

EMPLOYEE DISCIPLINE

The Board recognizes its continuing responsibility to develop and administer necessary policies and regulations in a fair and consistent manner. The Board also recognizes the obligations of all employees to conform to those policies and regulations.

The Board seeks to establish and maintain appropriate administrative policies which will provide the most efficient operation of Albemarle County Public Schools and to provide for proper disciplinary action whenever an employee, classified or licensed, fails to observe such policies and regulations.

Therefore, the Albemarle County School Board sets forth this policy and its regulation to address those employee discipline instances (e.g. criminal acts, misconduct, breach of policy, etc.) that do not involve underperformance issues, which are addressed in Policy GCN.

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Legal Ref.: Code of Virginia, 1950, as amended, §§ 18.2-61 et seq., 18.2-247, 18.2-251, 18.2-372, 22.1-78, 22.1-274, 22.1-274.4:1, 22.1-296.2, 22.1-307, 22.1-311, 22.1-313, 22.1-315

Cross Ref.: EBBC. Opioid Antagonists
 GCN, Performance Review

POLICIES AND ADMINISTRATIVE REGULATIONS FOR EMPLOYEE DISCIPLINE

A. Probation and Dismissal

Teachers may be dismissed for incompetency, immorality, non-compliance with school laws and regulations, disability in accordance with State and federal law, conviction of a felony or a crime of moral turpitude or other good and just cause. “Incompetency” includes, but is not to be limited to, consistent failure to meet the endorsement requirements for the position or one or more unsatisfactory performance evaluations.

A teacher shall be dismissed if such teacher is or becomes the subject of a founded complaint of child abuse and neglect, pursuant to Va. Code § 63.2-1505, and after all rights to an appeal provided by Va. Code §63.2-1526 have been exhausted. The fact of such finding, after all rights to an appeal provided by Va. Code § 63.2-1526 have been exhausted, shall be grounds for the School Board to recommend that the Board of Education revoke such person’s license to teach.

In those instances when licensed personnel are dismissed or resign due to a conviction of any felony; any offence involving the sexual molestation, physical or sexual abuse or rape of a child; any offense involving drugs; or due to having become the subject of a founded case of child abuse or neglect, the School Board shall notify the Board of Education within 10 business days of such dismissal or the acceptance of such resignation.

~~Administrative regulations shall be developed for the dismissal or placing on probation of continuing contract teachers and probationary teachers during the school year.~~

No teacher shall be dismissed or placed on probation solely on the basis of the teachers’ refusal to submit to a polygraph examination requested by the School Board.

The placing of a school employee on probation pursuant to the terms and conditions of Va. Code §18.2-251 shall be deemed a finding of guilt.

B. Suspension

Employees of Albemarle County School Board, whether full-time or part-time, regular, probationary or temporary, may be suspended as provided in the Suspension Process Chart below.

Suspension Process Chart*

Type of Suspension	Employees Affected	Process Required	Code Citation
With pay, 5 days or less	Everyone	Notice of suspension (should be written) and opportunity for employee to give her side of the story (informal meeting).	§22.1-315
With pay, more than 5 days (max 60 days), no charges filed (see * below)	Everyone	Advised in writing of the reason for suspension. School Board has exclusive authority to impose once a hearing is conducted. Hearing required if requested by Employee	§22.1-315, §22.1-313 §22.1-311
Without pay, up to 5 days	Classified Employees	Advised in writing of the reason for the suspension. Chief Operating Officer has exclusive authority to conduct a hearing. Hearing required if requested by employee. Employee must continue to receive all pay unless and until COO issues a hearing decision.	§22.1-315
Without pay, regardless of length (max 60 days), no charges filed (see * below)	Classified Employees (if more than 5 days). Teachers Everyone	Advised in writing of the reason for suspension. School Board has exclusive authority to impose once a hearing is conducted. Hearing required if requested by Employee. Employee must continue to receive all pay unless and until Board imposes suspension.	§22.1-315, §22.1-313, §22.1-311
With or without pay, any length of time if criminal charge filed as follows: (1) any felony, or (2) a misdemeanor involving sexual assault, drugs, obscenity/related offenses or physical or sexual abuse of child	Everyone	Notice of suspension (should be written) and opportunity for employee to give her side of the story (informal meeting). Employee's suspended pay must be placed into an interest-bearing demand escrow account pending court case resolution. Refund necessary of up to one year's salary if found not guilty, case is dismissed or nolle prosequi. After all appeals for guilty conviction, funds shall be repaid to the School	§22.1-315

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*-All paid or unpaid suspensions, unless a criminal charge has been filed (see chart), must be based on “good and just cause when the safety or welfare of the school division or the students therein is threatened or when the teacher or employee has been charged by summons, warrant, indictment or information with the commission of a felony; a misdemeanor involving (i) sexual assault, (ii) obscenity and related offenses, (iii) drugs, (iv) moral turpitude, or (v) the physical or sexual abuse or neglect of a child; or an equivalent offense in another state.” Virginia Code §22.1-315(A).

No employee shall be suspended solely on the basis of the employee’s refusal to submit to a polygraph examination requested by the School Board.

Insurance benefits will not be suspended or terminated due to the suspension of an employee.

The placing of an employee on probation pursuant to the terms and conditions of Virginia Code §18.2-251 shall be treated as a conviction~~deemed as~~ a finding of guilt.

C. Discipline

1. Whenever an employee violates any of the Board policies or regulations, the employee may be subject to official disciplinary action, including discharge. This includes regular and temporary employees. Coaches and others in unpaid or honorarium capacities may have performance concerns addressed and/or may have their ability to participate with the Division severed.
2. In conjunction with Human Resources, supervisors will investigate allegations of misconduct. When findings warrant, an employee will receive appropriate disciplinary action which may include termination of employment. Prior counseling, warnings, and discipline will be considered when determining consequences. While the relevance and appropriateness of the violation(s) will be considered, employees with multiple roles and/or positions may be disciplined across such positions, including termination of all such positions.
3. When disciplinary action is taken against an employee on the basis of failure to complete job duties, such action must cite the specific, unfulfilled duties.
- ~~D.~~ 4. Efforts shall be taken by supervisors to maintain privacy when addressing employee performance concerns. When discussing concerns in any non-confidential setting when immediate action is needed, supervisors shall take care to do so with sensitivity and professionalism. Disciplinary action will be taken in private by the employee's immediate supervisor/department head/designee and will normally be progressive with the seriousness of the infraction:

The normal course will be:

1. Oral reprimand;
2. Written reprimand;
3. Suspension with pay;
4. Suspension without pay; and
5. Dismissal.

~~E.~~ 5. Any intentional violation of policies or regulations that may endanger the safety of a fellow employee may be the cause for immediate discharge.

~~6.~~ F. All official disciplinary action must be recorded and forwarded to Human Resources for inclusion in the employee's personnel file with a copy provided to the employee.

~~7.~~ G. Any employee who is suspended or dismissed because of the information appearing on his/her criminal history shall be provided a copy of the information obtained from the Central Criminal Records Exchange.

~~8.~~ H. The principal/department head/designee, has the right to utilize any or all of the preceding steps in the disciplinary process with suspension without pay or dismissal subject to approval by the Superintendent/Designee. All disciplinary complaints are subject to the approved grievance procedure for eligible employees. If an appeal is made of any disciplinary action, the appealing employee should recognize that at each level of the process, a new hearing on the matter will be held and the disciplinary action rendered at subsequent levels may be either more or less stringent than that recommended at a previous level.

9. Supervisors shall make accommodations to provide interpreters at performance meetings if requested by employees or if the need is apparent.

D. Failure to Perform Non-Emergency Health-Related Services

With the exception of school administrative personnel and employees who have the specific duty to deliver health-related services, no licensed instructional employee, instructional assistants, or clerical employee shall be disciplined, placed on probation, or dismissed on the basis of such employee's refusal to (i) perform non-emergency health-related services for students or (ii) obtain training in the administration of insulin and glucagon. However, instructional assistants and clerical employees may not refuse to dispense oral medications.

"Health-related services" means those activities which, when performed in a health care facility, must be delivered by or under the supervision of a licensed or certified professional.

E. Administration of Opioid Antagonist

No employee of the School Board will be subject to disciplinary action for any act or omission made in connection with the administration of an opioid antagonist, when the employee during regular school hours, on school premises, or during a school-sponsored activity, in good faith administers an opioid antagonist for opioid overdose reversal to any individual who is believed to be experiencing or about to experience a life-threatening opioid overdose, regardless of whether such employee was trained or certified in the administration of an opioid antagonist.

F. Right to Representation

Employees may have representation present at any meeting or interview which they reasonably believe may result in disciplinary action against them. A representative's presence must not unduly disrupt the meeting. Performance observations, evaluations, and performance improvement plans are not considered disciplinary; however, an employee may bring representation to meetings discussing these matters if it is arranged with the supervisor in advance. Any such meeting where a representative is an attorney, advance notice must be provided to the supervisor and meetings may be rescheduled to also have Division counsel present. Audio and video recordings are not permitted by either party without first notifying the other party.

Representation by other employees must not interfere with their current duties. Reasonable efforts will be made by supervisors to schedule meetings outside of work hours so that an employee's representative may attend the meeting. It is a supervisor's discretion whether an employee representative will be relieved of duty during the school day or not in order to participate.

The Division may place an employee on paid administrative leave pending an investigation into alleged misconduct or suspend an employee pursuant to Virginia Code § 22.1-315 without a representative present.

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