



Preliminary Considerations

- Verify employment status (permanent, probationary, temporary, substitute, etc.).
- Review available evidence, including witness statements, complaints, photographs/videos, emails, etc.
- Consider whether a mandated report is required.
- Determine whether paid administrative leave is necessary for student safety, workplace safety, or to protect the integrity of the investigation. Any leave notice should be narrowly tailored and should allow appropriate access to representation and an opportunity to respond.
- Review personnel file for past evaluations and documentation of prior disciplinary actions.
- Review applicable district policies and procedures, laws, and employment contract to determine the appropriate process, including if progressive discipline is required.
- Assess the pros/cons of available disciplinary actions, including the likelihood of success and estimated costs as well as impact to site if employee returns.
- Consider liability risks, potential claims of retaliation, discrimination or whistleblowing.
- Consider communications by assessing whether this incident requires parent notifications or may potentially create outside publicity.

Keys for Effective Investigation

- **Triage first.** Promptly assess student and staff safety, whether paid administrative leave is needed, whether evidence must be preserved, and whether a mandated report or law enforcement report must be made before the district proceeds further.
- **Plan before interviewing.** Understand the facts available, identify the allegations, witnesses, documents, electronic evidence, interview order, and key questions. Separate witnesses when appropriate and avoid group interviews.
- **Gather and document facts carefully.** Interview relevant witnesses, review documents and other evidence, maintain detailed notes, and prepare a written summary or report. Notes and summaries should be timely, accurate, and as detailed and precise as possible.
- **Make findings before deciding discipline.** Determine what facts are supported by the evidence, then decide whether those facts violate policy, directives, contract obligations, or law. Any corrective action should match the seriousness of the misconduct, the evidence, the employee's status, and applicable disciplinary procedures.

Document and Deliver the Outcome

- **State the basis for the outcome.** Identify the relevant facts, rules, policies, directives, or expectations; explain how they were violated; and describe the impact on students, staff, operations, or the district.
- **Use direct, specific facts.** Write to the employee plainly and specifically, using "You did..." rather than "It was reported that..." If quoting the employee or witness language, use the exact words when necessary to accurately document the conduct. Do not censor offensive language.
- **Give clear directives.** State both what the employee must do and what the employee must not do going forward. Include any required training, coaching, supervision, performance improvement, or other assistance.
- **Match the disciplinary action to the process.** Depending on the facts and employee status, the disciplinary action may include counseling, verbal warning, written warning, reprimand, PIP, suspension, termination letter, statement of charges, or other formal action.
- **Preserve the record.** Attach or identify the evidence supporting the action, maintain the investigation file separately where appropriate, and archive all documentation for future access.

Termination Process

If determined that **termination** is the appropriate disciplinary action, ensure all procedures and prerequisites are precisely followed. These will differ based on employment status (certificated vs. classified, permanent vs. probationary, etc.) and may be influenced by contract, collective bargaining agreement, board policies or regulations. For **certificated employees**, the typical process is as follows:

- **Performance Improvement Plan/Opportunity to Cure:** When required by the employee's status and the grounds for discipline, provide written notice of the specific deficiencies and an opportunity to improve before formal charges are issued. The PIP should identify the concerns, expected corrections, timeline, support or directives provided, and follow-up documentation.
- **Notice:** Notify employee of intent to move forward with termination. Notify the union or representative, if applicable. If appropriate, discuss potential for voluntary resignation in lieu of moving forward with formal charges. Resignation agreements are subject to Board approval.
- **Statement of Charges:** If the action will proceed, issue a Statement of Charges per the applicable procedure. These will typically include the statutory or policy grounds and the facts supporting the dismissal.
- **Right to a Hearing:** If applicable, provide the employee with an opportunity for a hearing before the Board of Education and specify the applicable process.
- **Evidentiary Hearing:** If the employee requests a hearing, the district will have the burden of proving the charges. The employee will have a right to present evidence in their defense. Hearings are conducted by the Board of Education as prescribed by RSMo. § 168.118.
- **Final Action:** If the termination is sustained after a hearing, or if the employee does not timely request a hearing, steps are taken to finalize the termination, including Board action if required.
- **Appeal:** If applicable, the employee may have the right to appeal a final decision by the Board to the Circuit Court.

When to Consult Legal Counsel

- If proceeding with discipline carries a risk of liability.
- If an outside investigation is needed, including on the risk of liability.
- To review and strategize about an investigation blueprint or the preliminary findings of an investigation.
- To assist in preparing termination charges and representing the district in an evidentiary hearing.
- To negotiate employee resignations with opposing counsel and/or unions.
- To attend board meetings to guide members and advise them through the termination process, as needed.
- To ensure all legal requirements are met before, during, and after discipline is issued, including compliance with the state and federal law, board policies, and collective bargaining agreements.