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Statement of.....

Policy and Responsibility

SUBJECT: EMPLOYEE ORDERLY TERMINATION POLICY AND PROCEDURE

A. DEFINITIONS

For purposes of this policy, the following definitions apply:

1. "Career Employee"
 - a. A contract employee of Murray City School District who has obtained a reasonable expectation of continued employment is a "Career Employee." An employee who works for the District becomes a career employee upon the successful completion of at least three full consecutive academic school years with the District as a provisional employee (District may extend the three-year provisional status of an employee up to an additional two consecutive years). If the provisional employee starts after the beginning of the school year, he or she must successfully complete that school year plus an additional three full consecutive academic years before he or she becomes a career employee. Successful completion is determined by performance of all contractual duties within standards acceptable to the District.
2. "Provisional Employee"
 - a. Any employee who has not achieved career employee status is a "Provisional Employee." A provisional employee is an employee, who works for the District, hired on an individual, one-year contract and who is not a temporary employee. Provisional employees have no expectation of continued employment beyond the current one-year contract term. Provisional employees are employed at will and their employment can be terminated at the discretion of the Board of Education except that provisional employees can be discharged during the term of each contract only for cause. The District may extend the provisional status of an employee up to an additional two consecutive years by written notification to the provisional employee no later than thirty (30) days before the end of the contract term of that individual. Circumstances under which an employee's provisional status may be extended include: (1) less-than-perfect score on a performance evaluation; or (2) receipt of complaint(s) or expression(s) of concern from a parent, co-worker, or member of the community that creates uncertainty about the employee's professionalism,

performance, or character; (3) declining student enrollment in the district or in a particular program or class; (4) the discontinuance or substantial reduction of a particular service or program; or (5) budgetary concerns.

3. "Classified Employees"

- a. Classified Employees are all non-certified employees of the District.

4. "Temporary Employee"

- a. Temporary employees are all employees employed on a temporary basis. Temporary employees are employed at the will of the District and have no expectation of continued employment and their employment may be terminated at any time without cause. Temporary employees are not career employees or provisional employees as defined by Utah Code Annotated § 53A-8-102 and the policies of this District.

5. "Contracted Service Providers"

- a. Contracted Service Providers are individuals regardless of employment status (full or part-time) who by nature of their profession are not required to hold a professional certificate issued by the Utah State Board of Education who are paid by contract to provide specific types of services for the District but who are not employees, are not on the District payroll and do not receive the same benefits enjoyed by regular employees of the District.

6. "Extra Duty Contracts"

- a. An employee who is hired to coach athletics or to help with clubs or other extra-curricular duties does not have an expectation of continued employment as coach or in the extra-curricular position beyond the immediate school year or contract term. There are no rights to a due process hearing if a person is released from coaching or an extra duty position. A person may be released from a coaching or extra-curricular position at the discretion of the Board.

7. "Employee"

- a. A person, other than the District superintendent or business administrator, who is a career or provisional employee of the District.

8. "Contract Term or Term of Employment"

- a. The term of employment is the period of time during which an employee is engaged by the District under a contract of employment, whether oral or written. Notwithstanding, all contracts of employment shall be in writing.

9. "Dismissal or Termination"

- a. An employee shall be deemed to be discharged upon occurrence of any of the following events:

- i. Termination of the status of employment of an employee.
- ii. Failure to renew the employment contract of a career employee.
- iii. Reduction in salary of an employee not generally applied to all employees of the same category employed by the District during the employee's contract term.
- iv. Change of assignment of an employee with an accompanying reduction in pay unless the assignment change and salary reduction are agreed to in writing.

B. Causes for Dismissal or Non-Renewal

Any employee may be suspended or discharged during a contract term for any of the following:

1. Immorality;
2. Insubordination or failure to comply with directives from supervisors;
3. Incompetence;
4. Conviction, including entering a plea of guilty or nolo contendere (no contest), of a felony or misdemeanor involving moral turpitude or immoral conduct;
5. Conduct which may be harmful to students or to the District;
6. Improper or unlawful physical contact with students;
7. Violation of District policy;
8. Unprofessional conduct not characteristic of or befitting a District employee;
9. Manufacturing, possessing, using, dispensing distributing, selling and/or engaging in any transaction or action to facilitate the use, dispersal or distribution of any illicit (as opposed to authorized) drugs or alcohol on District premises or as a party of any District activity;
10. Current addiction to or dependency on a narcotic or other controlled substance.
11. Dishonesty or falsification of any information supplied to the District; including data on application forms; employment records or other information given to the District;
12. Engagement in sexual harassment of a student or employee of the District;
13. Neglect of duty, including unexcused absences, excessive tardiness, excessive absences, and abuse of leave policies or failure to maintain certification;
14. Deficiencies pointed out as part of any appraisal or evaluation;
15. Failure to fulfill duties or responsibilities;
16. Inability to maintain discipline in the classroom or at assigned school-related functions;

17. Drunkenness or excessive use of alcoholic beverages or controlled substances;
18. Disability not otherwise protected by law that impairs performance of required job duties.
19. Failure to maintain an effective working relationship, or to maintain good rapport with parents, co-workers, the community or colleges;
20. Failure to maintain requirements for licensure or certification;
21. Unsatisfactory performance that is documented in at least two evaluations at any time in the preceding three (3) years in accordance with District policies or practices;
22. For any other reason justifying termination of employment for cause.

C. Termination for Unsatisfactory Performance

If a career employee is terminated due to unsatisfactory performance, the unsatisfactory performance must be documented in at least two evaluations at any time in the preceding three (3) years in accordance with District policies or practices. Such evaluations may be conducted at any time that is reasonable to assess the employee's performance in addition to the annual evaluations of all teachers.

Procedural Due Process

D. If the District intends not to renew the contract of a classified career employee for reasons of unsatisfactory performance it shall:

1. Notify a career employee at least thirty (30) days prior to issuing a notice of intent not to renew the employee's contract that continued employment is in question and the reasons for anticipated non-renewal;
2. Provide to the career employee thirty (30) days in which to correct the deficiencies;
3. The Board may in its discretion, grant the career employee assistance to correct the deficiencies, including informal conferences and the services of school personnel within the District;
4. Nothing in this Policy shall be construed to require compliance with or completion of evaluations prior to non-renewal of a career employee's contract.

E. Notice to Educator Career Employee of Unsatisfactory Performance

1. An educator whose performance is determined to be unsatisfactory or in need of improvement will be given reasonable assistance to remediate his/her performance and be provided, by the principal or designee, with the following:
 - a. a written document which clearly identifies his/her deficiencies,
 - b. available and appropriate resources to remediate the unsatisfactory performance, and

- c. a recommended course of action which will remediate the educator's performance.
 2. The educator is responsible for improving his/her performance by:
 - a. using the resources identified by the principal or designee and,
 - b. demonstrating satisfactory levels of performance in the performance areas designated unsatisfactory.
 3. The period of time for implementing a plan of assistance: may not exceed 120 school days, may continue into the next school year; and should be sufficient to successfully complete the plan of assistance.
 - a. In accordance with local school board policy, the period of time for implementing a plan of assistance may extend beyond 120 school days if a career employee is on leave from work during the time period the plan of assistance is scheduled to be implemented.
 - b. If upon a reevaluation of the career employee's performance, the district determines the career employee's performance is satisfactory, and within a three-year period after the initial documentation of unsatisfactory performance for the same deficiency, the career employee's performance is determined to be unsatisfactory, the district may elect to not renew or terminate the career employee's contract.
 - c. If the district intends to not renew or terminate a career employee's contract, the district shall: provide written documentation of the career employee's deficiencies in performance and give notice of intent to not renew or terminate the career employee's contract.
 - i. The notice of intent shall be in writing and served by personal delivery or by certified mail addressed to the employee's last-known address as shown on the records of the district; the district shall give notice at least 30 days prior to the proposed date of termination; and the notice shall state the date of termination and the detailed reasons for termination.
 - d. The district is not required to provide a cause for not offering a contract to a provisional employee. If the district intends to not offer a contract for a subsequent term of employment to a provisional employee, the district shall give notice of that intention to the employee at least 60 days before the end of the provisional employee's contract

F. Notice of Intent not to Renew Contract of Career Employee

If the District intends not to renew the contract of employment of a career employee after giving notice that continued employment is in question, it shall:

1. Give notice that a contract of employment will not be offered for the following school year to the individual.

2. Issue notice at least thirty (30) days before the end of the contract term of the individual.
3. Serve notice by personal delivery or certified mail to the employee's most recent address shown on the District's personnel records.

G. Notice of Intent to Terminate Employment During Term of Contract

If the District intends to terminate an employee's contract during the contract term, the District shall:

1. Give written notice of that intent to the employee;
2. Serve the notice by personal delivery or by certified mail addressed to the individual's last known address.
3. Serve the notice at least thirty (30) days prior to the proposed date of termination;
4. State the date of termination and detailed reasons for termination.
5. Give notice of the individual's right to appeal the decision to terminate employment and the right to a hearing and the right to legal counsel, to present evidence, cross-examine witnesses and present arguments at the hearing.
6. Notify the employee that failure to request a hearing within fifteen (15) days after the notice of termination was either personally delivered or mailed to the employee's most recent address shown on the district's personnel records shall constitute a waiver of the right to contest the decision to terminate.

H. Notice of Intent Not to Offer a Contract to a Provisional Employee

If the District intends not to offer a contract of employment for the succeeding school year to a provisional employee, it shall give notice at least sixty (60) days before the end of the provisional employee's contract term that the employee will not be offered a contract for a following term of employment. The District is not required to provide a cause for not offering a contract to a provisional employee. Because provisional employees do not have an expectation of continued employment, they do not have a right to grieve the decision not to renew employment and do not have a right to a hearing.

I. Expectation of Continued Employment in Absence of Notice

In the absence of a notice, a career or provisional employee is considered employed for the next contract term with a salary based upon the salary schedule applicable to the class of employees into which the individual falls.

This provision does not preclude the dismissal of a career or provisional employee during the contract term for cause.

J. When the District Determines to Suspend an Employee:

1. notice suspending the active service of the individual shall state:
 - a. that the continued employment of the individual may be harmful to students or to the District;

- b. the reason(s) why such conduct is harmful;
 - c. that the suspension shall continue pending a Hearing;
 - d. that the individual has a right to, and may request, an Informal Conference, Hearing, or both, provided their request is received in writing by the District within fifteen (15) calendar days after the individual receives the Notice of suspension;
 - e. whether the suspension is with or without pay;
 - f. that in the event the suspension is without pay and is ultimately declared to have been improper and without just cause, all of the pay, benefits and active duty status which were withheld during the period of suspension shall be made available to the individual.
2. if the individual does not request in writing an Informal Conference, the individual will be deemed to have waived and relinquished all right to such Informal Conference.
 3. if the individual does not request in writing a Hearing, the individual will be deemed:
 - a. to have agreed to such suspension;
 - b. to have waived and relinquished all claims that such suspension was improper and without just cause;
 - c. to have waived and relinquished all right to a Hearing.
 - d. In such case, the Notice of suspension will serve as written notice by the Board of suspension of the individual's employment contract as of the date of such suspension.
 4. After timely receipt of the individual's request for an Informal Conference, Hearing, or both, the District will give due notice to the individual of the date, time and place of the Informal Conference, Hearing, or both, as requested by the individual.

K. When the District Determines to Place an Employee on Probation:

1. notice placing an individual on probation shall state:
 - a. the reason(s) for such probation;
 - b. the effective date of such probation and its duration;
 - c. the conditions of the probation;
 - d. that the individual has a right to, and may request, an Informal Conference, Hearing, or both, provided their request is received in writing by the District within fifteen (15) calendar days after the individual receives the Notice of Probation.
2. If the individual does not request in writing an Informal Conference, the individual will be deemed to have waived and relinquished all right to such Informal Conference.
3. If the individual does not request in writing a Hearing as provided in subsection, the individual will be deemed:
 - a. to have agreed to such probation;
 - b. to have waived and relinquished any and all claims that such probation is improper and without just cause;
 - c. to have waived and relinquished all claim to a Hearing.
 - d. In such case, the Notice of probation will serve as written notice by the Board of probation.
4. After timely receipt of the individual's request for an Informal Conference, Hearing, or both, as provided in subsection, the District will give due notice to the Individual of the date, time, and place of the Informal Conference, Hearing, or both, as requested by the individual.
5. Upon satisfactory completion of the conditions of probation, the individual shall resume their previous status as either a provisional or career employee.

L. Right to an Informal Conference

A notice of intention not to renew the contract of a career employee or of an intention to terminate the contract of a career or provisional employee during its term must advise the individual that he or she may request an informal conference before the Superintendent or Superintendent's designee. The request for an informal conference must be made in writing and delivered to the Superintendent's within ten (10) days of the date on the notice of intention not to renew or notice of termination during the contract term. The informal conference will be held as soon as is practicable. Suspension pending a hearing may be without pay if the Superintendent or a designee determines after the informal conference, or after the employee had an opportunity to have an informal conference, that it is more likely than not that the allegations against the employee are true.

M. Employee's Right to Hearing

A notice of intention not to renew the contract of a career employee or of an intention to terminate the contract of a career or provisional employee during its term must also advise the individual that if after the informal conference the employee wishes a hearing on the matter, he or she must submit written notice to that effect to the Superintendent's office within five (5) days of the informal conference. If the employee wishes to not have an informal conference, but does wish to have a hearing, he or she must submit written notice to that effect within fifteen (15) days of the date on the notice of intent not to renew or notice of termination during the contract term. Upon timely receipt of the notice, the Superintendent will notify the Board, which will then either appoint a hearing examiner or hearing board or determine to hear the matter itself. In either case, the Board will then send notice of the date, time and place of hearing to the Superintendent and to the employee. If the employee does not request a hearing within fifteen (15) days of the notice of intent to terminate, or within five (5) days of the informal conference, if applicable, then the employee shall have waived any right to a hearing and to contest the decision.

N. Appointing a Hearing Examiner

If the Board of Education determines that the hearing shall be conducted by a hearing examiner or board, it shall so advise the Superintendent to appoint a board of three District administrators who have no substantial knowledge of the facts of the case or select an independent hearing examiner.

In so appointing a hearing examiner or hearing board, the Board of Education may delegate its authority to the hearing officer or hearing board to make findings and decisions relating to the employment of the employee that are binding upon both the employee and the Board of Education. In the absence of an express delegation of authority, the Board retains the right to make its own decision based on the factual findings of the hearing officer.

O. Rights of Employee at a Hearing

At the hearing, the employee and administration each have right to counsel, to produce witnesses, to hear testimony, to cross-examine witnesses, and to examine documentary evidence.

P. Decision

Within fifteen (15) days after the hearing, the person or entity that conducted the hearing, whether the hearing examiner, hearing board, or Board of Education, shall issue written findings and conclusions deciding the matter. These shall be provided to the employee by mail or personal delivery.

In the event the decision of the board or hearing officer is to not terminate the employment of the employee, then the employee shall be reinstated and back pay shall be paid if the employee was suspended without pay pending a hearing.

Q. Suspension During Investigation

The active service of an employee may be suspended by the Superintendent pending a hearing if it appears that the continued employment of the individual may be harmful to students or to the District. The employee shall be provided written notice of the suspension, which may be included with written notice of termination of employment during the contract term or notice of non-renewal of contract.

R. Necessary Staff Reduction not Precluded

Nothing in this policy prevents staff reduction if necessary to reduce the number of employees because of the following:

1. declining student enrollments in the district;
2. the discontinuance or substantial reduction of a particular service or program;
3. the shortage of anticipated revenue after the budget has been adopted; or
4. school consolidation.

S. No Verbal Agreements

It is the policy of the District that all agreements with employees must be written; there are no verbal agreements because all agreements must be approved by the Board of Education. Only the Board of Education has authority to hire and fire unless such authority has been expressly delegated in writing.

T. Notification to Utah Professional Practices Advisory Commission

The Superintendent shall notify the Utah Professional Practices Advisory Commission if an educator is determined, pursuant to an administrative action, to have had disciplinary action taken for:

1. immoral behavior
2. unprofessional conduct, or professional incompetence which results in suspension for more than one week or termination.