

February 7, 2007

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THESE GUIDELINES SUPERCEDE ANY PREVIOUSLY ISSUED CORRECTIVE ACTION OR DISCIPLINARY GUIDELINES, HANDBOOKS, "PAST PRACTICES," OR PROCEDURES. EFFECTIVE FEBRUARY 15, 2007, THE PROVISIONS OF ANY SUCH PREVIOUSLY ISSUED GUIDELINES, HANDBOOKS, "PAST PRACTICES," OR PROCEDURES ARE NULL, VOID, AND OF NO EFFECT.

"Basic Fairness and Due Process, Guidelines for Corrective Discipline"

The enforcement of and compliance with the Agreements and Partnerships between the various Classified Employees Associations/Unions ("Association") and the School District ("District") are essential tenets of the partnership between the District and the Association. The Agreement further recognizes our collective responsibility to promote positive change through regular training with Administrators and employees on the Agreement. The purpose of this document is to be a resource to assist administrators, managers, and supervisors in effectively managing matters pertaining to corrective actions covered by applicable Collective Bargaining Agreements. In the event of any conflict between the terms of applicable Collective Bargaining Agreements and this guide, those applicable Collective Bargaining Agreements' terms take precedence.

These guidelines, effective March 1, 2007 are a District document developed in consultation with the Bargaining Units. The purpose of this document is to be a resource for supervisors to help them effectively manage matters pertaining to corrective actions. It is also anticipated to be a resource for employees as well. This guide does not specifically cover coaching/counseling/verbal warnings, which can be given at any time without any formal procedures, or recommendations to the superintendent that an employee be dismissed under BOE policy GDQD-R (Termination of Classified Employees) or any other manner provided under Colorado law. The failure of the administrator, manager, or supervisor to follow any of these guidelines does not limit the District's right to terminate an employee.

Administrators, managers, and supervisors are encouraged to consult with their Human Resources Department representative to help them work through individual situations, and are **REQUIRED to IMMEDIATELY consult with the Human Resources representative in ANY situation potentially involving a violation of law or Board of**

Education Policy (for example, upon receiving an allegation of workplace sexual harassment or any form of unlawful discrimination or retaliation).

It is the Superintendent's goal to provide technical assistance to help administrators, managers, and supervisors make the best decision regarding the type of correction necessary to improve an employee's conduct and/or to make the difficult decision corrective action has not resulted in the desired improvement and a recommendation for dismissal is appropriate.

A. Goals:

1. Employees hold the key to our success in achieving the Board of Education's goals.
2. To ensure all employees support the District's educational goals, the District intends that administrators follow processes resulting in prompt, reasonable and fair resolution of matters related to the correction of employee misconduct.

B. Matter of Concern/Investigation

1. A matter of concern that may give rise to employee corrective discipline must first come to the attention of the District. Matters of concern regarding an employee may be expressed verbally or in writing to an administrator, manager, or supervisor. An administrator, manager, or supervisor may also determine matters of concern exist with an employee based upon his/her observations of and/or contact with the employee. A matter of concern can arise from internal Departmental issues and/or external issues.
 - a. If a person makes a verbal or written complaint about an employee the appropriate administrator, manager, or supervisor shall investigate the complaint and attempt to resolve the complaint informally, or, if the complaint potentially involves a violation of law or Board of Education Policy (for example, an allegation of workplace sexual harassment or any form of unlawful discrimination or retaliation), the administrator, manager, or supervisor is **REQUIRED** to **IMMEDIATELY** consult with the Human Resources representative. Note: allegations of child abuse or assault must be immediately reported to the Denver Police Department per School Board policy JLF and JLF – R. Investigations of such behavior by external agencies also do not relieve the District and Department of its duty to investigate.
 - b. The employee should in most cases be promptly notified of the nature of the verbal or written complaint and be given an opportunity to respond to the complaint.
 - c. If any District administrator, manager, or supervisor has reasonable cause to suspect child abuse may have occurred (for example, a physical assault on a student), he/she is required to report the incident to the Denver Police Department and Denver Department of Human Services and to file an incident report with the Safety and Security Office per School Board policy JLF and JLF – R.
 - d. If an administrator, manager, or supervisor receives information regarding an incident that might constitute a form of prohibited harassment, the administrator, manager, or supervisor shall notify the requisite parties in accordance with Board of Education policy. (For example, in the event of an employee or student complaint of sexual harassment, the administrator, manager, or supervisor shall comply with

Board Policy JBB-R which requires immediate notification of the Title IX officer. The investigation shall determine whether reasonable cause exists to believe the alleged conduct occurred and whether such conduct constitutes sexual harassment. If a violation of policy is found, the superintendent or designee shall appropriately discipline any student, employee, administrator, or other school personnel who are found to have violated the policy, provide appropriate assistance to the victim, and/or take other appropriate action reasonably calculated to end the harassment.)

e. If appropriate, the administrator, manager, or supervisor shall arrange and attend a meeting with the complainant and the employee in an attempt to resolve the situation.

f. If any record of the complaint, or its formal or informal resolution, is placed in the employee's files, the employee shall have the right to file a written response.

2. Investigations

The District shall investigate the matter of concern to gather information. The investigation will typically be conducted by the employee's supervisor, but may be conducted by some other person designated by the Administrator, Director/ Executive Director or the District. **However, if the matter of concern involves a possible violation of law or Board of Education Policy (for example, harassment on the basis of race or sex), the complaint must be immediately reported to the Human Resources Department representative and any investigation must proceed with that representative's oversight and consultation.** The investigation shall be concluded as expeditiously as possible.

a. Upon providing notice of the complaint as referenced in Section B.1.b. above, the employee may be questioned regarding the allegation, immediately if appropriate, as part of the investigation. The employee may also be provided an opportunity to respond as soon as possible at a date, time and location to be determined by the District. See Section B.1.b.above. The employee shall cooperate with the investigation, and under no circumstances engage in unlawful or prohibited retaliation against any complainant.

b. The Administrator, Director/Executive Director or his/her designee, following notice to and consultation with the Human Resources representative shall determine whether administrative leave with pay, if required by law, is necessary to protect the interests of students, the employee, or other staff, or to conduct an appropriate investigation. (Note: Administrative leave with pay is not a punitive or corrective action, and is not an indicator that a matter has been prejudged.)

c. If leave is determined to be necessary, the Administrator, Director/Executive Director or his/her designee shall:

1. Give the employee the specific allegation(s) of misbehavior and the basic reason why the leave is deemed necessary, when possible.

2. Provide the employee a copy of the administrative leave checklist (see Appendix 1) and review it with the employee. The employee shall sign the administrative leave checklist for receipt acknowledgment purposes, and a copy of the executed document shall be provided to the employee.

3. At the employee's request, allow the employee the opportunity to respond to the allegations that caused the employee to be put on leave at a meeting set by the District within three work days of being placed on administrative leave. The employee may be represented by a representative of their Collective Bargaining Unit at that meeting. This meeting may, at the discretion of the administrator or manager, be combined with the meeting referenced in subparagraph 2.a above.

4. If an investigation must extend beyond seven (7) calendar days, or if the administrative leave must be extended, the employee and the employee's Collective Bargaining Unit will be notified by phone from the Department of Human Resources or designee the reasons for the extension and the expected date of completion of the investigation and/or leave.

d. If administrative leave is not necessary, the employee's supervisor should obtain relevant information and documents from appropriate sources including the employee and conclude the investigation as expeditiously as possible.

e. The Human Resources Department representative and the Administrator, Director/Executive Director or his/her designee shall review all the evidence gathered, including any response provided by the employee, and preliminarily determine if corrective action is necessary. See below.

3. Resolution

a. Determination of No Corrective Action:

If no corrective action is deemed necessary, the District shall provide such notice and information to the employee and employee's Collective Bargaining Unit representative as necessary to close out the investigation.

b. Determination a Recommendation for dismissal is warranted:

All such actions are governed by District and Department policies.

c. Preliminary Determination of Corrective Action:

If corrective action may be deemed necessary, the supervisor, administrator, or manager shall report the matter to the Human Resources Department representative if that was not required to be done previously. The Human Resources Department representative and the Administrator, Director/Executive Director or his/her designee shall then follow the guidelines outlined below.

4. Corrective Action Guidelines

a. Neither the Collective Bargaining Agreements nor these guidelines determine what level of discipline should be imposed, or that any particular progression of discipline be followed.

Level of discipline will be determined by the Human Resources Department representative and the Administrator, Director/Executive Director or his/her designee based upon the specific circumstances of the situation, and must meet a "just cause." The District should use corrective action when an employee has engaged in misconduct or violated work rules, department, Board or school policy, or job duty, or where other good and just cause exists. Work rules should be

communicated verbally or in writing to the employees, and cannot conflict with law, District policy, or the terms of a Collective Bargaining Unit agreement.

Appropriate corrective discipline should be imposed promptly and not deferred because an employee may be on a work/performance improvement plan. An example of a violation of a work rule is referenced in Appendix 4.

b. **Provide Notice:** The Human Resources Department representative and the Administrator, Director/Executive Director or his/her designee will inform the employee of the preliminary intent to consider imposition of corrective action and schedule a meeting where the employee may be accompanied by a representative of their Collective Bargaining Unit. At this meeting, to the extent it has not already occurred, the employee shall be given an opportunity to respond to the allegations and the investigation results. If the employee fails to appear at the designated date, time and location, such failure will not limit the District's right to implement corrective action in accordance with District policies. Upon consideration of any additional information/response provided by the employee at the meeting, the appropriate member of the Human Resources Department representative and the Administrator, Director/Executive Director or his/her designee shall complete any necessary follow-up to the investigation, and then determine if corrective action will be imposed. The Human Resources Department representative and the Administrator, Director/Executive Director or his/her designee may render a decision (e.g., determination that no corrective action is necessary, issuance of a Letter of Warning, or issuance of a Letter of Reprimand, etc) at the conclusion of that meeting. Alternately, the Human Resources Department representative and the Director/Executive Director or his/her designee may schedule a separate meeting for the specific purpose of rendering the decision to the employee. At any subsequent meeting, the employee may opt to be accompanied by a representative of their Collective Bargaining Unit.

5. Corrective action may include one or a combination of the following:

a. Letter of Warning (see template at Appendix 2): A Letter of Warning constitutes written notice to the employee that certain types of behavior are prohibited and future misconduct may result in further corrective action or other discipline up to and including dismissal. The document will include: the employee's name; date; situation needing improvement; facts of the situation and the investigatory conclusions (what, where, when, who); all supporting evidentiary documents; any previous discussions and instructions with the employee on this situation; a reasonable time, if appropriate, to correct the behavior; the date(s) that the employee was extended an opportunity to respond to the allegations; the actions to be taken; the consequences for failure to correct the behavior; and, a statement advising the employee of the right to attach a written explanation. A copy of this letter may be placed in the employee's personnel file. As a result of the letter being placed in the employee's file, the employee must have an opportunity to review the Letter of Warning and to sign the copy of the letter as an acknowledgement of receipt. If the employee refuses or fails to sign the Letter of Warning, the letter may still be placed in the employee's personnel file with an indication the employee refused to sign it.

b. Letter of Reprimand (see template at Appendix 3): a Letter of Reprimand constitutes written notice to the employee that certain types of behavior are prohibited and future misconduct may result in further corrective action or other discipline up to and including dismissal. The Letter of Reprimand should include the same information contained in a Letter of Warning. A copy of a Letter of Reprimand will be placed in the employee's personnel file. The employee must be provided with an opportunity to review the Letter of Reprimand and to sign the copy of the letter as an acknowledgment of receipt. If the employee refuses or fails to sign the copy of the letter, the letter will still be placed in the employee's personnel file with an indication the employee refused to sign it. (Note: The distinction between a Letter of Warning and Letter of Reprimand: a Letter of Reprimand is usually reserved for serious or repeated infractions.)

c. Letter of Reprimand with a Suspension Without Pay: Subject to Board of Education Policy DK and applicable Payroll Department policies, an employee may be suspended without pay by the District as a sanction for the employee's actions or inaction. A suspension will be implemented by providing the employee with a written decision, which will be included in the Letter of Reprimand, finding that the District has determined suspension of the employee without pay is appropriate. The duration of the suspension will be determined at the discretion of the District based upon the severity of the particular situation.

Appendix

1. Administrative Leave With Pay Checklist
2. Letter of Warning template
3. Letter of Reprimand template
4. Example of Work Rule Violation

Administrative Leave with Pay Checklist

Name of employee: _____ Date: _____

You are being placed on administrative leave with pay for the purpose of investigation of a matter of which your supervisor will apprise you. This leave is not a punitive action by your supervisor. The following information is intended to outline your rights and responsibilities while on leave.

- You are directed to: Leave all keys with your supervisor today
- For security purposes, access to the following will be temporarily suspended during the administrative leave period (if applicable): All district servers Email Voicemail
- During this leave, you will not have access to school or school grounds unless specified otherwise below: By appointment At certain times: _____ Other: _____

During your administrative leave

- A District investigator may be contacting you and you are directed to cooperate in this investigation
- You are required to be available during regular business hours for such an appointment or a return-to-work meeting. You may not contact any district employee concerning any matters pertaining to this investigation

District personnel assigned to conduct the investigation will gather all necessary information. You will be informed of the results of the investigation at a meeting

You may, but are not required to, remove personal effects from the premises under the supervision of staff designated by the supervisor or by calling the supervisor's office to make an appointment

Please sign and date this form below to indicate your receipt of it.

Employee: _____ Date: _____

Supervisor: _____ Date: _____

2. Letter of Warning Template: To be personally delivered or mailed to employee

Date:

(Employee's name and address)

Re: Letter of Warning

Dear (Employee's name)

Situation needing improvement:

(Describe district policy, procedure, department directive, contract article, or rule infraction/violation)

Facts of the situation and Investigatory Conclusions:

(What, where, when, who) Describe details of the infraction and investigatory conclusions as to what did, in fact, transpire.

Previous discussions and instructions with the employee, if any, on this situation:

(List situation, date)

Actions to be taken:

(Describe recommended action to correct behavior)

Reasonable period of time, if appropriate, to correct behavior:

(Provide date by which behavior must comply with the work rule, etc)

Consequences for failure to correct the behavior:

Statement advising the employee of the right to attach a written explanation

You have the right to review this warning. A copy of this letter may be placed in your personnel file. You have the right to review and sign the filed copy (acknowledging receipt) and attach a written explanation of your behavior. If you refuse or fail to sign the copy of the letter within the specified time, the letter may still be placed in your personnel file with an indication that you refused or failed to sign the letter. With this letter, I am giving you an opportunity to correct your behavior and perform your duties and responsibilities in an acceptable manner.

Cordially,

District representative (Supervisor or hr rep)

I have had an opportunity to review this letter of warning, receive a copy and, if applicable, provide a written explanation. _____ Date: _____

Employee Signature _____

____ Filed in personnel file

____ Not filed in personnel file

cc. Personnel file

3. Letter of Reprimand Template: To be personally delivered or mailed to employee

Date:

(Employee's name and address)

Re: letter of reprimand

Dear

Situation needing immediate improvement:

You are hereby reprimanded because (give general statement of what rule, law, board or department policy, departmental directives, lack of professional behavior etc. that was violated.)

Facts of the situation and Investigatory Conclusions:

(What, where, when, who) Describe details of the infraction and the investigator's conclusions as to what did, in fact, transpire.

Previous discussions and instructions with the employee, if any, on this situation:

(List situation, date)

Actions to be taken:

(Describe recommended action to correct behavior) You will not (repeat what rule, policy, professional behavior needs to be followed in the future)

Time to correct behavior:

(Provide date by which behavior must comply with the work rule, etc) There will be no further violations of (whatever).

Consequences for failure to correct the behavior:

Failure to comply with this letter of reprimand may result in further disciplinary action, including possible dismissal recommendation.

You have the right to review and sign the filed copy and attach a written explanation of your behavior, which shall be attached to this letter of reprimand in your personnel file. If you refuse or fail to sign the copy of the letter of reprimand within the specified time, the letter will still be placed in your personnel file with an indication that you refused or failed to sign the letter of reprimand.

By this reprimand, I am giving you an opportunity to correct your behavior and perform your teaching duties in an acceptable manner.

Cordially,

District representative (Supervisor or HR rep)

I have had an opportunity to review this reprimand, receive a copy and the opportunity to provide a written explanation. Date: _____ Employee Signature: _____

Cc: personnel file

4. Example of Corrective Discipline for employee being late to work

The following example is intended to be illustrative of a situation that generally can be handled through corrective action:

Rule/policy violated: Employees are required to arrive at work prior to the start of the work shift

Coaching and Counseling session or verbal warning can be imposed at any time without any formal procedures: Supervisor learns that an employee was more than 30 minutes late to work on one occasion. Supervisor talks to the employee, determines that the tardiness was due to sleeping late, tells employee “you must follow work hours and you didn’t on (specific day.) Reminds the employee of the rule/policy and states that repeated violation of rules/policies may result in corrective action.”

Letter of warning: same employee is reported to have arrived late 30 minutes after start of work shift-second incident within a short period of time. Supervisor investigates, including giving the employee the opportunity to respond and determines that the employee arrived 30 minutes after the start of the work shift due to sleeping late. Supervisor decides to give a corrective action. She/he directs the employee to meet with the Supervisor at a specified time and place, with a Bargaining Unit representative (if employee so chooses) for the purpose of administering corrective action. The letter of warning should be prepared in advance and given to the employee at the beginning of the meeting unless the supervisor wants to give the employee one more opportunity to respond to the charge that he/she has been late to work. Since the corrective action may be placed in the personnel file, the employee shall be given the opportunity to respond in writing and have the response attached and included in the personnel file, if applicable. See sample Letter of Warning below:

Letter of Reprimand: Suspension or recommendation for dismissal: Same employee is again reported to have arrived late-3rd incident because of sleeping late. Supervisor may choose between disciplinary suspension and recommendation for termination under Board Policy GDQD-R. The number and extent of lateness and consequences, etc should determine the duration or period of suspension or recommendation for termination.

Sample Letter of Warning: To be personally delivered or mailed to employee

Date

(Employee’s name and address)

Situation needing improvement:

“Failure to arrive to work prior to the start of the work shift”.

Facts of the situation and Investigatory Conclusions:

“On August 30, you arrived at work at 7:45 a.m. This was 45 minutes after the start of your work shift. When your supervisor asked why you were late, you stated you overslept. I also gave you the opportunity to provide additional information on September 3. Based on all the information I have reviewed, I determined you were, in fact, late for work, as you acknowledged.”

Previous discussions and instructions with the employee, if any, on this situation:

“On August 16, 2002, during my staff meeting, all employees were informed of the requirement to arrive at work prior to the start of the work shift. On August 26, you arrived at work at 7:35. I spoke with you, explained the policy on attendance and punctuality. On August 30, you arrived at work at 7:45, 45 minutes after the start of your work shift.”

Actions to be taken:

“You are required to arrive at work prior to the start of your work shift.”

Reasonable period of time, if appropriate, to correct behavior:

Immediate compliance is required.

Describe the consequences for failure to correct the behavior:

“Failure to comply with this letter of warning may result in further disciplinary action, up to and including corrective action and/or a termination recommendation.

Statement advising the employee of the right to attach a written explanation:

A copy of this letter may be placed in your personnel file. You have the right to review and sign the filed copy (acknowledging receipt) and attach a written explanation of your behavior. If you refuse or fail to sign the copy of the letter within the specified time, the letter may still be placed in the employee’s personnel file with an indication that the employee refused or failed to sign the letter.

With this letter, I am giving you an opportunity to correct your behavior and perform your duties and responsibilities in an acceptable manner.

Cordially,

District representative (supervisor or HR rep)

I acknowledge receipt of a copy of this letter. I have had an opportunity to review this letter, if applicable, receive a copy and provide a written explanation.

Date: _____ Employee Signature: _____

_____ Filed in personnel file

_____ Not filed in personnel file

Cc: Personnel file