

Book	Administrative Guidelines
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3139 - **EMPLOYEE DISCIPLINE**

PURPOSE AND SCOPE

The purpose of these guidelines and procedures for investigation and implementation of employee disciplinary matters is to assist administrators in making a determination of whether employee discipline is warranted and, if so, in arriving at a proper disciplinary response.

It is not the intent of these guidelines and procedures to confer a "just cause" or any standard of employment security upon an individual who does not otherwise have such a standard established by the written terms of their individual contract, a collective bargaining agreement covering the position to which they are assigned, or as otherwise explicitly provided by statute. The existence of or application of the disciplinary procedures or standards outlined in these guidelines and procedures shall not constitute an employment contract or furnish any promise or representation of job security to any employee.

Disciplinary procedures and measures will be applied in conformance with the terms and procedures contained in any collective bargaining agreement covering an individual employee. If there is a conflict between these guidelines and procedures and the terms of a collective bargaining agreement applicable to an employee, the terms of the collective bargaining agreement shall be controlling to the extent of the conflict. Nothing in these guidelines and procedures is intended to limit the access of an employee to any grievance procedure or other process set forth in a collective bargaining agreement covering that employee.

Finally, the procedures and standards expressed here are pertinent to employee offenses, infractions and misconduct and are not applicable to circumstances where it becomes necessary to remediate employee performance deficiencies of a non-disciplinary character.

PROCEDURAL DUE PROCESS

A. Notice of Behavioral Expectations

In the educational experiences presented to children, differences in personality, techniques, methodology and interpersonal relationships between and among staff members are often desirable factors. However, when such differences give rise to patterns of unacceptable behavior or conduct by staff members, the Berrien Springs Public Schools is obligated to attempt to modify such behavior. This can be accomplished through the use of corrective procedures which are designed to change such behavior. The primary objective of such a program is to promote and maintain a maximum level of acceptable behavior by all staff members with the ultimate goal being the establishment of the best possible learning environment for all students.

Administrators and supervisors can more readily identify unacceptable staff behavior through the use of progressively stricter corrective measures. This process enables administrators and supervisors to assist staff members in correcting their conduct or behavior. Consequently, corrective discipline becomes a tool to be used by administrators and supervisors to achieve and maintain the highest degree of conduct possible. Such a program also serves to encourage staff members as individuals and as a staff to maintain the high level of conduct that is expected of them.

In assessing whether or not an employee is on notice of behavioral expectations, an administrator should consider: the applicability of the Board's policies, guidelines and regulations; any specific conduct expectations previously communicated to the employee; and the existence of employee behavior which would be sufficiently severe or inherently improper so that an employee would be expected to understand that the conduct in question is improper and punishable, without the benefit of a formally communicated conduct expectation.

B. Disciplinary Investigation and Procedures

Disciplinary investigations are required whenever there is a report or other reasonable basis to suspect that the involved employee has engaged in an offense, infraction or misconduct which could result in disciplinary consequences. An administrator will investigate the nature of the alleged violation, those involved, and other relevant background information. The investigation must be both prompt and comprehensive. The investigation should include discussions with witnesses to the event(s) upon which possible discipline of the employee is premised, including witnesses or other sources suggested by the employee suspected of misconduct. The employee who is the subject of the allegations must also be provided with an opportunity to respond to the allegations as part of the investigation process. As the scale of potential disciplinary measures increases, the administrator performing the investigation may, in the administration's discretion, not be the same individual ultimately deciding upon a particular disciplinary measure.

The following procedures will be used for disciplinary actions up to and including dismissal:

1. Written notice of the charges which form the basis for disciplinary action will be given to the employee and, if requested by the employee, to the employee's designated union representative.
2. The employee shall be notified that a meeting will be commenced at a designated date, time and location in order to administer the proposed discipline. The employee will be supplied an explanation of the evidence forming the basis for the charges and proposed disciplinary action.
3. The employee will be provided with an opportunity to respond to the charges and may, at the employee's option, present reasons, either personally, and/or in writing, why the proposed disciplinary action should or should not be taken. This shall include the right of the employee to dispute the factual basis for a proposed disciplinary action and/or the degree of the particular disciplinary penalty to be imposed.

Employees represented by exclusive bargaining agents under the Public Employment Relations Act shall be entitled to union representation at any meeting or investigatory interview at which the employee reasonably believes disciplinary action may result. Non-represented employees shall, upon their request, be entitled to have another District employee accompany them to any investigative meeting which the employee under investigation is required to attend where the employee reasonably believes that the investigation may result in his/her being disciplined.

The Superintendent/Designee is authorized to suspend an employee, with or without pay, pending the completion of a disciplinary investigation of the alleged or suspected offense, infraction or misconduct. This authority shall be exercised in those circumstances where, in the judgment of the Superintendent/Designee, the nature of the charges, the behavior or record of the employee, or other circumstances make it inadvisable for the employee to remain at work while the investigation is ongoing. Suspension from duty under this provision with pay shall not be regarded as, in itself, a disciplinary measure or penalty.

In cases involving a disciplinary suspension, demotion or discharge in which the employee contests the assessment of such discipline, the employee will be given an opportunity for a hearing before the Board of Education to review the propriety of the discipline assessed.

To obtain such a hearing, the employee must provide the Superintendent with a written request identifying the nature of the discipline assessed (or attaching a copy of the disciplinary action to the written request). The employee must also identify the reasons the employee believes that the disciplinary action is unwarranted or should otherwise be reviewed by the Board. If the employee requests that the Board hearing be held in closed session under the Open Meetings Act, the employee must so state.

Within five (5) days of receipt of the employee's request, the Board shall schedule a hearing which shall be held within thirty (30) days of the date of the employee's request. The Superintendent or designee shall provide written notice to the employee of the date, time, and location of the hearing. After the hearing is concluded, the Board will issue its decision within fifteen (15) days of the date of the hearing. The Board's decision shall be final, unless the employee is covered by a collective bargaining agreement which creates additional appeal procedures.

DISCIPLINE

If an investigation of employee behavior results in a determination that the employee has engaged in an offense, infraction or misconduct warranting discipline, the administrator should consider the factors listed below before deciding to either impose or recommend a specific disciplinary penalty.

Although discipline may be viewed as having a punitive aspect, other significant purposes of discipline are to implement a method of assisting personnel to maintain proper conduct through the correction of deficient behavior, to provide notice to the employee of behavioral expectations, and to inform the employee of the consequences of future offenses, infractions or misconduct.

Disciplinary action should be assessed for violations of work rules and expected standards of employee behavior, misconduct, incompetency, neglect of duty, insubordination, violation of District policies or other reasons or acts or omissions for which public employers customarily assess discipline.

Prior to deciding upon a particular measure of discipline, the administrator should review and consider:

- A. The adequacy of all the evidence gathered through investigation to support the need for a disciplinary response;
- B. How employees engaging in similar or like offenses, infractions or misconduct have been disciplined in past comparable circumstances involving similarly situated employees;
- C. The employee's disciplinary record;
- D. The seriousness of the offense, infraction or misconduct;
- E. The existence of other aggravating or mitigating factors; and
- F. The "status" of the individual's employment relationship with the District (e.g. whether the employee covered by a collective bargaining agreement, individual contract or other statute which specifies a particular level of job security and/or a particular standard for assessing discipline).

The existence of a progressive disciplinary process must not be regarded as a restriction upon the right of the Berrien Springs Public Schools to terminate or suspend an employee where in the assessment of the administration, such action is warranted. The District reserves the right to apply or institute whatever disciplinary sanction it deems appropriate, at any time, or in any sequence.

Nothing shall prevent the administration or superintendent from issuing to an employee a notification of concern which instructs employees concerning requirements of performance and/or conduct. A notification of concern shall not be considered as constituting disciplinary action nor shall it be required as a prerequisite to disciplinary action.

Types of discipline imposed by the administration or superintendent may include:

A. Oral Warning

An undocumented oral warning from the supervisor will be specific to the subject offense. The verbal warning is designed to put the employee on notice that a behavior is unacceptable or otherwise constitutes grounds for discipline. In such cases, the supervisor is not required to notify the Superintendent/Designee.

B. Documented Oral Warning

An oral warning, documented and noted as a lower level of discipline (less than a written reprimand), is given to the employee and placed in the employee's personnel file. A documented oral warning shall include a description of the offense; the corrective behavior expected; the consequences of the continued behavior; and the date and time the warning was delivered by the supervisor.

C. Written Reprimand

A formal disciplinary document addressed to the employee, with a copy to the employee's personnel file, lists the offense, infraction or misconduct, a chronology of the occurrences of any prior conduct of a similar nature, the results of an investigation of the events, the conclusions drawn, and the consequences of the continued behavior.

D. Suspension

Suspension, with or without pay, may be used in cases where the employee engages in repeated, serious, and/or aggravated misconduct or other offenses or infractions warranting suspension but not discharge. The length of suspension imposed will be determined by the Superintendent/Designee. The suspension will be confirmed in writing, with a copy to the employee's personnel file.

E. Discharge

Discharge may be imposed as an initial disciplinary measure for serious misconduct or for a pattern of misconduct by the employee or other offense or infraction warranting discharge. Depending upon the "status" of the employee (i.e. contractual or statutory discharge standards), the decision to terminate may be made by the Superintendent/Designee or the Board of Education. Discharge will be confirmed in writing, with a copy to the employee's personnel file.

