

# DRAFT UPDATE

Mid-Valley Special Education Cooperative

5:240

## Professional Personnel

### Suspension

#### Suspension Without Pay

The Advisory Board may suspend without pay: (1) a professional employee pending a dismissal hearing, or (2) a teacher as a disciplinary measure for misconduct that is detrimental to the Cooperative. Administrative staff members may not be suspended without pay as a disciplinary measure.

Misconduct that is detrimental to the Cooperative includes:

- Insubordination, including any failure to follow an oral or written directive from a supervisor;
- Violation of Board policy or Administrative Procedure;
- Conduct that disrupts or may disrupt the educational program or process;
- Conduct that violates any State or federal law that relates to the employee's duties; and
- Other sufficient causes.

The Executive Director or designee is authorized to issue a pre-suspension notification to a professional employee. This notification shall include the length and reason for the suspension as well as the deadline for the employee to exercise his or her right to appeal the suspension to the Board or Board-appointed hearing examiner before it is imposed. At the request of the professional employee made within five calendar days of receipt of a pre-suspension notification, the Board or Board-appointed hearing examiner will conduct a pre-suspension hearing. The Board or its designee shall notify the professional employee of the date and time of the hearing. At the pre-suspension hearing, the professional employee or his/her representative may present evidence. If the employee does not appeal the pre-suspension notification, the Executive Director or designee shall report the action to the Board at its next regularly scheduled meeting.

#### Suspension With Pay

The Advisory Board or Executive Director or designee may suspend a professional employee with pay: (1) during an investigation into allegations of disobedience or misconduct whenever the employee's continued presence in his or her position would not be in the Cooperative's best interests, (2) as a disciplinary measure for misconduct that is detrimental to the Cooperative as defined above, or (3) pending an Advisory Board hearing to suspend a teacher without pay.

The Executive Director shall meet with the employee to present the allegations and give the employee an opportunity to refute the charges. The employee will be told the dates and times the suspension will begin and end.

#### Administrative Absence With Pay

Please refer to the applicable collective bargaining agreement.

#### Employees Under Investigation by Illinois Dept. of Children and Family Services (DCFS)

Upon receipt of a DCFS recommendation that the Cooperative remove an employee from his or her position when he or she is the subject of a pending DCFS investigation that relates to his or her employment with the Cooperative, the Board or Director or designee, in consultation with the Board Attorney, will determine whether to:

1. Let the employee remain in his or her position pending the outcome of the investigation; or

**Commented [AP1]:** Optional. 325 ILCS 5/7.4(c-5), amended by P.A. 100-176, eff. 1-1-18, allows DCFS to recommend to districts that they remove an employee from his or her position when he or she is the subject of a pending DCFS investigation that relates to his or her employment in the school district in which he or she is employed.

Consult the board attorney about suspending an employee without pay pursuant to a *DCFS 325 ILCS 5/7.4(c-5)-recommendation*. This language balances the interests of student safety and employee due process when the district receives a recommendation to a remove an employee who is the subject of a DCFS investigation from employment.

**Note:** Liability may exist when a district receives a 325 ILCS 5/7.4(c-5)-recommendation and does not remove the employee as a result. See the footnotes available at PRESS Online for more information.

This information also appears in policy 5:290, *Educational Support Personnel – Employment Termination and Suspensions*. Consult the board attorney before removing this optional section in one policy but not the other.

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**Commented [AP2]:** The text "Board or Superintendent or designee" allows flexibility if the Superintendent were the subject of a DCFS investigation.

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2. Remove the employee as recommended by DCFS, proceeding with:

- a. A suspension with pay; or
- b. A suspension without pay.

## Repayment of Compensation and Benefits

If a professional employee is suspended with pay, either voluntarily or involuntarily, pending the outcome of a criminal investigation or prosecution, and the employee is later dismissed as a result of his or her criminal conviction, the employee must repay to the Cooperative all compensation and the value of all benefits received by him or her during the suspension. The Executive Director will notify the employee of this requirement when the employee is suspended.

LEGAL REF.: 5 ILCS 430/5-60(b).  
105 ILCS 5/24-12.  
325 ILCS 5/7.4(c-10).  
Cleveland Board of Education v. Loudermill, 470 U.S. 532+05 S.Ct. 1487 (1985).  
Barszcz v. Community College District No. 504, 400 F.Supp. 675 (N.D. Ill., 1975).  
Massie v. East St. Louis Sch. Dist. No. 189, 203 Ill.App.3d 965 (5th Dist. 564  
N.E.2d 246 (Ill.App.5, 1990).

CROSS REF.: 5:290 (Educational Support Personnel - Employment Termination and  
Suspensions)

ADOPTED: November 2, 2016