

A Framework for Addressing Allegations of Teacher Wrongdoing

Developed by Kenneth Feinberg and Adopted by the AFT Executive Council,
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Summary : A Procedure for Teacher Discipline

A. Objective criteria trigger the process:

- 1 Conviction of a felony or other crime involving moral turpitude.
- 2 Immediate suspension without pay where an indictment or information charging a felony or other crime involving moral turpitude is filed.
- 3 Improper use of physical force against students including excessive student discipline.
- 4 Inappropriate physical contact with students.
- 5 Sexual abuse or harassment of any individual regardless of the form of communication utilized (texting, emailing, internet networking and other forms of electronic communication.)
- 6 Continued and repeated violation of or refusal to obey rules and regulations.
- 7 Racial, gender, religious and other forms of discrimination.
- 8 Alcohol or drug abuse that makes the teacher unfit to instruct or associate with children.
- 9 Health violations that make the teacher unfit to instruct or associate with children.

B. Due Process Procedures to ensure fairness and efficiency.

- 1 Complaint made to principal who determines whether to file a complaint with superintendent.
- 2 Teacher and union get notice of complaint.
- 3 Limitations Period. One year limitations unless good cause or felony or crime of moral turpitude.
- 4 Complaint must specify facts. Teacher has right to request particularity. If particularity not supplied adequately, complaint will be dismissed.
- 5 Confidentiality. No disclosure of confidential information until 5 days after discovery is completed.

C. Preliminary Process.

- 1 Screening Process in the first 14 days used to dismiss meritless claims.
- 2 Resolution without Formal Hearing. The first 20 days after the filing of a Complaint used to resolve meritorious claims informally without the necessity of a full-blown hearing.

D. Formal Hearing after 30 days :

- 1 The teacher is entitled to be represented (implemented by union).
- 2 Hearing Examiners trained by Program Administrator. Parties will agree to a Hearing Examiner. If they can't, the Program Administrator will appoint the Examiner.
- 3 Prehearing Discovery and Exchange of Information: completed in 60 days.
- 4 Questions of Proof: School District/ Complainant must establish by preponderance of the evidence.

E. Time/Important Dates: The total time from filing of Complaint to written decision is 100 days.

- 1 Complaint filed and teacher receives Notice. Day 1.
- 2 Screening Process. Completed by day 14.
- 3 Period to attempt informal resolution. Completed by day 20.
- 4 Scheduling of Formal Hearing. Completed by day 30.
- 5 Prehearing discovery/exchange of information. Completed by day 60.
- 6 Period to schedule and complete hearing. Completed by day 90.
- 7 Issuance of written decision. Completed by day 100.

F. Teacher Status:

- 1 Continuation of pay: teacher continues to receive pay except in cases where formal charges of a felony or other crime involving moral turpitude are filed.
- 2 Suspension:

a. Suspension without pay only where an indictment or information charging a felony or other crime involving moral turpitude is filed.

b. Otherwise, no suspension without pay. The teacher may be removed from the classroom at the discretion of the superintendent. If a teacher is removed, the teacher will be provided with and expected to engage in meaningful work. Pay continues during resolution of the dispute

G. Hearing Procedures: No formal rules of evidence, witnesses may be called and cross-examined, documentary evidence may be offered if disclosed in timely manner.

H. Final Decision:

1. Written Opinion. The Hearing Examiner renders a final opinion in writing within 100 days of the filing of the Complaint

2. Sanctions. The following sanctions are available.

i. Termination

ii. Suspension

iii. Imposition of fines

iv. Imposition of conditions on employment, including remedial action designed to address the problem.

v. Referral to the state Department of Education controlling licensing for denial of statewide certification.

vi. Letter of reprimand.

3. Dismissed Charges. In the event of dismissal of the charges, the teacher is reimbursed for any back pay and notation in personnel file says charges were dismissed.

I. Appeal:

Hearing Examiner's decision is final. Availability of an appeal is left to applicable state law. The vast majority of states provide for an appeal process.