

EMPLOYEE CONDUCT AND DISCIPLINE

Effective: April 11, 2019

I. Discipline Guidelines

If an employee fails to meet expected standards of job performance, disciplinary action will be taken. The following guidelines will be employed in the Howard County Public School System (HCPSS):

- A. All employee disciplinary information will be kept strictly confidential and consistent with federal and state law. Only HCPSS personnel, with a need to know, will have access to employee disciplinary information.
- B. Progressive discipline will guide disciplinary actions. However, not all steps of progressive discipline need to be taken before more serious actions can be taken.
- C. During a personnel investigation, the Superintendent/designee has authority to make changes in regular assignments, to temporarily reassign employees to positions, or to place an employee on administrative leave with pay.

II. Violations

If an employee does not meet the expected standards of job performance, several types of infractions could warrant disciplinary action. These infractions are cited below by category and include examples. The list is not inclusive and the examples may apply to more than one category.

- A. Immorality
 - 1. Immodest, lewd, obscene conduct or language that renders the employee unfit for the performance of his/her duties
 - 2. Inducing students or others to participate in, or commit an act or acts, which are immodest, indecent, or obscene
 - 3. Conduct contributing to the delinquency of a minor
 - 4. Child abuse or neglect
 - 5. Criminal conduct
 - 6. Violent behavior
 - 7. Conduct negatively affecting an employee's fitness to perform their duties, including serving as a role model for students.
- B. Misconduct in Office
 - 1. Knowingly failing to report suspected child abuse
 - 2. Sexual harassment (Policy 1020 Sexual Harassment)

3. Intimidation of students, employees, or citizens at large, including the use of racial slurs and/or other derogatory remarks
4. Bullying, cyberbullying, or harassment of students, employees, or citizens at large (Policy 1060 Bullying, Cyberbullying, Harassment, or Intimidation)
5. Theft and misuse or negligent treatment of Board of Education property
6. Disclosing confidential information to unauthorized persons
7. Inappropriate relationships with students or parents, such as romantic, emotional, and sexual grooming or interactions
8. Dating and/or having a sexual relationship with a student
9. Inappropriate/unprofessional conduct toward or relations with other persons
10. Abuse of alcohol and other controlled dangerous substances and possession and use of illegal drugs and controlled dangerous substances (Policy 7040 Alcohol and Other Noncontrolled Substance Abuse by Employees and Policy 7050 Drug Use by Employees: Illegal Drugs, Drug Paraphernalia, and Controlled Substances)
11. Falsifying of any school record, report, or school system document
12. Financial irregularities (e.g., fraud, embezzlement, bribery, kickbacks, forgery, etc.)
13. Violation of ethics standards and/or regulations (Policy 2070 Ethics)
14. Disorderly conduct on school property or while on duty to include fighting, threatening, and/or attempting to inflict bodily harm on another person
15. Possession of firearms or other weapons on Board of Education property
16. Inappropriate use of email, internet, or other electronic communication
17. Violation of student data governance and privacy standards (Policy 3060 Student Data Governance and Privacy).

C. Insubordination

1. Failure to perform all work and duties assigned by a supervisor/administrator in charge
2. Failure to follow the written or verbal instruction of a supervisor/administrator.

D. Incompetence

1. Failing to complete work assignments
2. Performing work assignments in an inappropriate or unsatisfactory manner.

E. Willful Neglect of Duty

1. Unexcused absences
2. Excessive tardiness
3. Unauthorized absence or misuse of leave
4. Failure to follow specified courses of study adopted by the Board of Education
5. Failure to follow policies adopted by the Board of Education and HCPSS implementation procedures.

III. Disciplinary Investigation Process

When disciplinary action is warranted, an investigation of the circumstances of the case will be employed, as described below.

- A. An investigation will precede any disciplinary action. Investigations are usually conducted by the employee's immediate supervisor; however, an administrator with superseding authority may assume investigatory responsibilities or assign other HCPSS Department of Education personnel to pursue the investigation.
 - 1. It may be necessary for administrators conducting an investigation to make credibility determinations regarding alleged victims, wrong doers, and witnesses.
 - 2. It is legal for an administrator to base a discipline decision upon a belief that a particular individual is being truthful or not. Accordingly, if the individuals have different versions, and if the administrator finds one individual to be more credible than the other, the administrator may take action and impose discipline.

- B. Administrative Leave with Pay During an Investigation

HCPSS has the authority to implement administrative leave with pay for any reason because administrative leave is not disciplinary action and administrative leave does not affect the financial interests of an employee.

- C. Due Process

- 1. Any employee will receive due process before the imposition of any discipline.
- 2. In most cases, a due process meeting with the employee should be conducted at the end of an investigation. This allows the investigating administrator to review and use all of the information, evidence, documents, etc., obtained during the investigation, enabling the administrator to conduct a better interview and to more accurately assess the employee's responses. It also ensures that the administrator will be able to provide the employee with the opportunity to respond to all the allegations that arose during the investigation.
- 3. If the due process interview is held before the end of the investigation, the administrator will re-interview the employee prior to taking disciplinary action if any new allegations arise after the previous interview. During this meeting the employee will be given the opportunity to respond to the new allegations.

D. Resolution

1. Following the due process meeting, the administrator will review the case to determine next steps. These steps may include:
 - a. Closing of the matter without discipline
 - b. Imposition of disciplinary action
 - c. Further investigation
 - d. Conferral with other school system officials.
2. The employee will receive timely notice of next steps. If a disciplinary decision is issued, the employee will receive written notice of the decision along with any appeal rights. The written notice will be copied to the employee's personnel file and to supervising administrators who have a need to know.

IV. Discipline/Administrative Leave Authority Based on Employee's Job Classification

School-based administrators and supervisors throughout the HCPSS will respond to employee discipline issues based on the employee's job classification, as described below.

A. Principals

1. The Chief of School Management and Instructional Leadership or Community Superintendent is responsible for addressing discipline issues involving a principal.
2. The Chief of School Management and Instructional Leadership or Community Superintendent has authority to place a principal on administrative leave with pay, with notification to the Superintendent/designee.
3. Principals may only be suspended without pay or terminated upon recommendation by the Superintendent and approval by the Board.
4. If the Superintendent recommends suspension without pay or termination, the Board will provide the employee written notification of the charges and will give the employee an opportunity to request a hearing within ten days, in accordance with the Annotated Code of Maryland, Education Article, Section 6-202.

B. Assistant Principals

1. The principal is responsible for addressing discipline issues involving an assistant principal and will inform the Chief of School Management and

Instructional Leadership or Community Superintendent of all disciplinary actions concerning an assistant principal.

2. The Chief of School Management and Instructional Leadership or Community Superintendent has authority to place an assistant principal on administrative leave with pay, with notification to the Superintendent/designee.
3. If suspension without pay or termination is to be imposed, the discipline procedures outlined in Section IV.A.3.-4. for principals, will be applied.

C. School-based Certificated Employees

1. School-based administrators will respond to all incidents or alleged incidents of misconduct by either investigating and taking disciplinary action, or by conferring with the Chief of School Management and Instructional Leadership or Community Superintendent, based on the incident and type of discipline appropriate to the circumstances.
2. School-based administrators are responsible for:
 - a. Providing counseling
 - b. Issuing oral or written warnings
 - c. Issuing written letters of reprimand
 - d. Directing an employee to leave the school site.
3. School-based certificated employees may only be placed on administrative leave with pay by the Chief of School Management and Instructional Leadership or Community Superintendent.
 - a. When a principal or other designee outlined in Appendix A is aware of a disciplinary case that has the potential to involve a suspension without pay or termination (due to the seriousness of the incident or the employee's prior conduct), he or she must inform the Chief of School Management and Instructional Leadership or Community Superintendent to obtain review by the Superintendent/designee.
 - b. If the discipline imposed is a suspension without pay or termination, the discipline and confirming letter will be administered through the Superintendent's office in consultation with legal counsel.
 - c. When an employee is returning to work or school or other job site from a period of administrative leave or suspension, the supervisor will, as appropriate:
 - i. Address school-based issues

- ii. Address transition issues upon the employee's return to work or school
 - iii. Follow-up and monitor the employee's performance after the employee has returned to work (which may involve an action plan)
 - iv. Consider the discipline imposed in evaluating the employee's performance for the year.
 4. If suspension without pay or termination is to be imposed, the discipline procedures outlined in Section IV.A.4. for principals will be applied.
- D. HCPSS Department of Education Certificated Employees
 1. The employee's immediate supervisor is responsible for addressing discipline issues involving a HCPSS Department of Education certificated employee.
 2. The Superintendent/designee has the authority to place a certificated HCPSS Department of Education employee on administrative leave with pay.
 3. If suspension without pay or termination is to be imposed, the discipline procedures outlined in Section IV.C.3.-4. for school-based certificated employees will be applied.
- E. School-based Support Employees
 1. Discipline/administrative leave authority for school-based support employees is outlined in Appendix A.
 2. A school-based support employee may appeal a disciplinary decision issued under this section by submitting a written notice to the Superintendent/designee. This notice must be received by the Superintendent/designee within ten calendar days of the date of the discipline decision.
 - a. The Superintendent/designee, under the Annotated Code of Maryland, Education Article, Section 4-205, will hear and decide the appeal, in consultation with legal counsel.
 - b. The employee, if dissatisfied with the decision from the Superintendent/designee, may appeal to the Board by submitting a written notice to the Board. This notice must be received in the Board Office within 30 calendar days from the date of the Superintendent/designee's decision.

F. Non-School Based Support Employees

1. Discipline/administrative leave authority for non-school based support employees is outlined in Appendix B.
2. A non-school based employee may appeal a disciplinary decision issued under this section by submitting a written notice to the Superintendent/designee. This notice must be received by the Superintendent/designee within ten calendar days of the date of the discipline decision.
 - a. The Superintendent/designee, under the Annotated Code of Maryland, Education Article, Section 4-205, will hear and decide the appeal in consultation with legal counsel.
 - b. The employee, if dissatisfied with the decision from the Superintendent/designee, may appeal to the Board by submitting a written notice to the Board. This notice must be received in the Board Office within 30 calendar days from the date of the Superintendent/designee's decision.

G. Administrative, Management, and Technical Staff (AMT)

1. Immediate supervisors are responsible for addressing discipline issues involving a member of the Administrative, Management, and Technical (AMT) employee group.
2. The supervisor has authority to place a member of the AMT employee group on administrative leave with pay.
3. A suspension without pay or termination will only be issued by the Superintendent/designee.
4. An employee may appeal a disciplinary decision issued under this section by submitting a written notice to the Superintendent/designee. This notice must be received within ten calendar days of the date of the disciplinary decision.
5. An employee, if dissatisfied with the decision from the Superintendent/designee, may appeal to the Board by submitting a written notice to the Board. This notice must be received in the Board Office within 30 calendar days from the date of the Superintendent/designee's decision.

V. **Employee Assistance Program (EAP)**

In the event that an administrator or appropriate supervisor is concerned that an employee's emotional or mental state is adversely affecting work performance, the employee may be referred to the EAP for support.

VI. Fitness for Duty Evaluations

In the event there is concern that an employee's physical or psychological state is significantly impairing the employee's ability to safely or effectively perform his or her essential job functions, a request for a Fitness for Duty Evaluation can be made by the employee's supervisor or administrator. A request for a Fitness for Duty Evaluation must be based on the supervisor's personal observations or from a reliable third party. Observed behaviors must considerably impair the employee's ability to effectively perform his or her essential job functions and may pose a direct threat to the safety of the employee or others. It is the supervisor's responsibility to document, in writing, the behaviors and observations that lead to the request for a Fitness for Duty Evaluation.

If the employee poses a direct threat to his or herself or to the safety of others, immediate intervention is required. Intervention may include, but is not limited to: arranging for the appropriate emergency medical services, arranging for a professional threat assessment, and/or notifying the appropriate local authorities.

A. Initiating a Fitness for Duty Evaluation

1. The supervisor will make a determination if the presenting issue is physical or psychological. If the presenting issue is physical in nature they will contact the Office of Human Resources. If the presenting issue is psychological in nature, they will contact the Office of Staff Relations. The offices will collaborate in instances where the nature of the presenting problem is difficult to ascertain. All information submitted and/or received will be confidential. The supervisor will receive final determinations from these evaluations and will not receive specific information resulting from any physical and/or psychological examinations.
2. The Office of Human Resources will forward the Fitness for Duty Evaluation Request Form to the supervisor.
3. The supervisor will complete and submit the completed Fitness for Duty Evaluation Request Form and any other supporting documentation to the Office of Human Resources.
4. The Office of Human Resources will review the request to determine whether there is sufficient evidence to warrant a Fitness for Duty Evaluation.
5. If the request is determined to warrant a Fitness for Duty Evaluation, the Office of Human Resources will schedule the appointment with the appropriate medical provider, write a letter of notification to the employee, and send the letter to the employee's supervisor.
6. The appropriate supervisor will meet with the employee, review the letter, and explain the reason(s) for the request.

7. The employee may be placed on paid administrative leave pending an evaluation.
8. The Fitness for Duty Evaluation will be paid at the HCPSS expense.

B. The Employee's Responsibility to Cooperate

1. An employee who has been scheduled for an appointment by the Office of Human Resources for a Fitness for Duty Evaluation, is expected to fully cooperate with the HCPSS approved medical provider.
2. If the employee is unable to attend the Fitness for Duty Evaluation as scheduled, they must notify the Office of Human Resources, in writing, at least 48 hours before the appointment. An appointment will only be rescheduled if there is a credible reason that can be supported by relevant documentation.
3. At the recommendation of the medical provider, the employee may be required to participate in further evaluation of the employee's capacity to perform the essential job functions and/or additional treatment.
4. An employee's failure to attend and/or fully cooperate and comply with any aspect of the Fitness for Duty process may result in disciplinary actions up to and including separation from employment.

C. Fitness for Duty Examination Results

1. The medical provider will provide results to the authorized individual in the Office of Human Resources or Office of Staff Relations.
2. The authorized individual will communicate to the employee and the appropriate supervisor if the employee is:
 - a. Fit for duty with no conditions
 - b. Fit for duty with conditions, or
 - c. Unfit for duty
3. A Fit for Duty evaluation does not preclude the employee from any disciplinary actions that may also be appropriate.
4. Consideration will be given to whether, per the examination report, the employee has a qualified disability in accordance with the Americans with Disabilities Act, and is capable of performing the essential functions of his or her position with reasonable accommodations.

D. Return to Work

1. If an employee is deemed able to return to work by the HCPSS medical provider, full duty or with restrictions, the employee will be notified in writing by the Office of Human Resources.
2. If an employee returns to work with conditions, medical documentation may be necessary for the employee to be released from all restrictions from those conditions.
 - a. The employee will submit a medical documentation detailing the restriction(s) and the duration of those restrictions to the Leave & Retirement Office for review.
 - b. The Leave & Retirement Office will inform the administrator of the approved restrictions and duration.
 - c. The employee will submit a medical documentation to be released from those restrictions and are able to perform all the essential functions of their position.

E. Unable to Return to Work

1. If an employee is deemed unable to return to work by the medical provider, an options meeting will be scheduled with the Office of Staff Relations.
2. The employee will be placed on an appropriate leave in accordance with any Family Medical Leave Act (FMLA) and/or general leave in accordance with the applicable master agreement and/or state, local and federal laws.

VII. History

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