

**SUSPENSION, DISMISSAL AND NON-REEMPLOYMENT OF
TEACHERS**

POLICY

I. Definitions and Scope

- A. "Teacher" means a duly certified or licensed person who is employed to serve as a counselor, librarian, school nurse, or any instructional capacity. An administrator shall be considered a "teacher" only with regard to service in an instructional, non-administrative capacity.
- B. "Dismissal" means the discontinuance of the teaching service of a teacher during the term of a written contract.
- C. "Non-reemployment" means the non-renewal of a teacher's contract upon expiration of the contract.
- D. "Suspension" means the temporary discontinuance of a teacher's services during the term of a contract pending dismissal or non-reemployment.
- E. "Career teacher" means a teacher who has completed three (3) or more consecutive complete school years in such capacity in the Technology Center under a written teaching contract.
- F. "Probationary teacher" means a teacher who has completed fewer than three (3) consecutive complete school years in such capacity in the Technology Center under a written teaching contract.
- G. "Preponderance of evidence" as used in Procedures Section I.E.1 of this policy means means "more probable than not". This standard is met if the proposition is more likely to be true than not true. The standard is effectively satisfied if it is believed that there is greater than a 50% chance that the proposition is true,
- H. This policy does not apply to:
 - 1. Substitute teachers,
 - 2. Adult education teachers or instructors,
 - 3. Teachers employed on temporary contracts, and

4. Administrators, except with regard to service in an instructional, non-administrative position.

I. This policy does apply to teachers employed in positions fully funded by federal or private categorical grants in regard to dismissals or suspensions during the term of employment under the grant, but not in regard to "non-reemployment" at the expiration of the grant.

II. Grounds for Dismissal or Non-reemployment

A. Cause

1. A career teacher may be dismissed or not reemployed for:

- (a) willful neglect of duty,
- (b) repeated negligence in performance of duty,
- (c) incompetency,
- (d) unsatisfactory teaching performance,
- (e) instructional ineffectiveness,
- (f) mental or physical abuse to a child,
- (g) commission of an act involving moral turpitude,
- (h) criminal sexual activity or sexual misconduct (as those terms are defined by law) which has impeded the effectiveness of the teacher's performance of school duties,
- (i) failure to meet local school board staff development requirements,
- (j) abandonment of contract, and
- (k) any other grounds hereafter allowed by law.

2. A career or probationary teacher shall be dismissed or not reemployed for conviction of a felony.

3. A probationary teacher may be dismissed or not reemployed for cause.

4. A cause listed in 1. (a) - (e) for a career teacher, or any cause related to inadequate teaching performance for a probationary teacher, shall not be a basis for a recommendation to dismiss or not reemploy a teacher unless corrective action procedures involving admonishment/plan for improvement have been followed. Dismissal or non-reemployment for any cause not listed in 1. (a) - (e) for a career teacher, or not related to inadequate teaching performance for a

probationary teacher, shall not require corrective action procedures (i.e. admonishment) to be followed.

B. Corrective Action – Admonishment / Plan for Improvement

1. When the administrator who has evaluated a teacher pursuant to Technology Center policy identifies poor performance or conduct that the administrator believes may lead to a recommendation for the teacher's dismissal or non-reemployment, the administrator shall:
 - (a) admonish the teacher, in writing, and make a reasonable effort to assist the teacher in correcting the poor performance or conduct; and
 - (b) establish a reasonable time for improvement, not to exceed two (2) months, taking into consideration the nature and gravity of the teacher's performance or conduct.
2. Whenever a member of the board of education, superintendent, or other administrator identifies poor performance or conduct that may lead to a recommendation for dismissal or non-reemployment of a teacher, the administrator who has responsibility for evaluation of the teacher shall be informed and shall admonish the teacher as described above. If the administrator fails or refuses to admonish the teacher within ten (10) days after being informed of the problem, the board, superintendent or other administrator who identified the problem shall admonish the teacher.
3. If the teacher does not correct the poor performance or conduct cited in the admonition within the time specified, the administrator (or other admonishing official) shall make a recommendation to the superintendent for the dismissal or non-reemployment of the teacher. The superintendent shall furnish a copy of the recommendation to the board of education.

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PROCEDURES

I. Procedures for Suspension, Dismissal or Non-reemployment

A. Commencement of Action

1. Whenever the superintendent determines that cause exists for the dismissal or non-reemployment of a teacher employed within the Technology Center, the Superintendent shall submit a recommendation in writing to the board of education. The recommendation shall state the one or more specific grounds (statutory grounds, in the case of a career teacher) and specify the underlying facts on which the recommended dismissal or non-reemployment is based.
2. In the absence of a recommendation from the superintendent pursuant to this section, or when the board of education chooses not to accept the superintendent's recommendation as to reemployment of a teacher, the board may initiate dismissal or non-reemployment action without a recommendation provided that it adheres to the other provisions of this policy and that the corrective action procedures, if applicable, have been followed.

B. Suspension

Whenever the superintendent has reason to believe that cause exists for the dismissal of a teacher and is of the opinion that the immediate suspension of the teacher would be in the best interests of the children in the district, the superintendent, or the board of education on the recommendation of the superintendent, may suspend the teacher without notice or hearing. The suspension shall not deprive the teacher of any teaching compensation or other benefits to which he/she would otherwise be entitled under the teaching contract or pursuant to law. Within ten (10) days after the suspension becomes effective, the board of education shall, in a matter involving a probationary teacher, initiate a hearing for dismissal pursuant to this policy. When the employee is a career teacher, the Board shall initiate the pretermination hearing process as provided by this policy. However, in a case involving a criminal charge or indictment, such

suspension may extend to such time as the teacher's case is finally adjudicated, except such extension shall not include any appeal process.

C. Notice and Hearing

1. Prior to the time that the board of education takes any action to dismiss or non-reemploy a teacher, whether the board is acting on its own volition or on a recommendation of the superintendent, the clerk of the board shall provide notice to the teacher. Notice shall consist of a copy of the recommendation (or a comparable statement of grounds and underlying facts, if the board is acting on its own volition), and a notice that the probationary teacher has a right to a hearing before the board or the career teacher has a right to a pretermination hearing and stating the date, time and place set by the board for the probationary teacher hearing or career teacher pretermination hearing. Notice shall be via certified mail, restricted delivery with return receipt requested; via personal delivery with a signed acknowledgement of receipt, or; via delivery by a process server. The hearing shall be held no fewer than 20 days and no more than 60 days after the teacher receives the notice. Notice of a recommendation of non-reemployment or possible non-reemployment action by the board acting on its own volition shall be given to the teacher prior to April 10.
2. The probationary teacher hearing before the board of education shall be conducted pursuant to procedures established by the State Department of Education. In the absence of or to the extent not inconsistent with those procedures, the hearing shall be conducted as prescribed in section E.2. below.

D. Career Teacher Pretermination Hearing

1. The career teacher pretermination hearing shall be conducted by the board. The pretermination hearing shall begin with an oral or written statement or both by the Superintendent, or the Superintendent's designee, which specifies the statutory cause(s), the underlying facts and provides an explanation of the evidence supporting the recommendation for the dismissal or the non-reemployment of the career teacher.
2. The career teacher or teacher's designee shall, following the statement by the Superintendent (or designee) have an opportunity, in person or

in writing or both, to present reasons why the proposed action should not be taken.

3. After the career teacher (or teacher's designee) has had, at the pretermination hearing, a meaningful opportunity to respond to the recommendation for dismissal or non-reemployment, the board shall decide whether to accept or reject the Superintendent's recommendation. The board's vote, regarding the recommendation, shall be in an open meeting and shall, if the teacher is to be dismissed or non-renewed, state the statutory cause(s) and the underlying facts justifying the action.
4. The board clerk shall notify the career teacher of its decision and the basis for its decision by certified mail, restricted delivery, return receipt requested or by personal delivery with signed acknowledgement of receipt or by process server delivery. If the board's decision is to accept the superintendent's recommendation, the board clerk shall include, in the notice to the career teacher, an explanation of the teacher's right to petition for a trial de novo in the district court within ten (10) days of the career teacher's receipt of notice of the board's decision.
5. At the pretermination hearing the burden of proof shall be upon the Superintendent (or designee) and the standard of proof shall be by the preponderance of the evidence.
6. The career teacher shall receive any compensation or benefits to which the teacher is entitled until the teacher's case is adjudicated at a trial de novo – if the teacher timely petitions for trial de novo. However, compensation and benefits shall not be provided during any further appeals process.
7. The probationary teacher hearing and the career teacher pretermination hearing shall be conducted in "open" session. If it is necessary to disclose information that is required by law to be kept confidential, the board shall receive such information in executive session prior to taking any action.

E. Probationary Teacher Hearing

1. At the hearing, the probationary teacher shall be entitled to be represented by counsel, to cross-examine witnesses presented by the school administration, to present witnesses on the teacher's behalf

and to present any relevant evidence or statement which the probationary teacher desires to offer. The burden of proof for any dismissal or non-reemployment shall be on the superintendent (or designee), and the standard of proof shall be a preponderance of the evidence.

2. The teacher hearing shall commence with an opening statement by the Superintendent or his designee. The teacher shall then have an opportunity for an opening statement. Following these statements, the order of the hearing shall be:
 - a. The Superintendent shall present facts showing the cause for the teacher's dismissal or non-reemployment, followed by cross-examination of witnesses by the teacher.
 - b. The Board may ask questions of the Superintendent.
 - c. The teacher shall then have the right to present the teacher's side of the matter, followed by a cross examination of witnesses by the Superintendent.
 - d. The Board may then ask questions of the teacher.
 - e. Presentation of rebuttal and surrebutal evidence is made, if necessary.
 - f. Closing argument is made by the Superintendent
 - g. Closing argument is made by the teacher
3. After due consideration of the evidence and testimony presented at the probationary teacher's hearing, the board shall vote, in open session, on the following: (1) findings of fact based on the evidence submitted and (2) whether to dismiss or non-reemploy the probationary teacher. The decision shall be made by a majority of the board of education members present at the meeting and shall be final and nonappealable
4. The motion to dismiss or non-reemploy the probationary teacher should state the specific cause for dismissal or non-reemployment, although such cause need not be a statutory cause.

5. The probationary teacher shall be sent notice of the board's unappealable decision by certified mail, restricted delivery, return receipt requested, or by personal delivery with signed acknowledgement of receipt or by process server delivery. The notice shall state the basis for the board's decision.

6. The probationary teacher shall receive any compensation or benefits to which the teacher is entitled until such time as the board's decision is final. If the probationary teacher's hearing is for non-reemployment, and not for dismissal, the teacher's compensation and benefits may continue only until the end of the probationary teacher's current contract.

II. Termination Based on Reduction in Force

Career teachers and probationary teachers non-reemployed due to a reduction in force shall not be entitled to a trial de novo or any other post-decision review or appeal. The decision of the board of education in terminations based on reduction in force is final and nonappealable. Terminations resulting from a reduction in force are not included within the procedures provided by this policy and are not within the Teacher Due Process Act of 1990.