

Shelby County Board of Education

Suspension/Demotion/Dismissal of Non-Certified Employees

4052

Issued Date: 03/05/13
Effective Date: 07/01/13

I. PURPOSE

To establish procedures for taking disciplinary action against and/or dismissing non-certificated employees, unless otherwise covered by a Memorandum of Understanding (MOU).

II. SCOPE

This policy applies to all non-certificated employees, unless otherwise covered by a Memorandum of Understanding (MOU).

III. DEFINITION

Non-certified Employees – all persons who are employed in a position for which no teaching license is required by the Tennessee State Department of Education. This includes any person employed by the district who has a valid state issued teaching license, but holds a position for which no teaching license is required by the State.

IV. POLICY STATEMENT

Effective July 1, 2013, the Superintendent (or designee) has and shall retain sole discretion in employing and terminating non-certified employees. Such individuals are employed at-will by Shelby County Schools and their employment may be terminated by the Superintendent (or designee) in his/her sole discretion at any time for any reason not prohibited by state and federal law. Nothing contained in this or any other Board policy and administrative rules and regulations creates an employment contract, expressed, implied or otherwise.

Notwithstanding the above and in accordance with applicable Board policy and state law, the type of discipline administered shall be based on the nature and severity of the offense and the pattern of violations and offenses in the employee's employment record. Disciplinary actions to which this provision applies include the violation of district policies, substandard job performance and/or misconduct, and violations of local, state, or federal law.

V. RESPONSIBILITY

- A. Reporting supervisors and division or department heads are responsible for:
 - 1. Following the procedures outlined in this policy and for notifying the office responsible for labor and employee relations if stronger disciplinary actions are warranted; and
 - 2. Communicating reasons for disciplinary actions and expectations to employees
- B. The office responsible for labor and employee relations is responsible for ensuring compliance with the provisions of this policy.
- C. Any questions concerning this policy should be addressed by the office responsible for labor and employee relations.
- D. The Superintendent is responsible for determining if this policy is followed.

Legal References:

- 1. T.C.A. 49-2- 301 (b)(1)(EE)(FF)(GG)

Cross References:

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ADMINISTRATIVE RULES AND REGULATIONS
Suspension/Demotion/Dismissal of Non-Certified Employees

DEFINITIONS

- A. Demotion - the assignment of an employee from one active position to another active position with a lower maximum rate of pay.
- B. Discharge - involuntary termination of employment.
- C. Disciplinary Hearing - an official meeting that is held to investigate the circumstances surrounding alleged misconduct.
- D. Non-Certified Employees - all persons who are employed in a position for which no teaching license is required by the Tennessee State Department of Education and are not covered by a Memorandum of Understanding (MOU). This includes any person employed by the district who holds a valid state issued teaching license but holds a position for which no teaching license is required.
- E. Progressive Discipline - a sequence of actions taken by a reporting supervisor, division, or department head to modify inappropriate behaviors or performance of an employee through the use of a range of disciplinary consequences that are applied, depending upon the nature and history of the particular employee's conduct or performance.
- F. Reprimand
 - 1. Counseling – an opportunity for the employee and the supervisor to informally discuss work-related problems and concerns.
 - 2. Oral reprimand - a statement given to an employee by his/her reporting supervisor, division, or department head to address inappropriate behavior or performance and to

communicate consequences if behavior continues. A written statement documenting the oral reprimand shall be placed in the file of the employee and a copy given to the employee.

3. Written reprimand - a letter or memorandum given to an employee by his/her reporting supervisor, division, or department head to address inappropriate behavior or performance and to communicate consequences if such behavior continues. A written statement documenting the written reprimand shall be placed in the file of the employee.

G. Suspension - a period of involuntary leave with or without pay.

H. Severe Disciplinary Action – the disciplinary action of suspension, demotion or discharge taken by the Superintendent’s authorized designee, which is the office responsible for labor and employee relations.

FORMS OF DISCIPLINE

The forms of discipline that may be imposed include, but are not limited to:

1. oral and written reprimand;
2. demotion;
3. suspension; and
4. discharge.

Oral and Written Reprimand

Oral and written reprimands shall be issued to an employee by his/her reporting supervisor, or division/department head. The supervisor or division/department head shall seek advice from the office responsible for labor and employee relations prior to issuing reprimands. All other disciplinary actions, such as suspensions, discharges, and/or demotions, shall be issued by the office responsible for labor and employee relations, in consultation with the supervisor or director, after recommendation from an employee’s supervisor, or division/department head that stronger disciplinary action is warranted.

An employee receiving a written reprimand may make a written request for consideration of the disciplinary action to the deciding official, who must issue a written response to the request. If the employee is not satisfied with the written response, he/she can make a final appeal in writing to the next supervisory level who shall issue a written response to the appeal. Said response is final.

Severe Disciplinary Actions

Suspension, Demotion, or Other Adverse Personnel Action (Excluding Discharge)

A suspension, demotion or any other adverse personnel action (excluding discharge), along with a statement of reasons for the disciplinary action, shall be issued in writing by the office responsible for labor and employee relations. An employee receiving either of the said actions can submit a written response to the disciplinary action. This response must be submitted to the Superintendent or his/her designee within ten (10) working days following receipt of notice. The Superintendent or his/her designee shall respond within a reasonable time to affirm or modify the disciplinary action. The Superintendent's or his/her designee's decision is final.

Discharge (Excluding Reductions in Work Force)

A written discharge shall be issued by the Superintendent or his/her designee. The discharge is effective immediately. Within five (5) working days following receipt of the written discharge notification, an employee or his/her representative may mail, send via facsimile, or hand deliver a written request for a post-discharge appeal. The scope of the discharge review by the Superintendent or his/her designee is strictly limited to a determination as to whether the discharge of the employee was sought for improper reasons/reasons prohibited by law. If a timely post-discharge appeal is received, then the Superintendent or his/her designee shall provide a written response within ten (10) working days. The decision of the Superintendent or his/her designee is final.