

## ARTICLE IX

### EMPLOYEE DISCIPLINE

#### IX.1 DISCIPLINE DEFINED

Discipline shall be defined as any action designed to correct behavior or bring about desired performance improvement. Discipline shall include, but is not necessarily limited to warning conference, counseling, verbal reprimand, written reprimand, suspension with pay, suspension without pay and dismissal.

#### IX.2 APPROPRIATE DISCIPLINARY PROCEDURES

- A. Discipline of any type shall be administered only by the appropriate supervisor or administrator.
- B. All discipline shall be progressive, fair and only for just cause.
- C. Prior to any action to discipline an employee, the appropriate administrator and/or supervisor shall discuss the nature of the situation and suggest remedies to alleviate the problem.
- D. Only records for the most recent five (5) years of employment may be used for general disciplinary reasons. When discipline is to be administered involving the operation of District vehicles, the District may review the driving record of the employee for the past five (5) years.
- E. When an employee is having difficulty doing his/her job or in his/her attendance at work, or is violating School Board policy or the Master Contract, the following steps shall be taken:

##### 1. Step I - Counseling Session

The appropriate administrator or supervisor shall hold a counseling session with the employee and attempt to help the employee overcome his/her difficulties. A copy of any record of this counseling session shall be retained by the administrator or supervisor and a copy given to the employee. The Counseling Session Form is entered as Appendix D in this Agreement.

Supervisory employees covered by this contract (those positions formerly covered by the contract with the Escambia Association of Supervisory Employees) shall be authorized to conduct informal warning conferences and counseling sessions with employees under their supervision, provided the supervisory employee has received proper training in how to do so.

2. Step II - Consideration of Disciplinary Action
  - a. Prior to further disciplinary action, the appropriate administrator and/or supervisor of the employee shall provide written notice to the employee of the nature of the complaint and all pertinent information giving an accurate accounting of the offense or problem and the time and the date of the offense and allow the employee time to secure appropriate representation. A conference shall be scheduled to discuss the disciplinary action being considered. A copy of such notice shall be provided to the employee at least one full work day prior to discussing any consideration of disciplinary action. The employee shall have the right to have a Union representative attend the conference. It shall be the responsibility of the employee to secure appropriate representation.
  - b. During the course of the conference for consideration of disciplinary action, the District may determine that a counseling session is warranted rather than further disciplinary action. In that case, a Counseling Session Form shall be completed.
3. Step III - Disciplinary Action Meeting
  - a. The appropriate administrator and/or supervisor shall notify the employee in writing at least one (1) full day in advance of the date and time that any Disciplinary Action Meeting shall take place. The purpose of the meeting will be for the administrator to present the employee with notice of the disciplinary action to be implemented. Prior to such meetings, the employee shall have been provided a copy of the written notice containing information and an accurate accounting of the offense. Said notice shall also inform the employee that he/she has a right to have a Union representative present when the disciplinary action is given, and that it is the responsibility of the employee to secure this representation.
  - b. If the employee fails to attend the meeting, outlined in a. above, the Notice of Disciplinary Action may be provided by delivery in person or certified mail (return receipt requested) to the employee.
  - c. It shall be the responsibility of the appropriate management authority to make sure that all information is accurate.
  - d. Should any offense occur which indicates a need for immediate action and the appropriate administrator and/or supervisor is unavailable, the chain of command will be followed.
  - e. It shall be the prerogative of the employee to divulge any information to the Union.

### IX.3 EMPLOYEE RIGHTS IN DISCIPLINARY ACTION

- A. Any employee who is ordered to appear before their administrator for discipline shall have the right to be represented by a Union Representative. An employee will not be disciplined or discharged, nor will entries be made against his/her record, without just cause. In each case where disciplinary action is taken, the employee will be given a complete written statement of the precise charges against him/her and the disciplinary action to be taken. Such written statement will be furnished to the employee in person, or by certified mail, return receipt requested, prior to the commencement of such discipline.
- B. Employees will not have their shifts, routes, or job sites changed to resolve problems between employees, unless all other possible remedies have been exhausted.
- C. All personnel records kept by the Escambia County School Board on an employee shall be available for the employee's inspection. All records on an employee which are kept at various work sites shall be made available for inspection, upon reasonable notice to the custodian of the records. The employee shall receive a copy of any change made in any personnel file within five (5) days of said change.
- D. Union members shall have the right to Union representation in any meeting in which disciplinary actions are anticipated or may take place. If any meeting develops to a point that discipline is indicated, the employee shall be so notified and may then seek appropriate representation. If a meeting involves discipline or the potential thereof, the employee shall have the right to request a Union representative at any time during said meeting.
- E. No material related to a potential disciplinary action may be placed in an employee's personnel file until all investigations, conferences, and any appeals (including grievance) have been completed.
- F. Each employee shall have the right to review and reproduce the contents of his/her personnel file or may authorize in writing the Union staff or President to review his/her file.
- G. Employees shall be provided, and may be requested, to initial a copy of any material which is to be placed in any personnel file. Refusal to initial shall be indicated by the supervisor and dated. Material that has not been made known to the employee shall not be admissible in any action against an employee. Any material found to be inaccurate, unfounded, inappropriate, or from an anonymous source or any records of any discipline found through grievance, legal proceeding or Board action to be unfounded, the record of the employee will be expunged and the material shall be given to the employee.
- H. In lieu of termination, an employee may request a demotion or lateral transfer to another position within the School District. If such a request is made, the superintendent and/or

his designee shall have the right to determine if the transfer is acceptable and to which position the employee is transferred. This aforementioned position must be open and previously advertised internally with no successful applicant selected. The denial of the request for a demotion or lateral transfer is not grievable.

#### IX.4 **COMPLAINTS**

- A. When the School District receives a complaint about an employee that may involve discipline, the District shall notify the employee of the nature and source of the complaint. If the complaint cannot be substantiated within thirty (30) working days, the investigation will be closed and determined to have no findings. If the complaint has been corroborated or substantiated, a thorough investigation will be conducted by the District in a timely manner. Once a different agency becomes involved in the investigative process, there can be no timeline or deadline until the outside agency's investigation is complete.
- B. If disciplinary action is anticipated, based solely on a complaint, the complainant(s) will be present at the Superintendent's hearing when requested by the Union and employee.
- C. No action may be taken against an employee based on anonymous complaints, information, or documents. The employee shall be notified that an anonymous complaint has been received, but no further action may be taken. No record of this complaint may be placed in any personnel file.
- D. No action shall be taken against a bargaining unit employee on the basis of a complaint by parents, students or other individual unless the incident is investigated and verified by the District.

#### IX.5 **DISCIPLINE INVOLVING IDENTIFICATION BADGES**

Except in the cases of reoccurring or habitual conduct, employees shall not be disciplined or charged for the replacement of damaged or lost identification badges.

#### IX.6 **DISCIPLINE INVOLVING VEHICLE OPERATION**

- A. If for any disciplinary reason an employee is directed by the Board to attend Defensive Driving School or other appropriate driver training, the employee who is being disciplined will not be paid his/her regular hourly rate of pay while attending said class or school. This provision shall be interpreted to reduce pay only if said class or training occurs during the regular work hours and pay will be reduced only during actual time lost. The employee will be responsible for all costs connected with the school or class. Disciplinary action related to vehicle operation shall be fair and progressive.

IX.7 **DISCIPLINE INVOLVING DRUG OR ALCOHOL ABUSE OR  
DEPENDENCY**

A. Statement of Beliefs:

The parties to this agreement believe it is a paramount duty of teachers, administrators and staff to provide a safe learning environment for students free from influences and behaviors that place students or employees at risk. We believe it is inappropriate for any teacher, administrator or staff member who is impaired by drugs or alcohol to interact with students or endanger themselves or others. Further, we are committed to lawful employment practices for employees who seek assistance by self-disclosure and submission for evaluation and/or treatment for drug or alcohol abuse or dependency.

B. Employment practices for employees who test positive for drug and/or alcohol based on “Reasonable Suspicion,” Workers’ Compensation screening, “Safety Sensitive” random screening or Post Accident testing:

1. The District and the Union will establish protocols including current District practices for implementing drug or alcohol screening in compliance with Florida Statute 112.
2. Employees may be required to submit to drug and/or alcohol screening based on:
  - a. Documented “Reasonable Suspicion;”
  - b. A Workers’ Compensation eligible accident or injury;
  - c. Required safety sensitive employment random testing; or
  - d. Post-accident testing
3. The District shall notify the employee that she/he is going to be required to submit for drug or alcohol testing. In the event that the employee requests representation/consultation with the Union, further discussion of the situation shall be prohibited until representation/consultation can occur unless such representation is found to be unavailable or the employee voluntarily waives their right to representation. Securing such representation/consultation shall not delay unduly employee compliance with the required testing (not to exceed thirty (30) minutes). In the event that representation or consultation is not available in person or telephonically within the specified time, the employee shall be directed to submit for testing.
4. Refusal to submit to a required drug or alcohol screening shall constitute a “positive” test result for purposes of this provision.
5. If immediate action is required to remove an employee from a potentially hostile atmosphere, to restore the smooth operation of the school’s programs or to otherwise protect employees and students, the District may administratively reassign the employee to another worksite or his/her residence in order to conduct

an appropriate investigation. The employee shall be afforded notice, the right to representation and appropriate due process.

6. Upon receipt of a positive test result in a first offense drug or alcohol screening, the employee may be administratively reassigned to her/his home pending appropriate due process procedures. The employee shall be recommended for suspension without pay until she/he completes a District and Union approved Substance Abuse Professional (SAP) evaluation and the drug/alcohol dependence or abuse rehabilitation program at the employees' expense as recommended by the SAP. (The employee may utilize the District Health Care Program to the extent specified for the rehabilitation program in the DHCP.)
7. Employees who refuse to comply with the District's requirement for SAP evaluation or fully comply with the SAP program of rehabilitation shall be subject to termination. Termination based on an employee's refusal to comply with the District's requirement for SAP evaluation or early, unauthorized exit from a prescribed program shall not be grievable under the provisions of this Master Contract.
8. Employees testing positive for drug or alcohol in a work setting for the first offense shall be counseled about their rights and responsibilities at the first available opportunity, not later than three (3) work days following written notice of a positive drug or alcohol test. These rights and responsibilities shall include but may not necessarily be limited to:
  - a. Due process procedures, including proper notice of potential discipline consistent with this Article shall be provided.
  - b. "First time" offenders shall receive notice in writing of the employee's right to participate in a comprehensive drug/alcohol evaluation and prescribed drug/alcohol rehabilitation program.
  - c. "First time" offenders who satisfactorily complete a comprehensive program of rehabilitation and sign a "Return-to-Work Agreement" (Appendix F) shall be entitled to return to work in a position consistent with the recommendation of the SAP.
  - d. Employees returning to work under this provision shall be subject to "On Demand" drug/alcohol screening collected at a District and Union approved facility at her/his expense (any tests required in excess of six shall be paid by the District) for a period not to exceed two calendar years. The frequency of testing shall be determined by the SAP.
9. Repeat drug/alcohol offenders are subject to dismissal. Said dismissal procedures shall include normal disciplinary due process notice and procedures including those outlined in this Article. Dismissal for a repeat drug/alcohol offense shall not be grievable under the provisions of this Master Contract.

- C. Employment practices for employees who are charged or convicted of a drug-related offense:
1. Any employee charged with a drug related offense, either at work or while off duty shall be placed on administrative leave with pay until the first regular Board meeting at which time the employee shall be suspended without pay, pending conclusion of the District's investigation and/or recommendation for disciplinary action.
  2. Any employee convicted of a drug related offense either at work or while off duty shall be subject to termination in accord with the provisions of the contract relating to Dismissal. Dismissal for conviction of a drug related offense shall not be grievable under the provisions of this Master Contract.