

DUE PROCESS PROCEDURE

PURPOSE

The purpose of the administrative policy is to offer guidelines for implementation of disciplinary measures. When discipline, up to and including discharge, is implemented for "just cause", administration shall consider the employee's due process rights. It should be noted that it is not the intent of these rules and procedures to confer a "just cause" standard of employment security upon an individual who does not otherwise have such a standard reflected in the written terms of their individual contract, a collective bargaining agreement covering the position to which they are assigned, or otherwise as explicitly given by statute.

APPLICATION

This procedure shall apply to all administrators regardless of their location.

DEFINITION

Two issues must be considered with due process. First, is an examination of the employee's status, and second is an examination of the method used to implement progressive discipline. Employee status may be determined through an employment contract in the form of a collective bargaining agreement, or a written contract between the employee and the employer. The method used to implement progressive discipline apply "only" to those employees who have recognizable status through a bargaining agreement, or written contract. The method used to implement progressive discipline may be found in the districts's policy manuals, government regulation, employee contracts, or employment handbooks.

Although progressive discipline may be viewed as punitive and vengeful, it should be noted, the key element is to implement a method of assisting personnel maintain proper performance of their responsibilities through correction of deficient performance and as notice to the employee of the deficiency. Disciplinary action should be assessed for violation of work rules and expected standards of employee behavior, misconduct, incompetency, misfeasance, neglect of duty, malfeasance, non-feasance, insubordination, adverse performance or other like reasons.

The application or implementation of the administrative policy must not be regarded as a pre-condition upon the right of the Intermediate School District to terminate or suspend an employee. The ISD reserves the right to apply or institute whatever disciplinary sanction it deems appropriate, at any time, or in any sequence. The existence or application of the disciplinary procedures or standards outlined in the policy shall not constitute itself an employment contract or furnish any promise or representation of job security to any employee. It should also be noted that the existence of progressive disciplinary steps does not detract from the ISD administration to impose discipline at an advanced step after consideration of the gravity

of the offense or misconduct committed by the employee and/or the past record of that individual. Disciplinary measures will be applied in conformance with the terms and procedures contained in any collective bargaining agreement covering an individual employee.

RESPONSIBILITIES

This section will outline the philosophy of Bay-Arenac Intermediate School District, the responsibilities of the supervisor, and describe the general levels of progressive discipline up to and including discharge. The Bay-Arenac Intermediate School District, Board, Policy Manual, Section VII, Code 7.1, Page 12, Subsection I. Staff Conduct, states, *"All staff members have the responsibility to make themselves familiar with, and abide by, the laws of the state of Michigan as they affect their work, the policies of the Board, and the administrative regulations designed to implement them. All staff members shall be expected to carry out their assigned duties, support and enforce Board policies and administrative regulations, submit required reports, protect property, oversight of students and contribute to the education and development of the district's students"*.

Disciplinary investigations are required whenever there is a report or other reasonable basis to suspect that the involved employee has engaged in an act or omission which could result in disciplinary consequences. An administrator will investigate the nature of the violation, those involved, and relevant background information that may include mitigating as well as aggravating circumstances. The investigation will be both prompt and comprehensive. The investigation will extend to discussions with any witnesses to the event(s) upon which discipline of the employee is premised, including witnesses or other sources suggested by the employee suspected of misconduct. As the scale of disciplinary measures increases, the administrator performing the investigation should not be the same individual deciding upon a particular disciplinary measure.

The following procedures will be used for disciplinary actions up to and including unpaid suspension:

1. Oral or written notice will be given to the employee of the charges which may form the basis for disciplinary action.
2. Give the employee an explanation of the evidence discovered through investigation regarding the proposed disciplinary action.
3. Provide the employee with an opportunity to present reasons, either personally, and/or in writing, why the proposed disciplinary action should or should not be taken. This shall incorporate the right of the employee to dispute both the factual basis for a proposed disciplinary action as well as the degree of the particular disciplinary penalty to be imposed. Employees represented by exclusive bargaining agents under PERA shall be entitled to union representation in investigatory interviews in conformance with that statute.

DISCIPLINE

Types of discipline imposed by the administration may include:

Oral Warning

An undocumented oral warning from the supervisor specific to the subject offense. The verbal warning should be timely and is designed to put the subject employee on notice that a behavior is unacceptable. The supervisor must indicate to the employee what charges are brought against them, the evidence to support the charges, and the employee must have adequate opportunity to rebut or explain the charges, prior to the actual decision to assess discipline. In such cases, the supervisor is not required to notify the Superintendent/Designee.

Documented Oral Warning

An oral warning, documented and noted as a lower level discipline, less than a written reprimand is given to the employee and placed in the employees file. that includes the offense, the corrective behavior requested, the consequences of the continued behavior, and the date and time the warning was delivered by the supervisor is placed in the employee's file.

Written Reprimand

A formal document addressed to the employee, with a copy to the personnel file, lists the offense or misconduct, the document will include a chronology of the occurrences of misconduct, which include the date, type of misconduct, the intervention by the supervisor, the results of an investigation of the events, the conclusions drawn, and the consequences of the continued behavior.

Suspension

Suspension, with or without pay, will be used in cases where repeated, serious, and/or aggravated misconduct are evident. The length of suspension imposed will be determined by the Superintendent/Designee.

Termination

Any infractions of Board policy, government regulation, or unprofessional conduct will be dealt with as prescribed by Board policy or statute. The administration reserves the right to assess disciplinary actions it deems necessary based on the situation, and the number and type of offenses.

DISTRIBUTION

This procedure is to be communicated to all administrators and bargaining unit representatives via the appropriate organizational chain of command.