



STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

OFFICE OF THE SUPERINTENDENT

June 16, 2015

TO: The Honorable Jim Williams
Chairperson, Human Resources Committee

FROM: Kathryn S. Matayoshi
Superintendent

SUBJECT: **Presentation on the Department of Education's Code of Conduct**

1. DESCRIPTION

Attached is the Code of Conduct (Code) that the Department of Education (Department) is prepared to issue upon completion of the union consultation process. The Code reflects implementation of Board Policy 201.1 and applies to all of the Department's employees, contractors and volunteers.

2. UPDATE

The Department's Office of Human Resources (OHR) drafted the Code and has previously presented drafts to the Board's Audit and Human Resources Committees. The attached draft has been updated to incorporate input from the public employee unions, Ethics Commission, Internal Audit and others.

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Attachment

c: Office of Human Resources



State of Hawaii Department of Education Code of Conduct

Purpose

The purpose of this *Code of Conduct* (Code) is to establish standards of conduct for all Employees, contractors, and volunteers of the Hawaii Department of Education (DOE). The Board of Education recognizes that these individuals play an important role in the educational achievements of students. Accordingly, they must exhibit the highest standards of honesty, morality, and fairness. The Board of Education expects each Employee, contractor, and volunteer to serve as a positive role model for students and to engage only in conduct and behavior that will contribute to an appropriate learning environment.

Policy Statement

It is the policy of the Board of Education that all Employees, contractors, and volunteers of the public school system, public library system, and Board of Education shall conduct themselves in an ethical manner and comply with federal and state laws, rules, regulations, and departmental policies, procedures, regulations, rules, and guidance to promote public trust and confidence in public education.

Application

This Code of Conduct shall apply to all individuals employed by the DOE, including temporary, casual hires, contractors, and volunteers.

Guiding Principles

- Employees, contractors, and volunteers shall maintain high standards of honesty, integrity, and impartiality.
- The educational and developmental interest of students shall be a priority for Employees, contractors, and volunteers. Employees, contractors, and volunteers should conduct themselves in a manner that promotes and supports the development of good character by teaching, enforcing, advocating and modeling ethical principles and values.
- Employees, contractors, and volunteers shall not use, or attempt to use, their official position for personal gain, preferential treatment, or confidential information for personal advantage.

Standards of Ethical Conduct

All Employees, contractors, and volunteers are expected to conduct themselves professionally in order to carry out their duties and responsibilities, as well as to serve as positive role models for students, parents, and the community. The DOE expects all Employees, contractors, and volunteers to adhere to these standards of ethical conduct, including but not limited to the following:

A. Adhere to Generally Recognized Professional Standards

The Employee, contractor, or volunteer shall practice the professional standards of federal, state, and local governing bodies. Any act in deliberate disregard or abandonment of generally recognized professional standards, in the course of any of the following professional practices, shall be prohibited:

- 1) Service as a positive role model for students, parents, and the community;
- 2) Assessment, treatment, instruction, or supervision of students;
- 3) Employment or evaluation of personnel; and
- 4) Management of funds or property.

B. Honesty

The Employee, contractor, or volunteer shall maintain honesty in all professional dealings. The Employee, contractor, or volunteer shall not engage in conduct involving any form of dishonesty, falsification, deception, misrepresentation or cheating.

C. Representation of Information in the Course of Professional Practice

The Employee, contractor, or volunteer shall not deliberately falsify, misrepresent, or omit material information concerning any of the following:

- 1) Statement of professional qualifications;
- 2) Application or recommendation for employment, promotion, or licensure;
- 3) Representation of completion of education, training, certification or professional development credits;
- 4) Completion of any official DOE forms and/or records;
- 5) Evaluation or grading of students;
- 6) Evaluation of Employees;
- 7) Financial or program compliance reports submitted to state, federal, or other governmental agencies;
- 8) Any information provided during the course of an internal investigation or an official inquiry by which an Employee, contractor, or volunteer is the subject of the investigation, where that Employee, contractor, or volunteer shall be given adequate notice of the allegations and may be represented by his/her union representative.

It is noted that it is a criminal offense to falsify Government records.

D. Ethics & Conflicts of Interest

- 1) An Employee, contractor, or volunteer shall not engage in, directly or indirectly, any actions, activities, practices, political activities, or other employment or conduct which conflicts with his/her duties and responsibilities in the DOE.
- 2) The Employee, contractor, or volunteer shall not solicit any current students or parents of students to purchase equipment, supplies, or services in a private remunerative capacity.
- 3) A teacher shall not tutor for remuneration students currently assigned to his or her class(es).
- 4) No school Employee, contractor, or volunteer may accept gifts from any person or group desiring to do or doing business with the DOE if it can be reasonably inferred that the gift is intended to influence the employee in the performance of the employee's official duties, or is intended as a reward for any official action on the employee's part.
- 5) This rule shall not restrict performance of any overtime or supplemental services at the request of the immediate supervisor; nor shall it apply to or restrict the acceptance of gifts or tokens of minimal value offered and accepted openly from students, parents, or other persons in recognition or appreciation of service, as long as it cannot be reasonably inferred that the gift is intended to influence the employee in the performance of the employee's official duties, or is intended as a reward for any official action on the employee's part.
- 6) An Employee, contractor, or volunteer must disclose to his or her immediate supervisor, any situation in which there may be a conflict of interest, or a potential conflict of interest, on the applicable form(s) ("Notice of Conflict of Interest Self-Disclosure Form" or "Notice of Conflict of Interest Self-Disclosure Form – Recruitment and Employment Actions").
- 7) Our hiring and personnel decisions will be fair and objective. Due to the potential for perceived or actual conflicts, Employees, contractors, and volunteers are restricted from hiring and supervising immediate family members. "Immediate family member" is defined as one of the following: parent, child, grandparent, grandchild, brother, sister, husband, wife, partner, and cohabitating couples. The hiring supervisor is responsible for ensuring compliance. No exception to this Code

of Conduct will be made without the written consent of the Assistant Superintendent of the Office of Human Resources (OHR) prior to any personnel action in question.

E. Appropriate Interaction with Students

The DOE is committed to providing a caring environment conducive to the physical, mental, social, and emotional well being of students while they are participating in school activities. Therefore, Employees, contractors, and volunteers who interact with students will maintain appropriate teacher/student and adult/child relationships.

- 1) The Employee, contractor, or volunteer shall not commit any abusive act or sexual exploitation with, to, or in the presence of a student, whether or not that student is or has been under the care or supervision of that Employee, contractor, or volunteer, as defined below:
 - a) Any use of inappropriate language that is considered profane, vulgar or demeaning;
 - b) Any sexual act;
 - c) Any solicitation of a sexual act, whether written, visual, verbal, or physical;
 - d) Any act of child abuse, as defined by law;
 - e) Any act of sexual harassment, or any other type of discrimination, as defined by law;
 - f) Any intentional solicitation, encouragement, or consummation of a romantic or physical relationship with a student, or any sexual contact with a student. The term "romantic relationship" shall include dating a student.
- 2) No DOE Employee, contractor, or volunteer is authorized to conduct a strip search of a student.
- 3) No physical punishment of any kind may be inflicted upon any student. An Employee, contractor, or volunteer may only use force when the force is reasonable to restrain a student from hurting himself/herself or any other person or property.
- 4) An Employee, contractor, or volunteer is strictly prohibited from discriminating against, including harassing, any student based on his/her race, color, national origin, sex, disability, and/or age.
- 5) The DOE also prohibits any Employee, contractor, or volunteer from harassing or bullying a student for any reason, including, but not limited to gender identity and expression, socio-economic status, physical appearance and characteristic, and sexual orientation.

F. Confidential Information

The Employee, contractor, or volunteer shall maintain the confidentiality of all information considered confidential, including but not limited to student information, student records, personnel files, and Employee information, unless disclosure is required pursuant to the Freedom of Information Act, Family Education and Privacy Rights Act, state or federal law, or is necessary for the personal safety of the student or others.

G. Non-Discrimination and Anti-Harassment

The DOE is committed to maintaining a workplace free from discrimination and harassment. Therefore, Employees, contractors, and volunteers shall not discriminate or harass a person because of his/her race, sex, including gender identity or expression, sexual orientation, age, religion, color, ancestry, national origin, disability, marital status, arrest and court record (except in determining whether a person is suitable for working in close proximity to children, as permitted by HRS section 302A-601.5), domestic or sexual violence victim status if the employer has received notice or has knowledge of such status, income assignment for child support, national guard absence, breastfeeding, citizenship status, veteran's status, or any other basis protected by federal or state law.

H. Anti-Bullying

DOE will not tolerate bullying behavior. Bullying is defined as inappropriate behavior, either direct or indirect, whether verbal, physical, psychological or otherwise, conducted by one or more persons against another or others, which is repeated over time. It is noted that isolated or one-time incidents of intentional inappropriate behavior may not fall within the definition of bullying; however, it may still be considered inappropriate and subject to corrective action.

I. Mandatory Reporting

The Employee, contractor, or volunteer shall make all reports required under *Chapter 19, Student Misconduct (HAR §8-19)*, *DOE Regulation 4200.4 Reporting of Child Abuse and Neglect*, and any other federal or state laws or DOE policies or procedures which requires mandatory reporting.

J. Drug and Alcohol Free Workplace

The unlawful manufacture, distribution, possession, sale or use of any illegal drug, any inappropriately used prescription drug, or any alcohol by all Employees, contractors, and volunteers of the DOE is strictly prohibited on school premises, in DOE offices, and/or as part of any DOE-sponsored activity, whether or not the activity is performed on campus. Reporting for duty or remaining on duty while under the influence of, or impaired by any illegal substance, inappropriately used prescription drug, or alcohol is also prohibited.

K. Safe Workplace & Safe Learning Environment

All Employees, contractors, and volunteers are responsible for maintaining a safe and harmonious work environment. Workplace violence will not be tolerated under any circumstances. Workplace violence includes but is not limited to acts involving physical attack, property damage, as well as verbal statements that a reasonable person would perceive as expressing or suggesting intent to cause physical or mental harm to another person.

The DOE is also committed to maintaining a safe and healthy learning environment for students. Intimidation, bullying, harassment and discrimination of students under any program, service, or activity of the DOE are prohibited.

L. Appropriate Use of DOE Funds and Property

The Employee, contractor, or volunteer shall not misuse any funds or property of government, school, school-related, or work-related organization, or co-worker's funds or property.

M. Authorized Professional Practice

The Employee, contractor, or volunteer shall not perform any act as an Employee, contractor, or volunteer in a position for which licensure is required during any period in which the Employee's, contractor's, or volunteer's license has been suspended or revoked.

N. Non-Retaliation

The Employee, contractor, or volunteer shall not threaten, harass, punish or discriminate against any individual(s) who in good faith reports, discloses, divulges, or otherwise brings to the attention of the DOE management any practices or actions believed to be inappropriate under this Code, or in violation of any DOE policies or procedures, or state or federal laws.

O. Appropriate Use of Electronic Communication, Technology, and Internet

All Employees, contractors, and volunteers shall limit access to the Internet and use of DOE-issued technology such as cellular phones, wireless devices, computers, and software for business transactions and business communications necessary to conduct the work of their job as a DOE Employee, contractor, or volunteer. Employees shall use DOE networks and Internet in accordance with the DOE Acceptable User Guidelines.

Responsibility to Comply

It is each Employee's, contractor's, and volunteer's responsibility to ensure compliance with all provisions of this Code and seek guidance where necessary from their supervisor, manager or the OHR. To "do the right thing" and ensure the highest standards of integrity is each Employee's, contractor's, and volunteer's personal responsibility. When in doubt, Employees, contractors, and volunteers should look to the Guiding Principles stated at the beginning of this Code. Any failure to comply with this Code may result in disciplinary action, including the possibility of termination and, if warranted, legal proceedings or criminal sanctions.

Reporting Violations

Employees, contractors, and volunteers shall report any practices or actions believed to be inappropriate under this Code, or any illegal practices, to their supervisor, manager, or OHR. If it is appropriate, in view of the nature of the reported matter, reports of violations may be made directly to higher levels including the Complex Area Superintendent or Assistant Superintendent, Deputy Superintendent, or the Superintendent. Complaints may also be made on a confidential basis through the DOE Fraud & Ethics Hotline or the Superintendent's Hotline. The DOE prohibits retaliation against any individual for such reports made in good faith. Attempts to use the DOE's policies to libel, slander, or otherwise harm another individual through false accusations, malicious rumors, or otherwise irresponsible actions are prohibited.

Investigations of Suspected Violations

The manager, principal, complex area superintendent, or other appropriate manager will review complaints. If warranted, an investigation will be conducted. Each Employee, contractor, and volunteer is expected to cooperate in the investigation of suspected violations.

Hotline Access

DOE Fraud & Ethics Hotline

Telephone: (855) 233-8085

To file online: reportlineweb.com/hidoe

Superintendent's Hotline

Telephone: (808) 586-3587

REFERENCES

- Board of Education Policy 1200-1.19 *Employee Electronic Communication and Technology Use and Access Policy*
- Board of Education Policy 1200-1.41 *Employee, Contractor, and Volunteer Ethics and Conflict of Interest Policy*
- Board of Education Policy 1200-1.42 *Accountability Policy*
- Board of Education Policy 2170 *Internet Access Policy*
- Department of Education 2170.1 *Internet Access Regulations*
- Board of Education Policy 4200 *Student Safety and Welfare Policy*
- Department of Education 4200.4 *Reporting of Child Abuse and Neglect Regulations*
- Board of Education Policy 4211 *Anti-Harassment, Anti-Bullying, and Anti-Discrimination Against Students by Employees Policy*
- Board of Education Policy 4610 *Student Information and Confidential Records Policy*
- Board of Education Policy 5511 *Personnel Relations and Employee Benefits Policy*
- Department of Education Drug-Free Workplace Statement
- Hawaii Administrative Rules, Title 8, Chapter 19 *Student Misconduct, Discipline, School Searches and Seizures, Reporting Offenses, Police Interviews and Arrests, and Restitution for Vandalism*
- Hawaii Revised Statutes, Chapter 84 *Standards of Conduct* (for State Employees)
- *Family Educational Rights and Privacy Act* (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99)
- Hawaii State Ethics Commission, telephone: (808) 587-0440, email: ethics@hawaiiethics.org