

Chicago Public Schools Policy Manual

Title: EMPLOYEE DISCIPLINE AND DUE PROCESS POLICY FOR UNION EMPLOYEES (EXCEPT CTU)

Section: 500A.1

Board Report: 16-0525-PO2

Date Adopted: May 25, 2016

Policy:

THE CHIEF EXECUTIVE OFFICER RECOMMENDS THE FOLLOWING:

That the Board amend the policy adopted under Board Report 13-0828-PO1 and also re-name this policy the "Employee Discipline and Due Process Policy for Union Employees (Except CTU)". The amended policy is attached hereto.

DESCRIPTION: Policy modifications are highlighted on the attached and include the following:

- (1) Update the policy applicability to clarify that the policy applies to union employees, other than CTU, regardless of whether the non-CTU union employee is assigned to a school-based work location or other work location;
- (2) Update the Group 4 Acts of Misconduct section to include specific reference to pregnancy and gender identity/expression discrimination in alignment with the Board's Comprehensive Non-Discrimination, Sexual Harassment and Title IX Policy;
- (3) Update references to District departments for current organization structure; and
- (4) Revise the approval authorities in alignment with current practice.

**Employee Discipline and Due
Process Policy for Union Employees
(Except CTU)**

The Employee Discipline And Due Process Policy for Union Employees (Except CTU)

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I. INTRODUCTION AND SCOPE OF POLICY

The Employee Discipline and Due Process Policy for Union Employees (Except CTU) (“Policy”) applies to all Employees represented by a labor organization, except Employees that belong to the Chicago Teacher Union’s bargaining unit. The Board of Education of the City of Chicago (“Board”) is a public employer that requires its Employees to perform their job duties and responsibilities in a manner that promotes the best interests of the students of the Chicago Public Schools, furthers the goals of the Chicago Public Schools, and results in the highest level of public trust and confidence.

In accordance with state law, this Policy grants the authority and responsibility to take disciplinary action against Union Employees (Except CTU), up to and including discharge. This Policy also grants the Chief Executive Officer, the Office of Employee Engagement, Union Employee’s supervisor or Principal as delegated by the Board, the authority and responsibility to discipline, up to and including discharge Union Employees (Except CTU). Any limitation on their authority to discipline Board Employees is specifically set forth in this Policy and state or federal law.

This Policy is a general statement of disciplinary procedures. These disciplinary procedures are not intended to limit or restrict in any way the Board’s right to discharge any Employee with or without cause or notice, subject to the requirements set forth in the Illinois School Code and related laws. Moreover, this Policy should not be construed as a contract. The Board reserves the right to change the content of this Policy as it deems necessary with or without notice.

An Employee’s collective bargaining agreement, will govern to the extent it conflicts with this Policy or contains additional requirements.

For ease of reading, this Policy uses the masculine pronoun “he” or “him” interchangeably with the feminine pronoun “she” or “her.”

II. PROGRESSIVE DISCIPLINE

The Board embraces the concept of progressive and corrective discipline for Employees. The Board encourages its managers and supervisors to use progressive discipline when they believe that an Employee is amenable to correcting his misconduct.

Progressive discipline is a systematic approach to correct unwanted behavior and deter its occurrence by administering disciplinary actions based upon various factors, including but not limited to: (1) the seriousness of the offense; (2) the number of times it has occurred; (3) prior acts of misconduct; (4) the length of time between infractions (5) the attitude and cooperation of the Employee; (6) the Employee's work history; and (7) the totality of the circumstances.

While the Board encourages the use of progressive discipline, circumstances dictate that it cannot be used for every act of misconduct. Therefore, the Board uses progressive discipline at its discretion and does not solely rely on this concept in every instance when taking disciplinary action.

While it is not possible to list every act which will or might result in disciplinary action, the actions described in the Acts of Misconduct Section reflect conduct which is deemed to be inappropriate and which may result in disciplinary action. The Acts of Misconduct Section is not exhaustive, but is offered instead to generally provide notice of inappropriate conduct. The Office of Employee Engagement, may hold that conduct other than that referenced in the Acts of Misconduct Section is improper and warrants discipline. Further, the Office of Employee Engagement has the discretion to determine what degree of discipline is appropriate after weighing all the situational factors involved in the misconduct.

III. DEFINITIONS

As used in this Policy, these terms are defined as follows:

1. **Assistant Principal** - Under the direction and supervision of a principal; in charge of an attendance center in the absence of the principal; assists the principal in directing and coordinating the educational, administrative, supervisory, and counseling activities at school; and performs other related duties as required.
2. **Cautionary Notice** - A non-disciplinary written statement to an Employee advising him that the described misconduct is unacceptable and will lead to formal discipline if repeated. The Cautionary Notice shall be served on the Employee, and the Employee shall be given an opportunity to sign it, or to provide a statement that the Employee refuses to sign. The issuance or the failure to issue a Cautionary Notice is not a grievable matter. An Employee or representative on the Employee's behalf, may submit a rebuttal to the Cautionary Notice for inclusion in the Employee's disciplinary file.
3. **Chief Administrator** – The chief executive and operating officer of an academic preparatory center.
4. **Dismissal Charges** - a formal document drafted by the Law Department and approved by the Chief Executive Officer, or his designee, containing charges and specifications against a Board Employee.
5. **Hearing Officer** - an individual designated by the Office of Employee Engagement to conduct a hearing regarding the discharge of a Board Employee.
6. **Principal** – Contract/Interim/Acting - The chief executive and operating officer of an attendance center. A contract principal is one elected by a Local School Council whose contract has been approved by the Board. An interim principal is selected by the Chief Executive Officer, or his designee, to serve out the term of a contract principal. An acting principal is also selected by the Chief Executive Officer, or his designee, to serve out the term of a contract principal, but generally is chosen to serve for a short period of time.
7. **Probationary Employee** – All Employees, excluding teachers, with less than one calendar year of service with the Board.
8. **Removal** – The temporary reassignment of an Employee with pay and benefits.
9. **Repeated** – As used in Sections 2-1, 3-1, and 4-1 of the Acts of Misconduct, "repeated" means conduct that is the same as or similar to conduct for which the Employee has previously received discipline.
10. **Reviewing Officer** - An individual designated by the Office of Employee Engagement to review an appeal of a suspension by a Board Employee.

11. **Educational Support Personnel** – All full-time non-teaching personnel.
12. **Staleness** - If the Board does not take disciplinary action against an Employee within a reasonable time after it knew or should have known of an alleged rule infraction, then the Board will have waived its right to do so. An unreasonable delay shall mean a period of time that renders it difficult or impossible to ascertain the truth of the matters in controversy or as to create a presumption that the conduct at issue was condoned by the Board. The date a final investigative report is served on the Board is the date the Board is presumed to have knowledge of the rule infraction.
13. **Time Computation** - In computing any period of time prescribed herein, the day of the act, event, or default for which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, a holiday, or any other day in which the Board's Central Office is closed.
14. **Vacate AWOL Employees out of the System** – A termination of employment due to absence without leave status, which does not preclude rehire in accordance with Board Rules and policies.

IV. ACTS OF MISCONDUCT

GROUP I ACTS OF MISCONDUCT

Group 1 Acts of Misconduct includes the following minor acts of *inappropriate* behavior:

- 1-1 Failing to submit lesson plans or other reports as directed by the Principal, Department Head, or Chief Administrator in a timely manner.
- 1-2 Smoking on school or Board property.
- 1-3 Failing to display proper identification after being directed to do so.
- 1-4 Failing to inform the school or assigned work location of absences or tardies in a timely manner without reasonable justification.
- 1-5 Failing to report to school or assigned work location in a timely manner without reasonable justification.
- 1-6 Failing to return to work on time after breaks, lunch, or rest periods without prior authorization to extend the time of such breaks, lunch, or rest periods.
- 1-7 Using paging, cellular, and other electronic devices while supervising students, during instructional time, or at other inappropriate times without authorization.
- 1-8 Negligently failing to carry out a rule, order, or directive related to the performance of one's duty.
- 1-9 Treating discourteously anyone in the classroom, on school grounds or assigned work location, or while attending school functions.
- 1-10 Violating School rules, or Board rules, policies or procedures that result in minor acts of inappropriate behaviors in the classroom, or on school grounds or assigned work location, or while attending school functions.

Disciplinary Options

- Written Reprimand

GROUP 2 ACTS OF MISCONDUCT

Group 2 Acts of Misconduct includes the following acts of *inappropriate* behavior:

- 2-1 Repeated or flagrant acts of Group I misconduct.
- 2-2 Leaving the classroom, duty assignment, or school without permission.
- 2-3 Using verbally abusive language on school or Board property, but not in front of students
- 2-4 Irregular or poor attendance, tardiness, or a pattern of repeated absence or tardiness at a specific time or on specific days of the week or month, or in relation to holidays.
- 2-5 Negligently supervising students.
- 2-6 Inattention to duty including, but not limited to, sleeping on duty, or loitering in the work area.
- 2-7 Insubordination such as the failure to carry out a rule, order, or directive related to the performance of one's duty.
- 2-8 Posting or distributing written materials on school or Board grounds in violation of Board rules or policies.
- 2-9 Failing to comply with the Chicago Public Schools' residency policy by failing to reside in the City of Chicago within six months of being hired.
- 2-10 Incompetently or inefficiently performing one's duties. (A teacher's unsatisfactory performance of pedagogical duties should be addressed through a remediation process).
- 2-11 Using corporal punishment that does not result in the physical contact with a student (e.g., humiliating a student, forcing a student to stand or kneel for an inordinate period of time, forcing a student into a physical position that causes pain, or requiring isolated time outs that violates isolated time out procedures).
- 2-12 Violating School rules, or Board rules, policies or procedures that result in acts of inappropriate behaviors in the school, or on the school grounds or assigned work location, or while attending school functions.

Disciplinary Options

- Written Reprimand;
- Suspension Without Pay (1 to 5 days); and/or

GROUP 3 ACTS OF MISCONDUCT

Group 3 Acts of Misconduct includes the following acts that *disrupt* the orderly educational process:

- 3-1 Repeated or flagrant acts of Group 2 misconduct.
- 3-2 Using school or Board property or services without authorization.
- 3-3 Using verbally abusive language to or in front of students.
- 3-4 Using physical restraint on a student that violates physical restraint procedures.
- 3-5 Making false, inaccurate, or deliberately incomplete statements in an official inquiry, investigation, or other official proceeding.
- 3-6 Violating confidentiality of Employee personnel records, student records, or other school or Board records.
- 3-7 Violating or failing to perform any duty required by the Board's Code of Ethics.
- 3-8 Directing, authorizing, allowing or asking an Employee to perform services, with or without pay, for unauthorized purposes or accepting the benefits of such performance.
- 3-9 Having recurrently poor attendance, tardiness, or a repeated pattern of absences or tardiness at a specific time or on specific days of the week or month, or in relation to holidays.
- 3-10 Using sick leave in an unauthorized manner for purposes other than allowed under Board Rules and regulations.
- 3-11 Negligently failing to comply with laws or rules governing health, safety or sanitary conditions of a school or Board property.
- 3-12 Intentionally failing to manage or supervise staff such that the health, safety, or sanitary conditions of a school are compromised.
- 3-13 Acting negligently so as to damage Board property.
- 3-14 Engaging in a profession, business, trade, investment, occupation, or other activity that conflicts with an Employee's job duties and responsibilities with the Board.
- 3-15 Transporting any student without written consent from the school and parent or legal guardian of the student.

3-16 Failing to comply with the Board's student travel policy.

3-17 Violating School rules, Board rules, policies or procedures that result in behaviors that disrupt the orderly educational process in the classroom, in the school, and may occur on or off the school grounds or assigned work location.

Disciplinary Options

- Suspension Without Pay (1-15 days); and/or

GROUP 4 ACTS OF MISCONDUCT

Group 4 Acts of Misconduct includes the following acts that *seriously disrupt* the orderly educational process:

- 4-1 Repeated or flagrant acts of Group 3 misconduct.
- 4-2 Using racial, cultural, ethnic, or religious epithets, or threatening language.
- 4-3 Assaulting, threatening, intimidating, or physical or verbal abuse, by any Employee against any person on school grounds which results in physical contact; or provoking or inciting another person to engage in such conduct.
- 4-4 Using the office, work site, work locations, work vehicle, work tools, or work materials or supplies to conduct a secondary business, trade or occupation.
- 4-5 Unauthorized entry onto a Chicago Public School or Board property.
- 4-6 Any serious violation of the Chicago Public School's Code of Ethics that may result in direct or indirect financial impropriety, among other things.
- 4-7 Sexually harassing an Employee, student, or individual in violation of the Board's Sexual Harassment Policy.
- 4-8 Failing to cooperate with and truthfully answer inquiries of the Board's Title IX Officer or Sexual Harassment Officer.
- 4-9 Discriminating against an Employee, student, or applicant because of race, color, sex, pregnancy, gender identity/expression, age, religion, disability, national origin, or sexual orientation.
- 4-10 Discriminating in the performance of job duties against any member of the public because of race, color, sex, pregnancy, gender identity/expression, age, religion, disability, national origin, or sexual orientation.
- 4-11 Falsifying any attendance or other employment records, including, but not limited to, signing or swiping another Employee's time record.
- 4-12 Theft or unauthorized possession of school or Board property.
- 4-13 Excessively poor attendance or tardiness.
- 4-14 Requesting or taking a leave of absence on fraudulent grounds.

- 4-15 Submitting false or fraudulent residency information in violation of the Board's residency policy.
- 4-16 Retaliating against an employee or student in prohibition of the Board's Comprehensive Non-Discrimination, Title IX and Sexual Harassment Policy, which includes retaliation against any person for having made a complaint or report of discrimination or sexual harassment, whether made internally, or externally with a federal, state, or local agency; or participating or aiding in an investigation of discrimination or sexual harassment, whether internal, or external with a federal, state, or local agency; or retaliating against an Employee for filing a grievance, charge, or complaint regarding the terms or conditions of employment, or participating or aiding in an investigation, proceeding or hearing regarding such a grievance, charge or complaint; or retaliating against a student for filing a complaint against an Employee.
- 4-17 Forging or falsifying official school or Board documents.
- 4-18 Engaging in any act with the intent of providing inappropriate assistance to a student before, during, or after a test, or engaging in any act that an Employee knew or should have known would compromise the integrity of the testing process.
- 4-19 Soliciting funds for personal gain.
- 4-20 Fiscal mismanagement or waste of funds.
- 4-21 Misappropriating any funds of the Board or any other public or private organization.
- 4-22 Intentionally failing to comply with laws or rules governing health, safety or sanitary conditions of a school or Board property.
- 4-23 Acting intentionally to damage Board property.
- 4-24 Negligently supervising students where physical or psychological injury results.
- 4-25 Using corporal punishment that results in the deliberate use of physical force with a student (e.g., slapping, hitting, pushing, shaking, twisting, pinching, choking, swatting, head banging, or other physical contact; using any type of object or instrument that has contact with a student).

4-26 Violating School rules, Board rules, policies or procedures that result in behaviors that seriously disrupt the orderly educational process in the classroom, in the school, and may occur on or off the school grounds or assigned work location.

Disciplinary Options

- Suspension Without Pay (1-30 days);
- Discharge

GROUP 5 ACTS OF MISCONDUCT

Group 5 Acts of Misconduct includes the following acts that *grossly disrupt* the orderly educational process (School-based discipline is not appropriate. Please contact the Office of Employee Engagement or the Law Department).

- 5-1 Repeated or flagrant acts of Group 4 misconduct.
- 5-2 Absence without leave or authorization (“AWOL”).
- 5-3 Losing one’s professional or other license or failing to obtain prerequisites necessary to hold or renew professional or other license.
- 5-4 Falsifying employment records, or committing other fraudulent acts in attempting to secure employment.
- 5-5 Involvement in the illegal sale, delivery, receipt, possession, or use of any controlled substance either on or off the job site during hours of employment or non-working time.
- 5-6 Conviction for an enumerated crime as defined in the Illinois School Code.
- 5-7 Possessing, carrying, storing, or using weapons or dangerous chemicals on the job when not authorized to do so.
- 5-8 Soliciting or accepting for personal use any fee or other valuable thing that may be construed as a bribe. That is when such fee, gift, or other valuable thing is solicited by or given to the Employee, in hope or expectation of receiving treatment better than that accorded other persons, or using one’s office so as to give the appearance of such impropriety.
- 5-9 Any cruel, immoral, negligent, or criminal conduct or communication to a student, that causes psychological or physical harm or injury to a student.
- 5-10 Soliciting, commanding, urging, inciting or requesting a sexual act of a student; Or intentionally or knowingly engaging in any sexual conduct or act with a student.
- 5-11 Violating the Chicago Public School’s drug and alcohol testing policy (e.g., testing positive or refusing to submit to testing).
- 5-12 Failing to submit to a medical examination requested pursuant to the Board’s rules and regulations.
- 5-13 Reporting to work under the influence of alcohol or illegal drugs.

- 5-14 Drinking, using, or possessing alcoholic beverages or illegal drugs, or using legal drugs in a manner not prescribed by a physician, while at work.
- 5-15 Engaging in any act or conduct prohibited by Board Rules, Municipal Code of the City of Chicago, the Illinois Compiled Statutes, applicable laws of other states, or federal statutes that may be deemed irremediable conduct.
- 5-16 Any communication in the presence of students that portrays person(s) as criminal, immoral, indecent, or lacking in virtue, or intended to incite hatred, violence, abuse, or hostility toward a person or group of persons by reason of or by reference to that person's religion, race, color, ethnicity, nationality, sex, age, disability, or sexual orientation.
- 5-17 Violating the School rules, or Board rules, policies or procedures which result in behaviors that grossly disrupt the orderly educational process in the classroom, in the school, and may occur on or off school grounds or assigned work location.

Disciplinary Options

- Dismissal; and/or
- Referral to proper authorities for criminal prosecution.

V. TYPES OF DISCIPLINARY ACTION

The types of disciplinary action that may be imposed include the following:

1. **Written Reprimand** - A formal disapproval of the action(s) of an Employee, but which carries no loss of pay or benefits.
2. **Suspension** - The temporary removal from employment, accompanied by a concurrent and temporary loss of the privileges of employment, including the loss of pay and benefits. The loss of benefits shall include any benefits that would normally accrue during active employment such as vacation and sick days (e.g., health insurance coverage would remain so long as the Employee makes appropriate contribution payments).
3. **Demotion** - The lowering of a position or rank of an Employee in either a school or department with the requisite lowering of that Employee's pay and benefits equivalent to the level of job duties and responsibilities of the new position.
4. **Discharge** - The act of dismissal from employment of the Board and the permanent loss of all privileges of employment. Discharge extinguishes any right to reinstatement.
5. **Transfer** – For Employees not covered by a collective bargaining agreement, the removal of an Employee from one school or department to another school or department such that the Employee remains in the same position or rank. The transfer may occur with or without the loss of pay.

VI. DISCIPLINE PROCEDURES FOR UNION EMPLOYEES (EXCEPT CTU)

A. Union Employees (Except CTU)

To the extent any conflict exists between this Policy and the discipline process set forth in a collective bargaining agreement covering the Employee at issue, then the procedures set forth in the collective bargaining agreement will govern.

1. Cautionary Notice

Prior to the issuance of discipline against a Union Employee (except CTU) the Union Employee's supervisor or Principal shall issue a Cautionary Notice to the Union Employee, unless deemed not practical such as in cases involving egregious or serious rules violations. The Cautionary Notice shall inform the Union Employee of his act of misconduct, and warn the Union Employee that formal discipline will occur if such misconduct is not corrected in the future. The Cautionary Notice shall be served on the Union Employee, and he shall be given an opportunity to sign it, or to provide a statement that he refuses to sign.

2. Reprimand and Suspension Procedures

The Union Employee's supervisor or Principal shall have the authority and responsibility to discipline Union Employees. The following procedures govern reprimands and suspensions of Union Employees:

1. The Employee and his representative shall be given a minimum of three (3) school days written notice prior to the conference on a form entitled Notice of Pre-Discipline Hearing. This Notice shall provide a description of the alleged misconduct and what Acts of Misconduct are alleged to have been violated.
2. The Employee shall be entitled to one continuance request of the conference so long as prior notice is given at least one (1) school day in advance of the scheduled conference. The Board representative in charge of the conference shall have the authority to schedule a new conference date. The Board representative has complete discretion as to whether additional continuance requests may be granted. Additionally, the Employee is responsible for ensuring that his representative is present at the conference.
3. The Board representative is strongly encouraged to seek a mutually agreeable date with all parties when scheduling a conference date.
4. All documents intended for use in the conference shall be given to the Employee at least three (3) school days in advance of the conference. Additional supplemental documents may be used, in unusual cases, but must be tendered to the Employee at least one (1) school day in advance of the conference.
5. The conference shall occur in a place ensuring privacy.
6. At the conference, the Employee will be informed of the allegations against him, provided with an explanation of the basis of the allegations, and afforded an opportunity to respond to the allegations.
7. The Employee's or his representative's response to the allegations may include verbal statements, written materials, or other relevant objects. The Board representative shall duly consider all matters submitted to him by the Employee or his representative.
8. Witnesses are generally not allowed, however, the Board representative, in his discretion, may allow a witness if he deems it necessary. Rather, affidavits or signed and dated statements may be submitted and shall be duly considered by the Board representative.

After the conference has been completed, the Union Employee's supervisor or Principal shall issue a decision as to the Misconduct section(s) that was found to have been violated, and what level of discipline, if any, is appropriate on a Notice of Disciplinary Action form. The Union Employee's supervisor or Principal shall have the

discretion and authority to issue a reprimand, or a suspension, without pay, from one (1) to thirty (30) days. If the evidence presented indicates that no violation of the Misconduct section occurred, then the Union Employee's supervisor or Principal shall notify the Employee, in writing, as to this finding.

The Union Employee's supervisor or Principal shall notify the Employee of his or her right to request an appeal of the discipline to the Office of Employee Engagement and the procedures that will be followed in that appeal.

Within five (5) business days of receiving the Union Employee's supervisor or Principal's Notice of Disciplinary Action form, the Employee or representative must mail, send via facsimile, or hand deliver a written request of appeal to the Office of Employee Engagement for suspensions of one (1) to thirty (30) days.

If a timely appeal of a suspension has been filed, then a review of the suspension will be conducted by the Office of Employee Engagement. No suspension shall be served until the completion of the Office of Employee Engagement's review process. If the Union Employee appealing the suspension is not on a leave of absence at any point during the appeal, the review process generally concludes in less than three school months. The review procedures shall include, but may not necessarily be limited to the following:

For Suspensions of Five (5) Days or Less

1. Where the Union Employee's supervisor or Principal has issued a Cautionary Notice, if appropriate, and followed Progressive Discipline, then, the Employee shall be afforded the opportunity to submit any written documents and/or arguments, including written witness statements, to a Reviewing Officer who shall be designated by the Office of Employee Engagement to review the discipline imposed;
2. The Employee shall be given a copy of any documentation and/or arguments submitted by the Union Employee's supervisor or Principal in support of the discipline imposed. The Employee shall be afforded an opportunity to respond to the documentation and/or arguments submitted by the Union Employee's supervisor or Principal;
3. The Reviewing Officer shall review all documentation and submissions submitted by the parties. The Reviewing Officer has the authority to request additional documentation or responses to specific questions from either party. Any information submitted by either party in response to a Reviewing Officer's request shall also be submitted to the other party. The parties shall have the right to respond to any newly submitted material within five (5) calendar days of when the new information is sent by the Reviewing Officer to the parties. Upon a review of all the materials submitted by the parties, the Reviewing Officer shall make a recommendation to the Office of Employee Engagement as to whether the discipline imposed by the Union Employee's supervisor or

Principal should be upheld, increased, decreased, or overturned completely;

4. If the Union Employee's supervisor or Principal has not issued a Cautionary Notice, where appropriate, and has not followed Progressive Discipline, then the Employee shall be afforded a hearing before a Reviewing Officer. The Employee shall be afforded adequate notice of the review procedures, an opportunity for the Employee to be present at the hearing, be represented by one person of his choice, know and respond to the charges, and present oral and/or written evidence on his behalf, including witnesses. The rules of evidence do not apply. It is preferred that all witnesses be present at the hearing; but, in extenuating circumstances, witnesses may testify by some other electronic means. The Reviewing Officer shall review the record, submitted documents and testimony. The Reviewing Officer has the authority to request additional documentation or responses to specific questions from either party. Any information submitted by either party in response to a Reviewing Officer's request shall also be submitted to the other party. The parties shall have the right to respond to any newly submitted material within five (5) calendar days of when the new information is sent by the Reviewing Officer to the parties. Upon a review of all the materials submitted by the parties, the Reviewing Officer shall make a recommendation to the Office of Employee Engagement as to whether the discipline imposed by the Union Employee's supervisor or Principal should be upheld, increased, decreased, or overturned completely; and

5. The Office of Employee Engagement shall review the Reviewing Officer's recommendation. The Office of Employee Engagement shall have the authority to accept or reject the recommendation, or request additional information from the Reviewing Officer. The Office of Employee Engagement shall have the authority to issue a final decision as to whether the suspension imposed by the Union Employee's supervisor or Principal should be upheld, increased, decreased or overturned completely.

6. The determination by the Office of Employee Engagement to suspend an Employee, increase, decrease, or to rescind the discipline completely, shall be final and may not be appealed by either party.

The Office of Employee Engagement will make the final decision as to whether an Employee is entitled to a document review, set forth in paragraphs one (1) through three (3) above, or a hearing review, set forth in paragraph four (4) above, of that Employee's suspension.

For Suspensions Over Five (5) Days

All Union Employees (except CTU) suspended over five (5) days, that have timely filed an appeal with the Office of Employee Engagement, shall be entitled to a hearing review set forth in paragraphs four (4) through six (6) above.

3. Discharge Procedures

The Union Employee's supervisor or Principal shall have the authority and responsibility to recommend the discharge of Union Employees (except CTU).

The Office of Employee Engagement has the right and authority to suspend an Employee, without pay, pending the outcome of a dismissal hearing. Before a Union Employee is suspended without pay, he shall be afforded a pre-suspension hearing in the Office of Employee Engagement so that the Employee may be informed of the allegations against him, and to provide the Union Employee with an opportunity to rebut the allegations leveled against him. The Office of Employee Engagement may suspend Employees, without pay, for a maximum of sixty (60) work days, pending a discharge hearing, only in cases where the misconduct is in violation of the Board's drug/alcohol policy, any of the enumerated offenses as defined in the Illinois School Code, sexual misconduct, severe physical abuse, or other egregious violations. The Employee shall be entitled to back pay if the Employee is not discharged. If a determination has not been made within (60) work days as to whether the Employee should be discharged, then the Employee will start receiving pay, and will be eligible for all benefits normally available during periods of active employment.

The Office of Employee Engagement has the right to remove, with pay and benefits, an Employee from his position on a temporary basis where the best interests of the Chicago Public Schools and the students are served by such a removal.

Where the discharge of an Employee is recommended, the Board's Law Department will draft Dismissal Charges that will set forth the charges and specifications alleged against the Employee. These Dismissal Charges shall be approved by the Chief Executive Officer, or his designee.

The Employee shall be afforded the opportunity to have a dismissal hearing at the Office of Employee Engagement that will be conducted by a Hearing Officer that shall be designated by the Office of Employee Engagement. The hearing procedures shall include, but may not necessarily be limited to the following:

1. The Employee shall be entitled to notice of the Dismissal Charges prior to the hearing.
2. At the hearing, the Employee may appear on his own behalf or be represented by one person of his choice. The Employee shall have the right to be present, to respond to the Dismissal Charges, present oral and/or written evidence, including the direct examination and cross-examination of witnesses. The rules of evidence will not be applicable. The Hearing Officer has the authority to administer oaths, to limit testimony and evidence, and to rule on motions presented by the parties. The hearing will be recorded by a means determined by the Hearing Officer.

3. Once the hearing has closed, the Hearing Officer will summarize the evidence and make recommended findings of facts and conclusions of law to the Office of Employee Engagement. The Office of Employee Engagement has the authority to accept or reject the Hearing Officer's recommendations.

4. If the Office of Employee Engagement determines that the discharge of the Employee is not warranted, then the Office of Employee Engagement shall issue a decision that specifies the level of discipline which shall include the following options: (1) a suspension from one (1) to thirty (30) days; (2) a demotion; (3) transfer to another school; (4) a written reprimand; or (5) that no discipline shall be imposed. If the Employee is entitled to back pay based upon the determination by the Office of Employee Engagement, then such back pay shall be paid as quickly as practicable. The decision by the Office of Employee Engagement shall be final and may not be appealed by either party.

5. If the Office of Employee Engagement determines that the discharge of the Employee is warranted, then he shall submit his findings and conclusions to the Chief Executive Officer. The Chief Executive Officer may decide to decrease the severity of the recommended discipline. If the Chief Executive Officer agrees with the findings and conclusions of the Office of Employee Engagement to discharge the Employee, then the Chief Executive Officer shall report his decision to the Board.

6. The Board will determine whether to accept or reject the Chief Executive Officer's recommendation to discharge the Employee. The Board may also decide to decrease the severity of the discipline as well. The determination of the Board will be final.

B. Probationary Union Employees (Except CTU)

1. Probationary Period

Newly hired Union Employees (except CTU) will be regarded as probationary Employees for the first twelve (12) months of employment, and will receive no seniority or continuous service credit during such probationary period. Any period of absence from work in excess of ten (10) days shall extend the probationary period for a period of time equal to the absence. Probationary Employees who have been determined eligible in their position category and who continue in the service of the Board beyond their probationary period shall obtain regular educational support personnel status. An Employee's probationary status lasts for the first twelve (12) months of employment. For probationary Employees promoted or appointed to a different position, their probationary period shall be extended for sixty (60) days. Nothing provided in this Section shall be construed to confer a property interest in Board employment or an expectation of continued employment upon at-will Employees. At-will Employees may be discharged from Board employment for any or no cause and with or without notice.

2. Discipline of Probationers

The Office of Employee Engagement may issue a written reprimand or suspend a probationary Employee without pay for up to thirty (30) days. The Employee does not have the right to request review of such action.

Probationary Employees have no right to their position. Accordingly, the Office of Employee Engagement has the right to discharge a probationary Employee with or without cause, notice being given, or an opportunity to be heard.

VII. VACATE ALL EMPLOYEES THAT ABANDON THEIR EMPLOYMENT

Union Employees that have been absent for ten (10) consecutive work days, without providing a legitimate excuse for such absence, and who are not on approved benefit time or other approved paid time off, shall be considered to have abandoned their position with the Chicago Public Schools. The Board shall provide notice to the Employee, the principal, and collective bargaining representative, if applicable, of the Employee's job-abandonment status, and determine whether the Employee has a legitimate reason for being absent (e.g., obtained a leave of absence, filed for worker's compensation, or other legitimate reason).

If no legitimate reason is established for the Employee's absence within ten (10) calendar days from the date of the mailing of the notice, the Board shall be entitled to vacate the Employee out of system. That Employee shall lose his right to the position he formerly held. The Board shall provide notice to the Employee, the principal, and collective bargaining representative, if applicable, of the fact that the Employee has been vacated out of his position. The Employee, however, shall be allowed to re-apply for any vacant position that exists within the Board.

All notices identified in this section shall be sent by first-class mail to the last known address that the Employee provided to the Board, and to the last known address of the Employee's collective bargaining representative, if applicable.

The direct supervisor or manager of an Employee bears the ultimate responsibility to correctly notify the Talent Office as to the absent without leave status of an Employee.

VIII. MISCELLANEOUS PROVISIONS

1. When an Employee engages in an alleged act of misconduct, but has left the work location where the alleged act of misconduct occurred, then the Office of Employee Engagement shall follow the discipline process outlined in this Section VI.
2. Written reprimands may not be appealed to the Office of Employee Engagement for review. Rather, the Board agent's decision to issue a written reprimand shall be final. An Employee or representative on the Employee's behalf, may submit a rebuttal to a written reprimand for inclusion in the Employee's disciplinary file.
3. All appeal hearings conducted by the Office of Employee Engagement may be held in an Area Office, or other location as deemed appropriate by the Office of Employee Engagement. Appropriate notice shall be given to all parties as to the location of the appeal hearing.

IX. EFFECTIVE DATE

This Policy shall take effect on the date it is adopted by the Board. All previously adopted policies or procedures regarding disciplinary actions and discharges of Union Employees (except CTU) are rescinded upon the effective date of this Policy.

Any misconduct that occurred before the adoption of this Policy shall be governed by the prior Board Rules, policies, and the Employee discipline code that were in effect at the time the misconduct occurred, including policies set forth in Board Report 13-0828-PO1. Any misconduct that occurs on or after the date of adoption of this Policy shall be governed by this Policy.

Amends/Rescinds: Amends 13-0828-PO1
Cross References: 04-0728-PO1; 95-1025-PO6; 95-1025-PO3; 95-1025-PO1; 05-1025-PO2;
80-231-19
Legal References: