



Lake Wales Charter Schools  
Human Resource Services

# **Due Process Handbook**

Employee Discipline:  
A Guide for Administrators

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## Employee Discipline:

### Documentation and Investigation

This manual provides you with consistent guidelines and valuable reference materials to assist you with the critical task of documenting, investigating, and disciplining employees.

Florida Statutes and Lake Wales Charter School policies regarding employee discipline are already in place. This manual is not designed to replace any of these. The information in this manual simply supports and supplements those policies and procedures.

#### **Clarification**

This manual offers guidelines and references regarding employee **discipline**. Employee discipline, of course, is a **different process from the employee evaluation process**.

Although the goal in both discipline and evaluation is ultimately to improve employee performance (hence the overall education quality), and while both share many of the same basic requirements and legal foundations, the two processes are, in fact, separate.

**Where appropriate, evaluations and disciplinary actions should be consistent with one another. However, depending on the timing of the disciplinary action, it is possible that the evaluation tool may not reflect discipline. (Example: An employee may earn an excellent evaluation and then exhibit unacceptable behavior that results in disciplinary action.)**

## DOCUMENTATION

*Documentation* is “the record.” In any immediate or potential personnel action, discipline, professional development plans, or dismissal, the only sufficient evidence is “the record.” It ultimately must stand alone. More importantly, it must withstand the careful and meticulous scrutiny of three categories of third parties.

1. **Adversary Third Party**: An employee’s supportive colleagues or even external contacts are generally prepared to attack the supervising administrator's information, procedures, and judgments.
2. **Advocacy Third Party**: This category consists of the area and system officials who must concur that sound judgment and proper documentation warrant the recommended action.

3. **Neutral Third Party:** This party, who may be a hearing examiner, arbitrator, or judge, has no vested interest in which of the disputing parties prevail; they will review the degree to which due process has protected the charged employee from arbitrary or capricious treatment. When the administration takes dismissal action, the System must prove its case. Therefore, the System's credibility is under scrutiny; more precisely, the credibility and skill of the supervising administrator are likely to be perceived as "on trial."

The supervising administrator must examine the documentation, keeping in mind the impact that each piece of evidence will have on a neutral third party.

Remember that should you find yourself in a legal setting where you are required to justify why an employee was released, you must be able to produce documented reasons that are legally defensible.

### **Why Use Documentation?**

- **Evidence:** Personnel decisions are minor, subject to challenge, and, when challenged, are more easily defended with documentation. In court cases, unemployment hearings, and discrimination cases, the Lake Wales Charter Schools Board of Trustees will likely lose if the documentation is not timely, accurate, and written to correct the problem.
- **Improve performance:** Documentation can provide a written set of goals or objectives that an employee must meet to improve performance.
- **Communication:** The use of documentation can improve feedback between a supervisor and an employee.
- **Notice to the employee:** Documentation provides evidence that an employee was made aware of the rules. Generally, employees are not bound by the regulations that have not been brought to their attention, nor should they be disciplined for conduct they did not reasonably understand was a problem.
- **A record of personnel actions:** If an evaluation or disciplinary action is questioned, documentation will be the key to supporting the action.
- **Guidelines for future performance:** Documentation reduces any possible misunderstanding concerning work rules. It also allows a supervisor to clearly state what is expected of an employee and describe to the employee the consequences of future infractions. For example, when a supervisor becomes aware of unsatisfactory performance, documentation can provide evidence that an employee was accorded progressive discipline, was adequately warned about poor performance and had a reasonable opportunity to improve. Hence, the employee was awarded complete due process during the investigative and reprimand stages of employee discipline.

## **DUE PROCESS**

The Discipline Process is implemented when simple verbal correction, letter of concern, or policy advisory notice is not enough, or the infraction level exceeds that which can be dealt with in any other manner. The first step is to provide the employee the benefits of Due Process more than acting on the principle that all discipline proceedings must be conducted in a manner that is fair and without malice. As a supervisor, your responsibility to the employee includes, but is not limited to:

- **Conducting a fact-finding interview of all parties involved in the allegation**
- **Determining appropriate disciplinary action in consultation with one's supervisor and the Human Resource Services**
- **Documenting disciplinary action**
- **Administering disciplinary action**
- **Informing the employee that they may submit a written rebuttal**

Employees' rights are designed to protect them from abuse or maltreatment, not guaranteeing them the right to be insubordinate or violate policy.

## **INVESTIGATION**

### ***Complaint Received:***

- If the complaint is anonymous, it may be investigated, but if not substantiated independently, we do not keep the complaint document or the investigation documents under §1012.31, FL Statutes.
- Derogatory Materials: No derogatory documents, including anonymous materials, relating to an employee's conduct, service, character, or personality shall be placed in the personnel file of such employee except as provided for herein.
- The Director of Human Resources reviews all complaints before a committee made up of the Lake Wales Charter Schools Board of Trustees, Teacher Representative, Superintendent Designee, and the school-based administrator for Professional Standards.

### ***Authorized Investigations:***

- The complaint is then assigned to an investigator (contact the Director of Human Resources).
- If the complaint is of such a nature were removing the employee during the investigation is warranted, said employee may be placed on Administrative Leave. A letter, signed by the Superintendent or Director of Human Resource Services, would be presented to the employee. Additionally, depending on the allegations, the appropriate law enforcement agency may also be notified by the Department of Children and Families (DCF).

### ***Investigating a Complaint:***

Occasionally, there may be situations within your responsibilities that require you to review or investigate incidents covering a wide variety of issues and take appropriate action or make appropriate recommendations. Supervisors must treat everyone fairly and approach all investigations from a neutral position regardless of the sex, race, religion, national origin, sexual orientation, marital status, disability, etc., of those involved. The purpose of the investigation is to gather facts so that you can make a credible determination as to what happened in each situation. If someone is thought to have violated a policy, guideline, or procedure, conducting an effective investigation helps reach a conclusion based upon the facts available. Accurate facts lead to sound decisions.

### ***Gathering the Facts:***

The site supervisor shall document all allegations or complaints, both verbal and written. Information should include, but not be limited to, at least the following:

- **Date of Incident**
- **Persons Involved**
- **Nature of the Incident**
- **Any Necessary Immediate Action**

In the initial meeting with the complainant, the purpose/objective should be to:

- **Identify** all issues
- **Gather** all material facts
- **Determine** if assistance is needed
- **Instill** confidence that the matter will be reviewed openly

In the actual interview with the person raising the issue, the most important object is to get the facts. **Get the Who, What, Where, When, and Why.** Were there any observers/witnesses; are there any written documents relevant to the issue; are there other persons with the same or similar concerns, etc.?

Encourage the complainant to write down their side of the story. This will avoid misunderstandings and ensure that you correctly understand all the facts and issues raised. When concluding the interview, thank the person for raising the issue and inform the individual that they will be kept apprised of the action taken regarding the concern.

### ***Who Else Should be Interviewed?***

When you receive a complaint, you must conduct interviews with all the involved parties. Potential witnesses could include:

- Complainant
- Observers of the incident, including third parties (e.g., students, parents, staff)
- Anyone with relevant information
- People who the complainant has asked you to interview
- People who the subject of the investigation asks you to interview
- The issue of the investigation

To identify more witnesses, you should ask each person involved in the complaint the names of anyone they believe might have more information to add. **In addition, with each interview, you must remind all parties involved that they are not to discuss the discussion, allegation, or complaint with any other person.**

### ***Investigative Interviews with Observers:***

Prepare questions in advance. Pertinent inquiries should obtain the relevant facts that will help clarify certain aspects of the complaint. You should also be prepared to answer questions that interviewers are likely to ask. Be sensitive that someone being interviewed as part of an investigation can feel stressed. If possible, put the interviewee at ease. Communicate to the interviewee what is being investigated, what role the interviewee will play in the investigation, how the information obtained may be used, and how confident you will be able to keep the information obtained.

To protect the integrity of the investigation, explain the seriousness of the study, explain the importance of receiving accurate, truthful information the first time, explain that you do not want speculation, and request that no other discussions occur with others about this matter because it may influence others' responses should they also be interviewed. **Get the Who, What, Where, When, and Why.**

In closing the interview, thank the individual for their information and time. Also, inform the interviewee that the System will not tolerate any form of retaliation against them as a participant in the investigation. Should this occur, they should contact you immediately.

### ***Meeting with the Subject/Employee of the Investigation:***

- ✓ Before the interview, formulate your questions.
- ✓ Before interviewing the subject, inform them about the nature of the allegation.
- ✓ **Employees are not covered under the Weingarten Rule.**
- ✓ Understand what facts are necessary to reach a conclusion and resolution.
- ✓ Save unfriendly or embarrassing questions until the end of the interview.
- ✓ **Do not begin the discussion with hostile questions.**
- ✓ The interview should start by explaining a detailed explanation of the issue to the subject.
- ✓ Explain that you want as much information from them as possible.
- ✓ Explain that, should they refuse to cooperate, you still must resolve the issue; you will be forced to base your decision on other sources' information.
- ✓ Explain that their unwillingness to cooperate will be considered a factor in your decision.

Ask the tough questions. Don't let levels of discomfort prevent you from getting all the answers. **Get the Who, What, Where, When, and Why?**

Reviewing the interviewee's answers with them will bring agreement with what was said. Before concluding, encourage the individual to provide additional information that may be valuable, and give the individual a time frame within which you expect to decide.



### ***Purpose of the Interview:***

The purpose of the interview is to **learn facts**.

To accomplish the above, it requires that the Committee for Professional Standards be able to learn, through questioning, what the person being interviewed has observed.

### ***Important Points behind a Successful Interview Process***

Typically, the investigator and the interviewee are strangers. If such is the case, the investigator should introduce themselves and, when appropriate or requested, show their proper credentials, and advise the person on what is desired. The opening remarks should establish a cordial atmosphere for the interview.

The approach and attitude of the investigator will make or break the initial interview and contribute significantly to the overall success or failure of the interview. The investigator should be friendly but businesslike and professional. They should lead the discussion into a rapport-building, casual atmosphere and then into the actual substance of the interview to obtain essential facts.

The Committee for Professional Standards always needs to control the interview and allow few diversions from the business without appearing rude. If the interviewee stays on the subject matter, it is essential not to interrupt. Questions to clarify the situation should wait until the person pauses.

Taking notes, writing statements, or recording conversations should be made with careful consideration and discretion. If any of the three is necessary, prepare the interviewee by informing them that you are required to document discussions during the interview. Make the statement brief to stay focused on the job at hand.

When you believe that the interviewee is falsifying information, you should not accuse the interviewee in any derogatory way. Instead, a proper way of handling such a situation would be, "I understood you to say..." "You won't mind signing a statement to that effect?" "According to the other persons I've talked with..." or similar phrases that may encourage the person to be more truthful. Those exact phrases may be used to clarify what they are saying.

Formulating and presenting questions is an art developed only through practice, time passing, and changing circumstances. Suffice it to say, if you know what information you require, show professional determination, remain courteous, and accept other people the way they are, you will quickly gain the knowledge to conduct successful interviews.

### ***Investigative Packet:***

Once all information, statements, and evidence are obtained, a report is written with all supporting evidence attached.

As a part of the employee's "due process" rights, a complete copy of the investigative report is given to the employee, who then has an opportunity to respond within 3-5 days.

***Ending the Investigation:***

- a. The entire packet, including the response if provided, is reviewed by the Director of Human Resources and the Committee for Professional Standards assigned to determine if the allegations are deemed to be sustained, not sustained, unfounded, or exonerated. At this point, the counsel of additional staff (example – attorney and senior staff) is sought, especially when the investigation is complex or the penalty is severe.
- b. If the allegation(s) are determined to be sustained, the Director of Human Resources will consider the staff members consulted in the previous step and communicate with the employee's Supervisor/Administrator to determine the appropriate disciplinary action. Factors such as the number and severity of past disciplinary action(s) are considered when determining the most appropriate action. Progressive Discipline is followed as outlined in the Board of Trustee policy. If applicable, legal counsel may also be involved in this step of the process, especially if the consequence is severe.
- c. A Final Disposition Form is completed by the Director of Human Resources listing the outcome of the case and the disciplinary action taken. The form is then signed by the Director of Human Resources and the assigned Committee for Professional Standards and filed in the "Investigation Dispositions" binder.
- d. If a complaint against a teacher is sustained, the investigative packet is sent to the Florida Department of Education Practices Commission Office of Professional Practice Services with the appropriate Lake Wales Charter Schools System Reporting Form completed documenting this action (§1012.796, FL Statutes).
- e. All investigative reports become public record ten calendar days after signing the Final Disposition Form.
- f. In addition, all Committee investigators keep track of all assigned cases by logging them into an Investigations Spreadsheet and sending a Weekly Update documenting active patients and their status. The Weekly Update is sent to the Superintendent's office and the Director of Human Resources.

***Deciding/Recommendation:***

After analyzing the facts, you have gathered in the investigation and before making a recommendation, consider the following:

- a. Were policies, contracts, or work rules violated?
- b. If you identified a violation, is it a serious violation?
- c. What has happened in the past in similar situations?
- d. Do specific federal and state laws and contract language require you to take a specific action?
- e. How long has the individual (if an employee) been employed in Lake Wales Charter Schools, and what is their performance record?
- f. Has the individual previously violated this or other policies?

**In reaching and documenting the conclusion, use factual determinations; consider how policies, procedures, contract language, etc., apply; and document what action will be taken.**

Distribute the findings and your decision as appropriate.

## PROGRESSIVE DISCIPLINE



As a supervisor, before implementing Progressive Discipline procedures, meet with the employee and share your concerns. Then ask for their response. Remember to listen carefully, take notes, and minimize interruptions while the employee responds.

As you follow Progressive Discipline steps, consider assigning professional development and encouraging the use of Employee Assistance Program (EAP) counseling sessions through Mutual of Omaha. The goal is always to convince employees to bring their performance to an acceptable level.

*When determining the appropriate disciplinary action, consider:*

- a. ➤ **The severity of the offense.**
- b. ➤ **The number of repetitions of the offenses and length of time between offenses.**
- c. ➤ **Related misconduct by the employee in other employment, including findings of guilt or innocence, the discipline imposed, and discipline served.**
- d. ➤ **Degree of physical and mental harm to a student, co-worker, or member of the public.**

*Progressive Discipline: Objectives*

To promote and maintain acceptable behavior on the part of all employees

To identify marginal employees

- ✓ To assist employees in correcting undesirable behavior
- ✓ To encourage employees to perform at their best level of conduct.

**If you have documented it correctly, you should be able to answer the following questions:**

- ❖ What is the problem?
- ❖ How do I know that the problem exists?
- ❖ What have I observed (or documented) to indicate the presence of the problem?
- ❖ When did I make these observations/documents?
- ❖ How did I make the employee aware that I thought a problematic situation existed?

- ❖ What were my responses to the situation? Did I give advice, directives, or point out the undesirable consequences of continuing the problem?
- ❖ What were the employee's responses to my perception of the situation? Were there points of agreement?
- ❖ What was my follow-up to the conference(s)?
- ❖ Was a plan of assistance delineated, and was it provided to the employee?
- ❖ If resource personnel was involved, who were they, what did they do, when they did it, and what was the result?
- ❖ Did the problem persist? Was the employee advised of this? When and how?

### *Sample Letters*

In keeping with our goal of providing you with the most “bulletproof” documentation in support of Letters of Concern, Policy Advisory Letters, and Progressive Discipline actions, below, please find the following letter templates:

- **Letter of Concern** (Not disciplinary).
- **Policy Advisory Letter** (Not disciplinary).
- **Verbal Warning with a Written Confirmation** (Step I)
- **Written Reprimand Following a Conference** (Step II)
- **Request that the Superintendent Issue a Suspension without Pay for up to Five Days** (Step III)
- **Request that the Superintendent Recommend the Termination of an Employee** (Step IV)

*Each letter should be issued on your school/work location letterhead with the employee's name, job title, and SAP number. Do not use any portion of the Social Security Number.*

*Please ensure that the employee acknowledges receipt with their signature on the original letter.*

If the employee refuses to sign, a witness (administrator/supervisor, not office staff) should sign, indicating the employee's refusal to sign. Note that the requirement for the employee's signature acknowledging receipt of the request fulfills a legal requirement per §1012.31, FL Statutes.

After making copies of the signed letter to retain at the school/work location, and for the affected employee, send the original signed letter to the Director of Human Resources for placement in the System Personnel File.

***Note: The following sample letters should be amended to your situation. The sections highlighted below should be in every letter. The areas highlighted in gray are suggestions.***

## Letter 1

### LETTER OF CONCERN

(Not disciplinary)

*Print the letter on your school/work location letterhead*

*Please be aware that you do not have to issue a **Letter of Concern** before instituting Progressive Discipline. However, you must treat your staff equitably, i.e., all things being equal, if you traditionally give a Letter of Concern, and there is nothing unique about this circumstance. The System is in a stronger legal position if you continue this practice. The sections highlighted below should be in every letter.*

**{On School Letter Head}**

### LETTER OF CONCERN

[Insert Date]

[Full Name]

[SAP#]

[Job Title/Assignment]

[School/Work Location]

Dear Mr/s. [Insert Name]:

This letter documents that we held a conference this morning, at which time I discussed with you your excessive absences. Since the beginning of the school year, you have been late for work on several occasions and have been absent from work for four days without any leave time to cover. When you are not present at work consistently, you create a situation where your students' learning suffers due to the lack of continuity of instruction.

Suppose you are unable to be at work due to medical reasons. In that case, you must submit the proper documentation to the Human Resources Department to be considered for a leave of absence. Also, please be aware that the Employee Assistance Program by Mutual of Omaha is available to all employees to help solve personal or work-related problems with the help of licensed professional counselors.

You are a valued team member. You must be at work every day. Students lose valuable instructional time when they do not come to work daily. I appreciate your willingness to work on this issue. **Please note that this letter is not construed as disciplinary but instead as a Letter of Concern.**

Please contact me to discuss any questions regarding this matter.

Sincerely,

[Insert Name of Principal] *(Signature of Principal, not the Assistant Principal)*

The employee mentioned earlier at this moment acknowledges receipt of this letter; the date or a witness (administrator/supervisor) has signed. Indicate if the employee refuses to sign.

***Have the employee sign the original letter (or a witness [administrator] indicating refusal to sign). Send the signed original to the Director of Human Resources for placement in the District Personnel File.***



## LETTER 2

### POLICY ADVISORY LETTER

Policy

(Not disciplinary)

*Print the letter on your school/work location letterhead*

*Please be aware that you do not have to issue a **Policy Advisory letter** before instituting Progressive Discipline. However, you must treat your staff equitably, i.e., all things being equal, if you begin with a Policy Advisory Letter. There is nothing unique about this circumstance. The System is in a stronger legal position if you continue this practice. The sections **highlighted** below should be in every letter.*

**{On School Letter Head}**

### POLICY ADVISORY LETTER

[Insert Date]

[Full Name]

[SAP#]

[Job Title/Assignment]

[School/Work Location]

Dear Mr/s. [Insert Name]:

This letter documents that we held a conference this morning, at which time I discussed a concern I had regarding allegations that you {Describe the indecent} [insert date]. I want to direct your attention to the following subsection of the Lake Wales Employee Handbook: **Highlight or underline sections appropriate to your employee.**

**EXAMPLE:** *Each instructional staff member shall maintain a standard of care for the supervision, control, and protection of students commensurate with their assigned duties and responsibilities, which include but are not limited to: An instructional staff member shall not inappropriately associate with students at any time in a manner which may give the appearance of impropriety, including but not limited to, the creation or participation in any situation or activity which could be considered abusive or sexually suggestive or involve illegal substances such as **drugs, alcohol, or tobacco.** Any sexual or other inappropriate conduct with a student by any staff member will subject the offender to potential criminal liability and discipline, including termination of employment.*

You are a valued team member. The safety and well-being of all students are our utmost responsibility. I appreciate your willingness to work on this issue. Please note that this letter is not to be construed as disciplinary but is intended to inform or re-familiarize you with the Board of Trustee Policy related to Student Supervision and Welfare and serves as a **Policy Advisory Letter**. Please contact me to discuss any questions regarding this matter.

Sincerely,

[Insert Name of Principal] (*Signature of Principal, not the Assistant Principal*)

The employee mentioned earlier at this moment acknowledges receipt of this letter; the date or a witness (administrator/supervisor) has signed. Indicate if the employee refuses to sign.

***Have the employee sign the original letter (or a witness [administrator] indicating refusal to sign). Send the signed original to the Director of Human Resources for placement in the District Personnel File.***

## LETTER 3

### VERBAL WARNING WITH WRITTEN CONFIRMATION

*Print the letter on your school/work location letterhead.  
The sections **highlighted** below should be in every letter.*

**{On School Letter Head}**

#### LETTER OF Written Confirmation

[Insert Date]

[Full Name]

[SAP#]

[Job Title/Assignment]

[School/Work Location]

Dear Mr/s. [Insert Name]:

This letter is submitted as written confirmation that we held a conference this morning, at which time I issued a Verbal Warning about your repeated tardiness. You have been late for work on three occasions [insert dates]. When you are not present for work at the beginning of the school day, you create a situation where your students' learning suffers. You contribute to the disruption of the work schedule of other staff members who must scramble to ensure your students' safety and welfare. Please be at work on time. Today's conference constitutes the first step of Progressive Discipline as outlined in the **Due Process Handbook**. It is important to note that further disciplinary actions, including termination, will follow if unacceptable behaviors continue.

Please speak with me if you have any questions regarding this matter.

Sincerely,

[Insert Name of Principal] *(Signature of Principal, not the Assistant Principal)*

The employee mentioned earlier at this moment acknowledges receipt of this letter; the date or a witness (administrator/supervisor) has signed. Indicate if the employee refuses to sign.

***Have the employee sign the original letter (or a witness [administrator] indicating refusal to sign). Send the signed original to the Director of Human Resources for placement in the District Personnel File.***

**LETTER 4**

**WRITTEN REPRIMAND FOLLOWING A CONFERENCE**

*Print the letter on your school/work location letterhead.  
The sections **highlighted** below should be in every letter.*

**{On School Letter Head}**

**WRITTEN REPRIMAND FOLLOWING A CONFERENCE**

[Insert Date]  
[Full Name]  
[SAP#]

[Job Title/Assignment]  
[School/Work Location]

Dear Mr/s. [Insert Name]:

On [insert date], you received a *Verbal Warning with a Written Confirmation* due to your repeatedly failing to be to work on time. Since that time, two additional occurrences of your falling to be on campus at the beginning of the workday have taken place on [insert dates].

In addition, our Assistant Principal, [insert name], has determined, and I have verified, that on at least three occasions, [insert dates], your plan book has either not been up-to-date, or the lesson plans have been incomplete. As a result of your repeated delay, this letter constitutes a **Written Reprimand** and is the second step of Progressive Discipline. It is important to note that further disciplinary actions, including termination, will follow if unacceptable behaviors continue.

Being at work on time and maintaining a complete and current plan book are critical functions of your job as a teacher. I urge you to renew your efforts and be attentive to these and all other aspects of your position. You are an essential member of our team. Please get in touch with me if you have any questions.

Sincerely,

[Insert Name of Principal] (*Signature of Principal, not the Assistant Principal*)

The employee mentioned earlier at this moment acknowledges receipt of this letter; the date or a witness (administrator/supervisor) has signed. Indicate if the employee refuses to sign.

District Personnel File: SAP #[ ]

*Have the employee sign the original letter (or a witness [administrator] indicating refusal to sign) as required per §1012.31, FL Statutes. Have the employee sign the original letter (or a witness [administrator] indicating refusal to sign). Send the signed original to the Director of Human Resources for placement in the District Personnel File.*

**LETTER 5**

**REQUEST SUSPENSION WITHOUT PAY FOR UP TO FIVE DAYS**

*Print the letter on your school/work location letterhead.  
The sections **highlighted** below should be in every letter.*

**{On School Letter Head}**

**Request SUSPENSION WITHOUT PAY FOR UP TO FIVE DAYS**

[Insert Date]  
[Full Name]  
[SAP#]

[Job Title/Assignment]  
[School/Work Location]

Dear Mr/s. [Insert Name]:

Dear Mrs. Byrd:

On [insert date], it was reported that [insert name], a teacher at our school, became angry with a misbehaving student. Mr/s. [insert name] responded to the student by cursing in a loud and angry voice and raising her hand as if preparing to strike the student. While no contact was made, the student covered his head with his arms in anticipation of being attacked and began to cry. This took place in the presence of ten other students. The Director of Human Services has investigated this incident, [insert name], and their report confirms that the incident occurred, as I have stated.

We have documented ongoing shortcomings in Mr/s. [insert name] performance as a teacher at this school. On [insert date], s/he received a *Verbal Warning with a Written Confirmation* for repeatedly not reporting to work in a timely fashion. On [insert date], s/he was issued a *Written Reprimand following a Conference* for additional incidents of tardiness. Copies of the documentation for those first two Progressive Discipline steps are attached.

I think that Mr/s. [insert name]'s recent confrontation with the student rises to the level of severe misconduct and just cause for further disciplinary action. **I request that you consider suspending Mr/s. \_\_\_\_\_ without pay for one to five days per the third step of Progressive Discipline.**

Sincerely,

[Insert Name of Principal] (*Signature of Principal, not the Assistant Principal*)  
\_\_\_\_\_, Senior Director, Human Resource Services  
\_\_\_\_\_, Superintendent  
District Personnel File: SAP #[\_\_\_\_\_]

**[Insert Name of Employee] w/ attachments**

The employee mentioned earlier at this moment acknowledges receipt of this letter; the date or a witness (administrator/supervisor) has signed. Indicate if the employee refuses to sign.

*Have the employee sign the original letter (or a witness [administrator] indicating refusal to sign) as required per §1012.31, FL Statutes. Send the signed original to the Director of Human Resources for placement in the District Personnel File, in addition to routing the other courtesy copies.*

**LETTER 6**

**REQUEST FOR TERMINATION**

*Print the letter on your school/work location letterhead.  
The sections **highlighted** below should be in every letter.*

**{On School Letter Head}**

**REQUEST FOR TERMINATION**

[Insert Date]  
[Full Name]  
[SAP#]

[Job Title/Assignment]  
[School/Work Location]

Dear Mrs. Byrd:

At the end of this past school year Mr/s. [insert name], a teacher at this school, was repeatedly disciplined for inadequacies in her performance and misconduct, including a *Verbal Warning*, a *Written Reprimand*, and a *Three-day Suspension without Pay*. The documentation regarding these matters is attached.

Since returning for this new school year, Mr/s. [insert name] has consistently exhibited a belligerent and uncooperative attitude. They have engaged in insubordination by refusing to make changes in their plan book as recommended by [name] our Assistant Principal on the following dates [insert dates]. Mr/s. [insert name] has had angry confrontations with other staff members, engaged in antagonistic behavior towards parents, and was observed by me on [insert date/s] cursing and making disparaging comments to students in the presence of other students. I requested an investigation of these incidents by the Human Resources Analyst for Professional Standards Investigator Mr/s. [insert name], and a copy of that investigation confirming Mr/s. [insert name]'s misconduct is attached.

I do not believe that Mr/s. [insert name] can continue as a productive member of our faculty. Further, I think that s/he has engaged in serious misconduct, which constitutes just cause for her termination, as the fourth step of Progressive Discipline. **I am asking that you consider recommending to the School Board that Mr/s. [insert name] be terminated as a Lake Wales Charter Schools employee.**

Sincerely,

[Insert Name of Principal] *(Signature of Principal, not the Assistant Principal)*

[ ], Senior Director, Human Resource Services

[ ], Superintendent

District Personnel File: SAP #[ ]

District Personnel File: SAP #[ ]  
[Insert Name of Employee] w/ attachments

[Insert Name of Employee] w/ attachments

The employee mentioned earlier at this moment acknowledges receipt of this letter; the date or a witness (administrator/supervisor) has signed. Indicate if the employee refuses to sign.

*Have the employee sign the original letter (or a witness [administrator] indicating refusal to sign) as required per §1012.31, FL Statutes. Send the signed original to the Director of Human Resources for placement in the District Personnel File, in addition to routing the other courtesy copies.*



## **JUST CAUSE**

There must be “just cause” before an administrator can discipline an employee. If an employee grieves or appeals a disciplinary action, the administrator carries the burden of proof that the corrective action was for just cause.

Over the years, arbitrators, and hearing officers, have developed a standard law definition of what constitutes just cause. This definition consists of a set of guidelines or criteria to be applied to the facts of the case. The requirements are outlined in the form of seven questions.

A “no” answer to any of the following questions typically signifies that just cause does NOT exist. In other words, such “no” means that the administrator’s disciplinary action contains one or more elements of arbitrary, capricious, unreasonable, and discriminatory action to such an extent that said decision constituted an abuse of managerial discretion. Such a finding will generally result in a reversal of the administrator’s disciplinary action against the employee.

### **Background Information**

#### ➤ Legal Theory – “Job as Property”

Due Process as Afforded by 14<sup>th</sup> Amendment: “...nor shall any state deprive any person of life, liberty, or property, without the due process of law.”

- Employees have a right to be informed of unsatisfactory performance, a chance to defend themselves, and (in most cases) improve before adverse employment actions are taken.
- The “just cause” requirement mandates that corrective action be taken only for clear, compelling, and justifiable reasons and only after “Due Process” is followed.

### ***Just Cause Checklist***

The answers to the following seven questions should be determined and considered before taking disciplinary action against an employee based on “just cause” (i.e., good reasons). If corrective action is taken, the official taking action will be required to present the evidence that supports a “yes” answer to each of the seven questions in the event the disciplinary action is grieved or appealed to arbitration by the union:

- 1. Did the administrator put the employee on notice of any applicable rules and possible consequences of violating the law (s)?**
- 2. Was the administration’s rule reasonable for what the employer might properly expect of the employee?**
- 3. Did the administrator make an effort to investigate (both sides of the issue)?**
- 4. Was the investigation fair and objective?**
- 5. Was there any proof of misconduct?**
- 6. Has the administrator given equal treatment to similarly situated employees?**
- 7. Was the level of discipline an appropriate penalty?**

While these seven questions do not constitute a recognized legal standard, honest “yes” answers to all seven questions can establish a solid framework for going forward. The bottom line is to keep these seven questions in mind when considering disciplinary actions.

### ***Paid Administrative Leave***

An employee on administrative leave is not permitted to be on any school property. The employee is directed to have no contact with any student, parent, or school employee regarding any issue or circumstance relating to why they were placed on paid administrative leave and the ongoing investigation regarding such matters. Additionally, the employee is directed to return any school-issued equipment, laptop, keys, and identification badge to the Principal/supervisor and provide a phone number they may be reached during working hours.