual knowledge that an employee has used prohibited alcohol and drugs prior to performing a safety sensitive function shall not permit the employee to perform or continue to perform safety sensitive functions.
- (b) On-call employees: The *Wounded Knee District School* shall prohibit the use of alcohol and drugs for the specified on-call hours of each employee who is on-call. The procedure shall include:

- (1) An on-call employee shall have the opportunity to acknowledge the use of alcohol or drugs at the time he or she is called to report to duty and the inability to perform his or her safety sensitive function.

(2) If the employee has acknowledged the use of alcohol or drugs but claims ability to perform his or her safety sensitive function, s/he shall take an alcohol and/or drug test before performing a safety-sensitive function.

(c) Use Following an Accident: No employee required to take an alcohol or drug test following an accident may use alcohol for eight hours following the accident or until the employee has undergone the post-accident test.

1. Pre-employment testing.

(a) The *Wounded Knee District School* Board shall not hire an applicant to perform a safety sensitive function unless the applicant takes a drug test with a verified negative result administered under this policy.

1. A contract for employment shall be considered null and void in the event the selected individual has a verified positive test result. If an individual has been selected for employment, or offered employment, but the individual has not yet accepted such employment, the offer shall be considered as withdrawn immediately, and the selection shall be considered as canceled by *Wounded Knee District School*.

(b) The *Wounded Knee District School* Board shall not transfer an employee into a bus driving position until the employee takes a drug test with a verified negative result administered under this policy.

(c) If an applicant or employee drug test is canceled, the *Wounded Knee District School* shall require the employee or applicant to take another pre-employment drug test.

(d) A refusal to submit to testing, failure to report to collection site after being notified, or adulteration of urine specimen will be considered a positive result.

The *Wounded Knee District School* shall be responsible for the drug testing costs contained in this section.

Only the Principal may authorize a pre-employment test.

Individuals who test under this section and have a verified positive test result shall not be permitted to retest or reapply for one year from the date of the positive pre-employment test.

2. Reasonable Suspicion testing.

(a) The *Wounded Knee District School* shall conduct testing when a supervisor has reasonable suspicion to believe that the employee has used prohibited alcohol or drugs.

(b) The determination that reasonable suspicion exists shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee. The required observations must be made by a supervisor who is trained in detecting the signs and symptoms of alcohol or drug use.

(c) A refusal to submit to testing, or failure to report to collection site after being notified, or adulteration of urine specimen will be considered a positive result.



Determinations may only be made during, just preceding or just after performance of job duties. Such testing should occur as soon as possible; alcohol: by two (2) hours or within eight (8) hours of the determination; controlled substance: within thirty-two (32) hours of the determination.

The *Wounded Knee District School* shall be responsible for the alcohol and drug testing costs contained in this section.

3. Post-accident/incident testing.

- (1) Fatal accidents. As soon as possible following an accident/incident involving the loss of human life, the *Wounded Knee District School* shall test each surviving employee operating a vehicle for the *Wounded Knee District School* at the time of the accident/incident. The *Wounded Knee District School* shall also test any other employee whose performance could have contributed to the accident/incident, as determined by the *Wounded Knee District School* using the best information available at the time of the decision.
- (2) Nonfatal accidents/incidents. As soon as practicable following an accident not involving the loss of human life, in which the vehicle involved is a bus, van, or automobile, the *Wounded Knee District School* shall test each employee operating the vehicle for the school at the time of the accident/incident unless the school determines, using the best information available at the time of the decision, that the employee's performance can be completely discounted as a contributing factor to the accident/incident.

The *Wounded Knee District School* shall also test any other employee whose performance could have contributed to the accident/incident, as determined by the school using the best information available at the time of the decision.

- (a) The driver received a citation for a moving traffic violation arising from the accident/incident.
- (b) The *Wounded Knee District School* shall ensure that an employee required to be tested under this section is tested as soon as practicable but within 32 hours to test for prohibited drugs and 8 hours for alcohol.
  - (i) If an alcohol test required is not administered within two hours following the accident/incident, the *Wounded Knee District School* shall prepare and maintain on file a record stating the reasons the test was not promptly administered.
  - (ii) If an alcohol test required is not administered within 8 hours following the accident/incident, the *Wounded Knee District School* shall cease attempts to administer an alcohol test and shall maintain the same record.

An employee who is subject to post-accident/incident testing who fails to remain readily available for such testing, including notifying an authorized representative of *Wounded Knee District School* of his or her location if he or she leaves the scene of the accident/incident prior to submission of such test, may be deemed by the *Wounded Knee District School* to have refused to submit to testing.

- (c) Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident/incident or to prohibit an employee from leaving the scene

- of an accident/incident for the period necessary to obtain assistance in responding to the accident/incident or to obtain necessary emergency medical care.
- (d) A refusal to submit to testing, or failure to report to collection site after being notified, or adulteration of urine specimen will be considered a positive result

The *Wounded Knee District School* will be responsible for the alcohol and drug testing costs contained in this section.

#### 4. Random testing.

Random drug testing is a method of testing for drug use by employees through a process of random selection. These tests are conducted without prior notice to the employee and using a selection process which assures that each employee has an equal chance of being chosen for testing at any given time. Because there is no prior notice as to when this testing will occur, or who will be selected, random drug testing serves both to detect, and deter, drug use.

- (a) The minimum annual percentage rate for random drug testing shall be 50 percent and the minimum annual percentage rate for alcohol testing is 25 percent. These are minimum standards and do not guarantee or represent that *Wounded Knee District School* will only test to meet those standards. If circumstances dictate the necessity for additional testing, *Wounded Knee District School's* priority remains ensuring the safety of its students,

There shall be a separate random pool for each of the following:

1. regular employees
  2. bus drivers and CDL drivers.
  3. substitute, temporary, part-time and volunteer employees
- (b) The selection of employees for random testing shall be made by a scientifically valid method. Under the selection process used, each employee shall have an equal chance of being tested each time selections are made.
- (c) The medical vender shall randomly select a sufficient number of employees for testing during each calendar year to equal an annual rate not less than the minimum annual percentage rate for random testing.
- (d) The *Wounded Knee District School* shall ensure that random tests conducted under this part are unannounced.
- (e) The *Wounded Knee District School* shall require that each employee who is notified of selection for random testing proceeds to the designated collection site by designated appointment time; provided, however, that if the employee is performing a safety-sensitive function at the time of the notification, the *Wounded Knee District School* shall instead ensure that the employee ceases to perform the safety-sensitive function and proceeds to the collection site as soon as possible.

Notification of employees selected for random drug and/or alcohol selection will be made in accordance with the following procedure:

Random selection list is received by the program manager.

A notification letter is prepared by the program manager and identifies where to report, date and time of reporting for testing.

Notification letters are delivered by the program manager.

Employee verifies that notification was received by signing receipt of deliverance identifying date and time received.

Upon reporting to collection site, employee signs notification letter verifying that they reported to the collection site.

- (f) An employee shall only be randomly tested while the employee is performing safety-sensitive functions; just before the employee is to perform safety-sensitive functions; or just after the employee has ceased performing safety-sensitive functions.
- (g) In the event, an employee is unavailable for testing due to absence, lay-off period (summer), travel on a school sponsored activity or on pre-arranged leave, such test will be completed promptly upon employee's return to work.
- (h) A refusal to submit to testing, failure to report to collection site on time after being notified, or adulteration of urine specimen will be considered a positive result.

The *Wounded Knee District School* shall be responsible for alcohol and drug testing costs contained in this section.

#### 5. Return to duty testing.

The requirements of this section shall apply only to regular *Wounded Knee District School* employees:

(a) Return to duty. The *Wounded Knee District School* shall ensure that, before returning to duty to perform a safety-sensitive function, each employee who has refused to submit to a test or has a verified positive test result:

- (i) Has been evaluated by a substance abuse professional to determine whether the employee has properly followed the recommendations for action by the substance abuse professional, including participation in any rehabilitation program;
- (ii) Has taken a return to duty test with a verified negative result. If a test is canceled, the *Wounded Knee District School* shall require the employee to take another return to duty test.
- (iii) A substance abuse professional may recommend that the employee be subject to a return to duty breath alcohol test with a result indicating a breath alcohol concentration of less than 0.02, to be conducted in accordance with these procedures.

(b) A refusal to submit to testing, or failure to report to collection site after being notified, or adulteration of urine specimen will be considered a positive result.

The employee shall be responsible for alcohol and drug testing costs included in this section.

6. Follow-up testing.

7. Pursuant to OST Ordinance, Board members shall be tested annually at the annual meeting, upon election and prior to being seated and included in the regular pool. The requirements of this section shall apply only to regular *Wounded Knee District School* employees and Board members

- (a) Follow-up testing shall be conducted when the employee is performing safety-sensitive functions; just before the employee is to perform safety-sensitive functions; or just after the employee has ceased performing such functions.
- (b) Following a determination that an employee is in need of assistance in resolving problems associated with drug or alcohol use, the *Wounded Knee District School* shall ensure that the employee is subject to unannounced follow-up testing as directed by a substance abuse professional in accordance with the provisions of this policy.

A refusal to submit to testing, or failure to report to collection site after being notified, or adulteration of urine specimen will be considered a positive result.

Notification of employee selected for follow-up drug and/or alcohol selection will be made in accordance with the following procedure:

Follow-up notice of testing is received by the program manager.

Employee notification letter is prepared by the program manager and identifies where to report, date and time of reporting for testing.

Notification letter is delivered by the program manager.

Employee verifies that notification was received by signing receipt of deliverance identifying date and time received.

Upon reporting to collection site, employee signs notification letter verifying that they reported to the collection site.

The employee is responsible for alcohol and drug testing costs included in this section.

7. Volunteer testing.

Any employee may voluntarily submit to alcohol or drug testing at any time; however, any volunteer must agree that all testing shall comply with all provisions of this policy that apply after submitting.

The employee shall be responsible for the alcohol and/or drug testing contained in this section.



Testing shall be conducted in a manner to assure adherence to standards of confidentiality, privacy, accuracy, and reliability. The *Wounded Knee District School* will establish a collection site and utilize an independent laboratory that conforms to all appropriate regulatory guidelines to ensure accuracy of tests.

Persons reporting to the collection site for testing will be informed of the proper procedures for providing a specimen.

Drug testing:

1. Urine shall be the required substance tested and will be collected under controlled circumstances.
2. Urine shall be divided into split specimens (2 collection containers) and each shall be labeled thoroughly to preserve identity.
3. Specimens are transported to a previously designated and approved testing lab.
4. Specimens undergo testing by an initial screening procedure which is followed by confirmation by (Gas chromatography/mass spectrometry GC/MS) testing, if necessary.
5. The urine is positive for a substance if the substance is present in an amount greater than the screening limits set by the laboratory.
6. A Medical Review Officer (MRO) will contact the donor if there is a positive result to verify the result.
7. The medical review officer gives the donor the option of testing the remaining split specimen at a lab of their choice and at their own expense.

Alcohol Testing:

1. Breath is tested for alcohol.
2. Test is conducted by a certified Breath Alcohol Technician (BAT).
3. Tests use an approved Evidential Breath Testing (EBT) device.
4. The initial test must give a BAC result of less than 0.02 or a retest (confirmation) test must be done following a 15-minute wait.
5. If the confirmation reveals a BAC of greater than 0.039, the employee is in violation of the policy.

The requirements of this section shall apply only to regular *Wounded Knee District School* employees and Board members:

1. Action when employee or Board member has a verified positive test result.
  - (a) As soon as practicable after receiving notice that an employee, has a verified positive test result, or if an employee or Board member refuses to submit to a test, the *Wounded Knee District School* shall require that an employee or Board member cease performing a safety-sensitive function.
  - (i) The employee shall be placed on leave status for the period of evaluation and rehabilitation. Such leave will be unpaid leave. An employee shall not delay participating in an assessment. Such assessments shall take place no later than one week after receiving notice

of positive. If an employee does not participate in an assessment within the time-line, there must be a documented valid reason the employee has not participated in an assessment.

- (ii) The board member shall be suspended from the conducting any *Wounded Knee District School* Board function.

(b) Before allowing the employee to return to duty and resume performing a safety-sensitive function, the *Wounded Knee District School* shall ensure that the employee meet the requirements of this policy for returning to duty, including taking a return to duty test with a verified negative result.

Before allowing a Board member to actively participate in *Wounded Knee District School* board functions, the *Wounded Knee District School* shall ensure that the Board member meet the requirements of this policy for returning to active Board member status, including taking a return-to-duty test with a verified negative result.

- (c) Adulteration: Adulteration is the tampering of a urine specimen in an attempt to mask any drug that may be otherwise detected. The *Wounded Knee District School* will now have all specimens tested for adulteration. If an employee's specimen is found to have been adulterated it will automatically be considered a positive test. However, an adulteration is considered pre-meditated actions to deceive the employer, therefore will be treated as a more severe violation of this policy than a positive test result. The consequences for adulteration will be immediate termination.

## 2. Referral, assessment, and treatment.

- (a) An employee or Board member who has a verified positive test result or refuses to submit to a test under this policy shall be advised by the *Wounded Knee District School* of the resources available to the employee or Board member in evaluating and resolving problems associated with prohibited alcohol or drug use, including the names, addresses, and telephone numbers of substances abuse professionals and counseling and treatment programs.
- (b) The *Wounded Knee District School* shall ensure that each employee or Board member who has a verified positive test result or refuses to take a test shall be evaluated by a substance abuse professional who shall determine whether the employee or Board member is in need of assistance in resolving problems associated with prohibited alcohol or drug use.
  - (1) Assessment and rehabilitation may be provided by the *Wounded Knee District School*, by a substance abuse professional under contract with the *Wounded Knee District School*, or by a substance abuse professional not affiliated with the *Wounded Knee District School*. The choice of substance abuse professional and assignment of costs shall be made in accordance with *Wounded Knee District School*/employee/Board member agreements and *Wounded Knee District School* Board policies.
  - (2) The *Wounded Knee District School* shall ensure that a substance abuse professional who determines that an employee or Board member requires assistance in resolving problems with prohibited alcohol or drug use does not refer the employee or Board member to the

substance abuse professional's private practice from which the substance abuse professional receives re-numeration or to a person or organization from which the substance abuse professional has a financial interest. This paragraph does not prohibit a substance abuse professional from referring an employee for assistance provided through:

- (i) A public agency, such as a tribal, state, county, or municipality;
- (ii) The *Wounded Knee District School* or a person under contract to provide treatment for prohibited alcohol or drug use problems on behalf of the *Wounded Knee District School*.
- (iii) The sole source of therapeutically appropriate treatment under the employee's or Board member's health insurance program; or
- (iv) The sole source of therapeutically appropriate treatment reasonably accessible to the employee or Board member.

The *Wounded Knee District School* shall ensure that, before returning to duty to perform a safety-sensitive function, an employee has complied with the referral and Assessment provisions of this policy and takes a return to duty testing with a verified negative result.

- (i) The *Wounded Knee District School* shall ensure that, before returning to active Board member function, a Board member has complied with the referral and Assessment provisions of this policy and takes a return to duty test with a verified negative result.

### 3. Other alcohol-related conduct.

- (a) The *Wounded Knee District School* shall not permit an employee or Board member tested under the provisions of this policy who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 to perform or continue to perform safety-sensitive functions, until:

- (1) The employee's alcohol concentration measures less than 0.02; or
  - (2) The start of the employee's next regularly scheduled duty period, but not less than eight hours following administration of the test.

- (b) Except as provided in paragraph (a) above, the *Wounded Knee District School* shall not take any action under this policy against an employee based solely on test results, showing an alcohol concentration less than 0.04. This does not prohibit the *Wounded Knee District School* from taking any action otherwise consistent with law and *Wounded Knee District School* policies and procedures.



#### **4. Termination.**

An employee who refuses to participate in a rehabilitation referral, participate in the recommendations of the substance abuse professional or fails to successfully complete a required rehabilitation program will be terminated by the *Wounded Knee District School*.

A Board member who refuses to participate in a rehabilitation referral, participate in the recommendations of the substance abuse professional or fails to successfully complete a required rehabilitation program will result in the Board member's seat on the *Wounded Knee District School* Board being vacant.

An employee, who has a second positive test result, after a negative return to duty test, may be terminated by the *Wounded Knee District School*.

A Board member who has a second positive test result, after a negative return to duty test, will result in the Board member's seat on the *Wounded Knee District School* Board being vacant.

Action when a temporary, substitute, part-time or volunteer has a verified positive test result.

- (a) As soon as is practicable, after receiving notice that a temporary, substitute, part-time or volunteer has a verified positive test result, or refuse to submit to a test, the *Wounded Knee District School* shall terminate such individual immediately from any further service to *Wounded Knee District School*.
- (b) The temporary, substitute, part-time or volunteer shall not be permitted to provide services to the *Wounded Knee District School* for one year from the date of the verified positive test result.

#### **Substance Abuse Professional.**

The *Wounded Knee District School's* alcohol and drug-free program shall have available the services of a designated substance abuse professional who shall work directly with the *Wounded Knee District School* EAP.

The substance abuse professional shall determine whether an employee or Board member who has refused to submit to a test or has a verified positive test result is in need of assistance in resolving problems associated with prohibited alcohol and drug use. The substance abuse professional then recommends a course of action to the employee/Board member.

The substance abuse professional shall determine whether an employee/Board member who has refused to submit to a test or has a verified positive test result has properly followed the SAP's recommendation.

The substance abuse professional shall determine the frequency and duration of follow-up testing for an employee/Board member.

Such employee/Board member shall be required to take a minimum of six follow-up drug tests with verified negative results during the first 12 months after returning to duty. After that period of time, the substance abuse professional may recommend to the *Wounded Knee District School* the frequency and duration of follow-up testing, provided that the follow-up testing period ends 60 months after the employee/Board member returns to duty. In addition, follow-up testing may include testing for alcohol, as directed by the substance abuse professional, to be performed in accordance with this policy.

Any regular employee who has a grievance due to the application of this policy may utilize the grievance policy.

1. Retention of records.

- (a) **General requirement.** The *Wounded Knee District School* shall maintain records of its alcohol-free program and shall be maintained in a secure location with controlled access.
- (b) **Period of retention.** In determining compliance with the retention period requirement, each record shall be maintained for the specified period of time, measured from the date of the document's or data's creation.

The *Wounded Knee District School* shall maintain the records in accordance with the appropriate regulatory requirements.

2. Access to facilities and records.

- (a) Except as required by law, or expressly authorized or required in this section, the *Wounded Knee District School* may not release information pertaining to an employee that is contained in records required to be maintained.
- (b) Any and all documents pertaining to an employee or school board members alcohol and/or drug tests are property of *Wounded Knee District School* and shall not be made available to anyone other than designated employees of *Wounded Knee District School*.
- (c) Any individual may make a written request to be tested for alcohol and drugs upon payment by money order at time of collection.
- (d) The *Wounded Knee District School* shall permit access to all facilities utilized in complying with the requirements of this policy to any agency with regulatory authority over the *Wounded Knee District School* or any of its employees.
- (e) The *Wounded Knee District School* shall disclose data without identifying names of employees for its drug and alcohol testing program and any other information pertaining to the *Wounded Knee District School's* drug and alcohol-free program required to be maintained by appropriate regulatory requirements, when requested by any agency with regulatory authority over the *Wounded Knee District School* or employee.
- (f) Records shall be made available to a subsequent employer upon receipt of written request from the employee. Subsequent disclosure by the *Wounded Knee District School* is permitted only as expressly authorized by the terms of the employee's request.
- (g) The *Wounded Knee District School* may disclose information required to be maintained under this policy pertaining to an employee to the employee or the decision maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the individual and arising from the

results of an alcohol test administered under this policy (including, but not limited to, a worker's compensation, unemployment compensation, or other proceeding relating to a benefit sought by the employee.)

- (h) The *Wounded Knee District School* shall release information regarding an employee's record as directed by the specific, written consent of the employee authorizing release of the information to an identified person. Release of such information by the person receiving the information is permitted only in accordance with the terms of the employee's consent.
- (i) *Wounded Knee District School* Alcohol and Drug Testing Program shall collect alcohol and drug specimens on *Wounded Knee District School* employees and school board members and those organizations that have a Memorandum of Agreement (MOA) with *Wounded Knee District School* for such services.

### **3.75 Confidentiality and Protection of Confidential Information**

Respecting the privacy of Faculty, Staff, Board Members and Students at *Wounded Knee District School* is a basic value of our School. Personal information should be considered confidential and should not be disclosed or discussed with anyone without permission or authorization from your supervisor or the Principal. Care should be taken to ensure that unauthorized individuals do not overhear any discussion of confidential information and that documents containing confidential information are not left out in the open or inadvertently shared. Faculty, Staff and board members of *Wounded Knee District School* may be exposed to information which is confidential in nature. It is the policy of *Wounded Knee District School* that such information must be kept confidential both during and after employment or attendance at the School.

Confidential information is defined as all information of any nature and in any form, which at the time or times concerned, is not generally known to the public and is personal and private in nature. Confidential Information includes but is not limited to: employment information; health and medical status; personal data; job application data; and student records

Unauthorized disclosure of confidential or privileged information is a serious violation of this policy and will subject the person(s) who made the unauthorized disclosure to appropriate discipline, including removal or dismissal.