

6Gx53-3.005 DISCIPLINARY/HEARING PROCEDURES:

I. Authority: The Superintendent has the authority to direct or arrange for the proper direction and improvement of all employees of the District school system and to take the necessary steps to bring about continuous improvement.

A. Discipline/Dismissal: Employees will be subject to discipline or dismissal for just cause which includes, but is not limited to, misconduct of the following nature:

1. Immorality: A charge of Immorality is defined as conduct contrary to conscience or public morality.
2. Misconduct in Office: A charge of misconduct in Office is defined as conduct which seriously reduces the employee's effectiveness in the assigned position, or as an employee of the Board.
3. Incompetence: A charge of incompetence is defined as the inability to perform the duties of the assigned position.
4. Gross Insubordination: A charge of gross insubordination is defined as a constant or continuing intentional refusal to obey a direct order, reasonable in nature, and given by and with proper authority.
5. Willful Neglect of Duty: A charge of willful neglect of duty is defined as the intentional disregard and non-performance of duties of the assigned position.
6. Conviction of a crime Involving moral turpitude: the conviction of a crime involving moral turpitude shall be grounds for disciplinary action or dismissal.
7. Failure to Notify Upon Arrest: Any employee who is arrested or charged with any crime, including driving under the influence of alcohol or controlled substances must notify his or her department director or principal of the alleged charges/allegations.
8. Misuse of Office: A charge of misuse of office is defined as the corrupt use or attempted use of a Board position, property, or resource which may be within the trust of an employee, or the performance of

official duties to secure a special privilege, benefit, or exemption for the employee or others.

9. Coercion: A charge of coercion is defined as the use of coercive means or sexual threats to influence the actions of others.

B. Driving Under the Influence: Upon a conviction of driving while under the influence of alcohol or controlled substances as defined in Policy Number 6Gx53-3.003-IX.C., any employee shall be subject to appropriate disciplinary action and be required to furnish proof of counseling and rehabilitation. The Education Practices Commission shall be notified if any certificated personnel are convicted of driving under the influence of alcohol or controlled substances.

C. Other Grounds for Disciplinary Action: The Superintendent shall not be limited to the statutory "just cause" provisions in connection with employee misconduct and may utilize any lawful, rational, non-arbitrary reason for employee discipline or dismissal, subject to approval of the Board.

II. Disciplinary Actions: Disciplinary actions shall be imposed only after following the procedures set forth below or as otherwise established by the various Collective Bargaining Agreements.

A. Progressive Discipline: In order to establish a fair, consistent, and organized method of processing disciplinary matters, school personnel shall follow the progressive discipline procedures in all employee matters except in cases where unusual circumstances justify immediate action.

1. Levels: Progressive discipline shall be properly documented with copies provided to the employee and shall consist of the following steps:

- Level I: Verbal Reprimand
- Level II: Written Reprimand
- Level III: Suspension or Demotion
- Level IV: Discharge

2. Documentation: Executed copies of substantiating documents, i.e., verification of verbal reprimands, written reprimands, etc. must be attached to any

request for disciplinary action directed to the Superintendent.

3. Requirements: It is imperative that the above procedures be followed prior to requesting the Superintendent to impose disciplinary action.

B. Emergency Personnel Actions: The above procedures do not apply to emergency personnel actions. The Superintendent may suspend an employee during an emergency situation and shall immediately notify the Board of such suspension and the circumstances giving rise to the emergency.

1. Term of Suspension: The suspension may extend to and including the day of the next regular or special meeting of the School Board.

2. Recommendation: The Superintendent shall recommend further personnel action which may include further suspension without pay, demotion, transfer, or dismissal, subject to Board approval.

III. Complaints: Any complaint against an employee, which is called to the attention of the Superintendent, shall be investigated.

A. Employee Notification: The Superintendent or designee shall notify the employee of the substance of the complaint.

B. Investigation: The Superintendent may designate an Investigative Committee consisting of no less than two (2) persons to conduct the investigation.

1. Findings: The Investigative Committee shall advise the Superintendent concerning the findings of the investigation.

2. Confidential Information: The complaint and all information obtained pursuant to the investigation shall be confidential until the conclusion of the preliminary investigation or until such time as the preliminary investigation ceases to be active.

a. Active: An investigation shall be considered active as long as it is continuing with a reasonable, good faith

anticipation that an administrative finding will be made in the foreseeable future.

b. Inactive: An investigation shall be considered inactive if no finding relating to probable cause is made within sixty (60) days after the complaint is made.

C. Determination: The determination of probable cause shall be made by the Superintendent.

1. Review: The Superintendent shall review the findings of the investigation with the Investigative Committee and the School Board attorney who shall advise the Superintendent concerning probable cause or lack thereof.

2. Employee Conference: The employee may request a conference with the Superintendent prior to a determination.

3. Agreement: The Superintendent may enter into agreements in lieu of finding probable cause when in the Superintendent's judgment such agreements would be in the best interest of the school district, the employee, and the public. Such agreements shall not be entered into where there is probable cause to believe that a felony or an act of moral turpitude has occurred.

4. Probable Cause: Upon a finding of probable cause and a determination to proceed with charges against an employee, the Superintendent or designee shall proceed with full regard to due process procedures as outlined herein.

IV. Hearing Procedures: The employee shall be provided with reasonable notice, in writing, of any proposed action, which may be adverse to the employee, together with a summary of the factual, legal, and policy grounds therefore.

A. Formal Proceedings: Formal proceedings shall apply in all proceedings involving a disputed issue of material fact.

1. Grant/Deny: The Superintendent or designee shall grant or deny a request for hearing within fifteen (15) days of receipt of such request.

2. Forum: A hearing shall be conducted before a Hearing Officer appointed by the Board.

- Exception: Those employees holding a Professional Service Contract may elect a hearing to be conducted before a Hearing Officer appointed by the Department of Administrative Hearings. The Superintendent or designee shall notify the DOAH within fifteen (15) days of receipt of written request for hearing.

3. Notice of Hearing: Employees shall be afforded a hearing after reasonable notice of not less than fourteen (14) days. The fourteen (14) day notice may be waived with the consent of all parties. Said notice shall include the following:

- a. The time, place, and nature of the hearing;
- b. A statement of the legal authority and jurisdiction under which the hearing is to be held;
- c. A reference to the particular sections of the statutes and rules involved;
- d. A short and plain statement of the matters asserted by all parties at the time notice is given. A more definite and detailed statement may be furnished not less than three (3) days prior to the date set for the hearing.

4. Hearing Proceedings: The Board and the employee shall have the opportunity to respond, to present evidence and argument on all issues involved, to conduct cross-examination and submit rebuttal evidence, to submit proposed findings of facts and orders, to file exceptions to any order or hearing

officer's recommended order, and to be represented by counsel.

5. Record: The record shall consist of the following:

- a. All notices, pleadings, motions, and intermediate rulings;
- b. Evidence received or considered;
- c. A statement of matters officially recognized;
- d. Questions and proffers of proof and objections and rulings thereon;
- e. Proposed findings and exceptions;
- f. Any decision, opinion, proposed or recommended order or report by the hearing officer presiding at the hearing;
- g. All staff memoranda or data submitted to the hearing officer during the hearing or prior to its disposition, after notice of the submission to all parties, except communications by advisory staff if such communications are public records.
- h. All matters placed on the record; and
- i. The official transcript: The employer shall preserve all testimony in the proceeding, and, on the request of any party, the Board shall make a full or partial transcript available at no more than actual cost.

6. Recommended Order: The Hearing Officer shall complete and submit a recommended order to the Board with a copy to the employee.

- a. Findings of Fact: The recommended order shall consist of the findings of fact

which shall be based exclusively on the evidence of record and on matters officially recognized, conclusions of law, interpretation of administrative rules, and recommended penalty, if applicable, and any other information required by law or School Board rule to be contained in the final order.

b. Written Exceptions: The Board and the employee shall be allowed at least ten (10) days in which to submit written exceptions to the recommended order.

7. Final Agency Action: The Superintendent shall recommend and the Board shall determine from the evidence presented whether the charges have been sustained.

a. Adopt Recommended Order: The Board may adopt the recommended order as its own.

b. Reject or Modify Recommended Order: After a review of the complete record, the Board may reject or modify the conclusions of law and interpretation of administrative rules in the recommended order, but may not reject or modify the findings of fact unless the Board first determines and states with particularity in its order that the findings of fact were not based upon competent substantial evidence or that the proceedings on which the findings were based did not comply with essential requirements of law.

c. Penalty: The Board may accept the recommended penalty in a recommended order, but may not reduce or increase the penalty without a review of the complete record and without stating with particularity its reasons therefore in the order.

d. Board Meeting: There shall be no oral argument, testimony, or public comment at the Board meeting.

e. Employee Notification: The Superintendent or designee shall forward a true and correct copy of the Final Order to the employee within five (5) days of action taken by the Board.

8. Appeal: The Final Order shall also notify the employee that the action of the Board may be appealed to the Second District Court of Appeal. When there is an appeal, the court in its discretion may award reasonable attorney's fees and costs to the prevailing party if the court finds that the appeal was frivolous, merit less, or an abuse of the appellate process or that the action which precipitated the appeal was a gross abuse of the Board's discretion.

B. Informal Proceedings: Informal proceedings shall apply in all proceedings where the issues of material fact are admitted.

1. Due Process: The Board shall give reasonable notice to employees of the action, whether proposed or already taken, or of its decision to refuse action, together with a summary of the factual, legal, and policy grounds therefore.

2. Forum: These proceedings shall be conducted before the Superintendent or designee.

a. Present Evidence: The Board shall give employees or their counsel an opportunity, at a convenient time and place, to present written or oral evidence in opposition to the action of the Board or of its refusal to act, or a written statement challenging the grounds upon which the Board has chosen to justify its action or inaction.

b. Objections Overruled: If the objections of the employee are overruled, the Superintendent or

designee shall provide the employee with a written explanation within seven (7) days.

3. Record: The record shall consist of the following:

- a. The notice and summary of grounds;
- b. Evidence received or considered;
- c. All written statements submitted by persons and parties;
- d. Any decision overruling objections;
- e. All matters placed on the record after an ex parte communication.
- f. The official transcript.

4. Disposition: Informal disposition may be made by stipulation, agreed settlement, or consent order.

a. Charges Not Sustained: If the charges are not sustained, the employee shall be immediately reinstated and back salary shall be paid.

b. Charges Sustained:

1). Termination: If the charges are sustained by a majority vote of the full membership of the Board and it is determined that the employee be discharged, the employee's contract of employment shall be thereby terminated.

2). Extenuating Circumstances: Under extenuating circumstances and subject to approval of

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the Board, the Superintendent may recommend the terms of employment under which an employee may be reinstated.

Statutory Authority: Florida Statutes 1001.32, 1001.41, 1001.42, and 1001.43

Laws Implemented: Florida Statutes, Chapter 1012, Personnel

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