Washington County School District
121 West Tabernacle Street
Saint George, Utah 84770
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District Policy 1450

Discipline and Termination, and Non-renewal of Contract

Performance Management Washington County School District-Revised 9-12-00; Revised 8-9-11; Revised 1-10-17; Revised 4-11-17; Revised 9-12-17, Revised 12-12-17; Revised 6-18-19.

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1. Purpose:

The purpose and intent of the policies stated herein are to:

1.1. Promote and maintain a high level of acceptable behavior on the part of all employees, with the ultimate goal of creating the most productive working climate for employees and the best possible learning environment for students.

1.2. Correct remediable or substandard performance on the part of employees and, in those instances where such conduct is irremediable, pursue steps required for the orderly dismissal of such employee.

1.3. Provide a meaningful level of communication with employees by which employees will know what is expected of them, to provide remediation where possible in those cases where it is needed, and to provide a process for discipline and discharge where that becomes necessary.

1.4. Assure consistent application of rules, notifications of substandard work and ways it can be corrected, careful investigation of facts, open dialogue to give both sides an opportunity to state respective positions, and provide a level of discipline that is consistent with the level of the alleged infraction.

2. Policy:

The Board of Education retains its right to discipline or terminate the employment of any employee at any time for any of the causes set forth below. With the exception of substitute, at-will, and temporary employees, these policies apply to all employees of the District, including certified, classified, and administrative personnel, and apply to all job-related activities of such employees. When hand delivered, employees must acknowledge receipt of any disciplinary action. An acknowledgement of receipt signature is not an admission of wrongdoing or guilt or a waiver of any applicable due process entitlement. Administrators issuing a disciplinary action will inform the employee that failure or refusal to

acknowledge receipt of a disciplinary action will be regarded as insubordination and may result in termination of employment.

3. Procedure:

3.1. Bases for Disciplinary Action. The following acts or omissions by an employee in the scope of employment shall constitute grounds for disciplinary action up to and including dismissal from employment:

3.1.1. Insubordination, including, but not limited to, willfully disobeying or disregarding a legitimate administrative assignment, directive or policy. Insubordination is demonstrated when:

- a direct order was issued to an employee;
- the employee received and understood the order; and,
- the employee refused to obey the order through an explicit statement of refusal or through nonperformance.

Abusive language by employees toward supervisors, administrators and others may also be considered insubordination. Abusive language insubordination occurs when the employee:

- was not provoked by the supervisor;
- uses abusive language in the presence of other employees, staff, students, or patrons; and,
- uses language that is regarded as unacceptable in the school or work environment.

3.1.2. Unprofessional job-related conduct.

3.1.3. Incompetence or inefficiency in the performance of duties.

3.1.4. Corporal punishment of students.

3.1.5. Improper conduct toward students and other employees.

3.1.6. Conduct in violation of any District policy or established expectation of performance.

3.1.7. Reason to believe an employee has committed a misdemeanor or felony violation of the law related to the employee's employment, or which impairs the employee's ability to perform his or her assigned duties.

3.1.8. Misconduct related to the employee's job.

3.1.9. Abuse of the District's sick leave policy.

3.1.10. Excessive tardiness.

3.1.11. Excessive absenteeism.

3.1.12. Unexcused absences from work.

3.1.13. Negligence or carelessness in the performance of duties.

3.1.14. Use of District property for personal gain.

3.1.15. Failure to comply with any specific practice or procedure or disregard for any prohibited practice as set forth in District Policy, such as District Policy for Employee Reporting of Arrests, Pay Policy, Employee Leave, Drug Free Workplace, Sexual Harassment, Workplace Violence, Safety Compliance, Accident Reporting, Non-discrimination, Technology Acceptable Use Policy, Bullying and Hazing, Finance and Accounting Manual, Purchasing and Advertising Policy, etc.

3.1.16. Disregard, damage or destruction of District property, supplies or equipment.

3.1.17. Dishonesty or falsification of any information involving the District, including grades, credits, data on forms, employee records, or any other information involving the District.

3.1.18. Possession of alcohol or other intoxicants or illegal narcotics, or other controlled substances without prescription on school property or at any school function.

3.1.19. The use of or being under the influence of alcohol or other intoxicants or illegal narcotics, or other controlled substances on school property or at any school function to include the use of lawfully issued prescription medications that render the employee incapable of performing his or her essential job duties after the employee received a warning from a previous incapacitation event.

3.1.20. Conduct that exposes the District to censure, ridicule, or reproach.

3.1.21. Verbal and/or physical fighting on school premises or at any school-related activities.

3.1.22. Falsification of records, statements, assurances, or data.

3.1.23. Where the District has reason to believe the employee has engaged in conduct that amounts to a sexual offence or criminal act of a sexual nature.

3.1.24. Violation of any other generally accepted standard of conduct applicable to District employment.

3.1.25. Using information classified as private or protected under the Utah Government Records Access and Management Act (GRAMA) or the Family Educational Rights and Privacy Act (FERPA) for personal use. This information includes but is not limited to records obtained through a criminal background check, information or data from employee or student records, employee or student medical records, social security numbers, employment records disclosing personal address, home phone number, social security numbers, date of birth, etc.

3.1.26. Violation by an employee to include a teacher, classified employee, or administrator, of any relevant part of the Utah Educator Professional Standards as contained in Utah Administrative Rule R277-217, to include the following:

• Befriending and establishing an emotional connection with a student (of any age attending school) or any minor or the student's family or interacting privately with the student or minor through social media, computer, or handheld devices to encourage or lower the individuals inhibitions for emotional, physical, or sexual conduct; or

• Soliciting, encouraging, or consummating an inappropriate relationship, whether written, verbal, or physical, with a student or minor; or

• Providing a student or allowing a student to consume an alcoholic beverage or unauthorized drug; or

• Participating in or allowing sexual, physical, or emotional harassment towards any student or colleague; or

• Withholding accurate and complete information from an appropriate authority regarding known misconduct that could adversely impact performance of a responsibility, including a role model responsibility, by himself or herself, or another; or

• Failing to provide complete and accurate information during an official inquiry or investigation by the District, state, or law administration.

3.1.27. Engaging in bullying conduct that includes intentionally committing a written, verbal, or physical act against a school employee or student that a reasonable person under the circumstances should know or reasonably foresee will have the effect of:

• causing physical or emotional harm to the school employee or student;

• causing damage to the school employee's or student's property;

• placing the school employee or student in reasonable fear of harm to the school employee's or student's physical or emotional well-being; or

• creating a hostile, threatening, humiliating, or abusive educational or work environment due to: the pervasiveness, persistence, or severity of the actions.

3.2. Investigations and Paid Administrative Leave: A principal, administrator, or supervisor may place a District employee on paid administrative leave if s/he, after consulting with the Director of Human Resources, has reason to believe it would be in the best interest of the District for the employee to be absent from his or her employment for the time needed to conduct a timely investigation of alleged misconduct. Written notice placing an employee on paid administrative leave shall outline the terms and conditions of such leave and may be served by personal delivery, email under the provisions of paragraph 3.4, or by US post-delivery addressed to the individuals last-known address as shown on the records of the District. If the investigation reveals no wrong doing on the part of the employee, no record of such paid administrative leave will be placed in the employee's file.

3.3. Persons Authorized to Initiate and Carry Out Disciplinary Actions.

3.3.1. Verbal and written warnings may be issued by the Board of Education, the Superintendent, or any principal, supervisor, administrator, or other supervisory personnel

relative to employees under their jurisdiction.

3.3.2. Suspensions with and without pay, final warnings, probation, and dismissal may be administered only by the Superintendent and the Board of Education.

3.4. Communication of Rules.

3.4.1. Each employee at the time of employment will receive notice directing them to the location of the then current District policies and procedures.

3.4.2. When new or revised rules, regulations, or policies are adopted the new or revised policy will be disseminated through the District "All" email list service. Unless an employee has notified their direct administrator or supervisor in advance that s/he is unable to obtain an email account or receive email communications AND obtained the administrator's or supervisor's written approval for an exception to this requirement, all employees must establish, identify, and utilize an email account to receive and review administrative and policy notifications. Employees are required to monitor their established email inbox and update their email address as necessary for receipt of this information. Supervisors or administrators who approve exceptions to the establishment of an email account are required to maintain a list of approved exceptions and disseminate communications to those individuals using an alternative method.

3.5. Forms of Discipline.

3.5.1. Verbal warnings.

3.5.2. Written warnings.

3.5.3. Probation and final warning.

3.5.4. Suspension without pay.

3.5.5. Dismissal.

3.6. Processes for Administering Discipline Policies. The forms of discipline enumerated above shall be administered in accordance with the following procedures and in accordance with the provisions of applicable laws. Release of disciplinary actions to any party other than the subject of the record is subject to the limitations, conditions, and requirements of the Utah Governmental Records Access and Management Act, UCA § 63G-2-202.

3.6.1. Verbal Warning. A verbal warning should be stated clearly and should tell the employee that the specific conduct in question is unacceptable. Corrective action shall be specified. The person giving the verbal warning shall, immediately after it is given, document it in writing and state that it is a verbal warning. The writing shall be forwarded to the Superintendent to be placed in the employee's personnel file and a copy will be given to the employee. The writing so placed in the employee's file may be used, if necessary, in subsequent disciplinary proceeding.

3.6.2. Written Warning.

3.6.2.1. A written warning shall be given:

• Where the misconduct is sufficiently serious, as determined by the supervisor, to warrant the initiation of disciplinary action at this level.

• Where previous warnings were ineffective to cause the correction of the offensive conduct.

3.6.2.2. The written warning shall:

• Be forwarded to the Superintendent to be placed in the employee's personnel file.

• Be personally delivered to the employee.

• Be signed by the employee for the sole purpose of showing that he or she received and reviewed it.

• Give the employee the right to an appeal with the Superintendent, and to be represented there by counsel or other person desired by the employee. The purpose of the meeting shall be to:

• Give the employee the specifics of the charges against the employee.

• Review with the employee the evidence on which the charges and the proposed discipline are based.

• Give the employee an opportunity to state his or her own explanation of what happened.

• Give the employee an opportunity to defend his or her conduct and appeal the written warning issued by a principal, supervisor, administrator or other supervisory personnel.

• Seek agreement on as many facts as possible in the case.

• Give the Superintendent a chance to hear both sides and gather additional relevant information, if necessary, before remanding, upholding, or reversing the disciplinary action.

3.6.3. RESERVED

3.6.4. Probation and Final Warning.

3.6.4.1. The employee may receive a final warning and/or be placed on probation only by the Superintendent or the Board of Education and may occur in those instances in which:

• The matter is sufficiently serious to warrant the initiation of disciplinary action at this level.

• Previous disciplinary action did not result in correction of the offensive conduct.

• Discharge, or the possibility of it, appears necessary, and it is determined to be in the best interests of the District and the employee that the employee be given one last chance to remedy the existing problem under specific terms of probation.

3.6.4.2. The final warning and order of probation shall be given:

• Where the misconduct is sufficiently serious, as determined by the supervisor, to warrant the initiation of disciplinary action at this level.

• Where previous warnings were ineffective to cause correction of the offensive conduct.

3.6.5. Suspension Without Pay and Notice of Intent to Dismiss.

3.6.5.1. Suspension without pay and notice of intent to dismiss may be administered only by the Superintendent and may occur in those instances in which:

• The misconduct is sufficiently serious as determined by the Superintendent to warrant the initiation of disciplinary action at this level, without prior disciplinary action; or,

• In those cases where previous warnings were given and found to be ineffective to cause correction of the offensive conduct; or,

• Remediation efforts have failed in those cases where such efforts were attempted; or,

• The nature of the offensive conduct is such that dismissal appears to be the only solution to the problem.

3.6.5.2. The written notice of intent to dismiss shall:

• Be placed in the employee's personnel file.

• Be served by personal delivery or by certified mail addressed to the employee's last-known address as shown on the records of the District and, if requested by the employee, a copy shall also be mailed or electronically delivered to the president of the employee's designated association.

• State the detailed reason or reasons for the proposed dismissal.

• State the date of the proposed dismissal, which shall be not less than thirty days after the notice is delivered.

• Give the employee the right to a hearing before a Hearing Officer as described in paragraph 3.6.5.5.

• State the date (not less than 15 days after notice) by which the employee must request the hearing in writing to the Superintendent.

• State that failure of the employee to request a hearing in accordance with procedures set forth in the notice constitutes a waiver of that right and that the District may then proceed with termination without further notice. If the hearing is not requested within 15 days after the notice of termination was either personally delivered or mailed to the employee's most recent address shown on the district's

personnel records the Superintendent shall proceed with the proposed action.

3.6.5.3. State that the employee is entitled at the hearing to:

• Be represented by counsel and/or by any other person or persons selected by the employee.

• Hear the testimony and evidence against him or her.

• Present witnesses in his or her behalf.

• Cross-examine witnesses.

• Examine documentary evidence.

3.6.5.4. The active service of the employee may be suspended pending a hearing if it appears that the continued employment of the individual may be harmful to students or to the District.

• The suspension pending a hearing may be without pay if the Superintendent determines, after providing the employee with an opportunity for an informal conference to discuss the allegations, that it is more likely than not that the allegations against the employee are true.

• If termination is not subsequently ordered, the employee shall receive back pay for the period of suspension without pay.

3.6.5.5. Appeal to an Objective Hearing Officer*

*Paragraph 3.6.5.5 was negotiated by agreement with the Washington County Education Association on 4/11/2017.

3.6.5.5.1. Cadre of Hearing Officers:

• The District and the Recognized Certified Teachers Association (Association) shall select Hearing Officers through a Board-issued request for proposal (RFP) process on an as needed basis in order to maintain a list of 3-5 Hearing Officers.

• The RFP will be developed jointly by agreement between the Association and District Administration. It should outline criteria that selected Hearing Officers must meet, the criteria for billable hours that Hearing Officers agree to upon selection, and general administrative hearing procedures with which Hearing Officer applicants must be familiar.

• A joint committee consisting of two employee representatives selected by Association, the HR Director, the Superintendent, and a member of the Washington County School District Board of Education, shall review submitted proposals, interview applicants, and select the final cadre of Hearing Officers (Cadre).

• Once the Cadre is established, Hearing Officers will be selected for assignment on a rotation basis subject to availability.

3.6.5.5.2. Due Process before a Hearing Officer:

• For the purpose of this paragraph "days" shall mean consecutive days excluding weekends and District designated Christmas, fall and spring breaks or holidays.

• A Hearing Officer will be assigned to recommend findings and conclusions under the terms of the following agreement.

• Each party will share the Hearing Officer expenses equally. The District may require the posting of a bond or letter of credit or the deposit of sufficient cash by the employee to assure payment of the expenses by the employee or the employee's association or representative.

• Each party shall be responsible to schedule their own witnesses. The District will allow the reasonable scheduling of essential employees, if needed, as witnesses for either party.

• Parties shall exchange documentary evidence at least four (4) days before the scheduled hearing.

• The Board's designee will appoint a Hearing Officer from the Cadre within five (5) days of receipt of the request for a hearing.

• The Hearing Officer will set the hearing for no more than 20 days following his/her appointment and shall have full responsibility for notifying the parties, providing an outline of hearing procedures to the parties and conducting the hearing. The Hearing Officer shall set reasonable parameters for the length and breadth of the hearing.

• The Hearing Officer shall provide a written response and recommendation to the Washington County School District Board of Education, including findings and conclusions, no more than 10 days following the hearing.

Reference: Utah Administrative Code R277-514
UCA § 53G-11-515

3.6.6. Nothing in this policy prevents a principal, supervisor, administrator, other supervisory personnel, or the Superintendent from issuing an informal directive letter or similar communication to an employee that sets forth expectations for the employee. While such informal communication is not considered a disciplinary action and will not be placed in the employee's official personnel file, the documentation shall be retained in the supervisor's employee management file. Information provided to an employee outlining expectations for the employee may be utilized in subsequent disciplinary actions to demonstrate the employee was put on notice and was aware of what was expected of him or her and may be used as a basis for determining the form and/or level of future disciplinary actions.

3.7. Documentation of Employee Performance.

3.7.1. Purpose. Documentation of an employee's job performance is helpful in maintaining satisfactory levels of work and achievement, and in providing opportunities for planning and communication between the employee and the immediate supervisor. The material stated in this subheading is intended to apply to noncertified employees. Evaluation of certified personnel is covered elsewhere in the District's book of policies.

3.7.2. Documentation. Written documentation regarding unsatisfactory job performance may be submitted by an employee's immediate supervisor whenever the supervisor feels it is necessary.

3.7.3. Commendations. Letters of commendation and other written reports to document outstanding job performance are also encouraged.

3.7.4. Submission. All performance documentation letters or reports should be submitted to the personnel office for placement in the employee's personnel file.

3.7.5. Employee Signature. Before submission of any performance documentation letters or reports, each employee shall have an opportunity to review them, sign them, and keep a copy. Such signatures indicate only that the employee has read the material and is aware of the contents.

3.7.6. Employee Rebuttal. If the employee feels that any performance documentation submitted by the immediate supervisor is incomplete, inaccurate, or unfair, the employee shall have the right to submit to the personnel office within ten days the employee's own written statement, which shall also be placed in the file. The employee shall give a copy of such statement to the immediate supervisor.

3.8. Nonrenewal of Contract Provisional Employee.

3.8.1. A provisional employee must work for a school district on at least a half time basis for three consecutive years to obtain career employee status. The District may, but is not required to, extend the provisional status of an employee up to an additional two consecutive years if in the judgment of the supervisor, the supervisor has reason to believe the employee shows promise for improvement, but has not yet met acceptable standards of performance. Such extensions shall be recommended by the employee's supervisor and approved by the superintendent.

3.8.1.1. Intent not to renew a Provisional Employee: If the District intends not to renew the contract of employment of a provisional employee, the District shall:

• Notify the provisional employee at least 60 days before the end of the provisional employee's contract if the employee will not be offered a contract for a subsequent term of employment.

• Advise the employee that he or she may request an informal conference before the Superintendent or his or her designee.

3.9.Reserved. (2-5-05)

3.10. Files and Records.

3.10.1. Personnel File. The District personnel office maintains an official permanent record file for each employee.

3.10.2. Contents. This file should contain the following items and other employment documents and records: application for employment, employees required to have such records, employee's status form, pre-employment recommendations and records, and documentation of job performance. (2-8-05)

3.10.3. Employee Inspection Rights. Upon request, the employee will be allowed to inspect his or her own file. Under state law employee has the right to copy his/her file, except for pre-employment recommendations and records and such other information as may be privileged under law and not subject to employee inspection.