



WINDHAM SCHOOL
DISTRICT

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Replace in part
WBP-07.05
July 29, 2005

WINDHAM BOARD POLICY

SUBJECT: PROFESSIONAL STANDARDS OF CONDUCT AND
DISCIPLINARY GUIDELINES

AUTHORITY: Texas Education Code § 19.009

APPLICABILITY: Windham School District (WSD)

EMPLOYMENT AT WILL CLAUSE:

These guidelines **do not** constitute an employment contract or a guarantee of continued employment. The WSD reserves the right to change the provisions of these guidelines at any time.

Nothing in these guidelines and procedures limits the superintendent's authority to establish or revise human resources policy. These guidelines and procedures are adopted to guide the internal operations of the WSD and **do not** create any legally enforceable interest or limit the superintendent's authority to terminate an employee at will.

POLICY:

Employees are representatives of the WSD and are expected to adhere to the highest standards of professional conduct on or off duty, including but not limited to adherence to the rules of conduct described in this policy. Employees shall comply with standard practices and ethical conduct toward students, colleagues, school officials, and members of the TDCJ community. Employees who allegedly commit a rule violation shall be subject to disciplinary action in accordance with the procedures within this policy.

Due to the unique environment of correctional education, it is the policy of the WSD to terminate employment for misconduct that jeopardizes the security of facilities or safety of personnel. Termination may also occur in other instances of misconduct, depending on the facts and circumstances.

The WSD promotes equal employment opportunity through an employee disciplinary system designed to impose corrective and disciplinary action without regard to race, color, religion, gender, national origin, age, disability, genetic information, or uniformed services status. The WSD has zero tolerance for all forms of employment discrimination in the disciplinary process, and harassment or retaliation is prohibited. No employee or other individual shall be subjected to harassment or retaliation for acting as a representative or witness, or for reporting employment discrimination in the workplace.

DEFINITIONS:

“Discourteous Conduct of a Sexual Nature” is conduct (words or actions) of a sexual nature toward another WSD employee or other individual that a reasonable person would find offensive, or that is unwelcome to the person to whom such conduct is directed and that person has communicated (by words or actions) to the other person that the conduct is unwelcome.

“Discrimination” is unequal treatment of persons based on gender, including sexual harassment, race, color, religion, national origin, age, disability, genetic information, or uniformed services status. Discrimination by employers falls into four general areas: (1) hiring and firing (i.e., failing or refusing to hire or discharging); (2) employment conditions (i.e., compensation, terms, conditions, or privileges); (3) segregation and classification (i.e., limiting, segregating, or classifying employees in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the individual’s status as an employee); and (4) training programs.

“Harassment” is the act of systematic or continued unwanted and annoying actions, including threats and demands, that create a hostile work environment. A hostile work environment is one in which offending behavior is sufficiently severe or pervasive as to alter the victim’s employment conditions and create an abusive working environment. All the circumstances shall be judged, including the frequency of the conduct, its severity, whether it is physically threatening or humiliating, or a mere offensive utterance, and whether it unreasonably interferes with an employee’s work performance. Isolated instances, unless extremely serious, shall not amount to discriminatory changes in the terms and conditions of employment.

“Noncontract Employees” are employees that serve at-will. They are not employed by contract for any specified length of time and have no property right to employment.

“Preponderance of Evidence” is the greater weight of all credible evidence to make it more likely than not that the facts the claimant seeks to prove are true.

“Retaliation” means dismissal, demotion, refusal to hire or promote, or other harassment of an applicant or employee for filing a charge of discrimination, participating in a discrimination proceeding, or otherwise opposing discrimination.

“Support Documentation” includes all written material submitted to and used by a supervisor in arriving at the findings in an employee disciplinary case.

“Tardiness” is less than 15 minutes of regularly scheduled work time missed.

“Unapproved Absenteeism” is an absence from work for which employee leave policies were not followed, including days that an employee does not follow notification procedures. Unapproved absences include days that an employee was absent with no remaining leave balance, even when a health care provider’s statement is provided.

“Violation” is an infraction of any rules identified in this policy. A violation may consist of any one of, or a combination of, the following:

1. Engaging in a specific prohibited behavior;
2. Attempting to engage in a specific prohibited behavior;
3. Conspiring to engage in a specific prohibited behavior;
4. Aiding others in conspiring, attempting, or engaging in a specific prohibited behavior; or
5. Failing to act where required by rule, order, policy, or procedure.

“Witness” is a person who has first-hand knowledge of facts pertinent to an alleged violation(s).

DISCUSSION:

I. Employee’s Responsibility to Know Rules and Regulations

It is the duty of every WSD employee to follow the policies and procedures of the WSD. It is an employee’s responsibility to know the rules set forth in this policy and to seek clarification, if necessary. Not being aware of the existence of a rule is not a defense for violations.

An employee shall be knowledgeable of all current WSD policies and related TDCJ policies and procedures. In the event that no written or verbal instructions have been issued regarding a particular subject pertaining to an employee’s responsibilities or duties, the employee is expected to use sound judgment in arriving at a prudent course of action.

II. Failure to Comply

Employees who fail to comply with the standards of conduct established by this policy shall be subject to corrective or disciplinary action, up to and including termination, in accordance with the procedures of this policy. It is the policy of the WSD that appropriate disciplinary steps be followed as a response to employee misconduct. Such steps should be a reflection of the severity of the misconduct and shall be determined by the employee’s supervisor, after consulting the appropriate regional administrator or division director.

PROCEDURES:

I. Fact-Finding Investigation

- A. Once a supervisor suspects or becomes aware that an employee may have failed to comply with the standards of conduct established by this policy, the supervisor shall conduct a thorough fact-finding investigation of the alleged violation.
 - 1. The supervisor shall interview the employee to provide an opportunity to have the employee's case heard prior to a decision being rendered regarding a violation and disciplinary action.
 - 2. A fact-finding investigation may also include gathering evidence and interviewing witnesses.
- B. With all support documentation considered, a preponderance of evidence shall be used in determining if an employee has failed to comply with the standards of conduct established by this policy.
- C. Documentation from the fact-finding investigation shall include the standard of conduct or policy violation, the number of violations, if multiple, and notes taken during the investigation.
- D. In the event that an employee fails to comply with the standards of conduct established in this policy, the employee's supervisor shall weigh all the facts and circumstances to respond to such violations in an appropriate manner, using or recommending corrective or disciplinary action. The employee's history of any prior violations shall also be considered. Corrective or disciplinary action should be tailored to improve employee conduct. When possible, discipline shall be issued within 10 days of the supervisor's awareness of the alleged violation.

II. Corrective Action

When appropriate, supervisors are expected to take corrective action, other than disciplinary action to correct an employee's unacceptable behavior before pursuing the guidelines outlined in this policy.

- A. Supervisors shall ensure that corrective actions are objective, job-related, and applied in a consistent manner.
- B. Corrective action may be any one or a combination, of the following steps focusing on the expected improvement or specific correction:
 - 1. Counseling and related documentation such as on a counseling log;
 - 2. A letter of instruction; or

3. Retraining on a specific topic.
- C. All original documentation related to corrective action shall remain at the campus in the employee personnel file unless used as supporting documentation for disciplinary action.

III. Disciplinary Action

If corrective action is not the appropriate response or it does not result in the necessary change in conduct, the supervisor shall proceed with disciplinary action in accordance with the procedures in this policy.

A. Five Disciplinary Steps

1. Step One - Oral Warning

An oral warning to an employee may be used for minor events of misconduct or rule violations. A written notation shall be made in the employee's personnel file denoting the employee was given an oral warning regarding the incident. The notation shall not be a part of the employee's official personnel file maintained by the WSD Division of Human Resources.

2. Step Two - Written Warning

A written warning shall be used for moderate or repeated minor events of misconduct. A written warning shall be signed by the employee and submitted to the WSD Division of Human Resources. All related documentation shall become a part of the employee's official personnel file.

3. Step Three - Letter of Reprimand

A reprimand may be issued to an employee for serious or persistent misconduct. The employee shall be required to attend a conference with a supervisor to discuss the reprimand. A reprimand shall be signed by the employee and submitted to the WSD Division of Human Resources. All related documentation shall become a part of the employee's official personnel file.

4. Step Four - Suspension without Pay

An employee may be suspended from work without pay for serious or persistent misconduct which threatens the health or safety of the employee or others, or causes a substantial disruption within the WSD. An employee may also be suspended without pay for serious or persistent misconduct that has continued after application of less severe disciplinary steps.

- a. Contract Employee
 - i. The superintendent may, at the recommendation of a contract employee's supervisor or upon independent judgment, suspend a contract employee without pay for up to six weeks.
 - ii. Before a contracted employee can be suspended without pay, the contract employee shall be given an opportunity to have an informal hearing before the superintendent or designee. As described in WBP-07.05, "Term Contract Employment," the contract employee may present testimony and other evidence to contest the proposed suspension.

- b. Noncontract Employee

Noncontract employees may be suspended without pay for up to 40 working days upon the recommendation of the employee's supervisor, with the concurrence of the appropriate regional administrator or division director, and human resources director. A noncontract employee may use the grievance process to contest the suspension, pursuant to WBP-07.26, "Employee Grievance Procedures."

5. Step 5 - Termination of Employment

- a. A contract employee's employment may be terminated in accordance with the procedures contained in WBP-07.05.
- b. A noncontract employee's employment may be terminated upon the recommendation of the employee's supervisor, with the concurrence of the appropriate regional administrator or division director, and the human resources director. A noncontract employee may use the grievance process to contest the termination, pursuant to WBP-07.26.

- B. Response to Misconduct

The appropriate disciplinary step shall be determined by the employee's supervisor, after consulting the regional administrator or division director.

1. The WSD reserves the right to use any of the above-mentioned disciplinary steps when appropriate. An employee is not entitled to corrective action or a lesser disciplinary step before a more severe step is used.
2. An employee's supervisor may use steps One through Three when deemed appropriate.

3. Only the superintendent is authorized to use steps Four and Five for contract employees.

C. Violations of General Rules of Conduct

Disciplinary action, nonrenewal of nonprobationary employees, or employee termination may result from any of the following:

1. Failure to fulfill duties or responsibilities of the position.
2. Excessive unapproved absenteeism or tardiness. Unapproved absenteeism or tardiness of more than 10 percent of the days employed each school year is grounds for dismissal.
3. Incompetence or inefficiency in the performance of required or assigned duties.
4. Insubordination.
5. Failure to comply with the directives and policies of the TDCJ and the WSD.
6. Failure to comply with oral or written directives.
7. Failure to provide information required by WBP-07.11, "Employee Leave."
8. Use of profane or abusive language.
9. Failure to remain at a unit or department of assignment.
10. Failure to meet standards of professional conduct in accordance with 19 Texas Administrative Code § 247.2.
11. Failure to maintain an effective working relationship or good rapport with colleagues.
12. Falsification of records or other documents related to WSD activities.
13. Failure to provide or misrepresentation of facts to a supervisor or other official in the conduct of WSD business.
14. Refusal to cooperate with a supervisor or other official in the conduct of WSD business.
15. Damage, destruction, misappropriation, or unauthorized use of WSD or TDCJ equipment or property.
16. Falsification of the State of Texas Application for Employment and support

documents.

17. Deficiencies pointed out as part of performance evaluations or any other communications.
18. Inability to maintain discipline in the classroom.
19. Failure to comply with WSD professional requirements regarding advanced coursework or professional improvement and growth.
20. A significant lack of student progress.
21. Failure to fulfill requirements for certification in accordance with WBP-07.01, "Employment of Personnel."
22. Failure to fulfill permit requirements for certification in accordance with WBP-07.01.
23. Failure to become industry certified as required by WBP-07.01.
24. Disability, not otherwise protected by law that impairs performance of duties as required by contract or job description.
25. Use of slurs or hostile epithets.
26. Discrimination or harassment against persons in a protected class.
27. Discourteous conduct of a sexual nature.
28. Retaliation.
29. Failure to report acts of discrimination or harassment against persons of a protected class, discourteous conduct of a sexual nature, or retaliation.
30. Drunkenness or excessive use of alcoholic beverages or illegal use of controlled substances as defined by the *Texas Controlled Substances Act*.
31. The possession, use, or being under the influence of alcohol or controlled substances as defined by the *Texas Controlled Substances Act*, while on state property, in a school owned vehicle, or at a district authorized function.
32. Conviction of a felony or conviction of any crime involving moral turpitude.
33. Any criminal conviction if such conviction impairs or diminishes the employee's effectiveness in the WSD.

34. Any activity (whether or not work-connected), not otherwise protected by law, that impairs or diminishes the employee's effectiveness in the WSD.
35. Failure to abide by conditions of employment specified in individual employment contracts.

IV. Appeals

Disciplinary action may be grieved pursuant to WBP-07.26 once discipline has been issued. Steps One through Four of the disciplinary process can be grieved by all WSD employees. Step Five can only be grieved by noncontract employees. Appeals on the termination of a contracted employee shall follow procedures established in WBP-07.05.

* Signature on file

Oliver J. Bell, Chairman

Windham School District Board of Trustees