

PERSONNEL – Series 4000

4400 THE MERIT SYSTEM

4470 DISCIPLINARY ACTION, APPEAL AND HEARING PROCEDURES

4472 APPEAL AND HEARING

4472.5 Conduct of Appeal Hearing

- A. The Personnel Commission shall conduct any hearing or investigation authorized by the Education Code and/or these rules, including disciplinary action. The Commission shall have the right to sustain or reject any or all of the charges filed against the employee, take action to sustain or modify or reject the disciplinary action invoked, or it may direct such other action as it may find necessary to effect a just settlement of the appeal.
- B. The Commission may appoint a hearing officer to conduct any hearing or investigation which the Commission itself is authorized by the Education Code and/or these rules to conduct, including disciplinary action.
 - 1. Any such hearing officer may administer oaths, subpoena witnesses and/or require the production of records or other material evidence.
- C. All hearings before the Personnel Commission shall be in closed session, unless the appealing employee requests an open hearing in his/her written appeal request.
- D. The Commission or its hearing officer may, and shall if requested by either party, subpoena witnesses and/or required the production of records, documents or other material evidence. The Personnel Director shall issue the subpoenas on behalf of the Commission or its hearing officer. Subpoenas shall be delivered to the requesting party for service. Requests for subpoenas must be filed with the Personnel Commission Office at least 72 hours prior to the date of the hearing.
- E. Hearings shall be conducted in the manner most conducive to determination of the truth, and neither the Commission nor its hearing officer shall be bound by technical rules of evidence. The Personnel Commission or its hearing officer shall determine the relevancy, weight, and credibility of the evidence and testimony presented. The findings shall be based on the preponderance of evidence. Decisions made by the Personnel Commission or its hearing officer shall not be invalidated by any informality in any of the proceedings.

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4472.5 Conduct of Appeal Hearing (Continued)

- F. All hearings under the authority of this rule shall be electronically recorded in such a manner that a verbatim written transcript can be produced if necessary. Either party may request that the hearing be recorded by a court reporter, in which case the party making the request shall bear the cost. If both parties make such a request, the cost shall be equally shared by the parties.
- G. The Personnel Commission or its hearing officer shall rule on all objections raised by either party.
- H. A list of witnesses to be called by each party shall be submitted to the Personnel Commission Office at least 48 hours prior to the date of the hearing. This will allow the Personnel Commission to secure the release time of employee witnesses prior to the hearing.
- I. The Chairman of the Personnel Commission or its hearing officer may, prior to or during the hearing, grant a continuance for reason(s) believed to be sufficient or important to reaching a fair and proper conclusion.

Reference:

Education Code Sections 45260-45261, 45305-45307 and 45311-45313

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