

Policy ~~3139~~ 544 – Staff Employee Discipline

Revised policy and repeal of Policy 3139.01 (Suspension), Policy 3141 (Termination), Policy 4139 (Staff Discipline), and Policy 4139.01 (Suspension) effective upon July 1, 2019

1st reading May 23, 2019

2nd reading

3rd reading

Statutory authority West Virginia Code 18A-2-7, 18A-2-8

Administrative Guidelines

(none)

The Board of Education retains the right and the responsibility to manage the work force. When the discipline of a staff member becomes necessary, such action shall be in proportion to the employee's offense or misconduct, consistent with appropriate procedural and substantive due process, State law, and Board policy.

~~West Virginia Code 18-5-1, 18A-2-7, and 18A-2-8~~

Suspension

The Superintendent, ~~subject only to approval of the Board,~~ shall have authority to suspend school personnel with or without pay. The suspension may be with or without pay. Such suspensions must be ratified by the Board, except that the Superintendent may immediately suspend an employee for no more than 30 days if appropriate in his / her sole discretion and present such suspension to the Board for ratification and / or extension at a later date. Furthermore, the Board may in its sole discretion modify the presentation to reduce or increase the length of the suspension or change the terms of payment during the suspension.

~~The Superintendent's authority to suspend school personnel shall be temporary only pending a hearing upon charges filed by the Superintendent with the Board of Education and such period of suspension shall not exceed thirty (30) days unless extended by order of the Board.~~

~~The Board may suspend or dismiss any person in its employment at any time for:~~

- ~~_____ A. _____ immorality;~~
- ~~_____ B. _____ incompetency;~~
- ~~_____ C. _____ cruelty;~~
- ~~_____ D. _____ insubordination;~~
- ~~_____ E. _____ intemperance;~~
- ~~_____ F. _____ willful neglect of duty;~~
- ~~_____ G. _____ unsatisfactory performance;~~
- ~~_____ H. _____ the conviction of a felony or a guilty plea or a plea of nolo contendere to a felony charge.~~

~~A charge of unsatisfactory performance shall not be made except as the result of an employee performance evaluation.~~

The charges shall be stated in writing served upon the employee within two (2) days of presentation of said charges to the Board. The employee so affected shall be given an opportunity, within five (5) days of receiving such written notice, to request, in writing, a level three (3) hearing and appeals pursuant to WV Code 6C-2-1 et seq. (Grievance Procedure), except that dismissal for the conviction of a felony or guilty plea or plea of nolo contendere to a felony charge is not by itself grounds for a grievance proceeding. An employee charged with the commission of a felony may be reassigned to duties which do not involve direct interaction with students pending final disposition of the charges.

WV Code 18A-2-7 and 18A-2-8

Termination

The Superintendent shall have authority to recommend dismissal of professional personnel to the Board of Education. Furthermore, the Board may in its sole discretion choose to modify a recommendation for suspension to include termination.

The Board may dismiss any person in its employment at any time for:

- _____ A. _____ immorality;
- _____ B. _____ incompetency;
- _____ C. _____ cruelty;
- _____ D. _____ insubordination;
- _____ E. _____ intemperance;
- _____ F. _____ willful neglect of duty;
- _____ G. _____ unsatisfactory performance;
- _____ H. _____ the conviction of a felony or a guilty plea or a plea of nolo contendere to a felony charge.

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The continuing contract of any teacher shall remain in full force and effect except as modified by mutual consent of the School Board and the teacher, unless and until terminated: (1) by a majority vote of the full membership of the Board on or before the first Monday of April of the then current year, after written notice, served upon the teacher, return receipt requested, stating cause or causes and an opportunity to be heard at a meeting of the Board prior to the Board's action thereon; or (2) by written resignation of the teacher before that date, to initiate termination of a continuing contract. Such termination shall take effect at the close of the school year in which the contract is so terminated.

A continuing contract shall not operate to prevent a teacher's dismissal based upon the lack of need for the teacher's services pursuant to the provisions of law relating to the allocation to teachers and student teacher ratios. The written notification of teachers being considered for dismissal for lack of need shall be limited to only those teachers whose consideration for dismissal is based upon known or expected circumstances which will require dismissal for lack of need. An employee who was not provided notice and an opportunity for a hearing pursuant to the provisions in the preceding paragraph may not be included on the list. In case of such dismissal, the teachers so dismissed shall be placed upon a preferred list in the order of their length of service with that Board, and no teacher shall be employed by the Board until

~~each qualified teacher upon the preferred list, in order, shall have been offered the opportunity for reemployment in a position for which they are qualified provided that s/he has not accepted a teaching position elsewhere. Such reemployment shall be upon a teacher's preexisting continuing contract and shall have the same effect as though the contract had been suspended during the time the teacher was not employed.~~

~~WV Code 18A-2-2, 18A-2-8~~

Staff Discipline

~~The Board of Education retains the right and the responsibility to approve or disapprove the Superintendent's management of the work force. When the discipline of a staff member becomes necessary, such action shall be in proportion to the employee's offense or misconduct, consistent with appropriate procedural and substantive due process, State law, and Board policy and pursuant to recommendation of the Superintendent.~~

~~18-4-10, 18A-2-1 et seq., Code of West Virginia~~

Suspension

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~~The Board may suspend or dismiss any person in its employment at any time for:~~

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~~WV Code 18A-2-7 and 18A-2-8~~