

## **Sparta Area School District**

### Article 178 – Investigating Employee Misconduct

This policy outlines steps that should be taken by school officials upon receipt of a complaint of misconduct by school employees.

#### Identifying the Nature of the Complaint

The first step is to determine whether the alleged misconduct is school-related. If the alleged misconduct does not affect or significantly relate to the school, an investigation will not be commenced unless the alleged off-duty misconduct has a nexus to the employee's employment with the District.

Next, the alleged victim should be identified. If the alleged victim is a student, that student's parents/guardian should be notified immediately about the allegations unless prohibited by law. An allegation that the employee violated school policy may not require victim identification and notification.

It should then be determined if the allegation can be characterized as past conduct or present conduct, and whether there is risk that the alleged misconduct might be repeated. If there is a significant threat that the alleged misconduct may be repeated, the administration may need to take affirmative action to protect others before an investigation can be resolved, such as a temporary suspension with pay or a reassignment.

Finally, a determination should be made whether illegal or criminal wrongdoing has been alleged. If so, the school district may be required to notify local law enforcement officials or state agencies. The Board president will be notified of the alleged misconduct and actions being taken to address the situation.

#### Is an Investigation Warranted?

After these initial determinations are made, school officials need to decide the scope of the investigation.

If a student is involved, either as a victim or potential witness, the parents/guardian should also be notified of the allegations (unless prohibited by law), of the ongoing investigation, and that the student may need to give an official written or oral statement.

The complainant should put his/her allegations in writing. If the accuser is a young student and is not capable of drafting a complete and coherent written statement, an oral interview may be justified. If this is necessary, it is recommended that the student's parent/guardian be present during the interview.

#### Who Should Investigate?

If a formal investigation is warranted, the superintendent will appoint an investigator unless the allegations are against the superintendent. If the superintendent is not the subject of the investigation, the identity of the investigator may be a building administrator, supervisor or an independent third person such as an attorney. If the superintendent is the subject of the investigation, the identity of the investigator shall be determined by the school board. The school board or individual school board members do not conduct the investigation.

### The Investigation Process

The accuser should be interviewed first. Then, other witnesses, including the accused employee, should be interviewed and encouraged to provide written statements.

If the employee is a union member and is the subject of the investigation, notify the employee that the union representative be present for the interview. The employee may decline representation. The investigator should request that the accused provide a written statement of his/her version of events or defense. The investigator should also draft a written memorandum of the interview as soon as the interview concludes.

An 'investigation file' should be opened and maintained in a safe, confidential place. The investigation file should not be part of the employee's personnel file until any disciplinary action is taken against the employee.

Any evidence related to the incident or investigation should be stored in a secure, discreet location.

### After the Investigation is Complete

The investigator will make a written report of his/her findings. If the allegations prove false, the written report should state as such. If the investigator is someone other than the school superintendent, the superintendent should receive the written report as soon as possible unless the superintendent is the subject of the investigation, in such case release to the superintendent shall be in accordance with applicable law.

Factors the investigator needs to consider before making a final determination include the credibility and objectivity of the accuser and witnesses, the consistency of testimony, and whether there is enough proof to substantiate the allegations of wrongdoing.

If the investigation yields sufficient evidence of wrongdoing, the superintendent will take appropriate disciplinary action against the employee.

If the investigation bears evidence of wrongdoing, certain reporting requirements may be triggered. First, law enforcement authorities should be notified if allegations of illegal conduct seem legitimate. Second, Department of Public Instruction requires superintendents and other educators report to the Department all charges of misconduct involving immoral conduct against a teacher who holds state credentials.

The district's liability insurance carrier should be notified immediately if an investigation yields evidence of physical harm, property damage, discrimination, harassment, or any other similar misconduct perpetrated by an employee.

Legal Reference:

Cross Reference:

Approved: January 25, 2011

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