

CLASSIFIED PERSONNEL: SUSPENSION AND DISMISSAL

Policy Code:

7940

Classified positions (i.e., those that do not require an instructional or administrative license) are critical to the effective operation of the school system. The board encourages open communication between classified employees and their supervisors. When performance problems arise, supervisors are encouraged to communicate clearly in oral or written form the nature of the deficiencies and to provide a reasonable opportunity to improve. Any written notices or reprimands will be included in the employee's central office personnel file. All employees are expected to meet job requirements and to seek clarification and guidance when needed to fulfill these requirements.

A. SUSPENSION

The superintendent or designee may suspend an employee without pay as a disciplinary sanction. The superintendent shall provide written notice of the suspension without pay to the employee. This notice will be placed in the personnel file. The suspension without pay may begin immediately. An employee has 10 calendar days from the date of receiving written notice of the superintendent's decision to take the following actions: (1) request written notice of the reason(s) for the superintendent's decision and (2) request an appeal before the board of education regarding the decision to suspend without pay. If notice of the reason(s) for the suspension is requested, such notice must be provided prior to any board hearing on the decision. If an appeal is not made within this time, an appeal is deemed to be waived. An employee may appeal a suspension on the grounds that there was no rational basis for the suspension; the suspension was discriminatory, was used for harassment, or was otherwise unlawful; or board policies were not followed.

Upon receiving a request for an appeal, the chairperson may designate a panel of three board members to review the decision. The chairperson of the board or the panel may establish rules for an orderly and efficient hearing. The employee will be notified in writing of the decision of the board to uphold, reverse, or modify the superintendent's decision. An employee will receive back pay for any period of suspension without pay that is not upheld by the board.

B. TERMINATION

As "at will" employees who lack contract or statutory rights in their employment, employees in classified positions may be terminated on any basis that is not discriminatory or otherwise unlawful, including inadequate performance, misconduct, failure to follow board policies, or a reduction in staff. All terminations to reduce staff will be in accordance with policy 7921, Classified Personnel Reduction. All other terminations will be made pursuant to this policy. The superintendent has the authority to terminate at-will employees. The superintendent should provide written notice to the employee and the board of the decision to terminate. An employee has 15 calendar days from the date of receiving notice of the superintendent's decision to take the following actions: (1) request

written notice of the reason(s) for the superintendent's decision and (2) request an appeal of the decision to the board of education. If notice of the reason(s) for the termination is requested, such notice must be provided prior to any board hearing on the termination. The termination is effective during the period of appeal.

Upon receiving a request to appeal the superintendent's decision to terminate, the chairperson may appoint a panel of three board members to review the decision. The employee has the burden of establishing that the termination was based on illegal discrimination or was otherwise unlawful. The superintendent may offer evidence to substantiate that the dismissal was for a reason that is not unlawful, such as prior warnings or remedial efforts.

The hearing procedures established in policy 2500, Hearings Before the Board, will be followed. The chairperson will provide written notice of the decision to the employee and the superintendent as soon as practicable after reaching a decision. The board may uphold the superintendent's decision or reinstate the employee for any reason it deems proper, so long as the board's reason is not discriminatory or otherwise unlawful.

Any employee who has been dismissed for cause will be ineligible for reemployment.

Upon inquiry from a North Carolina local board of education, charter school, or regional school as to the reason for an employee's dismissal, the superintendent or designee shall indicate if the employee's criminal history was relevant to the dismissal.

This policy is not intended to create any property rights or an implied or express contract between the board and the employee other than what is provided by law.

Legal References: 29 U.S.C. 621 *et seq.*; 29 U.S.C. 794 *et seq.*; 42 U.S.C. 1981; 42 U.S.C. 12101; G.S. 115C-45(c), -47, -332

Cross References: Hearings Before the Board (policy 2500), Classified Personnel Reduction (policy 7921), Annual Independent Audit (policy 8310)

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