

**DISMISSAL, SUSPENSION & DEMOTION**

**A. Purpose and Scope**

To provide guidance and direction for the Governing Board and appropriate administrative personnel regarding the dismissal, suspension, and demotion of classified employees.

**B. General**

The Board may dismiss, suspend, or demote, without voluntary consent, permanent classified employees for cause. Cause includes, but is not limited to, the following:

1. Incompetency or inefficiency in the performance of the duties of his/her position.
2. Insubordination (including, but not limited to, refusal to perform properly assigned work.
3. Carelessness or negligence in the performance of duties or in the care of District property.
4. Defacing District property.
5. Discourteous, offensive or abusive language or conduct, including threats, toward a member of the Board of Trustees, any District employee, a pupil, or a member of the public.
6. Dishonesty.
7. Drinking or possessing alcoholic beverages or ingesting, possessing, selling or buying controlled substance drugs during working hours.
8. Reporting for work or attempting to work while under the influence of alcohol or controlled substance.
9. Engaging in political activity during assigned hours of employment or otherwise in violation of applicable regulations or policies of the Board.

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10. Conviction of any crime involving moral turpitude.
11. Arrest for a sex offense as defined in Education Code Section 44010 (suspension), and dismissal if found guilty.
12. Conviction of a narcotics offense as defined in Section 44011 of the Education Code.
13. Repeated and unexcused absence, tardiness, arriving to work late, or leaving work early.
14. Abuse of leave privileges.
15. Falsifying any information supplied to the District, such as information supplied on application forms, employment records, or other District records.
16. Willful or repeated violation of, or refusal to obey, safety rules and regulations made applicable to public schools by the District administration, the Board or the laws and regulations of the State.
17. Offering anything of value or offering any service in exchange for special treatment in connection with the employee's job or employment, or accepting of anything of value or any service in exchange for granting any special treatment to another employee or to any member of the public.
18. Violation of the Education Code or Department rule, policies, regulations or procedure of the District administration or the Board.
19. Any failure of good conduct tending to injure the public service or conduct otherwise unbecoming of a District employee, regardless of whether committed on or off working time.
20. Abandonment of position. Abandonment is defined as an employee being absent from work three or more work days without notifying the employee's supervisor.

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21. Advocacy of overthrow of federal, state, or local government by force, violence or other unlawful means.
22. Membership in the Communist Party.
23. Violation of local, state, or federal laws which jeopardizes or results in cancellation or suspension of licenses required for assigned duty.
24. Unlawful gambling on District property.
25. Removing or attempting to remove or appropriate District property, materials, supplies, machinery or equipment from the premises without express authority.
26. Unlawful discrimination, including harassment on the basis of race, religious creed, color, national origin, ancestry, physical handicap, marital status, sex, or age against the public or other employees while acting in the capacity of a District employee.
27. Unlawful retaliation against any other District officer or employee or member of the public who, in good faith, reports, discloses, divulges, or other wise brings to the attention of any appropriate authority and information relative to an actual or suspected violation of state or federal law occurring on the job or directly related thereto.
28. Any other failure of good behavior either during or outside of duty hours which is of such a nature that it causes discredit to the District or his/her employment.

**C. Forms and Additional References**

None

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**D. Procedure**

Notice Of And Hearing Over Disciplinary Action For Permanent Classified Employees.

1. The Superintendent shall be responsible for forwarding any recommendation for disciplinary action to the Board. The Board delegates any pre-disciplinary action notice and hearing responsibilities to the Superintendent. Any duties set forth in these regulations which are delegated to the Superintendent may be performed by the Superintendent's designed representative in the absence of the Superintendent.
2. Before formally recommending disciplinary action to the Board, the Superintendent orally or in writing shall notify the employee of the Superintendent's intent to recommend disciplinary action and of the proposed charges against him; shall explain to the employee, in oral or written fashion, a summary of the District's evidence; and shall offer the employee an opportunity to present his side of the story to the Superintendent before the disciplinary action formally is proposed to the Board. The Superintendent shall schedule a date and time for meeting with the employee to hear his side of the story.
3. The Superintendent shall forward charges and a recommendation for disciplinary action to the Board if, after hearing the employee's side of the story, or after the employee's waiver of his opportunity to explain his side of the story, the Superintendent believes disciplinary action still is warranted.
4. The Superintendent is authorized to place the employee on a paid leave of absence at any time.
5. The Superintendent may forego the pre-disciplinary action notice and hearing if he deems it appropriate in the event of an emergency.

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6. The Board shall consider the charges and Superintendent's recommendation for disciplinary action. After reviewing the charges and the Superintendent's recommendation, the Board may suspend the employee without pay pending any further investigation and/or resolution of the matter.
7. The employee shall be notified of his suspension and/or other proposed disciplinary action by the Board. Written notification to the employee of said action and/or proposed action shall be served on the employee within three calendar days of the Board's action. The notification shall be served on the employee at the last address of official record on file with the District by way of United States Certified Mail or by personal service.
8. The written notification to the employee shall contain the following information, which also constitutes the employee's rights and obligations for challenging the charges and imposed or proposed disciplinary action.
  - a. A statement in ordinary and concise language of the specific charges brought against the employee; the specific acts and omissions upon which the imposed or proposed disciplinary action is based; and a statement of the cause of the disciplinary action taken or proposed.
  - b. If it is alleged that the employee violated a District rule or regulation, such rule or regulation shall be set forth in the notice.
  - c. A statement of any action taken by the Board.
  - d. A statement of any proposed action recommended by the Superintendent and/or otherwise under consideration by the Board.
  - e. A statement that the employee has a right to a hearing on any suspension and/or other disciplinary action taken by the Board, if applicable.
  - f. A statement that the employee has a right to a hearing before the Board on the charges and the proposed disciplinary action.

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- g. A statement that if the employee desires a hearing, he must sign and file an enclosed card or paper within five work days after service of the notice to the employee. Filing shall be effective the date the card or paper is delivered to the Superintendent's office or the postmark date by the United States Post Office. A statement that signing and filing the enclosed card or paper within the specified time period shall constitute a demand for a hearing and a denial of all charges. The enclosed card or paper also shall include a space for the employee to indicate if he prefers an open hearing before the Board.
  - h. A statement that the hearing will be held in closed session of the Board, unless the employee requests an open hearing in his timely request for a hearing.
9. Failure by the employee to request a hearing within the time limit set forth above shall constitute a waiver by him of any right to a hearing.

Hearing

- 1. Upon receipt of a timely request for a hearing by the employee, the Board promptly will schedule a hearing. The hearing shall be conducted by the Board and shall be held within 45 calendar days of a receipt of the employee's request for a hearing, unless the parties mutually agree to extend that deadline. The Board's decision shall be issued within 45 calendar days after completion of the hearing.
- 2. The President of the Board shall preside over the hearing.
- 3. The Superintendent or his designee shall present evidence in support of other imposed or proposed disciplinary action. The employee shall have the right to appear in person on his own behalf, with counsel or such representation as he considers necessary, and be heard in his defense. The employee shall be permitted to produce testimony from witnesses, submit documentary evidence and cross-exam Board witnesses.

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4. All hearing shall be held in closed sessions of the Board unless the employee requesting the hearing requests an open hearing in his request for hearing.
5. The Board's determination of the sufficiency of the cause for disciplinary action shall be conclusive.
6. The Board has complete discretion in formulating any remedy, in the event it finds merit in all or part of the employee's position.

Dismissal or Demotion of Probationary Employees

Probationary classified employees may be dismissed or demoted, with or without consent, by the Board, with or without cause or a hearing. The Superintendent is authorized to place the employee on a paid leave of absence at any time before the effective date of the Board's action. Any duties set forth in these regulations which are delegated to the Superintendent may be performed by his designated representative in the absence of the Superintendent.

Suspension of Probationary Employees

The Board shall be permitted to suspend probationary employees without pay at any time, except as limited by a non-expired, applicable collective bargaining agreement. A probationary employee covered by such a collective bargaining agreement shall be provided with the following notice and hearing rights:

1. The Superintendent orally or in writing shall notify the employee of the charges against him and shall explain in an oral or written fashion a summary of the District's evidence.
2. The Superintendent shall offer the employee the opportunity to present his side of the story to the Superintendent.
3. The Superintendent shall schedule a date and time for meeting with the employee to hear his side of the story.

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The timing of these notice and hearing rights shall occur before, during, or shortly after the suspension, at the sole discretion of the Superintendent. The above described notice and hearing shall be in addition to any other procedure or rights set forth in a non-expired, applicable collective bargaining agreement which limits the Board's right to suspend without pay probationary employees.

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