

**SUBJECT: PROCEDURES FOR THE  
INSTRUCTIONAL 97 DAY  
PROBATIONARY RELEASE**

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**I. INTRODUCTION:**

The purpose of this bulletin is to identify the necessary steps and procedures required by The 97 DAY Statute: Florida Statute Section 1012.33(3)(a)(4) states: *“For any person newly employed as a member of the instructional staff after June 30, 1997, the initial annual contract shall include a 97 day probation period during which time the employee’s contract may be terminated without cause or the employee may resign without breach of contract.”*

**II. PROCEDURES**

**A. VERIFY CONTRACTUAL WORKDAYS**

Contractual work days are used for this calculation. Using the employee’s official bargaining unit date, or official start date, count 97 workdays to determine the exact probationary period.

**B. DETERMINE WHO IS ELIGIBLE FOR THE 97 DAY RELEASE**

The 97 day probation period applies to annual contract (AC) instructional bargaining unit employees:

1. Who are newly hired in Broward County even if they have previous teaching experience.
2. Who were previously terminated during a 97 day probationary period and are rehired at a new location with a break in service.
3. Who previously resigned during a 97 day probationary period and are rehired at another location.

**C. ACTIONS TO TAKE DURING THE PROBATION PERIOD**

It is strongly recommended that supervisors implement the following during the probation period:

1. Clearly delineate job expectations upon hire.
2. Develop, assist, and support new hires to assure success in meeting work related expectations.
3. Complete a formal observation.
  - A. Observation should be no less than 30 minutes.
  - B. Conference with the employee within ten working days.
  - C. Provide employee with a signed copy of the observation.

**D. IMPLEMENTING A PROBATIONARY RELEASE:**

When recommending termination of an employee’s contract during the 97 day probation period, the principal must adhere to the following:

**1. CONFIDENTIAL/NEED TO KNOW**

Ensure that the employment actions being taken are confidential and discussed on a need to know basis.

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**2. CONTACT EVALUATION COORDINATOR**

Within the first 75 contract days, contact your designated Evaluation Coordinator for consultation and visitation.

**3. SECURE AREA SUPERINTENDENT SIGNATURE**

A. Prior to implementing a 97 day release, submit the 97 day letter (on location letterhead) to your Area Superintendent or Executive Leader for signature. The Area Superintendent may request your observation data and/or log of assistance and support.

*1. NOTE: Article 18,B(1),(b) of the Collective Bargaining Agreement between The School Board of Broward County, Florida and the Broward Teachers Union states: "Probationary Period: It is the intent of the parties to assure that an environment exists that encourages the success of employees on an initial annual contract. Prior to making a recommendation for termination of an employee during an initial probationary period, the Area Superintendent shall review the recommendation and shall have the option of offering the employee a transfer to another location, which may offer the employee a greater chance for success. The decision of the Area Superintendent shall be final and binding, and the decision shall not be subject to the grievance procedure in Article 34. Nothing in this subsection shall be deemed to waive the rights of an employee under local, state or federal law."*

**E. RECEIVE LETTER WITH AREA SUPERINTENDENT'S SIGNATURE**

After the letter with the Area Superintendent's signature is returned, you are ready to meet and conference with the employee.

**F. NOTICE**

Request that the employee meet with you. You do not need provide any notice. You may call the employee into your office on the day that you plan to terminate.

1. It is recommended that this meeting occur at the end of the work day.

**G. REPRESENTATION**

*If requested*, and at the discretion of the principal, the employee may have a representative present at the time of the meeting. This meeting may not be delayed or rescheduled as a result of the employee asking for representation.

**H. CONFERENCE WITH EMPLOYEE**

Conference to notify the employee of your decision to recommend a probationary termination under the provisions of the 97 day law. Inform the employee that he/she has the option under the law to resign. You may not compel the employee to resign in lieu of termination. (Note: *This is a "no cause" termination; therefore, you do not provide a reason. If you state a reason for termination, you provide cause. You may only state that his/her employment is "not a good match."*) If:

**1. EMPLOYEE RESIGNS**

A. If the employee exercises the option to resign in lieu of termination, you must accept the resignation.

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B. The employee's last day of work is the date of the resignation.  
C. The employee completes an Exit Interview and an irrevocable letter of resignation.

D. Both the Exit Interview and the Letter of Resignation must be faxed to the appropriate Area Superintendent and Instructional Staffing, along with the unsigned 97 day letter immediately.

1. This lets Instructional Staffing know that the employee resigned in lieu of termination.

**2. EMPLOYEE IS TERMINATED USING THE 97 DAY LAW**

A. If the employee does not resign and you exercise your right to recommend termination, present the 97 day letter with the Area Superintendent's signature to the employee for his/her signature and date indicating that he/she is being recommended for termination within his/her 97 day probation period.

B. Inform the employee that the recommendation for dismissal will take place at the next available Board meeting.

C. A refusal to sign must be witnessed by another administrator or confidential clerical.

D. Fax the 97 day letter to the appropriate Area Superintendent and Instructional Staffing.

E. You must keep the employee on your payroll and actively employed until such time as the School Board acts upon and approves the recommendation to probationary release the teacher. The work location for the employee is determined between the Area Office and the supervising principal.

**I. 97 DAY EMPLOYEES WHO REAPPLY WITHIN THE DISTRICT**

Employees who are terminated or who resign during the 97 day probation period will need to complete an application and provide a reference from his/her supervisor to apply for any posted, vacant positions with The School Board of Broward County, Florida for which they are qualified. The employee is not placed in the Instructional Staffing Marginal File because he/she is terminated without cause.

**III. REPORTING REQUIREMENTS**

**A. FORM COMPLETION**

1. The Evaluation Coordinator gives the principal two forms, the 97 Day Release form and the resignation letter.

2. The principal puts the 97 Day Release letter on his/her school stationery (the resignation letter may stay on a plain letterhead).

3. Upon meeting with the principal for the 97 Day Release, the employee signs

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- the appropriate document.  
4. The form(s) are faxed to Instructional Staffing.

**IV. DISTRIBUTION**

All evaluation forms and procedures must be made readily available to all supervisors.  
These documents will be housed on the website:  
<http://www.broward.k12.fl.us/evaluationcoordinators/>

**V. EXHIBITS**

- A. 97 Day Release Letter

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Exhibit A

(INSERT DATE)

TO: Director, Instructional Staffing

FROM:

SUBJECT: **RECOMMENDATION FOR TERMINATION OF EMPLOYMENT  
OF INSTRUCTIONAL EMPLOYEE  
DURING THE 97 DAY PROBATIONARY PERIOD**

In accordance with Florida Statute 1012.33(3)(a)(4), I recommend the termination of employment of \_\_\_\_\_, (insert personnel number) who is within the first 97 probationary workdays as an initial annual contract teacher. Please note the approval of my Area Superintendent.

The affected teacher has either signed this document or a witness has signed indicating that the teacher declined an opportunity to sign.

Please take the necessary steps to implement this recommendation and place the above named employee on the next available School Board Agenda for approval of his/her probationary release.

By way of this memorandum, the affected employee's signature or witness's signature confirms that the employee has selected termination of employment in lieu of resignation and has been duly notified that a recommendation for termination of employment during the probationary period will be made at the next available School Board meeting. This document will be placed in the affected employee's personnel file.

\_\_\_\_\_  
Area Superintendent

\_\_\_\_\_  
Affected Employee/Date

\_\_\_\_\_  
Witness

c: Employee  
Area Superintendent  
Area Director  
Evaluation Coordinator  
Supervisor, Personnel Records

|  |  |
|--|--|
| <b>Supersedes:</b><br>N/A New Business Practice Bulletin | <b>Issued By:</b><br>Evaluation Coordinators |
|--|--|