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## Incident/ Report of Incident

DOCUMENT EVERYTHING from the point you suspect that there is ANY chance of disciplinary action.

Report serious allegations to Central Office immediately.

### DISCIPLINE AVOIDING TACTICS

- A common tactic to avoid disciplinary action or inhibit investigations is for an employee to cause/fake an on-the-job injury or otherwise initiate a medical leave of absence.
- This gives the employee the ability to claim any discipline is retaliatory for having filed a claim against the district.

### POSSIBLE THREAT

- If the allegations indicate that a staff member may pose a threat to students or other staff, immediately move the staff member away from students.

### ADMINISTRATIVE (PAID) LEAVE

- Central Office may choose to send the staff member home on Administrative (paid) leave to remove them from the school environment until the allegations can be confirmed or refuted. Consult with Central Office before doing this and be sure to get their statement first.
- If a staff member is sent home on Administrative Leave, it is imperative to inform them (in front of a witness) that they are not to be on school property or in contact *in any way* with students, parents, or other school employees until an investigation has been completed and follow these verbal instructions with a written directive.

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## Investigate/ Gather Facts

### REPORTING

- If at any time it appears as if there may have been criminal activity, report this to police (and Central Office if not already reported).
- If there is suspected abuse or neglect of a child, report this to Child Protective Services as well (this is mandatory for school employees).
- If the incident involves actions that are criminal or potentially criminal, would draw negative media attention to the district, or could lead to litigation or prosecution, pause your investigation and consult Central Office about bringing in outside (3<sup>rd</sup> party) investigators.

### EVIDENCE

- Keep all evidence in one central, secure location (HR office is recommended).
- Back up any digital (video) evidence to external media (card, flash-drive, or disk).

### INTERVIEWS

- Try to keep witnesses from interacting with each other while investigating (send one to the counseling office, send one to the media center, another to the principal's office, etc...).
- Always interview each witness separate from other witnesses (they may have union representation present if the investigation may lead to disciplinary action).
- Don't ask leading questions (Ask "*what happened?*", not "*did \_\_\_\_ happen?*")
- Advise each interviewee not to speak about the matter with anyone else (other than an authority authorized to investigate the issue) until the investigation is complete.
- Get written statements whenever possible
  - Verify that important details are not omitted: dates, times, locations, names of people involved and nearby, dated signature
  - Direct witness to tell the whole truth and that omission of relevant information can subject them to discipline.
  - Clarify the difference between 1<sup>st</sup> hand and 2<sup>nd</sup> hand accounts (make sure this is indicated in any written statement)
- Speak with parties most directly involved first (an early confession can expedite the investigation process).
- Keep a list of possible additional witnesses to speak with (be sure to ask for additional possible witnesses during *each* interview, as well as using class lists, seating charts, schedules, etc.. to determine possible witnesses).

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## Due Process Meeting with Employee

### Before Meeting

- Inform Employee in advance that *“this meeting is for information gathering which may or may not lead to disciplinary action”*, remind them they may choose to bring union representation.

### During the Meeting

- Enter into the meeting with the assumption that there is more to learn about the incident than what you currently know or suspect.
  - Present findings and concerns to employee
    - Facts, circumstances, and allegations without judgement
    - Be specific (avoid generalizations like... “most of the time”, “usually”, “almost always”, “hardly ever”, “rarely”)
  - Afford employee opportunity to respond to findings/concerns (Due Process).
    - Take detailed notes (consider getting written statement/response from employee)
  - If incident involves *misconduct* and the employee hasn’t admitted his/her involvement... you may attempt at this time to solicit a confession.
    - Down-play the severity of the offense to make it easier to confess to (imply that it’s *not that big a deal*, or *could have done/been worse*) and sympathize (*a lot of people might have done the same in the same situation*).
- or--
- Tell the person that the evidence speaks for itself and all that is basically left is to determine the consequences, how cooperative/remorseful they appear will affect the consequences.
  - Present worst-case scenario for what consequences could be if they don’t appear cooperative or remorseful.
- Tell employee you will need some time to look into and/or consider their response and consult with your boss to determine if and what disciplinary action is appropriate. This decision will be shared in a future meeting.

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## Deliberation

### Consider Nature of Employee Involvement

#### Misconduct

##### Characterized by...

- Unwillingness to do the job
- Willful/deliberate violation or disregard for rule/directive/standard of conduct

#### Progressive steps

(steps can be skipped based on severity of incident – see below).  
All documentation to reference previous action taken and cause for action.

1. Written warning (documentation Cc'd to Personnel File)
  2. Written reprimand (documentation Cc'd to Personnel File)
  3. \*Suspension (1-3 days unpaid – this is new, historically 1st suspension was 1 day w/ pay)
  4. \*Suspension (3-5 days unpaid)
  5. \*Suspension (10-14 days unpaid) – *note: total suspension days should be kept below 15*
  6. \*Dismissal/termination/demotion
- \*Building level administration does not have authority to suspend w/o pay or terminate.

#### Incompetence

##### Characterized by...

- Inability/unable to do job or perform duties as required
- ❖ *Early progressive disciplinary action should include documented remedial training/support*

#### Cause for skipping steps

1. Illegal actions
2. Actions that endanger/injure others (especially students)
3. Unprofessional Conduct
4. Actions that create liability or hardship for the district (compliance or funding related, or might lead to litigation)
5. Intent (willful actions vs incompetence)
6. Advice of Board legal counsel
7. Severity of offense

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## Discipline Meeting with Employee

### Before Meeting

- Inform Employee in advance that “*this meeting is disciplinary in nature*”, remind them they may choose to bring union representation.
- Draft the written notice of discipline and share with central office for proof-reading.
- A central office administrator should be present (or invited) for this meeting.
- If possible, meeting should be scheduled such that employee does not immediately return to class or student contact area.

### During Meeting

- If they bring a regional union representative (not a district employee), halt the meeting until a district attorney can be present.
- Present the letter and provide explanation. Clarify consequences and directive (#6 on the right) verbally.
- Get employee signature, make copies for employee and union rep, original goes to HR

### Beebee Factors

\*This below list represents the “*Beebee Factors*” identified in a Michigan Supreme Court decision issued May 1, 1979 in BEEBEE v. HASLETT PUBLIC SCHOOLS. These are the dominant performance factors that courts in Michigan have considered to evaluate teacher competence in cases of dismissal for poor performance of duties (since the above Supreme Court decision).

- Pedagogical Skills
- Knowledge of Subject Area
- Classroom Management
- Manner and efficacy of disciplining students
- Rapport with parents and students
- Ability to withstand strain of teaching
- Attendance and punctuality
- Areas in which the teacher has previously been disciplined (if not listed above)

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## Components of Written Notice (on letterhead)

1. **Statement of type or level of disciplinary action being taken**  
*I am presenting you with this...*  
*Written warning*  
*Written Reprimand*  
*Letter of suspension (include dates)*  
*Letter of dismissal (these will be drafted by HR in consultation with our attorney)*
2. **State the problem or concern**  
The situation  
The staff members actions/inactions that resulted in disciplinary action
3. **State the violation of Rule, Contract, Policy, Previously Issued Directive, or known Expectation**
4. **State the Impact**  
Actual impact  
Worst Case scenario  
Use/reference Beebee Factor language where possible\*
5. **History of related or similar incidents**  
List chronologically  
Include all disciplinary action taken and brief description of cause  
List similar or related incidents (even if they did not involve disciplinary action)  
Only include incidents that have been (or can be) documented  
Point out any patterns
6. **Future expectations as directive**  
*This letter also serves as a written directive for you to...*
7. **Possible future disciplinary action for future related or similar incidents**  
*Future... will result in more severe disciplinary action up to and possibly including termination.*
8. **Statement of support**  
List resources available to staff member for improvement  
Include statement of administrative support  
*Please be reminded that, as your supervisor, I am willing to assist you in making necessary changes to avoid further discipline.*
9. **Receipt and signature lines**  
*“Signatures below indicate that this document has been discussed with the employee, a copy provided to the employee, and a copy will be placed in their personnel file. The employee signature does not indicate agreement with the content. The employee has the right to file a response statement according to the law, and that response will become a permanent attachment to the document.”*
10. **CC: Personnel File, Superintendent, Appropriate Union Officer**