

Received Event (Event Succeeded)

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Date: 3/24/2004  
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Sender: 3059951412

Time: 3:26 PM  
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BOARD ATTORNEY'S OFFICE -> DOAH

002/026

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

THE SCHOOL BOARD OF MIAMI-DADE  
COUNTY, FLORIDA,

Petitioner,

v.

DOAH CASE NO.: 03-3515

JIMMIE ALVIN,

JVL-CWS

Respondent.

**PETITIONER'S MOTION TO REOPEN THE CASE AND TO  
SUPPLEMENT THE RECORD AND FOR OFFICIAL RECOGNITION OR,  
IN THE ALTERNATIVE, MOTION FOR RECONSIDERATION OR REHEARING**

Petitioner, The School Board of Miami-Dade County, Florida ("School Board"), by and through the undersigned counsel hereby moves for the entry of an order allowing the Petitioner to reopen the case and to supplement the record and for official recognition of the Collective Bargaining Agreement, or in the alternative, for entry of an order granting its motion for reconsideration or rehearing. The grounds in support of this motion are set forth below:

1. On December 15, 2003, a final hearing was convened in the above-referenced case, wherein the School Board sought to have the hearing officer sustain its decision to suspend Jimmie Alvin ("Alvin") and initiate dismissal proceedings against him on the grounds set forth in the Notice of Specific Charges, including but not limited to:

(a) Count I - Excessive Absenteeism and Tardiness - Violation of School Board Rule

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Subject: BOARD ATTORNEY'S OFFICE -> DOAH

003/026

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The School Board of Miami-Dade County, Florida, v.  
Jimmie Alvin, DOAH Case No.: 03-3515

6GX13-4A 1.21;

(b) Count II - Possession of Cocaine/Marijuana with Intent to Distribute - Violation of School Board Rule 6Gx13-4A 1.21;

(c) Count III - Misconduct in Office and Pleading Guilty to Crime Involving Moral Turpitude - Violation of Rule 6B-4.009 (3) & (6).

(d) Count IV - Unseemly Conduct in the Workplace - Violation of School Board Rule 6 GX130-4A 1.21; and

(e) Count V - Violation of Employee Student Relationships - School Board Rule 6Gx13-4.109.

2. In presenting its case, the School Board set forth in its Notice of Specific Charges that Alvin was subject to the disciplinary procedures set forth in the Collective Bargaining Agreement, Article XXI, Section 3, Procedures for Continued Employment for Educational Support Personnel.

3. While it is true that the School Board did not introduce into evidence the pertinent portions of the Collective Bargaining Agreement at the hearing, Alvin's testimony supports a finding that he was guilty of the offense possession of cocaine/marijuana with the intent to distribute, (Count III, Misconduct in Office and Pleading Guilty to Crime Involving Moral Turpitude - Violation of Rule 6B-4.009 (3) & (6)), which are appropriate grounds to dismiss an educational support employee pursuant to Article XVIII and XXI of the Collective Bargaining Agreement. Alvin also admitted that he was aware of the School Board's rules and policies regarding illegal drug use and that he did use

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Subject: BOARD ATTORNEY'S OFFICE -> DOAH

004/026

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The School Board of Miami-Dade County, Florida, v.  
Jimmie Alvin, DOAH Case No.: 03-3515

drugs and was arrested for possession of cocaine/marijuana with the intent to distribute.<sup>1</sup>

4. The School Board respectfully requests that this tribunal take official recognition of the pertinent portions of the Collective Bargaining Agreement, attached hereto as Petitioner's Exhibit "A," and supplement the record in the cause accordingly.

5. It was only upon receipt of the Recommended Order that the School Board realized that the Administrative Law Judge had not exercised his discretion to take official recognition of the United Teachers of Dade Collective Bargaining Agreement. Moreover, Alvin did not assert that the School Board failed to follow the procedures set forth in the Collective Bargaining Agreement or that he was unfamiliar with or lacked knowledge of the pertinent School Board rules and policies and the Collective Bargaining Agreement provisions, pursuant to which the School Board sought to terminate his employment.<sup>2</sup>

6. Thus, in light of the serious nature of Alvin's admitted criminal conviction, his further admissions in court that his excessive absences were due to his drug use, and that – during the relevant time period – as indicated in the Notice of Specific Charges he used drugs everyday, justice so requires that the School Board be allowed to reopen the case and to supplement the record with the pertinent portions of the Collective Bargaining Agreement, or alternatively, be allowed to have the case reheard for the limited issue of having any of the School Board's witnesses cross-examined by Alvin with respect to the provisions of the Collective Bargaining Agreement.

7. It would be highly prejudicial and a miscarriage of justice to prohibit the School

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<sup>1</sup> See Hearing Transcript, pages 7, 53, 74-75; and ALJ's Recommended Order at ¶ 6.

<sup>2</sup> See Recommended Order at fn. 5.

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Time: 3:26 PM  
Duration: 17 min 23 sec  
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Fax Number: 03/24/2004 15:28 FAX 3059951412

Subject: BOARD ATTORNEY'S OFFICE → DOAH

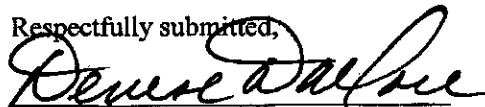
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The School Board of Miami-Dade County, Florida, v.  
Jimmie Alvin, DOAH Case No.: 03-3515

Board from supplementing the record to include the post-hearing submittal of the Collective Bargaining Agreement.<sup>3</sup>

Respectfully submitted,



DENISE WALLACE, ESQ.

Fla. Bar No.925901

Attorney for Petitioner, The School Board of  
Miami-Dade County, Florida

1450 N.E. Second Ave., Suite 400

Telephone: (305) 995-1304

Facsimile: (305) 995-1412

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Notice of Specific Charges was furnished by certified mail this 24<sup>th</sup> day of March, 2003, to Mr. Jimmie Alvin, 916 W. 42 Street, #8, Miami Beach, FL 33140.

I:\DW2003\JimmieAlvin\motion to supplement record.wpd

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<sup>3</sup> After all it is by virtue of the provisions of the Collective Bargaining Agreement that Alvin was even entitled to an administrative hearing.

Date: 3/24/2004  
Pages: 26  
Sender: 3059951412

Time: 3:26 PM  
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Fax Number: 03/24/2004 15:28 FAX 3059951412

Subject: BOARD ATTORNEY'S OFFICE → DOAH

006/026

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Blumberg No. 8128

PETITIONER'S  
EXHIBIT  
A

# CONTRACT

between the  
MIAMI-DADE COUNTY PUBLIC SCHOOLS  
and the  
UNITED TEACHERS OF DADE

Effective July 1, 1999 through June 30, 2002



Date: 3/24/2004  
Pages: 26  
Sender: 3059951412

Time: 3:26 PM  
Duration: 17 min 23 sec  
Company:

Fax Number: 03/24/2004 15:29 FAX 3059951412

Subject: BOARD ATTORNEY'S OFFICE -> DOAH

007/026

ARTICLE XVII (cont.)

C. As an exception to paragraphs 1. and 2., there is a guarantee of six weeks' summer employment for full-time Physical and Occupational Therapy Assistants.

D. For each day worked during summer school, school support employees shall be paid their annual salary rate received during the preceding regular school year, divided by 198.

Section 5. Summer Employment for Office Personnel

A. All currently-employed office employees are eligible to apply for summer employment.

B. In selecting secretarial/clerical staffs for the summer, employment shall be offered first to those employees meeting the following criteria:

- 1. employees who have submitted the appropriate application on or before the established deadline; and
- 2. employees currently employed in 10-month positions in the school system.

C. If an employee works in the summer program in a higher job classification than his/her regular 10-month position, such employee will be compensated for the summer assignment, at the current daily rate of pay, same step on the higher pay grade, but in no case less than the daily rate of the minimum scheduled pay for the higher classification.

D. Employees hired in the summer school program or beyond the 10-month contract period shall be paid for each day worked at the annual salary that they received during the regular school year immediately preceding the summer program. The daily rate shall be computed by dividing the annual salary by 208.

Section 6. Summer Extracurricular

The Board agrees that those employees who are hired at a school site for the summer may care of their children at the location where he or she is assigned to work, if their children meet enrollment criteria.

Section 7. Summer Employment Review Committee

The parties agree to establish an ad hoc committee to monitor and resolve any problems which may arise as a result of these provisions and to recommend any adjustments in this regard for consideration during subsequent MDCPS/USD collective bargaining.

ARTICLE XVII - PARAPROFESSIONAL/ASSOCIATE EDUCATOR/SCHOOL SUPPORT PERSONNEL

Section 1. Paraprofessionals/Associate Educators

A. Qualifications

1. Paraprofessional I requires a high school diploma or equivalent certification, plus any specialized education, training, or experience specified in the job description for the applicable category.

2. Paraprofessional II requires a high school diploma or equivalent certification and at least 88 semester hours or the equivalent from an accredited college, plus any specialized education, training, or experience specified in the job description for the applicable category.

3. Associate educator I requires a high school diploma or equivalent certification and at least 60 semester hours or the equivalent from an accredited college, plus specialized educational/training as specified in the job description. Additionally, associate educator requires a current Florida teacher or substitute teacher certificate and may be assigned only to pre-kindergarten programs.

4. Paraprofessional III and Associate Educator II positions require a high school diploma or equivalent certification and at least 80 college semester hours or the equivalent from an accredited college including at least 30 hours of coursework in education, plus any specialized education, training or experience as specified in the job description. Coursework must be part of a formal program leading toward a Bachelor's degree in education.

8. Categories - Paraprofessionals I, II and III shall be classified in one of the following categories:

- 1. Behavioral - includes assignments to work with students in Severely Emotionally Disturbed, Emotionally Handicapped, and Audistic programs;
- 2. Therapeutic - includes assignments to work with students in any of the following categories: Profoundly Mentally Handicapped, Trainable Mentally Handicapped, Physically Impaired, Hearing Impaired, Speech Impaired, Visually Impaired, Deaf/Blind, Educable Mentally Handicapped, and Varying Exceptionalities;
- 3. Bilingual - includes assignments to work in the Bilingual, BCC, Spanish S, and Spanish SL programs;
- 4. Vocational - includes assignments to work in the Vocational Education and Title XX Child Care programs;
- 5. Social Services - includes assignments to work in the Migrant Project, but does not include Migrant Tutors;

Date: 3/24/2004  
Pages: 26  
Sender: 3059951412

Time: 3:26 PM  
Duration: 17 min 23 sec  
Company:

Fax Number: 03/24/2004 15:30 FAX 3059951412

Subject: BOARD ATTORNEY'S OFFICE -> DOAH

008/028

ARTICLE XVII (cont.)

- 6. Pre-K - includes assignments to work in pre-kindergarten programs;
  - 7. Montessori - includes assignments to work in Montessori programs;
  - 8. General - includes all paraprofessional assignments not listed above. Currently these include:
    - a. General Classroom Paraprofessionals in regular and alternative schools and in COPE Centers;
    - b. Systems Aides;
    - c. Migrant Tutors;
    - d. Telecommunications Monitors;
    - e. Programs for the Gifted;
    - f. Programs for the Specific Learning Disabled; and
    - g. Title I Programs.
- Paraprofessionals in any category may be assigned exclusively by the District Office of Exceptional Student Education to students as a One-To-One as indicated in the student IEP or Section 504 Accommodation Plan. One-To-One Paraprofessional's seniority is determined by the category in which they are assigned.
- 7. Priority consideration shall be given to qualified employees within the general category who apply for open positions in categories 1 through 7.
  - 8. Protection of Laws  
A paraprofessional or associate educator, while rendering services under the supervision of a certificated teacher, shall be accorded the same protection of laws as accorded the certificated teacher.
  - 9. Guidelines  
Before assigning a paraprofessional or associate educator to a professional staff member (teacher), the principal shall inform the professional staff member of the content of Florida State Board Rule 6A-1.070 and shall ensure that duties assigned to paraprofessionals or associate educators conform to these rules.
  - 1.070(1)(b) Supervised practice. Each time a teacher aide or volunteer is assigned to assist a staff member when he or she has not assisted before and each time he or she is

ARTICLE XVII (cont.)

- 1.070(1)(c) assigned a type of duty which he or she has not satisfactorily performed in earlier assignments, he or she shall complete a period of supervised practice. During the period of supervised practice, the professional staff member whom he or she is assisting shall be available continuously to provide immediate assistance to the aide or volunteer at any time he or she is working directly with pupils. The length of the supervised practice may vary depending upon the capability and prior experience of the teacher aide or volunteer. The personnel record for each teacher aide shall show the length, nature, and inclusive dates of each supervised practice assignment. The personnel record shall also include the signature of the professional staff member supervising the practice certifying its satisfactory completion.
- 1.070(1)(d) Knowledge and understanding expected of instructional staff. The School Board shall adopt procedures to assure that each instructional staff member who is assisted by a teacher aide or volunteer possesses a clear understanding of all rules and policies which the teacher aide or volunteer is expected to understand.
- 1.070(2) Restrictions limiting the duties which teacher aides or volunteers may perform. Teacher aides or volunteers shall not perform any of the following:
  - (a) establish instructional objectives;
  - (b) make decisions regarding the necessity of certain activities or procedures to the attainment of instructional objectives;
  - (c) make decisions regarding the appropriateness of certain teaching materials for accomplishing instructional objectives; and
  - (d) make judgments regarding the attainment of instructional objectives, unless those judgments are based upon clear and objective criteria (such as specific achievement standards on a true-false test).
- 1.070(3) Responsibility for the appropriate use of teacher aides or volunteers. It is the responsibility of the head of a school and of each instructional staff member in that school who is assisted by a teacher aide or volunteer to see that those duties assigned to each teacher aide or volunteer are consistent with Florida Statutes, Rules of the State Board, and policies of the District School Board.
- E. Duties  
1. The functions of teachers and paraprofessionals or associate educators are clearly not identical. Paraprofessionals or associate educators shall not be used in place of teachers or substitute teachers. There are a variety of teacher duties and tasks that shall not be delegated to

Date: 3/24/2004  
Pages: 26  
Sender: 3059951412

Time: 3:26 PM  
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Company:

Fax Number: 03/24/2004 15:31 FAX 3059951412

Subject: BOARD ATTORNEY'S OFFICE -> DOAH

009/026

ARTICLE XVII (cont.)

considered as part of the regular school year and shall be used in computing new paraprofessionals or associate educators' daily rates of pay for the year.

G. Probationary Period

1. The probationary period for all newly-hired paraprofessionals or associate educators shall be 90 days. Unsatisfactory performance during such a probationary period is sufficient grounds for immediate separation from employment.

2. The probationary period for paraprofessionals or associate educators changing job categories shall be 60 days. Unsatisfactory performance during such probationary period is sufficient grounds for return to the prior job category, as soon as such a position becomes available.

3. During a probationary period, a paraprofessional or associate educator shall be evaluated by the supervising teacher, as directed in Florida State Board Rule 6A.1.070(1)(e).

H. Workday

1. The paraprofessional's or associate educator's workday shall be seven hours and five minutes at the elementary level and seven hours and 20 minutes at the secondary level.

2. The workday for full-time paraprofessionals shall include a duty-free lunch period of 30 minutes and two 10-minute daily breaks separate from and not attached to the duty-free lunch period. The first break shall be in the morning and the second break shall be in the afternoon. Part-time paraprofessionals who work five hours per day shall be allowed one 15-minute daily break.

I. Transfer

1. Paraprofessionals or associate educators shall be afforded the opportunity to transfer from one work location to another.

2. All job vacancies for full-time paraprofessionals or associate educators shall be advertised by the Office of Personnel Management and Services and posted at each MDCPS work location for a period of one week. Such job advertisements shall be posted on the Union bulletin board immediately upon receipt at each work location. No vacancy shall be filled until after the fifth workday following advertisement of the position.

3. Once a paraprofessional or associate educator has fulfilled the requirements of the transfer provisions and has been accepted at another work location, the maximum time he/she current supervisor may retain the paraprofessional in the position is 10 workdays, unless otherwise authorized, in writing, by the Deputy Superintendent for Personnel Management and Services or designee.

ARTICLE XVII (cont.)

4. The parties agree that it may be in the students' best interest for a One-To-One Paraprofessional to accompany a student who moves from one site to another. If transferring from one site to another creates a hardship for the One-To-One Paraprofessional, he/she may request an appeal of the transfer. Such requests shall be made, in writing, to the Office of Human Resources and shall be reviewed by a joint MDCPS/UTD committee which shall include the Co-Chair of the Exceptional Student Education Task Force and which shall make an expeditious decision regarding the appeal.

5. In the event that the One-To-One Paraprofessional does not follow the student from one site to another, the paraprofessional will be subject to the provisions in Article XVII, Section 1(d)(3).

J. Layoff

1. Layoff, as defined, is the separation of an employee for lack of work or funds, without fault or delinquency, on the employee's part.

2. He full-time paraprofessional or associate educator position shall be converted to a part-time position after the October Budget/Personnel Conference unit approved by the Deputy Superintendent for Personnel Management and Services.

3. In instances where the UTD building steward is a paraprofessional/associate educator, said steward shall be exempted from layoff except where an entire program is eliminated.

4. When it is necessary to identify a paraprofessional or associate educator for layoff, the least senior paraprofessional and associate educator in the affected job category at the work location shall be laid off. For this purpose, no differentiation shall be made between Paraprofessionals I and II, or between positions having categorical or discretionary allocations, or between positions having different funding sources.

5. In the event a student who has been assigned a One-To-One Paraprofessional leaves the school system or no longer requires the services, the paraprofessional will be subject to the provisions in Article XVII, Section 1(d)(3).

6. In the event the least senior paraprofessional in the affected category is a One-To-One Paraprofessional, an exception to the above may be made based upon the unique needs of affected students. Requests shall be made, in writing, by the principal and the One-To-One Paraprofessional, who is less senior, to the Office of Human Resources. These requests shall be reviewed by a joint MDCPS/UTD committee which shall include the Co-Chair of the Exceptional Student Education Task Force and which shall make an expeditious decision regarding the exception.

7. Security, for the purpose of layoff, is the total full-time services as an employee of MDCPS in any capacity. A year of service as a substitute teacher shall be counted only if he less than 90 days were worked as a substitute teacher during that regular school year.



Date: 3/24/2004  
Pages: 26  
Sender: 3059951412

Time: 3:26 PM  
Duration: 17 min 23 sec  
Company:

Fax Number: 03/24/2004 15:31 FAX 3059951412

Subject: BOARD ATTORNEY'S OFFICE -> DOAH

010/026

ARTICLE XVII (cont.)

7. Layoffs will be effected as follows:

a. The Office of Personnel Management and Services shall be notified, in writing, by the supervising administrator of the requirement for layoff and the reason, therefore, prior to any announcement relative to a possible layoff.

b. The Office of Personnel Management and Services shall verify the need for the layoff. In the event layoff is required, the Office of Personnel Management and Services shall determine the specific individual(s) to be laid off in accordance with paragraphs 3, and 4, and provide written notice to each paraprofessional or associate educator to be laid off. The notice shall contain information concerning the employee's residual benefits and recall rights. The paraprofessional or associate educator shall acknowledge receipt of the notification. The effective date of the layoff shall be no less than 10 workdays after receipt of the notification.

c. During the 10-workday notification period, efforts shall be made to place the affected paraprofessional or associate educator in a position for which the employee is qualified.

K. Recall

1. Recall, as defined, is the calling back for return of a previously laid-off employee.

2. No new personnel will be employed as paraprofessionals or associate educators until all recall pools of paraprofessionals and associate educators, available, qualified, and willing to fill the position, have been exhausted.

3. Seniority, for the purpose of recall, is defined as the total full-time service as an employee of MDCPS in any position. Service as a substitute teacher shall be counted only when 99 days are worked during the regular school year.

4. Three recall pools shall be established for each category. All paraprofessionals or associate educators laid off at a work location will be placed in order of county-wide seniority in the work location recall pool, in the region-wide recall pool, and in the county-wide recall pool for that category. Laid-off paraprofessionals and associate educators shall remain in the recall pools for two years, or until recalled, whichever occurs first. Associate educators will be eligible for recall and be placed in the recall pool for associate educators and paraprofessionals in the paraprofessional category.

5. Recalls will be effected as follows:

a. As a full-time vacancy occurs at a work location, the Office of Personnel Management and Services shall recall and assign the most senior paraprofessional or associate

ARTICLE XVII (cont.)

educator of the appropriate category from the work location recall pool.

b. When the work location recall pool has been exhausted and a full-time vacancy remains at the work location, the Office of Personnel Management and Services shall recall and assign the most senior paraprofessional or associate educator of the appropriate category from the area-wide recall pool.

c. When the region-wide recall pool has been exhausted and a full-time vacancy remains at the work location, the Office of Personnel Management and Services shall recall the most senior paraprofessional or associate educator of the appropriate category from the county-wide recall pool.

d. When the county-wide recall pool has been exhausted and a full-time vacancy remains at the work location, the Office of Personnel Management and Services shall recall and assign the most senior paraprofessional or associate educator qualified for the specific vacancy from the appropriate of all other categories.

6. Notification of recall shall be sent by the Office of Personnel Management and Services, by certified mail, to the laid-off paraprofessional's or associate educator's last known address of record.

7. A laid-off paraprofessional or associate educator, who fails to respond to a recall notification within five workdays from receipt of notice, or who refuses an offer of a paraprofessional or associate educator position, shall be placed at the bottom of the recall pool of his/her category.

8. A laid-off paraprofessional or associate educator, who accepts employment in another full-time position, shall be removed from the recall list. Employment in a part-time or temporary position shall not affect his/her paraprofessional recall rights.

L. Salary

1. Salaries for paraprofessionals or associate educators shall be adjusted on the UI Salary Schedule in such a manner that all employees receive the amount indicated for their classification and years of experience.

2. The effective date of the salary schedule shall be the first day of the 10-month work year.

3. Eligible paraprofessionals or associate educators shall advance one step on the first day of the 10-month year on the UI Salary Schedule, but wages will be frozen at the previous year's rate until an agreement on wages has been reached and a monetary value for each step on the salary schedule has been agreed to by the parties.

Date: 3/24/2004  
Pages: 26  
Sender: 3059951412  
Fax Number: 03/24/2004 15:32 FAX 3059951412

Time: 3:26 PM  
Duration: 17 min 23 sec  
Company:  
Subject:

BOARD ATTORNEY'S OFFICE -> DOAH

011/026

ARTICLE XVIII (cont.)

- 4. A year of experience for full-time employees for salary purposes is defined as 89 or more days of service with MDPS as a paraprofessional/ school support personnel or associate educator in any school year; for part-time employees, it is defined as 687 hours or more of employment as a part-time paraprofessional/school support personnel/associate educator.
- 5. A paraprofessional or associate educator who is listed as a full-time teacher (including permanent substitute teacher) shall be placed on the teacher salary schedule at the first step which provides a salary bonus or on the step that reflects half their years of service with the District as a Paraprofessional/Associate Educator (e.g., eight years of service equals Step 4 on the salary schedule) up to Step 10. Employees as described herein shall be placed in accordance with the above on whichever step is higher.
- 6. A Paraprofessional I who becomes a Paraprofessional II or a Paraprofessional II who becomes a III shall be placed on the same step on the Paraprofessional salary schedule as the step held in the prior Paraprofessional assignment. When a paraprofessional/associate educator I is promoted to an associate educator /associate educator II, he/she will be placed on that step of the new grade which provides at least the equivalent of a one salary step increase.
- 7. The daily rate for paraprofessionals or associate educators for the regular school year shall be calculated by dividing the annual salary by the same bi-year time factor, as is applicable for other 10-month employees in the bargaining unit.
- M. Compensatory Benefits
  - 1. Retirement and Social Security - Unless specifically exempt under the Rules and Regulations of the Florida Retirement System, all full-time, part-time, and temporary personnel employed by the Board must participate in Social Security and the Florida Retirement System.
  - 2. Compensatory benefits for paraprofessionals or associate educators are stipulated in Appendix D.
- N. Tuition Reimbursement - Paraprofessionals or Associate Educators
  - 1. Tuition reimbursement is available to paraprofessionals or associate educators who take college credit courses when such courses are part of a formal program leading toward a Bachelor's degree in education or when such courses strengthen professional skills and improve effectiveness in performance of paraprofessional duties. Computer Laboratory Specialists, because the position was previously classified as Paraprofessional, are eligible for tuition reimbursement, effective upon ratification of the contract in 1985.
  - 2. No advance approval is needed for a course which is required or is accepted as an elective in a formal program of study leading to a Bachelor's degree in education. Advance approval by the

ARTICLE XVII (cont.)

- 3. Paraprofessionals or associate educators shall be eligible to receive reimbursement for tuition for a maximum nine undergraduate credits earned per fiscal year. Reimbursement shall not exceed \$90 per semester hour or the equivalent.
- 4. To obtain tuition reimbursement, the employee shall submit an application to the Division of Wage and Salary Administration, with the following attached:
  - a. the official transcript (with raised seal) indicating successful completion of the course(s) and the credits earned.
  - b. verification from the college/university of the tuition paid (Form FT-1).
  - c. the principal's advance written approval when required under paragraph 2.
- 5. Requests for tuition reimbursement must be submitted no later than two years after the end of the term/semester during which the course was completed. An employee who believes that special circumstances beyond his/her control prevented compliance with this timeframe may appeal in writing, to the Deputy Superintendent for Personnel Management and Services, who shall review the appeal and render a decision. A copy of the appeal and decision shall be furnished to the employee.
- D. Internal Certification
  - 1. MDPS shall develop, maintain, and make available inventories training components appropriate to the duties of each paraprofessional and associate educator category.
  - 2. Internal certification of a paraprofessional or associate educator shall result from satisfactory completion of a total of 200 inventory hours consisting of required and elective components applicable to the paraprofessional's or associate educator's category (the basic program and additional elective components (the supplementary program). Upon completion of the basic program, a maximum of 30 Master Plan hours or three credits from an accredited college or university (considered equivalent to 60 inventory hours), or a combination thereof, may be included in the supplementary program, provided the hours/credits were earned between July 1, 1980 and June 30, 1985 by an employee who was a MDPS paraprofessional/associate

Date: 3/24/2004  
 Pages: 26  
 Sender: 3059951412

Time: 3:26 PM  
 Duration: 17 min 23 sec  
 Company:

Fax Number: 03/24/2004 15:33 FAX 3059951412

BOARD ATTORNEY'S OFFICE → DOAH

012/026

ARTICLE XVII (cont.)

educator at the time.

3. Official records of inservice training components completed and participation in the internal certification program shall be maintained by the Office of Professional Development and Career Advancement.

4. Paraprofessionals and associate educators who participate in the internal certification program shall be compensated in accordance with the schedule below as they attain the indicated levels of creditable inservice hours. No hours earned for elective components shall be creditable for the stipend until all required components for the appropriate paraprofessional or associate educator category have been completed.

Stipend Level	Creditable Inservice Hours	Annual Stipend Rate
1	24 - 59 hours	\$150
2	60 - 119 hours	\$300
3	120 - 149 hours	\$450
4	150 - 169 hours	\$550
5	170 - 189 hours	\$700
6	200 or more hours	\$800

5. A paraprofessional or associate educator who receives an internal certification stipend based on inservice training appropriate to the assigned category and who is reassigned to another category shall continue to receive that stipend for one year or until qualifying for the same or higher level stipend appropriate to the new category, whichever occurs first.

6. Paraprofessionals who complete the eight-week Montessori Training Program offered by MDOCS shall be credited with 60 Master Plan Points in the elective category toward internal certification. Paraprofessionals who attend district-approved Montessori Training at a time other than the regular workday shall be compensated at a rate equal to \$50 per day.

7. Any paraprofessional or associate educator who successfully completes physical instruction training shall be awarded creditable inservice hours to be used towards completion of internal certification requirements.

8. Any paraprofessional/associate educator who is reassigned or promoted from a position in the paraprofessional/associate educator job list into a position in the School Support Personnel category shall be eligible to complete the internal certification program initiated as a paraprofessional/associate educator and shall be entitled to the stipend commensurate with the

ARTICLE XVII (cont.)

creditable inservice hours, as provided in this Section.

9. Any paraprofessional/associate educator who, at the time of reassignment or promotion to the School Support Personnel category, was taking college credit courses leading to a Bachelor's degree in Education, shall continue to be eligible to receive tuition reimbursement for a maximum of nine credit hours earned in that fiscal year.

P. Consideration for Teaching Positions

1. A paraprofessional or associate educator holding a State of Florida teaching certificate, but who is not currently teaching, may apply for a teaching position through the Department of Instructional Staffing. If qualified to teach, the paraprofessional or associate educator shall be given special consideration for filling teacher vacancies in the employee's field of certification before consideration is given to new employees. Paraprofessionals and associate educators shall be considered on the basis of service with MDOCS, quality of that service, and qualifications for the position being sought. The Office of Personnel Management and Services shall maintain a list of all paraprofessionals and associate educators meeting the Board prescribed standards for hiring of teachers. Such list shall be made available to administrators responsible for selection of teacher personnel and to the Union, upon request.

2. A Paraprofessional II, III or Associate Educator holding a State of Florida teaching certificate may be employed as a permanent substitute teacher. At the end of the permanent substitute assignment, such employee has recall rights to a paraprofessional or associate educator position.

D. The parties agree to establish a joint ad hoc committee charged with exploring the feasibility of providing an opportunity for paraprofessional/associate educators to complete an internship as part of a program leading to a Bachelor's Degree in Education with certification in a critical staff shortage area or other areas as agreed to by the parties while maintaining their active pay status. Such initiative should be designed as a cost neutral program. All recommendations and reports of the committee shall be submitted to the Superintendent and the UTD Executive Vice President.

Section 2. School Support Personnel

A. School support personnel shall be classified in one of the following:

- \* 1. College Assistance Program (CAP) Advisor - includes work in senior high schools assisting students and their parents by providing information on college entrance requirements, applications, and scholarships.

Date: 3/24/2004  
Pages: 26  
Sender: 3059951412

Time: 3:26 PM  
Duration: 17 min 23 sec  
Company:

Fax Number: 03/24/2004 15:34 FAX 3059951412

Subject: BOARD ATTORNEY'S OFFICE → DOAH

013/026

ARTICLE XVII (cont.)

- a. Full-time CAP Advisors shall be placed on the A0 (Bachelor's) Salary Schedule.
- b. CAP Advisors employed subsequent to September 15, 1994 shall be required to have a Bachelor's degree or higher.
- c. Part-time CAP Advisors with a Bachelor's degree or higher shall be placed on the A1 (Bachelor's) hourly pay schedule.
- d. Non-degree part-time CAP Advisors shall be paid the hourly rate of their assigned pay grade on the U1 Salary Schedule.
- \*2. Interpreter for Hearing Impaired -- includes work providing sign language interpretations for hearing impaired students.
- 3. School Resource Specialist -- includes work overseeing School Security Monitors who are providing school-site security and requires an Associate of Arts or Science Degree or the equivalent thereof.
- \*4. School Security Monitors -- includes work in providing school-site security.
- \*5. Community Involvement Specialist -- includes responsibility for: (a) senior high schools assisting counselors with substance abuse prevention programs; and/or, (b) support services targeted at parent involvement/ education activities.
- \*6. Instructional Management Systems Specialist -- includes work in assisting instructional personnel in operating and supporting computerized instructional management systems.
- \*7. Computer Laboratory Specialist -- includes work with students and teachers in using computer laboratory resources and equipment.
- 8. Occupational Therapy Assistant -- includes work in assisting a professional Occupational Therapist in providing occupational therapy services.
- 9. Physical Therapy Assistant -- includes work in assisting a professional Physical Therapist in providing physical therapy services.
- \*10. Athletic Trainers -- includes work in providing services regarding the prevention, emergency treatment, and rehabilitation of sport injuries to student athletes.

ARTICLE XVII (cont.)

- 11. Qualifications for each of the above-listed positions are by reference made a part of this Contract.
- \*School-site based support personnel under the supervision of the principal or the principal's designee.
- B. Duties
- 1. The duties of school support personnel are set forth in the respective job descriptions. Their duties are clearly not those of teachers. School support employees shall not be used in place of teachers or substitute teachers. School security monitors may be used to assist in controlling traffic on campus. In such instances, appropriate safety gear and training will be provided.
- 2. Job descriptions for school support personnel and changes thereto shall be developed by MDCPS and reviewed by the bargaining agent. They shall be distributed to each work location and made available to each affected employee in a timely manner.
- C. Hiring
- 1. No individual shall be hired or rehired for a vacant school support position until qualified school support personnel returning from leave have been placed and qualified applicants for transfer have been considered.
- 2. The normal hiring rate for new full-time, part-time, and temporary employees shall be the first step of the appropriate pay grade. Under special circumstances, and with the approval of the Deputy Superintendent for Personnel Management and Services, an employee may be hired or rehired at a salary step higher than the first step of the pay grade for the position being filled.
- 3. Nondegree school support employees who resigned in good standing or were laid off shall retain credit for their years of experience with the school system (i.e., salary steps and accumulated sick leave) and placed on the step for which they would have been eligible had they been on board-approved leave.
- 4. Full-time support personnel new to MDCPS shall participate in a comprehensive three-day orientation session which will immediately precede the first day of school for regular school support personnel. Such additional days shall be considered as part of the regular school year and shall be used in computing new school support personnel daily rates of pay for the year. The parties agree to develop jointly this program during the 1994-95 school year and to implement it beginning in 1995-96 and annually thereafter.

Date: 3/24/2004  
Pages: 26  
Sender: 3059951412

Time: 3:26 PM  
Duration: 17 min 23 sec  
Company:

Fax Number: 03/24/2004 15:34 FAX 3059951412

Subject: BOARD ATTORNEY'S OFFICE -> DOAH

014/026

ARTICLE XVII (cont.)

D. Probationary Period

1. The probationary period for all newly-hired school support personnel shall be 90 days. Unsatisfactory performance during such a probationary period is sufficient grounds for immediate separation from employment.

2. The probationary period for school support personnel changing to a position having a different job classification shall be 90 days. Unsatisfactory performance during such probationary period is sufficient grounds for return to the prior job classification as soon as a position becomes available.

E. Workday

1. The school support employee's workday shall be seven hours and five minutes at the elementary level and seven hours and 20 minutes at the secondary level, except for School Security Monitors, whose workday shall be eight hours.

2. The workday shall include a duty-free lunch period of at least 30 minutes and two 10-minute duty breaks separate from and not attached to the duty-free lunch period. The first break shall be in the morning and the second break shall be in the afternoon. Part-time school support personnel who work five hours per day shall be allowed one 15-minute daily break.

F. Transfer

1. School support employees shall be afforded the opportunity to transfer from one work location to another.

2. All full-time job vacancies shall be advertised by the Office of Personnel Management and Services and posted at each MDCPS work location for a period of one week. Such job advertisements shall be posted on the Union bulletin board immediately upon receipt at each work location. No vacancy shall be filled until after the fifth workday following advertisement of the position.

3. Once a school support employee has fulfilled the requirements for a transfer and has been accepted at another work location, the maximum time the current supervisor may retain the employee in the current position is 10 workdays, unless otherwise authorized, in writing, by the Deputy Superintendent for Personnel Management and Services.

ARTICLE XVII (cont.)

G. Layoff

1. Layoff is defined as the separation of an employee for lack of work or funds, without fault or delinquency on the employee's part.

2. When it is necessary to identify an employee for layoff, the least senior employees in the affected job classification at the work location shall be laid off.

In instances where the UTD building steward is employed as school support personnel, said steward shall be exempted from layoff except upon an entire program is eliminated.

3. In the event that the least senior interpreter is a One-to-One Interpreter, an exception to Paragraph 2 may be made based upon the unique needs of affected students. Requests shall be made, in writing, by the principal and the interpreter, who is less senior, to the Assistant Superintendent for the Office of Human Resources. These requests shall be reviewed by a joint MDCPS/UTD committee which shall include the Co-Chair of the Exceptional Student Education Task Force and which shall make an expeditious decision regarding the exception.

4. However, in the event it becomes necessary to effect a layoff in the physical and occupational therapy programs, county-wide seniority shall determine which employee(s) is to be laid off.

5. Seniority for the purpose of layoff is the total full-time service as an employee of MDCPS in any capacity. Service as a substitute teacher shall be counted only when 99 days are worked during the regular school year.

6. Layoffs will be effected as follows:

a. The Office of Personnel Management and Services shall be notified, in writing, by the supervising administrator of the requirement for layoff, and the reason therefor, prior to any announcement relative to a possible layoff.

b. The Office of Personnel Management and Services shall verify the need for the layoff. If the layoff is required, the Office of Personnel Management and Services shall determine the specific employee(s) to be laid off. The office shall obtain information concerning the employee's residual benefits. The employee shall acknowledge receipt of the notification. The effective date of the layoff shall be no less than 10 workdays after receipt of notification.

c. During the 10-workday notification period, efforts shall be made to place the affected employee in a position for which qualified.

Date: 3/24/2004  
Pages: 26  
Sender: 3059951412

Time: 3:26 PM  
Duration: 17 min 23 sec  
Company:

Fax Number: 03/24/2004 15:35 FAX 3059951412

Subject: BOARD ATTORNEY'S OFFICE → DOAH

015/026

ARTICLE XVII (cont.)

- 7. In the event it becomes necessary to effect a reduction-in-force for Physical and Occupational Therapy Assistants, county-wide MDCPS seniority within the affected program (i.e., Physical and Occupational Therapy Assistants) shall be utilized to determine which employees are to be laid off.
- H. Recall
  - 1. Recall, as defined, is the calling back for rehire of a previously laid-off employee.
  - 2. No new personnel will be employed as school support personnel until all recall pools of school support personnel, available, qualified, and willing to fill the position, have been exhausted.
  - 3. Seniority, for the purpose of recall, is defined as the total full-time service as an employee of MDCPS in any position. Service as a substitute teacher shall be counted only when 99 days are worked during the regular school year.
  - 4. Three recall pools shall be established for each category. All school support personnel laid off at a work location will be placed in order of county-wide seniority in the work location recall pool, in the area-wide recall pool, and in the county-wide recall pool for that category. Laid-off school support personnel shall remain in the recall pools for two years or until recalled, whichever occurs first.
  - I. Salary
    - 1. Salaries for school support employees shall be adjudicated on the U1 Salary Schedule in such a manner that all employees receive the amount indicated for their classification and years of experience.
    - 2. The effective date of the salary schedule shall be the first day of the 10-month work year.
    - 3. Eligible school support employees shall advance one step on the first day of the 10-month year on the U1 Salary Schedule, but wages will be frozen at the previous year's rate until an agreement on wages has been reached and a monetary value for each step on the salary schedule has been agreed to by the parties.
    - 4. A year of experience for salary purposes is defined as 99 or more days of service with MDCPS as a school support employee in any school year.

ARTICLE XVII (cont.)

- 5. A school support employee who is hired as a full-time teacher (including permanent substitute) or for a full-time school support position having a different paygrade shall be placed on the appropriate salary schedule and grade at the lowest step which provides a salary increase.
- 6. The daily rate for school support employees for the regular school year shall be calculated by dividing the annual salary by the same layed time factor as is applicable for other 10-month employees in the bargaining unit.
- 7. Full-time School Support Personnel, covered by the overtime provisions of the Fair Labor Standards Act, who are directed by an administrator to work beyond their normal workday, shall be compensated by being paid one and one-half times their regular hourly rate.
- 8. In the event that Physical and Occupational Therapy Assistants are required or assigned beyond the regular workday for service to homebound students, the therapy session rate shall be \$13 per 30-minute session. Payments for such sessions shall be in addition to regular salary, but in lieu of any overtime or hourly rate for the service.
- 9. Part-Time Physical/Occupational Therapy Assistants shall be paid in accordance with the AT Part-Time Hourly Salary Schedule for Bachelor's degree certificated employees.
- 10. Interceptors for the Deaf or Hard-of-Hearing shall receive credential supplements as follows: OAH - \$1,000; OAHII - \$2,000; and RID - \$3,000. The supplement shall be effective the beginning of the pay period following receipt of the appropriate certificate.
- 11. The hiring rate for part-time interceptors for the Deaf or Hard-of-Hearing shall be Step 5 of the appropriate pay grade. Such employees shall not be eligible for step advancement. When a part-time interceptor is assigned to a full-time interceptor position, he/she will be placed on the step which gives salary credit for the time employed as a part-time interceptor, pursuant to Article XVII, Section 2, (4).
- 12. The base salary range for full-time Athletic Trainers shall be steps 1 through 10 of the AD Salary Schedule as specified in Appendix E, Sections 2 and 3.
- J. Compensatory Benefits
  - 1. Unless specifically exempt under the Rules and Regulations of the Florida Retirement System, all full-time, part-time, and temporary employees must participate in the Social Security and the Florida Retirement System.

Date: 3/24/2004  
Pages: 26  
Sender: 3059951412

Time: 3:26 PM  
Duration: 17 min 23 sec  
Company:

Fax Number: 03/24/2004 15:36 FAX 3059951412

Subject: BOARD ATTORNEY'S OFFICE -> DOAH

016/026

ARTICLE XVII (cont.)

- 2. Compensatory benefits for school support employees are stipulated in Appendix D.
- 3. In-county travel reimbursement for Physical and Occupational Therapy Assistants will be based on the assigned home school for each assistant.

K. Consideration for Teaching Positions

- 1. A school support employee holding a State of Florida teaching certificate, but who is not currently a MDOCS teacher, may apply for a teaching position through the Department of Instructional Staffing. If qualified to teach, the employee shall be given special consideration for filling teacher vacancies in the employee's field of certification before consideration is given to new employees. School support personnel shall be considered on the basis of service with MDOCS, quality of that service, and qualifications for the position being sought.

The Office of Personnel Management and Services shall maintain a list of all school support personnel meeting the Board-prescribed standards for hiring of teachers. Such list shall be made available to administrators responsible for selection of teacher personnel and to the Union, upon request.

- 2. A school support employee holding a State of Florida teaching certificate may be employed as a permanent substitute teacher.

L. Physical/Occupational Therapy Assistant Evaluation and Tuition Reimbursement

- 1. Physical and Occupational Therapy Assistants shall be supervised and evaluated by the Division of Exceptional Student Education. The current evaluation instruments for Educational Support Personnel shall be used for such purposes.

- 2. Tuition reimbursement is available to Physical and Occupational Therapist Assistants who take college credit courses when such courses are part of a formal program leading to a degree and a license as a Physical or Occupational Therapist, provided the employee agrees to work with MDOCS for at least three years after receiving teacher licensure.

- 3. No advance approval is needed for a course which is required or is accepted as an elective in a formal program of study leading to a degree and a license as a Physical and Occupational Therapist. Advance approval by the Office of Exceptional Student Education and Psychological Services is needed for other courses; such approval shall be given only when the course is directly related to the performance of the employee's assigned duties; however, such approval shall not be arbitrary withheld.

ARTICLE XVII (cont.)

- 4. Physical and Occupational Therapist Assistants shall be eligible to receive reimbursement for tuition for a maximum value undergraduate credits earned per fiscal year. Reimbursement shall not exceed \$80 per semester hour or the equivalent.

- 5. To obtain tuition reimbursement, the employee shall submit an application to the Wage and Salary Administration, with the following attached:
  - a. the official transcript (with record seal) indicating successful completion of the course(s) and the credits earned;
  - b. verification from the college/university of the tuition paid (Form FT1);
  - c. the principal's advance written approval when required under paragraph 2.

- 6. Requests for tuition reimbursement must be submitted no later than two years after the end of the term/semester during which the course was completed. An employee who believes that special circumstances beyond his/her control prevented compliance with this timeframe may appeal, in writing, to the Deputy Superintendent for Personnel Management and Services, who shall review the appeal and render a decision. A copy of the appeal and decision shall be furnished to the employee.

M. Tuition Reimbursement - Select School Support Personnel

- 1. Tuition reimbursement is available to School Security Monitors and School Resource Specialists who take college credit courses when such courses are part of a formal program leading towards a Bachelor's degree in Education, psychology or counseling, criminal justice, or when such courses strengthen professional skills or lead towards certification as a law enforcement officer and improve the effectiveness of School Security Monitor duties.

- 2. Tuition reimbursement is available with no advance approval to Community Involvement Specialists, Instructional Management Systems Specialists, Interpreters for the Deaf and Hard-of-Hearing and Computer Laboratory Specialists who take college credit courses when such courses are part of a formal program leading towards a Bachelor's Degree in Education, or when such courses strengthen professional skills or improve the effectiveness of their assigned duties. Advance approval by the school principal is needed for other courses. Such approval shall be given only when the course is directly related to the performance of the employee's assigned duties; however, such approval shall not be arbitrary withheld.

Date: 3/24/2004  
Pages: 26  
Sender: 3059951412

Time: 3:26 PM  
Duration: 17 min 23 sec  
Company:

Fax Number: 03/24/2004 15:36 FAX 3059951412

Subject: BOARD ATTORNEY'S OFFICE -> DOAH

017/026

ARTICLE XVII (cont.)

- 3. For School Security Monitors and School Resource Specialists, no advance approval is needed for a course which is required or is accepted as an elective in a formal program of study leading to a Bachelor's degree in Education, psychology or counseling, criminal justice or a program which leads towards certification as a law enforcement officer. Advance approval by the School Resource Specialist and/or School Security Monitor's principal and the Chief of Miami-Dade County Public Schools Police is needed for other courses. Such approval shall be given only when the course is directly related to the performance of the employee's assigned duties; however, such approval shall not be arbitrarily withheld.
- 4. The employees mentioned above shall be eligible to receive reimbursement for tuition for a maximum of nine undergraduate credits earned per fiscal year. Reimbursement shall not exceed \$90 per semester hour or the equivalent.
- 5. To obtain tuition reimbursement, the employee shall submit an application to the Division of Wage and Salary Administration, with the following attached:
  - a. the official transcript (with raised seal) indicating successful completion of the course(s) and the credits earned;
  - b. verification from the college/university or law enforcement training institution of the tuition paid (Form FTI); and
  - c. the principal's and the aforementioned Chief's advance written approval, when required under paragraph 2.
  - d. the Principal's advance written approval, when required under paragraph 2.
- 8. Requests for tuition reimbursement must be submitted no later than two years after the end of the semester during which the course was completed. A School Security Monitor, School Resource Specialist, Community Involvement Specialist, Instructional Management Specialist, Interpreter for the Deaf or Hard-of-Hearing and Computer Laboratory Specialist who believes that special circumstances beyond his/her control prevented compliance with this timeframe may appeal, in writing, to the Deputy Superintendent for Personnel Management and Services, who shall review the appeal and render a decision. A copy of the appeal and decision shall be furnished to the employee.

ARTICLE XVII (cont.)

- N. School Security Monitor Uniforms
 

The Board agrees to provide School Security Monitors with clothing that identifies them as such, and that said clothing be uniform throughout the district. Additionally, the Board agrees that such clothing shall consist of at least a shirt, light jacket, raincoat, or vest, which must be worn while on duty.
- O. Inservice Training
 

The Board agrees to provide inservice training for School Security Monitors by the Miami-Dade County Public Schools Police. Such training will be provided during scheduled planning/preparation days. These workshops are mandatory for all School Security Monitors. A joint subcommittee will review training options and provide report.
- P. School Security Monitor Pay Grade Advancement
 

The following criteria must be met to advance from pay grade 7 to pay grade 12:

  - 1. Pay grade advancement for a School Security Monitor requires a high school diploma or equivalent certification and at least 60 semester hours with a minimum of 15 semester hours in education, psychology or counseling, or criminal justice from an accredited college or a certificate of completion of basic law enforcement training from an accredited law enforcement training institution.
  - 2. A School Security Monitor who meets the above criteria shall be placed on the same step on the pay grade 12 salary schedule as the step held on the pay grade 7 salary schedule.
- Q. Interpreters for the Deaf or Hard-of-Hearing
  - 1. Interpreters for the Deaf or Hard-of-Hearing shall be given an opportunity to provide input regarding the class schedule for assigned students who are identified as deaf or hard-of-hearing.
  - 2. Interpreters for the Deaf or Hard-of-Hearing may use planning/preparation days for inservice, subject area meetings, and seminars for the purpose of obtaining certification or recertification as interpreters with prior approval of the principal/supervisor.
  - 3. Interpreters for the Deaf or Hard-of-Hearing should not be assigned to perform clerical functions which are not directly related to their duties or responsibilities.



Date: 3/24/2004  
Pages: 26  
Sender: 3059951412

Time: 3:26 PM  
Duration: 17 min 23 sec  
Company:

Fax Number: 03/24/2004 15:37 FAX 3059951412

Subject: BOARD ATTORNEY'S OFFICE -> DOAH

018/026

ARTICLE XXI - EMPLOYEE RIGHTS AND DUE PROCESS

Section 1. Due Process

A. Conferences-for-the-Record - Disciplinary Action and Reprimand

1. Any employee summoned to the office of a principal or immediate supervisor, when there exists no principal, Region Superintendent, or the Senior Executive Director for Professional Standards, or their designees for a Conference-for-the-Record which may lead to disciplinary action or reprimand, shall have the right to request Union representation and shall be informed of this right. If Union representation is provided, the employee shall have the right to be accompanied at the Conference-for-the-Record by up to two representatives of the Union and shall be informed of this right.
  2. Employees shall be given two days' notice and a statement of the reason for the conference, except in cases deemed to be an emergency. When Union representation is requested, and the employee is to be represented by the Union, the Conference-for-the-Record must be scheduled at a time when Union representation (building steward or BAW, where appropriate) can be present.
  3. A Conference-for-the-Record, which may lead to disciplinary action or reprimand not held in accordance with these conditions, shall not be considered a part of the employee's personnel file or record, and neither the fact of the conference nor any statements made at the conference may be used in any subsequent proceedings or reprimand involving the employee.
  4. Where Union representation is provided herein, the employee shall be represented by the bargaining agent. The bargaining agent shall have the right to refuse representation in accordance with its own internal, non-discriminatory rules.
  5. The use of tape recorders or other mechanical devices is expressly prohibited.
- B. Suspension/Dismissal for Cause/Other Disciplinary Actions
1. General Provisions
    - a. Any number of the instructional staff may be suspended or dismissed at any time during the school year, provided that the charges against them are based upon Florida Statutes.
    - b. Any recommendation for suspension or dismissal based upon unacceptable teaching performance shall require that teaching deficiencies be documented on the observation/evaluation form to compare with the procedures of the MDGPS evaluation process. Disciplinary action based on unacceptable teaching performance may not be taken against an employee in the absence of an official performance assessment conducted in accordance with procedures, guidelines, regulations, and

ARTICLE XXI (cont.)

requirements as are included in any employee assessment/evaluation system in effect at the time.

- c. Any recommendation to return a continuing/professional service contract employee to annual contract at the end of the school year shall comply with Florida Statutes, Chapter 231.38(4)(b), including notification to the employee which shall contain the specific charges, the written recommendation to the Board, and information to the employee regarding the employee's right of appeal, pursuant to Florida Statutes, Chapter 120.08. Such notice shall be given no less than 15 calendar days prior to the filing of the written recommendation with the Board.

- d. Any recommendation to suspend or dismiss a continuing/professional service contract employee during the school year shall comply with Florida Statutes, Chapter 231.38(4)(c), including notification to the employee which shall contain the specific charges, the written recommendation to the Board, and information to the employee regarding the employee's right of appeal, pursuant to Florida Statutes, Chapter 120.08.

- e. Any recommendation to suspend or dismiss an annual contract employee or an employee holding a professional service contract during the term of whatever contract is held by the employee shall comply with Florida Statutes, Chapter 231.38(8)(a), including the requirement that the specific charges against such employee must be based on just cause, and notification, in writing, of such specific charges must be made to the employee prior to any action being taken against the employee. Within 15 calendar days from receipt of the notice, the employee will either exercise or not exercise the right to request a hearing before the Board or a Department of Administrative Hearings (DOAH) Administrator Law Judge (ALJ). Notification to the employee shall also include information regarding the employee's right to appeal an adverse decision resulting from either hearing, as provided by Florida Statutes, Chapter 120.08.

- f. All procedures regarding dismissal or suspension of employees shall be exhausted under this Contract before any administrative action may be taken before the Education Practices Commission.

2. Suspension of Employees

Disciplinary and suspensions shall be effected in accordance with applicable Florida Statutes, including the Administrative Procedures Act (APA), and provisions stated below:

- a. No employee shall be suspended until all of the detailed specific charges have been made known to the employee, in writing, provided, further, that said employee is notified to be represented by one representative of the Union in conference with the Senior Executive Director for Professional Standards or his/her designee.



Date: 3/24/2004  
Pages: 26  
Sender: 3059951412

Time: 3:26 PM  
Duration: 17 min 23 sec  
Company:

Fax Number: 03/24/2004 15:38 FAX 3059951412

Subject: BOARD ATTORNEY'S OFFICE -> DOAH

019/026

ARTICLE XXI (cont.)

- b. When the Board authorizes a suspension, a hearing, if requested by the employee, shall be initiated with the School Board Clerk no later than 15 days from the date of suspension.
  - c. The Board agrees to furnish the Union with a copy of the transcript in all suspension/dismissal hearings in accordance with the APA.
  - d. The Board recognizes that, pursuant to the Union's internal rules, the Union's legal department may be entitled to receive legal costs incidental to the defense of any suspended employee. If back pay has been awarded, upon being granted power of attorney by the employee, the Board's Payroll Department shall remit such legal costs to the Union prior to any monies being paid to the employee.
3. Continuing Contract Teachers
- a. The employee shall be notified of the decision to suspend or dismiss by certified letter sent to the last known address of record. The notice shall state the cause(s) for the suspension or dismissal, the effective date of the suspension or dismissal, and the employee's right of appeal and how to exercise such right.
  - b. The employee shall have 15 calendar days from receipt of the notice to notify the Superintendent or his/her designee of the employee's intent to appeal the suspension or dismissal. Such notice of intent to appeal shall be in writing.
  - c. Suspension by the Superintendent between Board meetings shall be with pay and shall be reported at the next regular Board meeting following the suspension. Suspension by the Board shall be without pay. The employee shall be suspended from active duty during the term of appeal of such suspension or dismissal. If the employee is fully reinstated by Board action, the employee shall receive payment for all days not worked and shall not lose any longevity or be charged with a break in service due to said dismissal.
  - d. In suspension cases, if the employee's suspension is overturned by Board action, the employee shall receive payment for all days not worked and shall not lose any longevity or be charged with a break in service due to said suspension.
  - e. A timely hearing shall be provided before an A.J. pursuant to the provisions of the Rules and Regulations of the Division of Administrative Hearings (DOAH).
  - f. Subsequent to receipt of the hearing officer's decision, the parties shall have 15 calendar days in which to file exceptions with the Board.

ARTICLE XXI (cont.)

- 1. Any such decision, adverse to the employee, may be appealed by the employee, pursuant to Chapter 120.08 of Florida Statutes, provided such appeal is filed within 30 calendar days after the decision of the Board.
  - 2. Due process hearings regarding disciplinary actions taken against continuing contract teachers or probationary teachers during the school year shall be conducted in accordance with the provisions of Florida Statutes, Chapters 231.36 and 120.
4. For Teachers Who Hold a Professional Service Contract as of July 1, 1997:
- The professional service contract shall be renewed the following year, unless the Superintendent changes the employee with unacceptable performance, as determined under provisions of Florida Statutes, Chapter 231.29 and notifies the employee, in writing, no later than six weeks prior to the end of the post-school conference period, of performance deficiencies which may result in termination of employment, if not corrected during the subsequent year of employment (which shall be granted for an additional year in accordance with the provisions in Florida Statutes). Except as otherwise hereinafter provided, this section shall not be subject to the provisions of Chapter 120, but the following procedures shall apply:
- a. On receiving notice of unacceptable performance, the employee, on request, shall be accorded an opportunity to meet with the Superintendent or his/her designee for an informal review of the determination of unacceptable performance.
  - b. An employee notified of unacceptable performance may request an opportunity to be considered for a transfer to another appropriate position, with a different supervising administrator, for the subsequent year of employment.
  - c. During the subsequent year, the employee shall be provided assistance and in-service training opportunities to help correct the noted performance deficiencies. The employee shall also be evaluated periodically so that the employee will be kept apprised of progress achieved.
  - d. Not later than six weeks prior to the close of the post-school conference period of the subsequent year, the Superintendent shall notify the employee, in writing, whether the performance deficiencies have been corrected. If so, a new professional service contract shall be issued to the employee. Upon such renewal, the provisions of paragraph 5 below shall apply, and this section shall no longer apply.
  - e. If the performance deficiencies have not been corrected, the Superintendent may notify the Board and the employee, in writing, that the employee shall not be issued a new professional service contract, provided that, if the recommendation of the Superintendent is not to issue a new professional service contract and the employee wishes to contest such recommendation, the employee will have 15 calendar days from receipt of the Superintendent's recommendation to demand, in writing, a hearing in which the

Date: 3/24/2004  
Pages: 26  
Sender: 3059951412

Time: 3:26 PM  
Duration: 17 min 23 sec  
Company:

Fax Number: 03/24/2004 15:38 FAX 3059951412

Subject: BOARD ATTORNEY'S OFFICE -> DOAH

020/026

ARTICLE XXI (cont.)

employee may raise as an issue, among other things, the sufficiency of the Superintendent's charges of unsatisfactory performance. Such hearing shall be conducted at the employer's election in accordance with one of the following procedures:

(1) a direct hearing conducted by the Board within 45 calendar days of receipt of the written appeal. The hearing shall be conducted in accordance with the provisions of Florida Statutes, Chapter 120.568. A majority vote of the Board shall be required to sustain the Superintendent's recommendation. The determination of the Board shall be final as to the sufficiency or insufficiency of the grounds for termination of employment; or,

(2) a hearing conducted by an ALJ assigned by the DOAH. The hearing shall be conducted within 45 calendar days of receipt of the written appeal in accordance with Florida Statutes, Chapter 120. The recommendation of the hearing officer shall be made to the Board. A majority vote of the membership of the Board shall be required to sustain or change the hearing officer's recommendation. The determination of the Board shall be final as to the sufficiency or insufficiency of the grounds for termination of employment.

e. In the event that the original noted deficiencies have been remediated, but new deficiencies have been identified, the Superintendent may recommend a second subsequent year of employment to remediate the newly-identified deficiencies.

5. For Teachers Who Obtain or Renew a Professional Service Contract after July 1, 1997:

A professional service contract shall be renewed each year, unless the Superintendent, after receiving the recommendations required by Florida Statutes, Chapter 231.29, charges the employee with unsatisfactory performance, as determined under provisions of Florida Statutes, Chapter 231.29 and notifies the employee, in writing, of performance deficiencies which may result in termination of employment, if not corrected during the subsequent ninety (90) calendar days of "Performance Probation".

a. An employee notified of unsatisfactory performance may request an opportunity to be considered for a transfer to another appropriate position, with a different supervising administrator, during the term of the "Performance Probation"; however, if a transfer is granted, it shall not extend the term of the "Performance Probation".

b. During the "Performance Probation", the employee shall be provided assistance and research training opportunities to help correct the noted performance deficiencies. The employee shall also be evaluated periodically and be kept apprised of progress achieved.

c. Within fourteen (14) days of the date of the "Performance Probation", the employer's Principal must assess whether the performance deficiencies have been corrected and must forward a recommendation to the Superintendent. Within fourteen (14) days of

ARTICLE XXI (cont.)

receiving the Principal's recommendation, the Superintendent shall notify the employee, in writing, whether the performance deficiencies have been corrected and whether the Superintendent will recommend that the School Board continue or terminate the employee's contract. If the Superintendent's recommendation is to continue the employment, a new professional service contract shall be issued to the employee. Upon such renewal, the provisions of paragraph 5 below shall apply, and this section shall no longer apply. If the recommendation of the Superintendent is not to continue the employment and the employee wishes to contest such recommendation, the employee will have 15 calendar days from receipt of the Superintendent's recommendation to demand, in writing, a hearing. Such hearing shall be conducted by an ALJ assigned by the DOAH. The hearing shall be conducted within 60 calendar days of receipt of the written appeal in accordance with Florida Statutes, Chapter 120. The recommendation of the hearing officer shall be made to the Board. A majority vote of the membership of the Board shall be required to sustain or change the ALJ's recommendation. The determination of the Board shall be final as to the sufficiency or insufficiency of the grounds for termination of employment.

8. Annual Contract Teachers

A. For any instructional staff member newly employed after June 30, 1997, the first ninety-seven (97) days of employment is established as a probationary period. During the probationary period, the employee may be dismissed without cause or may resign without breach of contract.

B. Any other annual contract teacher may be suspended or dismissed at any time during the school year, provided the charges against him/her are based upon just cause in accordance with Florida Statutes. Any recommendation for suspension or dismissal of an annual contract instructional employee, based upon unsatisfactory teaching performance, shall require that the teaching deficiencies be documented in compliance with the provisions of the MDCPS evaluation process. Disciplinary action based on unsatisfactory teaching performance may not be taken against an employee in the absence of an official performance evaluation conducted in accordance with procedures, guidelines, stipulations, and requirements, as are included in any employee evaluation system in effect at the time.

Procedures are the same as those stipulated in Section 5 (a), (b), and (c) of this Article (Due Process - Professional Service Contract Teachers).

C. Harassment

1. Employees shall be free from unnecessary, spiteful, or negative criticism or complaints by administrators and/or other persons. Under no conditions shall management representatives express such complaints or criticisms concerning an employee in the presence of other employees, students, or parents, nor shall anonymous complaints be processed.

Date: 3/24/2004  
Pages: 26  
Sender: 3059951412

Time: 3:26 PM  
Duration: 17 min 23 sec  
Company:

Fax Number: 03/24/2004 15:39 FAX 3059951412

Subject: BOARD ATTORNEY'S OFFICE -> DOAH

021/026

ARTICLE XXI (cont.)

2. Employees should not be subjected to harassment, abusive language, upbraiding, insult, or interference by a parent or other person in the performance of the employee's duties.

D. Processing of Complaints

When a complaint about an employee is received from a parent, student, or any non-supervisory personnel, and further administrative action is warranted, the following procedure shall be followed:

1. The principal or immediate supervisor should acknowledge and accept the complaint and inform the complainant that the matter will be looked into.
2. The principal or immediate supervisor should confer with the employee, inform the employee of the complaint, mention the employee's explanation and, if necessary, request the complainant to come in for a conference with the employee at a time mutually agreed upon by all parties. Principals or immediate supervisors who are unable to establish proof as to the validity of the complaint shall be prohibited from noting any such complaint in the employee's personnel file.

3. Should the complainant contact a region or district school authorities, and further administrative action is warranted, the employee shall be notified promptly.

4. The use of tape recorders or other mechanical devices is expressly forbidden.

5. Twenty-four hour notice of any meeting with the principal or immediate supervisor to discuss a complaint from a non-supervisory person shall be given employees.

8. Disciplinary action initiated or executed against an employee as a result of conferences referred to in this Article shall be in accordance with Article XXI, Section 1(A) of this Contract.

E. Personnel Investigations/Administrative Reviews

1. The Board shall take steps to ascertain the identity of the complainant, prior to authorization of an investigation. No investigation of an allegation against an employee shall be made on the basis of an anonymous complaint.

2. In the event of allegations and/or complaints being made against any employee, an investigation which may result in information being placed in the employee's personnel file shall not be conducted by the Miami-Dade County Public Schools Police or any person prior to the time that the employee receives identification of the complainant and the nature of the complaint.

3. In all Board investigations which may lead to suspension or dismissal of an employee, only the Superintendent or his/her designee may authorize such an investigation. No investigation shall be authorized on anonymous information, uncorroborated by any other supporting data. When a formal investigation has been authorized, all personnel involved will be advised by the Miami-Dade County Public Schools Police investigator of their legal rights and the procedures available

ARTICLE XXI (cont.)

to them for representation. Information that is not substantiated will neither be used as a basis for the investigation, nor for any related disciplinary action.

4. In all Board investigations resulting in discipline, the employee shall be provided with a copy of the report. With the permission of the employee, the Union shall also receive a copy. When investigatory reports are to be provided, said reports shall be transmitted within a timeframe consistent and harmonious with basic due process.

5. In all cases in which the preliminary investigation is concluded with the finding that there is no probable cause to proceed further and with no disciplinary action taken or charges filed, a statement to that effect signed by the responsible investigating official shall be attached to the complaint, and the complaint and all such materials shall be open, thereafter, to inspection. Where allegations have not been proven against an employee, no reprisal or punitive action shall be taken against an employee.

F. Procedures for Termination of Annual/Probationary Contract Employees

1. The annual appointment of eligible employees is accomplished in accordance with the requirements of applicable State Statutes.

2. The parties agree to develop procedures for termination of employment.

3. From the beginning of the year, administrators and supervisors should make every reasonable effort to assist unit members to perform their duties successfully. In those instances when an employee's performance is unsatisfactory, the responsible administrator shall initiate, without delay, the appropriate steps which will provide, at the proper time, appropriate information as to which to have employment recommendations. Employees should have been notified, in writing, of deficiencies and of the corrective action deemed appropriate, and conferences should have been scheduled with the employee and the employee advised, in writing, of the results of the conferences, the nature of the deficiencies discussed, and the remedial action required. Follow-up conferences should then serve to indicate the degree to which success has been achieved in correcting deficiencies.

G. Employee Disclosure of Information ("Florida Whistleblowers Act")

It is agreed between the parties that the Board will not take retaliatory action against an employee who reports to an appropriate agency an alleged violation of law on the part of the Board which creates a substantial and specific danger to the public's health, safety, or welfare. It is further agreed that any retaliatory action will be taken against persons who disclose information to an appropriate agency alleging improper use of governmental officers, gross waste of government funds, or any other abuse or neglect of duty on the part of an agency, public officer, or employee.

Date: 3/24/2004  
Pages: 26  
Sender: 3059951412

Time: 3:26 PM  
Duration: 17 min 23 sec  
Company:

Fax Number: 03/24/2004 15:40 FAX 3059951412

Subject: BOARD ATTORNEY'S OFFICE -> DOAH

022/028

ARTICLE XXI (cont.)

The disclosure information shall be to an agency or federal government entity having authority to investigate, police, manage, or otherwise remedy the violations of the "Florida Whistleblowers Act of 1986". It is the intent of the parties to protect persons who disclose information on their own initiative in a sworn complaint; who are requested to participate in an investigation, hearing, or other inquiry conducted by any agency or federal government entity; or who refuse to participate in any action prohibited by the Act.

Any employee who is disciplined or subjected to other adverse personnel action by the Board due to the employee's exercise of his/her rights under the "Florida Whistleblowers Act of 1986" will have the right to present his/her concerns to the Superintendent or designee. If the employee is not satisfied with the decision of the Superintendent or designee, the employee has the right to pursue the remedies outlined in the Act. Under no circumstances will any alleged violation of this Section be subject to the grievance/arbitration procedure.

H. Student Case Management System (SCMS)

Neither the forms nor the data generated by the Student Case Management System (SCMS) shall be made a part of a teacher's personnel file; nor shall they be used to initiate disciplinary action against any teacher; nor shall this information be used as a basis for the assessment of a teacher in any portion of the observational/evaluation forms. Neither the name nor the employee number of the referring teacher shall be entered in the automated data retrieval system.

It is the intent of the Board to utilize the SCMS, exclusively, to refine and improve student personnel services. The SCMS is not to be used as a part of the personnel assessment system; nor is it intended to reduce the range of available student disciplinary actions, pursuant to the Code of Student Conduct nor the availability of student services provided to students.

I. Resignation

1. Employees shall be allowed to resign their position, without prejudice, upon at least 30 calendar days' notice.

Employees shall submit written resignation to their immediate superior and a copy to the Office of Personnel Management and Services.

2. Employees shall have the right to withdraw their resignation up to 10 calendar days prior to the effective date of the resignation, except in cases where an employee is not recommended for reemployment or has been suspended or dismissed. This exception may be waived by mutual agreement.

3. No employee shall be coerced, threatened, or intimidated to submit a resignation in lieu of disciplinary action or unacceptable evaluation.

ARTICLE XXI (cont.)

Section 2. Employee Rights

A. Union Affiliation

The employee shall be free from interference to form, join, or assist employee organizations, or to refrain from such activities in accordance with Chapter 447 of the Florida Statutes.

B. Personal Life

1. The private and personal life of an employee, except for such incidents and occurrences which could lead to suspension or dismissal, as provided by statute, shall not be within the appropriate concern of the Board.

2. The Board places the question of out-of-school activities on the part of teachers purely on a professional and ethical basis. The teachers engaged in out-of-school activities shall examine them in a professional and ethical light and abandon any such activities as appear to them, after conscientious examination, to violate professional ethics. The question is placed entirely in the keeping of the conscience of the individual teacher.

C. Family Relationships

Permanent employees of the school system shall not be prohibited from working at the same work location because they are members of the same family. In addition, the Board urges the employers who wish to avoid their children at the same workplace where they are employed shall not be prohibited from doing so, as long as the requested student transfer does not exceed the caps as established by Board Rule 86413-2A.1.08 - Student Transfers, except as deemed appropriate by the Division of Attendance Services. No student transfer shall be authorized under any circumstances that will have a negative impact on student racial ratios or which will exceed 115 percent of permanent program capacity when an administrative transfer is sought.

D. Non-MDORS Compensation

No MDORS employee may use his/her regular work hours to earn compensation from sources other than the Board, except for services considered to be desirable public services approved by the Superintendent.

E. Employee Access to Information

1. Pursuant to articles of this Contract, employees shall have full access to Board Rules and to all terms and conditions of employment.

2. Annual Statement of Information

Employees shall have access to at least the following information, and the employer will provide forms with which employees may request:

Date: 3/24/2004  
Pages: 26  
Sender: 3059951412

Time: 3:26 PM  
Duration: 17 min 23 sec  
Company:

Fax Number: 03/24/2004 15:41 FAX 3059951412

Subject: BOARD ATTORNEY'S OFFICE -> DOAH

023/026

ARTICLE XXI (cont.)

- a. sick leave accrual;
- b. salary step, level, advanced study credit, increment data, supplements, PIP, longevity;
- c. accrued vacation and compensatory time; and
- d. certificate expiration date.

Such annual summary statements shall be received by employees no later than December 1 of each school year.

F. Health Services/Physical and Psychological Examinations Work Place Policies

1. The cost of all physical, psychological, or psychiatric tests or examinations taken by employees at the request or order of the Superintendent or his/her designee, except those examinations or tests which are prerequisites of initial employment, shall be borne by the Board.

2. At all times, the choice from among state-licensed physicians, psychologists, or psychiatrists shall be made by the employee from a list provided by the employer. No employee shall be compelled to submit to any test or examination not required of all employees of that classification without a written statement of the need for such examination.

3. An employee shall have the right to seek an additional opinion or judgment from among state-licensed physicians, psychologists, or psychiatrists of the employee's choosing. The cost shall be borne by the employee. When the option is exercised, the additional opinion shall be attached to any other medical opinions under consideration with respect to disciplinary action against the employee.

G. Drug-Free Work Place General Policy Statement

MDCPS and the UTD recognize that substance abuse in our nation and our community exacts staggering costs in both human and economic terms. Substance abuse can be reasonably expected to produce irregular job performance, lost productivity, absenteeism, accidents, wasted materials, lowered morale, rising health care costs, and diminished interpersonal relationship skills. MDCPS and the UTD share a commitment to solve this problem and to create and maintain a drug-free work place.

MDCPS is responsible for the instruction and well-being of the students entrusted to its care. A consistent message needs to be communicated to MDCPS students: the use of illegal drugs, the abuse of alcohol, and the misuse of prescription drugs is unacceptable.

- a. Policy Objectives
  - (1) to promote a healthy, safe-working, and learning environment;

ARTICLE XXI (cont.)

- (2) to seek the rehabilitation of employees with a self-admitted or detected substance abuse problem;
- (3) to eliminate substance abuse problems in the work place;
- (4) to provide a consistent model of substance-free behavior for students;
- (5) to provide a clear standard of conduct for MDCPS employees; and
- (6) to hire drug-free employees.

b. Policy Statement - Illegal Drugs

Drug abuse by employees interferes with the educational and work process and compromises the safety and well-being of staff and students. Employees are expected to conduct themselves in a manner consistent with the following provisions:

- (1) Employees on duty or on Board property will not manufacture, distribute, dispense, possess, or use illegal drugs, nor will they be under the influence of such drugs.
- (2) Employees on or off duty will not influence students to use or abuse illegal drugs.
- (3) An employee convicted of any criminal drug status violation occurring in the work place shall notify MDCPS no later than five days after such a conviction.

c. Policy Statement - Alcohol and Prescription Drugs

Alcohol, prescription, and over-the-counter drugs are legal and readily available. Generally safe and acceptable, these drugs, when abused over time or used in combination with one another, can result in chemical dependency or poly-drug addiction. Employees are expected to conduct themselves in a manner consistent with the following provisions:

- (1) Employees on duty or on Board property will be free of intoxication from alcohol. Further, employees will not manufacture or use alcoholic beverages while on Board property or on duty.
- (2) Employees on duty will not use or take prescription drugs above the level recommended by the prescribing physician and will not use prescribed drugs for purposes other than what the prescribed drugs were intended. In addition, the employee will not distribute or dispense such drugs, except as provided in Board Rule 68x13-50.1.021, School Health Services Program.

Date: 3/24/2004  
Pages: 26  
Sender: 3059951412

Time: 3:26 PM  
Duration: 17 min 23 sec  
Company:

Fax Number: 03/24/2004 15:41 FAX 3059951412

Subject: BOARD ATTORNEY'S OFFICE -> DOAH

024/026

ARTICLE XXI (cont.)

d. Policy Statement - Employee Physical Examinations/Screening/Health Services

In order to establish and support a clear standard of conduct for employees, MDOPFS adheres to the following provisions:

- (1) Drug screening will be included in all physical examinations required under existing labor contracts, statutes, and Board Rules.
- (2) Circumstances under which testing may be considered include, but are not limited to, the following:
  - (a) observed use of illegal drugs and/or abuse of alcohol during work hours;
  - (b) apparent physical state of impairment of motor functions;
  - (c) marked changes in personal behavior on the job not attributable to other factors; and
  - (d) employee involvement in serious or repetitive accidents on the job, causing personal injury to self or others and/or significant property damage.
- (3) Drug and/or alcohol screening shall be conducted by Board-approved, independent, certified laboratories utilizing recognized techniques and procedures, as described in the Miami-Dade County Public Schools "Drug-Free Work Place Technical Guide", which is incorporated by reference into this Contract, and made a part thereof. The protocol for drug screening shall include a split sample and chemical immunoassay screening procedure. In the event an initial test results are screened positive, such results will be confirmed and verified by the Gas Chromatography/Mass Spectrometry (GC/MS) test.
- (4) Medical records and information relating directly thereto will be maintained in strict confidentiality. Any laboratory contract shall provide that the contractor's records are to be kept confidential under provisions of Florida law. MDOPFS shall establish a system of maintaining records to include both the doctor's and the contractor's record of applicant and employee analysis and blood alcohol results.

The contract and the record maintenance system must have specific provisions that require that employee records are maintained and used with the highest regard for employee privacy, consistent with Florida's Public Records Act, and the purpose of achieving and maintaining a drug-free work place.

ARTICLE XXI (cont.)

(5)

MDOPFS recognizes that chemical dependency is an illness that can be successfully treated. It is the policy of MDOPFS, where possible, to seek rehabilitation of employees with a self-identified or detected drug problem. Disciplinary action may be instituted against employees who the Board believes will not be assisted by rehabilitation or who have negatively impacted students and/or staff. Employees who have previously been referred for assistance or employees unwilling or unable to rehabilitate may be subject to appropriate action, pursuant to Board Policy, applicable Florida Statutes, State Board Rules, and applicable provisions of collective bargaining agreements.

h. Tobacco-Free Work Places

The parties seek to foster the health and safety of all MDOPFS employees, students, and visitors.

Smoking poses a significant risk to the health of the smoker. It can damage sensitive mechanical equipment and can be a safety hazard. In sufficient concentrations, side-stream smoke can be hazardous to non-smokers in the work environment. It may be harmful to individuals with heart and respiratory diseases or allergies related to tobacco smoke. Use of other tobacco products also poses a significant risk to the health of the user.

Smoking is a complex behavioral action which has some properties of both a psychological and physiological addiction. Many individuals need assistance to eliminate smoking from their lives.

Use of tobacco products is prohibited in areas where students are located or where there is sensitive or hazardous material.

Use of tobacco products is prohibited on Board-owned/leased properties and vehicles.

All MDOPFS employees and applicants shall be informed of the MDOPFS tobacco-free work place policy.

Employee Assistance Program (EAP)

The Board and the Union recognize that a wide range of problems not directly associated with an employee's job function can have an effect on an employee's job performance and/or attendance.

The Board and the Union agree that assistance will be provided to such employees through the Employee Assistance Program (EAP). The EAP is intended to help employees and their families who are experiencing personal problems that may jeopardize the employee's health and continued employment. The program goal is to help individuals who develop such problems by providing for consultation, treatment, and rehabilitation to prevent their condition from progressing to a degree which will prevent them from working effectively.

Confidentiality of records will be insured for participants in the program, according to established personnel file provisions, State Statutes, and federal regulations.

Date: 3/24/2004  
Pages: 26  
Sender: 3059951412

Time: 3:26 PM  
Duration: 17 min 23 sec  
Company:

Fax Number: 03/24/2004 15:42 FAX 3059951412

Subject: BOARD ATTORNEY'S OFFICE → DOAH

025/026

ARTICLE XXI (cont.)

The Guidelines for the Employee Assistance Program are, by reference, made a part of this Contract.

Employee Rights

Job security will not be jeopardized by referral to the EAP, whether the referral is considered a voluntary referral, in which an employee elects to participate in the program, or a supervisory referral, in which a supervisor uses adopted guidelines to refer an employee into the program.

An employee has the right to refuse referral into the program and may discontinue participation at any time. Failure by an employee to accept referral or continue with treatment will be considered in the same manner as any factor that continues to affect job performance adversely.

J. Safety

1. Employee Safety

Supervisors will take every reasonable precaution to protect the life, health, and safety of each employee at their work sites. Employees shall not be required to perform duties which would endanger their health, safety, or well-being, nor will employees be required to work under unsafe and/or hazardous conditions, as determined by the Department of Safety.

2. Chemicals and Diseases

In the event employees are exposed to childhood diseases or toxic chemicals, as part of their ordinary duties, they will be given prescribed examinations and tests at the time of such exposure and thereafter, as determined by the examining physician. Employees will be examined or tested on the Board's time and at the Board's expense. Refusal by an employee to submit to such examinations and tests shall be grounds for appropriate disciplinary action, including dismissal.

3. Accident Reports

In the event an employee is involved in an accident or injury, an accident report will be completed and distributed, as prescribed by administrative directives.

4. Safety Devices

Employees shall be required to wear the safety devices, protective clothing, or equipment designated by management for employee protection. Safety devices and equipment, when required, will be provided by the Board. Refusal or failure of an employee to use or wear such devices or equipment shall be grounds for appropriate disciplinary action, including dismissal.

ARTICLE XXI (cont.)

5. Facilities

The Board recognizes that teaching and learning are greatly enhanced by a facility that is well-maintained and supplied with materials that are basic and enriching. The Board reaffirms its philosophy of providing students and teachers with such an environment.

Section 3. Procedures for Continued Employment of Educational Support Personnel

A. Educational support personnel include office and clerical, school support, (as designated in Articles XVII and XVIII), and para-professional personnel. (See Appendix F)

B. The annual appointment of educational support personnel is accomplished in accordance with the requirements of Florida Statutes, Chapter 231.3805.

C. For purposes of the probationary period, defined in Chapter 231.3805(2)(h), Florida Statutes, all full-time educational support personnel shall be employed on a probationary basis for three years, with the exception of office employees, who shall be employed on a probationary basis for one year. The three-year or one-year probationary period commences eligibility for continued employment, as defined herein; it does not alter or replace existing provisions defining probationary periods for newly-hired personnel or those changing to positions having different job classifications.

Part-time employees working 20 or more hours per week for 36 weeks, or a total of 687 hours per year, meet the eligibility requirements, as described herein.

Eligible employees who have completed three years of creditable experience in the MDCPS by July 1, 1994, as defined herein, will be eligible for continued employment at the conclusion of the 1994-95 school year. Office employees who have completed one year of service at the conclusion of the 1994-95 school year shall be eligible for continued employment.

For purposes of crediting experience, a "year" is defined as 89 days, exclusive of summer employment, for 10-month employees, and 116 days for 12-month employees. (See Appendix E)

Days include actual service, including sick leave and holidays, for which compensation was received in any fiscal year.

D. Upon successful completion of the probationary period, the employees' employment status shall continue from year to year, unless the number of employees is reduced on a district-wide basis for financial reasons, or the employee is terminated for just cause. Just cause includes, but is not limited to, misconduct in office, incompetency, gross insubordination, willful neglect of duty, immorality, and/or conviction of a crime involving moral turpitude. Such changes are defined, as applicable, in State Board Rule 68-4.009.

E. The employee is entitled to be represented by up to two representatives of the Union at any conference dealing with disciplinary actions.



Date: 3/24/2004  
Pages: 26  
Sender: 3059951412

Time: 3:26 PM  
Duration: 17 min 23 sec  
Company:

Fax Number: 03/24/2004 15:42 FAX 3059951412

Subject: BOARD ATTORNEY'S OFFICE -> DOAH

026/026

ARTICLE XXI (cont.)

5. Where the Superintendent recommends termination of the employee, the Board may suspend the employee with or without pay.

The employee shall receive written notice and shall have the opportunity to formally appeal the termination by notifying the School Board Clerk of the employee's intent to appeal such action within 20 calendar days of receipt of the written notice.

Following receipt of an appeal, the Board shall appoint an impartial administrative law judge, who shall set the date and place mutually agreeable to the employee and the Board for the hearing of the appeal.

Prior to the hearing, the Board will file and serve the employee with a Specific Notice of Charges.

The Board shall set a timeline, at which time the findings of the administrative law judge shall be presented.

The findings of the administrative law judge shall not be binding on the Board, and the Board shall retain final authority on all decisions.

The employee shall not be employed during the time of such dismissal, even if appealed. If reinstated by Board action, the employee shall receive payment for the days not worked and shall not lose any seniority or be charged with a break in service due to said dismissal.

Dismissals are not subject to the grievance/arbitration procedures.

ARTICLE XXII - ACADEMIC FREEDOM

Section 1. Role of the Board

The Board acknowledges that a free society is dependent upon the education afforded its people and, therefore, affirms the right of teachers to freely pursue truth and knowledge. Further, the Board has the authority to establish educational policy and the guidelines for utilization of instructional materials of any nature in classroom presentation.

In establishing said guidelines, the Board shall provide for and consider: course content; maturity level of students; needs and abilities of students; and teacher judgment.

Section 2. Academic Freedom Guidelines

Teachers shall be guaranteed freedom in classroom presentations and discussions and may introduce political, religious, or other controversial material whenever, in teachers' professional judgment, it is appropriate to the instructional objectives and the age level of the students.

Teachers shall be guaranteed freedom of choice and flexibility with respect to teaching styles and methodology to be used in the instruction of children within Board objectives. Where a principal has substantiated a need for an approved teaching style and methodology, through personal conferences and classroom observations, the teacher shall develop a methodology and teaching style more suitable for the attainment of Board objectives in performing their teaching function. Teachers shall be guaranteed freedom in expressing their personal opinions on all matters relevant to the course content provided, however, when doing so, they will indicate they are expressing personal opinions.

Teachers shall not be censured or restricted in the performance of their teaching functions on the grounds that the material discussed and/or opinions expressed are distracting or embarrassing to them in authority.

Nothing in this Article shall exempt teachers from their duties, as described in Florida Statutes.