

## 5.4 DISCIPLINARY POLICIES

### 5.4.1 *The Disciplinary Process*

**Philosophy:** Discipline should be viewed as constructive in nature, designed to improve the performance and behaviors of employees so those incidents do not reoccur. It should be viewed as a means to ensure the safety and well being of employees as well as participants.

**Principles:** The majority of our staff will never have cause or reason to be involved in disciplinary actions. Counseling, when used as a means to instruct an employee or to improve performance, will be all that is usually needed to assist an employee in meeting expectations. The Board has faith that its employees are dedicated and caring people who consistently try to do their best.

### 5.4.2 *Expectations of Employee Performance and Conduct*

Each employee's performance and conduct is critical to the safeguarding of participant's rights, providing a quality work environment for all employees. Therefore, the following is a basic statement of what is expected of each employee. It is meant to be illustrative in nature and should not be considered all-inclusive.

Supervisors are obligated to maintain standards in both performance and conduct of their assigned staff. When standards are not met, supervisors have the discretion to recommend disciplinary action to reflect the seriousness of the offenses, harmful impact upon the program and/or participants, and other mitigating circumstances.

**Statement of Expectations:** Employees of the Erie County Board of Mental Retardation and Developmental Disabilities are expected to:

1. Safeguard participants and their rights.
2. Maintain confidentiality, professional behavior and language with participants, fellow employees and the public; provide complete, accurate and timely reporting of critical incidents, suspected violation of participant and/or employee rights; and report exposure to serious communicable diseases to the supervisor.
3. Maintain a safe, clean and professional working environment; conduct personal business during non-working time; be free of intoxicating or illegal substances on the job or on Board business; and always remain fit for duty.
4. Follow all proper department and agency rules, policies procedures, and supervisor directions; communicate all expenses, service or performance incurred to the Board; take reasonable care of Board property, records and equipment and use only for authorized purposes; avoid all unauthorized political activity and solicitations; carry no firearms or weapons while on duty, on Board property or Board business.

5. Maintain all certification and registration as required by the Department of Mental Retardation and Developmental Disabilities, Department of Education, Medicaid or other licensing authority; complete and maintain all other job requirements.

### ***5.4.3 Progressive Discipline Policy***

The Board reserves the right to utilize appropriate discipline that reflects the seriousness of the action, its impact upon participants and other employees, and any possible criminal nature of the offense. Disciplinary action will comply with laws, regulations, and statutes regarding public employment.

The Board believes that certain basic principles, as set forth below, must consistently be applied in order to effectively and fairly correct unsatisfactory job performance or conduct when it occurs.

The Board's expectations are:

1. Employees shall be aware of job expectations through job descriptions, performance evaluations, policies and procedures, supervisor directions, the types of conduct the Board expects of all employees as set forth in this manual, and the penalties for unacceptable job performance and conduct.
2. Immediate attention shall be given to policy and procedure infractions. As soon as the supervisor is aware of a problem/concern/allegation concerning an employee, the supervisor shall discuss it with the employee, allowing the employee an opportunity to respond to the issue.
3. Discipline shall be applied uniformly and consistently.
4. Each offense shall be dealt with as objectively as possible.
5. Discipline shall usually be progressive but, depending upon the severity of the offense may proceed immediately to another step up to and including termination.
6. An employee's immediate supervisor/coordinator, department director, and/or human resource coordinator, and the superintendent shall be responsible for administering discipline.

***Staff Responsibilities During the Disciplinary Process:*** Staff is required to be truthful at all times during the disciplinary process. Lying, withholding information (partially or completely), or refusal to give information may result in termination.

Staff is reminded that failure to report abuse/neglect of participants or other violations of statute, rules or policy may result in the staff member being held equally responsible for a disciplinary offense as the person who committed the offense which was not reported.

***Progressive Discipline Steps:*** Written actions are to be signed by the employee. If the

employee refuses to sign, a witness must verify that the meeting was held by signature to the appropriate action(s). Signature signifies notification of action and is not an admission of guilt.

- STEP 1:** Oral Counseling (noted in supervisor's file)
- STEP 2:** Verbal reprimand (noted in supervisor's file and copy sent to personnel file - to remain in effect for a minimum of one (1) year)
- STEP 3:** Written Reprimand (copy in supervisor's file and copy sent to personnel file - to remain in effect for a minimum of two (2) years)
- STEP 4:** One (1) to three (3) days suspension (not appealable to State Personnel Board of Review - SPBR; permanently in personnel file). An appointing authority may require an employee who is suspended to report to work to serve the suspension. An employee serving a suspension in this manner shall continue to be compensated at the employee's regular rate of pay for hours worked. Such disciplinary action shall be recorded in the employee's personnel file in the same manner as other disciplinary actions and has the same effect as a suspension without pay for the purpose of recording disciplinary actions.
- STEP 5:** Four (4) or more days suspension (appealable to SPBR; permanently in personnel file) or reduction in pay or position (appealable to SPBR; permanently in personnel file)
- STEP 6:** Removal (appealable to SPBR – permanently in personnel file, may not be re-hired)

To remove reprimands from the personnel file, the employee must request the removal in writing.

The employee will be offered the opportunity of a fact-finding conference when Steps 4 through 6 may be instituted.

Seriously unacceptable actions on the part of the employee may result in removal on the first offense. These would include but are not limited to:

- Abuse/Neglect of participants or participant's rights
- Falsification of records (such as deliberate recording of more hours than actually worked, misuse/abuse of sick leave)
- Failure to report participant abuse/neglect
- Lying or withholding information at a fact-finding conference
- Use or sale of narcotics or alcohol during work time or on Board property, or while operating Board owned or leased vehicles
- Breach of confidentiality regarding participants or employees
- Unlawful harassment
- Insubordination

- Any other gross misconduct or any other willful act that endangers the health and safety of an individuals.

***Rights of Abused Individuals:*** Under circumstances of abuse, neglect, slander, or other illegal acts, disciplinary action taken by the Board against the individual committing the disciplined act does not diminish the rights of the individual, the parent/guardian, advocate, or employee from exercising their rights to pursue legal recourse.

***Responsibility to Report Abuse/Neglect:*** By law, any employee who suspects abuse or neglect of a participant in any manner must report their suspicions. Failure of an employee to make such reports as required by law will result in the employee being subject to disciplinary action.

#### ***5.4.4 Order of Removal, Suspension or Reduction***

If an order of removal/suspension/reduction action is taken, the employee will receive written notification of the process and rights of appeal.

This policy authorizes voluntary demotion to employees who would otherwise be terminated due to loss of credentials or physical or mental inability to perform their jobs.

The Superintendent may offer or the affected employee may request demotion at any time prior to the employee's termination due to loss of credentials or physical or mental incapacity as follows:

1. Requests for or offers of demotion shall be written.
2. Demotion shall not be authorized unless the superintendent concludes, in his or her sole discretion, each of the following conditions can or will be satisfied: (1) a suitable position is available, (2) demotion advances the Board's mission and (3) demotion will not impose a hardship upon the Board's other employees or interfere with its services to its clients.
3. Demotion arising out of loss of credentials may be conditioned upon the employee's written agreement to termination should he or she fail to obtain reinstatement of those credentials within a specified period of time.

#### ***5.4.5 THE DISCIPLINARY PROCESS - CLASSIFIED EMPLOYEES***

The Board has adopted this progressive discipline policy as a guide for the uniform administration of discipline. It is not, however, to be construed as a delegation of, or a limitation upon, the statutory rights of the county and the Board as set forth in the Ohio Revised Code.

Rules of progressive discipline shall not diminish the authority of the Superintendent to terminate an employee during the second half of the employee's initial probationary period.

### ***Pre-Disciplinary Action***

When an employee's conduct comes under scrutiny for possible disciplinary action, the supervisor or if appropriate the Board's investigative agent shall conduct an investigation to determine if further administrative action is warranted.

The purpose of an investigation is to ascertain the facts related to a particular situation or allegation. If there is question as to who should conduct the investigation, the determination shall be made by the Board's investigative agent.

The individual conducting the investigation shall:

1. To the best of their ability gather all of the facts surrounding the allegation.
2. Advise the individual(s) being investigated of the allegations prior to beginning the investigation. (Note: An investigator may ask staff for statements related to allegations of a particular incident as part of his/her fact finding efforts to determine if an investigation is warranted. These statements may be used as part of an investigation if the fact finding efforts warrant such.)

During an investigation the employee shall:

1. Provide truthful and accurate information; failure to do so may result in further administrative action including and up to termination.
2. Have the right to representation. (If the employee is a member of a collective bargaining unit they shall by their association, unless otherwise waived in writing and witnessed by the association representative and then the employee has the right to be represented by a party of their choosing.)
3. Be afforded the opportunity to provide witnesses, statements, or other information that may substantiate their position and/or actions.

Upon completion of the investigation, the investigator shall summarize the findings of the investigation and make a recommendation as to whether further administrative action is warranted to director of the department.

The director shall review the investigative package and determine if:

1. A supervisory conference or verbal reprimand is warranted,
2. If a written reprimand is warranted, or
3. If a pre-disciplinary hearing is warranted.

If a written reprimand or pre-disciplinary hearing is recommended, the director shall forward the investigation package and their recommendation to the superintendent who shall review the package and determine if written reprimand or pre-disciplinary hearing is warranted. If the superintendent determines a written reprimand is warranted then he/she shall administer the reprimand. If the superintendent determines a pre-disciplinary hearing is warranted he/she shall select a pre-disciplinary hearing officer and notify the employee and their association, if appropriate, of the hearing date.

### ***Pre-Disciplinary Conferences***

Pre-disciplinary conferences will be conducted by the superintendent's designee.

Not less than twenty-four (24) hours prior to the scheduled starting time of the conference, the superintendent or his/her designee will provide to the employee a written outline of the charges which may be the basis for disciplinary action. The employee may:

1. Appear at the conference to present an oral or written statement in his/her defense;
2. Appear at the conference and have a chosen representative present an oral or written statement in defense of the employee; or,
3. Elect in writing to waive the opportunity to have a pre-disciplinary conference. At the pre-disciplinary conference, the neutral person will ask the employee or his/her representative to respond to the allegations of misconduct which were outlined to the employee.

Pre-disciplinary conferences are just that - conferences. They are not formal hearings. The rules of evidence do not apply and neither the employee nor the representatives of the Board may summon or cross examine any witnesses.

The hearing officer shall prepare a written report of his/her findings. A copy of that report shall be furnished to the affected employee not more than five (5) working days after it is submitted to the superintendent. The superintendent will decide what discipline, if any, is appropriate, and notify the employee in writing of that discipline.

#### ***5.4.6 Disciplinary Process - Unclassified Employees***

(This policy applies to the removal, suspension, and demotion of management employees. It does not apply to non-renewal of management contracts.)

As used in this section, "employee" means a management employee or superintendent of the Board.

An employee may be removed, suspended, or demoted in accordance with this section for violation of written rules set forth by the Board or for incompetence, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, or other acts of misfeasance, malfeasance, or nonfeasance.

Prior to the removal, suspension, or demotion of an employee pursuant to this section, the employee must be notified in writing of the charges against him/her. Not later than thirty (30) days after receiving such notification, a pre-disciplinary conference shall be held to provide the employee an opportunity to refute the charges against him/her. At least seventy-two (72) hours prior to the conference, the employee shall be given a copy of the charges against him/her.

If the removal, suspension, or demotion action is directed against a management employee, the conference shall be held by the superintendent who shall notify the management employee within fifteen (15) days after the conference of his/her decision

with respect to the charges. If the removal, suspension, or demotion action is directed against a superintendent, the conference shall be held by the members of the Board or their designees, and the Board shall notify the superintendent within fifteen (15) days after the conference of its decision with respect to the charges.

Within fifteen (15) days after receiving notification of the results of the pre-disciplinary conference, an employee may file with the Board a written demand for a hearing before the Board or before a referee. The Board shall set a time for the hearing which shall be within thirty (30) days from the date of receipt of the written demand, and the Board shall give the employee at least twenty (20) days notice in writing of the time and place of the hearing.

If a referee is demanded by an employee or a Board, the hearing shall be conducted by a referee selected in accordance with the procedures below; otherwise it shall be conducted by a majority of the members of the Board and shall be confined to the charges enumerated at the pre-disciplinary conference.

Referees for the hearings required by this section, unless otherwise agreed upon, shall be selected in accordance to the Ohio revised Code.

The Board shall provide for a complete stenographic record of the proceedings, and a copy of the record shall be furnished to the employee.

Both parties may be present at the hearing, be represented by counsel, require witnesses to be under oath, cross-examine witnesses, take a record of the proceedings, and require the presence of witnesses in their behalf upon subpoena to be issued by the Board. In case of the failure of any person to comply with a subpoena, a judge of the court of common pleas of the county in which the person resides, upon application of any interested party, shall compel attendance of the person by attachment proceedings as for contempt. Any member of the Board or the referee may administer oaths to witnesses. After a hearing by a referee, the referee shall file his/her report within ten (10) days after the termination of the hearing. After consideration of the referee's report, the Board, by a majority vote, may accept or reject the referee's recommendation. After a hearing by the Board, the Board, by majority vote, may enter its determination upon its minutes. If the decision, after hearing, is in favor of the employee, the charges and the record of the hearing shall be physically expunged from the minutes and, if the employee has suffered any loss of salary by reason of being suspended, he/she shall be paid his/her full salary for the period of such suspension.

Any employee affected by a determination of the Board under this division may appeal to the court of common pleas of the county in which the Board is located within thirty (30) days after receipt of notice of the entry of such determination. The appeal shall be an original action in the court and shall be commenced by the filing of a complaint against the Board, in which complaint the facts shall be alleged upon which the employee relies for a reversal or modification of such determination. Upon service or waiver of summons in that appeal, the Board immediately shall transmit to the clerk of the court for filing a

transcript of the original papers filed with the Board, a certified copy of the minutes of the Board into which the determination was induced at the hearing or hearings before the referee, whereupon the cause shall be at issue without further delay. The court shall examine the transcript and record of the hearing and shall hold such additional hearings, as it considers advisable, at which it may consider other evidence in addition to the transcript and record.

Upon final hearing, the court shall grant or deny the relief prayed for in the complaint as may be proper in accordance with the evidence adduced in the hearing. Such an action is a special proceeding, and with the employee or the Board may appeal from the decision of the court of common pleas pursuant to the Rules of Appellate Procedure and, to the extent not in conflict with those rules, O. R. C. 2505.

Not renewing an employee's employment contract with the Board is not a disciplinary action, is not a removal, and is not subject to this policy.  
(Reference: R.C. 5126.23)

#### ***5.4.7 Grievance Procedure Policy***

It is important for employees to have the means by which grievances may be aired in an atmosphere without fear that the submission of such a grievance will be held against them. To accomplish this, the Board has adopted a grievance procedure.

An employee desiring to air a grievance must follow the steps of the procedure that are appropriate for his/her particular grievance unless otherwise specified in the employees' bargaining unit agreement.

A "grievance" is defined as an allegation in writing describing a disagreement between an employee and management as to the interpretation or application of official Board policies, state civil service laws, agency rules or decisions, matters subject to state or federal law, departmental rules and regulations, or other disagreements perceived to be inconsistent or inequitable relating to discipline, treatment or other conditions of employment. Neither probationary removals nor any other personnel actions taken in matters in which employees have been afforded the opportunity for a pre-disciplinary conference described earlier may be appealed through the in-house grievance procedure.

Nothing in this policy is intended to deny employees any rights available by law to have redress to their legal rights, including the right to appeal to the State Personnel Board of Review where that body has jurisdiction, the Ohio Civil Rights Commission, the Equal Employment Opportunity Commission, or any court of competent jurisdiction. However, if the employee elects to file a complaint on a matter over which another appeals body has jurisdiction, it is the employee's responsibility to meet the criteria for filing with that appeals body.

The purpose of this procedure is to secure equitable resolution of problems at the lowest possible administrative level.

This grievance procedure is only to be used when normal supervisor/subordinate communications breakdown and the subordinate feels that a proper solution has not been reached.

All employees shall sign a statement that they have seen and have knowledge of the complaint procedure.

The employee must proceed through all steps of the grievance procedure in proper order and within the prescribed time limits, except as otherwise noted.

Where a grievance cites issues of law that the individual hearing the complaint cannot address, the complaint shall be forwarded to the Prosecuting Attorney's Office for an opinion before proceeding. All time limits set forth in this procedure shall be held in abeyance until a response from the Prosecutor is received.

Where a group of employees desire to file a grievance involving a situation affecting each employee in the same manner, one employee selected by such group will process the complaint. However, each employee affected shall sign the grievance.

A complainant may have a representative (employee or non-employee) of his/her choosing present at any step of the procedure except Step 1. Employees and employee representatives shall not lose pay or benefits during normal working hours for time spent in grievance hearings. The expense of any legal representative(s) shall be borne by the party utilizing them. Witnesses may be called by both parties. Management maintains the right to schedule witnesses for hearings.

All grievances filed under this procedure shall be in writing on the form provided for this purpose and shall state the nature of the complaint, the expected resolution, and the facts that affect the conditions of the complaint.

For the purpose of this policy, days shall not include Saturdays, Sundays, holidays, or non-working days.

The employee may terminate the grievance at any point by submitting a written statement to that effect. This statement shall be submitted to the superintendent.

Time limits as set forth in the Grievance Procedure may be extended by mutual written agreement of the parties.

Grievances against the superintendent by a Board employee shall be made in writing, signed, and submitted directly to the Board president if the employee does not feel comfortable in addressing the issue directly with the superintendent.

## **Grievance Procedure**

### ***Step One - Immediate Supervisor***

An employee having a grievance shall file the grievance in writing on the appropriate form with his/her immediate supervisor. In order for a grievance to be recognized, it must be filed within five (5) working days from the date of the incident giving rise to the grievance. The immediate supervisor and the employee will hold a verbal discussion to try to resolve the grievance within two (2) days following the date of receipt of the written grievance. The immediate supervisor may offer his/her oral remedy immediately following the discussion, but shall present this remedy in writing within three (3) days following the date of discussion. Grievance forms may be obtained from the administrative office.

### ***Step Two - Department Director***

If the grievance is not resolved to the satisfaction of the employee at the ***Step One*** meeting, the grievance must, within two (2) working days after receipt of the ***Step One*** written decision, be submitted on the designated form to the employee's department director. The written grievance must be signed by the employee and contain all the pertinent facts of the grievance including a copy of the original grievance and a copy of the decision from ***Step One***. The department director shall schedule a meeting within three (3) working days following the receipt of the grievance. The employee may be accompanied by a representative of his/her choosing, but if an employee representative is chosen, the aggrieved must notify that employee's department director in advance of the meeting so that the employee representative may be relieved of duty to attend the meeting. The department director shall issue a written decision to the grievance within five (5) working days of the meeting with copies to all parties involved.

### ***Step Three - Superintendent or Designee***

If the grievance is not resolved at the ***Step Two*** decision, the employee must, within four (4) working days after receipt of the ***Step Two*** decision, submit the written grievance including all pertinent data from previous steps to the superintendent or designee. The superintendent or designee will schedule a hearing within five (5) working days following the date of receipt of the grievance. The employee may be accompanied by a representative of his/her choosing, but if an employee representative is chosen, the aggrieved must notify that employee's department director in advance of the meeting so that the employee representative may be relieved of duty to attend the meeting. The aggrieved employee and the department director shall attend the meeting. The superintendent/designee will render a decision in writing to the employee within five (5) working days following the ***Step Three*** meeting. Copies of the decision shall be provided to all parties involved.

#### ***Step Four - Personnel Committee of the Board***

If the ***Step Three*** decision is not satisfactory to the employee, the written grievance with supporting documentation and copies of previous decisions may be submitted to the Personnel Committee of the Board for review and determination of the facts within ten (10) working days from the date the ***Step Three*** decision is received or as soon thereafter as the Committee can meet. The Personnel Committee has the right to appoint any other individual to review and determine the facts. If the Personnel Committee determines to review the case, it will make a decision within fifteen (15) working days from the date the grievance is reviewed, with copies of the determination to all parties involved.

***Appeals:*** If the ***Step Four*** decision is not satisfactory to the employee, the superintendent will inform the employee of his/her right to appeal the decision to the Department of Labor, State Personnel Board of Review and/or other governing body and that decision will be final and binding, and that cases of alleged discrimination may be appealed to the Ohio Civil Rights Commission or the EEO Commission. However, nothing in this grievance procedure, including the review by the Personnel Committee of the Board, shall be deemed to give an employee any rights of appeal outside of the agency that the employee would not have in the absence of this grievance procedure.

#### **Management Responsibilities During Grievance Procedures**

***Tracking of Grievances:*** Once a grievance is filed, the department director must "track" the complaint throughout the procedure. If a grievance is not processed by the employee to the next step of the procedure within the specified time limits or any written extension thereof, it shall be considered resolved on the basis of the decision at the previous step, and should be indicated, "*Resolved, employee did not pursue*", dated, signed and sent to the Personnel Office for filing as a permanent record.

If the grievant does not receive a response from the appropriate management representative within the specified time limit or extension thereof, the grievance will be considered to have been answered in the negative and the employee may advance the grievance to the next step. The management representative receiving a grievance, which was not answered at the previous step, must investigate the reason that no answer was given. If a management representative does not possess the authority to correct the employee's grievance, then he/she should so indicate and return the grievance to the employee in a timely fashion.

***Decisions:*** Decisions to grievances are to be in writing and should have supporting documentation attached.

***Possible Decisions:*** There are three (3) possible decisions to any grievance. They are:

1. Find in the employee's favor. The decision is to grant the remedy requested.
2. Find against the employee. The decision is that the findings of fact do not support the allegation(s) and, therefore, the grievance and remedy requested is denied.

3. Compromise. The employee has a legitimate grievance but the remedy requested is improper. Prior to a compromise decision, the person responsible for determining the grievance should call the grievant in and ask if he/she will accept the proposed offer. If not, option “b” (above) may be exercised.

#### ***5.4.8 EEO Complaint Policy and Procedure***

The following complaint procedure has been adopted by the Board:

***Filing of Discrimination Complaint:*** Any employee or applicant having a complaint of discrimination on basis of race, color, religion, sex, national origin, mental and physical disabilities, age (40 and over), or other protected class may file a written discrimination complaint in the office of the Equal Employment Opportunity Coordinator located in the administrative office for Erie County. A complaint form is available for this purpose, and can be obtained from the EEO Coordinator.

The complaint must be filed within thirty (30) days of the alleged discriminatory action, except that this time limit may be extended if the complainant can show that he/she did not have notice of the time limit, or was prevented by circumstances beyond his/her control from submitting the complaint within the time limit, or for other reasons considered sufficient by the coordinator.

A complaint shall be deemed filed on the date it is received, or on the date postmarked if mailed. The EEO Coordinator shall acknowledge receipt of the complaint in writing, and inform the complainant in writing of the complaint procedure and of his/her right to file with the EEO Commission and the Ohio Civil Rights Commission.

***Complainant’s Right to Representation:*** At any time during the course of the procedure, the complainant has the right to be accompanied, represented, and advised by a representative of his/her choosing. If the complainant is an employee and has designated another employee as his/her representative, both the representative and the complainant will be given a reasonable amount of time off work during normal working hours to present the complaint. Time spent during non-working hours to prepare the complaint will not merit compensation under this policy.

***Rejection of Complaint:*** The EEO Coordinator may reject a complaint that was not timely filed or where information supplied by the complainant is deemed insufficient for the purpose of conducting an investigation.

The EEO Coordinator shall reject those complaints which do not allege discrimination on the basis of race, color, religion, sex, national origin, mental and physical disabilities, age (40 and over), or which are substantially identical to a previous complaint filed by the same complainant which is pending or has been decided under this procedure.

The decision to reject a complaint, and the reason(s) for the decision, shall be communicated to the complainant in writing within ten (10) days of the filing of the complaint.

***Informal Resolution of Complaint:*** Upon receipt of complaint, the EEO Coordinator shall have twenty-one (21) days in which to investigate and attempt to resolve the complaint informally. If an informal resolution of the complaint is achieved, the terms of the resolution shall be set forth in writing, made part of the complaint file, and a copy shall be provided to the complainant.

If an informal resolution of the complaint is not achieved, the EEO Coordinator shall notify the complainant in writing: (1) of the proposed disposition of the complaint; and (2) of his/her right to a determination by the Personnel Committee of the Board if the complainant notifies the Board's Personnel Committee Chairperson in writing of his/her desire for a determination within fifteen (15) days of his/her receipt of this notice.

***Determination by the Personnel Committee of the Board:*** Upon receipt by the Personnel Committee Chairperson of the Board of the complainant's written notification of his/her desire for a determination, the Personnel Committee of the Board shall have thirty (30) days in which to conduct a determination proceeding on the complaint.

The EEO Coordinator shall transmit to the Personnel Committee all materials concerning the complaint which have been acquired. Should the Personnel Committee determine that further investigation is needed, the Committee may direct the EEO Coordinator to conduct such investigation.

The determination proceeding shall be conducted in accordance with the following:

- Adequate notice to parties of the determination proceeding including time, place and procedures
- Reasonable timing
- Right of each party to representation
- Right of each party to present evidence
- Right of each party to question evidence of the other
- Decision made solely on the basis of the evidence

The Personnel Committee shall have authority to:

- Regulate the course of the determination proceeding
- Exclude irrelevant or unduly repetitious evidence
- Limit the number of witnesses
- Exclude any person from the determination proceeding for misconduct

The Personnel Committee shall render a decision within ten (10) days of the conclusion of the determination proceeding or as soon thereafter as possible. The decision shall be made in writing and shall contain a statement of the reason(s) for the decision. Copies of the decision shall be provided to the superintendent, the EEO Coordinator, and the complainant. In addition, a letter shall be provided the complainant informing him/her of

his/her right to file with the EEO Commission and the Ohio Civil Rights Commission. The complainant has the right to file with the EEO Commission and the Ohio Civil Rights Commission within 180 days (federal) or six (6) months (state) of the date of the alleged discrimination.

The decision of the Personnel Committee shall be final; however, the Committee may refer the matter to the entire Board.

***Freedom from Reprisal:*** Complainants, their representatives, and witnesses shall be free from restraint, interference, coercion, discrimination, or reprisal during all stages and following the completion of the complaint procedure.

#### ***5.4.9 Policy on Employee Reasonable Accommodation***

The Americans with Disabilities Act of 1990 (ADA) makes it unlawful to discriminate in employment against a qualified individual with a disability. It is against the policy of the Board to discriminate against any employee or applicant with respect to hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment due to a disability.

Under the ADA, a person has a “disability” if he/she has a physical or mental impairment that substantially limits a major life activity. The ADA also protects individuals who have a record of a substantially limiting impairment, and people who are regarded as having a substantially limiting impairment. To be protected under the ADA, an individual must have, have a record of, or be regarded as having a substantial, as opposed to a minor, impairment. A substantial impairment is one that significantly limits or restricts a major life activity such as hearing, seeing, speaking, breathing, performing manual tasks, walking, caring for oneself, learning or working.

An individual with a disability must be qualified to perform the essential functions of the job with or without reasonable accommodation. This means that the applicant or employee must:

1. Satisfy the job requirements for educational background, employment experience, skills, licenses, and any other qualification standards that are job related; and
2. Be able to perform those tasks that are essential to the job, with or without reasonable accommodation.

If otherwise qualified applicants or employees can safely and substantially perform the essential functions of a job with a reasonable accommodation, the Board shall make such a reasonable accommodation so long as it is not an undue expense or other undue hardship to the Board. Decisions regarding reasonable accommodation of a known handicap will be made on a case by case basis.

*Reference: R.C. 4112.01(A)(3), 4112.02(A) and (L) Americans with Disabilities Act (1990)*

