

POLICY REGARDING THE SUSPENSION, DEMOTION,
TERMINATION OR NONREEMPLOYMENT OF SUPPORT EMPLOYEES

The purpose of this policy is to define the causes and procedures for certain disciplinary and employment actions affecting support employees of the District as required by law and as defined herein.

I. Definitions:

- a) "Support employee" means an employee of the District who provides those services, not performed by professional educators or licensed teachers, which are necessary for the efficient and satisfactory functioning of the District.
- b) "Full-time support employee" means a support employee who regularly works the standard period of labor which is generally understood to constitute full-time employment for the type of services performed by the employee and is employed by the District for a minimum of 172 days per year.
- c) "Suspension without pay" or "disciplinary suspension" means the temporary denial of a support employee's right to work and receive any pay and other benefits during the term of the suspension. This type of suspension is disciplinary in nature.
- d) "Suspension with pay" means when a support employee is relieved of their duties without any loss of pay or benefits pending a hearing before the Disciplinary Suspension, Demotion, Termination or Nonrenewal Review Committee ("Review Committee") or pending an investigation of alleged employee misconduct.
- e) "Demotion" means a reduction in pay during the term of a support employee's contract. "Demotion" does not include a change in job description or work assignment or duties that is not accompanied by a reduction in pay.
- f) "Termination" means the discharge of a support employee from his or her employment with the District during the term of his or her contract and does not include the cessation of employment upon expiration of the support employee's contract.
- g) "Nonreemployment" means the failure to offer a support employee a new contract for the next successive school year after the contract under which the support employee is presently employed has expired.

II. Procedures and Rights of Full Time Support Employees Employed by the District For More Than One Year

A. Disciplinary Suspension, Demotion, Termination, or Nonreemployment: A full-time support employee (an employee who has a contract of at least 172 days) who has been employed by the District for more than one year shall be suspended without pay, demoted, terminated or nonreemployed during the term of their contract only for cause as defined herein. Employment with the district for more than one year means that the employee has been employed by the district for more than twelve of the preceding months without a break in employment except those breaks caused by the natural term of the contract. For example, a bus driver who is subject to a 172-day contract who began their employment with the district 13 months ago would be considered as having worked more than a year; but an employee on a 12-month contract who began their employment with the district exactly 12 months ago would not qualify. An employee who resigned or was dismissed from work during the last twelve months may not add windows of employment together from prior years to qualify as having worked more than one year.

B. "Cause" is defined as any of the following:

1. Violation of any policy, rule, regulation or requirement issued by the Superintendent, or the Board of Education, or negotiated as a discipline rule pursuant to a collective bargaining agreement; or
2. Conduct not otherwise specified in the above policies, rules, regulations or requirements, which constitutes insubordination, neglect of duty, incompetency in job performance, dishonesty, or causing or allowing damage, destruction or theft of school property; or
3. Lack of funds or lack of work.

C. Procedures for Disciplinary Suspension, Terminations and Demotions.

1. Any full-time support employee employed by the District for more than one year is subject to disciplinary action in the form of a disciplinary suspension, demotion or termination only for cause as defined herein.
2. To determine whether cause exists, the supervisor or other designated member of management may rely upon all available evidence, including but not limited to statements and reports from other supervisors, coworkers, students and patrons. An investigation may also be conducted by district-level investigators if deemed appropriate by the supervisor or other designated member of management, and the employee may be placed on a suspension with pay pending such an investigation. If the support employee is placed on paid suspension pending an investigation as to whether discipline is appropriate, the time to complete the investigation shall not exceed ten (10) working days barring the agreement of the District and the Support Employee.

3. If the supervisor or designated member of management determines there is no reasonable basis to believe cause exists, the support employee's paid suspension pending investigation, if applicable, shall be lifted and the support employee will be returned to work.
4. Before any conclusion may be made that there is cause for discipline, the support employee's supervisor or other designated member of management shall orally notify the support employee of the reasons for the possible disciplinary action and the evidence against the support employee. The support employee shall be allowed an opportunity to present their side of the matter.
5. If a support employee's supervisor or other designated member of management concludes that the employee should be recommended for demotion, termination or disciplinary suspension because there is a reason to believe that cause exists they must inform the support employee of the following in writing:
 - a) the discipline that is being recommended (unpaid suspension, demotion or termination);
 - b) the conduct of the support employee supporting a finding of cause, including, if applicable, any provision of the Collective Bargaining Agreement the support employee has violated;
 - c) the support employee's right to a hearing before the Review Committee (as described below), if the employee desires such a hearing;
 - d) failure of the employee to respond to such notice and request a Review Committee hearing within five calendar days from the date of mailing shall be considered a waiver of the employee's right to a Review Committee hearing;
 - e) the rights of the support employee at the Review Committee hearing, including the right to be present in person;
 - f) the right to be represented by a person of the support employee's choice;
 - g) the right to make any statement or present any material on behalf of the support employee and the right to question those persons who present statements in support of the recommendation;
 - h) the notice will also state the name or names of the persons who will present the recommendation;
 - i) whether the support employee is being suspended (with pay and benefits) pending the hearing; and
 - j) that the support employee's pay and other benefits will cease effective on the date of the hearing if the Review Committee approves a recommendation for termination.
6. Because of the obligation to provide the employee with written notice of their rights, it shall be the responsibility of all support employees to see that the District's personnel department has the support employee's current mailing address and telephone number at all times.

7. Pending any hearing before the Review Committee requested by the employee, the supervisor may suspend the support employee, and any such suspension shall be with pay; except that if a termination recommendation is made, the support employee must be suspended, and such suspension shall also be with pay.
8. If the District's executive officer leading personnel matters ("Chief of Talent Management"), or their designee, receives a timely notice from the support employee or the support employee's supervisor that the support employee desires a Review Committee hearing, the Chief of Talent Management/designee shall notify the support employee in writing of the date, time and place of the support employee's hearing before the Review Committee. The notice will ordinarily be sent by certified mail, return receipt; however, in special circumstances, the notice of the hearing may be given by personal delivery of the notice to the support employee or by telephone or by e-mail. The Review Committee hearing will be held not less than 48 hours, and not more than 10 calendar days after the hearing notice is mailed or otherwise communicated to the support employee. However, in special circumstances, the Chief of Talent Management may extend the 10-day period.
9. If a hearing is requested, the Chief of Talent Management/designee shall appoint a Review Committee consisting of three (3) District employees. These individuals shall be selected from the district's pool of district office employees in good standing who have District experience in a leadership role. The creation of the pool of employees shall be created by nomination (by others or by self-nomination) to the Chief of Talent Management. The Chief of Talent Management shall provide annual notice to district office employees of the opportunity to nominate an employee to the pool, but nominations may be made at any time. Before any individual on the pool serves on the Committee, they will have received training in the procedures and expectations of the Review Committee Process. No person who is employed in the same department as the support employee whose case is being considered by the Review Committee shall serve on the Review Committee for that hearing.
10. The hearing shall be tape recorded and the support employee shall have the right to tape record the hearing if the support employee so desires. The hearing will be conducted on an informal basis. At the conclusion of the hearing, the Review Committee will meet in private to consider and make a determination based upon the evidence using a majority voting process. The Review Committee will then communicate its decision to the support employee and those individuals attending the Review Committee hearing. The decision may be to approve, reject or modify the recommendation. Failure of the support employee to appear at the Review Committee hearing shall automatically result in its approval of the recommendation.
11. A virtual hearing before the Review Committee may occur upon agreement of the parties if there is a demonstrated need for social distancing.

12. If the Review Committee approves the recommendation, the support employee will be advised in writing that the recommendation will be submitted to the Board of Education and that the support employee has a right to request a due process hearing before the Board of Education ("Board Hearing") as described in this policy. If the Review Committee rejects or modifies the recommendation, the support employee will be formally advised in writing of the decision and whether, pursuant to state law, the Board will hear the matter at the recommendation of the Superintendent as described in this policy.

D. Procedures for Nonreemployment.

Prior to being nonreemployed, any full-time support employee employed by the District for more than one year shall be entitled to the following hearing rights:

1. The Board of Education or the Superintendent or his or her designee shall advise the support employee, in writing, of the Board's intention to consider and act on the nonreemployment of the support employee for the subsequent fiscal year.
2. The written notification shall set out the cause that exists for such action.
3. The support employee shall have the right to contest his or her nonreemployment before the Board of Education as set forth below, regarding requests for Board Hearings and the procedures for Board Hearings, respectively.
4. Because of the obligation to provide the employee with written notice of their rights, it shall be the responsibility of all support employees to see that the District's personnel department has the support employee's current mailing address and telephone number at all times.

E. Requests for Board Hearings

1. A full-time support employee employed by the District for more than one year shall have the right to a hearing before the Board of Education to contest a disciplinary suspension, a demotion, termination, or nonreemployment.
2. Prior to any disciplinary suspension, demotion, termination, or nonreemployment, the support employee shall receive notice of his or her right to a Board Hearing.
3. A support employee who has been notified in writing of their disciplinary suspension, demotion, or termination during the term of his or her contract or nonreemployment may notify the Clerk of the Board of Education of the District within ten (10) working days of the postmark on the notice if the support employee desires a hearing before the Board of Education. If the support employee fails to notify the Clerk of the Board of Education of the District in writing within ten (10)

working days of the postmark on the notice that the support employee requests a hearing, the support employee shall be deemed to have waived the right to a hearing and the disciplinary suspension, demotion or termination action shall be final and, in the case of a nonreemployment, the board of Education may take final action to non-reemploy the support employee without further notice or hearing rights.

4. When an employee has requested a Board Hearing, the support employee will be advised in writing by certified mail of the date, time and place of the meeting of the Board of Education at which the recommendation will be considered and informed that the support employee has a right to be present at the meeting and to have the Board Hearing prior to the Board's vote on the recommendation. The hearing may take place at a virtual meeting upon the agreement of the parties if there is a demonstrated need for social distancing.
5. Pursuant to state law, the Board is the final decisionmaker on all disciplinary suspensions, demotions and terminations. Because state law does not allow the Board to delegate this authority, the Board has the obligation to receive a recommendation from the superintendent in the unusual event the superintendent wishes to appeal a decision of a Review Committee concerning a disciplinary suspension, demotion or termination. In such cases, the request from the Superintendent for the Board hearing must occur within five (5) working days of the Review Committee's decision, and the employee will have all rights provided to employees requesting a hearing before the Board. The Review Committee's decision shall stand until the Board conducts the hearing and issues its decision. However, upon notice to the Clerk and the support employee of the Superintendent's request for a Board Hearing concerning a proposed dismissal, the employee may be placed on paid leave (not a paid suspension) pending the Board Hearing.
6. All notices shall be sent to the support employee by certified mail at the address of the support employee shown on the school records, which the support employee has the obligation to keep updated. If the support employee refuses to accept the notice or fails or refuses to pick up the notice after being notified by the post office to do so, then the support employees shall be deemed to have received the notice on the date that the notice was postmarked. The postmark shall be used to determine the timeliness of the notice.

F. Board Hearing Procedures

1. There is no right to a Board Hearing if the notice requirements described above are not met.
2. The hearing shall be conducted at the next, or next succeeding, regularly scheduled meeting of the Board of Education if the request for the hearing was received at least ten (10) days prior to the next, or next succeeding, regularly

scheduled Board of Education meeting. At the request of the support employee or at the discretion of the Board of Education, the Board of Education shall call a special meeting to conduct the requested hearing, which special meeting shall be held no earlier than ten (10) days nor later than thirty (30) days after receipt of the support employee's request.

3. At the hearing before the Board of Education, the support employee shall be entitled to be represented by counsel, to cross-examine witnesses presented by the District, to present witnesses on his/her behalf and to present any relevant evidence or statement which the support employee desires to offer. The hearing shall be conducted in "open" session. The hearing shall commence with a statement to the support employee of his or her rights at the hearing. Following this statement, the school administration shall present facts showing the cause for the Support Employee's disciplinary suspension, demotion, termination, or nonreemployment. The burden of proof, which shall be placed on the school administration, is a preponderance of the evidence standard. The support employee shall then have the right to present his or her side of the matter. After both the school administration and the support employee have fully presented their respective positions, the Board of Education shall deliberate on the evidence in executive session. The Board of Education shall announce its findings and decision immediately in open session by individual voice vote. The decision shall be made by a majority of the Board of Education members present at the meeting.
4. As to disciplinary suspension, demotion or termination, the Board of Education may affirm, modify or reverse the action taken against the support employee, including increasing or decreasing the severity of the original action. As to nonreemployment, the Board of Education may reemploy or nonreemploy the support employee for the subsequent fiscal year.
5. The decision of the Board of Education regarding the support employee's disciplinary suspension, demotion or termination shall be effective as of the date of the Review Committee hearing. The decision shall be final and non-appealable.

III. Procedures and Rights of (a) Full Time Support Employees Employed by the District For Less Than One Year, and (b) Non-Full Time Support Employees.

- A. A full-time support employee who has not been employed by the District for at least one year (12 consecutive months), or any support employee who is not a full-time employee, may be suspended without pay, demoted, terminated or nonreemployed at any time, with or without cause.
- B. Before any suspension without pay, demotion, termination or nonreemployment, these employees will be provided the hearing rights described in Section II(C)(4) only and are not otherwise entitled to invoke the procedures of this policy. In addition, nothing in this policy is intended to limit the District's ability to suspend any such

employee without pay pending completion of an investigation of employee misconduct or any determination regarding the employee's discipline.

IV. Miscellaneous.

- A. This policy shall be effective immediately upon adoption by the Board of Education and shall supersede all previous policies and regulations regarding the subject matter contained herein. The Board of Education reserves the right to modify or amend this policy from time to time in any manner consistent with applicable law.
- B. The policy shall be posted on the District's website. In addition, hard copies of this policy shall be available in the primary administrative office of each school/district site and in the district's talent management (personnel) office. The district's talent management staff shall referenece this policy during the onboarding process for new employees and make new employees aware of where they may access the policy in both hard and digital copy. The policies, rules, regulations and requirements, which may be revised from time to time, shall state that violation of the policies, rules, regulations and requirements may result in suspension without pay, demotion, termination or nonreemployment during the term of his or her contract.
- C. Nothing contained in this policy shall prevent the Board of Education from acting on its own volition in matters pertaining to suspension with or without pay, demotion, dismissal or nonreemployment of support employees.
- D. An employee who may be subject to the discipline described in this policy will also be given all due process rights pursuant to existing and applicable District personnel policies, collective bargaining agreements and procedures established by the Board policy, state and federal laws.

Date: February 24, 1986
Revised: January 14, 1987
November 14, 1994
August 21, 2006