

The Pojoaque Valley School District acknowledges the need for its employees to perform their duties in a safe, secure and non-threatening atmosphere. The District recognizes, however, the possibility of assault on an employee or another person on school property, or at school-sponsored events. The term "assault" as used in this policy shall mean not only a violent physical or verbal attack, but shall also include the concepts of legal battery, legal assault, and intentional infliction of severe mental or emotional distress.

No employee shall, while on duty, physically or verbally assault any other person, except as may be specifically allowed by herein or by an implementing regulation.

An on-duty employee will be permitted to use reasonable force to repel a physical assault upon himself or a physical assault on another person. No verbal statements justify use of force. If an on-duty employee is threatened with an assault upon him/herself or another and has a reasonable method of retreating or causing the other to retreat so as to avoid the assault, the employee shall retreat or cause the other to retreat.

When assaults occur, the following procedures shall be utilized:

1. An employee shall immediately report to his/her immediate supervisor any assault at school or school-sponsored events.
2. The supervisor shall immediately get medical help where needed and notify the superintendent or designee.
3. A written report of the incident and actions taken shall be submitted by the supervisor to the Superintendent or designee. The employee shall have the right to submit a written report on his/her version of the incident.
4. When warranted, the immediate supervisor will notify the police of the assault. If requested by the employee, the District shall advise the employee on the manner of initiating a criminal complaint arising from a physical assault.
5. When reasonably necessary and with prior approval of the Superintendent, leave with pay shall be granted to an employee for court appearances or for conducting business as a result of assault occurring while on duty, and which cannot reasonably be conducted on off-duty hours.
6. When absence from work is reasonably necessary for the full recovery of an employee, and with the prior approval of the superintendent, an employee may be granted leave with pay for up to seven (7) work days, for injury, physical or mental, as a result of a physical attack while on duty at school or on duty at school-sponsored events. After three (3) work days, the employee may be required to obtain a doctor's certificate attesting to the employee's injuries and resulting disability. The District may also require the employee to be examined by a physician of the District's choice at the District's expense. Payment for the time away from work shall be made only in the amount of the difference between:

- (1) the employee's regular wage or salary for the time absent, and
- (2) workers compensation payments made to the employee, if any. Payment will be made only upon written application describing the assault and injury in reasonable detail. The purpose of this provision is to insure that an employee need not use leave after incurring an injury due to a physical assault.

7. In every case involving an assault upon or by an on-duty employee, the Superintendent or designee shall conduct such investigations and hold such hearings upon at least two (2) work days notice to employees involved as may be reasonably necessary to determine what led to the assault and what occurred during the assault. No particular formalities need be observed for hearings, but, in every assault case, both sides shall be allowed to confront opposing witnesses, to explain fully their side of the conflict, and to present witnesses in support of their version of the facts. This hearing may be combined with any other hearing required because of the assault.

8. If, after investigations and hearings have concluded, it is determined that the employee initiated the assault, or an assault by the employee was not reasonably necessary to repel a physical assault or to prevent a physical assault upon another person, provisions 5 and 6 shall not apply. In such cases, the employee shall be subject to additional discipline measures as provided by statute and regulation.

9. In the event any employee involved in the assault is dissatisfied with the result of the investigations and hearings, the employee may appeal the decision as in the case of a grievance beginning, however, with "Step Two," submission to the appropriate District office administrator. The decision of the Superintendent shall be final, unless it is combined with a decision to terminate employment. If it is combined with such a decision to terminate employment, the decision may be appealable as provided by law.

References: NMSA 1978, § 30-3-9