

MEADE COUNTY BOARD OF EDUCATION

Dr. John Millay, Superintendent

1155 Old Ekron Road
Brandenburg, Kentucky 40108



Phone: (270) 422-7500
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TO: Lisa Rowland
FROM: Dr. John Millay, Superintendent
DATE: 10/30/2019
RE: Leave of Absence

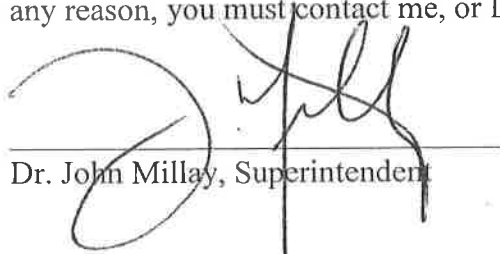
This memorandum will confirm our meeting today during which we discussed the fact that there is an ongoing criminal proceeding involving you in which you have been charged with assault, 4th degree (no visible injury) and unlawful transaction with a minor, 3rd degree. I informed you that should the charges against you be validated, the Meade County School District would follow its discipline policy and procedure which could result in disciplinary proceedings. I provided you with a copy of the School District's policy and procedure in this regard (Board Policy 03.27 and Board Procedure 03.27 AP.1).

During our meeting, you advised you desired to take your accumulated sick and personal days while the criminal proceeding is pending. You are permitted to take this leave, and I am enclosing an affidavit for you to complete in order that the leave paperwork is in order. You will need to sign the affidavit in the presence of a notary.

You also advised that should you exhaust your sick and personal days prior to the resolution of the criminal proceeding, you desired to take an unpaid leave. I am willing to allow you to do so until further notice.

The School District will continue to monitor this situation. Depending on developments that occur in regard to the criminal matter, the School District reserves the right to take disciplinary measures against you at any time.

As we discussed, you are not to be on school property for any reason while you are utilizing your sick and personal days without my express permission. If you feel you need to be on school property for any reason, you must contact me, or Donna Foushee, or Bill Adams to receive approval in advance.



Dr. John Millay, Superintendent

Enclosure: Affidavit of Lisa Rowland

2981222

- CLASSIFIED PERSONNEL -**Discipline, Suspension and Dismissal of Classified Employees****DISCIPLINARY OPTIONS**

Classified employees may be subject to the following actions, to include, but not limited to:

1. Verbal warning or reprimand by Superintendent/designee
2. Written warning or private reprimand by Superintendent/designee
3. Probation imposed by Superintendent/designee
4. Reassignment (temporary or permanent) by Superintendent
5. Public reprimand by Superintendent
6. Suspension without pay by Superintendent
7. Nonrenewal by Superintendent
8. Dismissal (termination of contract) by Superintendent

ACTIONS WHICH MAY REQUIRE HEARING PROCEDURES

Only the Superintendent may issue a public reprimand, suspend without pay or terminate a classified employee. Subject to the employee's exercise of applicable hearing rights, these personnel actions shall be effective on the employee's receipt of written notice from the Superintendent. Subject to the completion of any pending administrative hearing procedure on the action, the Superintendent shall notify the Board at the first meeting following a public reprimand, suspension without pay, or termination and such notification shall be recorded in the Board minutes.

TEMPORARY SUSPENSION WITH PAY PENDING INVESTIGATION

An employee may be relieved from duty for the remainder of the work day (without loss of pay for the affected portion of the day) by the immediate supervisor, pending a review of the facts or allegations, when such time is needed to protect health or welfare of students or staff or to prevent disruption of the educational process.

An employee shall be suspended with pay only when the Superintendent determines there is a justifiable need to protect the health, safety, or welfare of students and staff or to prevent significant disruption of the workplace and/or educational process. The period of suspension with pay shall not exceed the time needed to conduct an investigation and to determine whether the employee is to return to active service or face disciplinary action. However, suspension with pay shall not exceed ten (10) working days. If circumstances arise that require an investigation or other proceedings that may extend beyond ten (10) days, the Superintendent may lengthen the period of suspension, not to exceed an additional fifteen (15) working days.

Employees suspended with pay shall remain available for immediate recall to active service.

Discipline, Suspension and Dismissal of Classified Employees**CAUSES FOR ACTION**

Any classified employee may be subject to appropriate disciplinary or job action for one (1) or more of the following reasons:

1. Dishonesty, neglect of duty, incompetence, inefficiency or insubordination.
2. Reporting to work under the influence of or use or possession of alcohol or controlled substances while on duty, or the illegal use or possession of controlled substances at any time.
3. Unsatisfactory evaluation of any factor on the employee's performance evaluation report.
4. Repeated unexcused absence, tardiness, absence without notification or abuse of sick leave.
5. Violation of or refusal to obey local policies or state regulations adopted by the Kentucky Board of Education or by the Board.
6. Refusal to comply with safety directives.
7. Falsifying information supplied to the District including information on application forms, absence reports, or any other information.
8. Violation of local policy, state, or federal statutes or regulations that apply to assigned duties.
9. Failure to notify the Superintendent if the classified employee has been found by the Cabinet for Health and Family Services to have abused or neglected a child, and if the employee has waived the right to appeal such a substantiated finding or the finding has been upheld upon appeal.
10. Being convicted of or entering an "Alford" plea or plea of nolo contendere to a felony or any crime (including misdemeanors) involving moral turpitude or illegal transactions with minors or students.
11. Immorality, misconduct, or conduct unbecoming a school employee.
12. Loss of licensure or certification required for the position.
13. Failure to maintain the confidentiality of information about students or staff obtained in the course of employment, unless disclosure serves a legitimate job-related purpose or is required by law.
14. Engaging in any sexually related behavior with a student with or without consent, including, but not limited to, behavior such as sexual jokes; sexual remarks; sexual kidding or teasing; sexual innuendo; pressure for dates or sexual favors; inappropriate physical touching, kissing, or grabbing; rape, threats of physical harm; and sexual assault.
15. Physical or mental disability, consistent with applicable laws protecting employees with disabilities.¹

Discipline, Suspension and Dismissal of Classified Employees**DUE PROCESS PROVISIONS (SUSPENSION WITHOUT PAY/TERMINATION)**

The Superintendent shall develop/adopt procedures to provide adequate due process, covering matters that may result in public reprimand, suspension without pay or termination of classified employees. The procedures shall address, but are not limited to notice, opportunity to be heard, right to counsel, conducting a hearing (if requested), and the rendition of a decision or action.

Employees shall be provided written notification of the charges that may result in a public reprimand, suspension without pay or termination. The notification shall include a statement of the right to a hearing and a form, the signing and filing of which with the Superintendent shall constitute a demand for a hearing and a denial of the charges. If an employee wishes to request a hearing, the employee shall present the appropriate form to the Superintendent within ten (10) calendar days of the receipt of the written notification of the charges. If the employee does not file the demand for a hearing within the ten (10) day period, final personnel action may be taken or completed without a hearing or further proceedings.

OTHER DISCIPLINARY ACTIONS

When disciplinary actions other than public reprimand, suspension without pay or termination, are at issue, employees may submit a written response, which shall be placed in their file along with any documentation of the disciplinary action.

REFERENCES:

¹Americans with Disabilities Act
42 U.S.C. Section §12111 et seq.; KRS Chapter 344
KRS 160.380; KRS 160.390; KRS 161.011
OAG 76-290; OAG 92-135; OAG 96-3; OAG 05-006
Consolidated Omnibus Budget Reconciliation Act

RELATED POLICIES:

03.212
03.23251
03.26
03.271
03.2711
07.162
09.14
09.42811

Adopted/Amended: 6/12/2018
Order #: 99

- CLASSIFIED PERSONNEL -

Personnel Action Procedures

The Superintendent shall provide written notification of personnel actions to an employee, including but not limited to, public reprimand, suspension without pay, and termination.

WARNING NOTICES

It is not necessary for warning notices to be given to an employee before s/he may be publicly reprimanded, suspended without pay, or terminated. Where a supervisor/Superintendent determines that a warning is the appropriate response to an individual instance of conduct, the supervisor/Superintendent may issue warning notices for reasons listed in Board Policy 03.27. Such notices shall be issued in accordance with the following provisions:

1. Prior to the issuance of a warning notice, the supervisor/Superintendent shall hold an informal conference with the employee.
2. The supervisor shall retain a copy and forward a copy to the Superintendent/designee, as appropriate.

PROCEDURE FOR PUBLIC REPRIMAND/SUSPENSION/DISMISSAL OF CLASSIFIED EMPLOYEES

When the Superintendent becomes aware of allegations that, if true, are believed to warrant public reprimand, suspension without pay, or termination of a classified employee, the Superintendent may seek advice of counsel as deemed appropriate and shall determine whether s/he is in a position to serve as an impartial hearing officer concerning the allegations. If the Superintendent determines that s/he is able to serve as an impartial hearing officer, s/he should follow Procedure A; if not, s/he shall follow Procedure B.

PROCEDURE A (TO BE UTILIZED WHEN SUPERINTENDENT SERVES AS HEARING AUTHORITY)

1. The Superintendent shall direct an administrator to investigate and make a written report to him/her as the designated "Investigator." The Superintendent will not conduct the investigation or prepare the report. The Superintendent will not be involved in the investigation except as may be necessary for procedural matters such as scheduling, facilities availability, etc.
2. The post-investigative report shall state whether the Investigator concludes in his or her professional judgment that the employee engaged in conduct in violation of one or more of the "Causes for Action" set forth in policy 03.27 and shall describe the facts in support of any violation in detail. The Investigator may include a recommendation for suspension without pay pending disposition of any employee request for a hearing in the report if s/he determines that the conduct at issue gives rise to the need to protect the health, welfare, or safety of staff and/or students or the orderly, efficient, and lawful operation of the educational process. If the Investigator recommends a suspension without pay pending disposition of any employee request for a hearing, the Investigator shall provide the employee an opportunity for a conference to discuss the allegations and potential suspension without pay.

This opportunity for a conference shall be provided before the Superintendent imposes a suspension without pay pending disposition of any employee request for a hearing. In the conference, the Investigator will provide oral or written notice of the violation of the "Causes for Action" constituting cause for the suspension without pay pending disposition of any employee request for a hearing, an explanation of the evidence supporting such violation if the employee denies it, and an opportunity for the employee to present his/her version of the facts relating to the violation.

Personnel Action Procedures**PROCEDURE A (CONTINUED)**

3. The report shall not be binding on the Superintendent. Upon a determination that the report warrants initiation of hearing procedures on a potential public reprimand, suspension without pay or termination, the Superintendent shall provide written notice to the classified employee of the opportunity for a hearing. The notice may include a suspension without pay pending final administrative action on any classified employee-hearing request. If, after the hearing, the decision is against a suspension without pay or termination, the employee shall receive his/her full pay for any period of suspension. The notice will include a copy of the investigative report and will advise the employee of the sanctions the Superintendent may impose if the employee does not request a hearing.
4. The employee may request a hearing by filing the proper form with the Superintendent within ten (10) calendar days after receiving the notification of an opportunity for a hearing.
5. If the employee fails to file the hearing request form on time, the Superintendent will review the report and if s/he concludes further action is warranted, take final personnel action based on such report, which may include, but shall not be limited to, public reprimand, and/or suspension without pay and/or termination. Any such action shall be set forth in writing and shall be effective on the employee's receipt of the written notice.
6. If the employee files a timely request, a hearing shall be conducted at a time and place not less than twenty (20) and not more than forty-five (45) calendar days after the employee's receipt of the written notice of the opportunity for a hearing.
7. The employee shall be given the opportunity to hear evidence on the report and the alleged violations described in such report and shall be given the opportunity to cross-examine witnesses. No later than five (5) calendar days before the hearing is scheduled to commence, the following shall be exchanged:
 - a. A list of witnesses expected to testify and copies of exhibits to be submitted in support of the report on behalf of the District; and
 - b. A list of witnesses expected to testify and copies of exhibits to be submitted by the employee in defense of alleged violations.
8. The employee may be represented by counsel at his or her own expense. However, the hearing may be continued if the employee does not provide written notice of his or her intention to be represented by counsel to the Investigator and Superintendent at least seventy-two (72) hours before the hearing is scheduled to commence. The hearing shall be conducted by the Superintendent, who may utilize the assistance of an attorney as hearing advisor. Evidence and testimony shall be presented in support of the report first. The employee shall be given the opportunity to present evidence and testimony in his/her defense and the opportunity to present rebuttal evidence may be extended.
9. The Superintendent shall issue his/her written decision setting forth the reasons for the decision and describing the evidence relied upon within five (5) working days after the conclusion of the hearing. The Superintendent's decision shall be final, shall be effective on the employee's receipt of written notice of the decision and shall be maintained in the classified employee's file.

Personnel Action Procedures**PROCEDURE B (TO BE UTILIZED ONLY WHEN SUPERINTENDENT DOES NOT SERVE AS HEARING AUTHORITY)**

1. If the Superintendent determines, after consultation with counsel as is deemed necessary, that s/he may not be in a position to serve as an impartial Hearing Officer, s/he may delegate authority to hear a classified employee disciplinary matter to an independent hearing officer and may issue such delegation to a Hearing Officer appointed by the Kentucky Commissioner of Education ("Commissioner"). Any such delegation shall be in writing and shall be made as soon as reasonably possible after the Superintendent's receipt of a classified employee's request for a hearing under Policy 03.27.

If the Superintendent chooses to utilize a Hearing Officer made available by the Commissioner, s/he shall send a written request to the Commissioner. The request for the appointment shall be accompanied by copies of the charges and the employee's request for a hearing. All costs associated with payment for services of the Hearing Officer shall be the responsibility of the District.

The Superintendent shall not utilize a Hearing Officer who is an employee of the Kentucky Department of Education or the District.

2. If the Superintendent determines s/he will not serve as Hearing Officer, s/he may investigate classified employee conduct or activities that may warrant a public reprimand, suspension without pay, or termination, and may cause charges to be brought against the employee setting forth the Superintendent's intent to impose a public reprimand, suspension without pay, or termination, subject to the employee's exercise of hearing rights under this policy. The charges shall describe conduct giving rise to a violation of one or more "Causes For Action" as set forth in detail in Policy 03.27 and may include a suspension without pay pending final administrative action on a classified employee hearing request.

If after the hearing the decision is against a suspension without pay or termination, the employee shall receive his/her full pay for any period of suspension. In determining to impose a suspension without pay pending disposition of any employee request for a hearing, the Superintendent shall review whether the conduct at issue gives rise to the need to protect the health, welfare, or safety of staff and/or students or the orderly, efficient, and lawful operation of the educational process. Prior to imposing a suspension without pay pending disposition of any employee hearing request, the Superintendent shall provide the employee an opportunity for a conference to discuss the allegations and potential suspension without pay. In the conference, the Superintendent will provide oral or written notice of violation of "Causes For Action" constituting cause for the suspension without pay pending any employee request for a hearing, an explanation of the evidence supporting such violation if the employee denies it, and an opportunity to the employee to present his version of the facts relating to the violation.

3. The employee may request a hearing by filing the proper form with the Superintendent within ten (10) calendar days after receiving notice of the charges. If the employee fails to request a hearing on time, the Superintendent's action as set forth in the charges shall be final.
4. If the employee files a timely request, a hearing shall be conducted at a time and place not less than twenty (20) calendar days after the employee's receipt of the charges.

Personnel Action Procedures**PROCEDURE B (CONTINUED)**

5. The employee shall be given the opportunity to hear evidence on the charges and to cross-examine witnesses. No later than five (5) calendar days before the hearing is scheduled to commence, the following shall be exchanged:
 - a. A list of witnesses expected to testify and copies of exhibits to be submitted in support of the charges on behalf of the District; and
 - b. A list of witnesses expected to testify and copies of exhibits to be submitted by the employee in defense of charges.
6. The employee may be represented by counsel at his/her own expense. However, the hearing may be continued if the employee does not provide written notice of his/her intention to be represented by counsel to the Superintendent and Hearing Officer at least seventy-two (72) hours before the hearing is scheduled to commence.
7. Evidence and testimony shall be presented in support of the charges first. The employee shall be given the opportunity to present evidence and testimony in his/her defense and an opportunity to present rebuttal evidence may be provided.
8. The Hearing Officer shall issue his/her written decision setting forth the reasons for the decision and describing the evidence relied upon after conclusion of the hearing. Upon receipt of the Hearing Officer's decision, the Superintendent shall take action consistent with the decision by providing written notice to the classified employee and such action shall be effective upon the employee's receipt of such notice. The Superintendent may seek advice of counsel regarding the form and content of such notice. The Superintendent's written notice shall be maintained in the classified employee's file.

Revised:7/8/14