

PERS5 - Termination of Employment: Professional Staff

P - Personnel

DISCIPLINE, SUSPENSION, AND DISMISSAL OF PROFESSIONAL STAFF MEMBERS

(local)

Categories of Misconduct

Certificated staff members may be disciplined for infractions that include, but are not limited to, the following categories:

- A. Engaging in unprofessional conduct.
- B. Committing fraud in securing appointment.
- C. Exhibiting incompetency in their work.
- D. Exhibiting inefficiency in their work.
- E. Exhibiting improper attitudes.
- F. Neglecting their duties.
- G. Engaging in acts of insubordination.
- H. Engaging in acts of child abuse or child molestation.
- I. Engaging in acts of dishonesty.
- J. Being under the influence of alcohol while on duty.
- K. Engaging in the illicit use of narcotics or habit-forming drugs.
- L. Being absent without authorized leave.
- M. Engaging in discourteous treatment of the public.
- N. Engaging in improper political activity.
- O. Engaging in willful disobedience.
- P. Being involved in misuse or unauthorized use of school property.
- Q. Being involved in excessive absenteeism.
- R. Carrying or possessing a weapon on school grounds unless they are peace officers or have obtained specific authorization from the appropriate school administrator.

Statutory Requirements

Certificated staff members disciplined under A.R.S. 15-341, A.R.S. 15-539, or other applicable statutes:

- A. May not be suspended with or without pay for a period exceeding ten (10) school days under A.R.S. 15-341.
- B. May be suspended without pay for a period of time greater than ten (10) school days or dismissed under A.R.S. 15-539.
- C. Shall be disciplined under procedures that provide for notice, hearing, and appeal, subject to the requirements of A.R.S. 15-341 or A.R.S. 15-539, whichever is appropriate.
- D. Shall, if disciplined under A.R.S. 15-539 or other applicable statutes, excluding A.R.S. 15-341, receive notice in writing served upon the certificated staff member personally or by United States registered or

certified mail addressed to the employee's last-known address. A copy of charges specifying instances of behavior and the acts of omissions constituting the charge(s), together with a copy of all applicable statutes, shall be attached to the notice.

E. Shall have the right to a hearing in accordance with the following:

1. Suspension under A.R.S. 15-341. The supervising administrator will schedule a meeting not less than two (2) days nor more than ten (10) days after the date the certificated staff member receives the notice.

2. Dismissal or dismissal with suspension included under A.R.S. 15-539. A certificated staff member's written request for a hearing shall be filed with the Board within ten (10) days after service of notice. The filing of a timely request shall suspend the imposition of a suspension without pay or a dismissal pending completion of the hearing.

General Provisions for Discipline

Under A.R.S. 15-341 General provisions for discipline are as follows:

A. Informal consultation. Nothing contained herein will limit a supervising administrator's prerogative to engage in informal consultation with a certificated employee to discuss matters of concern related to the employee's performance, conduct, et cetera; however, when it is apparent that disciplinary action toward a certificated employee is likely to become a part of the certificated staff member's personnel record as permitted by A.R.S. 15-341, the procedures outlined herein shall be followed.

B. Persons authorized to impose discipline. Any supervising administrator who is the immediate or primary supervisor of a certificated staff member is authorized to impose a penalty or penalties, short of dismissal. Only the Board may dismiss a certificated staff member.

C. Notice. Any person who is required by this policy to give written notice to any other person affected by this policy may do so by any means reasonably calculated to give the recipient actual knowledge of the notice within a reasonable amount of time. When time is calculated from the date a notice is received, the notice is deemed to be received on the date it is hand delivered or three (3) calendar days after it is placed in the mail.

D. Administrative discretion. In adopting these policies and procedures, it is the intention of the District that they be interpreted and applied in a reasonable fashion. The policies and regulations are not intended to restrict or eliminate the discretion traditionally afforded to supervising administrators to determine whether discipline is appropriate. Supervising administrators are therefore directed to continue to use reasonable discretion in determining whether a particular alleged violation merits discipline.

E. Right not to impose discipline. The District reserves the right not to discipline a certificated staff member for conduct that violates this policy.

F. Definition of work days. For the purposes of this policy, a work day is any day that the District's central administrative office is open for business.

G. Additional reasons for discipline. A certificated staff member may be disciplined for conduct that has occurred but that, at or near the time of misconduct, was not the subject of or identified as a reason for a specific proceeding under this policy.

Procedure for Discipline

Under A.R.S. 15-341

The following procedures will be used to impose any discipline that 1) shall become a part of the certificated staff member's personnel record and 2) is permitted under A.R.S. 15-341:

Step 1 - Notice:

A. Upon the supervising administrator's determination of the existence of cause to impose discipline, the supervising administrator shall notify the certificated staff member of intent to impose discipline. The notice shall be in writing and shall be delivered in person or by first-class mail. The notice shall include the following:

1. The conduct or omission on the part of the certificated staff member that constitutes the reason for discipline.

2. A scheduled meeting time between the supervising administrator and the certificated staff member. Such

meeting shall be scheduled not more than ten (10) working days after the date the certificated staff member receives the notice.

3. A statement of the disciplinary action the supervising administrator intends to impose, including, if applicable, the number of days of suspension with or without pay.

4. Copies of any available relevant documentation, at the discretion of the supervising administrator.

Step 2 - Discipline Hearing:

A. At the hearing, the supervising administrator shall discuss with the certificated staff member the conduct that warrants disciplinary action and shall provide the certificated staff member with any appropriate evidence and a copy of relevant documentation if not previously provided.

B. The supervising administrator shall conduct the hearing in an informal manner, without adherence to the rules of evidence and procedure required in judicial proceedings.

Step 3 - Decision (in writing):

At the hearing, or within ten (10) working days following the hearing, the supervising administrator shall, in writing, inform the certificated staff member of the decision. If the decision is to impose discipline, written notice of the discipline shall be enclosed. The written notice of the decision shall state that a copy of the notice, decision, and a record of the disciplinary action shall be placed in the certificated staff member's personnel file and shall specify the date the discipline shall be imposed unless the certificated staff member files a written request for appeal within five (5) working days after the decision is delivered to the certificated staff member. If the certificated staff member requests an appeal of the decision, the imposition of any discipline shall be suspended pending the outcome of the appeal.

Step 4 - Appeal:

Discipline imposed may be appealed at the next organizational level, in writing, to the appropriate assistant superintendent or the Superintendent. Only when the discipline is determined by the Superintendent shall the appeal be to the Board, which, at its discretion, may appoint a hearing officer. The appeal shall contain a brief statement of the reasons why the certificated staff member believes the administrator's decision is incorrect. Appeal is limited to one (1) organizational level above the level of the supervising administrator who imposed the discipline. The appeal shall specifically describe the part of the determination with which the certificated staff member disagrees:

A. Determination was founded upon error of construction or application of any pertinent regulations or policies.

B. Determination was unsupported by any evidence as disclosed by the entire record.

C. Determination was materially affected by unlawful procedure.

D. Determination was based on violation of any statutory or constitutional right.

E. Determination was arbitrary and capricious.

F. The penalty was excessive.

The supervising administrator, the Superintendent, or, when appropriate, the Board or the

Board-appointed hearing officer may, at the conclusion of the appeal, uphold the discipline, modify the decision, or refer the matter back to the level from which it was appealed for rehearing and additional information. Such decision, along with specific direction as to the effective date of any discipline, shall be communicated to the certificated staff member within a reasonable amount of time following the appeal, not to exceed seven (7) working days.

The assigned hearing officer shall, by use of a mechanical device, make a record of the appeal hearing.

This policy, under A.R.S. 15-341, does not apply to dismissal of a certificated staff member except to the extent that the Board may find, subsequent to dismissal proceedings, that a lesser form of discipline as set forth in this policy should be imposed. Not all administrative actions regarding a certificated staff member are considered "discipline," even though they may involve alleged or possible violations by the certificated staff member. This policy addresses only discipline and has no application to any of the following:

- A. The certificated staff member evaluation procedure or the resulting evaluations as they pertain to the adequacy of the certificated staff member's classroom performance.
- B. Letters or memorandums directed to a certificated staff member containing directives or instructions for future conduct.
- C. Counseling of a certificated staff member concerning expectations of future conduct.
- D. Nonrenewal of a contract of a certificated staff member employed by the District for less than the major portion of three (3) consecutive school years (noncontinuing certificated staff member).

General Provisions for Suspension

Without Pay or Dismissal Under A.R.S. 15-539

Step 1 - Notice:

A. The Governing Board, except as otherwise provided by A.R.S. 15-539, shall upon receipt of a written statement of charges from the Superintendent that cause exists for the suspension of a certificated teacher without pay for a period longer than ten (10) school days or dismissal, shall give notice to the teacher of the Board's intention to suspend without pay or dismiss the teacher at the expiration of ten (10) days from the date of service of the notice.

1. If charges presented to the Board for dismissal of a certificated person allege immoral conduct, the charge or a resignation involving such charges shall be reported to the Department of Education.

2. Whenever the statement of charges by the Superintendent allege immoral or unprofessional conduct as the cause for dismissal, the Board may adopt a resolution to file a complaint with the State Department of Education. Pending disciplinary action by the State Board, the certificated teacher may be reassigned by the Superintendent or the Governing Board may place the teacher on administrative leave and give notice to the teacher of the administrative leave of absence pursuant to A.R.S. 15-540.

3. As used in this policy, immoral conduct means any conduct that is contrary to the moral standards of the community and that reflects an unfitness to perform the duties assigned to the certificated staff member.

B. The Governing Board, upon adoption of a written statement charging a certificated teacher with cause for suspension without pay or dismissal, may immediately place the teacher on administrative leave of absence and give the teacher notice of the administrative leave of absence.

C. Written notice of the administrative leave of absence shall be served on the teacher personally or by United States registered mail addressed to the teacher at the teacher's last known address.

Step 2 - Hearing for Suspension Without Pay or Dismissal:

A. The Governing Board shall decide whether to hold a hearing on the dismissal or suspension of a certificated teacher without pay for a period of time longer than ten (10) days as provided in A.R.S. 15-541. The Governing Board provides, by policy, that all hearings conducted pursuant to this section shall be conducted before a hearing officer.

B. The Board shall designate a hearing officer to:

1. hold the hearing,
2. hear the evidence,
3. prepare a record of the hearing, and
4. issue a recommendation to the Board for action.

C. If the parties cannot mutually agree on a hearing officer, a hearing officer shall be selected by the Governing Board from a list provided by the State Department of Education or the American Arbitration Association.

D. A hearing held pursuant to A.R.S. 15-541 may not be conducted by any hearing officer having a personal interest which would conflict with the hearing officer's objectivity in the hearing.

E. The hearing shall be held:

1. not less than fifteen (15) days, nor

2. not more than thirty (30) days.

3. after the request is filed, unless all parties to the hearing mutually agree to a different hearing date.

F. Notice of the time and place of the hearing shall be given to the teacher not less than three (3) days before the date of the hearing.

G. The teacher may request that the hearing be conducted in public or private.

H. The Governing Board shall provide any officer, appointee, or employee to be considered or discussed at a meeting with written notice of the executive session as is appropriate but not less than twenty-four (24) hours for the officer, appointee, or employee to determine whether the discussion or consideration should occur at a public meeting.

I. At the hearing the teacher may appear in person and by counsel, if desired, and may present any testimony, evidence or statements, either oral or in writing, in the teacher's behalf.

J. An official record of the hearing, including all testimony recorded manually or by mechanical device, and exhibits shall be prepared by the Governing Board or the hearing officer.

K. The teacher who is the subject of the hearing may not request that the testimony be transcribed unless the teacher agrees in writing to pay the actual cost of the transcription.

L. Within ten (10) days after a hearing conducted by a hearing officer, the hearing officer shall deliver a written recommendation to the Governing Board that includes findings of fact and conclusions.

M. Parties to the hearing have the right to object to the findings of the hearing officer and present oral and written arguments to the Governing Board.

N. The Governing Board has an additional ten (10) days to determine whether good and just cause existed for the notice of dismissal or suspension and shall render its decision accordingly, either affirming or withdrawing the notice of suspension or dismissal.

Good and just cause does not include religious or political beliefs or affiliations unless they are in violation of the oath of the teacher.

Additional Provisions

and Conditions

During the pendency of a hearing, neither the certificated staff member nor the supervising administrator shall contact the Superintendent or a Board member to discuss the merits of the supervising administrator's recommendation or charges and proposed discipline except as provided by this policy. No attempt shall be made during such period to discuss the merits of the charges with the person designated to act as hearing officer.

The Governing Board shall keep confidential the name of a student involved in a hearing for dismissal, discipline, or action on a teacher's certificate, with exceptions as noted in A.R.S. 15- 551. Amendments. The District reserves the right to amend this policy in any way at any time. Any amendment shall have prospective application only.

Severability. If any provision of this policy is held to be invalid for any reason, such action shall not invalidate the remainder of this policy. If any provision of this policy conflicts with any provisions in any other policies adopted by the District, the provisions of this policy shall prevail.

Teachers Working Under a

Short-Term Certification

A teacher who holds a teaching intern certificate, an emergency teaching certificate or another type of nonstandard certificate, that is valid for one (1) year or less, may be dismissed by the Board effective ten

(10) days after delivery of the notice of dismissal to the teacher without complying with the requirements of A.R.S. conditions found in 15-537, 15-538, or 15-541. Notice of the Board's authority to dismiss pursuant to this shall be included in each teacher's contract.

(legal)

A.R.S.

13-2911

15-153

15-203

15-341

15-342

15-350

15-503

15-507

15-508

15-514

15-536

15-538

15-538.01

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