



SECTION V: EMPLOYEES

POLICY 5350

SUSPENSION, DEMOTION, TERMINATION OR NON-REEMPLOYMENT OF SUPPORT EMPLOYEES

Definitions

1. "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.
2. "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 172 days per year.
3. "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 *Procedures for Suspensions Without Pay, Terminations and Demotions* below, or as a suspension pending investigation as provided in paragraph *Procedures for Suspensions Without Pay, Terminations and Demotions* 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.
4. "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.
5. "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.
6. "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.
7. "Non-reemployment" 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.

Policy on Suspension, Demotion, Termination or Non-reemployment 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 non-reemployed 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



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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.

Cause for Suspension, Demotion, Termination or Non-reemployment

1. A support employee may be suspended, demoted, terminated or non-reemployed during the term of his/her contract for any of the following:
 - Violation of any rule, regulation or requirement issued by the Office of the Superintendent or Board of Education of the School District; or
 - 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.
2. 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 non-reemployment during the term of his/her contract.

Procedures for Suspensions Without Pay, Terminations and Demotions

1. 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:
 - The superintendent of schools or his designee shall orally advise the support employee of the cause or basis for the proposed disciplinary action;
 - The superintendent of schools or his designee shall explain to the support employee the evidence against the support employee;
 - The superintendent of schools or his designee shall allow the support employee an opportunity to present his side of the matter.
2. After the support employee is afforded the above hearing rights, the superintendent of schools or his designee may take any of the following actions:
 - Suspension without pay for ten (10) working days or less as a disciplinary measure;
 - Suspension without pay pending investigation as to whether cause exists for the termination of the support employee;
 - Demotion of the support employee;
 - Termination of the support employee;
 - Conclude that no disciplinary action is appropriate.
3. 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



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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.

4. 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 below.

Procedures for Non-reemployment

Prior to being non-reemployed, 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 to consider and act on the non-reemployment of the support employee for the subsequent fiscal year;
2. The written notification shall set out the cause(s) for such action;
3. The support employee shall have the right to contest his non-reemployment before the Board of Education as set forth in the Procedures for Appeal to the Board of Education in section below.

Procedures for Appeal to the Board of Education

1. After any suspension without pay as a disciplinary measure, or prior to the effective date of any demotion, termination during the term of his/her contract or non-reemployment, the support employee shall receive notice of his/her right to a hearing before the Board of Education as herein provided.
2. All notices shall be sent to the support employee by certified mail at the address of the support employee shown on the school records. If the support employee refuses to accept the notice or fails or refuses to pick up the notice after being notified by the post office to do so, then the support employee shall be deemed to have received the notice on the date that the notice was postmarked. The notice shall contain the information provided in the form attached hereto. The postmark shall be used to determine the timeliness of the notice.
3. A support employee who has been notified in writing of his/her suspension without pay as a disciplinary measure, demotion or termination during the term of his/her contract or non-reemployment 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



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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 as a disciplinary measure, demotion or termination action shall be final and, in the case of a non-reemployment, the board may take final action to non-reemploy the employee without further notice or hearing rights.

4. Hearing before Board of Education:

- Upon timely notice as set forth above, the support employee shall be entitled to a hearing 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 no later than thirty (30) days after receipt of the support employee's request.
- 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 as a disciplinary measure, demotion, termination or non-reemployment. 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.
- As to suspension as a disciplinary measure, 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 non-reemployment, the Board may reemploy or non-reemploy the employee for the subsequent fiscal year.
- The decision of the Board of Education at the hearing shall be final and non-appealable.

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.



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Nothing contained in this policy shall prevent the Board of Education from acting on its own volition in matters pertaining to suspension, demotion, dismissal or nonrenewal of support employees.

SUPPORT EMPLOYEE RULES AND REGULATIONS

A support employee may be suspended, demoted, terminated or non-reemployed 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. Abandonment of job (3 or more consecutive or non-consecutive absences in a rolling 6-month period without following the proper reporting procedures).
5. Unapproved or excessive absenteeism.
6. Chronic absenteeism for any reason.
7. Unapproved or excessive tardiness
8. Chronic tardiness.
9. Wasting time or loitering during working hours.
10. Leaving work area during work hours, without permission, for any reason.
11. Possession of weapons on school premises¹ , in school district vehicles or while on duty.
12. Removing school district property or records from school district premises without proper authority.
13. Willful abuse, misuse, defacing, or destruction of school district property, including tools, equipment, or property of other employees.

¹ Support personnel who are either (a) over the age of twenty-one (21) or (b) who are a military member or veteran and over age eighteen (18) may possess a firearm in the school parking lot but that weapon must be stored in the employee's vehicle pursuant to Oklahoma law.



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14. Theft or misappropriation of property of employees, students or of the school district.
15. Sabotage.
16. Distracting the attention of others.
17. Refusal to follow instructions of supervisor.
18. Refusal or failure to do work assignment.
19. Unauthorized operation of machines, tools, or equipment.
20. Threatening, intimidating, coercing or interfering with employees or supervisors.
21. Threatening, intimidating, coercing or exploiting students or others connected with the district.
22. The making or publishing of false, vicious, or malicious statements concerning any employee or supervisor.
23. Creating a disturbance on school premises including but not limited to engaging in quarrelsome behavior and fighting.
24. Creating or contributing to unsanitary conditions.
25. Actions or omissions that jeopardize the health, safety, life, or property of self or others.
26. Practical jokes injurious to other employees, students or school district property.
27. Possession, consumption, or reporting to work under the influence of beer, alcoholic beverages (including wine), non-prescribed drugs, or controlled dangerous substances.
28. Disregard of known safety rules or common safety practices.
29. Unsafe operation of motor driven vehicles or equipment.
30. Operating machines or equipment without using the safety devices provided.
31. Gambling, lottery, or any other game of chance on school district property.



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32. Unauthorized distribution of literature, written or printed matter of any description on school district property.
33. Posting or removing notices, signs, or writing in any form on bulletin boards of school district property at any time without specific authority of the administration.
34. Poor workmanship.
35. Immoral conduct or indecency including abusive and/or foul language.
36. Excessive personal calls during working hours, except for emergencies. This includes incoming and out-going calls.
37. Walking off job.
38. Clocking in or out another employee's time card or time sheet.
39. Smoking or using tobacco products in an unauthorized area, including the use of e-cigarettes, personal vaporizers and other similar devices, regardless of whether those devices are used with cartridges containing nicotine.
40. Refusal of job transfer, if the transfer does not result in a demotion.
41. Abuse of "breaks" (rest periods) or meal period policies.
42. Insubordination of any kind.
43. Dishonesty of any kind, including withholding pertinent information from a supervisor.
44. Wrongdoing of any kind.
45. Violation of a law or regulation.
46. Sexual harassment of an employee, a student or a third party such as a patron or vendor.
47. Engaging in discriminatory conduct (including discrimination based on race, religion, color, national origin, sex, sexual orientation, gender expression, gender identity, pregnancy, disability, genetic information, veteran status, or age) against an employee, student, or third party.



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48. Violation of a policy or rule enacted to ensure orderly and proper job performance or for the safety of self or others.
49. Misuse or abuse of any school district leave policy or guidelines.
50. Any intentional act or omission which constitutes a material or substantial breach of job duties, responsibilities or obligations.
51. Any conduct which the employee knew or should have reasonably known was a violation of school rules or policies.
52. When it is in the best interest of the school district, any support personnel may be suspended, demoted, terminated or non-reemployed.
53. Because of the difficulty of retaining competent support employees on a temporary basis over an extended period of time, a support employee shall be subject to termination for physical inability to perform the job requirements due to illness or accidental injury when unable to return to work for his or her regularly scheduled work hours and perform all of the duties of the position. Support employees that meet eligibility requirements may request FMLA leave for 12 work weeks/60 work days or Authorized Medical Leave for 30 work days or the number of work days equal to the employee's total accumulated paid leave, whichever is longer, counted from the date of the first absence due to the illness or injury.
54. Unauthorized access of a computer, mobile phone or website.

Source: *Broken Arrow Board of Education policy adoption, July 13, 2009.*
Broken Arrow Board of Education policy revised, December 8, 2014.
Broken Arrow Board of Education policy revised, November 9, 2020.
Broken Arrow Board of Education policy revised, October 11, 2021.
Broken Arrow Board of Education policy revised, July 17, 2023.