

11/6/89

**COMMERCE SCHOOL DISTRICT
POLICY FOR SUSPENSION, DEMOTION,
TERMINATION, OR NONREEMPLOYMENT OF SUPPORT EMPLOYEES**

1. Definitions:

A. "Support Employee" shall mean an employee of the School District who provides those services, not performed by professional educators or licensed teachers, which are necessary for the efficient and satisfactory functioning of the School District.

B. "Full-time Support Employee" shall mean a support employee who regularly works the standard period of labor which is generally understood to constitute full-time employment for the type of services performed by the employee and who is employed by the school District for a minimum of 175 days per year.

C. "Suspension without pay" shall mean the temporary denial of a support employee's right to work and receive any pay and other benefits during the term of the suspension. "Suspension without pay" may be as a disciplinary measure as provided in paragraph 4.B(1), below or as a suspension pending investigation as provided in paragraph 4.B(2), below. If a final decision is made under the procedures stated below that a suspension without pay was improper, the support employee shall receive full pay and other benefits for the period of suspension.

D. "Suspension with pay" may occur in those situations in which the superintendent or his designee, or a supervisor of the support employee perceives a significant hazard in keeping the support employee on the job, in which event the support employee may be asked to immediately leave the school District's premises and the support employee is temporarily relieved of his duties pending a hearing under paragraph 4, below.

E. "Demotion" shall mean a reduction in pay during the term of the support employee's contract. "Demotion" shall not mean a change in job description or work assignment or duties.

F. "Termination" shall mean the discharge of the support employee from his/her employment with the school District during the term of his/her contract and does not include the cessation of employment upon expiration of the support employee's contract.

G. "Nonreemployment" shall mean the failure to offer a support employee a new contract for the next successive school year after the contract under which the support employee is presently employed has expired.

2. Policy on suspension, Demotion, Termination or Nonreemployment of Full-Time Support Employees.

A full time support employee who has been employed by the School District for more than one year shall be suspended, demoted, terminated or nonreemployed during the term of his/her contract only for cause as provided in this policy. In addition to the definition of cause stated in section 3 of this Policy, "cause" shall also specifically include lack of funds or lack of work. Any support employee who has been employed by the School District for less than one year (12 months) is not entitled to invoke the procedures of this policy and such employee's contract can be terminated at any time without cause.

3. Cause for Suspension, Demotion, Termination or Nonreemployment.

A. A support employee may be suspended, demoted, terminated or nonreemployed during the term of his/her contract for any of the following:

- (1) Violation of any rule, regulation or requirement issued by the office of the superintendent or Board of Education of the School District; or
- (2) Conduct not otherwise specified in the above rules, regulations or requirements, which constitutes insubordination, neglect of duty, incompetency in job

performance, dishonesty, or causing or allowing damage, destruction or theft of school property.

B. The rules, regulations and requirements referred to above shall be posted in a prominent place at each work location or otherwise communicated in writing to all support employees. The rules, regulations and requirements, which may be revised from time to time, shall state that violation of the rules, regulations and requirements may result in suspension, demotion, termination or nonreemployment during the term of his/her contract.

4. Procedures For Suspensions Without Pay, Terminations and Demotions.

A. Any full-time support employee is subject to disciplinary action in the form of a suspension without pay, demotion or termination. Prior to instituting any such disciplinary action the full-time support employee shall receive the following hearing rights:

(1) The superintendent of schools or his designee shall orally advise the support employee of the cause or basis for the proposed disciplinary action;

(2) The superintendent of schools or his designee shall explain to the support employee the evidence against the support employee

(3) The superintendent of schools or his designee shall allow the support employee an opportunity to present his side of the matter

B. After the support employee is afforded the above hearing rights the superintendent of schools or his designee may take any of the following actions

(1) Suspension without pay for ten (10) working days or less as a disciplinary measure;

(2) Suspension without pay pending investigation as to whether cause exists for the termination of the support employee;

(3) Demotion of the support employee,'

(4) Termination of the support employee;

(5) Conclude that no disciplinary action is appropriate

C. If a support employee is suspended without pay pending an investigation as to whether termination is appropriate, then within five (5) working days after the effective date of the suspension without pay such investigation must be completed and the superintendent or his duly authorized designee shall afford the support employee a second hearing with the same hearing rights as set forth in paragraph 4.A., above. After the second hearing, the support employee shall either be reinstated, with back pay and other benefits, suspended without pay further as a disciplinary measure (not to exceed a total of 10 working days including the initial days of suspension without pay), demoted or terminated.

D. The support employee shall have the right to appeal to the Board of Education a suspension without pay as a disciplinary measure, a demotion or a termination as set forth in the procedures for Appeal to the Board of Education in section 6 below.

5. Procedures for Nonreemployment.

A. Prior to being nonreemployed, a full-time support employee who has been employed by the school District for more than one (1) year shall be entitled to the following hearing rights:

(1) The board of education or the superintendent of schools or his designee shall advise the support employee, in writing of the board's intention not to reemploy the support employee for the subsequent fiscal year;

(2) The written notification shall set out the cause(s) for such action

B. The support employee shall have the right to contest nonreemployment before the Board of Education as set forth in Procedures for Appeal to the Board of Education in section 6

6. Procedures for Appeal to the Board of Education.

A. After any suspension without pay, or prior to the effective date of any demotion, termination or nonreemployment during the term of his/her contract, the support employee shall receive notice of his/her right to a hearing before the Board of Education as herein provided.

B. All notices shall be sent to the support employee by certified mail at the address of the support employee shown on the school records. The notice shall contain the information provided in the form attached hereto.

C. A support employee who has been notified in writing of his/her suspension without pay, demotion or termination during the term of his/her contract or nonreemployment may notify the clerk of the Board of Education of the school District within ten (10) working days of the postmark on the notice if the support employee desires a hearing before the Board of Education. If the support employee fails to notify the Clerk of the Board of Education of the school District in writing within ten (10) working days of the postmark on the notice that the support employee requests a hearing, the support employee shall be deemed to have waived the right to a hearing and the suspension without pay, demotion or termination action shall be final and the board may take final action to nonreemploy the employee without further notice or hearing rights. All notices required herein shall be mailed by certified mail. The postmark shall be used to determine the timeliness of the notice.

D. Hearing before Board of Education:

(1) Upon timely notice as set forth above, the support employee shall be entitled to a bearing before the Board of Education. The hearing shall be conducted at the next, or next succeeding, regularly scheduled meeting of the Board of Education if the request for the hearing was received at least ten (10) days prior to the next, or next succeeding, regularly scheduled Board of Education meeting. At the request of the support employee or at the discretion of the Board of Education, the Board of Education shall call a special meeting to conduct the requested

hearing, which special meeting shall be held no earlier than ten (10) days nor later than thirty (30) days after receipt of the support employee's request.

(2) At the hearing before the Board of Education, the support employee shall be entitled to be represented by counsel, to cross-examine witnesses presented by the School District, to present witnesses on his/her behalf and to present any relevant evidence or statement which the support employee desires to offer. The hearing shall be conducted in "open" session. The hearing shall commence with a statement to the support employee of his rights at the hearing. Following this statement, the school administration shall present facts showing the cause for the support employee's suspension without pay, demotion, termination or nonreemployment. The burden of proof shall be upon the school administration. The support employee shall then have the right to present his/her side of the matter. After both the school administration and the support employee have fully presented their respective positions, the Board of Education shall deliberate on the evidence in executive session. The Board of Education shall announce its findings and decision immediately in open session by individual voice vote. The decision shall be made by a majority of the Board of Education members present at the meeting.

(3) As to suspension, demotion or termination, the Board of Education may affirm modify or reverse the action taken against the support employee, including increasing or decreasing the severity of the original action. As to nonreemployment, the board may reemploy or nonreemploy the employee for the subsequent fiscal year.

(4) The decision of the Board of Education at the hearing shall be final and non-appealable.

7. Miscellaneous

This policy shall be effective immediately upon adoption by the Board of Education and shall supersede all previous policies regarding the subject matter contained herein. The Board of Education

reserves the right to modify or amend this policy from time to time in any manner consistent with applicable law.

Adopted the 6th day of November, 1989, by the Board of Education of the Commerce school District.

**COMMERCE SCHOOL DISTRICT
SUPPORT EMPLOYEE
RULES AND REGULATIONS**

A support employee may be suspended, demoted, terminated or nonreemployed for violation of any of the following Rules and Regulations:

1. Falsification of personnel or other records.
2. Unexcused failure to be at work station at starting time.
3. Leaving work station without authorization prior to lunch periods, or end of work day.
4. Excessive unexcused absenteeism.
5. Chronic absenteeism for any reason.
6. Chronic tardiness
7. Wasting time or loitering during working hours.
8. Leaving work area during work hours, without permission. for any reason.
9. Possession of weapons on school premises.
10. Removing school district property or records from school district premises without proper authority.
11. Willful abuse misuse, defacing, or destruction of school district property, including tools, equipment, or property of other employees.
12. Theft or misappropriation of property of employees, students or of the school district.
13. Sabotage.
14. Distracting the attention of others.
15. Refusal to follow instructions of supervisor.
16. Refusal or failure to do work assignment.
17. Unauthorized operation of machines, tools, or equipment.