

CONTRACT LANGUAGE ALLOWING EXTREME CASES OF MISDEEDS TO QUALIFY FOR EXPEDITED "JUST CAUSE" FOR DISCIPLINE OR REMOVAL

The rethinking of the evaluation system gives an opportunity to include other measures of student protection. Be certain that despite the process for evaluating quality, a shortcut process for unfitness due to unprofessional conduct exists.

Contract provisions related to the dismissal process could be tightened up with regard to timelines, appeals, and various obligations.

To cover criticisms of administrator biases, an element of randomly-selected peer review of incidents could be included as part of the finding process the Board uses.

Perhaps the removal process could be accelerated with a practice of allowing the district to pay for job seeking/transition services in return for no contest.

Topics of "soft" unprofessional behavior:

- ethical violations and inappropriate conduct
- Absenteeism/Tardiness
- Classroom Management
- Incompetence
- Professional Demeanor

The Washington State Attorney General has issued [AGO 55-57 No. 51](#) which offers guidance:

1. A school board has "sufficient cause" for nonrenewal of an employee's contract whenever the termination of his employment would be in the best interests of the school district, and this may be by reason of his unfitness for his position, for reasons of economy, or because there is a lack of need for his services, or other cause which is of a substantial nature, and is not frivolous or inconsequential.
2. In a hearing to determine whether "sufficient cause" exists for nonrenewal of an employee's contract, any relevant evidence may be received and considered by the school board, whether or not it is admissible under legal rules, if it is of a kind on which fair-minded men are accustomed to rely in serious matters, but the employee must, wherever practicable, be confronted with the witnesses against him so that he may cross-examine them, and a decision not to renew must be supported by substantial evidence received at the hearing, including some evidence which is competent under legal rules

78 C.J.S., Schools and School Districts, § 202, at pp. 1080-1083:

"Among the causes which, either under statute or contract or as a proper exercise of discretionary power by the school board, have been held sufficient grounds for dismissal of a teacher, principal or superintendent are included insubordination or violation of the rules and regulations of the school board; lack of cooperation; inability or incompetency; lack of efficiency in teaching or discipline; negligence; membership in a subversive organization or engaging in subversive activities; refusal to waive immunity in appearing or testifying before a court or legislative committee; or improper conduct, or, according to other decisions on the question, immoral or unprofessional conduct."

Districts need to signal to principals that the removal of misbehaving or incompetent educators is a priority, for principals' efforts are motivated by perceived support. This support includes the allocation of resources and time for the necessary process.

Contract language permitting expedited finding of “sufficient cause”:

“The policy of progressive discipline, however, does not apply when substantial evidence in both quality and quantity adduced at a personnel hearing of the school board indicates an employee’s unfitness for renewal of employment. Such a determination of nonrenewal constitutes ‘sufficient cause’ whenever the nonrenewal would be in the best interests of the school district.”

“Unfitness for renewal of employment” means flagrant disregard or clear abandonment of generally recognized professional standards or other acts of unprofessional conduct as specified in Washington Administrative Code 181-87. For determining generally recognized professional standards, the board will rely upon testimony of randomly-selected peer professionals from outside the school district. Among the behaviors which would be evidence of “unfitness for renewal” if proven would be

- Bullying students, patrons or employees [if defined]
- Accessing pornography on school property
- Expressing disdain for individuals based upon race or creed
- Etc.