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THE DISCIPLINE PROCESS

A GUIDE FOR PRINCIPALS AND DEPARTMENT HEADS

STAFF ATTORNEY'S OFFICE • OFFICE OF PROFESSIONAL STANDARDS

TABLE OF CONTENTS

Introduction	3
Outlining Rules and Expectations.....	4
Coaching the Employee.....	4
Discipline Process.....	4
Documentation.....	5
Investigating a Complaint.....	5
Child Abuse.....	5
Criminal Activity.....	5
Bullying and Harassment by Adults.....	6
Gathering of Facts.....	6
Paid Administrative Leave.....	6
Administrative Reassignment.....	6
When Conducting an Interview.....	7
Example of Interview Questions.....	7
Interviewing of the Subject of the Complaint.....	7
Employee’s Right to Representation (Weingarten Rights).....	7
Issues if Representation is Requested.....	8
Limit on the Right to Representation.....	8
Interviewing the Subject of the Complaint.....	8
State and School Board Policy.....	9
Steps of Progressive Discipline.....	10

INTRODUCTION

The Office of Professional Standards and Staff Attorney's Office are pleased to provide you with this handbook—The Discipline Process – A guide for Principals and Department Heads. As role models for children and supervisors of employees, you have an awesome responsibility to establish and enforce standards of behavior in your workplace. When you accepted a job in the field of education you also accepted the responsibility to model and practice what you teach students each and every day. Every workplace has a standard of professional conduct, and as supervisors it is your responsibility to ensure that all employees adhere to this standard based upon well-established guidelines, procedures and policies.

In order to maintain a positive work environment, there must also be well-established and fairly enforced consequences for employees who violate standards of acceptable behavior. When addressing an employee disciplinary issue, it is important for the supervisor to separate out personality issues and deal directly with the undesirable behavior or the policy violation. If a supervisor treats all employees who violate workplace policy in a fair and equitable manner, that will go a long way in fostering a positive workplace environment.

Many supervisors dislike addressing employee discipline issues. The reasons are many—fear the employee will become upset or volatile, fear the employee will speak negatively about the supervisor, fear of making a mistake and having to withdraw the proposed discipline, fear of a union grievance, or fear the employee will hire an attorney and file a suit. A supervisor should not let these fears get in the way of a problem employee. After all, a problem employee is not only a problem for the supervisor. He or she is also a problem for coworkers who no doubt expect you to take corrective action. Subordinates will be appreciative of your efforts to promote a positive work environment and hold employees accountable for their actions.

This handbook is meant to serve as your guide. It is not meant to address every employee disciplinary action, nor is it meant to replace “common sense” in the management of your workforce.

If you need advice on how to conduct an employee disciplinary meeting or wish to discuss the possible disciplinary consequences, feel free to call an OPS administrator at 588-6472.

Discipline is effective when it is fair, consistent and timely.

SETTING THE STAGE FOR SUCCESS

OUTLINING RULES AND EXPECTATIONS

The goal of employee discipline is to foster a positive work environment wherein all staff members are treated in a fair and equitable manner. In order for you to set the foundation to achieve that goal, it is important that your staff understand workplace rules and your expectations from the beginning. Workplace rules can easily be spelled out in an employee handbook; however, to reinforce your expectations, you should cover them in a staff meeting early in the school year.

COACHING THE EMPLOYEE – ENCOURAGING THE DESIRED BEHAVIOR

When you have a discipline infraction, it is important to remember that not all rule violations require the full gambit of the discipline process. Some employees only need verbal coaching to improve their performance. For example: “Jane, I really need you to be here on time. When you’re late, we have parents waiting at the locked door in the morning” – may be all that Jane needs to hear to realize that you noticed she’s been late and that her performance needs to improve.

This type of motivational coaching is encouraged and highly recommended, in appropriate circumstances, before beginning the discipline process. In these cases, you should consider use of a written Coaching Memorandum or, alternatively, make a note on your calendar (e.g., “Spoke with JB re: late”).

The Coaching Memorandum is NOT disciplinary and should be written shortly following a meeting with the employee in which the subject matter is discussed. It should identify and encourage the desired behavior, and should be written in a positive tone. The employee should sign the memorandum to acknowledge receipt.

Sample – Coaching Memorandum
(Non-Disciplinary) – [Appendix A](#)

DISCIPLINE PROCESS

The discipline process begins when simple verbal correction or a coaching memorandum is not enough – or the level of the infraction exceeds that which can be dealt with in any other manner. The first step is to provide the employee the benefit of due process, which is nothing more than acting on the principle that all discipline proceedings must be conducted in a manner that *provides reasonable notice and an opportunity for the employee to respond*.

Do not let your fear of the employee’s union representative or attorney prevent you from addressing discipline problems at your school. Employees’ rights are designed to protect them from abuse or maltreatment, not guarantee them the right to be insubordinate or to violate policy. This manual will serve as a guide to inform you of the necessary tools for handling employee discipline problems at your site.

DOCUMENTATION

Documentation is an important part of the discipline process. Having appropriate documentation is one way to demonstrate that an employee received due process for the disciplinary action. Supervisors should keep in mind, however, that these documents are open to public inspection under the Sunshine Law. The investigation file becomes public record ten (10) days upon conclusion of the investigation and determination as to whether there was or was not probable cause to proceed with charges against the employee.

A finding of probable cause is a finding that the complaint is well founded and that you are justified in proceeding with disciplinary action. If the determination is that no probable cause exists, a statement to that effect should be signed by the responsible investigating official and attached to the complaint.

Conference Summaries, Letters of Caution, and Letters of Reprimand become public record ten days after a copy has been provided to the employee either:

1. By certified mail, return receipt requested, to his or her address of record; or
2. By personal delivery. 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 and does not necessarily indicate agreement with its contents.

An employee has the right to answer in writing any such materials in a personnel file and the answer shall be attached to the file copy.

If anyone makes a public records request to inspect personnel records at the school site, call the Staff Attorney's Office at 588-6221.

INVESTIGATING A COMPLAINT

WHEN TO REFER TO OTHER OFFICES OR AUTHORITIES

Child Abuse:

If your investigation leads to reasonable suspicion of child abuse or neglect, as a reporting individual, you are legally obligated – or “have a legal obligation” to call the Abuse Hotline: 1-800-96ABUSE

Criminal Activity:

If you are faced with allegations or evidence of criminal misconduct, you should call Schools Police at 547-7221. You should also notify OPS at 588-6472. Examples of criminal misconduct are:

- Arrest or Criminal Charges
- Assault/Battery
- Burglary/Theft
- Child Abuse
- Possession of Weapons

- Sexual Allegations
- Stalking
- Substance Abuse
- Possession of controlled substance

If your investigation leads you to conclude that the appropriate discipline should be suspension or dismissal, you should refer to OPS at 588-6472.

Bullying/Harassment by Adults:

If you are faced with a claim of bullying/harassment where the accused is an employee, contractor, volunteer, visitor, or other adult, please consult immediately with the Office of Equal Opportunity (588-6198) or OPS (588-6472) concerning the manner in which the investigation should be conducted. This would include bullying or harassment under both Board Policies 5517 and 5517.01.

GATHERING THE FACTS

When you receive a complaint, you must conduct interviews with all of the parties that are involved. Witnesses will include:

- Complainant,
- Victim (if not the complainant),
- Co-Workers with knowledge of the facts,
- Third Parties with knowledge of the facts (i.e. students, parents, suppliers).

In order to identify more witnesses, you should ask each person involved in the complaint whom they believe might have more information to add. In addition, with each interview, it is imperative that you remind all parties involved that they are not to discuss the interview, allegation or complaint with any other person.

See the next page concerning interviewing the subject of the complaint.

SENDING THE EMPLOYEE HOME (PAID ADMINISTRATIVE LEAVE)

Paid administrative leave is designed to remove employees from situations where they are a potential danger to themselves or others or where they might interfere with an investigation. If you feel such leave is appropriate in a particular case, call OPS at 588-6472 for approval. Paid administrative leave is not punishment and should NEVER be used as discipline.

When using this tool, the Principal should be aware of the possible stigma associated with “being suspended: and the punitive perception of this action.

ADMINISTRATIVE REASSIGNMENT

If it appears an investigation will take longer than 10 working days to complete, and removal of the employee from the worksite is necessary for one or more of the reasons set forth above, contact OPS at 588-6472 to discuss administrative reassignment to a different worksite.

WHEN CONDUCTING AN INTERVIEW

- Be objective.
- Do not disclose too much information to a witness.
- Do not discuss your opinion or conclusions with witnesses.
- Give the witness the opportunity to share everything he/she knows.
- Ask open-ended questions.
- At the beginning and end of every interview remind the interviewee not to discuss the incident with anyone.

Examples of Interview Questions

- What happened?
- When did it occur?
- Where did it happen?
- Who was present?
- Who else may have witnessed the event?
- What is his/her relationship (social/historical/physical proximity) to the subject?

INTERVIEWING THE SUBJECT OF THE COMPLAINT

If after questioning the witnesses you feel that an interview of the subject of the complaint is warranted, you should notify the employee to appear by letter. The sample letter contains mandatory notice of the employee's right to representation (Weingarten Right) ([Appendix B](#))

EMPLOYEE'S RIGHT TO REPRESENTATION (WEINGARTEN RIGHTS)

The right of employees to have representation at investigatory interviews was announced by the U.S. Supreme Court in a 1957 case (NLRB vs. Weingarten, Inc. 420 U.S. 251). These rights have become known as the Weingarten Rights.

Employees have Weingarten rights only during investigatory interviews. An investigatory interview occurs when a supervisor questions an employee to obtain information which could be used as a basis for discipline or asks an employee to defend his or her conduct. The Supreme Court has also ruled that sometime during an investigatory interview, management must inform the union representative what the interview is about.

If an employee has a reasonable belief that discipline or other adverse consequences may result from what he or she says, the employee has the right to request representation. The representative can be anyone of the employee's choosing. A good rule of thumb is that if the employee thinks that the meeting could possibly lead to discipline and requests a representative, honor their request even if you disagree.

ISSUES IF REPRESENTATION IS REQUESTED

If the employee's representative is an attorney, please notify OPS at 588-6472.

If an employee requests and is entitled to a Weingarten representative, the employer has three options:

- 1) Allow the representation,
- 2) Discontinue the interview, or
- 3) Offer the employee the choice of continuing the interview unrepresented or having no interview at all.

The employee should be provided an opportunity to consult with his representative before the investigatory interview.

LIMITS ON THE RIGHT TO REPRESENTATION

The exercise of the right to representation may not be allowed to interfere with the interview, and you are under no duty to bargain with a representative who attends the interview.

The employee representative is not in equal control of the interview and may not turn an interview into an adversarial confrontation obstructing your right to conduct the interview. The representative's role is to observe and assist the employee rather than to bargain with or argue with you.

While you cannot condition a representative's attendance at an interview upon the representative's silence and the representative may assist in clarifying confusing questions and suggest additional witnesses, you may insist on hearing the employee's account first before the representative suggests clarifications or additions. The representative may not answer for the employee.

INTERVIEWING THE SUBJECT OF THE COMPLAINT

- Schedule an investigative interview with the subject and advise him or her of their right to representation.
- If the employee requests a representative, schedule the interview so as to reasonably accommodate the presence of the representative.
- If the employee requests a representative during the interview, honor the request and delay questioning.
- Conduct the interview.
- Ask if the subject has any further information, such as names of possible witnesses.
- Direct the subject, as with all other witnesses, not to discuss the matter with ANYONE other than the subject's representative or attorney. Failure to comply might, in itself, be grounds for disciplinary action.
- By the conclusion of the interview, you must have informed him/her as to the nature of the allegation and the possible disciplinary consequences.

SCHOOL BOARD POLICY
1140, 3140, 4140

Discipline of Administrators 1140

Discipline of Instructional Staff 3140

Discipline of Support Staff 4140

State Board Rule 6A-10.086 Designation of Restrooms and Changing Facilities in K-12 Educational Institutions.

Educational institutions must comply with all applicable requirements of Section 553.865, F.S. pertaining to the use of restrooms and changing facilities by males or females, as determined at birth by biological sex.

Instructional personnel and administrative personnel as described in Section 1012.01(2)-(3), F.S., who violate any provision of Section 553.865, F.S., commit a violation of the Principles of Professional Conduct for the Education Profession under Rule 6A.10.081, F.A.C..

STEPS OF PROGRESSIVE DISCIPLINE

- **Verbal Warning**
 - **Coaching Memo**
 - **Conference Summary**
 - **Caution**
 - **Reprimand**
 - **Suspension Without Pay**
 - **Termination**
- These are non-disciplinary steps that can be taken before moving to discipline. They are always conducted at school level (no notice) because they are **non-disciplinary**.
- These are disciplinary - must give notice. Meeting can either be held at school or in the OPS office.
- OPS INVOLVEMENT IS REQUIRED**



STEPS OF PROGRESSIVE DISCIPLINE

Now that you have determined discipline is appropriate, please recognize that the School District generally follows a system of progressive discipline in dealing with deficiencies in employee work performance or conduct. In order to determine whether the discipline you propose will, in fact, be progressive, you must determine whether the employee has been disciplined in the past. To do so, contact OPS at 588-6472. OPS will guide you in making that determination. Progressive discipline may include, but is not limited to, conference summary, caution, reprimand, suspension without pay, and dismissal, which are defined as follows:

A. Conference Summary- This is a written memorandum or letter memorializing an area of concern involving the performance or conduct of the employee. It is the first step in progressive discipline and is intended to counsel and advise the employee of best practices. ([Appendix C](#))

B. Letter of Caution- A letter of caution is given to an employee who has demonstrated problematic behavior or performance. It is the second step in progressive discipline and is intended to alert the employee that a problem has been identified and needs to be corrected. ([Appendix D](#))

C. Reprimand- A written reprimand is more serious than a caution. It is a formal censure or admonition given to an employee who has engaged in unacceptable behavior or demonstrated unacceptable performance. ([Appendix E](#))

D. Suspension Without Pay- A suspension without pay is the temporary release from duty of an employee for a stated number of calendar days without pay and applies when a violation or repetition of violations of policies, contractual provisions, laws, or District expectations are serious enough to warrant suspension. (OPS involvement is required at this stage.)

E. Dismissal- This is the final step in progressive discipline and applies in cases where the employee misconduct is severe or in cases where the misconduct or unacceptable behavior or performance is repetitive and the progressive discipline procedures have not corrected the problems. (OPS involvement is required at this stage.)

The severity of the problem or employee conduct will determine whether all steps will be followed or a recommendation will be made for suspension without pay or dismissal. When there is a range of penalties, aggravating or mitigating circumstances will be considered. At the school or department level, the range of available disciplinary consequences are from conference summaries to written reprimands.

CONFERENCE SUMMARY TO WRITTEN REPRIMAND—MAY BE ADMINISTERED AT THE SITE LEVEL. A COPY MUST BE FORWARDED IMMEDIATELY TO OPS IN A SEALED ENVELOPE MARKED CONFIDENTIAL.

If the discipline consequence is in the range from a conference summary to a written reprimand, this may be accomplished by the site based administrator immediately after completing the interview of the subject of the complaint, but in no case should it take longer than ten working days to complete. Be certain to have the employee sign the written documentation of the discipline. If the employee refuses to sign, a witness should sign acknowledging the employee's refusal to sign. Be certain to copy OPS with a copy of document.

APPENDIX

APPENDIX A Coaching Memorandum

APPENDIX B Meeting Notification Letter to Employee

APPENDIX C Conference Summary

APPENDIX D Letter of Caution

APPENDIX E Letter of Reprimand

Coaching Memorandum - Non-Disciplinary

DATE: March 10, 20XX

TO: Employee

FROM: Supervisor (Supervisor Signature)

RE: Meeting

We met on January 20, 20XX and discussed the fact that student BB went home and told his mother that you slapped him on the back of his head. A thorough investigation revealed that student BB's allegation is unfounded. In fact, student BB later admitted he was untruthful to his mother. Student BB stated he was mad at you because you shouted at him during class after you directed him, several times, to stop talking to the girl sitting next to him.

I am aware of the fact student BB has presented many challenges to you, as well as his previous teachers. However, you need to remain calm and if you become frustrated, please reach out for support. You have done a wonderful job managing his behavior this year and I commend you for a job well done. Your efforts in helping BB become a responsible learner have not gone unnoticed.

Employee Signature/Date

HAND DELIVERED

TO: Name of Employee
Title
Name of School

Meeting Notification - Letter to Employee

FROM: Name of Administrator *(Supervisor signature)*
Title
Name of Site

Date:

Re: Appointment

I have scheduled an appointment for you to meet with me, NAME, TITLE, SITE LOCATION, on DAY, DATE AND TIME. You are directed to attend and are welcome to bring representation. Please check in at the front desk and you will be escorted to our office.

Employee Signature/Date

Conference Summary

TO: Name
Title
Worksite

HAND DELIVERED

FROM: Name of Administrator *(Supervisor signature)*
Title
Name of Site

Re: Conference Summary

I met with you on October 7, 20XX, at PLACE AND LOCATION. You were offered representation and declined. The purpose of the meeting was to discuss concerns about your job performance. I explained to you that I have become increasingly concerned about your performance in the classroom. I elaborated by stating that you did not leave adequate lesson plans for substitute teachers, that students were telling the substitutes they were not learning anything in your class and substitutes questioned the quality of your instruction. I also informed you that a coworker had approached me and stated she had become uncomfortable with some of the comments you made in her presence.

You acknowledged that your teaching performance needed to improve, and you would begin immediately to make the changes I suggested. You were genuinely shocked by the allegation that you made a teammate feel uncomfortable. You stated that you would never intentionally make a fellow worker uncomfortable at work.

I stated that I would work to develop a success plan with you and offer appropriate support. I also stated that I hope you will be successful in improving your teaching performance.

Cc: Jane Doe
Invest file

Employee Signature/Date



November 19, 20XX

Letter of Caution

HAND DELIVERED

NAME
TITLE
WORKSITE

Dear _____:

I met with you on September 1st and September 4th, 20XX, at the School Administration Building located in Largo. You were offered representation and declined. I opened the meeting by describing my role in the Office of Professional Standards. I also explained the reason you were placed on administrative leave with pay.

I informed you that your principal received reports from staff members that you may have harassed female employees at your worksite. I provided you copies of written statements that were submitted to me from the employees. The incident is a result of a discussion you had with a female employee about a parent who made a complaint regarding the physical education program. The complainant stated you were physically and verbally aggressive towards her. The complainant also stated that you stood over her and verbally berated her in front of others.

You denied her allegations and stated you did have a conversation with the complainant. You said you simply asked her questions about the parent who made the complaint and were frustrated that she would not provide you with the requested information. You told me that there were several other adults in the room at the time and all of them would substantiate your version of the incident. I told you that I did interview all adults present at the time and they generally supported your claim. However, two of the adults said they understood why the complainant may have felt threatened and intimidated. They stated the complainant may not have reacted in that fashion if the conversation had taken place in a setting away from the other male physical education teachers, staff members and students. The complainant also stated you referred to her as "Girl." Although it was not determined that you were physically or verbally aggressive as alleged, I did find that you need to treat your coworkers with professionalism.

We discussed the importance of maintaining a safe and professional working environment. I also told you that I learned that some staff members stated they are afraid of you but did not give specifics. I closed the meeting by stating that you may want to examine your own personal behavior and interactions with others in order to determine why some of your coworkers may be afraid of you.

By this letter of caution I am directing you to conduct yourself in a professional manner at all times while on the worksite. Consider your surroundings when having a work related discussion or professional disagreement. As a teacher you are held to a higher standard of conduct.

Sincerely,
(Supervisor Signature)
Title / Worksite

Cc: ADMINISTRATOR
Invest/OPS files

Employee Signature/Date



November 19, 20XX

NAME
TITLE
WORKSITE

Letter of Reprimand

HAND DELIVERED

Dear _____

I met with you on November 4, 20XX, in the conference room located at SITE. You were offered representation and declined. NAME AND TITLE, was also in attendance. The purpose of the meeting was to discuss an allegation made against you. I opened the meeting by describing my role in the Office of Professional Standards.

I informed you that students in your class complained to administrators that you were not providing them with adequate instruction during class. The students said you spend the majority of class time surfing the web on your computer. Administrators at the school checked your computer to determine if you were spending class time surfing the web and discovered that since mid-August 2009, you had visited over eight thousand websites. The reason school administrators contacted the Office of Professional Standards was because many of the websites were exceptionally inappropriate. I informed you of the websites that were deemed inappropriate.

You told me you do not understand how that could possibly be true. You said you never visit inappropriate websites and you have never given anybody your password. You later said that you keep your password in your desk, and it was possible a student discovered it and used your computer. Your room is empty periodically throughout the day and the door is not always locked. Your denials are not plausible for a couple of reasons. First, staff from the Technology and Information Systems Department concluded that the numerous websites were visited during class time. Secondly, for those websites that were accessed at times other than during classroom instruction, a student would require access to your password and classroom. Neither of which, a student should have. I reminded you that you have no expectation of privacy when you use a computer provided by your employer. I closed the meeting by directing you to properly secure your computer and change your password. Since that computer is assigned to you, you are responsible for taking proper precautions to be sure students do not access your account and/or surf the web using your password.

By this letter of reprimand, I am directing you to take proper precautions to secure your computer and use it only for legitimate work purposes. Failure to follow this directive will result in other disciplinary action such as a suspension without pay or a recommendation for termination of employment. I am hopeful there will be no further problems.

Sincerely,

Administrator's name
Title / Worksite

Cc: **ADMINISTRATOR NAME**
Invest/OPS files

Employee Signature/Date