

**TULSA PUBLIC SCHOOLS
ADMINISTRATIVE REGULATION FOR SUSPENSION, DEMOTION,
TERMINATION OR NONREEMPLOYMENT OF SUPPORT EMPLOYEES**

The purpose of this Administrative Regulation for Suspension, Demotion, Termination or Nonreemployment of Support Employees is to implement the due process requirements of Oklahoma law with regard to certain disciplinary and employment actions affecting support employees of the District.

1) Definitions:

- a) "Support Employee" shall mean an employee of the School District who provides those services, not performed by professional educators or licensed teachers, which are necessary for the efficient and satisfactory functioning of the School District.
- b) "Full-time Support Employee" shall mean a support employee who regularly works the standard period of labor which is generally understood to constitute full-time employment for the type of services performed by the employee and who is employed by the School District for a minimum of 172 days per year.
- c) "Suspension without pay" shall mean the temporary denial of a support employee's right to work and receive any pay and other benefits during the term of the suspension.
- d) "Suspension with pay" will take place when a support employee is relieved of the support employee's duties pending a hearing before the Suspension, Demotion, Termination or Nonrenewal Review Committee ("Review Committee") or pending an investigation of alleged employee misconduct.
- e) "Demotion" shall mean a reduction in pay during the term of the support employee's contract. "Demotion" shall not mean a change in job description or work assignment or duties.
- f) "Termination" shall mean the discharge of the support employee from his/her employment with the School District during the term of his/her contract and does not include the cessation of employment upon expiration of the support employee's contract.
- g) "Nonreemployment" shall mean the failure to offer a support employee a new contract for the next successive school year after the contract under which the support employee is presently employed has expired.

2) Suspension Without Pay, Demotion, Termination or Nonreemployment of Full-Time Support Employees.

A full-time support employee who has been employed by the School District for more than one year shall be suspended without pay, demoted, terminated or nonreemployed during the term of his/her contract only for cause as provided in this regulation. In addition to the definition of cause stated in section 3 of this regulation, "cause" shall also specifically include lack of funds or lack of work. Any support employee who has been employed by the School District for less than one year (12 months) or who is not a full-time employee is not entitled to invoke the procedures of this regulation and such employee's contract can be terminated at any time without cause.

3) Cause for Suspension Without Pay, Demotion, Termination or Nonreemployment.

- a) A support employee may be suspended without pay, demoted, terminated or nonreemployed during the term of his/her contract for any of the following:
 - i) Violation of any rule, regulation or requirement issued by the Office of the Superintendent or Board of Education of the School District or negotiated as a discipline rule pursuant to a collective bargaining agreement; or
 - ii) Conduct not otherwise specified in the above rules, regulations or requirements which constitutes insubordination, neglect of duty, incompetency in job performance, dishonesty, or causing or allowing damage, destruction or theft of school property.
- b) The rules, regulations and requirements referred to above shall be communicated in writing to all support employees. The rules, regulations and requirements, which may be revised from time to time, shall state that violation of the rules, regulations and requirements may result in suspension without pay, demotion, termination or nonreemployment during the term of his/her contract.

4) Procedures For Suspensions Without Pay, Terminations and Demotions.

- a) Any full-time support employee is subject to disciplinary action in the form of a suspension without pay as a disciplinary measure, demotion or termination. Prior to instituting any such disciplinary action, the full-time support employee shall receive the following hearing rights:
 - i) The support employee's supervisor shall orally advise the support employee of the cause or basis for the proposed disciplinary action;
 - ii) The support employee's supervisor shall explain to the support employee the evidence against the support employee;

- iii) The support employee's supervisor shall allow the support employee an opportunity to present his side of the matter.
- b) If a support employee's supervisor concludes that there is a reasonable basis to believe that a support employee has violated paragraph 3 of this Regulation or any of the Support Employee Rules and Regulations, the support employee's supervisor shall notify the support employee that a recommendation will be made for the support employee's suspension without pay as a disciplinary measure, demotion or employment termination, as the supervisor deems appropriate. In forming a conclusion as to whether facts exist which indicate a violation of paragraph 3 of this Regulation or the Support Employee Rules and Regulations, the supervisor may rely on statements and reports from other supervisors.
- c) If a recommendation is to be made for a support employee's suspension without pay as a disciplinary measure, demotion or employment termination, the support employee's supervisor or his designee shall orally inform the support employee of the following: the recommendation which shall be made, the conduct of the support employee which resulted in the recommendation, the part or parts of paragraph 3 of this Regulation or of the Support Employee Rules and Regulations which the support employee has violated, and the support employee's right to a hearing before the Review Committee.
- d) If a support employee is suspended with pay pending an investigation as to whether termination is appropriate, then, within five (5) working days after the effective date of the suspension with pay, such investigation must be completed and the support employee's supervisor shall afford the support employee the hearing rights as set forth in paragraph 4.A., above. After the hearing, the support employee shall either be reinstated, suspended without pay as a disciplinary measure (not to exceed a total of 10 working days), demoted or terminated.
- e) If the proposed disciplinary action is a suspension without pay as a disciplinary measure or demotion, the supervisor or this designee may suspend the support employee with pay pending the hearing before the Review Committee. If an employment termination recommendation is made, the support employee shall be suspended with pay pending the hearing before the Review Committee.
- f) The District's Compliance Officer shall appoint a Review Committee consisting of three employees of the Tulsa Public Schools. No person who is employed in the same department as the support employee whose case is being considered by the Review Committee shall serve on the Review Committee for that hearing.
- g) As soon as the Compliance Officer receives a notice from the support employee's supervisor or department head that a recommendation has been made for the

suspension without pay as a disciplinary measure, demotion or employment termination of a support employee, the Compliance Officer shall notify the support employee in writing of the date, time and place of the support employee's hearing before the Review Committee. The notice will ordinarily be sent by certified mail, return receipt; however, in special circumstances, the notice of the hearing may be given by personal delivery of the notice to the support employee or by telephone or by e-mail. It shall be the responsibility of all support employees to see that the Tulsa Public Schools Personnel Department has the support employee's current mailing address and telephone number at all times. In addition to the date, time and place of the Review Committee hearing, the notice shall inform the support employee of the following: the name of the person who is making a recommendation for the support employee's suspension without pay, demotion or employment termination; the items of this Regulation or of the Rules and Regulations which the support employee is charged with having violated; the conduct on the part of the support employee which is the basis for the recommendation; the rights of the support employee at the Review Committee hearing, including the right to be present in person, the right to be represented by a person of the support employee's choice, the right to make any statement or present any material on behalf of the support employee and the right to question those persons who present statements in support of the recommendation; the notice will also state the name or names of the persons who will present the reasons for the recommendation. The notice will also advise the support employee that he/she will be suspended with pay (if such is the case) pending the hearing and that the support employee's pay and other benefits will cease effective on the date of the hearing if the Review Committee approves a recommendation for employment termination.

- h) The Review Committee hearing will be held not less than 48 hours or more than 10 calendar days after the hearing notice is mailed or otherwise communicated to the support employee; however, in special circumstances, the Compliance Officer may extend the 10-day period. Failure of the support employee to appear at the hearing shall automatically result in approval of the recommendation. The hearing shall be tape recorded and the support employee shall have the right to tape record the hearing if the support employee so desires. The hearing will be conducted on an informal basis. At the conclusion of the hearing, the Review Committee will meet in private to consider the evidence. The Review Committee will then make its decision by individual voice vote. The decision may be to sustain, reject or modify the recommendation.
- i) If the Review Committee approves the recommendation, the support employee will be advised in writing that the recommendation will be submitted to the Board of Education and that the support employee has a right to request a due process hearing before the Board of Education as stated in this regulation. If the support employee requests a due process hearing in accordance with this regulation, the support employee will be advised in writing by certified mail of the date, time and place of

the meeting of the Board of Education at which the recommendation will be considered and that the support employee has a right to be present at the meeting and to have a due process hearing before the Board on the recommendation prior to the Board's vote on the recommendation.

- j) If the Board of Education approves the recommendation for the support employee's suspension without pay as a disciplinary measure, demotion or termination, the action shall be effective as of the date of the Review Committee hearing.
- k) The support employee shall have the right to appeal to the Board of Education a suspension without pay as a disciplinary measure, a demotion or a termination as set forth in the Procedures for Appeal to the Board of Education in section 6 below.

5) Procedures for Nonreemployment.

Prior to being nonreemployed, a full-time support employee who has been employed by the School District for more than one (1) year shall be entitled to the following hearing rights:

- a) The board of education or the superintendent of schools or his designee shall advise the support employee, in writing, of the board's intention to consider and act on the nonreemployment of the support employee for the subsequent fiscal year;
- b) The written notification shall set out the cause(s) for such action;
- c) The support employee shall have the right to contest his nonreemployment before the Board of Education as set forth in the Procedures for Appeal to the Board of Education in section 6 below.

6) Procedures for Appeal to the Board of Education.

- a) After any suspension without pay as a disciplinary measure, or prior to the effective date of any demotion, termination during the term of his/her contract or nonreemployment, the support employee shall receive notice of his/her right to a hearing before the Board of Education as herein provided.
- b) All notices shall be sent to the support employee by certified mail at the address of the support employee shown on the school records. If the support employee refuses to accept the notice or fails or refuses to pick up the notice after being notified by the post office to do so, then the support employee shall be deemed to have received the notice on the date that the notice was postmarked. The notice shall contain the information provided in the form attached hereto. The postmark shall be used to determine the timeliness of the notice.

- c) A support employee who has been notified in writing of his/her suspension without pay as a disciplinary measure, demotion or termination during the term of his/her contract or nonreemployment may notify the Clerk of the Board of Education of the School District within ten (10) working days of the postmark on the notice if the support employee desires a hearing before the Board of Education. If the support employee fails to notify the Clerk of the Board of Education of the School District in writing within ten (10) working days of the postmark on the notice that the support employee requests a hearing, the support employee shall be deemed to have waived the right to a hearing and the suspension without pay as a disciplinary measure, demotion or termination action shall be final and, in the case of a nonreemployment, the board may take final action to nonreemploy the employee without further notice or hearing rights.

- d) Hearing before Board of Education:
 - i) Upon timely notice as set forth above, the support employee shall be entitled to a hearing before the Board of Education. The hearing shall be conducted at the next, or next succeeding, regularly scheduled meeting of the Board of Education if the request for the hearing was received at least ten (10) days prior to the next, or next succeeding, regularly scheduled Board of Education meeting. At the request of the support employee or at the discretion of the Board of Education, the Board of Education shall call a special meeting to conduct the requested hearing, which special meeting shall be held no earlier than ten (10) calendar days nor later than thirty (30) calendar days after receipt of the support employee's request.

 - ii) At the hearing before the Board of Education, the support employee shall be entitled to be represented by counsel, to cross-examine witnesses presented by the School District, to present witnesses on his/her behalf and to present any relevant evidence or statement which the support employee desires to offer. The hearing shall be conducted in "open" session. The hearing shall commence with a statement to the support employee of his rights at the hearing. Following this statement, the school administration shall present facts showing the cause for the support employee's suspension without pay as a disciplinary measure, demotion, termination or nonreemployment. The burden of proof shall be upon the school administration. The support employee shall then have the right to present his/her side of the matter. After both the school administration and the support employee have fully presented their respective positions, the Board of Education shall deliberate on the evidence in executive session. The Board of Education shall announce its findings and decision immediately in open session by individual voice vote. The decision shall be made by a majority of the Board of Education members present at the meeting.

- iii) As to suspension without pay as a disciplinary measure, demotion or termination, the Board of Education may affirm, modify or reverse the action taken against the support employee, including increasing or decreasing the severity of the original action. As to nonreemployment, the board may reemploy or nonreemploy the employee for the subsequent fiscal year.
- iv) The decision of the Board of Education at the hearing is final and non-appealable.

7) Miscellaneous.

This Regulation is effective immediately and supersedes all previous policies and regulations regarding the subject matter contained herein. The Board of Education and the superintendent or the superintendent's designee reserve the right to modify or amend this Regulation from time to time in any manner consistent with applicable law.

Nothing contained in this Regulation shall prevent the Board of Education from acting on its own volition in matters pertaining to suspension with or without pay, demotion, dismissal or nonrenewal of support employees.

Bill Naftzger
Chief Human Resources Officer

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