

# The Employee Disciplinary Process

*from Complaint to Final Order*

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# The Complaint

All incidents are reported to the worksite administrator . The administrator must then report to the Incident Reporting Team (I.R.T), unless the incident can be handled at the worksite.

- I.R.T → sets the stage for the District to review and respond to the allegation. The team is comprised of representatives from the following departments:
  - Office of Professional Standards (OPS)
  - Civilian Investigative Unit (CIU)
  - Miami-Dade Schools Police Department- General Investigative Unit (GIU)
  - Office of Civil Rights Compliance
  - Office of Human Capital Management
  - District/School Operations
- After the allegation is reviewed by the team, it will take one of the following investigative tracks :
  - General Investigative Unit Investigation
  - Civilian Investigative Unit Investigation
  - Administrative Review

The worksite administrator is responsible for notifying the employee of the allegations:

- Employee must be notified verbally within one business day and in writing within two business days.
- The written notification must identify the nature of the allegation.

# Investigating Agencies

## CIU – Civilian Investigative Unit

- Investigates serious non-criminal allegations of misconduct

## GIU -Miami-Dade Schools Police Dept.- General Investigative Unit

- Any potentially criminal misconduct.

## AR- Administrative Review

- Investigates minor offenses.
- The investigation is completed by the worksite administrator.

## OIG- Office of Inspector General

- Investigates allegations of employee misconduct:
- However, these complaints are not processed through IRT. If the initial allegations is substantiated, the case is then forwarded to OPS.

*\*CIU, GIU and AR must determine whether probable cause exists to support the allegation. Probable cause is defined as based upon an evaluation of all the relevant evidence; it is more likely than not that the alleged act occurred.*

*Unsubstantiated information will not be used as a basis for disciplinary action.*

# Investigative Non PIM Entities

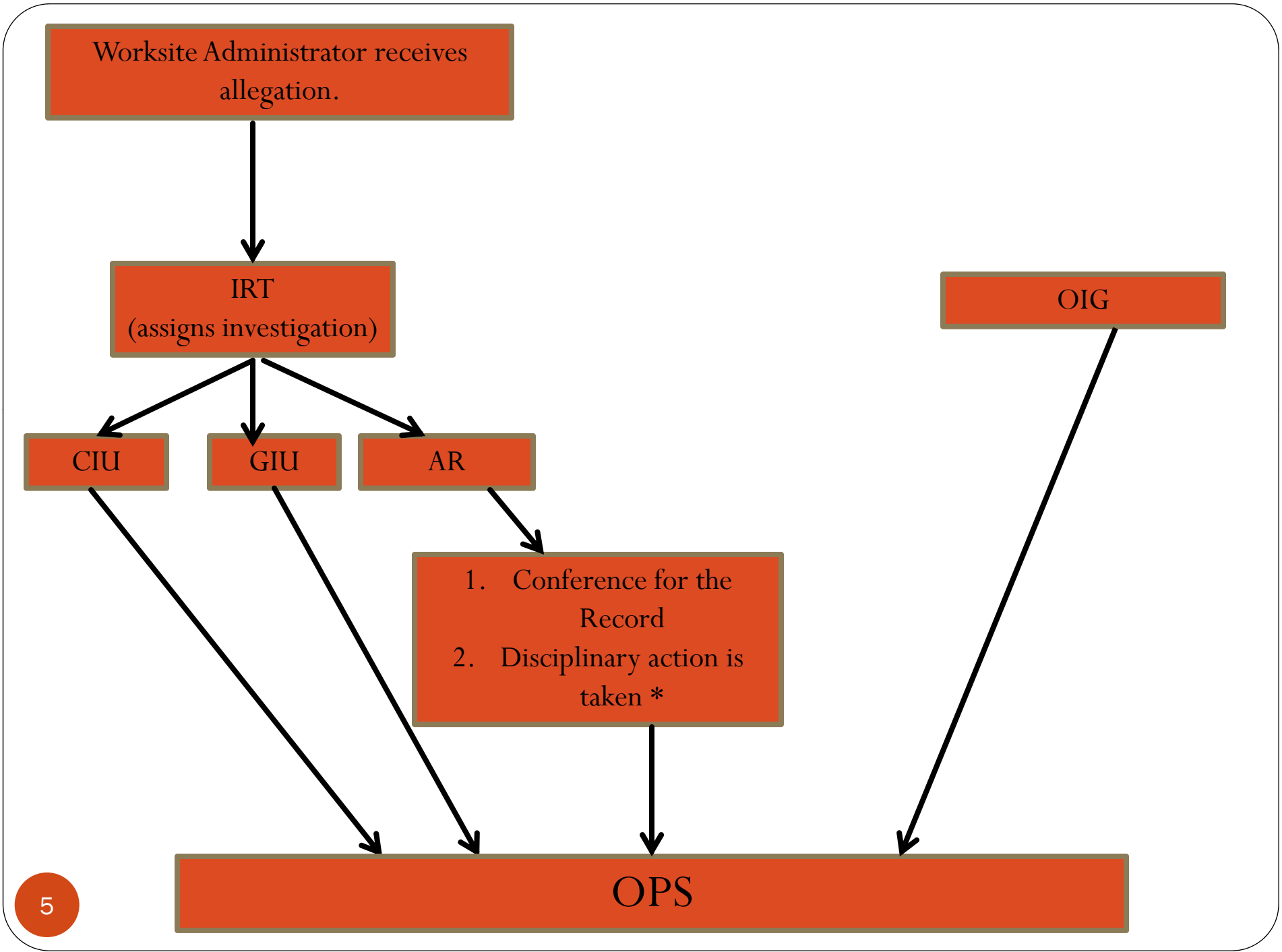
## CRC – Office of Civil Rights Compliance

- Allegations of employee misconduct. Discrimination, harassment, and/or retaliation; not referred by IRT. Not part of PIM, but forwarded to OPS .

*\*CIU, GIU and AR must determine whether “probable cause” exists to support the allegation. Probable cause is defined as “based upon an evaluation of all the relevant evidence, it is more likely than not that the alleged act occurred.” Unsubstantiated information is not to be used as a basis for disciplinary action.*

## OIG- Office of Inspector General

- Allegations of employee misconduct.
- However, these complaints are not processed through IRT. If the initial allegation is substantiated, the case is then forwarded to OPS.



- Investigative Report is issued by investigative entity.
- Employee has a right to file exceptions to the investigative findings.
- Final Report determines whether probable cause exists.
- If probable cause exists, a final investigative report is submitted to OPS, and a Conference-for-the-Record (CFR) is scheduled with the employee.

**Conference for the Record → is a fact finding process. The investigative findings are reviewed with the employee and he/she is provided an opportunity to respond.**

- Employee must be given a two day notice before CFR takes place.
- Employee is entitled to union representation. If the employee is not a union member, he/she entitled to up to two representatives, of his/her choosing.

# Disciplinary Review Team (D.R.T)

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Once the CFR is completed, the case is forwarded to D.R.T.

The team is comprised of representatives from the following departments:

- Office of Professional Standards (OPS)
- Region Representative
- Office of Human Capital Management
- District/School Operations
- School Board Attorney's Office

The team meets and carefully reviews the record, and after seeking input from the Region, the teams decides on a recommended disciplinary action.

# Legal Review

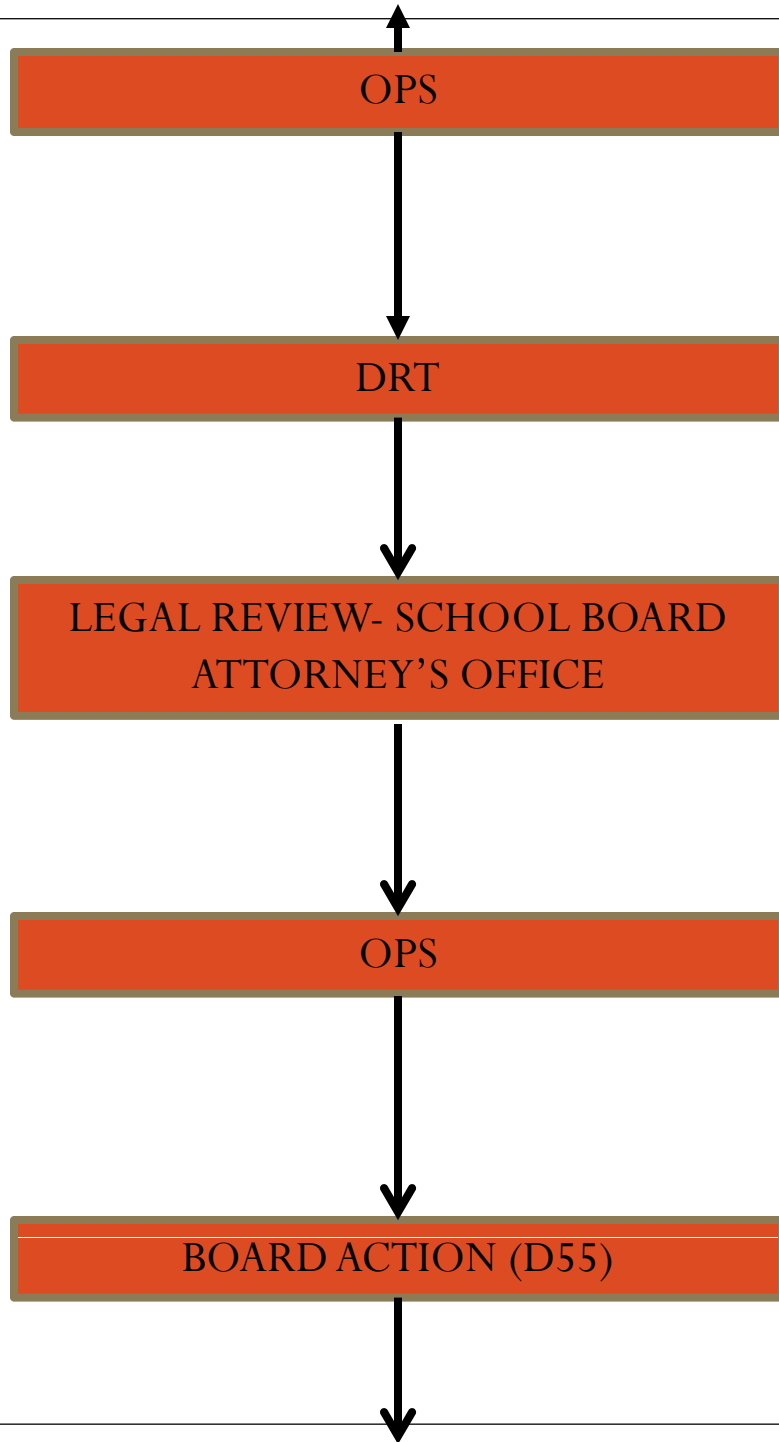
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- D.R.T's recommended disciplinary action is sent to the School Board Attorney's Office for Legal Review.
- An Assistant School Board Attorney reviews the employee's OPS file, the investigate file, and in certain cases interviews staff to determine if legal sufficiency exists to proceed with the recommended disciplinary action.
- The Legal Review is forwarded to OPS.
- Data:
  - 2012-2013 → The School Board Attorney's Office completed 179 Legal Reviews
  - 2013-2014 → As of May 9, 2013 the School Board Attorney's Office has completed 164 Legal Reviews



The Superintendent submits the recommended disciplinary action to the School Board. It is presented as a D55.

If the School Board accepts the Superintendent's recommendation, the employee has fifteen days following board action to appeal.



# Employee Appeal Process

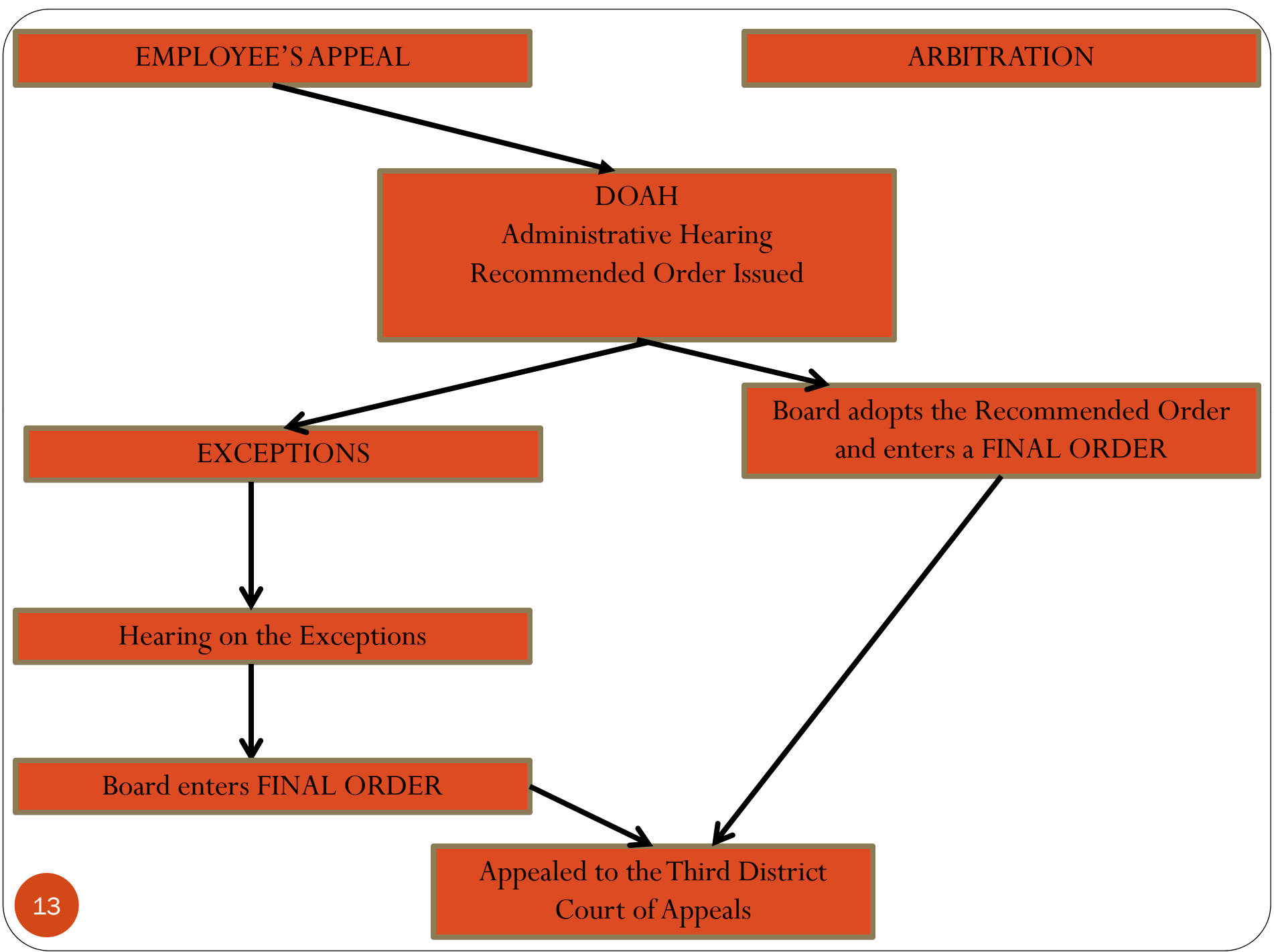
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- Once the employee request a hearing, the case is forwarded to the Division of Administrative Hearings (DOAH).
- An Assistant School Board Attorney, on behalf of the Superintendent, files formal charges against the employee.
- The Administrative Law Judge (ALJ) holds an evidentiary hearing to determine whether just cause exists to sustain the disciplinary action.
- Subsequent to the hearing, both parties have the opportunity to submit a Proposed Recommended Order.
- The ALJ then enters the Recommended Order and forwards it to the Superintendent.
- Unless Exceptions are filed, the Board adopts the Recommended Order as the Final Order.
- The proposed Final Order is submitted to the Board as a G- item.

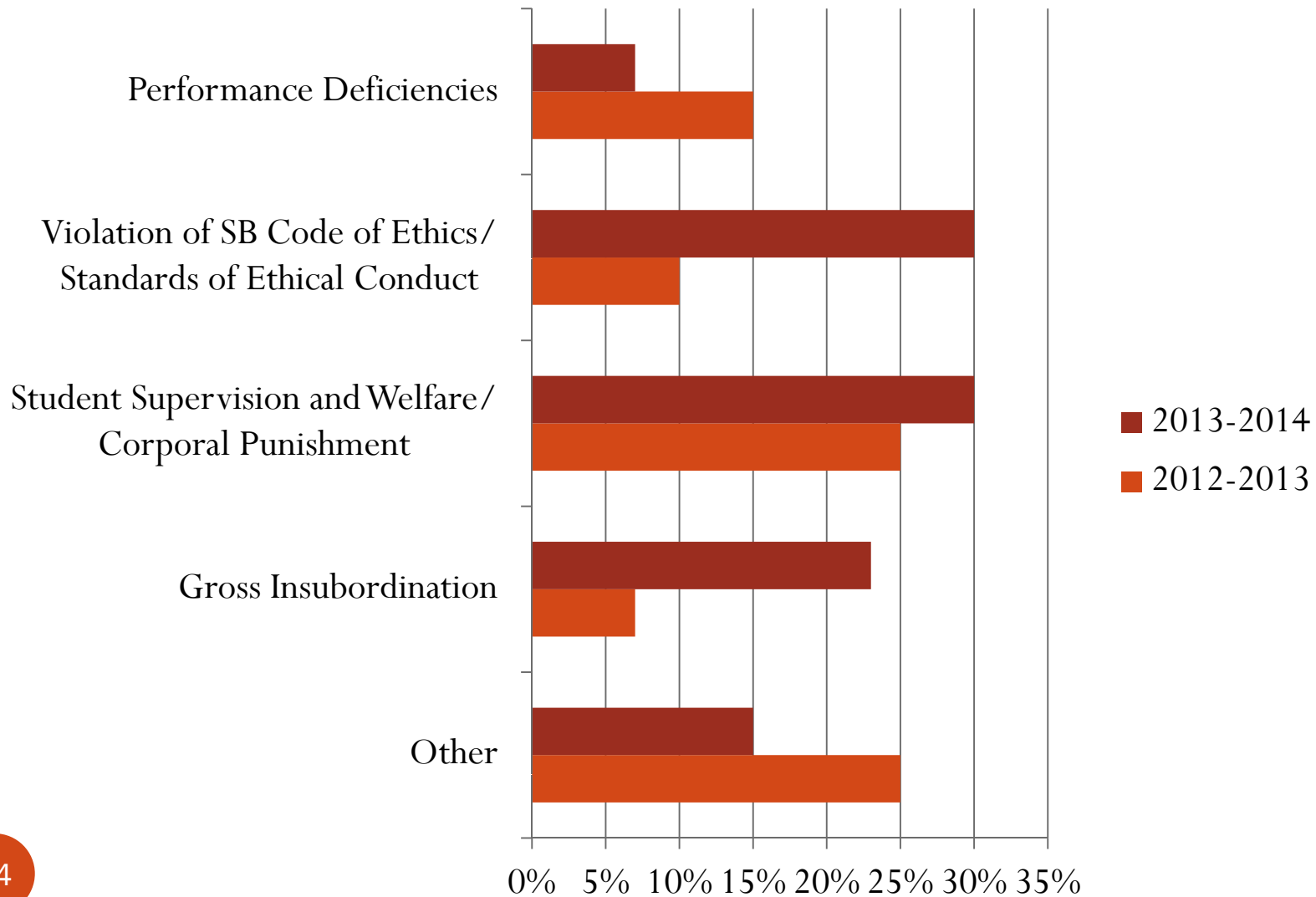
# Exceptions

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- Exceptions to the ALJ's Recommended Order can be filed by the employee, or by an Assistant School Board Attorney on behalf of the Superintendent.
- Either party can take exception to the ALJ's conclusions of law but not to the ALJ's findings of fact.
- The Board has the authority to deviate from the ALJ's recommendation so long as it states with particularity the reasons for rejecting the conclusion of law and makes a finding that its substituted conclusion is "as or more reasonable."
- The Board also has the authority to increase the ALJ's recommended penalty as long as the Board reviews the complete record and states with particularity its reasons for the increase in the final order.
- Upon hearing the Exceptions, the Boards enters the Final Order.
- Final Order can be appealed to the Third District Court of Appeals.



# Cases Appealed to DOAH



# Performance Deficiency Cases

- If during the course of an evaluation a teacher is found deficient in one or more performance standards, the teacher can be placed on a 90 day calendar performance probation.
- During the probationary period:
  - The administrator must provide the teacher with support to help he/she to correct his/her deficiencies.
  - The teacher is formally observed several times during the probationary period by different administrators.
  - The administrators are required to review the teacher's data and indicators of student learning growth assessed by the annual statewide assessment or, if applicable, district wide assessment.
- If at the conclusion of the 90 day period the teacher has not corrected the deficiencies, the administrator can make a recommendation to terminate the teacher's employment.

# Drug or Alcohol

*If allegation is for drug and/or alcohol use, employee may be screened if “reasonable suspicion” found*

- drug and/or alcohol screening may be considered under the following circumstances:
  - observed use of illegal drugs and/or abuse of alcohol during work hours
  - apparent physical state of impairment of motor functions
  - marked changes in personal behavior on the job not attributable to other factors
  - serious or repetitive accidents on the job, causing personal injury to self or others and/or significant property damage
- drug and/or alcohol screening shall:
  - be conducted by Board-approved, independent, certified laboratories
  - utilize recognized techniques and procedures, as described in the Miami-Dade County Public Schools “Drug-Free Work Place Technical Guide”



# Progressive Discipline

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- Board subscribes to principle of progressive discipline, which includes but is not limited to:
  - Suspension without pay for up to 30 days
  - Dismissal must be in accordance with CBA, Florida Statutes & SB Policies
- Employee's Due Process Rights must be observed
- Board takes action at regularly-scheduled meeting
- Employee receives notice of Board action