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ABSTRACT

Arbitration decisions resulting from school district disciplinary actions and professional employee grievances are studied to determine the extent to which school district decisions are upheld by arbitrators, and to identify factors for the support, modification, or contest of a district decision. Data sources are 333 arbitration cases from 27 states and the District of Columbia that were voluntarily reported to the Labor Relations Press during 1972-1987. Case scope, categories of offenses, district actions, and arbitrators' decisions are presented and compared by 4-year periods. Changes in the types and frequencies of arbitrated offenses reflect a decrease in cases involving teacher competency and an increase in conduct grievances. Although an increasing number of school district decisions have been upheld, arbitrators rule against districts a majority of the time. Findings indicate that the number of least severe corrective actions has decreased significantly, accompanied by an increase in the number of most severe sanctions. Collective bargaining's grievance procedure has changed the focus of employee management from competence to conduct that results in competence. Tables provide statistics that support the conclusions. (9 references) (LMI)

Patterns of Employee Discipline That Emerged From Arbitration of Grievances

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Introduction

School Boards and school administrators are charged with the management and development of their employees. This responsibility includes the safe-guarding of due process rights. Teacher organizations have negotiated provisions into the collective bargaining agreements which provide due process and protect employees from management decisions which are arbitrary, capricious or discriminatory. Despite this, due process is attacked most often by labor organizations because of defective procedures in observing and remediating employee behavior (Stone, 1981, p.407).

School districts and their respective bargaining units have increasingly sought arbitration as a remedy for resolution of disputes regarding the disciplining of professional employees. The grievance procedure provided for in the Public Employee Relations Act of 1970 (Act 195, Pennsylvania) has been critical in the management/employee relationship.

While arbitrators do not interfere lightly with management's decisions in disciplinary matters, they will act firmly when management's decisions are found to be unjust and unreasonable (Werner-Continental, 1978). This right to "interfere" (Fruehauf Trailer Company, 1951, pp. 666-670) has been sustained by the judicial branch of the government. The courts have consistently refused to be drawn into the review of awards noting that such actions would undermine the arbitration process.

Research with regard to analyses of arbitration awards in education since 1971 is limited in number and general in scope. Scholtz (1972), Kovevar (1976), Munro (1981), and Kirschling (1983), all felt that educators should be aware of the inevitable role of awards as precedent setting. They suggest that arbitration has judicial elements within it and they suggest that as patterns are identified, administrators must review their practices in order to ensure greater effectiveness in their job responsibilities and in arbitration. They also noted that awareness of the decisions made and processes used by arbitrators will strengthen effective employer-employee relationships and limit the number of arbitrations.

The literature available indicates that decisions made by arbitrators, available for study, has grown and provides "a body of arbitration law" (Lieberman and Moskow,1966; Zeidler, 1969; Kirschling, 1983) that can inform, guide and shape due process procedures for school boards and teacher organizations. Arbitrators can influence policy decisions and can become designers of school personnel practices.

They appear to be defining the tenants of progressive or corrective discipline, the steps of due process, and the conditions for just cause. School districts, administrators, and other school employees can be and are directly affected by the decisions of arbitrators.

Objectives

The central purpose of this research was to analyze, systematically, arbitration decisions resulting from disciplinary action taken by school districts and grieved by professional employees to determine if arbitrators are upholding the decisions made by school districts and to determine what are the deciding factors in upholding, modifying, or not allowing a district's decision.

This research describes the analyses of 333 arbitration awards from 27 states and the District of Columbia during the years 1972-1987, which dealt with the issue of school district disciplinary action against professional employees. This study answered the following questions; 1) are arbitrators upholding the decisions of school districts in professional employee discipline cases? and 2) what is the most frequently mentioned deciding factor in upholding, modifying, or not allowing a district's action? In addition the following questions were answered:

1. How many arbitration awards were reported?
2. What types of offenses were reported?
3. What was the frequency of the offense?
4. What percentage of the cases arbitrated were the district's actions; upheld, modified or not allowed?
5. What were the deciding factors most frequently identified by the arbitrator in making the decision?

Methods and Data Source

The data for this study was acquired from 333 written arbitration awards/cases. The source was the Labor Relations Press (LRP) located in Fort Washington, Pennsylvania. The LRP publishes fifteen nationwide labor relations periodicals covering the public and private sector grievance arbitration, public sector labor relations arbitrations and statutory appeal adjudication. This organization provided full text reports of available arbitration cases **(Arbitrators are not required to submit rulings in writing. Any case written and submitted by an arbitrator is done voluntarily).**

A literature search was made through the LRP to obtain those awards which specifically applied to the cases related to the disciplining of professionals employed by public school systems across the United States from 1972 through 1987. The awards (cases) analyzed for this study are those which provide accounts of professional employees disciplined for actions in classroom-related situations. Each case was reviewed for the following information: the employee's offense; the

district's action; the arbitrator's decision; the deciding factor cited by the arbitrator; the year of the arbitration; and the state in which it was made (Table 1).

The cases were first analyzed for descriptive trends within the categories. The categories of Offense, District Action, Arbitrator's Decision, and Deciding Factors were analyzed internally for context, frequency and rank order. The data year and state data were examined for frequency of arbitrations reported and trends in kind.

In addition the sixteen years of data was divided into four four-year periods. A comparison was made of types of offenses, District Actions, Arbitrator's Decisions, Deciding Factors, and location of arbitration for each of these time periods.

Findings and Conclusions

The results of the study are reported first by presenting the scope of personnel discipline arbitrations reported, categories of Offense, District Action, Arbitrator's Decision, and Deciding Factors and then by four-year periods. Conclusions and a discussion section complete the presentation of the study.

Scope

This section presents the reader with the scope of personnel discipline arbitrations reported to the LRP over the past sixteen years. It includes a breakdown of offenses, district actions, arbitrators' decisions, and deciding factors by type, frequency and time of occurrence.

Frequency and Geographic Location (Table 2). The number of awards which were reported for 1976-1979 equaled more than half of those in the study (approximately twice as large as the number for any other four year time segment). Less than ten awards were reported for each year between 1981 and 1985. Almost five times as many were reported in the 1970's as were reported in the 1980's (Tables 3 &4).

Awards examined in the study occurred in twenty-seven (27) states and the District of Columbia. The largest number came from the Northeast and the smallest number from the Southeast. The highest frequency per state was reported from New York (25.5%), Michigan (12.3%) and Pennsylvania (7.2%). Eight states reported only one case (Table 2).

Types and Frequency of Offenses. More than one-third (1/3) of the teachers" grievances resulted from Discipline for Incompetence (36%). Another 41.75% occurred over the issues of Insubordination and Unprofessional Conduct. Discipline for Alcohol Related Offenses and those for Violation of Law outside of the school were least frequently reported (Table 5).

A different picture emerges when viewing the entire sixteen year period. Incompetence decreased from 53.8% to 2.3%, while the frequency of Unprofessional Conduct has remained relatively constant. Discipline for the Offenses of Cruelty, Alcohol use, Insubordination, and Immorality increased by approximately 10% each (Table 6).

District Action. Termination, Written Reprimand and Suspension without pay accounted for 81.3% of the district actions. The remaining twelve (12) actions accounted for 18.7% (Table 7)

Written Reprimand and Termination were also used most frequently within the four-year clusters. Probation and Denial of Tenure occurred more often in the 1980's. The number of different district remedies used decreased by 50%. The practice of combining penalties only occurred during the 1976-1979 period (Table 8).

Arbitrator's Decision. Arbitrators disallowed or modified two out of every three district actions when considering all of the cases studied (Table 9). However, districts were twice as likely to have their actions upheld in 1984-1987 period than in 1972-1975 period. There was an average increase of 50% between the first and last time periods for district action upheld. The likelihood of professionals having their grievances sustained has decreased by 32% since the first time period. Modifications have also decreased by 40% since 1980-1983 (Table 10).

Deciding Factor. Procedures and Timeliness of Evaluation (18.6%) was the factor most frequently cited by arbitrators in changing or modifying awards. Language of the Collective Bargaining Agreement, Procedural Due Process, Lack of Evidence or Just Cause, and Management Rights each accounted for approximately 10%. Board Policy (0.9%) and Decision of Prior Arbitrator (1.2%) were least used (Table 11).

The number of different factors cited in both time periods within the decade decreased by almost half from the 1970's to the 1980's. Procedures and Timeliness of Evaluation decreased in frequency as the deciding factor by 50% from the first to the last time period. Conversely, the Need for Forewarning and Prior Arbitration, increased in times cited. Sufficiency of Evidence/Just Cause and Need for Forewarning were referenced as deciding factors most often in the latest time period. Language of the Collective Bargaining Agreement was the deciding factor in one out of ten cases in three of the four time periods. Board Policy was not reported in any of the 1980 cases (Table 12).

Offenses

This section provides the reader with a description of the data generated from the 333 cases reviewed by categories of offenses. For each of the ten offenses identified a summary statement will be made that describes the offense, the specific district actions and the arbitrator's ruling.

Abuse of Leave. Employees abused sick leave more often than they abused emergency or personal leaves. In the majority of cases, districts chose to discipline with a monetary penalty such as dockage of pay.

Arbitrators ruled to overturn or modify the district's action in almost two-thirds (2/3) of the cases. They were more likely to disallow actions which included two penalties, such as Written Reprimand and Dockage of Pay. They moved to modify such actions to one or the other, or to reduce the monetary loss. Actions

were most frequently modified or disallowed based on Violations of Due process, Language of the Collective Bargaining Agreement, or Lack of Evidence/Just Cause.

Incompetence. More than thirty-six percent (36.9%) of the arbitration awards in the study resulted from a grievance over district discipline for Incompetence (Table 5). While 80% were grieved by temporary or substitute professionals and only 20% by teachers with permanent contracts, districts were unsuccessful in having their discipline upheld in 50% of the cases for both groups. They were more likely to have their discipline modified for permanent employees and upheld for temporary or probationary ones.

The most frequently used district action for both of these groups was Termination. The remaining eight reported actions accounted for only 20% of the remedies for each group.

Procedures and Timeliness of Evaluation was cited most frequently as the deciding factor for all three types of arbitration decisions. This was consistent for both groups of professionals.

Negligence. Twelve (12) awards were reported in this category of offense (Table 5). Professionals were disciplined for absence from duty assignments, lack of classroom control resulting in student injury and neglect of responsibility for obtaining appropriate certifications.

Written reprimands were issued in half (1/2) of the cases and suspensions in another one-fourth (1/4). Termination was used twice and oral reprimand once. Most of these were upheld. Legal reference or discussion of precedent set in courts for negligence was used most often in the decisions. Past practice and Language of the Collective Bargaining Agreement were used twice as often as any other factor in decision making.

Insubordination. Instances where employees willfully violated or failed to follow directives, procedures, and/or policies of district administrations and boards were reported in 65 of the awards (Table 5). Districts responded to this offense with a written reprimand 60% of the time. They acted to suspend without pay or terminate the employee 25% of the time.

Arbitrators upheld or disallowed these remedies at an almost equal percentage rate. They did uphold the board's right to say what philosophy and methods should be used to evaluate, refuse to reappoint, or dismiss an employee provided the employee was given sufficient time and advice to overcome shortcomings.

When making decisions, the arbitrators pointed out that policy must be clear and unambiguous. Teachers must be informed of policy changes or the district's intent to enforce procedures or policy which had previously laid dormant.

Grievances were sustained where districts violated due process by failing to place material in files without the employee's signature or documented knowledge. In this category, due process, arbitrators looked for evidence of progressive discipline and if found usually supported management rights.

Excessive Tardiness. Seven awards were reported for this category of offense (Table 5). Where the grievant's record reflected past abuse and/or discipline, the district penalized by dockage of pay. Termination was used for the most frequent offender and written reprimand for the first time offense.

Arbitrators refused to allow the punishment in three cases; modified or upheld two others and used evidence of (or lack of) progressive discipline, forewarning, and/or discriminator treatment in making their rulings.

Immorality. Seven cases were reviewed involving termination for reasons of immorality (Table 5). Three were upheld, three were disallowed, and one was modified. The deciding factors used by arbitrators related to the procedures used by districts to forewarn, help, or discipline the employee and the credibility of witness testimony.

Unprofessional Conduct. The actions of written reprimand and termination accounted for three-fourths (3/4) of the district remedies in 74 cases (Table 5). Districts' positions were overturned or modified 3 out of 4 time. Factors influencing the district's low rate of success included the inability to meet the burden of proof, violations of due process, violations of the grievance procedures of the Collective Bargaining Agreement, and the lack of forewarning on policy that guides employee actions. Conversely, arbitrators most often named district adherence to contract language procedures and proof of just cause in citing factors for upholding district decisions.

Arbitrators ruled that employees must be given the opportunity to use negotiated procedures such as the right to rebut and have union representation when disciplined. The content of written reprimands must be thoroughly investigated and accurately reported. Accounts of incidents of concerns written by administrators and placed into employee files may be considered disciplinary even where no specific action is threatened. In such cases, procedures of due process must be met. Discipline for actions outside of school must include proof that employee competence in school has been affected.

Violation of Law. School districts acted to remove or reassign five (5) employees and to reprimand one (1) for violations of civil law (Table 5). The arbitrators sustained three (3), modified one (1), and overruled two (2).

Districts were able to persuade arbitrators that three (3) employees could no longer function as appropriate role models for students. However, if the arbitrator determined that the district waited too long to enforce discipline, and/or continued to rate the employee high, the arbitrator disallowed the penalty.

Arbitrators were concerned that situations of double jeopardy be avoided and that the concept of "innocent until proven guilty" be afforded the grievants. Criminal conviction did not automatically result in the license to teach being revoked, nor was a criminal conviction necessarily sufficient grounds for discipline or dismissal. In states such as Michigan and Pennsylvania, districts must petition and provide proof that the license should be revoked. Finally, districts must not change a work assignment while a trial outcome is pending.

Alcohol Related. Six cases that reached arbitration were the result of alcohol abuse (Table 5). Districts moved to discharge 4 employees and used written reprimand in combination with the penalties of suspension or low evaluation in the other two.

Arbitrators refused to uphold 4 of the districts' actions. They were unwilling to support districts when evidence did not indicate a full investigation of the charge, a sufficiency of evidence that the employee's teaching abilities were impaired or that progressive discipline or support for the employee's rehabilitation had been offered. Conviction of drunken driving was not sufficient evidence for employee discipline. Evidence of progressive discipline through the employee's signature on a "last-chance" agreement was the deciding factor when the district was upheld.

Cruelty. Twelve (12) of thirteen (13) cases in this category involved employee use of excessive force in disciplining or restraining students (Table 5). In the majority of cases, the district used suspension as a disciplinary measure. Termination and written reprimands were used to a lesser degree.

Three-fourths (3/4) of the penalties were disallowed. Arbitrators generally based their decisions on the sufficiency of evidence and reasonableness of the punishment based on the type of offense, past record of the grievant, and previous use of progressive discipline.

Summary and Discussion

The purpose of this research was to study arbitration decisions resulting from disciplinary action taken by school districts and grieved by professional employees. The results show trends and commonalties that have relevance for understanding employer/employee relationships within educational organizations. The reader is reminded, however, that all of the arbitration awards reviewed were voluntarily reported to the Labor Relations Press. There is no mandatory reporting procedure that arbitrators are required to follow, therefore the results of studying the 333 cases reported here reflect only those cases available for review. The original focus of this study was to be a review of awards in Pennsylvania. Due to the lack of available data, the larger sample of nation-wide cases had to be used. The lack of access to all awards arbitrated limited this study and also limits the educational administrators' ability to learn from prior arbitrations.

As one might expect, most of the reports available for review were from the Northeastern, highly industrialized states where union strength is generally strong. The fewest come from the South and the Southeast, areas in which labor organizations are less prominent.

The 1970's produced a greater number of cases than did the 1980's. The smaller number of cases in the 80's may be the result of fewer grievances, and unwillingness to report and/or the lack of necessity to report. The lack of federal or state legislation with regard to reporting the grievance proceedings enables districts to avoid disclosing personnel disputes which may unfavorably reflect on the district.

Changes in types and frequencies of offenses arbitrated during the period of the study reflect a decrease in arbitrations regarding teacher competency in the

classroom and an increase in the grievances for conduct. Districts in the 1970's most frequently lost in their attempts to dismiss teachers for incompetency because of defects in procedures and timeliness of evaluation. The resulting trend in the 1980's to incorporate staff development, teacher induction, and corrective discipline programs may be a result of these experiences. The decrease may also be consistent with the unions' attention to negotiating evaluation procedures into collective bargaining agreements and the concurrent growth in post graduate requirements.

Two of the most frequently arbitrated offenses found throughout the study were insubordination and unprofessional conduct. The type of discipline used in the early years of this study was Termination. Because arbitrators required evidence of progressive discipline, districts began to use written reprimands and suspensions without pay more frequently. Perhaps boards and administrators are using these penalties as tools for employee development and/or as documentation to substantiate "just cause" for dismissal. Both are consistent with the tenants of progressive discipline and are advocated in arbitrators' rulings.

Arbitrations involving offenses of Cruelty, Alcohol Abuse, and Immorality all increased over the sixteen years. This may reflect increased attention given to acts of cruelty and immorality in the courts, media, and the legislative bodies of state and federal governments. In addition, knowledge and education about alcohol abuse revealed this condition to be a medical problem. Arbitrators continued to insist upon documentation of progressive discipline and support for rehabilitation of alcohol-dependent professionals before upholding disciplinary action.

School districts are twice as likely to have discipline actions upheld in arbitration cases today than as they were in the 70's. Even with this increase, arbitrators are ruling against school districts more than half of the time. During the 70's arbitrators were quick to modify district actions but during the 80's they tended to disallow actions rather then to modify them.

This increase in district actions upheld by arbitrators suggests that school boards and school administrators are becoming more adept at managing the employer/employee relationship as their experiences grow with collective bargaining and negotiated contracts. In addition, unions (professional associations) may be more willing to grieve lesser offenses and earlier in order to test the strength of contract clauses before new contract years begin.

There was a decrease in the types of deciding factors used by arbitrators in the 1980's. Procedures and timeliness of evaluation was the deciding factor cited most frequently in the reported awards. With the increased emphasis by school administrators on due process rights and past records, employees may be grieving earlier and for less severe offenses to avoid dismissal charges. In order to avoid losing, districts appear to have learned to plan for and document clearly, programs for the development of individuals. The increased use by arbitrators of discipline actions such as Need for Forewarning, Sufficiency of Evidence or Just Cause, coupled with the increasing frequency that they mention the words "progressive discipline", indicates that arbitrators are insisting that districts manage misconduct by their professional employees with communication, documentation, thoroughness, and positive intervention within a system of progressive or corrective discipline.

Over the 16 years of this study Oral Reprimand, the least severe, increased in use, while Termination, the most severe, decreased significantly. This increase in Oral Reprimands, and the accompanying decrease in Termination discipline actions is related to arbitrators insisting that cases brought before them show a continuum of discipline measures. Penalties falling between Oral Reprimand and Termination include; Written warning, Written Reprimand, Suspension With Pay, Suspension Without Pay, and combinations of penalties such as Reprimand and Suspension.

Double penalties have declined over the years and were often ruled as excessive. Denial of salary increment or advancement on the salary schedule and low evaluation used in the 70's were upheld infrequently, and were not used at all in the 80's. Arbitrators disallowed school districts' denial of increases and advancements negotiated into the Collective Bargaining Agreement.

Suspension with Pay presents an interesting disciplinary measure. It provides discipline of a more progressive nature, but requires no monetary penalty. Therefore, it allows the school district to place the offense in the grievant's record but lessens the chance of it being modified or disallowed.

Finally, an educational administrator operating within the climate of collective bargaining at times may be appalled, angered, and perhaps frightened by the rulings of the arbitrators. Sometimes, the administrator may feel the decision offends his/her judgment as a reasonable person. However, he/she cannot forget that the effectiveness of an administrator in such a climate is best evidenced by the actual management of his employees. Knowledge of and the ability to apply provisions of the current contract, the guarantees of due process, components of just cause, and the tenants of progressive discipline are his/her most essential tools.

Administration in the collective bargaining climate requires pro-active managers who take the lead in structuring programs and procedures and who approach their duties thoroughly and fairly. It requires one who refuses to allow brinkmanship behavior and establishes a climate where excellence is expected.

Collective bargaining, with its grievance procedure, provides an essential guarantee of due process for employees. It has also changed the focus of employee management from competence, to conduct which results in competence. Effective administration, now more than ever, relies on the manager's ability to confront problems early, technically, and fairly.

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Table 1

Categories and Variables Used to Analyze the Arbitration Awards

EMPLOYEE OFFENSES	DISTRICT ACTION	ARBITRATOR'S DECISION	DECIDING FACTOR	YEAR
1. Abuse of Sick Leave	1. Oral Reprimand	1. Uphold	1. Decision of Prior Arbitrator	1. 1972-1975
2. Cruelty	2. Written Reprimand	2. Modified	2. Due Process	2. 1976-1979
3. Excessive Tardiness	3. Denial of Tenure	3. Not Upheld	3. Past Practice	3. 1980-1983
4. Immorality	4. Suspension Without Pay		4. Grievant's Past Record	4. 1984-1987
5. Unprofessional Conduct	5. Suspension With Pay		5. Lack of Forewarning	
6. Incompetence	6. Monetary Penalty Only		6. Progressive Discipline	
7. Insubordination	7. Termination		7. Discriminatory Treatment	
8. Intemperance	8. Probation		8. Procedures & Timelines of Evaluation	
9. Negligence	9. Memorandum Accounting Incident		9. Lack of Evidence or Just Cause	
10. Violation/Conviction of Breaking Law Outside of School	10. Low Evaluation		10. Language of CBA	
11. Violation of Civil Law	11. Change in Assignment		11. Management Rights or Actions	
	12. Written Reprimand & Probation		12. Board Policy	
	13. Written Reprimand & Suspension Less than 5 days		13. Excessive Punishment	
	14. Written Reprimand & Monetary Penalty		14. Sufficiency of Evidence	
	15. Written Reprimand with Threat of Suspension		15. Content of Written Reprimand	
	16. Public Criticism of Teacher		16. Adequacy of Investigation Prior to Discipline	
			17. Legal Reference	
			18. Timeliness of Filing	

Table 2

Frequency of Employee Discipline Grievance Arbitration Cases by States Reporting for the Years 1972-1987

State	Frequency	Percent
Alaska	1	0.3%
Arizona	1	0.3%
California	7	2.1%
Colorado	3	0.9%
Connecticut	6	1.8%
Florida	6	1.8%
Illinois	5	1.5%
Indiana	9	2.7%
Iowa	6	1.8%
Kansas	1	0.3%
Kentucky	2	0.6%
Maine	10	3.0%
Michigan	41	12.3%
Missouri	1	0.3%
Nevada	1	0.3%
New Jersey	25	7.5%
New Mexico	3	0.9%
New York	85	25.5%
Ohio	12	3.6%
Oregon	16	4.8%
Pennsylvania	24	7.2%
Rhode Island	19	5.7%
Tennesse	1	0.3%
Vermont	1	0.3%
Virginia	1	0.3%
Washington	7	2.1%
Wisconsin	29	8.7%
District Of Columbia	10	3.0%
TOTAL	333	100.0%

Table 3

Frequency of Employee Discipline Grievance Arbitration Cases Reported for Each Year from 1972-1987

Year	Frequency	Percent
1972	13	3.9%
1973	15	4.5%
1974	11	3.3%
1975	55	16.5%
1976	28	8.4%
1977	40	12.0%
1978	60	18.0%
1979	48	14.4%
1980	12	3.6%
1981	3	0.9%
1982	2	0.6%
1983	3	0.9%
1984	5	1.5%
1985	4	1.2%
1986	20	6.0%
1987	14	4.2%
TOTAL	333	100.0%

Table 4

Frequency of Employee Discipline Grievance Arbitration Cases in Four-Year Periods from 1972-1987

Year	Number of Cases Reported	Percent
1972-1975	94	28.2%
1976-1979	176	52.9%
1980-1983	20	6.0%
1984-1987	43	12.9%
TOTAL	333	100.0%

Table 5

Frequency of the Classification of Offenses for the 333 Cases Submitted to Arbitration

Classification of Offense	Frequency	Percent
Abuse of Leave	23	6.9%
Incompetence	120	36.9%
Negligence	12	3.6%
Insubordination	65	19.5%
Immorality	7	2.1%
Excessive Tardiness	7	2.1%
Unprofessional Conduct	74	22.2%
Violation of Law	6	1.8%
Alcohol Related Offenses	6	1.8%
Cruelty	13	3.9%
TOTAL	333	100.0%

Table 6

Frequency of Employee Offenses Reported in Grievance Arbitrations in Four Four-Year Periods from 1972-1975

Offense	1972-75		1976-80		1981-83		1984-87	
	No.	%	No.	%	No.	%	No.	%
Abuse of Leave	2	2.1%	17	9.7%	0	0.0%	4	9.1%
Incompetence	50	53.8%	65	36.9%	4	20.0%	1	2.3%
Negligence	2	2.2%	4	2.2%	1	5.5%	5	11.4%
Insubordination	9	9.7%	40	22.7%	7	35.0%	9	20.4%
Excessive Tardiness	4	4.3%	1	0.6%	1	5.0%	1	2.3%
Immorality	0	0.0%	3	1.7%	0	0.0%	4	9.1%
Unprofessional Conduct	23	24.7%	38	21.6%	6	30.0%	7	15.9%
Violation of Law	2	2.1%	1	0.6%	1	5.0%	2	4.5%
Alcohol Related Offenses	0	0.0%	1	0.6%	0	0.0%	5	11.4%
Cruelty	1	1.1%	6	3.4%	0	0.0%	6	13.6%
TOTAL	93	100%	176	100%	20	100%	44	100%

Table 7

Frequency of District Actions Taken in the 333 Cases Submitted to Arbitration

District Action	Frequency	Percent
Oral Reprimand	6	1.8%
Written Reprimand	108	32.4%
Tenure Denied	3	0.9%
Suspension Without Pay	27	8.1%
Suspension With Pay	3	0.9%
Monetary Penalty Only	14	4.2%
Termination	136	40.8%
Probation	2	0.6%
Letter to Superior	5	1.5%
Low Evaluation	11	3.3%
Change in Assignment	11	3.3%
Written Reprimand/Probation	1	0.3%
Written Reprimand/Suspension Five Days or Less	1	0.3%
Written Reprimand/Monetary Penalty	3	0.9%
Written Reprimand/Threat of Suspension	2	0.6%
TOTAL	333	100.0%

Table 8

Frequency of District Actions Reported in Grievance Arbitrations in Four Four-Year Periods from 1972-1987

District Action	1972-75		1976-79		1980-83		1984-87	
	No.	%	No.	%	No.	%	No.	%
Oral Reprimand	1	1.1	4	2.3	0	0.0	1	2.2
Written Reprimand	25	26.9	55	31.3	10	50.0	18	40.3
Denial of Tenure	2	2.2	1	0.6	0	0.0	6	13.6
Suspension Without Pay	6	6.5	12	6.8	3	15.0	0	0.0
Suspension With Pay	1	1.1	1	0.6	1	5.0	1	2.2
Monetary Penalty Only	4	4.3	9	5.1	0	0.0	0	0.0
Termination	46	49.3	69	39.1	0	0.0	15	34.9
Probation	0	0.0	2	1.1	6	30.0	0	0.0
Letters to Superior	0	0.0	4	2.3	0	0.0	1	2.2
Low Evaluation	4	4.3	7	4.0	0	0.0	0	0.0
Change in Assignment	4	4.3	5	2.8	0	0.0	2	4.6
Written Reprimand/Probation	0	0.0	1	0.6	0	0.0	0	0.0
Written Reprimand/Suspension of 5 Days or Less	0	0.0	1	0.6	0	0.0	0	0.0
Written Reprimand/Monetary Penalty	0	0.0	3	1.7	0	0.0	0	0.0
Written Reprimand/Threat of Suspension	0	0.0	2	1.1	0	0.0	0	0.0
TOTAL	93	100%	176	100%	20	100%	43	100%

Table 9

Frequency of the Arbitrator's Decision in 333 Cases Submitted to Arbitration from 1972-1987

Arbitrator's Decision	Number of Cases	Percentage of Cases
District Action Upheld	117	35.1%
District Action Modified	57	17.1%
District Action Not Upheld	159	47.8%
Total	333	100.0%

Table 10

Frequency of Arbitrators' Decisions for Cases Submitted by Four-Year Time Periods

Time Period	Total Cases	District Decision Not Upheld		District Decision Modified		District Decision Upheld	
	Number	Number	Percent	Number	Percent	Number	Percent
1972-75	93	56	60.2%	14	15.1%	23	24.7%
1976-79	176	78	44.3%	34	19.3%	64	36.4%
1980-83	20	7	35.0%	4	20.0%	9	45.0%
1984-87	44	18	41.0%	5	11.3%	21	47.7%
Total	333	159	100.0%	57	100.0%	117	100.0%

Table 11

Frequency of Deciding Factors
in Employee Discipline Arbitration Cases

Deciding Factor	Frequency	Percent
Decision of Prior Aoritrator	4	1.2
Due Process	30	9.0
Past Practice	12	3.6
Past Record of Grievant	23	6.9
Need for Forewarning	18	5.4
Progressive Discipline	19	5.7
Discriminatory Treatment	14	4.2
Procedures & Timeliness of Evaluation	62	18.6
Lack of Evidence or Just Cause	29	8.7
Language of CBA	34	10.2
Management Rights	31	9.3
Board Policy	3	0.9
Excessive Punishment	11	3.3
Sufficiency of Evidence or Just Cause	15	4.5
Content Error of Written Reprimand	8	2.4
Adequacy of Investigation	6	1.8
Legal Reference	8	2.4
Timeliness of Filing	16	1.8
Total	333	100%

Table 12

Frequency of Deciding Factors of the Cases Submitted to Arbitration from 1972-1987

Deciding Factor	1972-75		1976-79		1980-83		1984-87	
	No.	%	No.	%	No.	%	No.	%
Decision of Prior Arbitrator	2	2.2	0	0.0	2	10.0	0	0.0
Procedural Due Process	12	12.9	13	7.4	2	10.0	3	6.9
Past Practice	4	4.3	5	2.8	2	10.0	1	2.3
Past Record of Grievant	5	5.4	12	6.8	2	10.0	4	9.1
Need for Forewarning	7	7.5	5	2.8	0	0.0	6	13.6
Progressive Discipline	4	4.3	11	6.3	3	15.0	1	2.3
Discriminatory Treatment	5	5.4	8	4.5	1	5.0	0	0.0
Procedures & Timeliness of Evaluation	19	20.4	36	20.5	3	15.0	4	9.1
Lack of Evidence or Just Cause	5	5.4	18	10.2	1	5.0	5	11.4
Language of CBA	10	10.8	19	10.8	0	0.0	5	11.4
Management Rights	7	7.5	21	11.9	1	5.0	2	4.5
Board Policy	1	1.1	2	1.1	0	0.0	0	0.0
Excessive Punishment	4	4.3	4	2.3	1	5.0	2	4.5
Sufficiency of Evidence or Just Cause	2	2.2	6	3.4	1	5.0	6	13.6
Content Error of Written Reprimand	1	1.1	6	3.4	0	0.0	1	2.3
Adequacy of Investigation	0	0.0	4	2.3	0	0.0	2	4.5
Legal Reference	1	1.1	5	2.8	0	0.0	2	4.5
Timeliness of Filing	4	4.3	1	0.6	1	5.0	0	0.0
TOTAL	93	100%	176	100%	20	100%	43	100%