

***RULES AND REGULATIONS OF THE BOARD OF EDUCATION***  
***RELATING TO EXEMPT EMPLOYEE GROUP***

*(Resolution No. 2015-2016: 881, approved June 29, 2016)*

**1. Purpose and Employees Covered**

The following Rules and Regulations of the Board of Education address and apply to the terms and conditions of the appointment and employment of those persons in the service of the Rochester City School District who, during the term of their employment under these Rules and Regulations, meet all of the following criteria:

- They are deemed managerial or confidential employees within the meaning of the Taylor Law;
- They are not members of any bargaining unit;
- The positions are not subject to the provisions of the Education Law regarding tenure; and
- They are appointed to their positions and compensated by the Board of Education “Board” in accordance with the provisions of these Rules and Regulations.

The Exempt Employee Group Exempt positions specifically covered by these Rules and Regulations must be designated by position in Exempt Appendix “A”, funded during the annual budget process and approved by the Board of Education (“Exempt Positions”). From time to time, the Superintendent or Board members may recommend changes to Exempt Appendix A; however, all changes in Exempt Positions shall be subject to applicable Civil Service laws and Board approval and funding constraints. The probationary period following appointment by the Board of Education shall be twelve months for those employees subject to Civil Service Law, unless a different probationary period is established under Civil Service. If the employee is not subject to Civil Service Law, the employee does not receive a probationary period.

**2. Powers of the Board**

The Board, as a corporate entity, possesses the sole right, except as State law may provide otherwise, to oversee and manage the business and services of the District; to determine the organizational structure of the District and to create and abolish positions to staff the organization; and to determine whether and to what extent the work required to operate the District's business and services is to be performed by employees.

These Rules and Regulations are not intended as a contract of employment and may be amended or revised by the Board of Education at any time.

**3. Powers of Superintendent**

The Superintendent, as the Chief Executive Officer of the District, possesses all the powers, duties and responsibilities accorded to a Superintendent of schools by the Education Law and any other applicable state and federal law and regulation, as well as those powers, duties and responsibilities delegated by the Board. The powers, duties and responsibilities of the Superintendent with respect to the Exempt Positions subject to these Rules and Regulations shall be exercised pursuant to, and not in violation of, all applicable federal and state laws and regulations, and applicable policies of the Board, pertaining to non-discrimination in employment.

**4. Work Year and Day**

All employees shall be employed on a twelve-month basis. In general, all employees are expected to be at work as required by their duties and responsibilities or by their supervisors and complete a work day equivalent to the standard work hours for their position

(usually eight hours) exclusive of lunch. Employees covered by these Rules and Regulations are exempt from the minimum wage and overtime provisions of the Fair Labor Standards Act and New York State Labor Law.

**5. Medical Examinations and Tests**

All employees shall be subject to a medical examination within thirty (30) days of commencement of their employment, to be conducted by a physician designated by the District. In addition, an employee shall be subject to a physical or mental examination to be conducted by a physician or psychiatrist or psychologist designated by the District, whenever there is evidence satisfactory to the Superintendent or Board indicative of a physical or mental condition that appears to be impairing the ability of the employee to perform his or her job. The records of the examination shall be provided to each employee and shall be confidential and divulged only to the Superintendent or Board, the Chief Human Resources Officer, and the Chief Legal Officer; the records may also be divulged to others who need them to perform their jobs as determined by the Superintendent or Board. An employee shall be subject to testing for the presence of alcohol or illegal drugs in his or her body whenever the Superintendent or Board is presented with credible and reliable evidence that in his or her judgment justifies reasonable suspicion of such presence. Anonymous information shall not constitute good evidence. Testing shall be conducted while the employee is on duty and by a qualified agency designated by the District. Failure of the employee to submit immediately to such a test and cooperate fully in its procedures shall be grounds for discharge for good cause. The records of the test shall be provided to the tested employee and shall be confidential and divulged only to the Superintendent or Board, the Chief Human Resources Officer, and the Chief Legal Officer; the

records may also be divulged to others who need them to perform their jobs as determined by the Superintendent or Board.

**6. Appointment to Position**

Each employee shall be appointed to his or her Exempt Position and title by the Board in writing as of a specific date; the letter of appointment shall be countersigned indicating acceptance by the employee. Each employee shall be paid an annual salary initially established by the Board in the letter of appointment, and adjusted thereafter by the Board in accordance with the provisions of these Rules and Regulations. Salaries shall be paid in twenty-six (26) equal bi-weekly installments. Adjustments to salaries shall be made on the basis of reported absences and the reason(s) therefor.

**7. Salaries and Incentives**

A. Effective as of July 1, 2016, all annual salaries shall be determined by the Board within the ranges approved by the Board as part of the District's annual budget as described below. Each employee's annual salary shall be increased by 3% as of July 1<sup>st</sup> if the employee's performance has been satisfactory over the past 12 months. If the employee's performance has not been satisfactory over the past 12 months, the employee's supervisor shall determine an annual adjustment ranging from 0% to 3%. The Superintendent or Board may increase a particular employee's salary by an additional amount no greater than 2% for exceptional service documented in the employee's formal performance appraisal covering the previous 12 months. The Board shall approve any annual increases in excess of 3%. An employee employed by the District for less than six months shall not be eligible for an annual increase as of July 1<sup>st</sup> of the first year.

B. The Superintendent or Board may establish an annual performance incentive system for employees covered by these Rules and Regulations in order to recognize

and reward individual service beyond the norm or standard expected of such employees by providing for off-base bonuses not to exceed \$2,000 for any employee payable in cash or some other mutually agreeable form of compensation. An off-base bonus is deemed a one-time payment and shall not be added to an individual's base compensation. These payments shall be made separate from bi-weekly payroll. Any such system shall be set forth in writing to all eligible employees, and may be modified from time to time, subject to approval of the Board and payable as of the first pay period in July. The Board shall approve any annual performance system and all proposed bonuses prior to implementation.

C. Longevity Increments: Exempt employees with full time regular assignments shall be eligible for longevity payments based on milestones reached as of July 1<sup>st</sup> of each year (including service in the Exempt Group, SEG or BEG) as follows:

After completing 10 years of District service, the employee will receive a lump sum payment of \$2,000.

After completing 15 years of District service, the employee will receive a lump sum payment of \$2,500.

After completing 20 years of District service, the employee will receive a lump sum payment of \$3,000.

After completing 25 years of District service and at 5 year intervals thereafter, the employee will receive a lump sum payment of \$3,500.

If the employee is less than full-time, such increment shall be pro-rated. Longevity payments are payable to employees as separate disbursements, independent of bi-weekly payroll, upon completion of the academic year (June 30) in which the milestone dates are reached. No longevity increment shall be paid if the employee has already received payment for reaching that

term of service while a member of a collective bargaining unit. Employees shall be eligible for only the last milestone reached within the last 12 months following the effective date of this provision.

**8. Leave for Vacation**

A. All employees hired on or before July 1, 2015, covered by these Rules and Regulations shall be credited with twenty-five (25) paid vacation days on July 1 of each year. On July 1, following the employee's five year anniversary of employment with the District, the number of vacation days shall increase to thirty (30). Although vacation days are made available on July 1, these days are earned on a pay period basis, over the course of a full fiscal year. Employees who work less than a full year will receive prorated vacation days based on the number of days worked. Any portion of the allotted vacation days not used by June 30 each year shall be carried forward and accumulated for similar use in subsequent years subject to a maximum aggregate carryover from one fiscal year to the next of forty (40) vacation days. Members who join after July 1, 2016 may carry over no more than ten (10) unused vacation days per year, subject to a maximum aggregate carryover of forty (40) days.

B. Leave for vacation shall be approved in advance by an employee's immediate supervisor, except that an employee may take terminal vacation leave upon thirty (30) days' written notice to the employee's immediate supervisor. An employee may cash-in no more than ten (10) of his or her accrued and unused vacation days in any fiscal year and thereupon be paid for such days at his or her daily rate of pay calculated at 0.385% of annual salary at the time of cash-in. Upon cessation of employment with the District (not merely employment under these Rules and Regulations) for any reason (including but not limited to death, retirement,

resignation, job abolition, etc.), an employee or his or her estate shall be paid for all accrued and unused vacation days at his or her daily rate of pay calculated at 0.385% of annual salary at the time of cessation.

**9. Leave for Illness or Disability**

A. Effective July 1, 2016, all employees covered by these Rules and Regulations shall be credited with twelve (12) paid days on July 1 of each year, to be used for leave due to personal illness or injury or to care for a spouse, child or parent who is ill or injured. These days are earned on a monthly basis, over the course of a full year. Employees who work less than the full year will receive a prorated illness allowance. Leave under this section may not be used as vacation or as leave for specific purposes. Any portion of the accrued days not used at the end of June 30 each year shall be carried forward and accumulated as leave days for illness or injury for use in subsequent years. There shall be no cap on the total number of leave days for illness and disability that may be accumulated over the years. The Superintendent or Board may require reasonable documentation of illness or injury as he or she sees fit.

B. Any employee who exhausts all available personal illness leave days, personal business leave days, and vacation leave days due to personal illness or injury shall be entitled to apply for extended illness or injury leave for up to four (4) months at one-half his or her daily rate of pay calculated at 0.385% of annual salary. The application shall be made in writing to the Chief Human Resources Officer, and shall state fully the nature and expected duration of the illness or disability, supported by a physician's certification. Approval of the application shall be in the sole discretion of the Chief. No employee eligible for catastrophic leave shall be granted extended leave. No more than one extended leave shall be granted to an employee in a fiscal year.

C. Any employee whose personal illness or injury makes it unlikely that he or she will ever be able to return to work, and who has exhausted all his or her available personal illness leave days, personal business leave days, and vacation leave days, shall be entitled to apply for catastrophic leave for up to six (6) months at his or her daily rate of pay calculated at 0.385% of annual salary. The application shall be made in writing to the Chief Human Resources Officer, and shall state fully the nature of the illness or disability and the reason(s) why it is unlikely that the applicant will ever be able to return to work, supported by a physician's certification. An employee on or at the end of extended leave may apply for catastrophic leave. A grant of catastrophic leave shall be contingent upon the employee agreeing to resign or retire at the end of the leave. Approval of the application shall be in the sole discretion of the Chief with the concurrence of the Superintendent or Board.

D. Employees on disability, extended or catastrophic leave shall not accrue personal illness leave days or vacation leave days.

E. Employees on extended or catastrophic leave shall continue to be credited with service for the applicable state retirement system, and shall continue to be eligible for health, dental and life insurance benefits offered by the District, subject to applicable monthly contributions.

**10. Leaves for Specific Purposes**

All employees covered by these Rules and Regulations shall receive five (5) paid days on July 1<sup>st</sup> of each fiscal year which may be used for personal business. Personal days do not carry forward and cannot be cashed out.

Use of personal days shall not require the immediate supervisor's advance approval; however, an employee shall give his or her immediate supervisor as much advance notice of the leave as is feasible under the particular circumstances.

**11. Leaves for Miscellaneous Purposes**

Employees covered by these Rules and Regulations shall be entitled to such leaves as are required by law (e.g. leave under the Family Medical Leave Act, leaves for required jury or grand jury duty, leave for required military duty, leave for compliance with subpoena not related to employment, leave for required compliance with quarantine order) in accordance with the applicable provisions of law. Additionally, employees may receive up to five paid days due to a death in the immediate family. (Immediate family shall be defined as an employee's spouse, parent, sister, brother, child, grandparent or grandchild, by blood, marriage or legal adoption.) The Superintendent has the sole discretion to approve other leaves upon individual application in unusual or unique circumstances, upon such terms and conditions as appropriate.

**12. Holidays**

The following days shall be recognized as paid holidays:

- Independence Day
- Labor Day
- Columbus Day
- Veterans' Day
- Thanksgiving Day
- Christmas Day
- New Year's Day
- Martin Luther King Day
- Washington's Birthday
- Good Friday
- Memorial Day

The day after Thanksgiving and the day before or after Christmas shall be paid days off, in any year that they are paid days off for other District employees.

**13. Emergency Closings**

If the Superintendent determines to close all or some schools because of an emergency, all employees covered by these Rules and Regulations shall make every feasible effort to report to work at Central Office. No employee shall be credited with any additional time for reporting. If an employee is unable to report to work by virtue of the emergency, he or she shall not be required to use any leave time for days to be paid. If a countywide “State of Emergency” is declared which prohibits travel before an employee reports to work, the employee will not be required to work; in this event no employee will be required to use any leave time to be paid.

**14. Business and Professional Expenses**

A. The District shall reimburse employees covered by these Rules and Regulations for reasonable and necessary expenses incurred in the performance of their duties and responsibilities, including, but not limited to, the costs of transportation, lodging and meals outside Monroe County, at the rates approved by the Chief Financial Officer, upon presentation of signed vouchers itemizing such expenses.

B. The District shall reimburse employees for reasonable and necessary expenses incurred in professional development that will benefit the District, including, but not limited to, fees for memberships in national, state and local organizations of a civic, educational or service nature, attendance at meetings and conferences of such organizations, and enrollment and participation in causes relevant to a particular employee’s duties and responsibilities, and the costs of transportation, lodging and meals outside Monroe County, at the rates approved by the Chief Financial Officer, upon presentation of signed vouchers itemizing such expenses.

C. Nothing contained in the foregoing subparagraphs “A” and “B” of this Section shall be deemed to authorize any employee to expend, or entitle any employee to receive, funds in excess of the amount appropriated therefor in the District’s annual budget.

**15. Health and Dental Benefits**

All employees covered by these Rules and Regulations shall be entitled to enroll and/or participate in any plan offered by the District to all its employees or to any subgroup of employees pertaining to the provision of health and dental benefits (including prescription drugs). In accordance with the terms and conditions of these plans, the District shall contribute eighty-five percent (85%) toward the premium costs in the Exempt Group. No employee whose spouse also works for the District shall choose a plan that duplicates benefits provided to his or her spouse. Any Exempt employee that has worked at least ten (10) years for the District in the Exempt Group (including service in ASAR/SEG/BEG) shall be entitled to enroll and participate in health and dental insurance offered to the retired employees’ group. If the employee contributes a portion of the cost while employed, the same contribution level will continue upon separation. For purposes of this section, “retirement” shall mean eligibility to collect a pension under the applicable pension system upon reaching age 55 or through a disability retirement. Collecting a pension immediately upon retirement is not a prerequisite to receiving retiree health insurance under this section.

1. Pre 65 Exempt retirees will be offered the same health plan as active employees at their current contribution rate.
2. For Post 65 Exempt retirees, the District shall pay the full cost of the traditional indemnity plan. If the post 65 retiree selects an alternative plan, the District shall only contribute the cost of the traditional indemnity plan towards the alternative plan.

Employees who have worked at least ten (10) years for the District and reached the age of 55 years, but have not completed ten (10) years within the Exempt Group (including service in SEG/BEG), shall also be entitled to enroll and participate in health and dental insurance offered to the retired employees' group at the contribution rate applicable to active Exempt employees at the time of separation provided that they make the contributions required for such insurance.

**16. Life Insurance**

All employees covered by these Rules and Regulations on or before September 30, 2003 shall be eligible to receive a fully paid whole life insurance policy in the amount of \$100,000, assuming insurability, provided, however, that no employee shall be eligible for whole life coverage unless that coverage was elected prior to September 30, 2003. Upon retirement, any employee hired on or before September 30, 2003 who has worked at least five (5) years for the District and elected whole life, shall be entitled to continue such insurance coverage without contribution to any premium costs.

Any employee who was a member of SEG immediately prior to this revision (June 15, 2016) and is now a member of the Exempt Group, shall be eligible to retain their current term life insurance coverage upon transition to this Exempt Group.

Effective July 1, 2016, no other Exempt employees shall be eligible for life insurance coverage under these Rules and Regulations.

**17. Disability Insurance**

All employees covered by these Rules and Regulations shall receive a standard disability income policy that pays the maximum income benefit allowable for up to one year of disability due to illness, accident or injury, after a waiting period of six (6) months from the onset of disability, for which the District shall pay the full cost of the premium.

**18. Retirement**

All employees covered by these Rules and Regulations shall become and remain members of the appropriate retirement system of New York State, and the contributions to the system required by law shall be deducted from their salaries. Any employee may elect to participate in the tax-sheltered annuity and deferred compensation programs authorized by the District, and any contributions he or she chooses to make shall be deducted from his or her salary.

**19. Notice of Resignation or Retirement**

All employees covered by these Rules and Regulations shall provide their immediate supervisors thirty (30) days' written notice of their intent to resign or retire (including their intent to take terminal vacation leave prior to resignation or retirement).

**20. Abolition of Position or Discontinuance of Service; Severance Benefits**

A. Former SEG employees. Any Exempt employee that was a member of SEG or BEG prior to June 17, 2016 shall be eligible for severance benefits in the event of the abolition of his or her position or discontinuance of employment until the shorter of: 1) the end of their District probationary period; and 2) two years from the date these Rules and Regulations are approved by the Board. The severance period shall be as follows:

a) Less than five (5) years of service completed in Exempt/SEG/BEG: severance of 90 calendar days (3 months); and

b) Five (5) or more years of service completed in Exempt/SEG/BEG: severance of 180 calendar days (6 months).

A release of claims must be signed by the employee prior to payment of any severance. No severance shall be owed in the event the employee is terminated for incompetency or misconduct. In addition, if the employee's position is eliminated or abolished and the employee

accepts another position in the District, no severance shall be paid. Following permanent appointment in the classified service by the Board, an Exempt employee shall no longer be eligible for severance, but shall receive at least 90 days written notice in the event that the employee's position is to be abolished. After the two year timeframe, any employee that is not subject to Civil Service classification, shall also receive 90 days written notice.

In addition, an amount equal to all accrued and unused vacation days; plus, the employee's health and dental insurance, if and as it exists on the date of the end of employment, shall be continued for a period of time equal to the term of the severance (if applicable), so long as the employee continues to pay fifteen percent (15%) of the cost of the health and dental benefits.

Alternatively, at the employee's option, beginning on the date that would have been the date of abolition or discontinuance, the employee may remain on payroll for a period of time equal to the term of the severance (if applicable), during which period the employee shall be paid his or her salary, and the employee's health and dental insurance, if and as it exists on that date, shall be continued (subject to the employee's continued contribution of fifteen percent (15%) of the cost of such health and dental benefits). At the conclusion of this period, the employee shall be paid an amount equal to all accrued and unused vacation days.

B. Exempt employees post-June 17, 2016. Any Exempt employee appointed by the Board after June 17, 2016 shall receive ninety (90) calendar days' notice of the abolition of the position or discontinuance of the probationary period (unless terminated for incompetency or misconduct). Following permanent appointment in the classified service by the Board, an Exempt employee shall be entitled to 90 calendar days' notice in the event to position is abolished.

## **21. Discipline and Discharge**

Any Exempt employee holding a permanent appointment in the classified service may be disciplined or discharged for incompetency or misconduct according to the rights and procedures in Section 75 of the New York Civil Service Law. All employees not subject to Civil Service classification are at will employees.

**22. Defense and Indemnification**

A. The District shall defend an employee covered by these Rules and Regulations in any civil action or proceeding before any state or federal court or administrative agency seeking any type of relief, including compensatory or punitive damages, arising out of any act or omission that occurred while the employee was properly exercising or performing his powers, duties and responsibilities within the scope of his employment, as determined by the District's Chief Legal Officer. This duty to provide for a defense shall not arise where the action or proceeding against the employee is brought by or at the behest of the District itself or by the employee against the District.

B. The District shall indemnify and save harmless an employee in the amount of any judgment obtained against him or her in a state or federal court or administrative agency or in the amount of any settlement of a claim, in the nature of compensatory or punitive damages, provided that the employee's act(s) or omission(s) underlying the judgment or settlement occurred while the employee was exercising or performing his or her powers, duties and responsibilities within the scope of his or her employment, as determined by the District's Chief Legal Officer. This duty to indemnify and save harmless shall not arise where a judgment is obtained or a claim settled as a result of an action or proceeding brought by or at the behest of the District itself or by the employee against the District.

C. The District shall pay reasonable and necessary attorney's fees at rates

prevailing in the local legal community, disbursements and litigation expenses incurred by the employee in his or her defense in a criminal proceeding in a state or federal court arising out of any act or omission that occurred while the employee was properly exercising or performing his or her powers, duties and responsibilities within the scope of his or her employment, as determined by the District's Chief Legal Officer. The employee shall be entitled to retain private counsel of his or her own choice in such a proceeding, subject, however, to the approval of such counsel and his or her rates by the Chief Legal Officer prior to such counsel's retention. This duty to pay for a defense in a criminal proceeding shall arise only upon the complete acquittal of the employee or the dismissal of all criminal charges against him or her.

D. In making the determinations required by this Section, the District's Chief Legal Officer may utilize the cumulative information available to him or her at the time he or she makes the determination, including but not limited to any allegations, and any type of records or examinations or investigations by whomever conducted. The Chief Legal Officer's determination, if favorable to the employee, may thereafter be revoked only if the employee was misleading or untruthful in any documentation, examination or investigation with respect to any act or omission pertaining to the action or proceeding, and the truth causes the Chief Legal Officer to revise his or her original determination. The Chief Legal Officer's determination, original or revised, shall be in writing and served promptly upon the employee.

E. The duties to defend or to pay for a defense and to indemnify and save harmless shall be conditioned upon delivery by an employee to the District's Chief Legal Officer and Board President of any notice, summons, complaint, accusatory instrument, or any other legal process within five (5) business days after he or she is served with such document; the full and truthful response by the employee in any and all examinations or investigations into the incident(s) and transaction(s) upon which the action or proceeding is predicated; and the full

cooperation of the employee in the defense of any action or proceeding against him or her or against the District based upon his or her alleged acts or omissions and in the taking of any appeals.

F. Any determination of the District's Chief Legal Officer shall be deemed a final administrative determination and shall be reviewable in a judicial proceeding pursuant to Article 78 of the New York State Civil Practice Law and Rules.

**23. Effective Date of New Rules and Regulations and Repeal of Former Version**

These Rules and Regulations supersede any prior versions of the Rules and Regulations of the Board of Education relating to employees in the Exempt Group and shall be effective and apply to all Exempt employees employed by the District as of July 1, 2016, unless otherwise specified. Applicable salary adjustments and bonuses shall become effective as of July 1, 2016 and the first day of each July thereafter. Any questions regarding interpretation or application of these Rules and Regulations shall be forwarded to and addressed by the Chief Legal Officer and Board designee.

If any provision of these Rules is held to be unconstitutional, invalid or unenforceable by a court of competent jurisdiction, it is the intention of the Board of Education that the remainder of these Rules shall not be effective thereby, and shall be determined to be in full force and effect, if such remainder would then continue to conform to the laws of the State of New York.