

# **Collective Bargaining Agreement**

between

**The Jemez Valley Public Schools**

and

**The Jemez Valley Education Association Union**

for the

**school year 2019-2020**

Submitted by the J.V.E.A. Bargaining Team for

**President** Dana Miyamoto

**Vice President** Sara Hibner

**Treasurer** Vacant

**Secretary** Lisa Hogan

# Table of Contents

Agreement .....	1
Article 1: Recognition.....	2
Article 2: General Provisions.....	3
Article 3: Grievance Procedure.....	5
Article 4: Employment.....	9
Article 5: Union Rights and Responsibilities.....	11
Article 6: Management Rights and Responsibilities .....	13
Article 7: Assignments and Transfers .....	14
Article 8: Overtime Compensation.....	15
Article 9: Leaves.....	16
Article 10: Administrative Intervention.....	23
Article 11: Evaluation.....	24
Article 12: Reduction In Force.....	25
Article 13: Non-Discrimination.....	32
Article 14: Vacancy Postings .....	33
Article 15: Personnel Files .....	34
Article 16: Safety and Support.....	35
Article 17: Insurance .....	37
Article 18: No Strike/No Lockout Provision.....	39
Article 19: Salary and Increment Schedules.....	40
Agreement Signatures.....	41

# Agreement

This Agreement was made and entered into at Jemez Valley New Mexico between the Board of Education of Jemez Valley Public School District, County of Sandoval, State of New Mexico (hereinafter referred to as the Board) and the Jemez Valley Education Association (an affiliate of the NEA-New Mexico) (hereinafter referred to as the Union) this **6th day of August, 2019**.

# **Article 1**

## **Recognition**

The Board recognizes the Union as the sole and exclusive representative for all certified and classified employees. All Administrators, Bookkeepers, Administrative Assistants (confidential employees), and management supervisors are excluded from the bargaining unit.

## Article 2

### General Provisions

#### A. Definitions

1. "Employee" shall mean an employee within this bargaining unit for which the Jemez Valley Education Association has been recognized as exclusive representative.
2. The term "District" shall mean the Jemez Valley Public School District, County of Sandoval, State of New Mexico, and its representatives.
3. The terms "Union" shall mean the Jemez Valley Education Association and its representative(s).
4. "Certified" shall mean all licensed/certified bargaining unit employees.
5. "Classified" shall mean educational assistants and all unlicensed/uncertified bargaining unit employees.
6. "Qualified" shall mean meeting the minimum qualifications listed in a job posting.
7. The term "school" or "worksite" shall mean any work location within the District wherein employees' responsibility may lie.
8. The term "Superintendent" shall mean the Superintendent of the District or designee.
9. The term "President" shall mean the President of the Union or designee.
10. The term "immediate supervisor" shall mean the supervisor in charge of the staff, crew, function, or activity.
11. The term "emergency" shall mean any act of God or other unforeseen occurrence or condition that has significant impact on the educational process as mutually defined by the Superintendent and union president.
12. The term "days" shall mean school days or specific work days for employees within the unit unless otherwise noted. Holidays recognized in the District when employees are not required to work shall not be counted as days.

#### B. Negotiating Procedure

1. Negotiations shall be conducted in closed sessions.
2. Each party shall have a negotiating team of not more than five (5) members. The parties shall notify each other in writing of the names of their authorized representatives, including their chief spokesperson; and thereafter, of any changes which may occur.
3. The parties agree to meet at reasonable times and to bargain in good faith in order to obtain a fair and timely Agreement. The parties shall plan to limit the number and length of caucuses and agree to do their bargaining preparation outside of the scheduled bargaining sessions.
4. Negotiation sessions shall be held in a mutually agreed upon location. All sessions shall be conducted in a non-smoking environment.
5. All agreements reached as a result of negotiations shall be reduced to writing, initialed by each designated chief spokesperson, and shall be tentative until ratified by the parties.
6. No bargaining sessions shall be recorded or videotaped.
7. If an impasse occurs and mediation becomes necessary, the parties shall comply with the terms of the New Mexico Public Employee Labor Relations Act.
8. Negotiations for a successor agreement may be initiated by either party by submitting a written notice to the opposite party requesting the commencement of negotiations. The notice shall be sent no earlier than one hundred twenty (120) calendar days and no later

than ninety (90) calendar days prior to the agreement's termination date. In the event the negotiations are initiated by the Union, the notice shall be sent simultaneously to the District Superintendent. In the event the negotiations are initiated by the District, the notice shall be sent simultaneously to the Union President. The receiving party shall reply within a reasonable time period.

#### C. Agreement Control

1. This Agreement shall be governed and construed according to the Constitution and laws of the State of New Mexico. If any provision of this Agreement shall be found contrary to law, such provision shall have effect only to the extent permitted by law, but all other provisions shall continue in full force and effect. In the event any provision of this Agreement is found contrary to law, said provision shall be void. In that event, the parties shall meet within ten (10) days after such ruling for the purpose of renegotiating the provision(s) affected.
2. In case of any conflict between the provision of any District policy regulation, or directive, the provisions of the Agreement shall control.
3. Unless otherwise specifically stated herein, the provisions, conditions, and requirements of this Agreement shall apply to all employees in the bargaining unit.
4. This Agreement and attachments thereto incorporate the entire understanding of the parties on all matters, which were discussed during negotiations leading to this Agreement. No additional negotiations on this Agreement will be conducted on any items, whether contained herein or not, except by mutual consent.

#### D. District Committees

1. In the event a District Committee is formed, which relates to the terms and conditions of this Agreement, the Union shall appoint the employees from within their unit to serve.
2. District Committee reports will be provided to the Superintendent and the President.
3. The District will not establish any committee that includes bargaining unit employees, which would conflict with the Union's responsibilities as exclusive representative.
4. The District and Union recognize that site level committees can result in positive benefits for the educational process. Accordingly, site-level committees shall be honored to the extent they are not contradictory to this Agreement, and their recommendations are subject to the final approval of the site supervisor (Principal).

#### E. Printing and Distribution of the Agreement

1. The District and the Union will share the cost of the printing of the Agreement equally.
2. The District and the Union will determine the quantity to be printed and the method and means of distribution.
3. Printed copies of this Agreement will be available in the library of each school site and at the front reception desk of the Administration building.
4. An electronic version of this Agreement shall be posted on the district web site.

## **Article 3:**

### **Grievance Procedure**

The purpose of this procedure is to secure, at the lowest possible administrative level, equitable solutions to problems which may arise. All grievances shall be processed as provided herein.

#### A. Definitions:

1. A “grievance” is an allegation by an employee, group of employees, or the Union, that there has been inequitable or unfair treatment due to a violation, misinterpretation, or misapplication of any provision of this Agreement or District policy, regulation or practice, or applicable law or regulation of the State of New Mexico. Time lines may be extended by mutual consent. Employees who are party to any grievance may always be accompanied by a Union representative(s) to the meeting. Supervisors may be accompanied by a representative(s) of their choice.
2. The term “day” when used in this Article shall mean working days of the grievant and supervisor involved in the grievance.
3. A “grievant” or aggrieved” shall mean the employee, group of employees, or the Union.
4. The “immediate supervisor” is the lowest level management personnel having jurisdiction over the grievant and/or has been designated by the Superintendent to adjust grievances.
5. “Group grievance” is a grievance which involves the same or similar allegations of employees filing a group grievance and the same supervisor, provided such claim is signed by those individuals in the group grievance.

B. The grievant shall be required to exhaust the grievance procedure set forth in this Article before seeking alternative remedies, where there is a specific method of review by law (i.e., EEOC, HEW, and OSHA).

C. Matters not grievable are identified within this Agreement and include the refusal to reemploy an employee, or the termination of an employee; or to discharge an employee; and actions to challenge or change the Agreement. Employees terminated or discharged shall have the right, as guaranteed by law, to request a hearing with the Board with an appeal right of arbitration.

D. At all levels of the grievance procedure, an employee may discuss the matter with the appropriate management personnel and may be accompanied by a Union representative(s). If the employee desires to be accompanied by a Union representative(s), notification must be provided in advance of scheduling the meeting. The immediate supervisor may also have a representative(s) present. When the aggrieved is not represented by the Union, the Union shall be afforded the opportunity to be present and make its views on the grievance known at all levels of the procedure except the Discussion Level.

E. No grievance shall be initiated unless it has been discussed by the aggrieved with the immediate supervisor. Prior to initiating a grievance at the Superintendent’s Level, if the immediate supervisor does not have the authority to remedy the situation, then an informal conference will take place between the aggrieved and/or representative(s) and the Superintendent. In the event the aggrieved is unable to meet and discuss the matter with the immediate supervisor or Superintendent, due to illness, injury, or because the issue deals with a personal relationship problem with the supervisor or Superintendent, the aggrieved may authorize in writing such reasons and designate an Union representative to discuss the matter at the Discussion Level and

have the authority to resolve the issue.

- F. Nothing contained herein shall limit the right of an employee to process a grievance as an individual without representation by the Union. The Union has the right to submit information and enter an opinion for the resolution of any grievance.
- G. If a grievance, affects a group or class of employees, the Union may file the grievance within twelve (12) days of the act that caused the grievance at the appropriate Supervisor's Level or if the appropriate Supervisor does not have the authority to remedy the matter, at the Superintendent's Level.
- H. All grievances, responses, and appeals must be filed on appropriate forms as provided by the District or the Union. The parties shall collaboratively develop all forms.
- I. The processing of a grievance will be accomplished at times agreed to by the parties to the grievance. The employees requested to participate in a grievance meeting shall not bear any loss of pay as a result of this participation.
- J. All written materials related to the processing of a grievance will be filed separately from the District's personnel files.
- K. The District agrees to make available to the aggrieved, all information in its possession or control which is relevant to the issues raised by the grievance as allowable by law or District Policy.
- L. The Board and the Union agree that any grievance meetings will be kept informal and that the specific information excluding outcome will remain confidential.
- M. No party shall take reprisals on any member of the unit, supervisor, administrator, or Board members, Union representative(s), or other participant in the procedure by reason of such participation.
- N. Procedure
  1. Since it is important that grievances be processed as quickly as possible, the number of work days indicated at each level shall be the maximum.
  2. The time lines specified may be extended if mutually agreed to in writing by the parties to the grievance.
  3. The aggrieved must meet with the immediate supervisor at the Discussion Level within twelve (12) days of the act or discovery of the act that caused the grievance. An ongoing act can be discussed within twelve (12) days of the latest occurrence.
  4. Failure to file a grievance or appeal a decision within the time limits specified herein shall result in the dismissal of that grievance.
  5. Failure to submit a decision in writing within the time limits specified herein will cause the grievance to proceed to the next level.

## O. Steps of Grievance

### 1. Discussion Level.

- i. Prior to filing a grievance, the employee shall meet with the immediate supervisor in an attempt to resolve the issue. The potential grievance will be identified by the employee and the solution sought discussed.
- ii. If the matter is not resolved, the employee may proceed to Supervisor Level of the Grievance Procedure.

### 2. Supervisor Level.

- i. If the grievance is not settled at the Discussion Level, the aggrieved may, within twelve (12) days, submit a formal written grievance to the immediate supervisor.
- ii. The grievance statement shall identify the section of the Agreement alleged to have been violated, the circumstances involved, the specific remedy sought, and the date of the alleged act.
- iii. The immediate supervisor shall communicate a decision in writing within twelve (12) days after receiving the grievance.

### 3. Superintendent Level.

- i. If not satisfied with the decision at the Supervisor Level, the grievant may, within twelve (12) days, appeal the grievance in writing to the Superintendent.
- ii. The Superintendent shall meet with the grievant and the supervisor involved in the grievance to review the record of the prior steps and other information that may be presented. The Superintendent shall render a decision on the grievance within twelve (12) days following receipt of the appeal.

### 4. Arbitration Level.

- i. If the aggrieved is not satisfied with the disposition of the grievance at the Superintendent Level, the grievant may within twelve (12) days submit the grievance to advisory arbitration.
- ii. Within five (5) days following the appeal to advisory arbitration, the parties to the grievance shall meet to prepare a joint letter to the Federal Mediation and Conciliation Service requesting a list of five (5) arbitrators.
- iii. The parties will strive to mutually agree upon the Arbitrator. If the parties fail to mutually agree upon the Arbitrator each party will strike one name followed by the other party striking one name until a single name remains and that person shall become the Arbitrator. The party required to strike the first name will be determined by a flip of the coin. The process of striking names shall occur within ten (10) days of receipt of the list by both parties.
- iv. The Arbitrator shall conduct the hearing in accordance with the voluntary arbitration rules of the American Arbitrators Union and the provisions of this Article.
- v. The Arbitrator shall conduct a hearing as soon as possible.
- vi. If any question arises as to the arbitrability of the grievance, such questions shall be ruled upon by the Arbitrator.
- vii. The Arbitrator shall have no authority to add to, subtract from or modify the terms of this Agreement, and the Arbitrator shall interpret this Agreement in accordance with accepted arbitral standards of contractual interpretation.

- viii. The Arbitrator's decision will be in writing and will set forth the Arbitrator's findings of fact, reasoning and conclusion of the issue submitted. The Arbitrator will be without power or authority to make any decision which requires the commission of an act prohibited by law or which is in violation of the terms of this Agreement. A copy of the award will be submitted to the Superintendent, the aggrieved, and the Union. All costs of the services of the Arbitration, including, but not limited to, per diem expenses, travel and subsistence and the cost of any hearing room will be borne equally by the Board and the aggrieved. All other costs will be borne by the party incurring them. Unless the aggrieved is represented by the Union, the Board may require that the aggrieved party post the party's share of the expenses in advance of the hearing.
- ix. If any party requests a transcript of the proceedings, the party shall bear the full costs for the transcript.

## Article 4

# Employment

- A. The regular work year for certified employees shall be the equivalent of **157** contractual days (**1403** contractual hours) as per the approved **2019-2020** calendar. At the beginning of the year teachers will participate in **four** days of professional development. One half of one day will be primarily dedicated to working in their respective classrooms. As per the approved **2019-2020** calendar, elementary teachers will have 4 days for parent conferences, and mid and senior high teachers will have early release days for parent conferences as per the calendar.
- B. The school year is based upon the school calendar with the understanding that the calendar is subject to emergency changes, but such changes made by the Board shall not affect the total number of workdays/work hours required.
- C. The regular workday for certified employees shall consist of **8.75** hours including an assignment free lunch period of not less than thirty (30) consecutive minutes. The normal workday for certified employees shall be from **7:30am - 4:15pm** or as set individually by the Superintendent to meet the needs of the District. Non-certified employees shall not exceed forty (40) hours per week or ten 10 hours per day, exclusive of a thirty (30) minute lunch period. All employees, depending upon specific classification, will have work schedules set by the Superintendent to meet the needs of the District. **Educational Assistants will receive two 15 minute breaks, one before lunch and one after lunch. Such breaks will be worked out between the classroom teacher and the assigned educational assistant and cannot be combined to make a longer lunch break or to leave earlier than the regularly end time of the educational assistant's work day. All breaks will be based on the staffing needs of the district.**
- D. Each certified employee shall be responsible for planning and implementing effective teaching, defining teaching goals, using evaluation techniques consistent with teaching goals, and adjusting instruction based on student learning. Teachers will differentiate instruction based on data from state-mandated assessments, short cycle assessments, and classroom based measures in keeping with the district's Educational Plan for Student Success.
- E. Administration will provide teachers 260 minutes per week for preparation and planning based on requirements to meet the goals stated in the Educational Plan for Student Success, district programs, and schedules. If a substitute is not available for the pull-out teacher and a teacher loses prep time, the teacher will turn in a time sheet reflecting the loss of prep time and will receive equitable compensation.
- F. When non-certified personnel are asked to substitute for certified personnel they will be compensated as per applicable salary schedule.
- G. In addition to instructional responsibilities, all employees shall be responsible for a part of the workday for such activities (including allowing of before and after the instructional day needs of students) as may be reasonably required by the administrative staff. Illustrative, but not all-inclusive of such activities are the following:

1. Parent and student conferences shall be the professional obligation of the certified employee, including IEPs (refer to state/federal law regarding teacher attendance at IEPs), Student Assistance Team meetings, and all parent contacts verbal or written.
  2. Conferences with administrators and other certified employees.
  3. Attendance at staff meetings until the meetings are concluded in a timely fashion. One-hour staff meetings will be held the first Wednesday of the month from 4:00-5:00pm. The following Thursday will have the teacher release time of 4:00pm.  
Attendance on professional development days are the professional obligation of district employees. These days are built into the district calendar for each year. **Each professional development day will be from 7:30am-3:30 for a total of 8 hours each. Up to 6 hours is to be used for whole district professional development. The remaining hours are to be used for school site, principal determined activities, which may include preparation for upcoming events, site specific professional development, staff collaboration and planning, data analysis, PDP creation, committee meetings, etc. The dates are as follows for the 2019-2020 school year:**  
**July 29-31 (last Mon-Wed. of the month)**  
**Aug 1 (1<sup>st</sup> Thurs. of the month)**  
**January 6 (1st Mon. of the month)**
  4. **The workday for Monday every week will be from 7:30-5:00 allowing for 45-60 minutes of non-instructional time after the busses have left. This time is to be used for professional development, EWS, SAT, staff collaboration, etc.**
  5. Employees will be notified one week prior as to the materials needed for the aforementioned staff meetings and professional development days. Notification will be made as soon as reasonably possible in the case of any emergency causing a change in schedule and/or necessary materials.
  6. In addition, all employees are responsible for performing other such reasonable District, student, and community functions as may be equitably assigned by the Superintendent or the building principal, e.g., Open House and Back-to-School-Night.
  7. When absent, certified employees must provide lesson plans for instruction and classroom management for substitute teachers. Lesson plans must be current and relevant to the flow of instruction.
- H. No member of the staff may engage in any sales promotion or selling on school premises unless such promotion or sale has been approved in advance by the principal. Fund raising activities, excluding commercial photographs, shall not interfere with the instructional program unless agreed to by the principal and the employee.
- I. Certified employees shall be responsible for the programs and supervision of the students in their classes and jointly responsible with other employees and the principal for the supervision of the students on campus.
- J. Certified employees are responsible for evaluating student progress and interpreting grades or reports given under their supervision.

## **Article 5**

### **Union Rights and Responsibilities**

- A. All rights granted to the Union as the exclusive representative for the employees within this unit are for the exclusive use of the Union and may not be granted to another labor organization.
- B. The Union has the right to make announcements at staff meetings and new employees' orientation. The Union may also provide an information letter to new employees regarding the Union's role as the exclusive representative for all employees.
- C. The Union may hold voluntary meetings before or after the instructional day or workday, and during the lunch period.
- D. The Union may hold meetings at work locations after work hours provided such meeting do not conflict with previously scheduled events as determined by the principal. No charge will be made for the use of the meeting room; however, custodial charges may be assessed if necessary.
- E. The Union representative designated at each work site shall have the right and responsibility to bring matters related to Union rights or the administration of this Agreement to the attention of the principal or immediate supervisor.
- F. Representatives of the Union shall be able to visit work sites and transact official Union business provided the visit does not occur during the employee's instructional schedule or assigned duties
- G. The Union shall be allowed to use the inter-school mail systems, school email; school mail boxes and bulletin board space in areas frequented by employees, subject to the following conditions:
  - 1. All materials must contain the date of the posting or distribution and the identification of the Union.
  - 2. A copy of all postings and distribution shall be provided to the building principal or immediate supervisor and Superintendent at the time of the posting or distribution.
  - 3. No materials shall be distributed to an employee who has registered with the principal or immediate supervisor an objection to receiving Union materials.
  - 4. The inter-school mail system will not be used for the distribution of material which is not in the best interest of the District.
- H. The above activities cannot take place while on duty.
- I. The Union shall be granted ten (10) professional leave days for Union business, workshops, and conventions. The Union will pay all expenses incurred for such activities. The Union may take up to ten (10) days for professional purposes and be charged at the District cost of the degree substitute rate for each day taken. However, permission to Professional leave campus will depend on the availability of substitute teachers. If no Substitute teacher is available, the Union will pay for the prep time for a teacher who covers the absent person's classes.
- J. The President of the Union (and any appointee(s)) and the Superintendent of Schools (and any appointee(s)) shall meet once every two months at mutually agreed upon times to review and discuss concerns and issues related to the Agreement.

K. The President shall be provided at no cost to the Union the following information by the Superintendent's Office:

1. A listing of all employees within the unit as of the last September payroll, in alphabetical order by name, with position, work site, date of hire, degree status, days under contract, step on the salary schedule, salary, and any increments or differential provided. Addresses and phone numbers will also be provided unless an individual employee requests that information not be released. No personal information about non-members will be released without signed informed consent.
2. Similar information on new hires, resignations and retirements on a monthly basis following notification to the Superintendent.
3. A copy of the Board agenda and non-confidential documents as defined under the New Mexico Inspection of Public Records at the time they are made available to the Board.
4. Financial data prepared in the spring for budget consideration for the following year including enrollment projections and anticipated revenue. Tentative and final operational budgets will also be made available following the Board's receipt of each document. The Union representative will serve on the Budget Committee.

L. Dues Deduction

1. The Board agrees to deduct from the wages of members of the Union dues per pay period on the basis of a properly executed authorization form of which a copy is attached to this Agreement (Appendix B).
2. The Treasurer of the Union will certify the amount of the deduction to be made from each employee's wages in writing.
3. If the Union dues are changed, the Board agrees to affect such changes in deductions within thirty (30) days following the receipt of a written notice from the Treasurer of the Union.
4. The Union will submit to the Business Office by (August 30) the necessary employee information (names, social security numbers and total annual dues amount) on the enrollment card, for dues deductions to begin with the first pay period and to continue through the last pay period.
5. Any dues deducted in error will be refunded to the employees by the Union.
6. Dues deductions may be discontinued or revoked by the employee by filing such notice with the Treasurer of the Union, signed by the employee. The Union will notify the District Business Department of the change. Such cancellation must be received by the Union by October 1 of each year, and will be effective on the following pay period. The Union will provide employees with a procedure for employees experiencing emergency conditions to apply for discontinuation or revocation of their dues after that October 1 of each year.
7. The Board agrees to provide the amount of dues collected to the Treasurer of the Union within seven (7) days after the close of the month.
8. In the event an employee resigns, leaves the bargaining unit, or goes on extended leave without pay, the annual dues owed to the Union will be deducted from the employee's final paycheck in accordance with the authorized membership form.
9. The Union agrees to render the Board harmless for any actions resulting from compliance with this provision of the Agreement and assumes total responsibility for the disposition of the funds so deducted once the funds have been received by the Treasurer of the Union.

## **Article 6**

### **Management Rights and Responsibilities**

- A. The Union hereby acknowledges that the Board shall retain and reserve unto itself all powers, rights, authoritative duties and responsibilities conferred upon and vested in it by the laws and Constitution of the State of New Mexico.
  
- B. The Superintendent shall also have the following rights:
  - 1. To direct the work of, hire, promote, lay off, assign, evaluate, transfer, suspend, discharge, terminate, and discipline employees;
  - 2. To determine qualifications for employment and the nature and content of personnel examinations;
  - 3. To take action as may be necessary to carry out the mission of the District in emergencies; and
  - 4. To manage and exercise judgement on all matters not prohibited by the Agreement.

# Article 7

## Assignments and Transfers

### A. Assignment

1. Certified employees shall be assigned within the scope of their teaching certificates unless otherwise authorized by the State Public Education Department and with the concurrence of the employee. Such concurrence for waiver will include the employee's responsibilities to comply with requirements.
2. The district will attempt to inform all employees in writing of their assignments and job descriptions prior to the end of the previous school year. All employees will be trained to handle their assignments and will be accountable for implementation of all District initiatives as indicated on employees' annual Professional Development Plans. The District will attempt to inform employees no less than five days prior to any changes made after the end of the school year. If an employee cannot be reached, notification will be mailed to the employee's last known address on file.
3. If possible, new certified employees shall be given notice of their specific assignment as soon as practical, but in no event later than fifteen (15) days after the school year begins.

### B. Transfer

1. Transfer requests will be made on a form provided by the District, which shall be available in the Superintendent's office.
2. The request will indicate the grade, subject, or position to which the employee desires to be assigned and the school desired.
3. Requests for transfer shall be submitted to the Superintendent's office.
4. Consideration for transfer shall be based on the instructional needs of the school. Consideration of transfer may include individual licensure and teaching experience within the District.
5. Administrative Initiated Transfer
  - i. All transfers of existing staff members will be made to facilitate the best educational program for the students of the District and the total District program, taking into consideration the following: (1) Certification/endorsements; (2) Extracurricular and/or co-curricular needs; (3) Instructional program requirements; (4) Grade level or subject experience.
  - ii. The above being equal, District seniority of full-time personnel will control, with the least senior person being selected for transfer. Employees may volunteer to be administratively transferred if they meet the criteria being addressed for the need for the administrative transfer. If more than one employee volunteers and meets the criteria, the most senior person shall be selected for transfer.
  - iii. If possible notice of administrative transfer shall be given to employees by their immediate supervisor no less than ten (10) days before such transfer is to take effect.
  - iv. A list of all open positions in the District shall be made available to all employees being administratively transferred. Employees being administratively transferred will be placed in an equivalent position if such a position is available.

## **Article 8**

### **Overtime Compensation**

- A. Subject to the limitations and exceptions set forth herein, compensatory time equal to the time worked will be earned by a non-exempt employee who is required to work more than forty (40) hours during the work week.
- B. All overtime work must have prior approval of the Superintendent.
- C. Compensation shall be paid at a rate of one and one-half (1½) times the employee's regular hourly rate of pay.
- D. Hours worked by an employee who, at his or her option, engages in part time occasional or sporadic employment for the District in a different capacity other than his or her primary employment classification, shall be excluded from the calculation of hours for overtime compensation.
- E. A non-exempt employee, who substitutes during the scheduled work hours for another employee who is employed in the same classification and with the Superintendent's approval, shall be excluded from those hours in the calculation of overtime compensation.
- F. A non-exempt employee who substitutes, during the scheduled work hours for another employee who is employed in a higher-paid classification and with the Superintendent's approval, will be compensated as per applicable salary schedule.

# Article 9

## Leaves

### A. General Information

1. Except in emergency situations, all leaves with or without pay require advance approval by the immediate supervisor unless otherwise provided herein.
2. The immediate family of an employee is the spouse, child, grandchild, parent, sister, brother, grandparent, son-in-law, daughter-in-law, sister-in-law, brother-in-law, mother-in-law, father-in-law, a person who served as the guardian for the employee prior to the employee's becoming an adult or were individuals under the employee's guardianship.
3. All leave are based upon the number of hours in the employee workday. Absence for illness over three (3) consecutive days may require a physician's certification.
4. Employees returning to duty from an extended leave shall be assigned to a substantially equivalent position to that held by the employee at the commencement of the leave. If the leave period is for one semester or to the end of the school year, the employee shall be returned to the position previously held if it exists or to a substantially equivalent position.
5. An employee may remain in the District's group health insurance program by paying one hundred percent of the premiums of such benefits while on approved extended leave or the employee's share of the premiums as provided by law. Premium payments must be made at the time specified by the District. Failure to make payment will cause termination of benefits.
6. Employees on unpaid leave of more than one month of consecutive workdays may continue group insurance by timely payment of the full premium, with no board contributions, unless the leave is under the provisions of the Family and Medical Leave Act ( see 263-5)
7. An employee returning from an extended leave must file by certified mail, a letter indicating their intent to return to the District no later than November 1, when returning for the second semester, or April 1, when returning for first semester of the next school year. Failure to do so will be considered a resignation on the part of the employee at the conclusion of the leave or the school year, whichever comes first.
8. Employees who are granted extended leave for a portion of the school year must notify the superintendent of their desire to return to duty at least fifteen (15) school days prior to the date of return. Those granted leave for an entire year must notify the superintendent of their desire to return to duty no later than March 15 of the school year in which the leave was taken.
9. Renewal of leaves extended beyond one year will be made only with the understanding that there is no guarantee for return to employment.
10. Leave without pay does not count toward attainment of accrued benefits.

### B. Sick

1. Twelve-month employees shall earn sick leave of 112 hours per year, at the rate of 9.33 hours per month. All other employees shall earn sick leave of 93 hours at the rate of 10.33 hours per month for nine months beginning with August. The total amount of accrued sick leave for the entire year shall be credited at the beginning of the employee's employment year. If the number of hours taken during the year exceeds the number earned for the year, or the number of hours accrued, employees shall be docked at their daily rate of pay for each 8.75 hours taken or for each 10 hours taken for 10-hour day employees.

2. Employees employed for less than a full year or on a part-time basis shall have their leave accrual prorated.
3. Earned sick leave may be used provided the employee is on paid duty status.
4. Sick leave may be accumulated without limit. Accumulative sick leave shall not be reduced or lost by employee during officially-approved leaves of absence. All accumulative sick leave is forfeited upon termination from employment by the school district for any reason, with no payment in lieu thereof. Sick leave is not transferable from one individual to another.
5. At the close of each fiscal year each employee's accumulation of unused sick leave shall be calculated. Any employee whose accumulated hours equal at least 465 hours but fewer than 930 hours shall have \$200 added to the next year's employment contract amount, and any employee whose accumulated hours equal at least 930 hours shall have \$400 added to the next year's contract amount.

#### C. Bereavement

1. Employees will be provided leave with pay for five (5) workdays following the death of someone in their immediate family. This leave is an addition to any other category of leave to which the employee is entitled. In extenuating circumstances, additional time may be granted by the superintendent: such hours will be charge to earned sick leave hours. Bereavement leave is not cumulative.

#### D. Extended Leave

1. Extended Leave of Absence without pay is a discretionary leave and may be granted for a period up to one (1) calendar year, at the discretion of the Superintendent. Personal reasons include, but are not limited to, family emergency, educational, Public Service, etc. The approval of such leave shall largely depend upon the circumstances, specialization, or critical nature of the employee's position, as well as the practicality of replacing the employee for a temporary period. Assurance of the employees return is required if such a leave is to be granted. Approval of requests for Extended Leave of Absences constitutes an agreement by the district to the return of the employee to his/her job classification or to a comparable position at a pay rate not less than the former rate, contingent upon the availability of funds.
2. Eligibility: An employee who meets each of the following conditions shall be eligible to request an Extended Leave of Absence:
  - i. Satisfactory completion of twenty-four (24) months of continuous employment by the district.
  - ii. Assurance of the employee's intent to return to district employment at the expiration of the Extended Leave of Absence.
  - iii. Approval of the employee's request for Extended Leave of Absence by the Superintendent.
3. Continuous Service: Continuous District service shall not accrue during a period of Extended Leave of Absence.
4. Benefits: An employee who is on an approved Extended Leave of Absence and who wishes to retain existing insurance benefits coverage shall make arrangements with the district business office prior to commencement of the leave to pay both the employee and the district premiums for such coverage.
5. Vacation and paid sick time hours shall not accrue during the period of unpaid Extended Leave of Absences.
6. Unused accrued leave shall remain in place for the employee upon their return from an approved leave.

1. An employee may use accumulated sick leave days during the pregnancy and immediately after the birth of the child. The employee shall notify the Superintendent in writing of her desire to take such leave, and except in cases of emergency, shall give such notice thirty (30) calendar days prior to the date on which the leave is expected to begin.
2. An employee may continue in active employment as late in her pregnancy as she and her physician recommend, provided she is able to perform her required employment assignment.
3. An employee returning to employment from maternity leave shall submit a physician's statement that she is able to resume her duties.

#### E. Jury Duty/Court Subpoena

1. Absence will be granted when an employee is subpoenaed to appear in an official proceeding, if such proceeding does not involve self-employment or the employer and does not concern the employee's own personal life.
2. Leave will be granted to an employee for appearance in court as a witness, to serve on a jury, or to respond to an official order from another government jurisdiction for reasons not brought about through the wrongdoing or misconduct of the employee.
3. Employees shall notify their immediate supervisor of their desire to apply for such leave as soon as possible prior to the date services must be rendered.
4. Employees may not receive compensation from the District and from jury duty/court subpoena leave.

#### F. Military

1. As provided by law, employees who are members of an organized unit of the National Guard, or reserve unit of any of the U.S. military branches shall be given military leave with pay up to 116.25 hours annually, in accordance with their official orders when they are ordered to active duty training with such organized units.
2. Such leave is to be an addition to other leave or vacation time to which the employment is otherwise entitled, with no deduction of pay.
3. Any employee who is drafted or called into duty by the armed forces of the United States shall be considered as on leave without pay, eligible for return to duty for the first available position for which the employee is licensed, or for non-licensed employees, the first available position of the kind held by the employee at the time in induction into the armed forces.

#### G. Personal

1. Employees may use up to 23.25 hours of their 93 hours sick leave per year for personal reasons at no reduction in pay. Personal leave shall not be restricted in its use nor shall an employee be required to state the reasons for said leave.
2. Personal leave will not be granted on the last work day prior to or one the first work day following a holiday, or on an in-service day, or during the first or last five days of the school year except in an emergency situation and prior approval has been granted. Use of personal leave requires advance approval by the superintendent or designee, with exceptions only in case of emergencies.
3. Any unused days of personal leave shall revert to the employee's accumulated sick leave hours.

#### H. Annual

1. Full time twelve-month employees shall be entitled to 120 earned at the rate of 10 hours per month served as a twelve-month employee.
2. Annual leave cannot be earned while the employee is on another leave without pay. Annual leave may be accumulated to a maximum of 240 hours. If a twelve-month employee transfers within the district to a non-twelve month position or upon death, retirement, resignation, termination or discharge, the employee shall be paid for a maximum of 160 hours earned.
3. if a twelve-month employee leaves the position for any reason and then again becomes a twelve-month employee, "years completed with the district" as a twelve-month employee shall be calculated only from the initial date of employment as a twelve-month employee from the beginning of the most recent employment.
4. Annual leave will not be granted in advance of the number of hours earned by the employee at the time of leave. Authorization will be granted only for such time as will least interfere with the efficient operation of the schools. Annual leave with pay shall not be granted to part-time employees.
5. The board reserves the right to negotiate a separate annual leave agreement with the superintendent.

#### I. Professional

1. Leave with pay may be granted for professional visitation and attendance at job-related meetings, conferences and training services or other activities which in the Superintendent's judgement would be beneficial to the work of the employee or to the District.
2. Such leave may or may not involve the reimbursement of expenses, including substitutes, depending upon the mutually agreeable arrangements made prior to the leave.
3. Any expenditure proposed beyond the amount budgeted for such purposes must receive prior approval of the board of education.
4. One-half day of professional leave may be granted by the superintendent or designee for use by an employee for the oral examination for an advanced degree.

#### J. Family Medical Leave Act

1. To be eligible for leave under the Act an employee must have worked for the district for a total of twelve (12) months, (months on duty) during which employee must have worked a total of 1,250 hours.
2. Pursuant to the Family and Medical leave Act, employees are permitted up to twelve (12) work weeks of unpaid leave per year during any 12-month period. Family and medical leave can be requested for the following reasons:
  - i. childbirth and infant care;
  - ii. placement of a child with employee for adoption or placement of a child with the employee by a state agency for foster care (entitlement to leave for the birth or placement of a child expires 12 months after the birth or placement of the child);
  - iii. care of the employee's spouse, son or daughter or parent with a serious health condition; and
  - iv. the inability of the employee to perform his or her job duties due to his or her own serious health condition, or the necessary absence from work of an employee to receive medically necessary treatment..

3. The 12-month period within which each employee may take twelve (12) weeks of leave under the FMLA shall be a "rolling" 12-month period, measured backward for each employee from the first time each such employee uses leave under the FMLA.
4. A "serious health condition" is an illness, injury, impairment, or physical or mental condition that (a) requires in-patient care in a hospital, hospice, or residential medical facility, or (b) requires continuing treatment by a health care provider and which, if left untreated, would likely result in an absence from work of more than three days, or (c) involves pre-natal care. A "serious health condition" does not include voluntary cosmetic treatments, unless inpatient care is required, or routine physical examinations.
5. An employee requesting leave shall submit a "Request for Leave: form to the immediate supervisor.
6. If an employee requests leave for treatment of an employee's serious medical condition or for that of a child, parent, or spouse, the employee must make a reasonable effort to schedule the treatment at a time that is not unduly disruptive to the district.
7. An employee seeking leave for a foreseeable reason such as the birth or placement of a child or for planned medical treatment, shall provide the district with at least thirty (30) days advance notice of leave. If thirty (30) days advance notice is not possible under the circumstances, e.g. in the case of a premature birth, the employee shall give such notice as is practicable, e.g. within one or two business days of the day the employee learns of the need for leave. If an employee's reason for seeking leave was unforeseeable, such employee shall give notice as is practicable. An employee who fails to give notice of leave as required herein may be denied such leave until the notice requirements are met. If less than thirty (30) days notice of leave is provided, the employee must schedule an appointment with the Director of the Human Resources Department for approval.
8. An employee seeking leave on the basis of the serious medical condition of the employee or the employee's spouse, son or daughter, or parent, must provide certification issued by the health care provider of the employee or of the employee's spouse, son or daughter, or parent, stating:
  - i. the date the condition began,
  - ii. it's probable duration,
  - iii. appropriate medical facts, and.
  - iv. that, for a specified time, either
    - a. the employee is unable to perform his/her job functions or will be unavailable to do so while receiving necessary medical treatment, or
    - b. the employee will be needed to care for the sick family member.
9. If the adequacy of medical certification is questioned by the district, the district may require the employee to seek the opinion of a second health care provider, who is not regularly employed by the district, at the district's expense. If the opinions of the first and second health care providers differ, the district may require the employee to obtain a third opinion at the district's expense, from a health care provider agreed upon by the employee and the district. The third opinion shall be final and binding.
10. Intermittent leave and reduced work schedules are allowed when such are medically necessary; however, employees may not take intermittent leaves or go on reduced work schedules that reduce the number of hours worked per week or per day for childbirth/infant care or adoption leave.
11. If an eligible "instructional employee" seeks intermittent leave or reduced-schedule leave for the care of a spouse, son or daughter, or parent, or for the employee's own serious health condition, and the leave is foreseeable on the basis of planned medical treatment, and the

employees would be on leave for more than twenty (20) percent of the work days during the period, the employee must choose either to:

- i. Take leave for a period or periods of a particular length, not greater than the length of the planned medical treatment; or
  - ii. Transfer temporarily to an equivalent position which better accommodates recurring periods of leave.
  - iii. "instructional employees" include teachers, instructional assistants, coaches and other employees whose duties principally involve the direct provision of instructional services to students. In the event an employee involuntarily takes additional leave time under subparagraph 1 above, the entire leave time shall be counted against the employee's available leave under the FMLA and any district leave policy.
12. If any employee requests intermittent leave or leave on a reduced work schedule to care for a seriously ill family member or for the employee's own serious health condition, and the need for leave is foreseeable based upon planned medical treatment, the employee may temporarily be transferred to an available alternative position with equivalent pay and benefits, if the employee is qualified for the position and the position better accommodates recurring periods of leave than the employee's regular job.
13. The responsibilities of instructional employees near the end of academic terms – examinations, grading, etc. – requires that the school district be able to limit leave taking by instructional employees at such times as follows:
- i. Leaves beginning more than five weeks before the end of a semester: If an instructional employee starts leave more than five weeks before the end semester, the school district may require the employee to continue the leave until the end of a semester if:
    - a. the leave is of at least three weeks' duration; and
    - b. the employee would return from leave during the three-week period preceding the semester's end.
  - ii. Leaves beginning five weeks or less before the end of the semester if:
    - a. The leave will last more than two weeks; and
    - b. The employee would return from leave during the two-week period before the term's end.
  - iii. Leaves beginning three weeks or less before the end of a semester: If an instructional employee starts a leave three weeks or less before then end of a semester, the school district may require the employee to continue the leave until the end of the term if the leave will last more than five working days.
14. Employees who take family/leave must utilize any available paid leave they have accrued under another of the district's leave policies when the reason for leave corresponds with the basis for leave under another policy. Accrued vacation or personal leave shall be substituted for any FMLA-qualifying purpose. If the requested leave period extends beyond the employee's accrued number of paid leave hours, the remaining leave days will be unpaid.
- i. Example A: An employee who sought leave due to his/her own serious medical condition and inability to perform his/her job duties, has accrued six weeks sick leave. The employee must use the six weeks of paid sick leave and may thereafter use the remaining six weeks of unpaid leave available under this policy;
  - ii. Example B: An employee wishes to use four weeks of leave under this policy for birth or adoption of a child. The employee may substitute paid maternity or

paternity leave, but is not required to, and may not, substitute paid sick leave, except to the extent allowed by the maternity/paternity leave policy.

- iii. Any employee seeking leave shall explain the reasons for the needed leave on forms provided by the district. It shall be the district's responsibility to identify the requested leave as covered by FMLA and as paid or unpaid on the basis of leave time accrued under or during such leave, on the basis of information provided by the employee.
15. During the period of leave, the school district will maintain the employee under the district coverage group health plan if enrolled; however, the employee is responsible for continuing to pay the employee's monthly portion for the premium. If an employee fails to make payment of the employee's share of health insurance premiums for thirty (30) days after such payment is due coverage of such employee for benefits shall be discontinued. If the employee fails to return to work following leave under FMLA for any reason (1) other than the continuation of the FMLA-qualifying circumstances upon which the need for leave was originally based, or (2) circumstances beyond the control of the employee, the employee shall be required to reimburse the district for the cost of health insurance premiums the district paid to maintain coverage for the employee during the leave period.
16. Employees will not accrue leave or other benefits during the family/medical leave period.
17. An employee other than a "key employee" who has taken family/medical leave will be restored to his/her previous position or to a position of equivalent pay, benefit, and other terms and conditions or employment. A "key employee" may be denied reinstatement if it would create a substantial and grievous economic injury for the school district. A "key employee" is one whose compensation is within the highest ten (10) percent of the work force of the district.

In each district building there shall be posted a notice to employees, describing the provisions of the FMLA, provided and approved by the Wage and Hour Division of the United States Department of Labor.

#### K. Voting Time Leave

1. On election days, school district employees shall be given two hours leave to vote. The two hours leave shall be on a schedule determined by the immediate supervisor.
2. Employee whose workday begins after 10:00am or employees whose workday ends no later than 4:00pm shall not be eligible for such leave.

#### L. Funeral Leave

1. Employees may be excused by the immediate supervisor without loss of pay, for a period up to four hours, to attend funeral services of relatives or friends provided no substitute is required.
2. If a paid substitute is required, the employee may take personal leave to attend the funeral.

## **Article 10**

### **Administrative Intervention**

- A. The principles of progressive discipline shall be applied in dealing with employees unless circumstances warrant immediate action. Administrator's concerns shall first be verbally discussed with the employee regarding the unacceptable behavior, why the behavior is unacceptable, and directions for specific actions for improvement of said behavior. Administrator's concerns of the same unacceptable behavior may result in a letter or reprimand. During a meeting where the employee is to receive a written warning of reprimand, the employee shall be allowed to have an Association representative present if desired.
- B. To the extent possible, all discussions regarding the performance or behavior of an employee shall occur in a non-public setting.
- C. When in the judgement of the Superintendent it is in the best interest of the District and/or employee to place said employee on Administrative Leave, the following procedures shall be followed.
  - 1. The employee will be notified by the individual's immediate supervisor or by the Superintendent.
  - 2. Reason(s) for the employee's being place on leave shall be explained to the employee, including dates and circumstances of any incidents relevant to the actions taken; and, if requested, shall be provided in writing.
  - 3. Employees may, at the employee's request, be accompanied and represented by an Association representative at a meeting with a District official at the time of being notified of being placed on administrative leave or any subsequent investigative meeting held with the employee.
  - 4. The employee shall be relieved of all duties other than lesson planning and shall continue to be on a paid status pending the outcome of the investigation. If the investigation report recommends disciplinary actions, such action may include suspension without pay and/or termination.

# Article 11

## Evaluation

- A. The underlying purpose in an evaluation is designed to improve the performance of the employee and promote professional growth. The process will identify strengths and weaknesses and shall also provide an opportunity for recognition and encourage outstanding performance.
- B. Certified employees will be evaluated in accordance with State Public Education Department regulations.
- C. Certified employees are required to submit a professional development plan (PDP) as part of the evaluation process, per State Public Education Department regulations.
- D. Professional development plans shall be submitted to the evaluator in accord with State Public Education Department regulations.
- E. Evaluators will use the in-depth evaluation on first and second year certified employees. A minimum of three (3) documented observations of no less than fifteen minutes is necessary of said employees. All other employees will be observed at least annually. Employees will have the opportunity to respond in writing and through informal discussion to the administrator's written summary of the observation. In case of any employee with a documented performance concern, more frequent evaluations may be conducted.
- F. All monitoring or observation of the work performance of a certified employee shall be conducted openly and with full knowledge of the certified employee. Prior to an observation, the certified employee may request in writing that the evaluator return at another time to conduct the evaluation. If the request cannot be honored, the certified employee may place a statement to that effect on the evaluation form.
- G. Employees shall be evaluated annually.
- H. Employees may be evaluated whenever there is a concern regarding performance.
- I. Evaluations shall be reviewed with the individual employee and each employee shall have the opportunity to comment on the evaluation. Employees may choose to be accompanied by a Association representative to a meeting about their evaluation.

# Article 12

## Reduction In Force

A. Pursuant to NMSA 1978 22-5-12 (2003), the superintendent has the authority to discharge licensed school personnel during the term of their contracts or to terminate licensed school instructors and non-licensed school employees with rights created by NMSA 1978, Section 22-1014(C), ( hereafter "tenured employees"), after notice and a hearing when a reduction in such personnel is required as a result of decreased enrollment or a decrease in or revision of educational programs. Reduction-in-force (R.I.F.) is "just cause" for discharge of licensed school personnel and terminations of tenured employees, when established pursuant to this policy. This policy is adopted as the procedure by which reductions in personnel who are covered by the policy may be accomplished, within the context of the district's general personnel policies.

B. The board is vested with the discretion to develop educational policies for the district, so long as the state board of education's educational standards and statutorily required standards are met. The superintendent in carrying out the educational policies of the board and administering and supervising the district shall exercise his/her discretion in accordance with this policy in determining when decreased enrollment, financial exigency, or other causes justify a reduction in personnel.

### C. Grounds Justifying Reduction in Force

Situations that justify a R.I.F. shall include, but are not limited to, the following:

1. decrease in student enrollment;
2. decrease in revenue:
  - i. because of decrease of student enrollment;
  - ii. because of loss or reduction of tax revenue;
  - iii. because of reduction of state, local, or federal financial support; or
  - iv. because of inflation reducing the value of revenues received;
3. change in the educational program of the district, as determined by the board in its good-faith exercise of discretion;
4. consolidation or de-consolidation involving the district;
5. court orders;
6. orders of the state board of education;
7. legislative mandates;
8. unanticipated financial or programmatic exigencies identified by the superintendent which warrants initiation of a R.I.F. process.

### D. Good Faith Determination

The superintendent shall exercise discretion in good faith, and determination that a R.I.F. is necessary shall be based on bona fide educational considerations and not be subterfuge for discharging or terminating licensed personnel without good or just cause or for impermissible reasons.

### E. Timing of Reduction in Force

A R.I.F. may occur at any time during the calendar year when the superintendent, in his/her discretion, determines that it is justified and the procedures prescribed herein are applicable and are followed. A R.I.F. may be based upon projections of future enrollment, revenues, or

expenses, and the subsequent receipt of more revenue than expected or a subsequent saving of projected expenses shall not invalidate any actions previously taken in good-faith reliance on such projections or require the reemployment of any employees who were released on the basis of such projections.

#### F. Determination of NEED for Reduction in Force

1. Except as required by legislative mandate or orders of the state board of education and to the extent that circumstances permit, the superintendent, with the assistance of the administrative staff, shall report to the board any circumstances which may ultimately require a R.I.F., in order that notice be given to licensed personnel of the possibility of a R.I.F. and so that consideration be given to means by which a R.I.F. may be avoided.

#### 2. Preparation of R.I.F. Plan

When the superintendent concludes that a R.I.F. is necessary, a plan for R.I.F. shall be developed for presentation to the board. The R.I.F. plan shall not identify individuals to be discharged or terminated, but rather shall focus upon the total educational program of the district and how it may be modified to reduce costs, programs, and personnel while still providing the educational program required of school districts and the particular educational needs of the district. Where circumstance warrant, a R.I.F. plan may address particular programs, departments, school sites, content areas or activities if the causes for the R.I.F. predominately impact that aspect of the educational program. Such impact shall be described in the R.I.F. plan. The R.I.F. plan shall include, but need not be limited to, the following:

- i. a detailed description of the cause or causes requiring a R.I.F.;
- ii. a description of all adjustments already made by the administration in an attempt to avoid a R.I.F., if any (e.g. reduction by attrition, cuts in non-licensed staff, abolition of non-essential services or activities such as extra-curricular activities, etc.)
- iii. a description of the part or parts of the total educational program or particular program or activity in which the R.I.F. is proposed and the number of positions proposed to be reduced in each program or activity;
- iv. a designation of non-essential services or activities which are to be retained, with a justification for retaining such programs; and
- v. a discussion of alternatives (if any) considered by the superintendent with an explanation as to why such alternatives were rejected.
- vi. The superintendent shall include in the R.I.F. plan a listing of all extra-curricular, co-curricular and athletic programs or activities which may be considered for rating points in the proposed R.I.F. rating sheet and proposed weight to be given each category of such programs or activities for discussion at the public meeting as which the R.I.F. plan is considered.

#### 3. Board Considerations

- i. The board shall consider the recommendations of the superintendent for the adoption of the R.I.F. plan at a duly-called board meeting, the public notice of which announces that a R.I.F. will be considered. The discussion and action on the plan shall be in open session; however, nothing herein shall restrict the board from holding portions of those discussions in closed session, if such discussion would be proper under the New Mexico Open Meetings Act. The board may allow such review, consultation, and comment by employees and members of the public, as the board, in its discretion, deems appropriate. The board may propose, modifications to the plan recommended by the superintendent as it deems appropriate provided that the superintendent shall be the final decision maker on the content and scope of the plan after giving due consideration to the board's proposals.

- ii. Any final plan for a R.I.F. shall be made available to all staff, by providing copies thereof in the office of each building, principal and at the superintendent's office, within two (2) work days after the final plan has been approved by the superintendent.

#### 4. Adopted Plan

- i. If a R.I.F. plan is adopted, the Board shall not be required to deplete its operational cash balances maintained or carried over as permitted by NMSA 1978 22-8-41C and Section 71, Law 2003, Ch. 153 in order to avoid the R.I.F., if the Board in its discretion determines that the cash balance must be maintained at a level to be determined by the Board, in order to cover other permitted expenditures or as a contingency for unforeseen expenditures.
- ii. Based upon the R.I.F. plan approved by the board, the administration shall perform a study of the school district's personnel to determine which person or persons must be wholly or partially terminated or discharged in order to implement the plan. The primary concern to be applied in making the R.I.F. selections shall be the Board's interest in maintaining a sound and balance educational program which is accredited and meets statutory and State Board requirements or standards, as well as the educational and extra-curricular program of the District.

#### G. Criteria for Selection of Employees

##### 1. Licensed Personnel

- i. Substandard licensure is inferior to full licensure, and a person who is fully licensed for the available position(s) shall be retained in preference to a person holding a substandard license. A person holding a "waiver" of licensure or certification requirements approved by the Department of Education shall be treated as having a substandard license for the purpose of this policy.
- ii. Licensed personnel possessing certification endorsements recognized by the Department of Education beyond those requested as qualifications for the individual's current assignment or content area shall receive an additional 1 (one) point per current valid endorsement, up to a maximum of 1 (one) point.
- iii. training and experience in the extra-curricular or co-curricular activities which are to be retained as an integral part of the district's overall program for its students may be considered as a qualification requirement, in addition to licensure status, in making selection of personnel to be released under this policy. Such specialized knowledge, training, or expertise may be awarded up to 1 (one) point.
- iv. Where licensure/qualification status is equal between two or more licensed school instructors being considered for termination or discharge tenured licensed school instructors shall be retained in preference to licensed school instructors who have been employed by the district for less than three consecutive school years.
- v. If two or more licensed individuals are equal or equivalent in licensure and qualification and tenure status (if any) and it is necessary to decide which shall be discharged or terminated, the following selection criteria shall be applied:
  - a. Each licensed individual considered for termination or discharge shall be awarded one (1) point for each year of full-time service during the most recent period of uninterrupted service with the district, prior to the current year, excluding approved leaves, up to a maximum of fifteen (15) points.
  - b. The amount of credit for education shall be determined based on degree and additional hours:

- (a) B.A..... 1 point
  - (b) B.A. + 15..... 1 point
  - (c) B.A. + 45 or M.A..... 1 point
  - (d) M.A. + 15..... 1 point
  - (e) M.A, + 45 and higher ..... 1 point
  - (f) Ed.D and Ph.D ..... 1 point
- vi. The current supervisor of each licensed school instructor considered for termination or each licensed person considered for discharge shall rate the relative performance of each such person on a rating form to be prepared by the superintendent, or under his/her direction. Such rating form may be based on the district's standard evaluation form(s) rating teacher competences but may include additional competencies identified by the superintendent which reflect his/her judgment as to the attributes necessary for success in the particular program(s) affected by a R.I.F. The rating form shall include not more than a total of ten standard and specific competency areas, shall specify the score for each performance category or attribute, and shall allow for a maximum score of seventy-five (75) points. The supervisor(s) may consult with the superintendent concerning the implementation of the evaluation. The supervisor(s) shall complete the rating forms and return them to the superintendent within the time specified for completion of the evaluations.

2. Non-licensed Personnel

- i. Where two or more non-licensed employees are being considered for termination, the employee(s) with three or more consecutive years of service shall be given preference to employees who have been employed by the district for less than three consecutive years.
- ii. If two or more non-licensed employees have been employed by the district for at least three consecutive years and it is necessary to decide which shall be terminated, the following selection criteria shall be applied:
  - a. Each employee shall be awarded one (1) point for each year of full-time service during the most recent period of uninterrupted service with district, prior to the current year, up to a maximum of fifteen (15) points.
  - b. Specialized training or licensing directly related to the current job duties of the non-certified employee, such as an electrician's license, may be awarded up to 1 (one) point. The current supervisor of each non-licensed employee considered for termination shall rate the relative performance of each such person on a rating form to be prepared by the superintendent or under his/her direction. Such rating form may be based on the district's standard evaluation form(s) but may include additional performance categories which reflect the superintendent's judgment as to the attributes necessary for success in the particular program(s) affected by the R.I.F., shall specify the score for each performance category or attribute, and shall allow for a maximum score of fifty (50) points. The supervisor(s) may consult with the superintendent concerning the implementation of the evaluation. The rating forms shall be completed and returned to the superintendent within the time specified for completion of the evaluations.
- iii. If different individuals considered for a R.I.F. have different supervisors, the supervisors may consult with each other and/or the superintendent to insure that the rating system is applied uniformly. There shall be no requirement of observation of performance by a supervisor specifically for the purpose of completing the rating form; however, each supervisor shall review prior evaluations of the individual for a period of three years immediately prior to the R.I.F., if available. Where a supervisor lack familiarity with an individual's performance (e.g. a new supervisor), the superintendent may assign the evaluation to a present or past supervisor

who has greater familiarity with the individual's performance. The superintendent may devise such other measures as he/she sees fit to deal with situations where implementation of the performance rating cannot occur in the normal manner, so long as such measures are rationally designed to select the best non-licensed employee for retention.

- iv. The superintendent shall total the points for service and performance. The person with the lowest score shall be the person who is released. The computations of the superintendent, plus the rating forms on the persons considered for release, shall be available for review by the person released.
- v. Each non-licensed employee terminated pursuant to this policy shall be entitled to the procedural rights provided under the applicable New Mexico statutes and regulations governing the termination of non-licensed personnel. The written decision of the board, to the extent required by statute and regulation, shall clearly specify that the termination resulted from a R.I.F. and not from any cause personal to the person released.

### 3. Selection Based on Scores

The superintendent shall total the points for service, education, and performance. The person with the lowest score shall be the person who is released by termination or discharge unless such action would have a serious detrimental effect on the total educational program. In such an event, the superintendent may select a higher scoring person for termination or discharge but shall prepare a written justification for such action in the best interests of the district, along with the rating sheets for such positions. The computations of the superintendent, plus the rating forms on the persons considered for release, shall be available for review by the person released.

### 4. Transfers/Reassignment

i. If, as a result of the application of the selection criteria, a person is selected to be released from the affected program, but such person ("the affected person") is also licensed and qualified for another program(s) within the district, the person shall be considered for transfer or reassignment to such program(s). The fact that there are one or more other licensed employees within the program affected by the R.I.F. who scored higher than the affected person, and that such a person(s) may be licensed and qualified to teach or administer in other programs in the districts, shall not require that the higher scoring persons be transferred or reassigned to the other program or programs, even if there is a vacancy in the other program or programs. The transfer/reassignment obligation shall not arise until after the selection of the person or person(s) to be released from program affected by the R.I.F. and shall only apply to the person or person(s) selected for release. Consideration of transfer or reassignment of the affected person shall be governed by the following criteria:

- a. Existing Vacancy. If, upon the effective date of the termination or discharge due to a R.I.F., there is an existing vacancy in another program for which the affected person is licensed and qualified, he/she shall be transferred or reassigned to that vacant position. There shall be no obligation to create a vacancy to accommodate such person.
- b. No Existing Vacancy. Where the affected person is licensed and qualified for another program or programs in the district, but all such position are currently filled, the selection criteria described above, subject to the modifications described below, shall be applied to determine whether the affected person will be transferred or reassigned to another program and another person, currently employed in the other program, shall be released.
  - (a) If the person is fully licensed for a position in another program or an administrative position but has not actually taught in such program or held such an administrative position during any part of the preceding five (5) school years, such person shall not be considered qualified for transfer or reassignment to the other position
  - (b) If neither the superintendent nor the current supervisor of the program has observed the

person being considered for transfer or reassignment performing the duties of the other program, it is impossible for the relative performance of the person being considered for transfer or reassignment and the person or persons currently teaching or administering in the program to be rated based on direct observation. Under such circumstances, the superintendent or his/her designees shall make judgment as to the likely performance of the person being considered for transfer or reassignment and assign the performance score which will be used in the selection process in comparison to the person or person(s) currently employed in the other program. The superintendent or designee shall consider the affected person's performance in other programs and his/her knowledge of all persons in the program in question in making the judgment, and may consult with other knowledgeable persons in making this determination.

- ii. Each licensed instructor or administrator discharged and each tenured teacher terminated pursuant to this policy shall be entitled to the procedural rights provided under the applicable statutes and regulations of the State Board of Education governing discharge of licensed school personnel or the termination of tenured teachers. The written decision of the superintendent, to the extent required by statute and regulation, shall clearly specify that the termination or discharge resulted from a R.I.F. and not from any cause personal to the person released.

#### H. Appeal

Appeals to an independent arbitrator from termination or discharge pursuant to this policy are governed by the provisions of NMSA 1978, Section 22-10-14.1 or NMSA 1978 22-10-17.1, respectively and any applicable regulations of the State Board of Education.

#### I. Recall of Released Staff

For a period of one year after the effective date of discharge or termination of any employee pursuant to this policy, the superintendent shall offer to such person any position(s) which becomes available for which such person is licensed and qualified, provided that such person has complied with the requirements specified below.

1. Every person discharged or terminated under this policy who wishes to be considered for recall, in the event that an opening occurs, must file with the superintendent, within thirty (30) days after the effective date of the discharge or termination, a written statement indicating a desire to be considered for recall and providing an address at which the person may be contacted. Such a person must notify the superintendent of any changes in address within ten(10) days after changing residences in order to insure proper notification in the event of a recall.
2. In the event that more than one interested person who was discharged or terminated within the calendar year prior to recall is qualified for the position by experience, training, and/or licensure to which a person will be recalled, the selection criteria of this policy will be applied to determine which person is to be recalled. The point accrued for "Service in District" and "performance" shall be the same as when the persons were discharged or terminated, but additional points for any additional education earned after the discharge or termination which is directly related to the District's educational program shall be credited and considered.
3. Any person selected for recall hereunder shall receive written notification of the recall, by certified mail, at the address provided. The recalled person must accept the position offered through recall in writing. Such acceptance must be received in the superintendent's office within fifteen(15) calendar days after mailing of the recall notice to the person. Rejection of the offer, in writing or by failure to timely respond, shall result in forfeiture by the recalled person of any further recall rights under this policy. Thereafter, an offer of recall will be

made to the next person qualified to be recalled, if there is none, the position will be filled by another applicant.

4. Any person recalled pursuant to this policy shall have all accrued but unused sick leave restored and be given credit for all years of actual service in the district for salary purposes.
5. After the one-year recall period has expired, any person discharged or termination under this policy shall no longer have any right to be recalled. Such persons who wish to be reemployed thereafter shall file applications for employment and will be treated as would any other applicant for a vacant position.

- J. In the event legislation is passed which requires the superintendent to reduce licensed school personnel, for any reason, the superintendent shall follow the legislative procedures, if any, in lieu of this policy. In the event State Board Orders are entered which have the effect of revising the district's boundaries to exclude school facilities previously operated by the district, reducing the district's enrollment, or reassigning licensed school personnel to another district, or other state board orders resulting from exercise of its legislative powers, then the procedures described in the State Board's order for transfer of school facilities, students, and personnel shall be followed in lieu of this policy. Notwithstanding the foregoing, the termination or discharge of school employees in compliance with a state board order shall be governed by NMSA 1978, Statutes 22-10-14, 22-10-14.1, and 22-10-17.1.

## **Article 13**

### **Non-Discrimination**

- A. The Board and the Association agree that each will not interfere with the rights of employees to join, or refrain from joining the Association, and agree that each will not in any manner, because of a certified employee's membership or non-membership therein, directly or indirectly discriminate against, interfere with, coerce, restrain, demote, transfer or discipline any employee. Nor will the Board discriminate against, interfere with, coerce, restrain, demote, transfer or discipline any certified employee because of such employee's status as a representative or officer of the Association.
  
- B. Both the Board and the Association agree that they shall not discriminate against an employee because of action taken by either party in processing grievances under the provisions of this Agreement.
  
- C. In a desire to restate their respective policies, neither the Board nor the Association shall unlawfully discriminate against any employee because of such certified employee's race, color, sexual orientation, religion, gender, age, national origin, disability, marital status or place of residence.

## **Article 14**

### **Vacancy Postings**

- A. Notice of vacancies and call for applications for existing, new, and temporary positions of six months or more in duration, within the bargaining unit, shall be made as such vacancies occur. Temporary positions of six months or less may be filled at the discretion of the Superintendent. Notification to employees within the unit will be in the form of a specific posting notice at every work site with five or more employees and on the district web site; and will include the minimum requirements, varying descriptions, and any application restrictions.
- B. During non-school periods postings of available positions will be on the District Web Site and REAP website.
- C. Applications for positions will be submitted to the Superintendent's Office.
- D. Following notification of the successful applicant, interviewees shall be contacted within ten (10) days.

## **Article 15**

### **Personnel Files**

- A. There shall be one (1) official file for each employee which shall be maintained by the Superintendent in the Business Office except for files provided in Article 3, Paragraph K of the Grievance Procedure or as required by the Family and Medical Leave Act.
- B. References provided in confidence for employment or promotion purposes shall not be subject to inspection by the employee.
- C. Information shall be placed in personnel files only with the approval of the Superintendent. No anonymous or unsigned information may be placed in the employee's file.
- D. The employee will be given the opportunity to see any information prior to placement in the employee's official file except information related to routine file maintenance.
  - 1. The employee shall acknowledge having read these materials by affirming one's signature on the actual copy/copies to be filed.
  - 2. Any information or materials which are derogatory to a certified employee's conduct, service, character or personality shall not be placed in a certified employee's file unless and until the employee has been given the opportunity to examine the information or material.
  - 3. The employee has the right to respond in writing to anything placed in that employee's file and have such response placed with the material to which the response relates.
- E. Employees may inspect and receive a copy of their official files by appointment with the Superintendent. No file shall be removed from the administrative offices. A representative will accompany the certified employee. In the event the employee is unable to review their own personnel file, the certified employee may designate an individual to conduct such a review by providing that person with a notarized statement to be presented to the administration.
- F. When a court of law, arbitrator, or a grievance procedure determines that an evaluation was done improperly, it will be removed with written authorization of the determining authority.
- G. Administrators and school officials with a specific purpose will have access to employee files after approval by Superintendent.

## **Article 16**

### **Safety and Support**

- A. It is the policy of the Board to provide a safe working environment for its employees within the resources available to the District and the restrictions of applicable law and regulations.
- B. The District shall provide support and assistance to employees so they can maintain control and proper discipline while engaged in their assigned duties and responsibilities.
- C. The employee shall receive assistance from the principal when student (s) behavior is disruptive to the point of impeding the learning of other students and after efforts have been made to correct the problem.
- D. The certified employee may temporarily dismiss a student from class to the principal when in the judgment of the certified employee the student is seriously disrupting the instructional program for other students. The certified employee will furnish to the principal at the time of the student's dismissal, written particulars of the incident. If requested by the principal, full particulars of the incident, including the efforts that have been made to correct the problem, shall subsequently be provided to the principal in writing. If requested by the certified employee, the principal shall inform the certified employee of the corrective measures taken.
- E. In case of extreme chronic student disruption to a classroom, the certified employee may call a case conference with the principal, parents, and others as necessary, for the purpose of discussing the problem and determining and initiating corrective measures to be taken.
- F. Self-Defense or the Defense of Others
  - 1. Employees have the right to use such force as is necessary to protect themselves, students, or other employees from physical injury which they reasonably believe might result from actual or threatened physical attack upon themselves, students, other persons, or employees.
  - 2. No disciplinary action shall be taken against an employee who acts in self-defense or for the defense of others, if the Superintendent is satisfied after investigation, that the defensive action, including the amount of force used, was appropriate under the circumstances.
- G. Assault or Battery
  - 1. In the event an assault or a battery has occurred, the incident is to be reported to the police authority having jurisdiction where the assault or battery occurred. The report should be made by the person involved or if the individual is unable or unwilling to do so, the immediate supervisor or the Superintendent shall make the report.
- H. In the event that an administrator is provided documented evidence that a student or parent is potentially dangerous, employees who are assigned specified responsibilities with that student or potential contact with the student's parents, will be so informed. An exception to this notification requirement will occur when confidentiality is protected under the law.

- I. The District and the Association will work toward providing a working and learning environment for employees and students which is free from harassment. Harassment of students and/or employees will not be tolerated.

# Article 17

## Insurance

### A. Insurance Programs

1. The Board agrees to provide to employees through the New Mexico Public Schools Insurance Authority, programs of medical, dental, vision, life and long-term disability insurance benefits.
2. The Board will provide \$50,000.00 (fifty thousand dollars) in basic life insurance at no cost to certified employees who are actively employed on paid status and enroll for the coverage.
3. The Board shall also provide employees professional liability insurance in accordance with provisions of coverage specified by the New Mexico Public Schools Insurance Authority.
4. The Board will provide Workers Compensation for on-the-job injuries in accordance with New Mexico Public Schools Insurance Authority requirements.
5. Any requested change in employee insurance coverage is subject to the New Mexico Public Schools Insurance Authority approval.

### B. Enrollment

1. Employees to be eligible for insurance coverage must work at least twenty (20) hours per week and work at least four (4) hours each day of the work week
2. Employees who are not enrolled in a District insurance program will be accepted in any or all of the District's insurance programs so long as they enroll no later than thirty-one (31) calendar days from the effective date of employment. Employees may also enroll due to a change in marital status or change in the job status of the employee's spouse, provided the status or change in the job status of the employee's spouse, provided the employee's spouse was covered by insurance during the previous employment.
3. If an employee has declined coverage, or has not enrolled in a timely manner, the employee becomes a "late enrollee." As a late enrollee, the employee must follow the rules and regulations of the New Mexico Public Schools Insurance Authority. The Program Guide is given to each new hire and is available to all employees upon request to Central Office.
4. Should an employee have a qualifying life event, the employee may enroll in all lines of coverage within 31 calendar days of the event. Sample life events identified by NMPSIA include new hire, marriage, new baby, divorce, and involuntary loss of coverage.
5. During enrollment periods, employees shall be provided a thorough explanation of the programs.
6. Each subscriber to an insurance program will receive a brochure outlining all of the basic terms and benefits of the program.

### C. Premium Payment

1. For employees who elect to participate in an insurance program as provided by the Board, the Board agrees to contribute the following percentage of premiums as allowed by State law:
  - i. For employees earning \$0-\$14,999, the District shall contribute seventy-five (75) percent of the employees' medical insurance provided through NMSPIA.
  - ii. For employees earning \$15,000 to \$19,999 the District shall contribute seventy (70) percent of the employees' medical insurance provided through NMSPIA.

- iii. For employees earning \$20,000-24,999, the District shall contribute sixty-five (65) percent of the employees' medical insurance provided through NMSPIA.
  - iv. For employees earning \$25,000 or more, the District shall contribute sixty (60) percent of the employees' medical insurance provided through NMSPIA.
2. Employees who choose to participate in the District's insurance program will have their contribution deducted from their paychecks.

## **Article 18**

### **No Strike/No Lockout Provision**

- A. Neither the Association nor any member of the bargaining unit shall engage in a strike. The Association shall not cause, instigate, encourage, or support a strike, walkout or slowdown.
- B. The Board shall not cause, instigate, or engage in any lockout of any employees.
- C. The Board may rescind the Agreement if the Association causes, instigates, encourages, or supports a strike, walkout, or slowdown.

## **Article 19**

### **Salary and Increment Schedules**

- A. District salary and increment schedules shall be incorporated as part of this agreement.
- B. **2019-2020** salary schedules will reflect the state mandated salary increases, plus appropriate step increases for all employees.

## **Agreement Signatures**

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on their behalf.

### **JEMEZ VALLEY PUBLIC SCHOOL DISTRICT BOARD OF EDUCATION**

By \_\_\_\_\_  
Michael Lucero, President

\_\_\_\_\_ Date

### **JEMEZ VALLEY EDUCATION ASSOCIATION**

By \_\_\_\_\_  
Dana Miyamoto, President

\_\_\_\_\_ Date

ASSOCIATION NEGOTIATING TEAM    BOARD NEGOTIATING TEAM

\_\_\_\_\_  
Joel R. Shirley, Superintendent  
Chief Spokesperson

\_\_\_\_\_  
Dana Miyamoto  
Chief Spokesperson