



KNOW YOUR RIGHTS

**Training Module 2
2014-15**

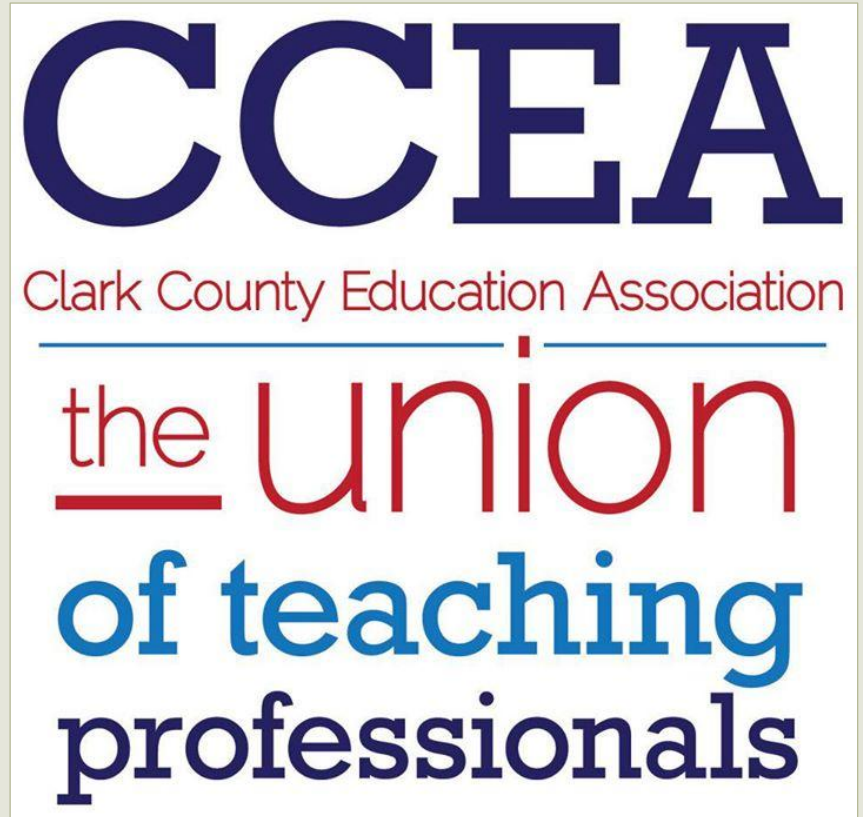
Table of Contents

	Introduction
2.1	Leaves
2.2	Personnel Files
2.3	Nevada Educators Performance Framework (NEPF) Evaluation
2.4	Preparation Periods
2.5	Work Hours
2.6	Transfers
2.7	Student Discipline
2.8	Discipline and Due Process
2.9	Grievances & the Process
2.10	Harassment, Discrimination, and Retaliation

Introduction

Module 2—Know Your Rights

This module is intended to provide a basic understanding of the rights that our members have. They are the questions that members ask about frequently. The purpose of providing the training is to educate our leaders so that they can keep all teachers informed of their rights, and to make all teachers aware when rights have been violated. This will help the Association take action to protect the rights of its members.



2.1 Leaves

- Sick Leave
- Personal Leave
- Universal Leave
- Maternity/Paternity/Adoption Leave
- Bereavement Leave
- Family and Medical Leave Act (FMLA)

Sick Leave

All bargaining unit employees are entitled to sick leave

- ❑ *Sick leaves are paid leave that are granted to an employee under the CBA (Article 18) for personal illness or accident, or because of serious illness or accident in the immediate family.*
- 1. **How many days do I get each school year?**
 - Employees who get a paycheck for Sept. 25 get 6 days of sick leave up front.
 - Teachers earn 1.5 days of sick leave per month for a maximum of 10 months, not to exceed 15 days.
 - If you start work later in the school year, you are credited with the number of days sick leave you may earn at 1.5 days for each month of service that you complete by the end of the school year.
- 2. **Unused Sick leave**
 - You can accumulate sick days from year to year without limit.
- 3. **What if you have no more sick days left?**
 - If you have no more sick days left, you will not be compensated for those days, and may receive discipline.
- ❑ *Employees may have other options (e.g., other leaves) so if they are unsure, have them contact you or a UniServ Director as soon as possible.*

Personal Leave

All bargaining unit employees can earn paid time off for any personal use, without limitation on purpose. (Article 20)

- ❖ All personal leaves are earned based on the employee's attendance and completion of the entire contract the prior school year. If you began work by Oct.1 the previous year and completed your full contract, then you will earn the following personal leave:
 - ❖ Perfect attendance = 4 personal days;
 - ❖ 5 or fewer sick leave days used = 2 personal days;
 - ❖ 5 or more sick leave days used = zero personal day.

- ❖ Employee *must* give notice of intent to use personal leave to their immediate supervisor **at least 4 days prior** to the date to be used, except in cases of personal emergencies. In that case, notice must be given as soon as possible.

- ❖ Employees *may not* use personal leave during the **first 5 days or the last 5 days** they are required to be on duty, except in cases of emergency or a graduation of a member of the employee's immediate family from school, college, or university. (**exception: labor day**)

- ❖ Any unused personal leave will be bought-out by the District and cannot be accumulated.

- ❖ Employees *may* use personal days on staff development days, but they are still responsible for getting the content of the staff development day and implementing the content.

- * If any employee at your site feels they did not receive the correct amount of days, or requests were denied without reason, investigate the matter, and contact your UniServ Director as soon as possible.**

Universal Leave

- All licensed employees receive **one universal day**.
- The universal day is deducted from accrued sick leave, but does not count against sick day usage for earning personal leave.
- Universal day can be used for *any purpose*, without limitation.
- Employees *must* notify their immediate supervisor of the intended use of the universal day at least *4 days prior to the date of the use*, except in cases of personal emergencies.
- Universal days can be used during the first and last 5 days of an employees required duty, unlike personal days.
- Like personal days, unused universal days will be purchased by the District and may not be accumulated.

Maternity/Paternity/Adoption Leave

- Employees are granted **6 calendar weeks** immediately surrounding the birth or placement of child.
- Employees must apply for maternity/paternity/adoption leave no later than 60 calendar days prior to the expected date of delivery, and if possible, the anticipated placement date of adopted child.
- Employees may return to active status prior to the expiration of the leave by written request (paternity/adoption), or with written approval by attending physician (maternity).
- Employees who become pregnant may continue to perform assignments until:
 - The teacher requests relief, or
 - District determines that the teacher's condition prevents them from carrying out essential functions.

If you need more days: Consider sick leave, FMLA, or a leave without pay.

Bereavement Leave

- Employees are allowed leave with full pay for 3 days for each period of bereavement due to death in the immediate family of the employee.
- Employee's supervisor can also approve 2 additional days with full pay.
- Time may also be allowed for travel, with maximum bereavement leave not to exceed 7 days.
- Bereavement leave is ***deducted from sick leave.***

Family and Medical Leave Act (“FMLA”) 25 U.S.C. §2601

- The FMLA applies to all states and local governments, including school districts. Under the FMLA, **qualifying** employees are guaranteed up to 12 weeks of **unpaid** leave each year if any of the following or any combination of the following occur:
 1. An employee or the employee’s spouse gives birth to a child and the employee wants to care for that child.
 2. An employee adopts a child or fosters a child in the employee’s home.
 3. The employee or his/her immediate family has a “serious health condition.”
 - Defined as an illness, injury, impairment, or physical or mental condition involving inpatient or continuing care from health care provider.
- The FMLA establishes the minimum amount of leave that must be granted.
- **Qualifying** FMLA leaves **must** be granted. If possible, notify the district at least 30 days prior to the date the leave begins.
- There is no requirement that all leaves (up to 12 weeks) must be taken at once. In fact they may be part-time, reduced-week, or intermittent.

Family and Medical Leave Act (“FMLA”) 25 U.S.C. §2601

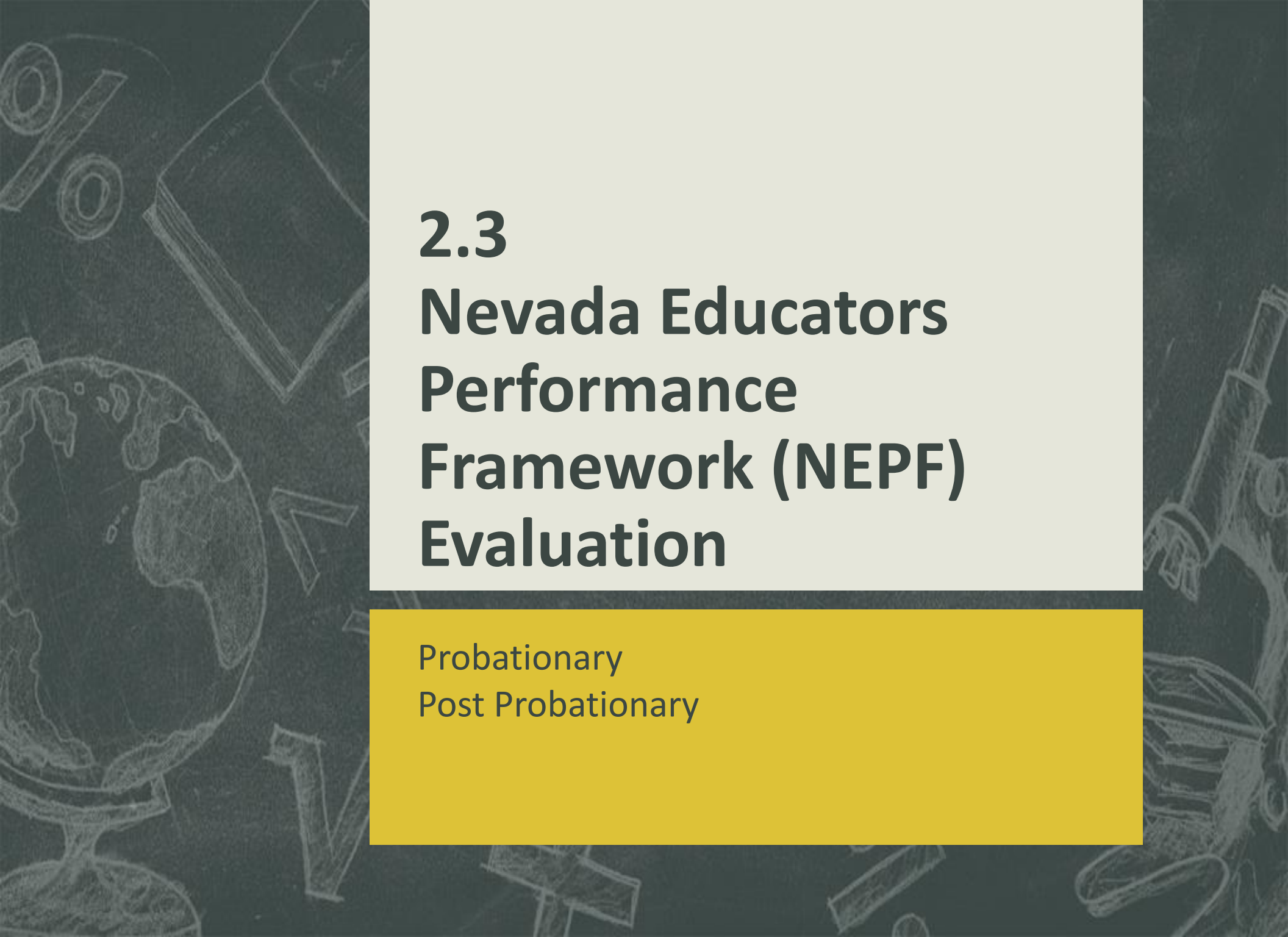
- The district/administrator/supervisor **cannot** penalize an employee for FMLA leave, and in most cases **must** return the employee to his/her former position or an equivalent position.
- Your health benefit must be continued during FMLA leave.

Who qualifies?

1. Employee must have worked for the district for a total of at least 12 months(consecutive or non-consecutive)
2. Have worked at least 1,250 hours for the school district during the previous 12 months.

What if the employee has run out of FMLA days, but needs to be out longer?

- Temporary leave of Absence
- Resigning
- Sick leave pool



2.3 Nevada Educators Performance Framework (NEPF) Evaluation

Probationary
Post Probationary

What is the Nevada Educator Performance Framework (NEPF)?

- A set of standards and indicators reflecting what teachers and administrators need to know and be able to do to support student mastery of more rigorous Nevada content standards.
- A much needed shift in teaching and leading practices for Nevada educators.
- A system of accountability built on educator inputs and student outcomes
- A system of support to empower Nevada educators to succeed.

How is this Better?

1. The system focuses on what matters most—it maximizes the ***highest leverage practices*** for instruction and leadership.
2. The concentration is on ***student learning***.
 - *Teaching doesn't count if students don't learn.*
 - *Leadership doesn't count if teachers don't help students learn.*
3. **Actionable information** is generated to support educators' professional learning and success.

The NEPF will help educators and students succeed

Clear, Consistent Expectations Across the District

- School leaders will receive training and support aligned to a common vision of great teaching in the district so classroom visits are focused on high quality instruction.

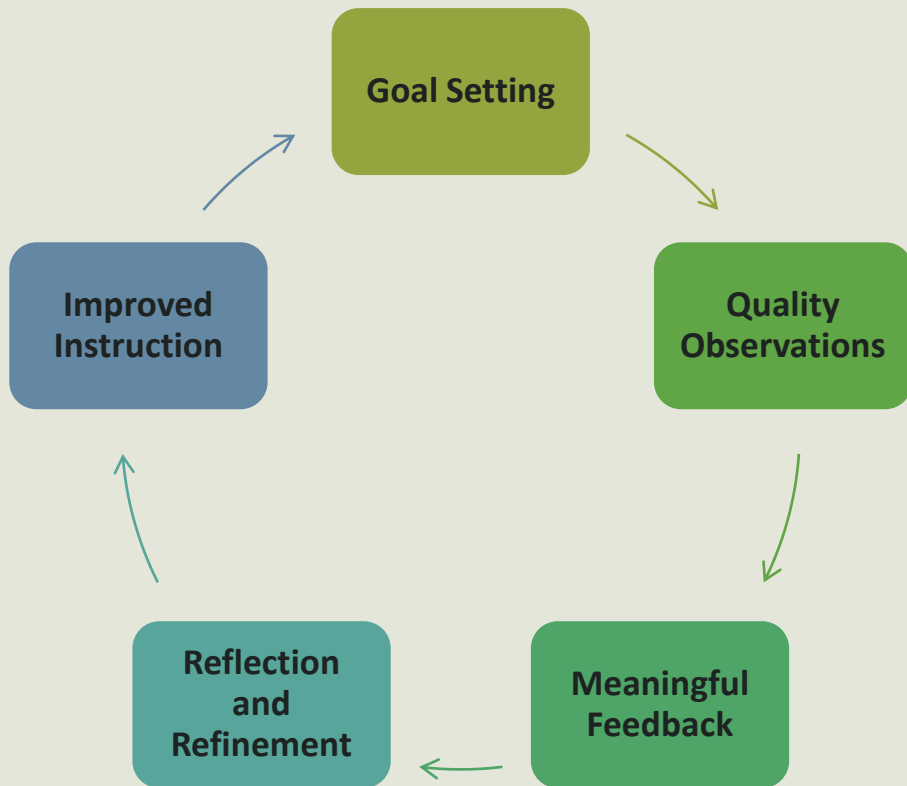
More Collaboration with Administration

- School leaders will be in your classroom more, having frequent conversations about your instructional practice, so that there is a continuous cycle of dialogue, reflection and growth.

More Real-Time Feedback and Targeted Opportunities to GROW

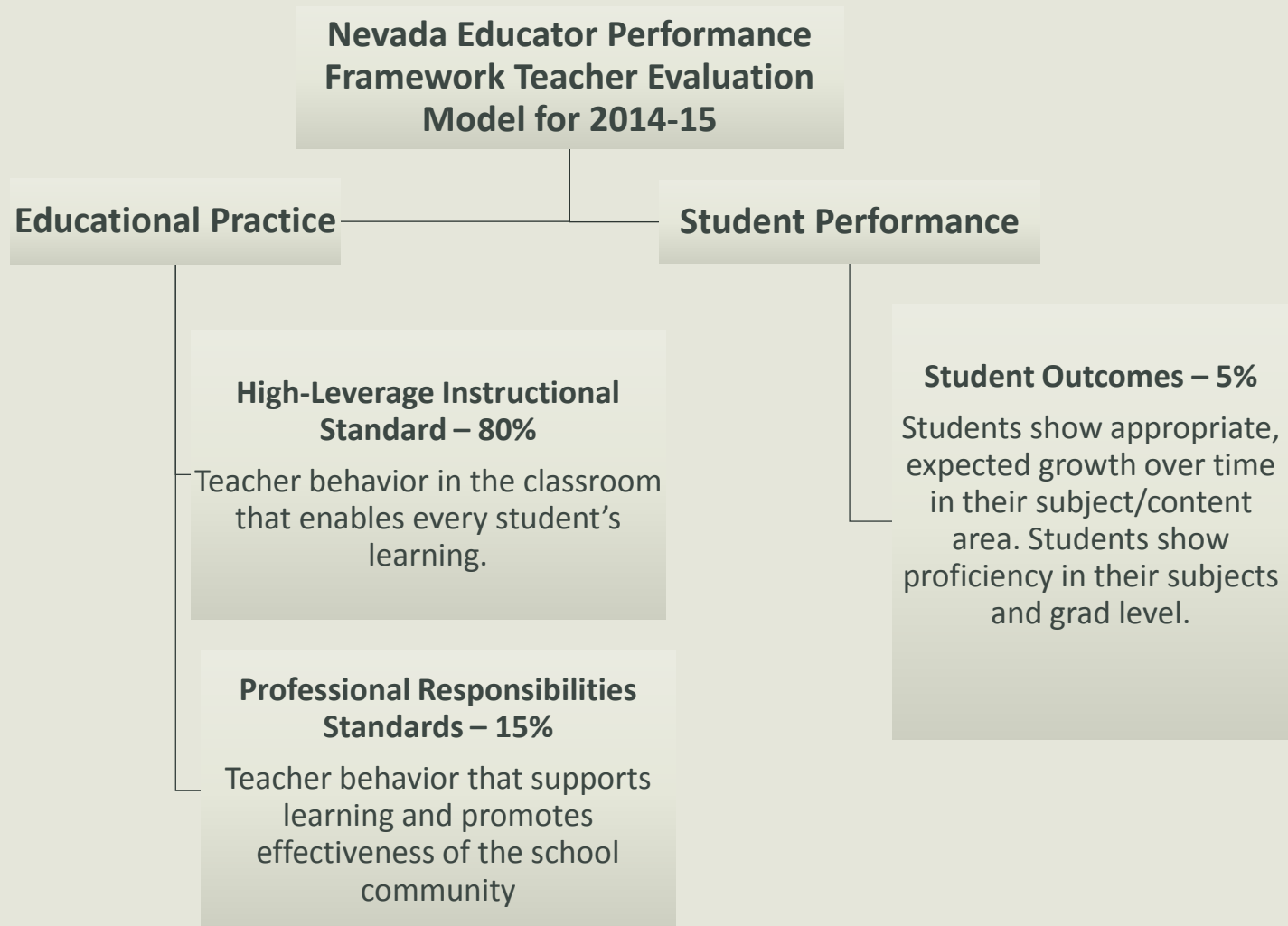
- The ultimate goal of this new evaluation system is to provide YOU with useful feedback and tailored professional development to help you succeed in the classroom.

Meaning Collaboration



- By having clear standards & indicators for what great teaching looks like in CCSD, and an ongoing cycle of **goal setting, observations, feedback and refinement**, the NEPF improves instruction in every classroom so that students succeed.
- **Teachers will set TWO Goals:**
 1. Professional Practice Goal
 2. Student Learning Goal
- **Each set goal will mean Educators will plan “Action Steps” for what they will do to meet the goal:**
 - Professional Development Classes
 - Other learning
 - CCEA’s Professional learning Courses align to the NEPF to support success under the new evaluation.

2014-2015: Transitional Year



Teachers Standards

Instructional Standards – 80%

- New learning is connected to prior learning and experience
- Learning tasks have high cognitive demand for diverse learners
- Students engage in meaning-making through discourse and other strategies
- Students engage in meta-cognitive activity to increase understanding and responsibility for their own learning
- Assessment is integrated into instruction

Professional Responsibilities Standards – 15%

- Commitment to the school community
- Reflection on professional growth and practice
- Professional Obligations
- Family engagement
- Student Perception

Student Outcomes – 5%

- Student growth
- Reducing gaps for student subpopulations
- Student proficiency

High Leverage Instructional Standards – 80%

STANDARD 1 New Learning is Connected to Prior Learning and Experience	STANDARD 2 Learning Tasks have High Cognitive Demand for Diverse Learners	STANDARD 3 Students Engage in Meaning-Making through Discourse and Other Strategies	STANDARD 4 Students Engage in Meta-cognitive Activity to Increase Understanding of and Responsibility for Their Own Learning	STANDARD 5 Assessment is Integrated into Instruction
Indicator 1 The teacher activates all students' initial understandings of new concepts and skills	Indicator 1 The teacher purposefully employ all students' cognitive abilities and skills	Indicator 1 The teacher provides opportunities for extended, productive discourse between the teacher and student(s) and among students	Indicator 1 The teacher and all students understand what students are learning, why they are learning it, and how they will know if they have learned it	Indicator 1 The teacher plans on-going learning opportunities based on evidence of all students' current learning status
Indicator 2 The teacher makes connections explicit between previous learning and new concepts and skills for all Students	Indicator 2 The teacher place appropriate demands on each student	Indicator 2 The teacher provides opportunities for all students to create and interpret multiple representations	Indicator 2 The teacher structures opportunities for self monitored learning for all students	Indicator 2 The teacher aligns assessment opportunities with learning goals and performance criteria

High Leverage Instructional Standards – 80% *cont.*

Indicator 3

The teacher makes clear the purpose and relevance of new learning for all students

Indicator 3

Tasks progressively develop all students’ cognitive abilities and skills

Indicator 3

The teacher assists all students to use existing knowledge and prior experience to make connections and recognize relationships

Indicator 3

The teacher supports all students to take actions based on the students’ own self monitoring processes

Indicator 3

The teacher structures opportunities to generate evidence of learning during the lesson of all students

Indicator 4

The teacher provides **all** students opportunities to build on or challenge initial understandings

Indicator 4

The teacher operates with a deep belief that all children can achieve regardless of race, perceived ability and socio-economic status.

Indicator 4

The teacher structures the classroom environment to enable collaboration, participation, and a positive affective experience for **all** students

Indicator 4

The teacher adapts actions based on evidence generated in the lesson for **all students**

TEACHER PROFESSIONAL RESPONSIBILITIES STANDARDS AND INDICATORS

STANDARD 1 Commitment to the School Community	STANDARD 2 Reflection on Professional Growth and Practice	STANDARD 3 Professional Obligations	STANDARD 4 Family Engagement	STANDARD 5 Student Perception
<p>Indicator 1 The teacher takes an active role on the instructional team and collaborates with colleagues to improve instruction for all students.</p>	<p>Indicator 1 The teacher seeks out feedback from instructional leaders and colleagues, and uses a variety of data to self reflect on his or her practice.</p>	<p>Indicator 1 The teacher models and advocates for fair, equitable, and appropriate treatment of all students and families.</p>	<p>Indicator 1 The teacher regularly facilitates two-way communication with parents/guardians, using available tools that are responsive to their language needs, and includes parent/guardian requests and insights about the goals of instruction and student progress.</p>	<p>Indicator 1 The students report that the teacher helps them learn.</p>

TEACHER PROFESSIONAL RESPONSIBILITIES STANDARDS AND INDICATORS *cont.*

<p>Indicator 2 The teacher takes an active role in building a professional culture that supports school and district initiatives.</p>	<p>Indicator 2 The teacher pursues aligned professional learning opportunities to support improved instructional practice across the school community.</p>	<p>Indicator 2 The teacher models integrity in all interactions with colleagues, students, families, and the community.</p>	<p>Indicator 2 The teacher values, respects, welcomes, and encourages students and families, of all diverse cultural backgrounds, to become active members of the school and views them as valuable assets to student learning.</p>	<p>Indicator 2 The students report that the teacher creates a safe and supportive learning environment.</p>
<p>Indicator 3 The teacher takes an active role in cultivating a safe, learning-centered school culture and community that maintains high expectations for all students.</p>	<p>Indicator 3 The teacher takes an active role in mentoring colleagues and pursues teacher leadership opportunities.</p>	<p>Indicator 3 The teacher follows policies, regulations, and procedures specific to role and responsibilities.</p>	<p>Indicator 3 The teacher informs and connects families and students to opportunities and services according to student needs.</p>	<p>Indicator 3 The students report that the teacher cares about them as individuals and their goals or interests.</p>

Measuring Student Performance

- In the 2014-15 School year, Student Performance Outcome will ***only account for 5%*** of the educators' overall evaluation.
- This is measured by the Student Outcomes and includes data reflecting student growth over time and proficiency.
- This domain includes measures of:
 - Student Growth
 - Student Proficiency
 - Reducing the achievement gap for student subpopulation

What Type of Evidence do I need for a good evaluation?

Mandatory Evidence Sources

- Evaluator **observation**
- Items from **optional evidence** source
- Student interviews
- One artifact

Optional Evidence Sources

- Lesson plans
- Teacher pre/post conference
- Student work
- Student feedback
- Teacher's notes
- Audio/visual/print artifact
- Teacher Professional Growth Plan
- Cooperative Teacher
- Family/community feedback

**** CCEA Evaluation Training:**
Trains teachers to manage and organize evidence
needed to have a successful evaluation!

The Evaluation Cycle: *Differentiated Evaluation Cycle*

		<i>Probationary educators</i> and those previously rated as <i>Minimally Effective/Ineffective</i> .	<i>Post-probationary educators</i> previously rated as <i>Effective</i> .	<i>Post-probationary educators</i> previously rated as <i>Highly Effective</i> .
Evaluation Frequency		3 Times Per Year (minimum)	1 Time Per Year (minimum)	1 Time Per Year (minimum)
Schedule Observations req. per evaluation (NRS 391.3125-3127)		1 <i>scheduled</i> Observation per evaluation	2 <i>scheduled</i> Observations per evaluation	1 <i>scheduled</i> Observation per evaluation
Self-Assessment		Prior to the First Evidence Review	Prior to the First Evidence Review	Prior to evidence review and recommended <i>within 50 days of start of instruction</i>
Analysis, Goal Setting, and Plan Development		Prior to the First Evidence Review	Prior to the First Evidence Review	Prior to evidence review and recommended <i>within 50 days of start of instruction</i>
Implementation of the Plan (Per NRS 391.3125 and 3127)	Observation Process	<ul style="list-style-type: none"> 1st observation must occur <i>within 40 days</i> of first day of instruction 2nd observation must occur <i>after 40 days but within 80 days</i> after the first day of instruction 3rd observation must occur <i>after 80 days, but within 120 days</i> after the first day of instruction 	<ul style="list-style-type: none"> 1st observation must occur <i>within 80 days</i> of first day of instruction 2nd observation must occur <i>after 80 days but within 120 days</i> after the first day of instruction 	<ul style="list-style-type: none"> Observation must occur <i>within 120 days</i> after the first day of instruction
	Data/Artifacts Collection, Evidence Review, Collaborative Conferencing, Documentation, and Professional Learning Planning.	Following each evidence review	Following each evidence review	Following each evidence review
Mid Cycle Review		Approximately halfway through the school year.	Approximately halfway through the school year.	Approximately halfway through the school year.
Summative Evaluation		Performance Rating assigned based on evidence. The Summative Evaluation forms the baseline for the annual cycle in the subsequent school year. Please note the NRS language to follow for dates of evaluations.		

Typical Cycle

Steps	Timeline
Step 1: Teacher Self Assessment	August/September
Step 2: Analysis, Goal Setting, and Educator Plan Development <i>Pre-Evaluation Conference</i>	September
Step 3: Plan Implementation <i>Observations, Collection of Evidence, and Conferences</i>	Throughout School Year
Step 4: Mid-Cycle Goals Review	Mid-Year
Step 5: End-of-Cycle Summative Evaluation/Conference	Late Spring (April 15 th deadline)

**Probationary Teachers have more cycles due to having three evaluations per school year.*

✓ Probationary Employees:

- ❖ Administrators must complete a conference and written evaluation at least 3 times each school year, no later than: **Dec. 1, Feb. 1, and April 1.**
- ❖ Administrators making the evaluation ***must personally observe*** the probationary teacher's performance in the classroom for no less than 60 minutes each evaluation period.
- ❖ At least one of the observations must be at least 45 consecutive minutes.
- ❖ Administrators must schedule a ***pre*** and ***post*** conference for each ***scheduled*** observation to discuss expectations, any prior directives, the observation, and any recommendations, feedback, and support. (SB407: New law that went into effect July 1, 2013)
- ❖ A copy of each observation must be given to the probationary employee and be signed by both the administrator who made the observation and the employee, and must be dated.
- ❖ Observations must include:
 - ❖ Feedback, recommendations, suggestions that are aligned to the criteria in the NEPF.
 - ❖ The date and time of the observation
 - ❖ Name of the administrator making the observation
 - ❖ Date of the post conference.
- ❖ Administrators must allow teachers to make a written response to the evaluation and sign in the evaluation that a response was received.
- ❖ Any negative observation that results in an unsatisfactory evaluation must be brought to the probationary employee's attention within 20 days.
- ❖ Administrators must make an effort to assist the teacher in making improvements, including, but not limited to:
 - ❖ Providing mentors/coaches/facilitators/specialists
 - ❖ Providing further training in areas that need improvement
 - ❖ Allowing teachers to observe other classrooms
- ❖ Teachers must be given the opportunity to improve before the problem can be reflected in the formal evaluation.

✓ Post-Probationary Employees:

- ❖ Administrators must complete a written evaluation at least once each school year, **no later than April 15.**
- ❖ The administrator charged with making the evaluation ***must personally observe*** the teacher's performance in the classroom for no less than 60 total minutes each evaluation period.
- ❖ At least one of the observations must be at least 30 cumulative minutes.
- ❖ Administrators must schedule a ***pre*** and ***post*** conference for each ***scheduled*** observation to discuss expectations, any prior directives, the observation, and any recommendations, feedback, and support, if any. (SB407: New law that went into effect July 1, 2013)
- ❖ A copy of each observation must be given to the post-probationary employee and be signed by both the administrator who made the observation and the employee, and must be dated.
- ❖ Observations must include:
 - ❖ Feedback, recommendations, suggestions that are aligned to the criteria in the NEPF.
 - ❖ The date and time of the observation
 - ❖ Name of the administrator making the observation
 - ❖ Date of the post conference
- ❖ Administrators must allow teachers to make a written response to the evaluation and sign in the evaluation that a response was received.
- ❖ Any negative observation that results in an unsatisfactory evaluation must be brought to the post-probationary employee's attention within 20 days.
- ❖ Administrators must make an effort to continue to provide assistance to post-probationary teachers in making improvements, including, but not limited to:
 - ❖ Providing mentors/coaches/facilitators/specialists
 - ❖ Providing further training in areas that need improvement
 - ❖ Allowing teachers to observe other classrooms
- ❖ Post-probationary teachers must be given the opportunity to improve before the problem can be reflected in the formal evaluation.

Important things to consider:

- ❖ A post-probationary teacher who receives **2 consecutive unsatisfactory evaluations** will become a probationary teacher the following school year, and complete 3 years of probationary status again.
 - ❖ *contact your UniServ Director if you get a 2nd unsatisfactory evaluation!*
- ❖ Disciplinary documents **may** impact an evaluation, so please discuss these with your UniServ Directors.
- ❖ Investigatory interviews and Summary of Conference are **not** disciplinary documents, and **may not** be used against you in your evaluation.
 - ❖ Discuss with your UniServ Director if this has happened to you or someone at your worksite.
- ❖ **ALL** employees have the right to grieve their evaluation if they believe that it was unwarranted. **How?**
 - ❖ The employee must provide a copy of the evaluation, all observations, statement of why they feel the evaluation was unwarranted, and evidence from NEPF to their UniServ Directors as soon as they receive the evaluation, because there is a deadline for filing a grievance.
 - ❖ Upon receipt, the UniServ Director will make an assessment of the evaluation and all supporting documents to determine whether a grievance is appropriate.
 - ❖ If the UniServ Director determines that a grievance is appropriate, they will file the grievance, and a hardcopy will be sent to the employee.
 - ❖ If the UniServ Director determines that a grievance is futile, employees still have the right to file a grievance on their own, and instructions will be provided to those that want to file on their own.



2.4 Preparation Periods

Article 31

Preparation Period

- All teachers must receive at least **250** minutes of prep time per week during the instructional day.
- They must be scheduled in no less than 40 minute blocks.
- Prep time may be used by teachers for *unassigned professional duties*, such as: lesson planning, reviewing student work, performing other activities essential to teaching.
- The District **may** direct the use of a teacher's prep period with the following exceptions:
 - Use may not be frequent or regular.
 - At least 48 hour advance notice must be given, except in an emergency.
 - Use must not consume the entire prep period, and must leave at least 10 minutes for teacher's use.
 - District **may not** use more than 4 per year.
 - If more than 4 are used, pursuant to Article 38 of the CBA, the affected teachers should receive payment at their contractual rate of pay.

Important Note:

❏ Waivers:

- ❏ If a teacher at your Building is being asked to sign a waiver regarding their prep period, make sure that you talk to the teacher, or have them contact their UniServ Directors.
- ❏ Make sure that the teacher is not being pressured to sign the waiver and is making an informed decision that he/she is happy with.
- ❏ If trouble arises, contact your UniServ Director.



2.5 Work Hours

Article 22

Work Hours

- Classroom teachers who work 184 days per school year have a regular workday of 7 hours and 11 minutes, which includes the duty-free lunch period.
- Start and departure times for each school site are set by the principal.
- Except in emergencies, the Principal must seek the advice from **TAC** regarding changing the daily schedule, start, and end times.
- All classroom teachers must receive a 30 minute duty-free lunch period.
 - Lunch periods cannot be interrupted, except in an emergency.
- Any teacher required to travel during the regular workday will count travel time as part of the workday.

Additional Assignments

- ❑ All assignments during the workday, such as lunch duty, yard or playground duty, hall duty, and other functions **must** be rotated equitably amongst all available teachers, and may not be regularly assigned to any one group of teachers.
- ❑ Extracurricular assignments **outside** the workday must be determined with the advice of TAC, and site leadership.
- ❑ Outside workday meetings, non-extracurricular activities **may** be scheduled without additional compensation for the following purposes only:
 - ❑ **General Faculty meeting** attendance
 - ❑ **Special meetings** called by the Superintendent or School Principal, limited to **3 per year**, with a **5 working days notice**.
- ❑ Reasonable notice must be given for all outside meetings.
- ❑ Parent conferences **may** be scheduled to exceed the workday, but only by mutual consent first before a principal can step in and schedule at their convenience.
- ❑ Non-paying extracurricular assignments outside the workday **may** be made **only if** no volunteers are available first, **and** must be rotated equitably to all teachers at each school site.
 - ❑ At least 10 working days notice must be given to each assigned teacher.



2.6 Transfers

Voluntary Transfers

Involuntary Transfers/Reassignments

Specialized Units

Voluntary Transfers

Article 35

A voluntary transfer is any transfer that is initiated when a teacher submits a Request for Transfer Form, and the receiving Principal and the HR division approve the request.

- Teachers may obtain only one voluntary transfer during each school year, except in extenuating circumstances.
- Teachers may submit a Request for Transfer form ***starting April after the first vacancy report has been distributed until June 30th.***
- A teacher who has been unsuccessful at pursuing a transfer for 2 or more years may seek assistance in obtaining a transfer by requesting a conference with a personnel administrator.
- Every effort will be made by the district to secure the transfer for those teachers who have completed 5 years with the district in the same location and/or instructional assignment.
- Vacancy notices listing positions available will be listed at least once every 7 calendar days during the voluntary transfer period (April-June 30th).
- No vacancy may be filled until 3 school days after the notice listing the position has been issued.
- Once a position is filled, it will be noted on the next vacancy notice.

Involuntary Transfers/Reassignments

An involuntary transfer is any transfer initiated by an administrator, or district due to a decline in enrollment, the closing of a school, the failure to meet enrollment projections, a change in the student/staff allocation formulas, or any other condition which would require reducing the number of teachers allocated to a school or work location, or to a department within a school.

All involuntary transfers must be made in accordance with the following:

- ✓ A principal must review the needs of a school and develop a staffing plan that will best utilize the staff allocation for the next school year and notify all staff of the staffing plan and tentative assignments for the following school year **by April 1, and within 5 days of any subsequent changes in staffing.**
- ✓ The plan must identify the area of licensure and/or department where staff may have to be reduced.
- ✓ Seniority ranking and the licensure on the seniority list will determine the teacher(s) to be involuntarily transferred. The teacher with the lowest seniority ranking will be transferred.
- ✓ Before implementing any involuntary transfer(s), the principal must hold a staff meeting where teachers may volunteer to be transferred.

Involuntary Transfers/Reassignments *cont.*

- ✓ For all teachers who decide to participate in the involuntary placement process, a list of vacancies will be provided to them.
- ✓ All teachers who decide to participate will meet in one central location to choose (Mid-May Surplus meeting), in order of seniority ranking, an assignment for which they are licensed from the list of vacancies.
- ✓ Teachers with a K-8 elementary license who volunteer to be transferred from elementary schools, as well as surplused teachers may select departmentalized teaching positions in middle schools **only if** they have earned at least 10 semester hours of credit in the area of licensure for the position which they are selecting.
- ✓ At the secondary level, involuntary transfers must be by department. A teacher may not cause a teacher with less seniority in another department to be involuntarily transferred or secure a vacant position in a department other than the one the teacher is assigned to teach in.
- ✓ Teachers reassigned through involuntary transfers in the Spring have the right: to seek a voluntary transfer under the voluntary transfer procedure, return to the previous school if a vacancy occurs for which the teacher is licensed.
 - ✓ The right to return is based on seniority.

Specialized Units

- ❑ The district must make every effort to identify prior to April 1, which specialized units will be moved.
 - ❑ This is to allow reasonable notice and opportunity to all affected teachers so that they can pursue a voluntary transfer or surplus option.
- ❑ If an affected teacher does not want to move to a new location **and** is unsuccessful in getting a voluntary transfer in April, that teacher will be able to participate in the mid-May Surplus pool.
- ❑ If the teacher is notified **after** the mid-May Surplus pool and does not want to move, the affected teacher, within 5 working days of being notified, will select from a list of vacancies. If there are more than one teacher at a school, the relocation will be by seniority.



2.9

Student Discipline

District Regulation & Policy
AB 521

Regulations & Policy

- Law provides that every teacher and Principal has the authority to maintain order and discipline among students, and students that do not comply with reasonable rules may be recommended for disciplinary Actions.
- Principals ***must*** establish a progressive discipline plan.
- It is the Principal's responsibility to take action where necessary to protect student and teachers from dangerous or socially detrimental actions of students.
- What constitutes ***dangerous or socially detrimental behavior?***
 1. **Assault or Battery on a School Employee:**
 - Threatening or intentionally causing, or attempting to cause physical injury or intentionally behaving in such a way, that the student could cause injury to a school employee, that would cause a reasonable person to feel fearful of immediate harm.
 2. **Verbal Abuse, Intimidation, or Cyber-bullying:**
 - No harassing, vulgar, or derogatory remarks towards anyone.
 3. **Racial or Sexual harassment**
 4. **Physical Abuse**

Regulation & Policy *cont.*

5. Violation of Authority and Behavioral Guidelines:

- A student shall not fail to comply with directions of teachers, student teachers, substitutes, teacher aids, hall monitors, deans, school police, principals, APs, or other authorized school personnel during any period of time when student is properly under school's authority. Students shall comply with the behavioral guidelines that are adopted by each school.

6. Immoral Conduct

7. Theft, Loss, or Destruction of School District and/or Private Property

8. Disruption of School

9. Violation of Law

▪ Habitual Disciplinary Status

- One Elementary Teacher, at least two MS Teachers, or two HS Teachers, may request that the principal of the school deem a student as a habitual disciplinary problem.
- The Principal **must** meet with the teacher(s) making the request, review the file of the referred student, and determine whether or not the student qualifies as a habitual disciplinary problem.
- The teacher(s) have a right to appeal the decision to the Board of Trustees. They must present written justification, which demonstrates how the student meets the criteria of a habitual disciplinary problem.
- These cases will be heard by the **Expulsion Review Board**.

AB 521- The New Student Discipline Law

Addresses the issue of: What to do if the administrators won't do anything to address students that are disruptive?

How it works ?:

The Principal of ***every school***, with input and participation of teachers and parents of students enrolled in the school, ***must establish a plan of progressive discipline of students***. The plan must also provide for the temporary removal of a student from the classroom in accordance with the provisions of AB 521.

- 1.** A teacher has a problem with a student who is constantly disrupting the class. They have followed the progressive discipline plan to no avail. The teacher then makes the decision to invoke AB 521, by removing the student from class and immediately notifies the principal that this is an AB 521 referral.
- 2.** At this point, the principal ***must*** provide an explanation to the student regarding why he/she was removed and allow the student to respond.

AB 521 cont.

4. The principal **must** notify the parents about the student's removal within 24 hours.
5. The student **must** be assigned to a **temporary alternative placement** in which the student is:
 - Separate from other students
 - Studies under the supervision of appropriate personnel of the district
 - Prohibited from engaging in any extracurricular activities
6. A conference must be held within 3 school days with the: Principal, Student, Parent or Guardian, Teacher.
7. After the conference, the principal will recommend whether to return the student to the classroom or continue temporary placement.
8. If the teacher disagrees about the return, the issue will be decided by the AB 521 placement review committee.
9. The committee must review the circumstances of the student's removal and assess the best placement. The Committee has 5 options:
 - Put the student back in the teacher's class
 - Assign the student to another appropriate class
 - Assign the student to an alternative program of education, if available
 - Recommend suspension or expulsion
 - Take any other appropriate disciplinary action against the student that is necessary

AB 521 FAQs

- What if we already have a discipline plan at our school?**
 - AB 521 requires that the plan must:
 - Be developed with the input and participation of teachers and parents
 - Be consistent with the written rules of behavioral conduct
 - Include provisions designed to address the specific disciplinary concerns and needs of the school.
 - Provide for the temporary removal of a student from a classroom

- What if my school doesn't have an "alternative placement" available?**
 - Just because your school doesn't have an alternative placement available does not mean the other provisions of the bill do not apply. The committee can still choose from the other options.

- What if the parents of the Student refuses to come to the conference?**
 - If parents refuse to respond to notification, they will have waived their right to a conference, and recommendations will be made without parent conference.

- What if we don't have a Placement Review Committee:**
 - The committee is comprised of the principal or designee and two teachers selected by a majority vote of the teachers at the school.
 - Organize a meeting of the teachers and hold an election for the two teacher members. One alternate should also be chosen.



2.10

Discipline & Due Process

Weingarten Rights
Investigatory Interviews
Progressive Discipline
Disciplinary Notices

Weingarten Rights—Supreme Court Decision

NLRB v. Weingarten, Inc. (1975), the US Supreme Court declared that employees protected by the National Labor Relations Act have the right to assistance from the Association Representative during “investigatory interviews.” EMRB has adopted the same reasoning to apply to employees of local government, including school districts.

Weingarten Rights address the right of members to have union representation during an investigatory interview. An Investigatory Interview occurs when a supervisor questions a member to obtain information that **could** be used as a basis for discipline or asks a member to defend his/her conduct.

If a member has a reasonable belief that discipline or other adverse consequences **may result** from what he/she says, the member has a right to union representation.

Weingarten Rights—Supreme Court Decision

cont.

Under the *Supreme Court's Weingarten* decision, when an investigatory interview occurs the following rules apply:

- **RULE 1:** The member must make a clear request for union representation before or during the interview. The member cannot be punished for this request.

- **RULE 2:** After the member makes a request, the employer *must* choose from among the three options:
 - **Grant the request and delay questioning until the union representative arrives and has a chance to consult with the member privately; or**
 - **Deny the request and end the interview immediately; or**
 - **Give the member a choice of having the interview without union representation or ending the interview.**

- **RULE 3:** If the employer denies the request for union representation, and continues to ask questions, the employer commits an *unfair labor practice* and the member has the right to refuse to answer. The employer may *not* discipline for such a refusal.

Investigatory Interviews

What constitutes an Investigatory Interview?

- An investigatory interview occurs when: (1) an administrator or a supervisor questions an employee to obtain information; **and** (2) the employee reasonably believes that discipline or other adverse consequences may result from his or her responses to the questions.
- If an administrator or supervisor summons a teacher to tell them that they are receiving a disciplinary document, reprimand, etc, the meeting is **not** an investigatory interview, ***so long as the administrator merely informs the employee of a previously arrived-at decision.***
- If, however, the administrator asks the employee questions relating to the facts forming the basis of the disciplinary action, the meeting is an investigatory interview and the employee has the right to Association Representation.

Investigatory *cont.*

- If you receive a Notice of Investigatory Interview, and would like Association Representation, contact your UniServ Director as soon as you receive the notice, send a copy of the notice to the CCEA office so that they can schedule time to prepare for the investigatory interview.
- By Definition, an investigatory interview is a meeting in which questions will be asked and the answers to those questions may reasonably lead to disciplinary action. As such, it will not likely be a friendly conversation. The best thing to do is to be honest with your UniServ Director and prepare with them prior to going into the interview so that you are protected.

Progressive Discipline

- ❑ Normally, discipline is viewed as a progressive process, especially where the issue is failure to perform the assigned job, or a deviation from the assigned job.
- ❑ This means that for the first offense on any subject, the discipline will be minor, such as oral warning.
- ❑ For subsequent offenses **on the same subject**, the discipline will become progressively more severe, such as an Admonition, short suspension, a longer suspension, and termination.
- ❑ The intent of progressive discipline is to provide the employee the opportunity to improve performance or correct unacceptable behavior.
- ❑ If the District **does not** follow progressive discipline, CCEA **may** make this failure part of its grievance case.
- ❑ The **major exception** to the concept of progressive discipline are those instances where an employee's conduct is so severe or unacceptable that there is justification in skipping progressive steps and move to immediate termination. (ex. Criminal conviction, being under the influence on the job, theft, physical violence.)

Disciplinary Actions

- **From low to high:**
 - Oral Warning
 - Written Warning
 - Admonition
 - Suspension
 - Termination
- All disciplinary documents ***must*** be removed after 3 years and 1 day, upon ***written request***. (Forms can be found on CCEA website)
- **What you should do if you receive a Disciplinary Document:**
 - **Contact your UniServ Director immediately.**
 - **Send a copy of the document to your UniServ Director**
 - Send any written responses regarding the discipline
 - Upon review, your UniServ Director will contact you to schedule a meeting and discuss your options.
 - If a grievance is filed challenging the disciplinary action, you will receive a copy of the grievance.
 - Your UniServ Director should also discuss settlement options

Due Process

- Procedural Due Process is the right of a permanent public employee to be given certain “pre-removal safeguards” before disciplinary actions become effective. It is a constitutional guarantee meant to afford protection against arbitrary action by the employer.
- The concept that a permanent public employee has a property right to his/her job grows out of the Fourteenth Amendment to the US Constitution that states in relevant part: ***“(N)or shall any State deprive any person of life, liberty or property, without due process of law...”***
- This due process is applicable to all post-probationary employees.
- **What Procedural safeguards does the District have to afford me?**
 - An investigation that is fair
 - Just cause for the action
 - Written notice of the alleged grounds for the action and a meaningful opportunity to be heard before a neutral hearing officer and/or arbitrator.
 - The right to appeal an action to arbitration after the hearing.



2.11

Grievances & The Process

The grievance Process

The Grievance Process

- ❑ A grievance is any dispute which arises regarding an interpretation, application or violation of any of the provision of the CBA.
- ❑ This means that grievances can only be filed with regards to provisions within the CBA.
- ❑ A grievance may be filed by:
 - an employee(s) as grievant, *or*
 - by the Association on behalf of all affected members (Class Action), *or*
 - By the Association on its own.
- ❑ There are 3 steps to the Grievance process, with the final step being a hearing before an arbitrator whose decision on the matter is *final and binding* in the case.

STEP 1: INFORMAL DISCUSSION/MEDIATION

- Grievances are best settled at the earliest possible level before the positions of administrators and supervisors become hardened. An informal discussion is an opportunity to resolve the problem with the principal or supervisor **before** filing a formal grievance.
- An informal discussion is **not** required.
- If there is a potential grievance, an informal **must** take place within 20 days after the affected teacher(s) or the Association first knew about the act or condition upon which the potential grievance is based.
- If a grievance **is** resolved through informal discussion/mediation, parties should reduce the resolution in writing prior to the time limit for filing a grievance ends.
- Teachers **may** request an Association Representative or UniServ Director be present at the informal discussion.
- If no resolution is reached, or your request for an informal is denied, grievants have 2 options:
 - Request that a pre-grievance resolution be made by your UniServ Director, or
 - File a formal grievance

Pre-Grievance Resolution

- A pre-grievance resolution is a written proposal of resolution of a potential grievance sent to the Associate Superintendent, HR Division, or the Superintendent's designee, and occurs prior to the filing of a formal grievance.
- The timeline to grieve is suspended during the resolution process, and resumes if and when the process is terminated or denied.
- Proposals **must** include:
 - The violation of policy/contract
 - Requested resolution
 - Written narrative of the issue(s) and document(s) involved.

Filing a Formal Grievance

- If prior pre-grievance efforts have not resolved the issue, and your UniServ Director feels the issue should be grieved formally, a formal grievance will be filed for a hearing.
- Formal grievances **must** be filed within 30 working days after the grievant or association first knew of the act or condition upon which the grievance is based.
- Note that the timeline only counts working days, so if a grievant has been on leave, those days do not count against the grievance timeline.
- Your UniServ Director will also make a request for relevant information at the same time.
- Your UniServ will also schedule time to discuss the case with you upon filing, and after receipt of all produced information.

STEP TWO: HEARING

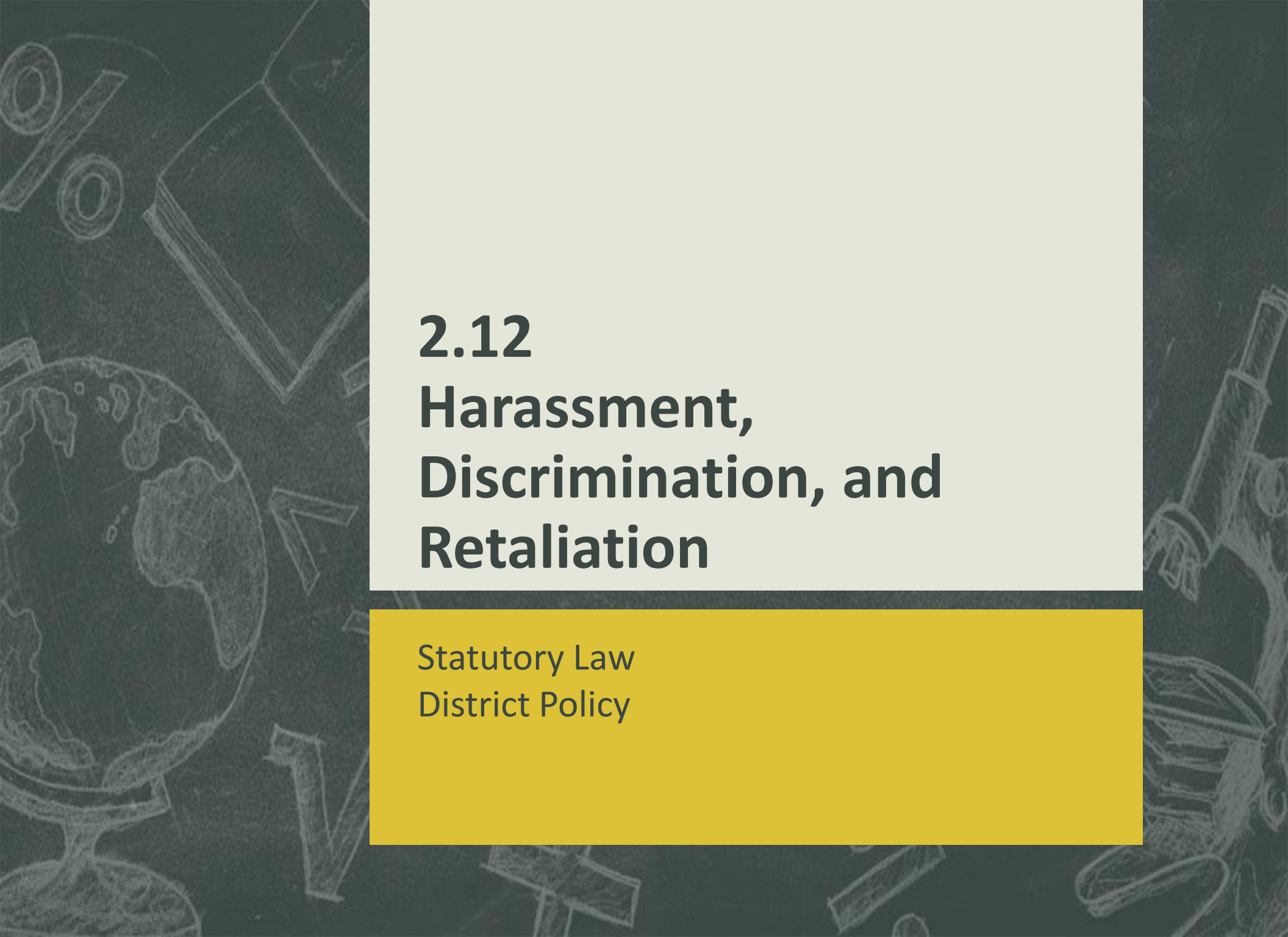
- After filing the formal grievance for a hearing (unless the Step 2 hearing has been waived), your UniServ Director will request information relevant to preparing for the case.
- In addition, the UniServ Director will meet with the grievants to prepare their case, and gather more information.
- A date will be set for the hearing.
- Grievants **are not required** to attend the Step 2 hearing, unless they would like to attend, or the UniServ Director wants them to attend.
- At the hearing, both sides will have an opportunity to make their case, and state their remedy.
- The hearing officer may ask questions.
- The hearing officer will then make a decision on the matter within 10 days.
- If the hearing officer denies the grievance, **CCEA may** appeal the decision to STEP 3 – Arbitration, no later than 20 days after the expiration of the 10 days for the hearing officer's decision.

Member Rights Committee

- Prior to any case going to Arbitration (Step Three), cases must be approved by the Member Rights Committee per the CCEA by laws.
- Grievants will be notified by mail that their case(s) are being heard before the committee, as well as the date and time.
- Grievants must appear and appeal their case before the committee. If they do not attend and the committee denies their request for arbitration, they will waive their right to appeal the committee's decision.
- The members on the committee are appointed by the CCEA President or designee.

STEP THREE: ARBITRATION

- The American Arbitration Association provides the arbitrator under the American Arbitration Association's Labor Arbitration Rules.
- An arbitration is similar to a trial:
 - Both sides may make a timely request for information in preparation of the case (similar to discovery)
 - Both parties may request a list of potential witnesses
 - Grievants will have an opportunity to give testimony during direct questioning
 - The grievants may also be cross examined by opposing counsel
 - Witnesses will be called to testify
 - Witnesses may also be cross examined
 - Extrinsic evidence *may* be admitted as exhibits
 - Both sides may make timely objections during the proceeding
- The arbitrator will render a decision in writing within 30 school days of the conclusion of arbitration or submission of post-hearing briefs, whichever comes later.
- The arbitrator's decision is final and binding and may not be appealed.
- The total cost of arbitration is paid equally between CCEA and CCSD.



2.12 Harassment, Discrimination, and Retaliation

Statutory Law
District Policy

Employment Discrimination, Harassment, and Retaliation

No employee can be discriminated against in any employment practice on the basis of *race, color, sex, age, religion, or religious creed, national origin, sexual orientation, gender identity or expression, ancestry, or disability*. This extends to recruiting and hiring, working conditions, training, promotion, and terms and conditions of employment.

1. Unlawful discrimination, harassment, and sexual harassment are not tolerated.
2. The District and administration are not allowed to retaliate against any person who has filed a complaint, testified, assisted or participated in any manner in an investigation, proceeding, or hearing.
3. It is unlawful to discriminate against a CCEA member because of their membership in, or support of the union.

What constitutes harassment?

- What constitutes unlawful harassment depends on all of the circumstances of the particular case, including the length of time, parties to the case, and the circumstances surrounding the acts.
- Examples of conduct that *may* constitute harassment depending on the circumstances include, but are not limited to:
 - Slurs, epithets, derogatory or degrading comments, threats, or verbal abuse;
 - Offensive and unwelcome posters, drawings, pictures, or gestures;
 - Offensive and unwelcome jokes, stories, rumors, or teasing; and
 - Any physical, verbal, or visual conduct that has the purpose or effect of *unreasonably* interfering with the individual's work performance or creating an intimidating, hostile, or offensive work environment.
- Giving harsh critiques and telling sthey need improvement in specific areas of performance, even if repetitive, alone does *not* constitute harassment.
- Frequent observations alone do not constitute harassment.
- Note that a case for harassment depends on the specific facts and circumstances of that case, so discussing them with your UniServ Director to further investigate will be necessary to make a determination.

What constitutes Sexual harassment?

- Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute unlawful sexual harassment when:
 - Submission to such a conduct is made either explicitly or implicitly a term or condition of an individual's employment, continued employment, performance evaluation, or good standing.
 - Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating intimidating, hostile, or offensive work environment.
- Examples of conduct that *may*, depending on the circumstances, constitute unlawful sexual harassment include, but are not limited to:
 - Sexual assault, coerced sexual acts, any actual or attempted unwanted physical touching;
 - Sexual propositions, pressure for sex, or insistent and unwelcome invitations for dates;
 - Slurs, epithets, derogatory or degrading comments, sexual innuendoes or remarks, threats, or verbal abuse of a sexual nature;
 - Offensive and unwelcome posters, drawings, pictures, or gestures;
 - Offensive and unwelcome jokes, stories, rumors, teasing; and
 - ANY other physical, verbal, or visual conduct that is related to the individual's sex
- The victim *does not* have to be the person to whom the unwelcome conduct is directed. It can also be co-workers where the offensive conduct creates an intimidating, hostile, or offensive working environment for co-workers that unreasonably interferes with their work performance.

Remedy Options:

Internal Reporting Procedures:

- If an employee feels they have been victimized as a result of discrimination, or harassment, they may make a verbal or **written complaint** to the Diversity and Affirmative Action Executive Manager.
- The complaint should be made within a reasonable time following the occurrence of the unlawful conduct.
- Complaint should include the following:
 - Detailed description of the events in question and dates of the occurrences;
 - Names of the individuals involved, including responsible parties and witnesses, if any;
 - Specific unlawful acts;
 - Desired resolution;
 - Complainant should sign and date all written complaints.

Remedy Options *cont.*

- The complaint is then internally investigated and the following will be accomplished:
 - Conduct an investigation
 - Make a determination, in whole or in part, justified or unjustified.
 - Submit a written report of the findings as well as a recommendation for resolution.
- All investigation reports as well as information gathered in the course of the investigation will remain confidential.

US Equal Employment Opportunity Commission:

- The EEOC is responsible for enforcing federal laws that make it illegal to discriminate against employee. The laws apply to all types of work situations including harassment.
- Employees *may* file a charge against the district with the EEOC if they feel the internal procedure is futile.
- Title VII of the Civil Rights Act of 1964 authorizes the attorney general to institute suits to protect constitutional rights in public facilities and public education to prevent discrimination.
- Information on filing can be found at www.eeoc.gov

