

Model Policy: Professional Boundaries between Employees and Students

Disclaimer: This model policy is provided as guidance as identified below. Anyone considering using this model policy as a guide in creating their own policy should consult with legal counsel before preceding or adopting any such a policy.

Definitions:

Grooming means building trust with a student and individuals close to the student in an effort to gain access to and time alone with the student, with the ultimate goal of engaging in sexual contact or sexual penetration with the student, regardless of when in the student's life the sexual contact or sexual penetration would take place;

Personal communication system means a device or software that provides for communication between two or more parties and is capable of receiving, displaying, or transmitting communication. Personal communication system includes, but is not limited to, a mobile or cellular telephone, an email service, or a social media platform;

School employee means a person nineteen years of age or older who is employed by a public, private, denominations, or parochial school approved or accredited by the State Department of Education. Neb. Rev. Stat. § 28-720. School employee also includes any person who is contracted with, or otherwise paid by the district and who has access to or interaction with students including all student teachers or interns.

Sexual contact has the same meaning as in section 28-318;

Sexual penetration has the same meaning as in section 28-318; and

Student teacher or intern has the same meaning as in section 79-875.

All employees are expected to observe and maintain professional boundaries between themselves and students. A violation of this policy or any violation of professional boundaries is misconduct and will likely result in disciplinary action.

In addition a violation of employee and student boundaries is also a violation of standards of professional conduct which could result in the revocation of a certificated educator's certificate or permit. 92 Nebraska Administrative Code Chapter 27.

Such violations could also result in a referral to the Nebraska Department of Health and Human Services and law enforcement.

These guidance documents are advisory in nature but are binding on an agency until amended by such agency. A guidance document does not include internal procedural documents that only affect the internal operations of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedure Act. If you believe that these guidance documents impose additional requirements or penalties on regulated parties, you may request a review of the document. For comments regarding these documents contact nde.guidance@nebraska.gov

All employees are prohibited from engaging in grooming, sexual contact, sexual penetration, or any other activity listed within this policy while any student is attending any school within the district and for one year after the student graduates or otherwise ceases enrollment.

Prohibited Activity:

Engaging in any relationship that involves sexual contact or sexual penetration with a student while the student attends the school where the employee works and for one year after the student graduates or otherwise ceases enrollment.

The following is a non-exclusive list of actions that will be regarded as a violation of the professional boundaries that all employees are expected to maintain with all students. In addition, repeatedly engaging in any of these activities or a combination of these activities are examples of grooming as defined in this policy.

1. Communication with students through any method not approved or not designated by the school district including social networking apps or websites and texting, or other instant messaging, one-on-one with any students.
2. Communication with students on any matters or subjects that do not pertain to school or school-related activities. School or school related activities include student homework, in class activities, school sponsored sports or clubs or any other school-sponsored activity.
3. Engaging in any kind of behavior or communication that could be reasonably construed as a sexual advance or respond in any positive manner to a student's sexual advance
4. Being alone with a student anywhere where all doors to such room are closed.
5. Showing a student any inappropriate or sexually suggestive material that is not part of classroom lesson or curriculum known to appropriate school authorities.
6. Telling jokes with sexual themes or subject matter.
7. Invading a student's physical privacy. One example would be walking in on a student changing in a locker room or bathroom when the employee has no duty to be there.
8. Intruding on a student's personal physical space in any manner that makes a student uncomfortable
9. Initiating unwanted physical contact
10. Treating one student differently from other students either by providing privileges or failing to enforce school policy or other disciplinary action
11. Discussing an educator's private personal matters with a student and inquiring about a student's private personal matters when no basis for concern about the student's health or safety.

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12. Providing rides to a student in an employee's personal vehicle without the express written permission of a student's parent or guardian and permission from an administrator unless another school employee is in the vehicle
13. Meeting with a student outside of school for any reason other than a school sponsored activity or event
14. Having a student in an employee's home without a student's parent or appropriate chaperone
15. Giving or receiving gifts to or from one student. A gift to a class or the same gift to a group of students is not prohibited.
16. Consuming alcohol in the presences of any student when the student's parent or guardian is not present or consuming illegal drugs in the presence of students at any time.
17. Providing alcohol or illegal or unauthorized drugs or medications to a student under any circumstances
18. Any other behavior with could exploit the unique position of trust and authority between a student and employee.

Exceptions to these prohibitions may include:

- communicating with your own child or another student with whom there is personal relationship that exists independent of that child being a student at the same school where the employee works such as when the student is a relative, neighbor or fellow member of a group or organization outside of the school or school sponsored setting when such communications pertain to such a group or organization.
- an emergency or concern for that student's immediate health or safety.
- a singular chance encounter at a public place provided the encounter provided there is no additional violation of this policy

Except in the case of a true emergency, or an unplanned chance encounter, employees should obtain permission in writing from his or her administrator prior to engaging in such communication.

Permissible methods to communicate with students outside of school:

The following are approved apps or social media sites that employees may use to communicate with student regarding educationally related topics:

[INSERT DISTRICT APPROVED APPS as adopted by the local school board in consultation with legal counsel]

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In addition, employees may utilize:

- Text messages that include at least one other adult and a student. The adult may either be the student's parent or guardian or another school employee
- Use of social media through a district approved social media account as a coach or supervisor of a school sponsored club or activity. However, even approved social media communication must abide by the standards of professional conduct and must be professional in nature and in the best interest of the school district.
- Use of the school district email system

Allowing students to view an educator's social media postings is not a preferred method of communication. Educators are responsible for any social media postings that is viewed by students when such posting violates the standards of professional conduct.

Permissible ways to engage with students when the employee has concerns about the student's well-being:

1. Contact the guidance counselor and ensure the student's parent or guardian is aware of your concerns
2. Contact the student's parents or guardian if the concern is not with the parent or guardian
3. If you believe the student is in immediate danger, contact the Nebraska Department of Health and human services child abuse hotline or contact law enforcement

Reporting Violations:

If any school employee violates this policy or has reason to believe another employee has violated this policy the employee is required to make a report to the superintendent within 24 hours. The school employee also has an obligation to report to the Nebraska Health and Human Services and the Nebraska Department of Education.

The most serious violations shall be reported immediately. The superintendent shall also ensure a report is made to the Nebraska Department of Education, the Nebraska child abuse and neglect hotline and law enforcement authorities as required by law and notify the school board President. If the superintendent is the alleged violator or fails to take appropriate steps, the school board President shall be notified by the school employee.

Students who feel his or her boundaries have been violated or know of another student whose boundaries have been violated may report to any school employee he or she is comfortable to confide in. That school employee will then have an obligation to report as identified above.

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Reprisal or retaliation for good faith reports made by students or school employees is itself a violation and is prohibited.

Records retention:

School employees are required to maintain copies of any and communication exchanged with students via a personal communications system. Such copies must be maintained pursuant to district records retention policies and schedules. The records may be kept electronically or in hard copy or any format easily retrievable by the employee upon request. Any employee who is unable to produce copies of such communications for any reason will be in violation of this policy.

FERPA and Confidentiality:

School employees are encouraged to consult their school's policy on confidentiality of personally identifiable student information before posting any information regarding student or student activities online.

POLICY ACKNOWLEDGEMENT

I received a copy policy number [insert policy number] regarding professional boundaries between school employees and students on _____ [insert date]. I have read and understand this policy and have had the opportunity to ask questions.

Printed name of school employee

Signature of school employee