

EMPLOYEE DISCIPLINARY GUIDELINES

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DISCIPLINARY GUIDELINES

I DISCIPLINARY GUIDELINES

- (a) It is the intent of the School Board to treat all employees on a fair and equitable basis in the administration of disciplinary measures.
- (b) Discipline is a corrective rather than a punitive measure. In dealing with deficiencies in employee work performance or conduct, progressive discipline shall be administered, except in situations where immediate steps must be taken to ensure student/staff safety. Progressive discipline may include, but is not limited to, informal discussion, oral warning, written warning, written reprimand, enrollment in professional skills enhancement programs, suspension without pay, demotion, change in contract status or termination of employment.
- (c) There are certain acts of misconduct, however, which are so offensive as to render an employee as no longer employable. The only appropriate disciplinary measure in these cases (See Section II, Category A) is the termination of the employment relationship with the Broward County School Board. (F.S. 231.28)
- (d) The severity of the misconduct in each case, together with relevant circumstances (III (c)), will determine what step in the range of progressive discipline is followed. A more severe discipline measure will be used when it is in the best interest of the students or the community we serve. It is the intent that employees who have similar deficiencies in work performance or misconduct, will be treated similarly and compliant with the principle of just cause.
- (e) The District expects each employee, instructional and non-instructional, to be in conformance, both in and out of the work place, with all laws, whether federal,

state or local, State Board Rules, and all School Board policies, rules, and regulations.

II DISCIPLINARY ACTION

(CATEGORY A)

OFFENSE

PENALTY

- | | |
|--|-----------|
| (a) Inappropriate sexual conduct including, but not limited to, sexual battery, possession or sale of pornography involving minors, sexual relations with a student or the attempt thereof | Dismissal |
| (b) Sale / distribution of a controlled substance | Dismissal |
| (c) Reckless display, threatening with guns or weapons on School Board property or at School Board events | Dismissal |

(CATEGORY B)

OFFENSE

PENALTY

- | | |
|---|----------------------|
| (a) Committing a criminal act - felony | Suspension/Dismissal |
| (b) Committing a criminal act - misdemeanor | Reprimand/Dismissal |
| (c) Unlawful possession, use or being under the influence of a controlled substance | Suspension/Dismissal |
| (d) Driving Under the Influence under the scope of employment | Suspension/Dismissal |
| (e) Alcohol related offenses | Reprimand/Dismissal |
| (f) Driving Under the Influence | Reprimand/Dismissal |
| (g) Inappropriate method of discipline | Reprimand/Dismissal |
| (h) Falsification or alteration of employment paperwork, SBBC records/documents or | Suspension/Dismissal |

	student records/documents	
(i)	Possession of guns or weapons on School Board property	Reprimand/Dismissal
(j)	Lewd & Lascivious behavior	Reprimand/Dismissal
(k)	Indecent Exposure	Reprimand/Dismissal
(l)	Solicitation of Prostitution	Reprimand/Dismissal
(m)	Any violation of The Code of Ethics of the Education Professional in the State of Florida- State Board of Education Administrative Rule 6B-1.001	Reprimand/Dismissal
(n)	Any violation of (FS. 230.22) Violence in the Workplace	Reprimand/Dismissal
(o)	Misappropriation of Funds	Suspension/Dismissal
(p)	Insubordination, which is defined as a continuing or intentional failure to obey a direct order, reasonable in nature and given by and with proper authority	Reprimand/Dismissal
(q)	Unauthorized use of School Board property	Reprimand/Dismissal
(r)	Failure to comply with School Board policy, State law, or appropriate contractual agreement	Reprimand/Dismissal

III OTHER CONSIDERATIONS

- (a) Failure to include a particular act or type of conduct in either category does not preclude the Superintendent or the School Board from disciplining an employee for such omitted act or conduct if it otherwise constitutes just cause for disciplinary action.
- (b) This list in Category A and B is illustrative and not meant to be exhaustive. The Superintendent and School Board reserve the right to impose disciplinary measures, up to and including termination of employment, for any offense, act or

conduct which constitutes just cause for disciplinary action or which violates any School Board rule, regulation, state or federal law, as well as the Code of Ethics and Principles of Professional Conduct outlined in 6B-1.006 FAC and §231.36 Florida Statutes.

(c) The following circumstances are illustrative and not meant to be exhaustive and may be considered when determining the appropriate penalty within a penalty (III Category B) range:

1. The severity of the offense
2. Degree of student involvement
3. Impact on students, educational process and/or community
4. The number of repetitions of the offenses and length of time between offenses
5. The length of time since the misconduct
6. Employment history
7. The actual damage, physical or otherwise, caused by the misconduct
8. The deterrent effect of the discipline imposed
9. Any effort of rehabilitation by the employee
10. The actual knowledge of the employee pertaining to the misconduct
11. Attempts by the employee to correct or stop the misconduct
12. Related misconduct by the employee in other employment including findings of guilt or innocence, discipline imposed and discipline served
13. Actual negligence of the employee pertaining to any misconduct
14. Pecuniary benefit or self-gain to the employee realized by the misconduct
15. Degree of physical and mental harm to a student, co-worker or member of the public
16. Length of employment
17. Whether the misconduct was motivated by unlawful discrimination
18. Any relevant mitigating or aggravating factors under the circumstance
19. Employee's evaluation
20. Adherence to Self-Reporting Policy

IV DEFINITIONS

- (1) Controlled Substance
- (2) Felony
- (3) Lewd and Lascivious Offenses – (See F.S.S. 800.04)
- (4) Penalty Range

893.02 (4) “Controlled substance” means any substances named or described in Schedule I through V of s. 893.03; laws controlling the manufacture, distribution, preparation, dispensing or administration of such substance are drug abuse laws.

775.08 (1) The term “Felony” shall mean any criminal offense that is punishable under the laws of this state, or that would be punishable if committed in this state, by death or imprisonment in a state penitentiary. A person shall be imprisoned in the state penitentiary for each sentence which, exception extended term, exceeds one (1) year.

PENALTY RANGE

The Penalty Range is established as an administrative guideline for administering appropriate disciplinary action. The purpose in providing a range of disciplinary actions is to provide for considerations which may include the factors identified at III (c).

SECTION V

Superintendent of Schools - Probable Cause Inquiry and Recommendation:
Procedural Guidelines

PURPOSE

5.1. The purpose of the fact-finding inquiry is to make a recommendation to the Superintendent of Schools as to the existence of probable cause that an employee committed the act or acts which are alleged to have been committed. It is the Superintendent of Schools’ statutory duty to investigate and to submit a recommendation to the School Board, as may be appropriate. (§§ 1001.51(7) and (12), 1012.27,

1012.796(1)(d) and (5), Fla. Stat.) The Superintendent may appoint and convene a Professional Standards Committee to make recommendations to the Superintendent as to probable cause on all employee disciplinary matters. All employee disciplinary matters will be handled in a uniform and consistent manner. The Superintendent retains full statutory authority to review the investigatory materials and make his or her own determination as to probable cause regardless of the Committee's recommendation. When the Superintendent makes a recommendation to the School Board on employee disciplinary matters, The School Board adopts or rejects the Superintendent's recommendation. The School Board's decision regarding disciplinary action is subject to the employee's right to contest the charges through a due process hearing as provided by law or other procedures provided by collective bargaining agreement. If an employee does not contest the charges, the School Board's decision is final.

5.2. A Professional Standards Committee (PSC) performs a managerial function on behalf of the Superintendent.

SCOPE

5.3. School site investigations conducted by school administrators are excluded from Section V of this Policy.

DEFINITIONS

5.4. For purposes of this policy the term "employee" or "school district personnel" includes all persons who are employees at the time of the alleged incident or at the time a personnel investigation is commenced.

5.5. For purposes of this Policy "probable cause" means a reasonable belief that a person has committed the alleged act or acts.

5.6. An investigation is deemed completed upon a finding of no probable cause or upon the disposition of the pre-disciplinary conference.

GUIDELINES FOR INVESTIGATIONS

5.7. Investigations of allegations, as authorized by the Executive Director of the Office of Professional Standards and Special Investigative Unit (OPS/SIU) (hereafter "Executive Director") will be conducted by OPS/SIU, who may secure the assistance of the administration or outside agencies when appropriate.

5.8. An employee who knowingly makes material false accusations or false statements in connection with a personnel investigation shall be subject to investigation under this Policy and, as determined by the Superintendent, will be subject to disciplinary action, including termination.

5.9. Upon authorization of an investigation by the Executive Director, the employee shall be provided a written notice of the investigation containing a statement of

the factual allegations under investigation (date, time, and place, as available) and a copy of Board Policy 4.9, Section V. If additional allegations are subsequently raised or uncovered as part of the investigation, notice of the additional allegations shall be given to the employee with the same specificity as the original notice. Notice of additional allegations, if any, will be provided to the employee no less than 3 school days prior to the scheduled employee's interview by SIU.

5.10. All investigations shall be completed within sixty (60) school days from the date the employee receives the written notification of the initiation of the investigation unless an extension is granted by the Superintendent or designee. The Superintendent must be advised of the reasons if an investigation may go beyond the 60 school days. The Superintendent may approve such additional time as is reasonably necessary to conduct a full, fair and complete investigation. The employee shall be notified of the extension and the new anticipated date of completion.

5.11. All personnel (instructional and non-instructional) investigations shall remain confidential until the PSC makes its recommendation on probable cause.

5.12. The SIU investigator will make a reasonable and good faith effort to contact the parent, as defined in § 1000.21(5), Fla. Stat., to notify the parent prior to interviewing a minor as part of a personnel investigation. If extraordinary circumstances arise, the parent shall receive an explanation of such circumstances.

5.13. No presumption shall be made as to the validity of the allegations until the process has been completed. An employee shall have the right of representation during the course of the investigation. When this right is exercised, the employee must notify OPS/SIU in writing of such representation. Once written notification is received, all future notices will be provided to the employee and his/her representative. A request for an extension of time by the employee or his or her representative for any event related to the investigation may be grounds for an extension of the investigation period set forth in paragraph 5.10.

5.14. While the investigation is pending, the employee who is the subject of an investigation is prohibited from contacting the complainant or any witness in any manner, directly or indirectly, regarding the allegations or any issues related thereto, except and to the extent provided in paragraph 5.16. Doing so will be deemed an interference with or/and an obstruction to the investigation, including, but not limited to, tainting the testimony of the witness. This prohibition includes all communications whether by telephone, written or verbal, mail or electronic, or communications through third parties. A violation of this prohibition may be grounds for separate disciplinary action, including termination of employment.

5.15. Once the Investigative Report becomes available, the employee shall be provided a copy via U.S. Mail together, or by personal delivery, with a copy of all materials relating to the investigation redacted as required by law, including witness statements. The identity of the complainant and witnesses shall be released to the

employee except when such information is confidential or protected under federal or state laws or School Board Policy. Student identifiable information shall not be released except in compliance with the Family Educational Rights and Privacy Act (FERPA), applicable state statutes, and School Board Policies.

5.16. The employee shall be permitted twenty (20) school days after receipt of the Investigation Report, unless an extension is granted in writing by the Executive Director, to submit to the Executive Director a written response to the allegations and to the Investigative Report, if the employee so chooses, including additional information and documentation. During this twenty -day period, the employee may invite the complainant and/or witnesses, whose names were provided in compliance with state and federal laws, to contact him/her and/or his representative on a voluntary basis so that he or she may prepare said response. All interviews must be conducted in a professional manner. If an employee is going to invite a K-12 student victim or witness to provide a statement, the employee shall only contact a parent or guardian to make this request. If the parent or guardian refuses this request it will be considered final and no further attempts will be made. The employee will not make direct contact with a K-12 student. Any violation of this provision may be deemed an interference with or/and an obstruction to the investigation, including, but not limited to, tainting the testimony of the witness and may subject the employee to further disciplinary action.

5.17. The Executive Director may determine, with the approval of the Superintendent or designee that a supplemental investigation must be completed prior to the PSC meeting. If a supplemental investigation is conducted, the employee shall be provided with a copy of the supplemental investigation report and materials in the same manner as the initial investigation report.

5.18. Reassignment to an alternate location may occur, if appropriate under the particular circumstances of the case, at the discretion of the Superintendent or designee. The alternate assignment shall not exceed one hundred and twenty (120) school days unless the Superintendent approves an extension. If an extension is granted, the employee shall be notified of the reason(s) for the extension. When the provisions of §1012.796(5) are applicable, said provisions shall govern.

GUIDELINES FOR THE PROFESSIONAL STANDARDS COMMITTEE

5.19. The PSC shall be appointed by the Superintendent and shall submit its recommendations solely to the Superintendent or his designee. The individuals appointed shall be employees of the School Board. The PSC shall be composed of seven members and for each committee member an alternate member. Four members shall be appointed in even years and three members shall be appointed in odd years and any member may be removed at any time at the sole discretion of the Superintendent. In appointing PSC members and alternate members, the Superintendent, should consider the ethnic and professional diversity of its membership in addition to the candidate's qualifications to perform the functions of the PSC. The PSC's powers are limited to performing a managerial function under the direct supervision of the Office of the Superintendent of

Schools. The PSC has no subpoena powers and no powers to take sworn testimony or other evidence under the Florida Rules of Evidence, but may accept notarized affidavits.

5.20. Upon being appointed, PSC members and alternate members must sign an acknowledgement that the information they receive in the course of performing PSC functions is confidential and shall not be disclosed outside the PSC meetings. All PSC members and alternate members are required to attend an orientation session concerning their roles and duties as PSC members, the requirements of confidentiality, and the need to protect the integrity of the process and the reputation of all involved in the process.

5.21. The PSC meeting shall take place after completion of the procedures set forth in paragraphs 5.16 and 5.17 above. The employee shall be notified of the date, time, and location of the PSC meeting, and the employee may request a continuance, for good cause shown, no later than 48 hours prior to the scheduled meeting, except where such notice is precluded by an emergency.

5.22. At the PSC meeting, the employee, with or without representation, shall be allowed an opportunity, up to 20 minutes, unless additional time has been granted by the Executive Director prior to the meeting, to present his/her response to the allegations. The PSC meetings shall not be recorded.

5.23. All individuals, except the PSC membership and the Superintendent's legal representative, shall be excluded from the meeting so that the PSC may deliberate in private. The PSC deliberations shall not be recorded. The Executive Director will prepare a summary of the PSC recommendations as to probable cause whether or not the employee committed the act(s) in question as well as to the range of appropriate disciplinary action, if probable cause is found, and will share with the Superintendent the discussion at the PSC, including significant divergent views. The PSC may defer making a recommendation of any matter to a date certain pending receipt of additional information or documentation.

5.24. The Executive Director or designee shall provide written notice to the Superintendent of the PSC's recommendation, with a copy to the employee, within five (5) school days of the date the PSC meeting was held, provide the employee, as permitted by law, a true and complete copy of any materials relating to the investigation which were not previously provided.

5.25. If the recommendation is for probable cause, a pre-disciplinary conference shall be noticed to be held within 20 school days from the date of the PSC meeting. Said conference shall be recorded and a transcript will be available to the employee at his or her expense. Said notice shall include the allegation and the School Board Policy, rule, State Board Rule or regulation, and/or State Statute that he/she is alleged to have been violated. The employee and/or his representative has an opportunity to present reasons and submit additional information and documentation to the Executive Director, either in person or in writing, as to why the proposed recommended disciplinary action should not be imposed.

5.26. The Superintendent or designee shall have authority, at his/her discretion, to complete and/or bring to closure and final disposition any pending personnel investigation.

5.27. The procedural guidelines set forth in this Policy shall not confer any additional substantive rights on any employee. All subsequent proceedings are *de novo* proceedings based on the personnel action taken by the School Board.

Authority: 1001.41, Fla. Stat.

Laws Implemented: 1001.51(7) & (12)(b), 1012.27(5), 1012.31, 1012.33, 1012.796(1)(d) & (5), Fla. Stat.

Adopted: 5/1/01

Amended: 9/8/10