

SUSPENSION, DISMISSAL AND NONREEMPLOYMENT OF TEACHERS

I. Definitions and Scope:

“Teacher” means a duly certified or licensed person who is employed to serve as a counsellor, librarian, school nurse, or any instructional capacity. An administrator shall be considered a “teacher” only with regard to service in an instructional, nonadministrative capacity.

“Dismissal” means the discontinuance of the teaching service of a teacher during the term of a written contract.

“Nonreemployment” means the nonrenewal of a teacher’s contract upon expiration of the contract.

“Suspension” means the temporary discontinuance of a teacher’s services during the term of a contract pending dismissal or nonreemployment.

“Career Teacher” means a teacher who has completed three (3) or more consecutive complete school years in such capacity in the School District under a written teaching contract.

“Probationary Teacher” means a teacher who has completed fewer than three (3) consecutive school years in such capacity in the School District under a written teaching contract.

This policy does not apply to:

- Substitute Teachers
- Adult education teachers or instructors
- Teachers employed on a temporary contract
- Administrators, except with regard to service in an instructional, non-administrative position

This policy does apply to teachers employed in positions fully funded by federal or private categorical grants in regard to dismissals or suspensions during the term of employment under the grant, but not in regard to “nonreemployment” at the expiration of the grant.

II. Grounds for Dismissal or Nonreemployment

Cause:

1. A career teacher may be dismissed or not reemployed for:

- (a) Willful neglect of duty
- (b) Repeated negligence in performance of duty
- (c) Incompetency
- (d) Unsatisfactory teaching performance
- (e) Instructional ineffectiveness
- (f) Mental or physical abuse to a child
- (g) Any reason involving moral turpitude
- (h) Criminal sexual activity or sexual misconduct (as those terms are defined by law) which has impeded the effectiveness of the teacher’s performance of school duties
- (i) Failure to meet local board staff development requirements and
- (j) Any other grounds hereafter allowed by law.

2. A career or probationary teacher shall be dismissed or not reemployed for cause.
3. A probationary teacher may be dismissed or not reemployed for cause
4. A cause listed in 1. (a) – (e) for a career teacher, or any cause related to inadequate teaching performance for a probationary teacher, shall not be a basis for recommendation to dismiss or not reemploy a teacher unless corrective action procedures involving admonishment/plan for improvement have been followed. Dismissal or nonreemployment for any cause not listed in 1. (a) – (e) for a career teacher, or not related to inadequate teaching performance for a probationary teacher, shall not require corrective action procedures (i.e. admonishment) to be followed.

Corrective Action – Admonishment/Plan for Improvement

1. When the administrator who has evaluated a teacher pursuant to School District policy identifies poor performance or conduct that the administrator believes may lead to a recommendation for the teacher's dismissal or nonreemployment, the administrator shall:
 - (a) admonish the teacher, in writing, and make a reasonable effort to assist the teacher in correcting the poor performance or conduct; and
 - (b) establish a reasonable time for improvement, not to exceed two (2) months, taking into consideration the nature and gravity of the teacher's performance or conduct.
2. Whenever a member of the board of education, superintendent, or other administrator identifies poor performance or conduct that may lead to a recommendation for dismissal or nonreemployment of a teacher, the administrator who has the responsibility for evaluation of the teacher shall admonish the teacher within ten (10) days after being informed of the problem. If the administrator fails or refuses to admonish the teacher within ten (10) days after being so informed by the board, superintendent, or other administrator, such board, superintendent or other administrator shall admonish the teacher.
3. If the teacher does not correct the poor performance or conduct cited in the admonition within the time specified, the administrator (or other official) shall make a recommendation to the superintendent for the dismissal or nonreemployment of the teacher. The superintendent shall furnish a copy of the recommendation to the board of education.

III. Teacher Termination Procedures

In accordance with the policy of the board of education, the following procedures shall be followed in terminating the employment of career and probationary teachers.

Whenever the superintendent recommends to the board of education that a teacher employed within this school district be dismissed or not reemployed, the superintendent's written recommendation shall set forth the basis for the recommendation. The recommendation shall include the specific statutory grounds on which a career teacher should be dismissed or not reemployed, or the cause for which a probationary teacher should be dismissed or not reemployed, and shall include the underlying facts supporting the recommendation.

Whenever the board of education receives a recommendation for the dismissal or nonreemployment of a teacher, the board or individual designated by the board shall mail, or cause to be mailed, a copy of the recommendation to the teacher, by personal delivery to the

teacher with a signed acknowledgement of receipt, or serve the recommendation and notice of hearing by process server. If mailed, such mailing will be by certified mail, restricted delivery, return receipt requested. The notice must specify the statutory grounds – for career teachers – or the cause – for probationary teachers – upon which the recommendation is based and shall include the teacher’s right to a hearing before the board and the date, time, and place set by the board for hearing. Such hearing shall be held within the school district no sooner than twenty days or later than sixty days following the teacher’s receipt of notice. The board delegates the superintendent, as its agent, to set a time, date, and place for the hearing after consultation with the board president.

Hearing procedures for teachers shall be as follows:

1. The parties to the hearing are the teacher and the superintendent or designee, and shall be afforded the following rights at any hearing held pursuant to these regulations:
 - The right to be represented.
 - The right to present witnesses in person or to present their testimony by interrogatories, affidavits, or depositions if agreed to by the parties. A list of all witnesses and exhibits shall be furnished to the other party at least five (5) days before the hearing.
 - The right to cross-examine witnesses.
 - The right to testify in his/her own behalf and present evidence and argument on all issues involved.
 - The right to have an orderly hearing.
 - The right to have an impartial decision based upon the evidence presented.
2. The board president or, in case of absence, a designee, shall be the presiding officer at the hearing.
3. The hearing shall be convened by the board president. He shall state the purpose of the hearing, introduce the parties, and administer the oath to all persons who will testify.
4. Upon the request of either party, the presiding officer may exclude from the hearing room the witnesses not at the time under examination, except that a party to the proceeding and his/her representative shall not be excluded.
5. At the hearing, the burden of proof shall be on the superintendent and the standard of proof shall be by preponderance of the evidence.
6. The local board of education shall maintain such a record (including a tape or other electronic or digital recording of the hearing and any documents or evidence presented to the board) for two (2) years from the date of the hearing.
7. Informal disposition of any recommendation for dismissal or nonrenewal may be made by written stipulation, agreed settlement, consent order, or default.
8. The order of the procedures shall be:
 - a) Opening statement by the superintendent.

- b) Opening statement by the teacher
- c) Presentation of the superintendent's evidence, followed by cross-examination of witnesses by the teacher.
- d) Questions by the board members.
- e) Presentation of the teacher's evidence, followed by cross-examination of witnesses by the superintendent.
- f) Questions by the board members.
- g) Presentation of rebuttal and surrebuttal evidence as necessary.
- h) Closing argument by the superintendent.
- i) Closing argument by the teacher.
- j) Deliberation by the board members.
- k) Vote by the board to accept or reject the superintendent's recommendation and recitation of findings of fact upon which the decision is based.

9. Presentation and consideration of evidence shall abide by the following:

- a) Only evidence that reasonably relates to the issues before the board, as reflected in the notice to the teacher, should be deemed relevant.
- b) Strict rules of evidence as required by a court of law shall not apply in these hearings.
- c) Rulings on admissibility of evidence will be made by the presiding officer.
- d) Documentary evidence may be received in the form of copies or excerpts.
- e) Documentary evidence presented to the board shall be marked with a distinguishing number or letter such as Teacher's Exhibit #1 or Superintendent's Exhibit #1.
- f) While hearings are open to the public, no questions or statements will be allowed by members of the public attending the hearing except through the parties or their council.

The board of education may convene into executive session to deliberate findings of fact. After due consideration of the evidence and testimony presented at the hearing, the board of education shall vote in open meeting whether or not to dismiss or nonreemploy the teacher. The board's decision shall include a recitation of the basic or underlying facts relied upon by the board in reaching its decision. The teacher shall be notified in writing of the board's decision by certified mail, restricted delivery, return receipt requested, or substitute process as authorized by law within ten (10) business days of the hearing. The decision of the board regarding a teacher shall be final and nonappealable.

The board of education must forward hearing information concerning teachers to the State Board of Education on a prescribed form available from the administrative office.