

ARTICLE XI -- DISCIPLINARY ACTION

Section 1. Notification

- A. Whenever an employee violates any rule, regulation, or policy, that employee shall be notified by his/her supervisor, as soon as possible, with the employee being informed of the rule, regulation, or policy violated. An informal discussion with the employee shall occur whenever the employee's conduct or the nature and severity of the alleged infraction/violation does not warrant formal disciplinary action.

The Board and the Union recognize the principle of progressive discipline. The parties agree that disciplinary action may be consistent with the concept of progressive discipline when the Board deems it appropriate, and that the degree of discipline shall be reasonably related to the seriousness of the offense and the employee's record.

- B. Any employee summoned for a Conference-for-the-Record (CFR) shall be given no less than two working days' notice, except in cases deemed to be an emergency. The notification shall contain a statement of the reason(s) for the CFR.

An employee notified of a CFR which may lead to disciplinary action shall have the right to request Union representation and shall be so informed of this right. The Union shall have the right to refuse representation of non-dues-paying School Board employees.

A CFR which may lead to disciplinary action or reprimand not held in accordance with these conditions shall not be considered a part of the employee's personnel file or record. Neither the fact of the conference nor any statements made at the conference may be used in any subsequent proceedings or reprimand involving the employee.

- C. There shall be no evaluation statement or reprimand placed in an employee's personnel folder unless the employee has first been given a copy.
- D. The employee shall have the right to request Union representation in a disciplinary action and shall be informed of this right.

Section 2. Types of Separation

- A. Dissolution of the employment relationship between a permanent unit member and the Board may occur by any of three distinct types of separation.
1. **Voluntary** -- The employee initiates the separation by resigning, retiring, abandoning the position, or other unilateral action by the employee.
 2. **Excessive Absenteeism/Abandonment of Position** -- An unauthorized absence for three consecutive workdays, where such absence is not reported as prescribed by bureau/office procedures, shall be evidence of abandonment of position. Unauthorized absences totaling five or more workdays during the previous 12-month period shall be evidence of excessive absenteeism. Either of the foregoing shall constitute grounds for which the School Board may terminate employment. Absences due to emergencies, or circumstances beyond the employee's control, will be given full consideration.

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An employee recommended for termination under this provision shall have the right to request of the Associate Superintendent, Schools Operations, a review of the facts concerning the unauthorized leave. Such right shall exist for a period of 10 working days after first being notified by the Office of Professional Standards.

Section 3. Dismissals, Suspensions, Demotions

Employees dismissed, suspended, or demoted shall be entitled to appeal such action to an impartial Hearing Officer. The employee shall be notified of such action and of his/her right to appeal by certified mail. (The employee shall have 20 calendar days in which to notify the School Board Clerk, in writing, of the employee's intent to appeal such action.) Failure to request a hearing for appeal of disciplinary action in the manner prescribed herein shall be deemed a waiver of rights to any such hearing. The Board shall provide for an impartial Hearing Officer who shall set the date and place mutually agreeable to the employee and the Board for the hearing of the appeal. All such proceedings shall be conducted in accordance with School Board Rule 6Gx13- 8C-1.064. The findings of the Hearing Officer shall not be binding on the Board, and the Board shall retain final authority on all dismissals, suspensions, and demotions. If the employee is not employed or has had a reduction in salary during the time of appeal of such dismissal, suspension, or demotion, and if reinstated by Board action, the employee shall receive payment for the days not worked, or salary not received, and shall not lose any longevity or be charged with a break in service due to said dismissal, suspension, or demotion.

Section 4. Cause for Suspension

In those cases where any employee has not complied with Board policies and/or department regulations, but the infraction is not deemed serious enough to recommend dismissal, the department head may recommend suspension up to 30 calendar days without pay. All suspensions must be approved by the Superintendent.

Section 5. Personnel Files

- A. Pursuant to Florida Statutes, Chapter 231.291, Personnel Files -- Public school system employee personnel files shall be maintained according to 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, no derogatory materials relating to an employee's conduct, service, character, or personality shall be placed in the personnel file of such employee.
 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 calendar days, exclusive of the summer vacation period, of the school system's administration becoming aware of the facts reflected in the materials.
 - b. The employee shall have the right to answer any material filed hereafter in his/her personnel file and the answer, if submitted, shall be attached to the file copy. No anonymous letter or material shall be placed in an employee's

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personnel file. The validity of items of a derogatory nature placed in an employee's personnel file shall be subject to the grievance procedure.

- c. There shall be no statements placed in an employee's personnel file unless the employee has been given a copy.
3. Upon request, the employee, or any person designated in writing by the employee, shall be permitted to examine the personnel file. The employee shall be permitted, conveniently, to reproduce any materials in the file, at a cost no greater than five cents per page. Such request should be made to the custodian of a personnel file, who shall permit examination of the records at reasonable times, under reasonable conditions, and under supervision of the custodian of the record.
4. The custodian of the record shall maintain a record in the file of those persons reviewing the file each time it is reviewed.

Section 6. Personnel Investigations

- A. The Board shall take steps to ascertain the identity of the complainant, prior to authorization of an investigation. No investigation of an allegation against an employee shall be made on the basis of an anonymous complaint.
- B. In the event of allegations and/or complaints being made against any employee, an investigation which may result in information being placed in the employee's personnel file shall not be concluded by the Miami-Dade Schools Police Department (M-DSPD) or any person prior to the time that the employee receives identification of the complainant and the nature of the complaint.
- C. In all Board investigations which may lead to suspension or dismissal of an employee, only the Superintendent or his/her designee may authorize such an investigation. When a formal investigation has been authorized, all personnel who are the subject of an investigation will be advised by the M-DSPD investigator or the appropriate department of their legal rights and the procedures available to them for representation. Information that is not substantiated will not be used for disciplinary action against the employee.
- D. In all Board investigations resulting in discipline, the employee shall be provided with a copy of the report. With the permission of the employee, the Union shall also receive a copy. When investigatory reports are to be provided, said reports shall be transmitted within a timeframe consistent and harmonious with basic due process.
- E. In all cases in which 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. Where allegations have not been proven against an employee, no reprisal or punitive action shall be taken against an employee.

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Section 7. Employees shall be free from unnecessary, spiteful, or negative criticism or complaints by administrators and/or other persons. Under no conditions shall management representatives express complaints or criticisms concerning an employee in the presence of other employees, students, or parents, nor shall anonymous complaints be processed.