

4218 Discipline of Permanent Classified Employees

1. Probationary Employees:

At any time prior to the expiration of the probationary period, the Governing Board may, at its discretion, dismiss a probationary classified employee from District employment. A probationary employee shall not be entitled to a statement of charges or a hearing. The probationary period shall consist of one (1) full year of actual service in a regular classified position.

2. Disciplinary Action:

Permanent classified employees shall be subject to disciplinary action, limited to dismissal, suspension for up to thirty (30) days without pay, and demotion (involuntary placement in a lower classification). No disciplinary action shall be taken for any cause which arose prior to an employee's becoming permanent, nor for any cause which arose more than two (2) years preceding the date of the notice of proposed disciplinary action, unless the cause was concealed or not disclosed by the employee when it could reasonably be assumed the employee should have disclosed the facts to the District.

Counseling, improvement plans, and letters of warning or reprimand are considered to be corrective and remedial in nature, and do not constitute disciplinary action.

3. Causes for Disciplinary Action:

A permanent classified employee shall be subject to discipline for any of the following causes:

- a. In competency or inefficiency in the performance of the duties of his or her position.
- b. Insubordination, including, but not limited to, refusal to do assigned work.
- c. Carelessness or negligence in the performance of duty or in the care or use of District property.
- d. Discourteous, offensive, or abusive conduct or language toward other employees, students, or the public.
- e. Dishonesty, including but not limited to, use of District work time and or resources for personal endeavors.
- f. Use of, possession of, or being at the job site while under the influence of controlled substances, including alcoholic beverages, narcotics or other illegal, restricted, unauthorized, or habit-forming drugs.
- g. Personal conduct unbecoming a District employee or bringing discredit upon the District, whether or not it amounts to a crime.
- h. Engaging in political activity during assigned hours of employment.
- i. Immoral conduct or conviction of any felony or any crime involving moral turpitude or bringing discredit upon the District.
- j. Conviction of a sex offense as defined in Education Code section 44010, conviction of a controlled substance offense as defined in Education Code section 44011, or conviction as a sexual psychopath in Article I, Chapter I, Part 1.5, Division 6 of the Health and Welfare Code. A plea of no contest is a conviction for purposes of this

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Policy.

- k. Repeated and unexcused absence or tardiness.
- l. Abuse of illness or other paid leave privileges, including absence without authorized leave.
- m. Knowingly falsifying any information supplied to the District, including, but not limited to, information supplied on application forms, employment records, or any other District records.
- n. Persistent violation of or refusal to obey policies, rules, regulations, or management directives, or any appropriate federal, state, or local governmental agency laws or regulations.
- o. Offering anything of value or any service in exchange for special treatment in connection with the employee's job or employment, or accepting anything of value of any service in exchange for granting any special treatment to another employee or to any member of the public.
- p. Willful or persistent violation of the Education Code or rules, regulations, policies, or directives of the District.
- q. Any willful conduct tending to injure the public service.
- r. Abandonment of position, defined as absence without sufficient explanation, for three consecutive work days.
- s. Advocacy of overthrowing the federal, state, or local government by force, violence, or other unlawful means.
- t. Knowing membership in the Communist Party, pursuant to Education Code section 45303.
- u. Evident unfitness for service.

This section shall not be construed to prevent layoffs for lack of work or lack of funds.

4. Disciplinary Procedure:

Suspension, demotion, or dismissal of a permanent classified employee shall include the following steps:

- a. Written notice of the proposed disciplinary action, provided in person or by certified mail to the last known address provided to the District;
- b. Cause(s) for the action;
- c. A statement of charges setting forth in clear language the specific conduct giving rise to the charges;
- d. A copy of materials, including statements upon which the District will rely in the event of a hearing;

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- e. Copies of sections of rules, regulations, or laws which are alleged to have been violated;
- f. The proposed effective date of the disciplinary action; and
- g. Notice of the right to respond to the charges, either orally or in writing, within a reasonable time prior to imposing discipline.

Immediate suspension of a permanent employee, with or without pay and without notice, is permitted when the health or welfare of students or other employees, or District property is endangered by the employee's continued presence in the District.

5. Informal Conference:

If, after the above procedures have been followed, the employee wishes to respond orally or in writing to the disciplinary charges, he or she shall, within a specified reasonable time, request an informal conference. The Assistant Superintendent of the Personnel Department shall issue a written decision to the employee within five (5) business days after the conclusion of the conference, to either continue, reduce, or discontinue the proposed disciplinary action.

6. Procedure for Suspension of Five (5) Days or Less:

When suspension of a permanent employee for five (5) days or less is recommended, the procedural safeguards described in Sections D and E above shall apply, and the procedures in this Section F shall be the final stage of the process. The notice shall contain information regarding the employee's right to an informal hearing with the Superintendent within a specified period of time. This informal hearing shall afford the employee a final opportunity to deny the charges, to ask and answer questions concerning the charges, to present supporting or mitigating evidence, to present an argument on his or her own behalf, and to present rationale to modify or reject the discipline. Failure to request an informal hearing within five (5) days of service of the notice, or, when a conference is requested, within five (5) days of the conclusion of the conference, shall constitute a waiver of any other due process procedure under this Policy, and the discipline may be imposed forthwith. The Superintendent's determination of the sufficiency of the cause for disciplinary action shall be conclusive.

7. Procedure for Suspension of More than Five (5) Days or for Demotion, or for Dismissal:

a. Right to Appeal Via Evidentiary Hearing:

When disciplinary action of suspension of more than five (5) days, demotion, or dismissal has been recommended, a permanent employee shall be entitled to the procedures described in Section D and E. If, after the conference, a decision is made to proceed with the discipline, the employee shall receive notice of the right to appeal the disciplinary action and a Request for Hearing form. The employee must file a Request for Hearing within five (5) days of the conclusion of the procedures under Section E, or if a conference is not requested, within five (5) days of service of the charges. Failure to timely request an evidentiary hearing shall constitute a waiver of any and all due process under this Policy, and discipline may be imposed forthwith. Signing and filing the Request for Hearing form constitutes a demand for hearing and a denial of all charges. Upon receipt of a Request for Hearing, the District shall set the matter for hearing and shall provide the employee with at least five (5) business days' notice in writing of the date and location of the hearing.

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b. Evidentiary Hearing:

An evidentiary hearing shall be conducted in closed session unless the employee makes a written request for a public hearing at least five (5) days before the hearing. The employee may be represented at his or her own expense. The hearing shall be informal and need not be conducted according to technical rules of evidence. Oral evidence shall be taken on oath or affirmation. Each party shall have the right to call, examine, and cross-examine witnesses, to introduce relevant exhibits, to impeach witnesses, and to rebut evidence. Any relevant evidence shall be admitted if it is the sort of evidence on which reasonable persons are accustomed to rely in conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over an objection in a civil action. The Governing Board may conduct the hearing or appoint a hearing officer to conduct the hearing. The hearing officer shall render findings of fact, conclusions of law, and a decision, which shall be advisory to the Board. The Board may accept, reject, or modify the recommended decision. The Board's determination of the sufficiency of the cause for disciplinary action shall be final.

Hearsay evidence may be used for the purpose of supplementing and explaining other evidence, but shall not be sufficient, standing alone, to support a finding, unless it would be admissible over an objection in a civil action. At the close of the hearing, each party may present an oral closing argument or may submit a written brief in accordance with time lines established by the hearing officer. Post-hearing briefs must be submitted simultaneously to the hearing officer and the opposing party.

8. Non-substantive procedural errors committed by the District or Governing Board shall not constitute cause for dismissing the disciplinary charges unless the errors are prejudicial.

Board Approved:

January 13, 2005

August 19, 2004

Effective Date: August 19, 2004