



POLICY SERVICES ADVISORIES

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Policy Advisory Discussion

Policy Advisory 366 CBA – Qualifications and Duties of the Superintendent.

Policy Advisory 343 added to the CBA document model the requirement that the superintendent has to be fingerprinted as prescribed by A.R.S. 15-503(A)(1). The Policy Advisory (PA) observed that the statute also requires the board to determine the qualifications for the superintendent by action taken at a public meeting. Although the fingerprint requirement was added to the

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document, inclusion of language concerning the superintendent's qualifications was not. HB 2011 modified A.R.S. 15-203(14) to remove the requirement that a superintendent had to be certificated by the State Board of Education. CBA is revised to state that the Superintendent shall have appropriate qualifications as determined by the Governing Board at a public meeting to comply with the statutory change.

Policy Advisory 367 CBI – Evaluation of Superintendent.

ASBA Policy document model CBI has for years included the sentence, “Board members shall have the opportunity to discuss with the Superintendent any item(s) on which the Board fails to achieve consensus.”

A concern has been raised that the sentence may infer that a Board could have a practice of improperly acting to determine a consensus, or the lack of a consensus, in executive session concerning the superintendent's qualifications in violation of the open meeting law. To clarify the intent of the statement and avoid a potential violation by a Board, the sentence has been modified to specify that a Board member shall have the opportunity to discuss with the Superintendent any item relative to the corporate Board's determination with which the Board member may not concur.

A reminder relative to the evaluation of the Superintendent – The sentence, “Evaluations are confidential.” was deleted from the CBI document model nearly three years ago. Only the evaluations of teachers are confidential as provided in 15-537(G). Because the legislature did not extend in statute the provision of confidentiality to any other class of school district personnel, except for certain narrow conditions, the evaluations of those employees are accessible under the public records laws. If a district has not brought its policy CBI current and removed the referenced sentence, it is important to note the absence of evaluation confidentiality until the policy is updated.

Policy Advisory 368 GB — General Personnel Policies.

The current political climate and more recent legislative enactments have generated much debate about the relationship of governing board policies and employment agreements, particularly those of contracted personnel. Discussion among members of the Arizona Council of School Attorneys brings attention to and highlights the need for a clear and definitive statement of a governing board's right and authority to adjust its policies to serve the best interests of the district, and to establish that the board's personnel policies do not create “a vested right to continuing employment or benefits associated with

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District employment except as may be required by law and provided in the respective employee's written contract or employment agreement." Policy document model GB is created to serve those purposes.

Policy Advisory 369 GCF — Professional Staff Hiring.

Policy Advisory No. 354 recommended requirements for the correct acceptance of a contract and specified that a contract offer was to remain open for thirty days, as stated in law. Reflection on the recommendation brought realization that the Director of Policy Services incorrectly extended the time frame for acceptance of a renewal contract for continuing and noncontinuing teachers to apply to offers of contract to new candidates for professional positions. Statutes are silent on the period of time a contract offer for new employment is to remain open. Although it has long been the practice of some districts to afford a candidate thirty days to return an offer, districts have the autonomy to determine the period of time a new offer of employment is to be valid. Consequently, the GCF document model has been revised so districts may independently specify the desired timeframe in their policy.

Although it has been expressed that some districts might desire to specify the length of an offer is open on a case-by-case basis that practice can make the district vulnerable to allegations of discrimination if longer or shorter periods are perceived to be for the purpose of a favorable or unfavorable bias. It might better serve a district to designate a shorter period then issue a new offer when legitimate extenuating circumstances justify doing so. If a district preference is for a thirty day offer period GCF may be retained as recommended by PA 354.

Policy Advisory 370 GCQF and GCQF-E – Discipline, Suspension, and Dismissal of Professional Staff Members

Legislative modifications were made to the statutes pertaining to the discipline, suspension, and dismissal of professional staff members. A decision was made by Policy Services to update recommended policy GCQF and expand it to include more specific details related to suspension without pay for more than ten days and for dismissal. The belief is it will be informative and beneficial to superintendents and board members for the elements of the process to be laid out in a more discernible format.

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Policy Services again emphasizes the critical importance of conferring with and following the advice of the school district's attorney on personnel matters involving discipline, suspension, and dismissal.

Policy Advisory 345 JK — Student Discipline and the Form for District Choices on the Task Force Recommendations on Best Practices in Special Education and Behavior Management.

Senate Bill 1197 of the First Regular Session of the Forty-ninth Arizona Legislature passed an Act establishing a task force on the best practices in special education and behavior management. The task force was directed to (1) examine, evaluate and make recommendations concerning the best practices for managing the behavior and discipline of pupils with disabilities, including (a) a list of prohibited disciplinary actions, (b) mandatory or recommended training for special education teachers and classroom aides, [and] (c) parental notice requirements concerning disciplinary actions.

The Act further directed that, on or before June 30, 2010, each school district governing board shall conduct a public meeting to review and consider the adoption of the best practice recommendations submitted by the task force on best practices in special education and behavior management pursuant to section 1 of this act. The governing board may modify the best practice recommendations if the governing board determines that modifications are necessary to accommodate the needs and circumstances of the school district.

Policy Services was challenged to meet two substantial goals: (1) create a means by which districts could clearly establish whether there is acceptance of the Recommendations in total, rejection (the reciprocal of adoption) of the Recommendations in total, or modification of some or all of the Recommendations, and (2) devise a strategy that enables Policy Services to manage the volume and content of the responses. A FORM has been created that covers each point identified by the task force in its recommendations and is provided for your use. The FORM, included with these Advisories, is the means developed to adequately accomplish both goals. Instructions for its use are provided on the document. District must use the FORM to submit its choice(s) to Policy Services. The information received on each district's completed form is the source for production of the district's regulation JK-R consistent in style and format with the other documents in the district's Manual of Governing Board Policies and Administrative Regulations.

As soon as the Board makes its determination in a public meeting the district is requested to give timely notification to Policy Services.

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Points to Ponder during consideration of the task force recommendations.

Some attorneys have cautioned that as the legislature directed and the task force delineated its recommendations on behavior modification and discipline of special education students, a school system that does not have in place policy and regulations reflecting the objectives of the recommendations may be at greater risk if there is allegation or litigation contending that the district does not have in place appropriate policies and procedures, training, application, enforcement, and reporting requirements that might have mitigated a situation or circumstance.

Recently the U.S. House of Representatives Education and Labor Committee approved a federal bill, the "Preventing Harmful Restraint and Seclusion in Schools Act." The bill now goes before the full House. Although there is no predictability as to the future disposition of the bill, districts should be aware and take into consideration the potential that federal law may be enacted that has significant similarity to the task force recommendations. Careful assessment of the principles in the task force recommendations may assist the district in being sensitive to and prepared for the pending federal legislation.

May we have your attention, please?

Several documents in the previous two sets of Policy Advisories, 324 through 365, required the choice of an option or for information to be entered at designated locations. A substantial number of the notices to Policy Services concerning Board adoption and administrative approval of the recommended policies, regulations, and exhibits have arrived without identifying the needed information, and in the case of required board action, the choices to be made were not included in the board's actions.

This set of Advisories contains documents **highlighting** the required information. Keep an eye out for the blanks and options; it will make the work easier for everyone. **THANKS!**

If you have questions, contact Policy Services at (602) 254-1100 or (800) 238-4701, or fax inquiries to (602) 254-1177. Ask for Jim Deaton, Director of Policy Services, Dr. Terry Rowles, Policy Analyst, or Steve Highlen, Policy Analyst. Their respective e-mail addresses are, jdeaton@azsba.org, trowles@azsba.org, and shighlen@azsba.org.

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QUALIFICATIONS AND DUTIES OF THE SUPERINTENDENT

(Performance Responsibilities)

The Superintendent shall have appropriate ~~certification~~ qualifications as determined by the Governing Board by action taken at a public meeting.

The Superintendent shall supervise, either directly or through delegation, all activities and all personnel of the school system according to the laws of the state of Arizona, rules of the Arizona State Board of Education, and adopted policies of the Governing Board.

The Superintendent is the District's chief executive officer and the administrative head of all divisions and departments of the school system. It is the Superintendent's duty to administer the policies of the Board and to provide leadership for the entire school system. The Superintendent is the professional consultant to the Board and, in this capacity, makes recommendations to the Board for changes in Board policies and the educational program.

The Superintendent provides the initiative and the technical guidance for the improvement of the total program of the school system. The delegation of authority for the operation of the various functions of the school system is one of the Superintendent's duties. The Superintendent is, however, responsible to the Board for all functions of the District, including those listed below.

Education:

- Administers the development, coordination, maintenance, and evaluation of the educational program, including the special education program.
- Supervises methods of teaching, supervision, and administration in effect in the schools.
- Keeps informed of modern educational thought and practices by advanced study, by visiting school systems elsewhere, by attending educational conferences, and by other appropriate means.
- Keeps the public informed about modern education practices, educational trends, and the policies, practices, and problems in the District schools.

Management:

- Ensures that all activities of the District are conducted in accordance with the laws of the state of Arizona, the regulations of the Arizona Board of Education, and the policies of the Governing Board.
- Assumes responsibility for the overall financial planning of the District and for the preparation of the annual budget, and submits it to the Board for review and approval.
- Establishes and maintains efficient procedures and effective controls for all expenditures of school funds in accordance with the adopted budget, subject to direction and approval of the Board.
- Maintains or has maintained adequate records for the schools, including financial accounts; business and property records; and personnel, school population, and scholastic records.
- Provides suitable instructions and regulations to govern the maintenance of District properties.
- Provides suitable instructions and regulations to govern the safety and transportation of students.
- Assumes responsibility for the use of buildings and grounds.
- Recommends the locations and sizes of new school sites and of additions to existing sites; the locations and sizes of new buildings; the plans for new school buildings; all appropriations for sites and buildings; and improvements, alterations, and changes in the buildings and equipment of the District.
- Oversees the processing and submission of required reports.
- Interprets the budget and finances to the community.
- Remains current on new legislation and implements laws to the best advantage of the District.

Governing Board:

- Attends and participates in all meetings of the Board and its committees, except when excused by the Board.
- Takes prompt action to implement all directives of the Board.
- Advises the Board on the need for new and/or revised policies.
- Provides timely advice to the Board on the implication of changes in statutes or regulations affecting education.



- Informs and advises the Board about programs, practices, and problems of the schools, and keeps the Board informed of the activities operating under the Board's authority.
- Prepares and submits to the Board recommendations relative to all matters requiring Board action, placing before the Board such facts, objective information, and reports as are needed to ensure the making of informed decisions.
- Develops and implements rules and regulations in keeping with Board policy.
- Acts as chief public relations agent for the District.
- Acts on own discretion if action is necessary in any matter not covered by Board policy, reports such action to the Board as soon as practicable, and recommends policy guidance in the future.

Personnel:

- Recommends to the Board the appointment or dismissal of all employees of the District.
- Ensures that all employees are evaluated in accordance with the schedule established by the Board.
- Determines assignments, defines the duties, and coordinates and directs the work of all employees of the District.
- Recommends all promotions, demotions, and salary changes to the Board.
- Communicates to all employees all actions of the Board relating to personnel matters, and receives from employees all communications to be made to the Board.

The Superintendent shall have a valid fingerprint card issued pursuant to A.R.S. 41-1758.03.

Adopted: date of manual adoption

LEGAL REF.: A.R.S. 15-503
38-201
41-1758

A.A.C. R7-2-603

CROSS REF.: CBI - Evaluation of Superintendent

ARIZONA SCHOOL BOARDS ASSOCIATION

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EVALUATION OF SUPERINTENDENT

The Governing Board shall evaluate the Superintendent at least once each year. Evaluations are confidential.

The evaluation(s) shall relate to the Superintendent's duties, responsibilities, and progress toward established goals.

The Superintendent shall provide each member of the Board a copy of the evaluation instrument not later than November 10. The Board President shall schedule a meeting not later than December 18, when the Board will devote an executive session to the evaluation of the Superintendent's performance, to discuss working relationships between the Superintendent and the Board, and to review the Superintendent's contract (with the Superintendent present). If the Superintendent's contract is in its first year, this initial evaluation will not be a comprehensive evaluation, but will be used to allow the Board to communicate its perspective on the Superintendent's performance to date and to allow the Board and the Superintendent to communicate on performance matters. Additional first-year evaluations may be completed by the Board at the Board's discretion or upon invitation by the Superintendent; however, the first fully comprehensive evaluation will be that which occurs in November of the Superintendent's second year.

Any meetings of the Board to compile evaluations, or meetings to discuss the evaluations with the Superintendent, shall be held in executive session unless the Superintendent requests that any such meeting be held in open session. Board members shall have the opportunity to discuss with the Superintendent any item(s) on which the Board member fails to achieve consensus.

A copy of any written evaluation shall be given to the Superintendent. If in disagreement with such evaluation, the Superintendent may respond in writing to the Governing Board.

Upon the conclusion of the evaluation, the Governing Board may determine whether any changes in the compensation and benefits or contract term of the Superintendent are warranted, subject to the following:

If the Superintendent's contract with the School District is for multiple years, the School District shall not offer to extend or renegotiate the contract until May of the year preceding the final year of the contract.



If the Superintendent's contract with the School District is for more than one (1) year, but not exceeding three (3) years, on or before May 15 of the last year of the contract, the Board shall offer a contract for the next school year to the Superintendent unless on or before April 15 the Board gives notice to the Superintendent of the Board's intention not to offer a new administrative contract.

If the Superintendent's contract with the School District is for a single year, on or before May 15 of each year the Board shall offer a contract for the next school year to the Superintendent unless on or before April 15 the Board gives notice to the Superintendent of the Board's intention not to offer a new administrative contract. The evaluation and any comments by the Superintendent shall become a part of the Superintendent's confidential personnel file.

Adopted: date of manual adoption

LEGAL REF.: A.R.S. 15-503

CROSS REF.: CBA - Qualifications and Duties of Superintendent



GENERAL PERSONNEL POLICIES

Personnel policies adopted by the Governing Board are to serve as guidelines for the efficient and successful functioning of the District.

The policies are framed and intended to be interpreted within the context of applicable laws and regulations. Changes in the laws and agency rules, as well as in the needs, conditions, purposes, and objectives of the District may result in revisions, deletions, and additions to the policies. Therefore, to the extent permitted or required by law, District personnel policies may be modified, amended, or repealed at any time as the Board determines to be in the best interest of the District. No person shall be deemed to have a vested right to continuing employment or benefits associated with District employment except as may be required by law and provided in the respective employee's written contract or employment agreement. The policies, regulations, exhibits, and other documents in this Policy Manual do not form any part of any employment contract or employment agreement between the School District and any individual employee.

Wherever inconsistencies of interpretation arise, the law and regulations prevail.

Adopted: date of manual adoption

LEGAL REF.: A.R.S. 15-341
15-342
15-546

PROFESSIONAL STAFF HIRING

It shall be the policy of the District to employ and retain the best qualified personnel. This will be accomplished by giving careful consideration to qualifications and by providing competitive salary schedules within the financial capability of the District, adequate facilities, and good working conditions.

The Board has the legal responsibility of approving the employment of all employees. While this responsibility cannot be waived, the Board assigns to the Superintendent the process of recruiting staff members. In carrying out this responsibility, the Superintendent may involve other staff members as needed. All personnel selected for employment must be recommended by the Superintendent and approved by the Board. The Board adopts the following general criteria, which shall be utilized in the selection process for initial employment:

- There will be no discrimination in the hiring process due to race, color, religion, sex, age, national origin, or disability of an otherwise qualified individual.
- Candidates for professional positions shall be qualified for and have the training necessary to perform the instructional duties or functions for which they have applied.
- Each candidate shall provide evidence of meeting state requirements for certification.
- Each candidate shall be requested to complete a consent-and-release form regarding conduct of a background investigation.
- A "background investigation" - consisting of communication with the applicant's (or employee's) former employer that concerns education, training, experience, qualifications, and job performance for the purpose of evaluation for employment - shall be conducted on each individual to be considered for a recommendation of employment. Forms developed for this purpose are to be used.

Any employee's misstatement of fact that is material to qualifications for employment or the determination of salary shall be considered by the Board to constitute grounds for dismissal.

Before employment, schools or school districts shall verify the certification and fingerprint status of applicants who apply for school or school district positions that require certification.

Should the need arise to employ a teacher who meets the requirements for a conditional certificate before an applicant has obtained the appropriate valid fingerprint clearance card, the District may assist in obtaining the conditional certificate, and employ the teacher, by meeting all of the following conditions:

- The District verifies in writing on a form provided by the Arizona Department of Education (ADE) the necessity for hiring and placing the applicant into service before a fingerprinting check is completed.
- The District obtains from the Department of Public Safety a state-wide criminal records check on the applicant. Subsequent criminal records checks must be completed every one hundred twenty (120) days until a permanent certificate is received.
- The District searches the criminal records of all local jurisdictions outside Arizona where the applicant has lived in the previous five (5) years.
- The District obtains references from the applicant's current employer and two (2) most recent previous employers, except that for applicants who have been employed for at least five (5) years by the most recent employer, only references from that employer are required.
- The District provides general supervision of the applicant until permanent certification is issued by ADE.

Upon recommendation for employment the District shall confirm employment authorization and employment eligibility verification by participating in the E-Verify program of the Department of Homeland Security's (DHS) U.S. Citizenship and Immigration Services Bureau (USCIS) and the Social Security Administration (SSA). The District will then complete the Form I-9 as required and maintain the form with copies of the necessary documents and documentation of the authorization and verification pending any inquiry.

The Superintendent of Public Instruction may also impose any additional conditions or restrictions deemed necessary.

Any person who permits unauthorized access to criminal history record information, releases criminal history record information, or procures the release or uses criminal history record information other than in accord with A.R.S. 41-1750 is guilty of a class 6 felony.



A ~~teacher's~~ professional candidate's acceptance of a contract offer must be indicated within ~~thirty (30)~~ () days from the date of the written contract or the offer is revoked. Written notice of the deadline date for acceptance shall be included in the contract offer or an attachment to the contract offer. The ~~teacher~~ candidate accepts the contract by signing the contract and returning it to the Governing Board or by making a written instrument which accepts the terms of the contract and delivering it to the Governing Board. If the written instrument includes terms in addition to the terms of the contract offered by the Board, the ~~teacher~~ candidate fails to accept the contract.

Adopted: date of manual adoption

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|-------------|----------------|-----------|
| LEGAL REF.: | A.R.S. 13-3716 | 23-211 |
| | 15-502 | 23-212 |
| | 15-503 | 38-201 |
| | 15-536 | 38-231 |
| | 15-538.01 | 38-232 |
| | 15-539 | 38-766.01 |
| | 15-550 | 41-1756 |

CROSS REF.: GCB - Professional Staff Contracts and Compensation
GCO - Evaluation of Professional Staff Members

DISCIPLINE, SUSPENSION, AND DISMISSAL OF PROFESSIONAL STAFF MEMBERS

Categories of Misconduct

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

- Engaging in unprofessional conduct.
- Committing fraud in securing appointment.
- Exhibiting incompetency in their work.
- Exhibiting inefficiency in their work.
- Exhibiting improper attitudes.
- Neglecting their duties.
- Engaging in acts of insubordination.
- Engaging in acts of child abuse or child molestation.
- Engaging in acts of dishonesty.
- Being under the influence of alcohol while on duty.
- Engaging in the illicit use of narcotics or habit-forming drugs.
- Being absent without authorized leave.
- Engaging in discourteous treatment of the public.
- Engaging in improper political activity.
- Engaging in willful disobedience.
- Being involved in misuse or unauthorized use of school property.
- Being involved in excessive absenteeism.
- 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. 15-508, 15-341, 15-342, 15-539, 15-540, or other applicable statutes:

- May not be suspended with or without pay for a period exceeding ten (10) school days under A.R.S. 15-341 and 15-342.
- May be suspended without pay for a period of time greater than ten (10) school days or dismissed under A.R.S. 15-539.
- 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.
- 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.
- Shall have the right to a hearing in accordance with the following:
 - 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.
 - 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 ~~thirty (30)~~ 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:

- 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 as permitted by A.R.S. 15-341 is likely to become a part of the certificated staff member's personnel record, the procedures outlined herein shall be followed.

- 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.
- 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.
- Administrative discretion. In adopting these policies and regulations, 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.

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

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.

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.

~~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.~~

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:

- 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:
 - The conduct or omission on the part of the certificated staff member that constitutes the reason for discipline.
 - 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.
 - 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.
 - Copies of any available relevant documentation, at the discretion of the supervising administrator.

Step 2 – Discipline Hearing:

- 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.
- 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:

- Determination was founded upon error of construction or application of any pertinent regulations or policies.
- Determination was unsupported by any evidence as disclosed by the entire record.
- Determination was materially affected by unlawful procedure.
- Determination was based on violation of any statutory or constitutional right.
- Determination was arbitrary and capricious.
- 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.

~~During the pendency of the 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 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:

- The certificated staff member evaluation procedure or the resulting evaluations as they pertain to the adequacy of the certificated staff member's classroom performance.
- Letters or memorandums directed to a certificated staff member containing directives or instructions for future conduct.
- Counseling of a certificated staff member concerning expectations of future conduct.
- 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:

- 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.
 - 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.
 - 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.
 - 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.
- 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.
- 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

- 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.
 - OPTIONS - The Governing Board may provide, (A) by policy or (B) vote at its annual organizational meeting, that all hearings conducted pursuant to this section shall be conducted before a hearing officer.
- If the Governing Board decides not to hold a hearing, the Board shall designate a hearing officer to:
 - hold the hearing,
 - hear the evidence,
 - prepare a record of the hearing, and
 - issue a recommendation to the Board for action.
- 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.
- 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.
- The hearing shall be held
 - not less than fifteen (15) days, nor
 - not more than thirty (30) days
 - after the request is filed, unless all parties to the hearing mutually agree to a different hearing date.
- 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.
- The teacher may request that the hearing be conducted in public or private.
- 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.

- 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.
- 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.
- Within ten (10) days after a hearing conducted by the Governing Board the Board shall
 - determine whether there existed good and just cause for the notice of dismissal or suspension, and
 - affirm or withdraw the notice of dismissal or suspension.
- 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.
- 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.
- 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.

Adopted: date of manual adoption

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|-------------|---------------------|---------------|---------------|
| LEGAL REF.: | A.R.S. <u>8-201</u> | <u>15-503</u> | 15-540 |
| | 13-2911 | 15-508 | 15-541 |
| | <u>13-3620</u> | 15-514 | 15-542 |
| | 15-203 | 15-536 | <u>15-543</u> |
| | 15-341 | 15-538 | 15-549 |
| | 15-342 | 15-538.01 | 15-551 |
| | 15-350 | 15-539 | 41-770 |

CROSS REF.: DKA - Payroll Procedures/Schedules
GCJ - Professional Staff Noncontinuing and Continuing Status
GCO – Evaluation of Professional Staff Members

~~DISCIPLINE, SUSPENSION, AND DISMISSAL OF PROFESSIONAL STAFF MEMBERS~~

~~Upon a written statement of charges presented by the Superintendent and/or adopted by the Board that cause exists to dismiss or suspend a teacher for more than ten (10) days without pay, due process, written charges, and a hearing, if requested, shall be provided in accord with A.R.S. 15-539 et seq. and relevant regulations.~~

~~If charges have been adopted by the Governing Board stating cause, a teacher may be placed on administrative leave by the Board, per A.R.S. 15-540.~~

~~When the Superintendent presents a statement of charges wherein the alleged cause for dismissal constitutes immoral conduct, the Governing Board may adopt a resolution authorizing filing of a complaint with the State Board of Education. Pending disciplinary action by the State Board of Education on a Governing Board complaint alleging immoral conduct, a teacher may be reassigned by the administrator or placed on administrative leave by the Board, per A.R.S. 15-540. When the Superintendent reasonably suspects or receives a reasonable allegation that an act of immoral or unprofessional conduct that would constitute grounds for dismissal or criminal charges by a certificated person has occurred, a report shall be made to the Department of Education by the Superintendent, per A.R.S. 15-514.~~

~~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.~~

STUDENT DISCIPLINE

The Superintendent shall recommend policies and develop procedures for the discipline of students that comply with A.R.S. 15-843. These policies and procedures will apply to all students traveling to, attending, and returning from school, and while visiting another school or at a school-sanctioned activity and may be imposed if the student's behavior affects the school order. When suspension or expulsion is involved, notice, hearing, and appeal procedures shall conform to applicable legal requirements.

Behavior Management and Discipline of Students with Special Needs

The Superintendent shall oversee a collaborative process for the identification, description, and monitoring of best practices for behavioral management and discipline of special needs students. The practices shall include, but not be limited to

- authorized and prohibited disciplinary methods,
- recommended and required training for special education program teachers and aides, and
- requirements for conveying notice of disciplinary measures taken.

The Superintendent shall, by administrative regulation, prescribe procedures for implementation of the best practices, subject to Governing Board approval.

Temporary Removal

Teachers are authorized to temporarily remove a student from a class. A teacher may temporarily remove a student to the principal, or to a person designated by the school administrator, in accord with:

- Rules established for the referral of students.
- The conditions of A.R.S. 15-841, when applicable.

The Superintendent shall establish such rules as are necessary to implement the temporary removal procedure.



Threatened an Educational Institution

Threatened an educational institution means to interfere with or disrupt an educational institution as found in A.R.S. 15-841 and 13-2911. A student who is determined to have threatened an educational institution shall be expelled from school for at least one (1) year except that the District may modify this expulsion requirement for a pupil on a case-by-case basis and may reassign a pupil subject to expulsion to an alternative education program if the pupil participates in mediation, community service, restitution or other programs in which the pupil takes responsibility for the results of the threat. The District may require the student's parent(s) to participate in mediation, community service, restitution or other programs with the student as a condition to the reassignment of the pupil to an alternative education program.

Information concerning a student's disciplinary record will be held in the strictest confidence.

Disciplinary actions taken will be recorded in an administrative log, and all types of suspensions or expulsions will be recorded in a separate file for each student.

Adopted: date of manual adoption

LEGAL REF.: A.R.S. 13-403 et seq.
13-2911
15-341
15-342
15-841
15-842
15-843
15-844

CROSS REF.: JIC - Student Conduct
JKA - Corporal Punishment
JKD - Student Suspension
JKE - Expulsion of Students