CASPA
Rural HR Toolkit

CASPA (Colorado Association of School Personnel Administrators)
CASE (Colorado Association of School Executives)
BOCES (Boards of Cooperative Educational Services)
Colorado Rural Alliance

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Preface

This *CASPA HR Toolkit* has been provided to you through the collaborative efforts between CASE, CASPA, Colorado Rural Alliance, and BOCES. Our goal is to provide a resource for rural school districts to support the increasing demands of unfunded mandates and limited budgets. Although the concept was derived to support rural districts, we believe this toolkit will be beneficial to all school districts across the state of Colorado.

This material is intended for informational purposes only and not for the purpose of providing legal advice. You should contact your legal counsel to obtain advice with respect to any particular issue or problem.

This toolkit will be a live document hosted on the CASE/CASPA website. Updates and additional information will be maintained to the best of our ability. If you have information/resources that you believe will benefit the toolkit, please email shelly.landgraf@gmail.com.

Many thanks to multiple school districts that provided language, samples, templates, resources, etc, to provide you an in-depth human resource toolkit.

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1.0 Hiring

1.1 New Hire Paperwork

The information and documents below are intended as samples and resources.

Form	Purpose
Authorization Agreement for Automated Payroll Deposit	If your district provides/requires direct deposits, authorization must be provided
Form W-4 Employee's Withholding Allowance	Form W-4 is **required** for all employees
Form I-9 Employment Eligibility Verification	Form I-9 is **required** for all employees and must be filled out before employee begins work or within three (3) days of beginning work. Verifies employees eligibility to work in the United States.
PERA member information form	XXX School District is a Colorado Public Employees' Retirement Association (PERA) Employers. This form is **required.** If employee is retired from PERA and receiving monthly retirement benefits, additional PERA paperwork is required https://www.copera.org/sites/default/files/documents/2-55.pdf
Form SSA-1945 Statement Concerning Employment in Job Not Covered by Social Security	**Required** for all employees hired after January 1, 2005. Earnings from employment in school district are not covered under Social Security. This form acknowledges that employee has received the information on the SSA-1945 form
Fingerprint Card	State law **requires** that all classified (non-licensed) employees provide a set of fingerprints before reporting to work. The school district is required to forward the fingerprints to the Colorado Bureau of Investigation for a state and national criminal

	background check. The school district must pay for the cost of the fingerprints and processing but may charge applicants a fee equal to those costs. Such fees must be placed into a separate fingerprint processing account and used solely for fingerprinting and processing of fingerprints submitted by other applicants. As part of the application process/personnel file, districts may also choose to require the applicant to certify their criminal record background history. Criminal Record Background Certification Form
Teacher's Oath	**How must the oath/pledge be administered?** The oath/pledge may be administered in written or oral form. If a written pledge, this pledge must must be signed (notarization *not* required). If an oral oath, the law specifies that it must be administered by a "person authorized to administer oaths in the state of Colorado." **May the oath be issued to a group of people?** Yes, the oath may be administered orally to a group or to an individual. **Can the written pledge be included within educator contracts?** Yes. **Is this a one-time requirement?** Yes, an educator need only take this oath once during the tenure of employment in your district. **Who is required to take the oath/pledge?** All public school educators (teachers, special services providers, principals and administrators). It is not required of non-educators, such as transportation or custodial staff. **Is this a requirement for the state (CDE) or the district/school?**

	The oath is required to be issued and attested to upon hire at the district or charter school level for all educators, whether they are licensed at the time or not.
Teacher Profile for Substitute Management System	A district form submitted by employee in order to have access to the substitute system
Sick Leave Bank Enrollment Form	A district form submitted by employee if they choose to enroll (if available) in Sick Leave Bank
Computer login and email account	District should maintain a "Terms of Usage" Agreement that aligns with board policy as it pertains to using district technology
District ID badge, keys, fob, etc	
Benefits Acknowledgment	Districts should have employees acknowledge required timelines to sign up for benefits
Physical	If required as essential function of job responsibilities, passing of physical based on job description. Pre-Offer employment requirement.
Bilingual/Specific Skill Assessment	If district provides stipend for specific skills, assessment should be completed either prior to official offer or shortly after offer.

1.2 Background Screening

Colorado Law requires school districts to perform criminal background checks on all non-licensed employees. The law also allows districts to require current employees to submit fingerprints for a background check if it has good reason to believe that the employee has been convicted of a felony or misdemeanor (other than misdemeanor traffic offense) subsequent to their employment with the District.

The law also requires prohibits districts from employing persons who have been convicted of, or convicted of attempt, solicitation or conspiracy to commit one of the following offenses:

1. Felony child abuse, as described in C.R.S. 18-6-401;
2. Crime of Violence, as defined in C.R.S. 18-1.3-406:

3. Felony involving unlawful sexual behavior, as defined in C.R.S. 16-22-102;
4. Felony domestic violence, as defined in C.R.S. 18-6-800.3, for a period of 5 years following the date of the offense and completion of required treatment;
5. Felony drug offense as defined in C.R.S. part 4, title 18, for a period of 5 years following the offense;
6. Felony indecent exposure, as defined in C.R.S. 18-7-302; or
7. An offense in any other state which would constitute one of these offenses if committed in Colorado.

The school district may hire a person who is or would be disqualified from employment for felony domestic violence or drug offense after conducting a safety assessment, which takes into consideration:

1. The seriousness and nature of the underlying offense;
2. Time elapsed since the offense;
3. Nature of the position sought; and
4. Other relevant information.

The decision of the school district is final.

The district has discretion to determine whether to hire applicants with convictions other than those cited above.

According to the Equal Employment Opportunity Commission, (EEOC), it is recommended that employers conduct an individual analysis and dialogue with the applicant regarding the conviction in order to make an employment decision.

The assessment regarding whether or not the conviction is relevant should include:

- The facts and circumstances surrounding the offense
- The number of offenses for which the individual was convicted
- Age at the time of conviction or release from prison
- Evidence that the individual performed the same type of work, post-conviction, with the same or a different employer, without incidents of criminal conduct
- The length and consistency of employment history before and after the offense
- Rehabilitation
- Employment or character references and other information regarding the individual's fitness for the particular position
- Whether the individual is bonded

This analysis is essential to ensure a safe school environment and defend against potential claims of discrimination. Districts must ensure that all job applicants are treated equally.

1.3 Child Abuse

The Child Protection Act of 1987, (CRS 19-3-304) identifies any "Public or private school official or employee" as a mandatory reporter. This means that all school district employees are required to report known or suspected incidents of of child abuse or neglect to law enforcement or children's services.

> Sample handbook statement for Child Abuse training:
> *XXX School District is committed to the safety and welfare of the children it serves. XXX School District recognizes that child abuse and neglect can result in school failure and other damaging physical and emotional consequences. School employees can play a significant role in the prevention and intervention of child abuse and neglect. Accordingly, school personnel shall report suspected or known child abuse or neglect according to the Child Protection Act of 1987, (title 19, the Children's Code, article 3, part 3).*
>
> *Staff training is important in meeting the reporting requirements of Colorado law.*
>
> *Accordingly, staff members shall be trained as required by Board policy. All school officials and employees are affirmatively charged with familiarizing themselves with the requirements found in this policy and its accompanying regulation.*

Mandatory Trainings

Colorado school districts are required to provide periodic training to assist employees in recognizing and reporting instances of child abuse and to instruct them on how to assist victims and their families. The School Safety Resource Center provides numerous resources and trainings on child abuse and employees' mandatory reporting obligations. Board policy will dictate how often these trainings are required for staff. The Office of Children, Youth and Families also provides training resources on their website.

1.4 New Teacher Onboarding

This sample document can be shared with building administration to ensure basic information is provided for new teachers.

2.0 Job Descriptions

2.1 Purpose of Job Descriptions

The primary purpose of job descriptions is to outline the main duties and responsibilities of a particular position. When job descriptions are regularly reviewed and maintained, these documents support multiple areas including:

- Recruitment
- Selection
- Comprehensive Evaluation
- Training and Professional Development
- Compensation

Job descriptions are also critical to the determination as to whether an applicant/employee with a disability can perform the “essential functions” of their job and, ultimately, whether the employer will be required to provide “reasonable accomodations.” This topic is discussed more fully in **chapter 5**.

When creating or updating job descriptions, consider these key factors:

1. Does the job description include a statement that communicates who your district is and why people would want to part of the school district?
2. Does the job description accurately reflect the knowledge, skills, and abilities that an ideal candidate for the job possesses?

2.2 Job Analysis

A job analysis is a process that provides the content for accurate job descriptions. Job analysis is critical because it:

- Identifies and communicates the competencies, knowledge, skills and attributes needed for effective job performance
- Supports recruitment efforts for hard to fill positions and assists with determining strategies for placement
- Engages the right people for critical input
- Updates out-of-date and non-compliant job descriptions
- Illuminates gaps between current-state and future-state skills needed for job

Keys to Conducting an Effective Job Analysis

In conducting a job analysis:

- Involve employees. Have them complete job analysis forms and interview them directly about their job duties and responsibilities

- Interview supervisors and other employees that interact with that particular position
- Compare the job to other jobs in the organization, as well as the “job grade” or “job family,” and analyze where it compares on the pay scale.

2.3 Job Descriptions, Minimum Wage, and FLSA

Job descriptions, minimum wage and classification as exempt or non-exempt under the Fair Labor Standards Act (FLSA).

As job descriptions are created for new positions or existing job descriptions are updated, a job description duties test should be performed to ensure the position is being classified appropriately as “exempt” or “non-exempt” under the Fair Labor Standards Act.
Effective January 1, 2018, the minimum wage in Colorado was set at **$10.20** per hour. Pursuant to Amendment 70, the minimum wage will increase annually by $0.90 each January 1 until it reaches $12 per hour in January 2020. Thereafter it will be adjusted annually for cost of living increases, as measured by the Consumer Price Index used for Colorado. The FLSA requires that hourly (or non-exempt) employees must be paid one and one half times their hourly rate when they work more than 40 hours in any one week.

The FLSA provides certain exemptions from the minimum wage and overtime requirements. The best known and most significant of these exemptions is for “any employee employed in a bona fide executive, administrative, or professional capacity…” To be “exempt” an employee must perform duties that meet one of the established duties test and be paid a minimum of $455/week on a salary.

The most common mistake is misclassifying employees as exempt. Employers must keep in mind that exemptions from the FLSA overtime and minimum wage provisions are narrowly construed by the U.S. Department of Labor (DOL) and the courts, and employers bear the burden of proving that each employee claimed as exempt meets each and every requirement set out in the regulations. When an aggrieved employee is successful with an FLSA complaint or suit, the remedy is generally three years of back-pay for the amount of minimum wage and overtime owed in arrears to the employee, with the ensuing sum doubled as a liquidated-damages “slap on the wrist” to the employer for its wrongdoing.

The following provides an overview of the FLSA.

The proper classification of employees is a complex issue and school districts should work with HR support and/or legal counsel to ensure employees are being classified correctly under the law.

2.4 Exempt vs Non-Exempt Employees

Under the FLSA, most workers are classified as either exempt or non-exempt depending on their salary and the type of work they do. The Fair Labor Standards Act (FLSA) requires that in addition to paying at least the minimum wage districts also must pay non-exempt employees who work more than 40 hours in a given workweek overtime at one and one half times their hourly rate, unless they meet certain specifically defined exceptions.

Definition of non-exempt employee

Most employees are entitled to overtime pay under the Fair Labor Standards Act. They are called non-exempt employees. Districts must pay them one-and-a-half times their regular rate of pay when they work more than 40 hours in a week. The biggest problem most districts have with nonexempt employees is miscalculating how much overtime workers are owed.

The common categories of school employees with non-exempt job duties are teacher's aides, safety and security officers, custodians, receptionists, cafeteria workers, secretaries, bus drivers, maintenance workers, bookkeepers, media assistants, nurses without an RN, and non-certified athletic trainers.

Definition of exempt employee

The Fair Labor Standards Act contains dozens of exemptions under which specific categories of employers and employees are exempted from overtime requirements. The most common exemptions are the white-collar exemptions for administrative, executive, and professional employees, and computer professionals. The primary advantages of classifying employees as exempt are that you don't have to track their hours or pay them overtime, no matter how many hours they work.

The common categories of individuals with exempt job duties in schools are superintendents, assistant superintendents, program directors, district athletics directors, principals, assistant principals, building athletics directors, teachers, guidance counselors, nurses with an RN and certified athletic trainers.

Notably, the FLSA specifically exempts teachers from its minimum wage and overtime requirements when they perform extra duties at their schools in support of activities such as sports, theatre, music, clubs and other extracurricular pursuits designed to enrich the educational experience for students.

A Department of Labor opinion letter, issued January 5, 2018, concludes that non-district employees who coach – community members who, for instance, work at another job and serve as a stipended coach simply because they desire to be involved in a school's athletic program – also qualify as teachers under the FLSA and are exempt from the minimum wage and overtime

requirements because their “primary duty” while working with student-athletes is instructional in nature.

Generally, non-exempt (classified) employees are entitled to overtime pay if coaching, or other activities related duties are entitled to time and half overtime if that work takes them over the 40 hour weekly limit. Volunteers, as defined by the FLSA, are exempt from the overtime requirement.

Remember, **the proper classification of employees is a complex issue and school districts should work with HR support and/or legal counsel to ensure employees are being classified correctly under the law.**

New overtime regulations stalled

The Department of Labor (DOL) attempted to update the overtime regulations in 2016 to increase the salary threshold for exemption. Implementation of those requirements has been delayed to a successful legal action challenging the new requirements. Until further action, the salary threshold will remain as it has been since 2004. CASE/CASPA will update and provide information if the regulation changes.

2.5 Sample FLSA Exemption Test Worksheet

3.0 Leaves of Absence

3.1 Family Medical Leave Act (FMLA)

The Family and Medical Leave Act (FMLA) provides certain employees with up to 12 weeks of unpaid, job-protected leave per year. It also requires that their group health benefits be maintained during the leave.

FMLA is designed to help employees balance their work and family responsibilities by allowing them to take reasonable unpaid leave for certain family and medical reasons. It also seeks to accommodate the legitimate interests of districts and promote equal employment opportunity for men and women.

The following provides an overview of the key provisions of the FMLA. Districts should consult with HR and/or legal counsel when questions arise around an employee’s request for leave.

The FMLA applies to all public agencies, all public and private elementary and secondary schools, and companies with 50 or more employees. These employers must provide an eligible employee with up to 12 weeks of unpaid leave each year for any of the following reasons:

- for the birth and care of the newborn child of an employee;
- for placement with the employee of a child for adoption or foster care;
- to care for an immediate family member (spouse, child, or parent) with a serious health condition; or
- to take medical leave when the employee is unable to work because of a serious health condition.

Employees are eligible for leave if they have worked for their district at least 12 months, at least 1,250 hours over the past 12 months, and work at a location where the company employs 50 or more employees within 75 miles. This means that employees of a rural school would not be eligible for FMLA leave if the school has fewer than 50 employees and there are no other district schools within 75 miles.

[The Employer's Guide to The Family Medical and Medical Leave Act]

A good reference for those new to FMLA

3.2 Required Notice to Employees

Districts are required to notify employees of their FMLA rights and obligations by the general notice form and distributing policies regarding the FMLA in the board policies/employee handbook/bargaining agreement. Districts who do not have written resources must provide written FMLA guidance to an employee at the time of hire. FMLA leave is a right of the employee but designating such leave is the the obligation of the district.

When an employe requests FMLA leave, districts are required to provide the Eligibility/Rights and Responsibilities Notice to employees. After receipt of medical certification of a serious health condition, the district must provide the Designation Notice to the employee.

3.3 Requiring Certification

An employer may require a certification when an employee requests leave for:

- The employee's own serious health condition,
- The serious health condition of the employee's parent, spouse, son or daughter, and
- Military family leave (see **chapter 5** for information about certification for military family leave).

An employer may also, in certain circumstances, require a fitness-for-duty certification at the conclusion of the employee's leave as a condition to returning the employee to the job.

Employers may **not** request a certification for leave to bond with a healthy newborn child or a child placed for adoption or foster care. However, employers may request documentation to confirm the family relationship (see **chapter 3** for information about documenting the family relationship).

3.4 Intermittent/Reduced Schedule Leave

The FMLA permits employees to take leave on an intermittent basis or to work a reduced schedule under certain circumstances.

- Intermittent/reduced schedule leave may be taken when medically necessary to care for a seriously ill family member, or because of the employee's serious health condition.
- Intermittent/reduced schedule leave may be taken to care for a newborn or newly placed adopted or foster care child only with the district's approval.

Only the amount of leave actually taken while on intermittent/reduced schedule leave may be charged as FMLA leave. Employees may not be required to take more FMLA leave than necessary to address the circumstances that cause the need for leave. Districts may account for FMLA leave in the shortest period of time that their payroll systems use, provided it is one hour or less.

Employees needing intermittent/reduced schedule leave for foreseeable medical treatment must work with their district to schedule the leave so as not to unduly disrupt the district's operations, subject to the approval of the employee's health care provider. In such cases, the district may transfer the employee temporarily to an alternative job with equivalent pay and benefits that accommodates recurring periods of leave better than the employee's regular job.

3.5 Special Provisions for School Employees

There are several special rules for employees of schools that govern:

- Intermittent or reduced leave, and
- Leave taken near the end of an academic term.

Special provision, only apples to "instructional" employees: defined as those whose principal function is to teach and instruct students in class.

Special Rules for School Employees Taking Intermittent Leave

If a leave period ends with the school year and begins with the next year, it is considered consecutive and not intermittent—the summer vacation time does not count.

If foreseeable leave to care for a family member with a serious health condition receiving planned treatment causes an instructional employee to miss more than 20% of the total number of working days over the leave period, the employer may require the employee to either:

- Take leave for a period of a particular duration (not greater than the time of planned treatment); or
- Temporarily transfer the employee to an alternative, equally-compensated position during the leave.

Special Rules for Leave Taken Near End of Academic Term

If an instructional employee's leave begins more than five weeks before the end of a term, the employer may require the employee to stay on leave through the end of the term if:

- Leave will last at least three weeks; and
- The employee would return to work during the three-week period before the end of the term.

If an employee begins leave during the five-week period before the end of a term because of:

- Birth, placement for adoption, or placement for foster care of a child;
- A need to care for a spouse, son, daughter, or parent with a serious health condition; or
- A need to care for a covered servicemember.

Then the employer may require the employee to stay on leave through the end of the term, provided that:

- The leave will last more than two weeks; and
- The employee would return to work during the two-week period before the end of the term.

If an employee begins leave during the three-week period before the end of a term because of:

- Birth, placement for adoption, or placement for foster care of a child;
- A need to care for a spouse, son, daughter, or parent with a serious health condition; or
- A need to care for a covered servicemember.

Then the employer may require the employee to stay on leave through the end of the term if the leave will last more than five working days.

Note: When an employee is required to extend leave through the end of the term, only the amount of time up until the employee is ready and able to return to work will count against the employee's FMLA leave entitlement.

Maternity/Paternity Leave

Mothers and fathers have the right to take FMLA leave to bond with a newborn child.

Mothers can take FMLA leave for prenatal care, incapacity due to pregnancy, and for serious health conditions following the birth of a child.

Fathers can use FMLA leave to care for his spouse who is incapacitated due to pregnancy or childbirth.

New parents can also take intermittent FMLA leave, so long as the employer approves and the leave concludes within twelve months after the child's birth.
This also applies to newly placed adopted or foster children

3.6 FMLA Forms

The following forms may be found on the United States Department of Labor. The forms expire 7/31/2018.

Certification of Health Care Provider for Employee's Serious Health Condition (Family and Medical Leave Act)

Certification of Health Care Provider for Family Member's Serious Health Condition (Family and Medical Leave Act)

Certification of Qualifying Exigency For Military Family Leave (Family and Medical Leave Act)

Certification for Serious Injury or Illness of a Current Servicemember - -for Military Family Leave (Family and Medical Leave Act)

Certification for Serious Injury or Illness of a Veteran for Military Caregiver Leave (Family and Medical Leave Act)

3.7 Sample FMLA Approval Letter to Employee

Clear communication to employee is critical that they understand benefits, compensation, and other benefits/conditions based upon your bargaining agreement or employee handbook (sick bank, right to return to position, etc.)

3.8 Sample Employee FMLA Leave Return to Work Documentation

For leave taken in a block of time, a district may require a fitness-for-duty or return-to-work certification. This requirement should be uniformly applied to all employees returning from medical leave. Fitness-for-duty certifications cannot be requested for intermittent leave unless there is a safety concern. If there is a safety concern, the district can request a fitness-for-duty certification every 30 days.

The certification can address the employee's ability to perform the essential functions of the job if the district has provided a copy of the employee's essential functions with the Designation Notice. Essential functions should be listed in the job description.

The district's policy should clearly state that "fitness-for-duty" certification is required, i.e,

- Fitness-for-duty certification is required in all cases, or
- Fitness-for-duty certification is required in all cases in which leave of more than a specified number of days is taken,
- Fitness-for-duty certification is required for all district positions that require specific physical requirements in the job description

Fitness For Duty Certificate Information

Typically there is a range of return-to-work options from the medical provider:

- **Full Release**. The patient has no work restrictions. They can return to their prior position because the healthcare provider certifies that they can perform the essential functions of their job.
- **Modified Duty**. The patient has some work restrictions. Work restrictions must be specifically notated. Each modified duty work restriction request will be reviewed carefully to determine if the employee can perform the essential functions of the job and return to work.
- **Not Released**. The patient is not released to work in any capacity due to physical or behavioral limitations.

3.9 Fit For Duty Examinations

A Supervisor may require an employee who occupies a position which has medical standards or physical requirements to undergo a fitness-for-duty medical examination whenever there is a direct question about the employees continued capacity to meet any of the physical or medical requirements of the position. The medical provider will provide the form to be completed by the supervisor. Typically, the following information is requested by the medical provider:

- State why the supervisor is requesting a Fit for Duty examination
- Has the employee missed work due to the illness or health concern
- Has the employee's job performance been affected by the illness or health concern
- Is the employee considered a safety risk to themselves or others

It is beneficial for the medical provider to be provided as much detailed information as possible, ie., job description including essential functions and detailed information as to examples of employee not be able to perform essential functions.

3.10 Worker's Compensation and FMLA

Employee rights under the FMLA and workers' compensation laws (explained more fully below) can overlap when an employee suffers a workplace injury or illness that is deemed a "serious health condition" under the FMLA. When this happens, the laws' provisions can run concurrently. In other words, an employee may be off work receiving workers' compensation benefits, and the time off is counted against the employee's applicable 12-week entitlement to job-protected FMLA leave so long as the employer properly notifies the employee in writing that the leave will be counted as FMLA leave.

3.11 Leave for a Disability Under Americans with Disabilities Act

Workers who have used up FMLA leave can still have rights under the ADA if they meet the ADA definition of a person with a disability. Accommodation is one such right and, depending on the circumstances, additional leave (beyond the worker's FMLA leave) could be an accommodation that must be provided under the ADA.

4.0 Workers Compensation

Workers' compensation is a state-mandated insurance program that provides benefits to employees who suffer job-related injuries and illnesses. In general, an employee with a

work-related illness or injury can get workers' compensation benefits regardless of negligence or fault.

The following provides an overview of the key provisions of worker's compensation laws. Districts should consult with HR and/or legal counsel when questions arise around an employee's rights under the law.

4.1 District Requirements

- Obtain and maintain workers' compensation insurance
- Display a *Notice to Employer of Injury* poster at all times
- Keep a record of all lost time injuries and occupational diseases
- Report lost time injuries by filing the *Employer's First Report of Injury* with the insurer within 10 days
- File a *Supplemental Report of Accident* (sample) form with the insurer upon an employee's return to work or termination from employment

4.2 Sample handbook message regarding Workers' Compensation

It is each employee's responsibility to be aware of all safety and risk issues in their work area and to adhere to any established safety programs or procedures. Following established safety programs or procedures reduces exposure to risk of injury or liability for all individuals connected with the school district, promotes fiscal and legal responsibility, and contributes generally to a positive, secure and safe learning and working environment. Any questions you may have regarding safety should be directed to your immediate supervisor.

Injuries at Work

Under the Colorado Workers' Compensation Act, the district provides benefits of medical coverage and compensation when an employee is injured while in the course of his/her employment. To ensure eligibility for these benefits, each employee must follow the procedures summarized below.

- *Accidents or injuries must be reported immediately to the employee's supervisor, and not later than 24 hours after the incident.*
- *If the injury is an emergency, immediate treatment should be sought at the nearest hospital or appropriate medical facility, and not at the employee's personal physician.*
- *All follow-up care and treatment of non-emergency injuries must be through the district's designated medical provider.*
- *After receiving treatment, the employee must secure a statement of ability to work from the designated medical provider. This statement must be returned to _____ as soon as possible after treatment. The*

employee will not be allowed to return to work without consent of the _____.

- *If the employee cannot return to regular duties, alternative duties may be assigned.*
- *The employee must report daily to his/her immediate supervisor when off work due to a Workers' Compensation accident.*

An employee's Workers' Compensation benefit may be reduced for non- compliance of various policies or guidelines, including:

- *Deliberate disobedience of reasonable instruction of an administrator or other school district representative General Safety Precautions*

4.3 Sample Workers' Compensation FAQ

4.4 Sample Employee Report of Injury/Incident

4.5 Sample Work Restrictions Response Letter

4.6 Sample Acknowledgment of Work Restrictions

5.0 Americans Disability Act (ADA)

5.1 Overview

The Americans with Disabilities Act prohibits employers from discriminating against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions, and privileges of employment.

The following provides an overview of the key provisions of the ADA. Districts should consult with HR and/or legal counsel when questions arise around an employee or applicant's disability and/or their rights under the law.

An individual with a disability is a person who:

- Has a physical or mental impairment that substantially limits one or more major life activities;
- Has a record of such an impairment; or
- Is regarded as having such an impairment.

A qualified employee or applicant with a disability is an individual who, with or without reasonable accommodation, can perform the essential functions of the job in question. Reasonable accommodations are adjustments or modifications provided by an employer to enable people with disabilities to enjoy equal employment opportunities. Accommodations vary depending upon the needs of the individual applicant or employee. Reasonable accommodation may include, but is not limited to:

- Making existing facilities used by employees readily accessible to and usable by persons with disabilities.
- Job restructuring, modifying work schedules, reassignment to a vacant position;
- Acquiring or modifying equipment or devices, adjusting or modifying examinations, training materials, or policies, and providing qualified readers or interpreters.

An employer is required to make a reasonable accommodation to the known disability of a qualified applicant or employee if it would not impose an "undue hardship" on the operation of the employer's business. Undue hardship is defined as an action requiring significant difficulty or expense when considered in light of factors such as an employer's size, financial resources, and the nature and structure of its operation.

An employer generally does not have to provide a reasonable accommodation unless an individual with a disability has asked for one. If an employer believes that a medical condition is causing a performance or conduct problem, it may ask the employee how to solve the problem and if the employee needs a reasonable accommodation. Once a reasonable accommodation is requested, the employer and the individual should engage in an “interactive process” to discuss the individual's needs and identify the appropriate reasonable accommodation. Where more than one accommodation would work, the employer may choose the one that is less costly or that is easier to provide.

The ADA does not require employers to:

- Provide accommodations that would cause an undue hardship; or
- Create new positions to meet disability-related restrictions

5.2 Granting Leave as a Reasonable Accommodation

An employer must consider providing unpaid leave to an employee with a disability as a reasonable accommodation if the employee requires it, and so long as it does not create an undue hardship for the employer. That is the case even when:

- the employer does not offer leave as an employee benefit;
- the employee is not eligible for leave under the employer's policy; or

- the employee has exhausted the leave the employer provides as a benefit (including leave exhausted under a workers' compensation program, or the FMLA or similar state or local laws).

Reasonable accommodation does not require an employer to provide *paid* leave beyond what it provides as part of its paid leave policy. Also, as is the case with all other requests for accommodation, an employer can deny requests for leave when it can show that providing the accommodation would impose an undue hardship on its operations or finances.

An employer may not penalize an employee for using leave as a reasonable accommodation. Doing so would be a violation of the ADA because it would render the leave an ineffective accommodation; it also may constitute retaliation for use of a reasonable accommodation.

An employer may obtain information from the employee's health care provider (with the employee's permission) to confirm or to elaborate on information that the employee has provided. Employers may also ask the health care provider to respond to questions designed to enable the employer to understand the need for leave, the amount and type of leave required, and whether reasonable accommodations other than (or in addition to) leave may be effective for the employee (perhaps resulting in the need for less leave). Information from the health care provider may also assist the employer in determining whether the leave would pose an undue hardship. An employee requesting leave as a reasonable accommodation should respond to questions from an employer as part of the interactive process and work with his or her health care provider to obtain requested medical documentation as quickly as possible.

Types of Challenged Employment Decisions

- Discharge
- Reasonable Accommodation
- Harassment
- Hiring
- Discipline

ADA Inquiry

1. Ask First: Whether the employee or applicant is a *qualified individual* with a disability
    a. Is the individual with an impairment disabled within the meaning of the ADA? And,
    b. Regardless of the impairment, does the person meet the job qualifications? And,
    c. Does the impairment affect the person’s ability to perform the essential job duties? If yes,
    d. What accommodation can be made so that the person will be able to perform the duties

e. Does the accomodation impose an undue hardship on the employer?

Determine that the ADA is implicated BEFORE assessing whether a reasonable accommodation can be made

Documentation of the interactive process and any agreed upon accomodations is critical and should be included as part of the employee's personnel file and updated annually.

5.3 Sample Beginning of the Year Communication

5.4 Sample ADA Employee Medical Information Form

5.5 Sample Employee 504 Plan

5.6 Sample Employee Equipment Agreement Form

6.0 Separation

6.1 Guidelines for Termination

At some point, managers will need to terminate employees. There may be any number of reasons for such decisions, from budget reductions, misconduct, violation of district policies or poor performance. Prior to the decision of termination, it is important to ensure all cautionary steps are taken to avoid potential litigation and/or discriminatory charges filed.

The following provides an overview of the key provisions of termination. Districts should consult with HR and/or legal counsel when questions arise around an employer's due diligence and employee's rights under the law.

Questions to Ask Before You Terminate

Before terminating an employee, ask the following seven questions. If you answer "yes" to any, your risk of potential litigation rises. **Districts should consult with HR and/or legal counsel prior to any formal action.**

- ❏ Is the employee over the age of 40?
- ❏ Is the employee disabled in any way?
- ❏ Has the employee been injured on the job or filed a workers' compensation claim?
- ❏ Is the employee a minority or a woman with any conceivable discrimination claim?

- ❏ Is the employee able to claim any discrimination based on religion, national origin, ethnicity, sexual preference or other grounds?
- ❏ Has the employee filed a discrimination or harassment complaint?
- ❏ Has the employee been a whistle-blower?

Six Classic Firing Mistakes to Avoid

1. Keep your cool - Avoid heightening an already emotional situation.
2. Avoid surprises - Employees should never be completely surprised by a termination. Give your employees regular feedback on their performance and suggest methods for improvement.
3. Play by the rules - Follow your established discipline policy. Conduct a thorough investigation obtaining all information, including hearing the employee's side.
4. Careful what you say - Employees will typically remember what you have stated prior and on the day of the termination. Avoid any statements/behaviors that could be construed discriminatory.
5. Don't be too kind - At times you may feel compassion for an employee needing to be terminated. It's important to remain factual of the circumstances and do not "soften" the blow with kind words that will lead confusion and anger by the employee.
6. Keep quiet - Do not discuss the reasons for termination with other employees. Speaking freely to others may lead to the District defending themselves in court on a defamation of character suit.

Constructive Discharge

Constructive discharge occurs when employees claim their working conditions are so intolerable that they were forced to quit. Districts must stay within federal employment laws so they don't contribute to factors that trigger constructive discharge claims.

Other Types of Factors Contribute to a Constructive Discharge Claim

- A demotion
- Reduction of salary
- Reduction in job responsibilities
- Reassignment to menial or degrading work
- Reassignment to work under a younger supervisor
- Involuntary transfer to a less desirable position
- Badgering, harassment or humiliation by the District
- Offers of early retirement or encouragement to retire

Termination Letter Information

Districts should consult with HR and/or legal counsel prior to submitting a termination letter to an employee.

- Explain why you are terminating the employee. If the termination is “for cause,” this may be for reasons such as general misconduct, poor performance, alcohol use, etc,. State any warnings (verbal/written) that were given and how many, if any, opportunities the District provided to improve the behavior.
- State which law, board policy, negotiated agreement was violated and/or not adhered to. This is why it’s important that employee’s acknowledge understanding of employee handbook.
- If applicable, state limitations or prohibitions on the employee’s access to District property.
- State when employee’s health benefits will cease as well as basic COBRA information.
- State any other information that District believes is relevant from the Termination Checklist
- The employee should date, sign the termination notice. A copy of the letter should be provided to the employee. The original shall be placed in the personnel file.

Termination Meeting

Prior to making the determination that an employee needs to be terminated, **Districts should consult with HR and/or legal counsel prior to any formal action.** Always have a witness in the room when terminating an employee. Briefly deliver the information by summarizing the well-documented, job-related reasons for the termination. Avoid using harsh words during the termination meeting that would only serve to inflame the issue. Stick to the facts; don’t generalize statements.

Six Basic Procedures to Follow

1. Conduct the termination meeting in a neutral location
2. Keep the termination meeting brief - in general, 10 - 15 minutes. It should be a one-way conversation; it’s not a debate. However, if they request, provide an opportunity for the employee to respond.
3. Tell the employee the real reason for the dismissal - Not being honest about the reason for the termination could come back to the District in court.
4. Be firm in your termination decision - Don’t give the impression that the decision can be reversed. If the employee tries to challenge the decision, inform them the termination is final.
5. Be prepared to answer questions - be prepared to discuss the factual information as to your reasons for the termination
6. Termination Meeting Checklist - document the termination process and include in employee’s personnel file.

6.2 Separation Checklist

6.3 Exit Survey

6.4 COBRA (Consolidated Omnibus Budget Reconciliation Act)

COBRA provides employees and their families who lose their health benefits the right to choose to continue group health benefits provided by their group health plan for limited periods of time under certain circumstances such as voluntary or involuntary job loss, reduction in the hours worked, transition between jobs, death, divorce, and other life events. Qualified individuals may be required to pay the entire premium for coverage up to 102 percent of the cost to the plan.

COBRA generally requires that group health plans sponsored by districts with 20 or more employees in the prior year offer employees and their families the opportunity for a temporary extension of health coverage (called continuation coverage) in certain instances where coverage under the plan would otherwise end.

COBRA outlines how employees and family members may elect continuation coverage. Districts are legally obligated to ensure that the covered employee is aware of their rights under COBRA and provide General Notice of COBRA Continuation Coverage Rights.

Districts must provide the employee COBRA Continuation Coverage Notice upon separation and the employee qualifies for COBRA.

If the employee does not qualify for COBRA, the district shall inform the employee by means of Notice of Unavailability of COBRA Coverage

An Employer's Guide to Group Health Continuation Coverage Under COBRA

6.5 Post Employment Inquiries

After separation, it's critical to maintain personnel files in case litigation is filed against the district.

Work References

Districts should maintain consistency as to their practice of responding to inquiries about former employees. Districts should limit references to basic, factual information which is objective and accurate.

Notably, individuals who provide references to school districts are protected from civil liability for those references unless they knowingly provide information that is false and the school district acts on the information to the detriment of the district or the applicant.
It is important to train supervisors as to what should and should not be stated in a reference request, including any specific agreements made with an employee as part of a resignation agreement.

Districts are required by law to notify CDE when an employee is dismissed or resigns due to allegations of unlawful behavior involving a child, including unlawful sexual behavior, which are supported by a "preponderance of the evidence" within 10 days of the dismissal or resignation. The District is also required to tell the employee that it has forwarded the information to CDE.
http://www.cde.state.co.us/cdeprof/mandatoryreporting

7.0 Investigations

7.1 Introduction

Conducting investigations regarding allegations of inappropriate behavior of employees is one of the most important aspects of human resources. It's critical that all applicable policies, laws and negotiated agreements (if any) are complied with and that specific and detailed records are maintained throughout the process. **Consult with legal counsel when dismissal is a possible outcome of the investigation**.

7.2 The Role of the Investigator

The following guidelines are recommended for administrators assuming the role of investigator:

- Develop a specific understanding of the issue(s) to be investigated to define the scope of the matter. Identify relevant witnesses and arrange a confidential setting in which to conduct the interview
- Recognize your purpose as the investigator - conduct a complete and unbiased fact finding to support informed decision-making. Communicate this purpose to individuals involved in the investigation process as well as other expectations or understandings. These might include the expectation to maintain confidentiality, the district's prohibition against retaliation, and the expectation that employee participants be truthful in addressing the issues.
- Develop a method of documenting interviews. Documentation occurs in many forms and can range from general notes to a signed witness statement. A signed witness statement is recommended for the most serious issues, or those that might come under scrutiny of arbitration. A signature is always best practice. If taking notes, provide the

individual an opportunity to review the notes, then sign acknowledging the accuracy of their statement.

- Consider presentation of the necessary questions. Obtain specific responses to the important allegations. Pursue factual support or document the lack thereof. Maintaining rapport while focusing on facts are keys in successful interviewing.
- Synthesize the information into an investigation report. The report should identify the issue, the relevant dates, interview schedules, witness statements, and other relevant documentation or other evidence. The focus of the report should reveal findings based on the specific allegations of inappropriate behavior to include presentation of supporting and refuting information. This findings section is also where the investigator can advance credibility assessments and other subjective comment. These should obviously be supported by facts.
- If disciplinary action is warranted, it should be consistent with other situations and consider the length of service and performance history of the accused.

Key Points for the Investigator to Remember

- *Investigate Promptly* - delay in the investigation can be grounds for dismissing the disciplinary action
- *Get Each Side of the Story* - Failure to include the accused employee in the investigation of events triggering the disciplinary action prevents just cause
- *Get the Facts* - Do not make assumptions or draw your own conclusions
- *Assess Credibility* - In making credibility determinations, investigators should consider demeanor, consistency of memory and evasive responses, bias and motive to falsify, and inherent implausibility. Other factors of importance include the witness' character and opportunity to observe relevant actions or events. Consideration of these factors enables making important credibility determinations with confidence in investigations and other situations confronted by human resource professionals.

7.3 Workplace Investigations

Workplace Investigation Fundamental Purpose

- An object and neutral collection and assessment of relevant facts that are:
    - Factual
    - Fair/Consistent
    - Substantiated Findings

Planning the Investigation

- Documents
    - Request for written complaint

    - Applicable policy, work rule, acknowledgement (*key point: did the employee have knowledge/access to the rule?)
- Determine who to interview
- Determine the scope
    - Legal, non-legal, grievance
    - Hostile work environment
- Where - confidentiality
- When - scheduling
- Who - participants and support (ask the employee who the investigator should interview)
- What - tape recording
    - Colorado is a one-party consent which means that only one party to the conversation needs to give consent to a recording. The person doing the recording can be the one giving consent, assuming he or she is a party to the conversation. In one-party states, individuals could potentially record a conversation in the workplace without informing the other parties to the conversation, meaning that a district or even an employee could legally make a secret recording. Consult with legal counsel as to your district's stance on taping interviews.

Conducting Interviews

- Introductory Remarks
    - Purpose
    - Confidentiality
    - Retaliation
    - Truthfulness
- Sample introductory statement
    - `"I am conducting an investigation of allegations of inappropriate employee conduct. We will make every effort to keep the investigation and findings confidential…. Retaliation is prohibited… We expect you to be truthful in your responses."
- Describe your documentation process, be consistent in documenting
    - Ensure the same amount of time and details is provided to all those interviewed in the investigation
- Allow questions

The Interview

- Outline questions
- State questions broadly and get specific
- Repeat questions
- Reiterate your understanding
- Explore "opinion" and "hearsay" - looking for facts, dig deep
- Direct the interview (main focus)

- Ask about supporting witnesses
- Always conclude by asking if there is anything else the investigator needs to know regarding the investigation or those involved

The Investigation Report

- Do not make legal conclusions
    - Be factual, clear, and concise
    - Substantiate and identify subject conclusions with facts
- Findings framework
    - Allegation
    - Supporting information
    - Refuting information
    - Subjective comment

Determining Corrective Action

- Consistency
- Notice
- Performance/length of employment
- Document expectations and follow up

7.4 Negotiated Agreements

Employees covered by negotiated agreements are entitled to extensive rights under the law and the terms of the Agreement. Make sure you know the terms of the agreements and the law before initiating an investigation into employee misconduct and or imposing any discipline related thereto.

7.5 Garrity Form

It is not the responsibility of the district to provide a Garrity form; the form is typically provided by the association as instructed by CEA (Colorado Education Association).

7.6 Why Do We Need To Preserve A Record Of Employee Performance

Progressive discipline is based on premise of changing behavior and improving employee performance for the better by means of

- Offer coaching and support
- Document expectations
- Document non-compliance
- Provide evidence for disciplinary action and potential remediation

During this process for support, it's important to preserve a record of the action taken to ensure:

- Burden of proof is documented and maintained
- The ability to defend a personnel decision regarding a grievance/complaint
- The district's defense in discrimination and civil rights complaints or unfair practice charges

7.7 The FRISK Model

Many districts use FRISK as a resource. The FRISK Model is designed for supervisors as a straightforward method for documenting unsatisfactory employee performance.

The primary objectives of the model is to:

- Identify the common elements necessary for legally sufficient documentation, and
- Simplify the drafting of documents by establishing a common framework

FRISK was created by Atkinson, Adelson, Loya, Ruud, & Romero law firm in California. The book can be purchased directly from their firm https://www.aalrr.com/newsroom-frisk. Pricing is as follows: 1-19 books: $34 each; 20-50 books: $32 each; 51 or more books: $29 each. Their site is much cheaper than Amazon.

**FRISK training for supervisors in your district is available through CASPA. Contact shelly.landgraf@gmail.com if you're interested.

There are three core elements of the FRISK Model:

1. POSITIVE: Emphasis is placed on potential of employees to change/improve their behavior/performance rather than punitive measures.
2. CORRECTIVE: Supervisors have a responsibility to assist employees in modifying their conduct.
3. PROGRESSIVE: Progressively increases the severity of the communication and discipline imposed for persistent misconduct of failure to meet the established standards. Employee will be given the necessary feedback/support to take corrective action.

7.8 What Does FRISK Look Like

F - FACTS evidencing the employee's unsatisfactory conduct.

➢ *What did the employee do?*

R - RULE or authority violated by the employee's behavior

➢ *What should the employee have done?*

I - IMPACT of the employee's unsatisfactory conduct on the workplace

- ➢ *What was the impact of the employee's conduct on the district?*

S - SUGGESTIONS to assist the employee in improving performance and directions as to the proper conduct the employee is expected to follow in the future. These suggestions are also referred to as Directives such as "Immediately you will…"

- ➢ *When and what do you want the employee to do to improve performance? What will happen if there is no improvement? How can you help the employee to improve?*

K - KNOWLEDGE of the employee's right to respond to corrective documentation, and informs employee of where documentation will be housed.

- ➢ *Does the employee have the knowledge of the document prior to placement in the personnel file?*

8.0 CDE Licensure & ESSA

8.1 CDE Licensure website

CDE has cleaned up their website considerably the last two years to assist educators applying/renewing a license. Below are the types of endorsements/licensure currently approved by CDE:

All Application Types

License Type:	Authorization Type:

Teacher License	**Substitute Teacher Authorization**
• Teacher first or initial license • Teacher previously licensed out-of-state or out-of-country • Teacher alternative pathway • Teacher interim or initial license renewal • Teacher interim to initial license • Teacher initial to professional license • Teacher professional license renewal • Teacher master certificate • Master teacher professional certificate renewal	Select from the links below if you would like to serve as a day-to-day substitute teacher in any Colorado school district, or you already hold a three- or five-year substitute authorization and would like to re-apply for it: • Substitute one-year authorization • Substitute three-year authorization • Substitute five-year authorization • Renew a three-year substitute authorization • Renew a five-year substitute authorization (valid or expired Colorado Teacher License required)
Principal License: Building-level leadership as Principal or Assistant Principal • Principal first or initial license • Principal previously licensed out-of-state or out-of-country • Principal alternative pathway • Principal interim or initial license renewal • Principal interim to initial license	**Career and Technical Education Authorization** • Career & technical education initial authorization • Career & technical education initial to professional license • Career & technical education professional authorization renewal/ reinstatement

• Principal initial to professional license • Principal professional license renewal	• Career & technical education added endorsement
Special Services Provider License • Special services provider first or initial license • Special services provider previously licensed out-of-state or out-of-country • Special services provider initial license renewal • Special services provider initial to professional license • Special services provider professional license renewal	**Initial Authorization** Select one of the links below if you are seeking an authorization for the first time in one of these areas: • Adjunct instructor initial authorization • Adult basic educator initial authorization • Educational interpreter initial authorization • Emergency educational interpreter initial authorization • Emergency initial authorization • Exchange educator interim initial authorization • JROTC instructor initial authorization • School speech-language pathology assistant initial authorization • Temporary educator eligibility initial authorization • Special services provider intern initial authorization

Administrator License:

District-level leadership as Superintendent, Director of Special Education, or Director of Gifted Education

- Administrator first or initial license
- Administrator previously licensed out-of-state or out-of-country
- Administrator interim or initial license renewal
- Administrator initial to professional license
- Administrator interim to initial license
- Administrator professional license renewal

Authorization Renewal

Select from the links below if you hold an authorization and would like to renew it:

- Adjunct instructor authorization renewal
- Adult basic educator authorization renewal
- Educational interpreter authorization renewal
- Emergency authorization renewal
- Exchange educator interim authorization renewal
- JROTC instructor authorization renewal
- School speech-language pathology assistant authorization renewal
- Temporary educator eligibility authorization renewal

Added Endorsement to an Existing License

Select from the links below if you are seeking a second or subsequent endorsement to your current Colorado educator license in one of these areas:

- Teacher added endorsement

• Special services provider added endorsement	

8.2 Content Tests - Praxis, PLACE, NES, ASWB

Approved Content Tests

For the demonstration of content knowledge and skill, the Colorado State Board of Education has approved:

- All PLACE assessments, designed and developed specifically for Colorado (except those that correlate to discontinued endorsements)
- A number of specific PRAXIS assessments
- One NES assessment, #404 Mandarin (Chinese)
- The ASWB clinical or advanced generalist exam (for the school social worker endorsement)

Important Information

- The last administration of all PLACE exams and the NES exam was May 6, 2017; passing test scores will be accepted for five years until May 6, 2022, for current, correlating endorsement areas only. Please consult the endorsement page for a list of current and discontinued endorsements.

PLACE Examinees who previously created an account through the PLACE website and took a PLACE test administered by Evaluation Systems can view their testing history, reported as a pass/fail status, via their accounts. Testing histories are available for examinees who took any PLACE assessment on or before May 6, 2017. PLACE: View Testing History

- Please ensure that the test for which you are registering is approved by the Colorado State Board of Education and accepted for the endorsement that you are seeking.
    - More information on PRAXIS
- CDE does not provide score information or reports for current or previously taken PLACE, PRAXIS or NES exams. Applicants need to contact the prospective exam

provider directly to receive these reports and upload them into their application. Contact information can be accessed at each of their websites below.

- PRAXIS website
- NES website
- ASWB website

8.3 Educator Licensure Application

Applicants have 90 days from their date of application submission to provide additional information in order to complete their application. If they do not, thus allowing the evaluator to finalize the review of the application, the **system automatically expires the incomplete application**. (This period is extended if an application is held up in enforcement for a long period of time.)

For the most part, CDE is maintaining a two-week processing time, which means that all applications submitted are at least initially reviewed within two weeks of receipt. This time frame stretches out to three to four weeks during heavy times (ie., late spring and summer), but even then, applicants who need to submit additional documentation are contacted within four weeks of their application date, thus theoretically allowing them another 8 weeks to request or locate the necessary information and provide it.

All applicants can and should check their status by logging in to their eLicensing accounts. If they see that their application is incomplete, and do not believe they have received an email from the evaluator, they should contact CDE for more information.

8.4 CDE Fingerprints

Candidates must submit their fingerprints PRIOR to finalizing their CDE Application. If an application is received prior to fingerprints being submitted to CBI, the application will be rejected and applicant must re-submit.

Student Teacher Fingerprinting - Recently districts have been informed that a majority of the higher education teacher preparation programs no longer fingerprint student teacher candidates. Therefore, the school district is ultimately responsible for ensuring that student teachers demonstrate the moral and ethical alignment expected of an educator.
Student teachers or alternative candidates should be fingerprinted under the Volunteer Employee Criminal History Services (VECHS) program. The rules and regulations for the VECHS program apply to any public or private, for-profit, non-profit or volunteer organization that provides care or care placement services to any child, elderly person or person with

disabilities for whom the organization provides care. Some districts incur the $39.50 fee to support student teachers; it is the choice of the district as to who pays the fee student or district.

8.5 School District Reporting Requirements

Colorado public schools are required to notify the Colorado Department of Education regarding **current or former school employees** in the circumstances listed below. A public school providing such notice to the department must complete the form and send it, along with any attachments, to the CDE- Enforcement Unit.

Statutes and Regulations
Child abuse/Neglect *Pursuant to Section 19-3-308(5.7), Colorado Revised Statutes* Upon initial investigation of a report alleging abuse or neglect in which the suspected perpetrator was acting in his official capacity as an employee of a school district, if the county department [of social services] or the local law enforcement agency reasonably believes that an incident of abuse or neglect has occurred, it shall immediately notify the superintendent of the school district who shall consider such report to be confidential information; except that the superintendent shall notify the department of education of such investigation.
Unlawful behavior involving a Child *Pursuant to Section 22-32-109.7(3), Colorado Revised Statutes* If an employee of a school district is dismissed or resigns as a result of an allegation of unlawful behavior involving a child, including unlawful sexual behavior, which is supported by a preponderance of the evidence, within ten business days after the dismissal or resignation, the board of education of the school district shall notify the department of education and provide any information requested by the department concerning the circumstances of the dismissal or resignation. The district shall also notify the employee that information concerning the employee's dismissal or resignation is being forwarded to the department of education unless the notice would conflict with the confidentiality requirements of the "Child Protection Act of 1987," part 3 of article 3 of title 19, C.R.S. A public school district or charter school shall not enter into a settlement agreement that would restrict the school district or charter school from sharing any relevant information related to a conviction for child abuse or a sexual offense against a child as defined by section 13-80-103.9 (1) (c), C.R.S., pertaining to the employee with the department, another school district, or charter school pertaining to the incident upon which the dismissal or resignation is based.
Unlawful behavior involving a Child *Pursuant to Section 22-32-109.7(3.5), Colorado Revised Statutes* Whenever a school district learns from a source other than the department of education that a current or past employee of the school district has been convicted of, pled nolo contendere to, or has received a deferred sentence or deferred prosecution for a felony or a misdemeanor crime involving unlawful sexual behavior or unlawful behavior involving children, the school district shall notify the department of education.

Parental Notification Laws

During the 2018 session, the Colorado legislature adopted parental notification laws requiring school districts to notify parents when they receive notice that an employee, or former employee, has been charged with certain offenses.

Employees covered

The bill applies to employees whose employment requires them to be in contact with students or who have access to students in their workplace. The bill also applies to former employees if they were employed by the district within 12 months prior to the date an offense is charged.

Notification requirement

When a school district receives a report from the Colorado Bureau of Investigation (CBI) that an employee has been arrested for the specified offenses (detailed below), the district is required to monitor the criminal proceedings and notify parents if an employee or former employee is charged. The notice must be sent in the same manner that other important notices are sent to parents.

Timing

The notification must occur within two school days after a preliminary hearing is held or waived by the employee, or if the offense is not eligible for a preliminary hearing, within two days after the employee is charged. The district must also notify parents within two school days of confirming the disposition of the charges. Notifications may be delayed if requested by law enforcement.

Charges

The LEP must notify parents if an employee is charged with the following offenses:

- felony child abuse;
- a crime of violence, not including second degree assault unless the victim is a child;
- a felony involving unlawful sexual behavior;
- a felony in which it is alleged that the factual basis for the crime includes an act of domestic violence;
- felony indecent exposure; or
- a level one or level two drug felony.

Notification procedures

The district must provide notice to parents of students enrolled in the school in which the employee works or worked, or with whom the employee may have had contact, and must incorporate notification procedures into their safe school plan.

The notification must include the following information:

(I) THE NAME OF THE EMPLOYEE;

(II) THE EMPLOYEE'S POSITION;

(III) WHETHER THE EMPLOYEE CONTINUES TO BE EMPLOYED BY THE LOCAL EDUCATION PROVIDER;

(IV) THE LENGTH OF EMPLOYMENT WITH THE LOCAL EDUCATION PROVIDER;

(V) THE ALLEGED OFFENSE AS SET FORTH IN THE CHARGING DOCUMENT, INCLUDING THE VIOLATION OF STATUTE OR CODE; AND

(VI) A STATEMENT THAT, UNDER STATE AND FEDERAL LAW, A PERSON IS PRESUMED INNOCENT UNTIL PROVEN GUILTY.

(b) A LOCAL EDUCATION PROVIDER MAY PROVIDE ADDITIONAL INFORMATION TO PARENTS REGARDING THE UNDERLYING FACTS OR CIRCUMSTANCES RELATING TO THE CHARGE BUT SHALL NOT DISCLOSE THE IDENTITY OF THE ALLEGED VICTIM.

Nothing in the law prohibits a school district from notifying parents of an employees arrest (prior to formal charges being filed) it does not need to send a second notice when the employee is charged so long as the first notice complies with the requirements of the law.

8.6 ESSA: Every Student Succeeds Act

NCLB is gone, however ESSA continues to define qualified teachers by means of Educator Effectiveness, In/Out-of-Field Teacher, and Inexperienced Teacher. The biggest impact on HR is the new requirement of 36 semester credits outside of one's licensed endorsement to be considered "In-Field." CDE has communicated to CASPA that the 12 semester hours above the previous 24 semester credits required will be determined by each individual district and should align will effective teaching instruction/practices. Some examples that are being used by districts are:

- Student teaching credits
- CLD professional development and/or university coursework

- Pedagogy courses
- Professional learning hours that support effective teaching practices

Below is a chart that will provide information as to ESSA's definitions:

Key Term	Statewide Definition (or Statewide Guidelines)
Ineffective teacher*	An ineffective educator has received an annual evaluation based on Colorado's Educator Quality Standards that results in a rating of Ineffective or Partially Effective. The effectiveness definitions and Quality Standards provide clear guidance about the professional practices associated with Quality Standards and the way to measure student learning/outcomes. Half (50 percent) of the final effectiveness rating is based on professional practices, while 50 percent is based on measures of student learning/outcomes. The use of multiple measures ensures that these ratings are of high quality and will provide a more accurate and nuanced picture of professional practice and impact on student learning. The use of different rating levels to rate performance allows more precision about professional expectations, identifies educators in need of improvement and recognizes performance that is of exceptional quality. For more information, please see the User's Guide: Colorado State Model Educator Evaluation System.
Out-of-field teacher*+	The definition that will be used beginning in 2017-18 will be the following: A teacher will be determined to be out-of-field if they do not hold at least one of the following in the subject area in which they have been assigned to teach: ● Endorsement on a Colorado teaching license; ● Degree (bachelor's degree or higher); ● 36 semester hours; ● Passing score on a State Board of Education-approved content exam (currently the ETS Praxis Series). However, it should be noted that the calculations in Figure 27 were completed using the prior definition that was included in Colorado's Educator Equity Plan, which was approved in 2015. Adjustments must be made to our data collection systems in order to utilize the new definition in future analyses.
Inexperienced teacher*+	An inexperienced teacher is defined as a teacher who has 0-2 years of experience teaching in a K-12 educational setting.
Low-income student	Low-income student is defined as a student receiving free or reduced cost lunch.

Minority student	"Minority" comprises all non-white subgroups of students in Colorado.

*Definitions of these terms must provide useful information about educator equity.
+Definitions of these terms must be consistent with the definitions that a State uses under 34 C.F.R. § 200.37

9.0 Legal

9.1 Employment Law & Enforcement

This material is intended for informational purposes only and not set for the purpose of providing legal advice. You should contact legal counsel to obtain advice with respect to any particular issue or problem.

Below you will find acronyms and/or abbreviated form of a variety of federal employment laws, enforcement agencies, and rules specific to HR. Although many of these terms you may not have heard of, it's a good reference point.

**Resource provided by AASPA*

Law, Act, Enforcement Agency, Rule	Brief Description	Why is this important?
ADAAA	The ADA Amendments Act of 2008 (ADAAA) was enacted in 2008 and became effective January 1, 2009. The law made a number of significant changes to the definition of "disability" under the Americans with Disabilities Act (ADA). "An impairment is a disability if it substantially limits the ability of an individual to perform a major life activity as compared to most people in the general population."	It is now easier for an individual seeking protection under the ADA to establish that he or she has a disability.
ADEA	Age Discrimination in Employment Act prohibits age discrimination in employment who are at least 40 years of age by employers with 20 or more employees.	Protects employees and job applicants from age discrimination by employers with 20 or more employees.
First Amendment	Protects freedom of religion, speech, press, petition, and assembly. "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of people peaceably to assemble, and to petition the Government for the redress of grievances."	Individuals have specific rights to religion, speech, press, petition, and assembly.

14th Amendment	Rights Guaranteed Privileges and Immunities of Citizenship, Due Process and Equal Protection	Due Process is a right provided by the constitution.
BFOQ	Bona Fide Occupational Qualification is a characteristic of a prospective or current employee that an employer is allowed to consider under the law for the purpose of hiring or retention. In order to prove that the qualifications are necessary, the company must show that they are critical to the success of the activities to be carried out by that individual. Example: Hiring a female attendant to work in a female locker room.	BFOQ is a defense for legal discrimination based on qualifications or requirements (e.g., gender, age, national origin) that are considered essential to job performance.
COBRA	The Comprehensive Omnibus Budget Reconciliation Act of 1985 (COBRA) requires most employers with group health plans to offer employees the opportunity to continue temporarily their group health care coverage under their employer's plan if their coverage otherwise would cease due to termination, layoff, or other change in employment status (referred to as "qualifying" events). See ESBA for more details.	Employees must be offered COBRA at the time of employment separation. *See Section 3.X for examples*
CPCA	Garnishment of employee wages by employers is regulated under the Consumer Credit Protection Act (CPCA) which is administered by the Wage and Hour Division of the Department of Labor	Employers can garnish wages - by rule of the WHD.
Disparate Impact	Refers to employment practices (e.g, hiring, firing, promotion, pay or other employment decisions) that are neutral or non-discriminatory in their intentions, but have a statistically greater adverse impact on one group of a protected class that on another. The four-fifths (80%) rule is a test to calculate adverse impact. It compares the rates of selection for protected classes against the group with the highest selection rate. If the protect groups has a selection rate of less that four-fifths (80%), this can be used as evidence of adverse impact.	While this type of discrimination may occur accidentally, there are tests (four-fifths rule) that can be utilized to ensure employers are not impacting protected individuals disparately.
Disparate Treatment	Refers to unequal behavior towards someone because they are a member of a protected class. An employee/applicant claims that the employer treated him/her differently than other employees/applicants	Title VII prohibits employers from treating an employee/applicant of a protected class differently than other employees who

	who were in a similar situation.	were in a similar situation.
DOL	Department of Labor (DOL) administers and enforces more than 180 federal laws	DOL is an enforcement agency with a variety of departments that enforce a number of laws.
EBSA	Employee Benefits Security Administration (EBSA) administers reporting requirements for continuation of health-care provisions under COBRA.	Employers must report COBRA participants through state agencies that adhere to EBSE rules.
EEOC	The Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or employee because of a person's race, color, religion, sex (including pregnancy, gender identity, and sexual orientation), national origin, age (40 or older), disability or genetic information. It is also illegal to discriminate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit. The laws apply to all types of work situations, including hiring, firing, promotions, harassment, training, wages, and benefits. Most employers with at least 15 employees are covered by EEOC laws (20 employees in age discrimination cases). Most labor unions and employment agencies are also covered.	The EEOC is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability, or genetic information - of employers with 15 or more employees.
EPA	Equal Pay Act (EPA) which is part of the Fair Labor Standards Act (FLSA) of 1938, as amended, and which is administered and enforced by the EEOC, prohibits sex-based wage discrimination between men and women in the same establishment who perform jobs that require substantially equal skill, effort, and responsibility under similar working conditions.	Gender cannot be a factor in wage determination.
FCRA	Fair Credit Reporting Act (FCRA) was enacted to promote the accuracy, fairness, and privacy of consumer information contained in the files of consumer reporting agencies. It was intended to protect consumers from the willful and/or negligent inclusion of inaccurate information in their credit reports.	Protects job candidates when it comes to information provided in their credit report if an employer chooses to use said report in pre-employment screening. Copies of the report are to be provided to the candidate

		prior to employment action, and candidates can correct inaccurate data if included.
FLSA	Fair Labor Standards Act (FLSA) prescribes standards for wages and overtime pay, which affect most private and public employment. Recently (2015-16), proposed changes have caused many employers to look at their compensation system practices for employees that received overtime pay more frequently than others.	Changes pertaining to compensation for hourly employees are the horizon. An employer's payroll system would be impacted if the monetary threshold of what makes an employee "exempt" vs. "nonexempt" from overtime pay is changed.
FMLA	Administered by the Wage and Hour Division of the DOL, the Family and Medical Leave Act (FMLA) requires employers of 50 or more employees that live within a 75-mile radius of the worksite to give up to 12 weeks of unpaid, job-protected leave to eligible employees or a spouse, child or parent. An employee is eligible when they have worked 1250 hours during a 12-month period before FMLA leave occurs.	FMLA does not cover pay, it is only protection of your position. Many employers offer concurrent paid leave to employees on FMLA leave, but it is not required. For employers who provide for concurrent paid leave, diligent documentation in the event of permissible "intermittent FMLA" is very important. *See Section 3.X*
GINA	Genetic Information Nondiscrimination Act of 2008 (GINA), prohibits genetic information discrimination in employment actions.	For pre-employment medical visits, genetic information is not a valid criteria.
Lilly Ledbetter Fair Pay Act	Lilly Ledbetter Fair Pay Act of 2009 overturned the Supreme Court's decision in Ledbetter v. Goodyear Tire & Rubber Company, Inc., 550 U.S. 618 (2007), which severely restricted the time period for filing complaints of employment discrimination concerning compensation.	Extended the statute of limitations in which an individual can file a discrimination suite based on pay inequities. Changed from 2 years from when the discrimination occurred to when the employee is made aware the discrimination occurred.
HIPPA	Health Insurance Portability and Accountability Act protects the privacy of patient's medical records and other health information maintained by the covered entities, like employers and their employe benefit providers. For example, an employee's health insurance claim or explanation of benefits, and the information provided therein, cannot inform adverse employment action. The Employees	An employer cannot terminate an employee after discovering health-related information while administering employee benefits programs. The HIPPA Security Rule establishes national standards for the security of electronic protected health

	Benefits Security Administration (EBSA) administers reporting requirements of this act.	information. The Security rule specifies a series of administrative, technical, and physical security safeguards for covered employees and their employers to assure they integrity, availability, and confidentiality of electronic protected health information.
INA	Immigration and Nationality Act (INA) apply to aliens authorized to work in the U.S. under certain nonimmigrant visa programs (H-1B, H-1B1, H-1C, H2A).	Specific visa programs are available for individuals looking to work in the United States.
IRCA	Immigration Reform, and Control Act (IRCA) prohibits employers from hiring and employing workers for employment in the United States knowing that these workers are not authorized with respect to such employment. This law also prohibits employers from hiring someone, including U.S. citizens, for employment without verifying his or her identity and employment authorization on Form I-9.	Employees must request and verify identity and employment authorization using an I-9 Form. *See Section 1.X*
LMRDA	Labor-Management Reporting and Disclosure Act (LMRDA) of 1959 (also known as the Landrum-Griffin Act) deals with the relationship between a union and its members. It protects union funds and promotes union democracy by requiring labor organizations to file annual financial reports, by requiring union officials, employers, and labor consultants to file reports regarding certain labor relations practices, and by establishing standards for the election of union officers. The act is administered by the Office of Labor-Management Standards (OLMS)	Unions must file annual financial reports, by requiring union officials, employers, and labor consultants to file reports regarding certain labor relations practices, and by establishing standards for the election of union officers.
NLRA	Congress enacted the National Labor Relations Act (NLRA) in 1935 to protect the rights of employees and employers to encourage collective bargaining.	Protect the rights of employees to organize.
NLRB	National Labor Relations Board (NLRB) is an independent US government agency with responsibilities for enforcing US labor law in relation to collective bargaining and unfair labor practices. Under the NLRA it supervises elections for labor union representation and can investigate and	Board that is responsible for enforcing NLRA.

	remedy unfair labor practices.	
Norris-LaGuardia Act	The Act states that yellow-dog contracts, where workers agree as to condition of employment to not join a labor union, are unenforceable in federal court. It also establishes that employees are free to form unions without employer interference and prevents the federal courts from issuing injunctions in nonviolent disputes.	
PDA	The Pregnancy Discrimination Act (PDA) forbids discrimination based on pregnancy when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, such as leave and health insurance, and any other term or condition of employment.	Employers cannot discriminate based on pregnancy.
PPACA	The Patient Protection and Affordable Care Act (PPACA) was intended to increase health insurance quality and affordability, lower the uninsured rate by expanding insurance coverage and reduce the costs of healthcare. It introduced mechanisms including mandates, subsidies and insurance exchanges. The law requires insurers to accept all applicants, cover specific list of conditions and charge the same rate regardless of pre-existing conditions.	Rules and guidance specific to insurance coverage - requiring all individuals to have health insurance coverage (or pay a tax fine).
Sherman Antitrust Act	The Sherman Act outlaws “every contract, combination, or conspiracy in restraint of trade,” and any “monopolization , attempted monopolization, or conspiracy or combination to monopolize.” The Sherman Antitrust Act and a series of related Antitrust Safety Zone statements issued by the U.S. Department of Justice and Federal Trade Commission provide rules specific to position compensation determination. According to these agencies, organizations conducting their own salary surveys can be seen as practicing illegal price-fixing. To ensure they do not violate safe harbor under these guidelines, organizations must make sure that: ● Surveys are conducted by a third party ● Data is provided by survey participants are more than three	Ensures monopolization does not occur - it is important in HR as compensation/position pay determination must be approached in a specific way.

	months old ● At least five organizations report data for each disseminated statistic ● No data source represents more than 25% on a weighted basis of that statistic and ● Reporting is aggregated such that recipients are unable to identify compensation offered by any specific provider	
Title IX of the Education Amendments of 1972	No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination. Applies to any education program or activity receiving Federal financial assistance. Relevant exceptions for K-12 organizations include: ● Education institutions of religious organizations with contrary religious tenets ● Voluntary youth service organizations (e.g., Girl Scouts, Boy Scouts, YMCA, YWCA) ● Father-son or mother-daughter activities (as long as reasonably comparable activities provided for both sexes) Key issue areas of Title IX obligations include recruitment, admissions, and counseling; financial assistance; athletics; sex-based harassment; treatment of pregnant and parenting students; discipline; single-sex education; and employment.	Provides protection against discrimination based on sex *(See BFOQ for exceptions*). This law requires school districts to maintain internal procedures for federal grants and to resolve complaints of discrimination. NOTE: Title IV of the Education Amendments of 1972 prohibits sex discrimination in all school programs regardless of whether it is federally funded.
Title VII of the Civil Rights Act of 1964	Title VII of the Civil Rights Act of 1964 prohibits employment discrimination based on race, color, religion, sex, and national origin.	Employment Discrimination is prohibited based on race, color, religion, sex, and national origin.
USERRA	Uniformed Services Employment and Reemployment Rights Act (USERRA) assists veterans in understanding employe eligibility and job entitlements, employer obligations, benefits and remedies under USERRA. The law is intended to encourage non-career uniformed service so that American can enjoy the protection of those services, staffed by qualified people, while maintaining a balance with the needs of private and public employers who also depend on these same individuals.	Assists veterans in understanding employee eligibility and job entitlements, employer obligations, benefits and remedies.

9.2 Records Retention

This material is intended to provide support as to legal requirements and best practices for maintaining and destroying records. Consult your district's records retention policy to ensure compliance.

Records Management: Management and retention of district records is an important part of district administrative functions. Title 24 - Article 80 of the Colorado Revised Statutes provides for the preservation of permanent records and the destruction of records that are no longer of value to public agencies. The Colorado State Archives sets the policy for the preservation of records of enduring value and the destruction of records that are no longer of value. All State agencies and political subdivisions must consult periodically with the State Archives concerning the retention and disposition of their records.

Employee File Management: Employee records containing sensitive personal information such as social security numbers and health related documents must be filed in a secure closed records location away from open records since they are not subject to an Open Records Request. The following chart for employee records management is a guide, not legal advice. The information for the guidelines is referenced from Colorado State Archives Records Management, state and federal laws, and state rules, as well as access to records as stipulated in the Colorado Revised Statutes.

Link to School District Records Management Manual

9.3 Employee Records Management Guidelines

Record Type	**District Record Retention Location**	**Retention Time**	**Comment**
Appeals, Grievances, & Dispute Resolution Files	Secure District Personnel File	10 yrs after employee separation	
Eligible lists for positions	Secure District Personnel File	2 yrs after position is filled	Official lists containing names of eligible candidates to fill vacancies, re-employment, and promotions
Examination files for positions	Secure District Personnel File	2 yrs after position is filled	Includes job analysis, announcement of posting of job opening, applications accepted and rejected applicants including

			transcripts, copies of licenses, etc, Any and all examination materials (e.g, keyboarding test), and all related information including correspondence
I-9 Employment Eligibility Verification Form	Secure District Personnel File - separate from official employee personnel file	3 yrs after date of hire or 1 year after the date employment ends - whichever occurs later	Required by federal law and Colorado HB-06S-1017.
FLSA - Exempt and Non-exempt status	Secure District Personnel File - position file	For life of the position	FLSA requires employers to maintain certain records for both non-exempt and exempt employees: Employee identifying information, defined work-week, wages paid, additional deductions to wages and the amount of wages paid each pay period, including date paid and pay period covered, overtime authorizations, actual hours worked (time sheets)
Incentive Awards/Employee Recognition Program	District Personnel File	Maintained for 10 yrs	
Leave Records	District Personnel File	3 yrs	These records include forms such as leave request forms and any correspondence related to an employee's request for time off from work. Written and electronic records contain the amount of leave earned and taken by the employee's, accrual maximums, and leave balances. Leave information is confidential and includes employee name, identification number, type of leave, number of days or hours requested, date(s) requested, reason, and signature approval of employee and supervisor, This leave record must also include FML

			(Family Medical Leave) designation. Files are retained for three (3) years and then destroyed or deleted.
Leave Earning rates, leave maximums & balances	District Personnel File	10 yrs after employee separation	
Medical/Health Files	Personnel Files in separate secured file	3 yrs after medical matter is resolved	These are separate files containing confidential medical information related to an employee or affected family member for employment-related decisions. These files contain information on FML, Americans with Disabilities Act (ADA), and are retained for three (3) years after the matter requiring the medical information is resolved.
Office Personnel Files for Permanent Employees	District Personnel File	10 yrs after employee separation	The Official Personnel File shall contain the complete work history of every employee. The files are retained either in hard copy or electronically for ten (10) years following separation, and then are destroyed or deleted. These files include but are not limited to the following types of information: ● Separate records of all employment actions including but not limited to new hire information, changes in salary, promotions, demotions, rehire ● The most current job application and supporting documents such as transcripts, reference checks, etc. ● Employee Orientation checklists, confidentiality and security arrangements, etc. ● Work arrangement agreements such as

			conditions of employment, work schedule, etc. ● Disciplinary, grievance information, performance pay dispute information ● All performance plans, evaluations and ratings ● Letters of recommendation, reference, or commendation ● Separation documents such as letter of resignation, exit interview, layoff documentation ● Any other information deemed important by the district
Office Personnel Files for Temporary Employees	District Personnel File	10 yrs after employee separation	These files contain much of the same information as those for permanent employees. The files are retained either in hard copy or electronically for ten (10) years following separation, and then are destroyed or deleted.
Position Files	District Personnel File	Retain until position is permanently abolished	These are official files containing signed documents such as job descriptions, used to create positions, abolish positions, promote positions, or update position assignments. If a new position is created, a new file is created for the position, not the person hired to fill the position as various individuals may fill the same position. These are retained either in hard copy or electronically until the position is permanently abolished.
Workers' Compensation Case Files	District Personnel File	10 yrs after employee separation	These are medical and investigative record files regarding on-the-job injuries including forms, reports, correspondence, and related information, whether or not a claim for compensation was made.

Note: Documents containing health-related information shall be kept in a separate secured confidential file with limited access by approved district staff.

9.4 Colorado Open Records Act (CORA)

The Colorado Open Records Act, CRS 24-72-201 to 206 must be followed when records are requested. The Act declares it is “the public policy of this state that all public records shall be open for inspection by any person at reasonable times”. Districts as political subdivisions of the state are referenced in the CRS 24- 72-202 definition (5), "Political subdivision" means and includes every county, city and county, city, town, school district, special district, public highway authority, regional transportation authority, and housing authority within this state. Refer to the Act to determine the applicable public records and other information necessary to honor the requests. Details for producing public records for inspection are found in CRS 24-72-203. Provisions of the Act of importance to note are: CRS 24-72-203 (3) (b) The date and hour set for the inspection of records not readily available at the time of the request shall be within a reasonable time after the request. As used in this subsection (3), a "reasonable time" shall be presumed to be three working days or less. CRS 24-72-205. (5) (a) A custodian may charge a fee not to exceed twenty-five cents per standard page for a copy of a public record or a fee not to exceed the actual cost of providing a copy, printout, or photograph of a public record in a format other than a standard page.

The following should be retained for a minimum of two years:

- Records of a general nature that would be created in the course of administering agency programs such as office organization, staffing, procedures, and internal communications. Also, records relating to organization, membership, and committee policy to handle problems or issues within an agency.

years after the contract term ends.

9.5 “How Do I Destroy My Records?”

Records can be destroyed by shredding, recycling, or landfill. Records that are confidential in nature should be destroyed by shredding, or they can be destroyed professionally by a company that can certify to security destruction. Never destroy personnel (or other) records that may relate to a legal action involving the district. 9.14 Critical HR Recordkeeping Resource from HR Daily Advisor - good document for those new to human resources.

9.6 Tips for better recordkeeping

Common recordkeeping traps include:

- Failing to keep complete records
- Keeping complete records, but including inaccurate records or a “smoking gun,” such as proof of discrimination

- Continuing sloppy recordkeeping practices so that records are not retrievable when needed

One of the best tips for good recordkeeping is simply to keep it in the hands of detail-oriented personnel who understand the importance of the process. Generally, the fewer people who are involved in recordkeeping, the more consistent and reliable the final process will be. However, there will be times that other personnel—managers, payroll and benefits personnel, attorneys, etc.—will need to get involved. For these times, the following tips are offered:

1. Have a written policy on recordkeeping that outlines what documents are to be created, by whom, what records are to be retained, for how long and by whom, and where those records are to be stored
2. Create a map or index to retrieve the records when necessary
3. Devote the time and resources to implement the policy
4. Train managers on the recordkeeping policy

10.0 Employee Handbook

10.1 Best Practices When Creating an Employee Handbook

Employee handbooks are commonly used to communicate with employees and have been considered by courts in many situations as contractually binding. To avoid "binding commitments," districts have added language to their handbooks and policies that "disclaim" that any binding commitments are created. These disclaimers are intended, among other things, to preserve the at-will employment relationship (where applicable) and the district's unilateral right to terminate employees at any time (when available under the law and/or employee contracts.).

Although disclaimers are important, they are not airtight. A district must avoid making statements that are inconsistent with the "at-will" concept in the rest of the handbook, i.e, offer letters, applications, performance evaluations, disciplinary actions, or other written communication with employees. Inconsistent language will raise factual issues to be determined by a court of law as to whether the disclaimer is effective. The same factual issue can be raised if a supervisor makes verbal statements that are contrary to the information in the handbook.

Courts have said that disclaimers should be **CLEAR AND CONSPICUOUSLY DISPLAYED, IN BOLD AND CAPITALIZED TYPE, AND ON A SEPARATE PAGE AT THE BEGINNING OF THE HANDBOOK.**

If you do not have a handbook, do not start from scratch! Contact other districts or view the CASPA HR Toolkit Sample Employee Handbook. MSEC (Mountain States districts Council) also has sample handbooks.

10.2 Employee Handbook Checklist

A very comprehensive list of what could/should be in an employee handbook.

10.3 Sample Employee Handbook

This sample handbook has extensive tabbing so that users have the ability to drill down if they are looking for particular samples of language. Thank you Fountain Fort Carson School District 8 for providing such an in-depth resource.

10.4 Additional Sample Employee Handbook

Provided by Calhan School District

10.5 Additional Sample Employee Handbook

Provided by Adams 12 School District