

CONSIDERATION OF ADOPTION OF PERSONNEL POLICY

STATUTORY AUTHORITY:

Section 161.132, RSMo



Consent
Item



Action
Item



Report
Item

PRIORITY AREA

Efficiency & Effectiveness

SUMMARY

The Department's complete set of personnel policies was adopted by the State Board of Education on March 21, 2002. Revisions to some policies have been approved in subsequent years. Policy 000-015 Internal Investigations, Employment, need to be revised and is included. Policy revisions have been reviewed by a committee composed of employees, executive staff, the human resources section, and legal counsel.

Policy revisions may become necessary during the year, these changes will be presented to the State Board of Education.

RECOMMENDATION

The Department recommends that the State Board adopt the personnel policy as presented.



**EXECUTIVE SUMMARY OF PERSONNEL
POLICY CHANGES
REVISED AUGUST 2020**

The following is a brief explanation of changes to one of the Department's Personnel Policies.

000-015 Internal Investigations

The Department is proposing to add language that states there will be no retaliation against employees for bringing forward allegations of misconduct or cooperating in any other investigation of a complaint. However, if after the investigation of any complaint, it is discovered an employee provided false information regarding the complaint, then disciplinary action may be taken against the employee who provided the false information.

The Department is also proposing language to clarify an employee may be immediately suspended with pay, not to exceed fifteen (15) work days, for alleged misconduct, which, if proven, could result in disciplinary action. Suspension with pay must be ordered by the Division/Office Administrator.



PERSONNEL POLICIES AND PROCEDURES

Adoption Date: September 17, 2019	Approved By: State Board of Education
Policy No: 000-015	Section: Employment
Pg. 1 of 3	Subject: Internal Investigations

I. PURPOSE

To establish procedures for internal investigations.

II. SCOPE

This policy applies to all Department employees and contractors as well as to those participating in Department programs and activities.

III. POLICY

- (A) It is the policy of the Department that there will be no discrimination or harassment based upon race, color, religion, gender, sexual orientation, national origin, age, veteran's status, mental or physical disability or any other basis prohibited by statute, and no retaliation against someone who exercises their legal rights. The Department will promptly investigate allegations of misconduct, discrimination, harassment or retaliation in violation of the Department policies, state, or federal laws.
- (B) Department supervisory personnel are responsible for ensuring that allegations of misconduct or discriminatory/harassing behavior be promptly referred to the Division/Office Administrator or his/her designee, or where appropriate, the Commissioner or Deputy Commissioner of Education. For purposes of the policy, a designee will be a member of the Executive Leadership Team of the Department.
- (C) It is the obligation of all Department employees to participate in and cooperate fully, when requested, with an investigation. Employees must answer all questions truthfully.
- (D) There will be no retaliation against employees for bringing forward allegations of misconduct or cooperating in any other investigation of a complaint. However, if after the investigation of any complaint, it is discovered an employee provided false information regarding the complaint, then disciplinary action may be taken against the employee who provided the false information.

IV. PROCEDURES

- (A) Complaints filed by employees, contractors, or individuals who participate in Department programs or activities shall:
 1. Be submitted in writing, or other accessible format suitable to the person must contain the name and address of the person filing it. Complaints must also state

the problem or action, including any allegation of misconduct, discrimination, harassment, and/or retaliation in sufficient detail to include but not limited to dates, witnesses, locations, etc.; the outcome; and the protected class to which the individual belongs as outlined in the Non-Discrimination in Department Employment, Programs/Activities/Facilities Policy (000-010). If the complainant is represented by a legal representative, the complainant's legal representative must sign the complaint.

All complaints must be submitted within forty-five (45) calendar days of the event or the person becoming aware of the event.

2. Be promptly and thoroughly investigated by the appropriate Department individual(s) ("investigator"). This investigation shall afford all interested persons an opportunity to submit a statement and submit evidence relevant to the complaint. The investigator shall maintain the files and records relating to the complaint. Further, to the extent allowed by law, the investigator shall maintain the confidentiality of the person filing the complaint. This shall not prohibit the investigator from consulting with Department legal counsel regarding the investigation and the drafting of a decision.

The investigator will issue a report in writing to the Division/Office Administrator. The Division/Office Administrator shall issue a decision in writing, or other accessible format suitable to the person, outlining what action, if any, will be taken in regard to the complaint no later than thirty (30) working days after its filing. If the Division/Office Administrator, for good reason, is unable to reach a decision within the thirty (30) working day period, s/he shall notify the person as to the reason for the delay, and the additional time needed to reach a decision. Should the Division/Office Administrator find misconduct, discrimination, harassment and/or retaliation within a Department program or activity, or in Department employment practices, the Department will take immediate steps to make the correction and to prevent its recurrence.

3. Be appealable by the complainant within (10) working days of receipt of the decision, by the complainant writing to the Commissioner of Education, Missouri Department of Elementary and Secondary Education (Commissioner), Jefferson State Office Building, 6th Floor, 205 Jefferson Street, P.O. Box 480, Jefferson City, Missouri 65102-0480; telephone number (573) 751-4446.

Filing of the appeal authorizes the Commissioner, or his/her designee, to review all information. The person filing the appeal must provide a statement that explains why s/he disagrees with the decision. The Commissioner will review the person's statement of appeal and the factual findings of the investigator's decision to arrive at an independent conclusion.

The Commissioner, or his/her designee, will issue a decision in writing or other accessible format suitable to the person within ten (10) working days after receiving the appeal. If the Commissioner, for good reason, is unable to reach a decision within the ten (10) working day period, s/he shall notify the person as to the reason for its delay and the additional time needed to reach a decision. Should the Commissioner find misconduct, discrimination, harassment and/or retaliation

within a Department program or activity, the Department will take immediate steps to make the correction and to prevent its recurrence.

- (B) During the period of an investigation, employees who have allegedly violated law and/or policy:
1. May be immediately suspended with pay, not to exceed fifteen (15) work days, for alleged misconduct, which, if proven, could result in disciplinary action. Suspension with pay must be ordered by the Division/Office Administrator. ~~A period of suspension with pay shall not exceed fifteen (15) work days.~~ The period of suspension with pay may be extended if deemed necessary by the Deputy Commissioner of Education or his/her designee.
 2. Are entitled to regular salary and fringe benefits. ~~Suspension with pay must be ordered by the Division/Office Administrator or his/her designee.~~ When suspensions with pay occur, the appropriate Human Resources office shall be advised immediately.
 3. May be immediately suspended without pay on the basis of pending criminal charges if such charges could be detrimental to the good of the service, due to the direct or indirect connection to the employee's job duties, as determined by the Deputy Commissioner of Education or his/her designee.
 4. May have outside representatives attend investigation interviews. Any outside representatives may not unduly disrupt or delay the interview, or they will be removed.
- (C) The investigative report shall be forwarded to the Division/Office Administrator, or his or her designee, and where appropriate, disciplinary action will be pursuant to the Department's personnel policies.
- (D) If the investigation reveals no cause for action, employees who were suspended with pay shall be returned to work; and, if entries have been made in the personnel record, such entries shall be expunged.
- (E) Retaliatory action against any Department employee, contractor, client, student, claimant or patron, as a result of that person's attempt to seek recourse under this policy, is prohibited.