

## Personnel

**NEW****SUBJECT: DISCIPLINING OF A TENURED TEACHER OR CERTIFIED PERSONNEL**

The District may discipline tenured teachers and certain certified personnel in accordance with applicable law, regulations, or applicable contract provisions.

**Ineffective Personnel**

The District or Board may bring incompetence charges against a teacher or building principal who receives two or more consecutive ineffective ratings under the APPR; the District or Board must bring incompetence charges against anyone who receives three consecutive ineffective APPR ratings. A single hearing officer from the American Arbitration Association's labor arbitration panel will govern the competency hearing. The hearing may be public or private, at the employee's discretion. The employee will have a reasonable opportunity to defend himself or herself, but will not be required to testify. Each party has the right to be represented by counsel, to subpoena witnesses, to cross-examine witnesses, and to make motions or applications. There will be a full and fair disclosure of witnesses and evidence to be offered by both the District and the employee. A record of the proceeding will be kept.

**Allegations of Abuse**

The Board may suspend, without pay, an employee charged with physically or sexually abusing a student pending an expedited probable-cause hearing. A single hearing officer will conduct the probable-cause hearing.

**Child Witnesses**

A child under 14 may be allowed to testify through live, two-way, closed-circuit television if the hearing officer determines by clear and convincing evidence that the child would suffer serious mental or emotional harm that would substantially impair his or her ability to communicate if required to testify live, and that using closed-circuit television would diminish the likelihood or extent of the child suffering serious mental or emotional harm. In making this decision, the hearing officer will consider applicable factors, including: whether the offense was particularly heinous, the child's age and vulnerability, the child's susceptibility to psychological harm due to an underlying physical or mental condition, whether the accused occupied a position of authority over the child, if the offense charged was part of an ongoing course of conduct committed by the accused against the child over an extended period of time, use of a dangerous or deadly weapon, whether the child suffered serious physical injury, threats made against the child, the accused's access to the child, and expert testimony that the child would be particularly susceptible to psychological harm if required to testify in open court or to be in the physical presence of the accused.

(Continued)

**SUBJECT: DISCIPLINING OF A TENURED TEACHER OR CERTIFIED PERSONNEL  
(Cont'd.)****Automatic Revocation of Teacher and Administrative Certificates by the Commissioner of Education**

The Commissioner will revoke and annul the certificate of a teacher, teaching assistant, pupil personnel services professional, school administrator or supervisor, or superintendent convicted of:

- a) A sex offense for which registration as a sex offender is required under the Sex Offender Registration Act; or
- b) Any other violent felony offense committed against a child when the child was the intended victim of the offense.

These offenses include, but are not limited to, sexual misconduct, sexual abuse, rape, statutory rape, assault, various other criminal sexual acts, and certain kidnapping offenses.

In addition, the Commissioner will revoke and annul the certificate of a school district administrator, school administrator or supervisor, or school business administrator convicted of fraud.

Criminal Procedure Law §§ 65.00, 65.20, 65.30, and 380.95  
Education Law §§ 305(7-a), 305(7-b), 2573(8), 2590-j(7), 3012, 3020-a, and 3020-b  
Penal Law § 195.20  
8 NYCRR Subpart 82-3  
Correction Law Article 6-C

# POLICY

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Personnel

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## **SUBJECT: DISCIPLINING OF TENURED TEACHERS OR CERTIFIED PERSONNEL**

Tenured teachers and certain certified personnel may be subject to disciplinary charges that are set forth in Section 3012 of the Education Law.

It is the policy of the Board that disciplinary charges against teachers and certified personnel will be initiated to determine the fitness of the employee to continue to carry on his or her professional responsibilities.

Regulations concerning the disciplining of tenured teachers and certified personnel shall follow those set forth by Section 3012 of the Education Law.

Procedures for a hearing regarding these disciplinary measures will be in accordance with Section 3020a of the Education Law and/or in accordance with applicable contractual provisions.

### **Automatic Revocation of Teacher and Administrative Certificates by the Commissioner of Education**

The Commissioner of Education shall revoke and annul the certificate of a teacher, teaching assistant, pupil personnel services professional, school administrator or supervisor, or Superintendent convicted of a sex offense for which registration as a sex offender is required under the Sex Offender Registration Act. These offenses include, but are not limited to, sexual misconduct, sexual abuse, rape, statutory rape, various other criminal sexual acts, and certain kidnapping offenses. Annulment and revocation shall be in accordance with Education Law Section 305(7-a).

In addition, the Commissioner of Education shall revoke and annul the certificate of a school district administrator, school administrator or supervisor, or School Business Administrator convicted of fraud under Penal Law Section 195.20 which makes it a felony to obtain governmental property in excess of \$1,000 through a systemic ongoing course of conduct with the intent to defraud or obtain property by false or fraudulent pretenses, representations or promises. Annulment and revocation shall be in accordance with Education Law Section 305(7-b).

Criminal Procedure Law Section 380.95  
Education Law Sections 305(7-a), 305(7-b), 3012 and 3020-a  
Penal Law Section 195.20  
8 NYCRR Subpart 82-1

Adopted: 1988  
Revised: 5/9/06; 5/8/12