

SECTION C
PROFESSIONAL RIGHTS

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C-1 Probationary Period

The first 97 work days of an initial contract to an administrative position is a probationary period pursuant to §1012.33, F.S. During the probationary period, the employee may be dismissed without cause or may resign from the contractual position without breach of contract. A dismissal during the probationary period shall be final and not subject to a hearing in accordance with Section C-3 (B) or other provision of law or School Board Rule. This probationary period applies to the employee's first MEP administrative position with Miami-Dade County Public Schools.

C-2 Performance Management Assessment for Administrators

Broadly defined, performance management assessment consists of all organizational processes that determine how well employees, individually and collectively, teams and departments, and ultimately, the organization itself performs. Inclusive in the Miami-Dade County Public Schools Managerial Exempt Personnel (MEP) Performance Management Assessment System are those performance measures that define leadership, establish benchmarks, focus on strategic objectives, provide a common language for effective communication, utilize objective data, provide a measure of accomplishments, and strategies for continuous performance improvement. (<http://forms.dadeschools.net/webpdf/7037.pdf>) The evaluation phases are as follows:

- Planning Phase – by the end of September
- Progress Phase – by the end of January
- Evaluation Phase – by the end of June

Performance Management Assessment allows for the alignment of the District's Strategic Plan to the activities performed by both school site and non-school site personnel. By utilizing the distinct components the following are captured and assessed: an established competency model; a system of accountability; and professional growth and development as a part of the ongoing improvement process. Although, the term "performance management assessment is often used interchangeably with "performance appraisal," there is a difference. Performance management includes performance appraisal, and incorporates the following components:

- Development of clear job expectations;
- Accomplishment-based performance standards, outcomes and measures;
- Provisions for effective orientation, education and training;
- Provisions for on-going coaching and feedback;
- Specific assessment periods throughout the fiscal/academic year;
- Provisions for promotional/career development opportunities;

- Performance of administrative competencies aligned with best practice benchmarks;
- Recognition and compensation;
- Alignment with the overall goals of the District, Superintendent and schools as delineated in School Improvement Plans;
- Ongoing communication between the evaluator (assessor) and those being evaluated (assesses);
- Assessment based on objective measures supported by data; and
- Emphasis on continuous improvement.

Miami-Dade County Public Schools is committed to the development of its leaders through the implementation of professionalism and high standards for all employees as delineated in the performance management and appraisal process.

Performance not satisfactorily meeting the prescribed job requirements will result in a rating of Does Not Meet Standards. An overall rating of Does Not Meet Standards requires a written Intervention Status (page 8 of 9 - Form 7037) specifying how performance is to be improved. This rating will result in appropriate employment action(s) which may include recommendation for non-renewal of the employment contract (hereinafter "non-reappointment").

Employees who receive this rating on the annual evaluation and are reappointed are not eligible in the subsequent school year to apply for transfers or promotions, and are not eligible for any increases made to the salary schedule.

By March 15 for Continuing Contracts and by mid-April for all others, an Evaluation Form will be completed and filed in the Office of Human Resources, Recruiting and Performance Management for administrators being recommended for non-renewal/non-reappointment. If the administrator holds a continuing contract as an administrator or supervisor, the recommendation for non-reappointment must meet the requirements of §1012.33(4)(b) F.S. Assessment of performance will continue for the balance of the contract year.

C-3 Due Process

A. Conference-for-the-Record

1. Any administrator summoned for a Conference-for-the-Record shall have the right to representation by the organization granted Meet and Confer status with the Superintendent or designee and shall be informed of this right. An administrator may not be represented by an attorney in a Conference-for-the-Record.
2. Administrators shall be given 48 hours notice in writing and a written statement of the reason(s) for the Conference-for-the-Record. If the administrator requests representation, a good faith effort shall be made to

schedule the conference at a time when representation can be present.

3. Any conference not held in accordance with the aforementioned conditions shall not be recorded for inclusion in the administrator's personnel file.

B. Appeal/Hearing Rights

1. No administrator shall be subject to disciplinary action, including dismissal, unless detailed specifics have been made known to that administrator in writing. A hearing, with the right to representation, shall be provided to an administrator who has been recommended for disciplinary action during the term of the administrator's contract provided a written request for hearing is made pursuant to the provisions of School Board Rule 6Gx13-8C-1.064, Adjudicatory Proceedings, within 15 calendar days of the Board Action.
2. Any administrator who has been recommended for non-renewal/non-reappointment shall, upon written request submitted within 15 calendar days of the non-reappointment/non-renewal notice, be provided with a review conference directly with the Superintendent or designee.

C. Complaints

1. For purposes of this section Complaint shall mean a written or verbal statement that (1) communicates allegations of a violation of: Federal or State Laws, School Board Rules, the Code of Ethics, the Principles of Professional Conduct of the Education Profession in Florida or (2) the nature of the allegations require action or intervention from the District ("Complaint").
2. No anonymous complaint shall be placed in an administrator's personnel file. All anonymous Complaints and other materials shall be filed with the Office of the Inspector General and maintained by the Inspector General as a public record, pursuant to §1012.31(1)(b) F.S.
3. All Complaints, either verbal or written, shall be directed initially to the immediate supervisor of the subject of the Complaint.
4. All Complaints regarding the commission of a crime shall be reported to School Police.
5. All Complaints regarding allegations of unlawful discrimination or sexual harassment must be forwarded to the Office of Civil Rights and Diversity Compliance within two (2) business days.
6. When a Complaint is received, the immediate supervisor contacts his/her supervisor at the next administrative level and they jointly make an initial

determination whether the allegation is so serious in nature that further fact-finding and an investigation is warranted.

If no further fact-finding is warranted, disposition actions are then taken and the Complaint is officially closed. The disposition actions shall include a notification to the employee of the determination, and as appropriate, a conference-for-the-record, and/or any warranted disciplinary action.

7. If a determination is made that further action is justified, the supervisor shall hold a meeting with the affected administrator within fifteen (15) calendar days of a receipt of the initial Complaint. At that meeting, a copy of the Complaint and all related documentation shall be provided to the administrator who is the subject of the Complaint. After meeting with the administrator, the immediate supervisor shall make a determination about further fact-finding. If further fact-finding is warranted due to the serious nature of the allegations made, the Complaint shall be forwarded to the School Police in accordance with District procedures.
8. All Complaints whether anonymous, verbal or written and related records are to be maintained pursuant to the Public Records Retention Schedule.

C-4 Investigations

- A. An administrator, principal or worksite supervisor prior to reporting an allegation(s), shall make a determination whether the allegation is one that can and should be competently and comprehensively addressed at the worksite. Worksite administrators are encouraged to resolve minor non-criminal incidents using administrative procedures and/or conflict resolution options, in lieu of reporting all offenses, to Miami-Dade Schools Police (M-DSP), except for allegations involving discrimination, harassment, and/or retaliation, which must be promptly reported to the Office of Civil Rights Compliance.

If a formal investigation is warranted, the supervising administrator identifies, to the extent possible, the witness(es) who may have relevant information. The supervising administrator will be responsible for immediately reporting an allegation(s) that can not or should not be addressed at the worksite to Miami-Dade School Police by completing the Allegation Reporting Form, located in the Personnel Investigative Model (PIM) User's Guide (A-1).

- B. Once the allegation has been reported, M-DSP will make a determination as to whether the alleged conduct is criminal or not. If the allegation is deemed to be non-criminal in nature, THIS WILL BE NOTED ON THE LEAD SHEET, and M-DSP will release the Lead Sheet to the Administrative Review Team (ART) via OPS within one business day from receipt of the allegation. If M-DSP determines that the allegation involves criminal conduct, the General Investigative Unit (GIU) of M-DSP will conduct the investigation. GIU will then notify the employee, in writing, of the allegation, as soon as it is appropriate.

- C. The ART is comprised of representatives from the Civilian Investigative Unit (CIU), the Civil Rights Compliance (CRC), and the Office of Professional Standards (OPS). The ART reviews the allegation in the lead sheet and jointly determines the appropriate investigative route for these non-criminal allegations to take. An investigation will be conducted in accordance with the procedures outlined in the Personnel Investigative Model (PIM).
- D. At the conclusion of the investigation, the assigned investigative unit will forward the completed investigative report to OPS. The report will be processed and disciplinary action determined, when warranted, in accordance with the procedures outlined in the PIM.

C-5 Administrative Appointments

- A. Initial appointment to a school-site administrative position shall be in accordance with governing eligibility, training, and selection requirements, as set forth in School Board Rule 6Gx13- 4A-1.16, Assignment, Transfer, and Appointment--Professional and Technical Employees.

Managerial Exempt Personnel are exempt from the provisions of Chapter 447, et seq., Florida Statute (F.S.). The expectations shall be communicated that any administrator may be transferred laterally at any time to another managerial exempt position at another work location, when it is deemed in the best interest of the school system. This provision is not applicable during a shortage of funds, reorganization, or a reduction in force.

- B. Administrative personnel assigned temporarily to fill (promotional) administrative positions shall be designated "acting" or "temporary," and receive commensurate compensation for the period of the interim promotional assignment.
- C. Non-administrative M-DCPS employees may be assigned administrative responsibilities only for short-term, emergency situations, as determined by the supervising administrator and approved by the Superintendent or designee.
- D. Subsequent to the last day of the K-12 school year, as approved by the School Board, the Superintendent of Schools may issue written contracts to managerial exempt personnel. Such contract may be for an initial period not to exceed three years, subject to annual review and non-reappointment. After the first three years, the contract may be renewed for a period not to exceed three years and shall contain provisions for non-reappointment/non-renewal during the term of the contract. The three year contract shall be subject to cancellation at such time as the employee fails to fulfill their obligations under the contract. The contract shall be subject to all applicable Federal and State Laws, State Board Rules and School Board Rules.
- E. All MEP employees are subject to the provisions of §119.05 and §1012.25, F.S., which require that MEP employees turn over all M-DCPS property and materials.

C-6 Personnel Files

A. Pursuant to §1012.31 F.S., Personnel Files, public school system employee personnel files shall comply with the following provisions:

1. Except for materials pertaining to work performance or such other matters that may be cause for discipline, suspension or dismissal under laws of this state or School Board Rules, no derogatory materials relating to an employee's conduct, service, character, or personality shall be placed in the personnel file of such employee.

No anonymous letter or anonymous materials shall be placed in the personnel file.

2. Materials relating to work performance, discipline, suspension, or dismissal must be reduced to writing and signed by a person competent to know the facts or make the judgment.
 - a. No such materials may be placed in a personnel file unless they have been reduced to writing within 45 work days, exclusive of the summer vacation period, of the school system administration becoming aware of the facts reflected in the materials.
 - b. Additional information related to such written materials previously placed in the file may be appended to such materials to clarify or amplify them as needed. A copy of such materials to be added to an employee's personnel file shall be provided to the employee either:
 1. By certified mail, return receipt requested, to his/her address of record; or
 2. By personal delivery to the employee. The employee's signature on a copy of the materials to be filed shall be proof that such materials were given to the employee, with the understanding that such signature merely signifies receipt of and does not necessarily indicate agreement with its contents.
 - c. The employee shall have the right to answer in writing any such materials in the personnel file, and the answer shall be attached to the file copy. The employee shall have the right to request that the Superintendent or his/her designee make an informal inquiry regarding material in the employee's personnel file which the employee believes to be false. The official making the inquiry shall append a written report of his/her findings to the material. Upon request, the employee, or any person designated in writing by the employee, shall be permitted to examine the personnel file, including

confidential information. The employee shall be permitted conveniently to reproduce any materials in the file, at a cost of fifteen cents per page and labor charges, if appropriate, prescribed in §119.07(1), F.S.

The custodian of the record shall maintain a record in the file of those persons reviewing the file each time it is reviewed.

Public school system employee personnel files are subject to the provisions of §119.07(1) F.S., the Public Records Act, except as otherwise exempted by law.

3. Public school system employee personnel files are subject to the provisions of F.S. 119 and School Board Rule 6Gx13- 3D-1.08, Records Management, except as provided in §1012.31(3)(a), F.S.:

- a. Any Complaint and any material relating to the investigation of a Complaint against an employee shall be confidential and exempt from the provisions of §119.07 F.S., until the conclusion of the preliminary investigation, or until such time as the preliminary investigation ceases to be active. If the preliminary investigation is concluded with the finding that there is no probable cause to proceed further and with no disciplinary action taken or charges filed, a statement to that effect signed by the responsible investigating official shall be attached to the Complaint and the Complaint and all such materials shall be open thereafter to inspection pursuant to §119.07 F.S., and School Board Rule 6Gx13- 3D-1.08. If the preliminary investigation is concluded with the finding that there is probable cause to proceed further or with disciplinary action taken or charges filed, the Complaint and all such materials shall be open thereafter to inspection pursuant to §119.07 F.S., and School Board Rule 6Gx13- 3D-1.08. If the preliminary investigation ceases to be active, the Complaint and all such materials shall be open thereafter to inspection pursuant to §119.07 F.S., and School Board Rule 6Gx13- 3D-1.08. For the purpose of this subsection, a preliminary investigation shall be considered active as long as it is continuing with a reasonable, good faith anticipation that an administrative finding will be made in the foreseeable future. An investigation shall be presumed to be inactive if no finding relating to probable cause is made within 60 calendar days after the Complaint is made.
- b. Employee evaluations prepared pursuant to § 1012.33, 1012.34 or 1012.56 F.S., or rules adopted by the State Board of Education or a district school board under the authority of said sections, shall be confidential and exempt from the provisions of § 119.07(1) F.S., until the end of the school year immediately following the school year during which each evaluation is made. No evaluations prepared

prior to July 1, 1983, shall be made public pursuant to this section.

- c. No material derogatory to the employee shall be open to inspection until ten calendar days after the employee has been notified pursuant to §1012.31(2)(c), F.S.
- d. The payroll deduction records of the employee shall be confidential and exempt from disclosure under §119.07(1) F.S.
- e. Employee medical records, including psychiatric and psychological records, shall be confidential, provided, however, at any hearing relative to the employee's competency, conduct, or performance, the hearing officer, judge or panel shall have access to such records.
- f. Notwithstanding other provisions of this subsection, all aspects of each employee's personnel file shall be open to inspection at all times by School Board members, the Superintendent and the principal, or their respective designees, in the exercise of their respective duties.

Notwithstanding other provisions of this subsection, all aspects of each employee's personnel file shall be made available to law enforcement personnel in the conduct of a lawful criminal investigation.

- B. The term "personnel file" as used in this section shall mean all records, information, data, or materials maintained by a public school system, in any form or retrieval system whatsoever, with respect to any of its employees, which is uniquely applicable to that employee, whether maintained in one or more locations.
- C. Worksite personnel files are part of the employee's personnel file and shall be established and maintained in conformity with the provisions of §1012.31, F. S., and School Board Rule 6Gx13- 4-1.03, Personnel Files.