

**CAMBRIAN SCHOOL DISTRICT
Board Policy**

Policy 4218
Adopted: March 26, 2002
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PERSONNEL

Suspension and Dismissal of Classified Employees

I. Classified Discipline/Dismissal for Cause

All procedures covered by Education Code 45113 and the Collective Bargaining agreement will be followed.

- A. No employee in the classified service shall be disciplined because of political or religious opinions or affiliations, or race, color, national origin or ancestry, or marital status.

The Board retains broad discretionary powers in the matters of imposition of disciplinary actions on classified employees. Individual permanent classified employees of the District shall be accorded rights to due process in relation to disciplinary actions.

- B. All classified employees in the district shall be assigned to fill one or more job descriptions and classified in one of several categories of employment status. Conditions of employment status are affected by the length of successful service with the District and the type of work to be accomplished. The several categories of classified employees are outlined as follows:

1. *Restricted Employee:* A restricted employee is one employed pursuant to Sections 45105 through 45108 of the Education Code. Provisions for a restricted employee becoming a regular employee of the District are set forth in the Education Code.
2. *Probationary Employees:* All new classified personnel employed to fill a regularly established full-time position or part-time position are employed on a probationary status for one (1) year, (unless otherwise provided for bargaining unit members in their contract) and may be disciplined during this period without right of appeal or hearing. This period shall be used for determination of the employee meeting the required standards of work performance.
3. *Permanent Employee:* Each person who has served as a probationary employee and has been recommended for regular status shall be classified as a permanent employee or have his/her employment terminated. Permanent employees shall be disciplined during the employment period for reasonable cause only as provided by this policy.

4. *Non-Classified Employee*: Substitute, temporary, and short-term employees, employed and paid for less than 75 percent of a school year, part-time playground positions, apprentices, professional experts employed on a temporary basis for a specific project, full-time students employed part-time and part-time college students employed part-time in college work-study program shall not be part of the classified service and may be disciplined without a right of a hearing or appeal.

C. A permanent classified employee may be disciplined by the District Superintendent for cause as provided in Paragraph D of these rules; provided, however, that such action shall not be effective until written charges are filed and served upon the employee and the Board has taken action as herein provided except as provided in Paragraphs E.B.I. and E.C.I of these procedures.

"Disciplinary action" includes any action whereby an employee is deprived of any classification or any incident of any classification in which he has permanence, including dismissal, suspension, demotion, or any reassignment, without his/her voluntary consent, except a lay-off for lack of work or lack of funds.

No disciplinary action shall be taken for any cause that arose prior to the employee's becoming permanent, nor for any cause which arose more than two (2) years preceding the date of the filing of the notice of cause unless such cause could be reasonable assumed that the employee should have disclosed the facts to the District. (E.C. Section 45113)

D. Grounds for Disciplinary Action of Permanent Classified Employees. one or more of the following causes shall be grounds for suspension, demotion or dismissal of any permanent classified employee.

1. Incompetence or inefficiency in the performance of duties of his/her position.
2. Inability to perform assigned duties due to failure to meet or retain job qualifications (including but not limited to failure to possess required licenses, failure to pass required tests).
3. Insubordination (including, but not limited to, refusal to do assigned work).
4. Carelessness or negligence in the performance of duty in the care or use of District property.
5. Discourteous, offensive, threatening, or abusive conduct or language toward other employees, pupils, or the public.
6. Dishonesty.

7. Drinking alcoholic beverages on the job, or reporting for work while intoxicated.
8. Addiction to the use of narcotics or a restricted substance, use, or distribution, of narcotics or restricted substances while on the job, or reporting to work while under the influence of narcotic or restricted substance.
9. Personal conduct unbecoming an employee of the District.
10. Engaging in political activity during assigned hours of employment.
11. Conviction of any crime involving moral turpitude.
12. Arrest for a sex offense as defined in Education Code Section 44010.
13. Conviction of a narcotics offense as defined in Education Code Section 44011.
14. Absence without leave or repeated tardiness.
15. Abuse of illness leave privileges.
16. Falsifying any information supplied to the District, including but not limited to, information supplied on application forms, employment records, or any other District records.
17. Persistent violation or refusal to obey safety rules, regulations made applicable to public schools by the governing board or by an appropriate federal, state or local governmental agency.
18. Offering anything of value or offering any service in exchange for special treatment in connection with the employee's job or employment, or accepting anything of value or any service in exchange for granting any special treatment to another employee or to any member of the public.
19. Willful or persistent violation of the Education Code or rules and regulations of the District.
20. Any willful conduct tending to injure the public services.
21. Abandonment of position, or excessive absenteeism.
22. Advocacy of overthrow of federal, state, or local government by force, violence or other unlawful means.
23. Membership in the Communist Party.

24. Physical or mental incapacity.
25. Inability to work in harmony with other employees to the detriment of the District.
26. Negligence resulting in damage or waste of District property.
27. Theft of district, other employees' or pupils' material or equipment.
28. Unsatisfactory evaluation.
29. Successive evaluations marked "Needs Improvement".
30. Continuing illness of a disabling nature after the exhaustion of illness leave and leave of absence privileges.
31. Failure to report for review of criminal records or health examination after due notice.
32. Assault and/or battery against another employee, pupil, or the public.

This section shall not be construed to prevent lay-off for lack of work or lack of funds.

E. *Employee Remains on the Job Pending Board Decision*

1. Upon the filing of charges by the Superintendent with the Board, the chairperson or clerk of the Board shall notify the employee that disciplinary charges have been filed with the Board.
2. The notification to the employee shall contain the following:
 - a. A statement in ordinary and concise language of the specific acts and omissions upon which the disciplinary action is based.
 - b. A statement of the cause for action taken.
 - c. If it is claimed that the employee has violated a rule or regulation of the District, a statement of that rule or regulation.
 - d. A statement of the action proposed to the Board.
 - e. A statement that the employee has a right to a hearing before the Board on such charges if demanded with five (5) days after service of the notice to the employee.

- f. A card or paper, the signing and filing of which with the Board shall constitute a demand for a Board hearing, and denial of all charges.
3. Not less than five (5) days after receipt of a demand for a hearing by a permanent employee who has been given notice of a proposed disciplinary action, the Board shall hold such hearing at a time and place as designated by the Board or its designee. The employee and the school administrations shall be afforded equal opportunity to present evidence. At the close of the hearing, the Board shall render its decision, which shall be final.
4. If the hearing fails to make a timely request for a hearing, the Board may act upon said charges without a hearing and without notice to the employee of the time and place of the Board's meeting to act on the charges. If an employee who has demanded a hearing fails to appear at the time and place of hearing as designated in the notice to the employee, the Board may act upon the charges without a hearing and without further notice to the employee.
5. If the Board finds that sufficient cause exists, it may impose disciplinary action proposed by the Superintendent or his/her designee or it may impose a lesser disciplinary penalty.

F. Employee Removed from Job After Subsequent Procedural Due Process

1. If the Superintendent determines that pending a Board hearing on dismissal of a permanent classified employee, the immediate suspension of the employee without pay would be in the best interest of the District, because of a serious offence committed by the employee, the following procedure shall be initiated prior to imposing the suspension pending a Board hearing on the merits.

The Superintendent, prior to the suspension must present the employee with:

- a. Notice of the proposed dismissal and suspension pending a hearing of before the Board.
- b. The reasons thereof.
- c. Copy of the unsigned charges and materials upon which action is based.
- d. Statement that the employee will have not less than (5) five calendar days to respond either orally and/or in writing to the Superintendent regarding the recommended suspension *prior* to the Superintendent submitting the signed charges to the Board for action.

- e. The Superintendent has the authority to suspend an employee, pending a hearing before the Board, if after considering the employee's response, if any, the Superintendent is of the opinion that such action is in the best interest of the District.

G. Employee Immediately Removed from Job

The Superintendent shall have the authority to immediately suspend an employee without compliance with these rules when any delay occasioned by a prior hearing could potentially cause very serious harm to the District and/or public.

H. General Provisions

1. Following a suspension pending a Board hearing for dismissal as provided in F and G above, the procedures delineated in E above shall apply.
2. If the governing Board sustains an employee in a disciplinary matter, it may order paid all or part of the employee's compensation from the time of the employee's disciplinary action and shall order the employee's reinstatement upon such terms and conditions as it may determine appropriate.
3. Any notice or request shall be deemed sufficient when delivered in person to the employee to whom it is directed or when it is deposited in the United State certified mail, postage prepaid and addressed to the last known address of the employee.
4. The term "Superintendent" shall refer to the District's Superintendent or other administrator authorized to act in the Superintendent's absence.

- II. Except in the case of dismissal of classified employees for cause under the provisions of the Education Code of the State of California, and rules and regulations of the Cambrian School District governing terms of employment in the classified service, classified employees whose employment will be terminated for reasons permitted by law shall be given no less than two (2) weeks prior notice of the termination of their employment by the Cambrian School District.