

Discipline, Suspension and Dismissal of Support Staff

Support staff employees, unless otherwise designated by contract, are considered “at will” employees who serve at the pleasure of the Board and have only those employment rights expressly established by Board policy. Support staff members will be employed for such time as the district is in need of or desirous of the services of such employees.

The Board delegates to the superintendent the authority to dismiss classified personnel. The superintendent may delegate this authority to other appropriate personnel such as the director of personnel. All dismissals of classified employees will be reported to the Board at its next regular meeting.

The superintendent also may suspend employees from their assignments as a disciplinary measure, with or without pay.

If an employee is dismissed or resigns as a result of an allegation of unlawful behavior involving a child, including unlawful sexual behavior, or an allegation of a sexual act involving a student who is eighteen years of age or older, regardless of whether the student consented to the sexual act, which is supported by a preponderance of the evidence, the superintendent is delegated the responsibility for notifying the Colorado Department of Education (CDE) as soon as possible but no later than 10 business days after such dismissal or resignation.

The superintendent must provide any information requested by the department concerning the circumstances of the dismissal or resignation. The district also must notify the employee that information concerning the dismissal or resignation is being forwarded to CDE.

If the district learns that a current employee has been convicted of, pled *nolo contendere* to, or received a deferred sentence or deferred prosecution for any felony or misdemeanor crime involving unlawful sexual behavior or unlawful behavior involving children, the superintendent must immediately report this information to CDE.

The district will not obtain consumer credit reports on a current employee unless the district is evaluating the employee for promotion, reassignment, or retention. In all cases where credit information or reports are obtained and/or relied upon for purposes of reassigning, terminating, or denying the promotion of an employee, the district must comply with the Fair Credit Reporting Act and applicable state law.

Adopted: Prior to 1987

Revised: May 1987, May 1988, April 1991, February 1994, July 1999,
September 1999, November 2000, November 2006, April 2009,
May 2014, March 2020, February 2022

LEGAL REFS.: 15 U.S.C. 1681 *et seq.* (Fair Credit Reporting Act)
20 U.S.C. 7926 (ESSA prohibition against employment assistance for school employees who have engaged in sexual misconduct with a student or minor)
C.R.S. 8-2-126 (limits employers' use of consumer credit information)
C.R.S. 19-3-301 *et seq.* (Child Protection Act of 1987)
C.R.S. 22-2-119 (duty to make inquiries prior to hiring)
C.R.S. 22-32-109.7 (specific duties regarding hiring inquiries and reporting)
C.R.S. 22-32-110 (1)(h) (power to discharge/terminate employment)
C.R.S. 22-32-126 (3) (principals recommend employment actions)

CROSS REF.: GD, Support/Classified Staff

NOTE 1: State law prohibits school districts from entering into a settlement agreement that would restrict the district's ability to share any relevant information related to a conviction for child abuse or a sexual offense against a child and that pertains to the incident upon which the employee's dismissal or resignation is based. C.R.S. 22-32-109.7 (3). Further, school districts are not authorized to enter into a settlement agreement that would prohibit the district from sharing any other information required by law to be available to CDE, another school district, or a charter school—including information related to an allegation of a sexual act involving an employee and a student who is eighteen years of age or older, regardless of whether the student consented to the sexual act upon which the employee's dismissal or resignation is based. Id.

NOTE 2: The Every Student Succeeds Act (ESSA) requires school districts that receive ESEA funds to have policies in place that prohibit the district from assisting an employee in obtaining a new job if the district knows, or has probable cause to believe, that such employee engaged in sexual misconduct regarding a student or minor in violation of the law. The district is not prohibited from following routine procedures regarding the transmission of administrative or personnel files, but is prohibited from doing more than that to help the employee obtain new employment. 20 U.S.C. 7926. This provision is intended to prevent teachers or other school staff who have engaged in sexual misconduct with a student or minor at one school from obtaining employment at another school, without that school's knowledge of the prior misconduct. In sum, districts must ensure that they comply with state law mandatory reporting requirements as well as not offer employment assistance as prohibited by the ESSA when contacted by another school for information regarding an applicant's fitness for employment.

Dolores School District RE-4A, Dolores, Colorado