

BP 4218 Classified Personnel - Dismissal/Suspension/Disciplinary Action

Probationary Employees

At any time prior to the expiration of the probationary period, the Superintendent or designee may, at his/her discretion, dismiss a probationary classified employee from district employment. A probationary employee shall not be entitled to a hearing.

Permanent Employees

Permanent classified employees shall be subject to suspension without pay, reduction in pay grade, or dismissal/termination personnel action (including, but not limited to, reprimand, suspension without pay, demotion, reduction of pay step in class, dismissal) only for cause. This provision shall not apply to (1) the expiration of a contract and a decision by the District not to offer another contract or, (2) a no cause termination of a contract as and to the extent provided in the contract of employment.

This policy also applies to classified management and supervisory employees unless otherwise provided by law.

(cf. 4300 - Definitions)

In addition to any disqualifying or actionable causes otherwise provided for by federal or state statute or regulation or by policy or regulation of this district, each of the following constitutes cause for personnel action against a permanent classified employee:

1. Falsifying any information supplied to the school district, including, but not limited to, information supplied on application forms, employment records, information provided as part of an investigation, or any other school district records.
2. Incompetence.
3. Inefficiency.
4. Neglect of duty.
5. Insubordination.
6. Dishonesty.
7. Possessing or consuming alcohol, tobacco, controlled substances, including marijuana, or other illegal drugs or synthetic drugs while on duty or on District premises whether or not on duty; or being under the influence of these prohibited substances while on duty.
8. Addiction to the use of controlled substances.
9. Conviction of a felony, conviction of any sex offense made relevant by provisions of law, or conviction of a misdemeanor which is of such a nature as to adversely affect the employee's ability to perform the duties and responsibilities of his/her said position. A plea or verdict of guilty, or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. Applicants and employees must inform the Superintendent of any criminal charge

or conviction so that a determination can be made by the district regarding its applicability to employment. For existing employees, reporting must occur within 48 hours of a criminal charge or conviction.

10. Absence without leave.
11. Immoral conduct.
12. Discourteous treatment of the public, students, or other employees.
13. Improper political activity.
14. Willful disobedience.
15. Misuse, theft, or damage to or destruction of district property.
16. Violation of district, Board or departmental rule, policy, procedure, or violation of federal, state, or local statute, regulation, or ordinance.
17. A physical or mental disability, which disability precludes the employee from the proper performance of his/her essential duties and responsibilities as determined by competent medical authority, except as otherwise provided by a contract or by law regulating the accommodation of disabilities or the retirement of employees.
18. Failure to possess or keep in effect any license, certificate, or other similar requirement specified in the employee's class specification or otherwise necessary for the employee to perform the duties of the position.
19. Unlawful discrimination, including harassment, on the basis of race, religion, creed, color, national origin, ancestry, physical or mental disability, marital status, sex, pregnancy, or age against the public, a student, the public or other employees.
20. Unlawful retaliation against any other district officer or employee, or student, or member of the public who, in good faith, reports, assists, discloses, divulges, or otherwise brings to the attention of any appropriate authority, whether an outside person, agency, or school district official, any information relative to actual or suspected violation of any law or district policy or procedure occurring on the job or directly related thereto.
21. Unsatisfactory performance.
22. Substantial noncompliance with applicable laws, regulations, policies, and written rules of the Superintendent,
23. Any other failure of good behavior either during or outside of duty hours which is of such nature that it causes discredit to the district or his/her employment employee.

Disciplinary Procedures

The following procedures will govern personnel action suspension without pay, reduction in pay grade, or dismissal/termination unless an applicable collective bargaining agreement provides different procedures. In such event, the collective bargaining agreement will govern, and employees must utilize the negotiated grievance procedures to appeal challenge any discipline. In cases involving a personnel action, the Superintendent or designee shall prepare a written statement of the personnel action which shall be served upon the employee either personally or by registered or certified mail, return receipt requested, at the employee's last known address. The statement shall include:

1. A statement of the nature of the personnel action (the disciplinary action being imposed).

2. A statement of the cause or causes for the discipline.

3. A statement of the specific acts or omissions upon which the causes are based. If violation of rule, policy, or regulation of the district is alleged, the rule, policy, or regulation violated shall be identified.

4. A statement of the employee's right to appeal the recommendation and the manner and time within which his/her appeal must be filed.

In the event the Superintendent or designee determines that an employee should be removed from duty while an investigation into alleged misconduct is conducted, the employee will be placed on administrative leave with pay.

In cases where the Superintendent or designee has determined that a permanent classified employee should be dismissed, termination of employment will be effective upon delivery to the employee of the statement of personnel action.

For all discipline short of dismissal, demotion in a reduction in pay, or unpaid suspension of five (5) or more days, a permanent employee may, within five calendar days after receiving the statement of personnel action described above, file a written appeal to the Superintendent. If the Superintendent did not decide the original discipline, the Superintendent shall hear and decide the appeal. Otherwise, the Superintendent will appoint another district administrator to hear and decide the appeal. The appeal may be conducted without a hearing, based upon a review of the personnel action and the written appeal. At the Superintendent or designee's sole discretion, an informal hearing may be held if determined to be necessary to inform the decision maker. The decision on appeal is final.

A permanent employee who has been dismissed, demoted with a reduction in pay, or placed on unpaid suspension of five (5) or more days, may, within five calendar days after receiving the statement of personnel action described above, file a written appeal to the School Board by submitting his/her request to the Superintendent. The appeal may include a formal hearing before the School Board, in the event this is requested by the employee. If not, the appeal may be conducted without a hearing, based on the School Board's review of the statement of the personnel action and the written appeal. The School Board shall determine the procedures for the hearing, giving the employee advanced notice of the procedures. The decision of the School Board is final. If an employee fails to appeal personnel action within the time specified in these rules, the employee shall be deemed to have waived his/her right to an appeal.

At any time before an employee's appeal is finally submitted to the Superintendent or School Board for decision, the Superintendent or designee may serve on the employee and file with the decision maker an amended or supplemental statement of personnel action.

The Superintendent, designee, or School Board who is hearing an appeal may affirm, modify or revoke the personnel action.

When initiating disciplinary action as provided for above, the employee shall be provided the following:

1. A pre-disciplinary meeting at which the employee shall be given notice of the proposed disciplinary action and a reasonable opportunity to respond. Unless circumstances dictate otherwise, the Superintendent or designee shall provide notice of the proposed disciplinary action and schedule a meeting for a reasonable period of time after the delivery of the notice to allow the employee time to prepare a response.
2. If after the pre-disciplinary meeting, the District determines there is cause for discipline, a statement of the nature of the disciplinary action. The statement shall include the reasons or causes thereof and each rule, policy, regulation, directive or standard that has been violated.
3. A statement of the employee's right to appeal the disciplinary action and the manner and time within which his/her appeal must be filed.
4. Unless determined otherwise by the Superintendent or designee, the disciplinary action (suspension without pay, reduction in pay grade, or dismissal/termination) shall take effect when the employee receives the statement of the disciplinary action.

An employee may, within five calendar days after the imposition of the disciplinary action, appeal the disciplinary decision to the Board submitting his/her appeal for a hearing in writing to the Superintendent or designee. The appeal must state the ground(s) for the appeal.

If the employee fails to appeal within the time specified in this policy, the employee shall have waived his/her right to appeal.

The employee shall be informed in writing of the time and place of the meeting at which the Board will hold a hearing. After holding an evidentiary hearing, the Board may affirm, modify or revoke the disciplinary action. The decision of the Board is final subject to appeal to Superior Court as and to the extent provided for in the Alaska Rules of Appellate Procedure.

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