

September 16, 2005

“Basic Fairness and Due Process, A Guide for Corrective Discipline”

The enforcement of and compliance with the Agreement and Partnership between Denver Classroom Teachers Association (“Association”) and the School District (“Agreement”) are essential tenets of the partnership between the District and the Association. The Agreement further recognizes our collective responsibility to promote positive change through regular training with Administrators and teachers on the Agreement. Section 11-2-2 of the 2005-2008 Agreement states: “The principal or designee shall follow the procedures established in the District document ‘Basic Fairness and Due Process, A Guide for Corrective Discipline.’”

This guide is a District document that was developed in consultation with the Association. The purpose of this document is to be a resource to assist administrators in effectively managing matters pertaining to corrective actions covered by the Agreement. It is anticipated that this guide will be a resource for teachers as well. In the event of any conflict between the terms of the Agreement and this guide, the Agreement’s terms take precedence.

This guide does not specifically cover coaching/counseling/verbal warnings, which can be given at any time without any formal procedures, or recommendations to the superintendent that a teacher be dismissed under the Teacher Employment, Compensation and Dismissal Act of 1990, Article 63 of Title 22, Colorado Revised Statutes (“Act”).

As you review this guide, administrators and principals are encouraged to consult the resources that are available to help administrators work through individual situations. They include: Human Resources staff, the Legal Services Department, and Area/Assistant Superintendents. It is the Superintendent’s goal to provide technical assistance to help administrators/principals make the best decision about what type of correction is necessary to improve the teacher’s conduct and/or make the difficult decision that corrective action has not resulted in the desired improvement and a recommendation for dismissal is appropriate.

A. Goals:

1. Teachers hold the key to our success in achieving the Board of Education’s goals.
2. To ensure quality instruction by our teachers, the District intends that administrators follow processes that will result in prompt, reasonable, and fair resolution of matters related to the correction of teacher misconduct.

B. Matter of Concern/Investigation

1. A matter of concern that may give rise to teacher corrective discipline must first come to the attention of the District. Matters of concern regarding a teacher may be expressed verbally or in writing to the school principal or other school administrator. A school principal may also determine matters of concern exist with a teacher based upon his/her observations of and/or contact with the teacher. A matter of concern can arise from internal school issues and/or external issues.

- a. If a person makes a verbal or written complaint about a teacher "...the principal or designee shall investigate the complaint and attempt to resolve the complaint informally." AGREEMENT 11-1-1. (Note: allegations of child abuse should not be deemed resolved simply because they must be reported to the appropriate authorities consistent with law and District policy. Investigations of such behavior by external agencies do not relieve the District of its duty to investigate.)
- b. The teacher shall be promptly notified of the nature of the verbal or written complaint and the identity of the complainant, and be given an opportunity to respond to the complaint. AGREEMENT 11-1. (Note: allegations of child abuse must be reported to the appropriate authorities consistent with law and District policy. The principal/designee should also consult with Legal or Human Resources and the Security Office. See Board Policy JLF-R.)
- c. If a school official has reasonable cause to suspect that child abuse may have occurred (for example, a physical assault on a student), he/she is required to report the incident to Denver Police Department or Denver Department of Human Services and to file an incident report with the Security Office. See Board Policy JLF-R for further details.
- d. If a school official receives information regarding an incident that might constitute a form of prohibited harassment, the principal/designee shall notify the requisite parties in accordance with Board of Education policy. (For example, in the event of a student complaint of sexual harassment, the principal /designee shall comply with Board Policy JBB-R which requires immediate notification of the Title IX officer. The investigation shall determine whether reasonable cause exists to believe that the alleged conduct occurred and whether such conduct constitutes sexual harassment. If a violation of policy is found, the superintendent or designee shall appropriately discipline any student, teacher, administrator, or other school personnel who is found to have violated the policy, provide appropriate assistance to the victim, and/or take other appropriate action reasonably calculated to end the harassment.)
- e. "If appropriate, the principal or designee shall arrange a meeting with the complainant, the teacher and the principal/designee in an attempt to resolve the situation." AGREEMENT 11-1-1-1.
- f. "If any record of the complaint, or its formal or informal resolution, is placed in the teacher's files, the teacher shall have the right to file a written response within twenty (20) school days." AGREEMENT 11-1-2.

2. Investigations

The District shall investigate the matter of concern to gather information. The investigation will typically be conducted by the supervising principal, but may be conducted by some other person designated by the District. The investigation shall be concluded as expeditiously as possible.

- a. Upon providing notice of the complaint as referenced in Section B.1.b. above, the teacher may be questioned regarding the allegation, immediately if appropriate, as part of the

investigation. The teacher may also be provided an opportunity to respond as soon as possible at a date, time and location to be determined by the District. See Section B.1.b. above. The teacher shall cooperate with the investigation, and under no circumstances engage in unlawful or prohibited retaliation against any complainant.

- b. The supervising principal/designee shall determine whether administrative leave with pay is necessary to protect the interests of students, the teacher, or other staff, or to conduct an appropriate investigation. AGREEMENT 11-3-7. It will ordinarily be deemed necessary to place the teacher on paid administrative leave only in connection with pending investigations of serious allegations, such as those that, if subsequently proven, might lead to a recommendation to dismiss under the Act. Administrative leave with pay is not a punitive or corrective action, and is not an indicator that a matter has been prejudged.
- c. If leave is determined to be necessary, the principal/designee shall:
 1. Give the teacher the “specific allegation(s) of misbehavior and the basic reason why the leave is deemed necessary, when possible.” AGREEMENT 11-3.
 2. Provide the teacher a copy of the administrative leave checklist (see Appendix 1) and review it with the teacher. The teacher shall sign the administrative leave checklist for receipt acknowledgment purposes, and a copy of the executed document shall be provided to the teacher. AGREEMENT 11-3-1-2. The principal/designee may, at her/his discretion and in appropriate circumstances, present the administrative leave checklist to the teacher before or after the school day. The principal/designee may, at his/her discretion, also allow the teacher to bring to this meeting the Association building representative or another teacher.
 3. At the teacher’s request, allow the teacher the opportunity to respond to the allegations that caused the teacher to be put on leave at a meeting set by the District within three work days of being placed on administrative leave. AGREEMENT 11-3-2. The teacher may be represented by the Association at that meeting. This meeting may, at the discretion of the principal/designee, be combined with the meeting referenced in subparagraph 2.a above.
 4. “If an investigation must extend beyond seven (7) calendar days, or if the administrative leave must be extended, the teacher and the Association will be notified by phone from the Department of Human Resources or designee the reasons for the extension and the expected date of completion of the investigation and/or leave.” AGREEMENT 11-3-3.
- d. If administrative leave is not necessary, the principal/designee should obtain relevant information and documents from appropriate sources including the teacher and conclude the investigation as expeditiously as possible.

- e. The principal or District representative shall review all the evidence gathered, including any response provided by the teacher, and preliminarily determine if corrective action may be necessary. See below.

3. Resolution

- a. **Determination of No Corrective Action**
If no corrective action is deemed necessary, the District shall provide such notice and information to the teacher and Association representative as necessary to close out the investigation.
- b. **Determination that Recommendation for dismissal under the Act is warranted.**
All such actions are governed by the Act and not by the Agreement or this guide.
- c. **Preliminary Determination of Corrective Action**
If corrective action may be deemed necessary, the District shall follow the guidelines outlined below.

4. Corrective Action Guidelines

- a. The Agreement does not determine what level of discipline should be imposed or that any particular progression of discipline be followed. The discipline will be determined by the District based upon the specific circumstances of the situation, and must meet a “just cause” standard. The District, school or principal should use corrective action when a teacher has engaged in misconduct or violated a directive, work rule, Board or school policy, or job duty, or where other good and just cause exists. Work rules and directives should be communicated verbally or in writing to the teachers, and cannot conflict with law, District policy, or the terms of the Agreement. Appropriate corrective discipline should be imposed promptly and not deferred until the any teacher evaluation process is completed. An example of one way to handle violation of a work rule is referenced in Appendix 4.
- b. **Provide Notice:** The principal/designee will inform the teacher of the preliminary intent to consider imposition of corrective action, and schedule a meeting at which the teacher may be accompanied by another teacher or an Association representative. AGREEMENT 11-2-1. At that meeting, to the extent it has not already occurred, the teacher shall be given an opportunity to respond to the allegations and the investigation results, which the principal/designee should share with the teacher at that time. If the teacher fails to meet with the principal at the designated date, time and location, such failure will not limit the District’s right to implement corrective action in accordance with the Agreement. Upon consideration of any additional information/response provided by the teacher at the meeting, the principal/designee shall complete any necessary follow-up to the investigation, and then determine if corrective action will be imposed. The principal/designee may render the decision (e.g., determination that no corrective action is necessary, issuance of a Letter of Warning, or issuance of a Letter of Reprimand with/without unpaid leave) at the conclusion of that meeting. Alternately, the principal/designee may schedule a separate meeting for the specific purpose of rendering the

decision to the teacher. At any subsequent meeting, the teacher may opt to be accompanied by another teacher or an Association representative.

- d. Corrective action may include one or a combination of the following:
1. Letter of Warning (see template at Appendix 2): A Letter of Warning constitutes written notice to the teacher that certain types of behavior are prohibited and that future misconduct may result in more serious corrective action or other discipline up to and including dismissal. The document will include: the teacher's name; date; situation needing improvement; facts of the situation and the investigatory conclusions (what, where, when, who); the date(s) that the teacher was extended an opportunity to respond; any previous discussions and instructions with the teacher on this situation; the actions to be taken; a reasonable period of time, if appropriate, to correct behavior; the consequences for failure to correct the behavior; and a statement advising the teacher of the right to attach a written explanation. A copy of this letter may, at the discretion of the principal, be placed in the teacher's personnel file. If it is to be placed in the teacher's file, the teacher must be told of such decision and provided with an opportunity to review the Letter of Warning and to sign the copy of the letter as an acknowledgement of receipt. If the teacher refuses or fails to sign the copy of the Letter of Warning, the letter will still be placed in the teacher's personnel file with an indication that the teacher refused to sign it.
 2. Letter of Reprimand (see template at Appendix 3): a Letter of Reprimand constitutes written notice to the teacher that certain types of behavior are prohibited and that future misconduct may result in more serious corrective action or other discipline up to and including dismissal. The Letter of Reprimand should include the same information referenced above which is contained in a Letter of Warning. A copy of a Letter of Reprimand is ordinarily placed in the teacher's personnel file. The teacher must be provided with an opportunity to review the Letter of Reprimand and to sign the copy of the letter as an acknowledgment of receipt. If the teacher refuses or fails to sign the copy of the letter, the letter will still be placed in the teacher's personnel file with an indication that the teacher refused or failed to sign it.
- Note: The distinction between a Letter of Warning and Letter of Reprimand:
- * a Letter of Reprimand is ordinarily placed in the teacher's personnel file whereas a Letter of Warning may be placed, at the discretion of the principal.
 - * a Letter of Reprimand is usually reserved for serious or repeated infractions.
3. Suspension without pay: a teacher may be suspended without pay as a sanction for the teacher's actions or inaction, for a period of time not to exceed 20 teacher work days. A suspension will be implemented by providing the teacher with a written decision, which may be included in the Letter of Reprimand, finding that the District has determined that suspension of the teacher is appropriate for a specified period of time. The duration of the suspension will be determined at the discretion of the District based upon the severity of the particular situation under consideration.

C. Miscellaneous

1. Return to work: Principals are encouraged to meet with teachers who return to work after administrative leaves with pay or suspension without pay to transition the teacher back into the classroom to ensure high quality and continuity of instruction.
2. The failure of the principal or his/her designee to follow any of the requirements contained in this document does not limit the Board of Education's right to non-renew a probationary teacher under the Act.

Appendices

1. Administrative Leave With Pay Checklist
2. Letter of Warning template
3. Letter of Reprimand template
4. Example of Work Rule Violation and Sample Letter of Warning

APPENDIX 1

Administrative Leave With Pay Checklist

Name of teacher: _____ Date: _____

You are being placed on administrative leave with pay for the purpose of investigation of a matter of which your principal (or supervisor) has apprised you. This leave is not a punitive action by your principal. The following information is intended to outline your rights and responsibilities while on leave.

You are directed to:

- _____ Leave all school keys at the school office today
- _____ Leave a hard copy of your lesson plans **for the following 5 school days** at the school office, including class rosters, seating charts, grade books, and all student records and data in your possession
- _____ These lesson plans may be faxed or e-mailed to the school office, if necessary, no later than _____

For security purposes, access to the following will be temporarily suspended during the administrative leave period:

- _____ All District servers
- _____ E-mail
- _____ Voicemail

During this leave, you will not have access to school or school grounds unless specified otherwise below:

- _____ By appointment
- _____ At certain times: _____
- _____ Other:

During your administrative leave

- _____ A District investigator may be contacting you and you are directed to cooperate in this investigation
- _____ You are required to be available during regular school hours for such an appointment or a return-to-work meeting
- _____ You may not contact any students or parents concerning any matters pertaining to this investigation
- _____ District personnel assigned to conduct the investigation will gather all necessary information
- _____ You will be informed of the results of the investigation at a meeting
- _____ You may learn about your rights under the Agreement and Partnership by going to the DPS-DCTA website: (<http://dps-dcta.dpsk12.org/>)
- _____ You may, but are not required to, remove personal effects from the school premises under the supervision of staff designated by the principal or by calling the principal's office to make an appointment
- _____ You will be contacted by either a DCTA – UniServe Director or Human Resources Representative if your leave will be longer than seven (7) calendar days.

Please sign and date this form below to indicate your receipt of it.

Teacher: _____ Date: _____

Principal: _____ Date: _____

APPENDIX 2

Letter of Warning Template: To be personally delivered to teacher

Date:

(teacher's name and address)

Re: Letter of Warning

Dear (teacher's name)

Situation needing improvement:

(describe District policy, school procedure, principal directive, contract article, or rule infraction/violation)

Previous discussions, and instructions with the teacher, if any, on this situation, and date on which teacher was provided an opportunity to respond to the allegation/complaint

(list situation, date)

Facts of the situation and investigatory conclusions (what, where, when, who)

(describe details of the infraction)

Actions to be taken

(describe recommended action to correct behavior)

Reasonable period of time, if appropriate, to correct behavior

(provide date by which behavior must comply with the work rule, etc.)

Consequences for failure to correct the behavior

Statement advising the teacher of the right to attach a written explanation

You have the right to review this warning. A copy of this letter may be placed in your personnel file. If the letter is to be placed in your file, you have the right to review and sign the filed copy (acknowledging receipt) and attach a written explanation of your behavior. You must provide any written explanation within 20 work days from the date of this letter. If you refuse or fail to sign the copy of the letter, a copy of the letter may be placed in your personnel file with an indication that you refused or failed to sign the letter.

With this letter, I am giving you an opportunity to correct your behavior and perform your teaching duties and responsibilities in an acceptable manner.

____ Filed in personnel file

____ Not filed in personnel file

Cordially,

District representative (supervising principal/area or asst. superintendent/HR representative)

I have had an opportunity to review this letter of warning, receive a copy and, if applicable, provide a written explanation.

Teacher

Date: _____

APPENDIX 3

Letter of Reprimand:

To be personally delivered to teacher

Date:

(teacher's name and address)

Re: Letter of Reprimand

Dear

Situation needing immediate improvement:

You are hereby reprimanded because (give general statement of what rule, law, board or school policy, principal directives, lack of professional behavior etc. that was violated.)

Previous discussions and instructions with the teacher, if any, on this situation, and date on which teacher was provided an opportunity to respond to the allegation/complaint:

(list situation, date)

Facts of the situation and investigatory conclusions (what, where, when, who)

(describe details of the violation)

Actions to be taken

(describe recommended action to correct behavior)

You will not (repeat what rule, policy, professional behavior needs to be followed in the future)

Time to correct behavior

(provide date by which behavior must comply with the work rule, etc.)

There will be no further violations of (whatever)

Consequences for failure to correct the behavior:

Failure to comply with this letter of reprimand may result in further disciplinary action, including possible dismissal recommendation.

You have the right to review and sign the filed copy and attach a written explanation of your behavior, which shall be attached to this letter of reprimand in your personnel file. You must provide any written explanation within 20 work days from the date of this letter. If you refuse or fail to sign the copy of the letter of reprimand, the letter will still be placed in your personnel file with an indication that you refused or failed to sign it.

By this reprimand, I am giving you an opportunity to correct your behavior and perform your teaching duties in an acceptable manner.

Cordially,

District representative (supervising principal/area superintendent or HR representative)

I have had an opportunity to review this reprimand, receive a copy and the opportunity to provide a written explanation.

_____ Date: Teacher

Cc: personnel file

APPENDIX 4

Example of Corrective Discipline for teacher being late to work

The following example is intended to be illustrative of a situation that generally can be handled through progressive corrective action:

Rule violated: At start of school year, the school announced rule that teachers are to be at school 30 minutes before school starts.

Coaching and Counseling session or verbal warning can be imposed at any time without any formal procedures:

Principal learns that a teacher arrived 10 minutes before school started on one occasion. Principal talks to the teacher, determines that tardiness was due to sleeping late, tells teacher “you must follow work hours and you didn’t on (specific day).” Reminds the teacher of the rule and states that “repeated violation of rules may result in corrective action.”

Letter of Warning: same teacher is reported to have arrived late 15 minutes after start of first period-second incident within a short period of time. Principal investigates, provides teacher with an opportunity to respond, and determines that the teacher arrived 15 minutes after first period had started due to sleeping late. Principal preliminarily decides corrective action may be warranted. She/he directs the teacher to come in to meet with the principal at a specified time and place alone, with a colleague teacher or with an Association representative (see Section B.4.b. above) to provide teacher the opportunity to respond in connection with possible corrective action. After hearing the teacher’s explanation, the principal determines that corrective action should be imposed. A corrective action meeting is scheduled, and the letter of warning should be prepared in advance and given to the teacher at the beginning of the meeting. If the corrective action will be placed in the personnel file, the teacher shall be given the opportunity to respond in writing and have the response attached and included in the personnel file.

See sample Letter of Warning below.

Letter of Reprimand:

Suspension or recommendation for dismissal: Same teacher is again reported to have arrived late-3rd incident because of sleeping late. Principal may choose between disciplinary suspension and recommendation for dismissal in accordance with Colorado law. The number and extent of latenesses and consequences to the students, etc., may factor into determining the duration or period of suspension or recommendation for dismissal.

Sample Letter of Warning:

To be personally delivered to teacher

Date

(teacher’s name and address)

Situation needing improvement:

“Failure to arrive at school 30 minutes prior to the start of school”.

Previous discussions and instructions with the teacher, if any, on this situation:

“On August 16, 2005, during teacher prep meetings, all teachers were informed of the rule requiring them to be at school 30 minutes prior to the start of school. On August 26, you arrived at school at 7:15. I spoke with you, and explained the rule. On August 30, you arrived at work at 7:45, 15 minutes after the start of classes. I questioned you regarding this lateness that same day, and gave you an additional opportunity to respond when we met with your DCTA representative on September 1, 2005.

Facts of the situation and investigatory conclusions

As a result of my investigation, which included a direct discussion with you on August 30, I have concluded that on August 30, you arrived at school at 7:45 a.m. This was 15 minutes after the start of school. When I asked why you were late, you said you overslept.

Actions to be taken

“You are required to be at work no later than 30 minutes prior to the start of school.”

Reasonable period of time, if appropriate, to correct behavior:

Immediate compliance is required.

Describe the consequences for failure to correct the behavior:

“Failure to comply with this letter of warning may result in further disciplinary action, up to and including corrective action and/or dismissal recommendation.

Statement advising the teacher of the right to attach a written explanation:

A copy of this letter may be placed in your personnel file. If the letter is to be placed in your file, you have the right to review and sign the filed copy (acknowledging receipt) and attach a written explanation of your behavior. You must provide any written explanation within 20 work days from the date of this letter. If you refuse or fail to sign the copy of the letter, the letter will still be placed in the teacher’s personnel file with an indication that the teacher refused or failed to sign the letter.

With this letter, I am giving you an opportunity to correct your behavior and perform your teaching duties and responsibilities in an acceptable manner.

Cordially,

District representative (supervising principal/area or asst. superintendent/HR rep)

_____ filed in personnel file _____ not filed in personnel file

I acknowledge receipt of a copy of this letter. I have had an opportunity to review this letter, if applicable, receive a copy and provide a written explanation

Teacher
