

ARTICLE IX

Disciplinary Action

~~A. Definition of Disciplinary Action~~

~~Classified employees shall be subject to disciplinary action for cause only. As used herein, disciplinary action means one of the following:~~

- ~~1. Dismissal—Removal from the employment of the District.~~
- ~~2. Suspension—Temporary removal from service for a specified period of time with or without pay.~~
- ~~3. Involuntary Demotion—Placement in a lower classification without the employee's written consent.~~
- ~~4. Involuntary Reassignment—A change of assignment that may involve an assignment to a location not of the employee's choice.~~

~~B. Causes for Disciplinary Action~~

~~Disciplinary action may be taken for any of the following causes:~~

- ~~1. Unauthorized absence.~~
- ~~2. Commitment or conviction of any criminal act, whether a misdemeanor or felony. As used herein, conviction means "a plea or verdict of guilty or finding of guilt by a court in a trial without a jury or a plea."~~
- ~~3. Failure to adequately perform requirements of the position held.~~
- ~~4. Failure to comply with contractual conditions of employment.~~
- ~~5. Insubordination.~~
- ~~6. Disorderly or immoral conduct.~~
- ~~7. Intoxication or use of intoxicants while on the job.~~
- ~~8. Use of narcotics or controlled substances on the job or reporting to work while under the influence of a narcotic or controlled substance.~~
- ~~9. Physical and/or mental inability to perform assigned duties.~~
- ~~10. Neglectful or willful damage to public property or waste of public supplies or equipment.~~
- ~~11. Habitual tardiness.~~

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- ~~12. Habitual absenteeism.~~
- ~~13. Repeated pattern of unauthorized absences connected to weekends, holidays, or break periods.~~
- ~~14. Absences from duties for 3 consecutive days without notification through normal reporting procedures
(abandonment of position).~~
- ~~15. Falsifying any information submitted to the District.~~
- ~~16. Dishonesty.~~
- ~~17. Violation of any lawful regulation of the School District or reasonable order of a supervisor~~
- ~~18. Inability to work with others to the detriment of the District.~~
- ~~19. Abandonment of position.~~
- ~~20. Discourteous, offensive or abusive treatment of the public, other employees or pupils.~~
- ~~21. Failure to maintain licenses or certificates required for the position by law, District policy or job description.~~
- ~~22. Misappropriation of District funds or property.~~

C. Disciplinary Procedures

1. Immediate Suspension or Placement on Administrative Leave

~~When circumstances exist in which an employee's presence could cause a real and present danger to the welfare or safety of the District, the public, students or employees, or upon being charged with a sex offense or with a narcotics offense as defined in the Education Code, the District may immediately suspend that employee without pay. At the District's discretion, an individual may be placed on administrative leave with pay, pending further investigation. Such immediate suspension or placement on leave may be ordered by the Superintendent or his/her [their](#) designee.~~

2. Informal Pre-Disciplinary Meeting

~~Within two (2) working days of any such suspension or any proposed disciplinary action, the District shall schedule the informal meeting, which shall be held within five (5) working days of the suspension or the preliminary decision to take disciplinary action. An employee against whom disciplinary action may be taken shall meet with the Superintendent or his/her designee prior to written notification of official charges. The employee shall be informed orally of the reasons for disciplinary action, the action to be taken, the materials, if any, upon which the action is based, and shall be given an opportunity to respond to the charges. The employee shall be told the nature of the meeting and of the right to be represented at this informal meeting by a representative of his/her choice.~~

3. 2. Written Notice

~~Within ten (10) working days of the pre-disciplinary conference, an employee against whom disciplinary action is taken shall be informed of the following in writing, either in person or by~~

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certified/registered mail to last known address:

~~Statement of Charges. A statement of the specific charges against the employee shall be written in ordinary and concise language and shall include the cause and the specific acts and omissions on which the disciplinary action is based. No charge, however, shall be made for acts and omissions which occurred prior to the employee's becoming permanent nor more than two (2) years prior to the filing of this statement of charges, unless such facts were concealed or not disclosed by such employee when it could be reasonably assumed that the employee should have disclosed the facts to the District.~~

~~Right to a Hearing. The employee may request a hearing in writing, either by mail or personal delivery, within five (5) calendar days after service of the statement of charges. A card or letter shall be provided to the employee, the signing of which shall constitute a demand for a hearing and denial of all charges. In the absence of a request for a hearing within five (5) calendar days, the disciplinary action shall be effective on the date set forth in the written notice.~~

~~Access to Material. The employee may, upon request, have copies of the material upon which the charges are based.~~

~~Representation. The employee has a right to have a representative of the employee's own choice at all stages of this procedure.~~

4.3. Formal Hearing

~~a. A formal hearing shall be held within a reasonable period of time, normally forty (40) days, after the filing of a request for a hearing.~~

~~b. If the employee does not request a hearing within five (5) days following receipt of the charge, disciplinary action may be taken without a hearing.~~

~~c. The employee may be represented at the hearing by a representative of his/her **their** choice.~~

~~d. Technical rules of evidence shall not apply at the hearing.~~

~~e. For a suspension of five (5) days or less or for an involuntary reassignment, the hearing shall be delegated to the Superintendent or his designee.~~

~~f. A hearing for a suspension of six (6) days or more, demotion, or dismissal shall be conducted by the Board of Education or by an Administrative Law Judge from the California State Office of Administrative Hearings. The employee may choose to require the hearing before the Administrative Law Judge. However, the employee cannot require the Board to hold the hearing. Either the employee or the administration may request that a record of the hearing be made. The requesting party shall bear the cost of such record.~~

~~g. A hearing before the Board of Education shall be in Closed Session unless the employee makes a written request for a public hearing at least five (5) days prior to the hearing. The Board may deliberate in the absence of the employee and the administration.~~

~~h. The employee shall have the right to personally appear and testify, to call witnesses and to cross-examine witnesses called by the administration.~~

i. ~~If the formal hearing is held before an Administrative Law Judge:~~

~~1) The Administrative Law Judge shall submit to the Board of Education a written recommendation which shall include proposed findings of fact and determination of issues.~~

~~A copy of the recommended decision shall be sent to the employee and the employee's representative.~~

~~2) Prior to making a final decision, the Board of Education shall afford the employee and the administration the opportunity to present arguments regarding the sufficiency of cause for disciplinary action.~~

~~3) The Board of Education may accept, reject or modify the recommended decision. Should the Board reject or modify the recommended decision, it shall first review the findings of fact.~~

Article IX
DISCIPLINE

- A. **Probationary Employees** At any time prior to the expiration of the probationary period, the Superintendent or designee may, at his/her discretion, dismiss a probationary classified employee from district employment. A probationary employee shall not be entitled to a hearing.
- B. **Permanent Employees** Permanent employees shall be subject to personnel action (suspension without pay, demotion, reduction of pay step in class, dismissal) only for cause The Board's determination of sufficiency of the cause for disciplinary action shall be conclusive.
- C. **Progressive Steps** —In handling disciplinary matters, it is intended that the discipline shall be commensurate with the offense and that, whenever possible, progressive steps be utilized, unless the incident giving rise to the discipline is of such a nature that more severe action is appropriate. Progressive steps may include both verbal and/or written notification of unsatisfactory performance.
- D. **Causes** —In addition to any disqualifying or actionable causes otherwise provided for by statute or by policy or regulation of this district, each of the following constitutes cause for personnel action against a permanent classified employee:
 - 1. Falsifying any information supplied to the school district, including, but not limited to, information supplied on application forms, employment records, or any other school district records.
 - 2. Incompetency.
 - 3. Neglect of duty.
 - 4. Insubordination.
 - 5. Dishonesty.
 - 6. Drinking alcoholic beverages while on duty or in such close time proximity thereto as to cause any detrimental effect upon the employee or upon employees associated with him/her.
 - 7. Possessing or being under the influence of a controlled substance at work or away from work, or furnishing a controlled substance to a minor.
 - 8. Conviction of a felony, conviction of any sex offense made relevant by provisions of law, or

conviction of a misdemeanor which is of such a nature to adversely affect the employee's ability to perform the duties and responsibilities of his/her position.

9. A plea or verdict of guilty, or a conviction following a plea of nolo contendere, is deemed to be a conviction for this purpose.
10. Absence without proper notification.
11. Discourteous treatment of the public, students, or other employees.
12. Willful misuse and/or negligent use of District property.
13. Violation of District, Board or departmental rule, policy, or procedure.
14. Failure to possess or keep in effect any license, certificate, or other similar requirement specified in the employee's class specification or otherwise necessary for the employee to perform the duties of the position.
15. Unlawful discrimination, including harassment, on the basis of race, religion, creed, color, national origin, ancestry, physical or mental disadvantage, marital status, sex, gender, sexual orientation or age against the public or other employees while acting in the capacity of a district employee.
16. Unlawful retaliation against any other District officer or employee or member of the public who, in good faith, reports, discloses, divulges, or otherwise brings to the attention of any appropriate authority any information relative to an actual or suspected violation of state or federal law occurring on the job or directly related thereto.
17. Chronic absenteeism or tardiness.

No personnel action shall be taken for any cause which arose before the employee became permanent, nor for any cause which arose more than two years before the date of the filing of the notice of cause unless this cause was concealed or not disclosed by the employee when it could be reasonably assumed that the employee would have disclosed the facts to the District.

E. Initiation and Notification of Charges — The Superintendent or designee may initiate a personnel action as defined herein against a permanent classified employee. In all cases involving a personnel action, the person initiating the action shall file a written recommendation of personnel action with the Board. A copy of the recommendation shall be served upon the employee either personally or by registered or certified mail, return receipt requested, at the employee's last known address and to CSEA. The recommendation shall include:

1. A statement of the nature of the personnel action.
2. A statement in ordinary and concise language of the cause or causes for the personnel action.
3. A statement of the specific acts or omissions upon which the causes are base.
4. A statement of the employee's right to appeal the recommendation, and the manner and time within which the appeal must be filed.

F. Employment Status Pending Appeal or Waiver — Except as provided herein, any employee against whom a recommendation of personnel action has been issued shall remain on active duty status and responsible for fulfilling the duties of the position pending his/her appeal or waiver thereof.

The Superintendent or designee may order the employee immediately suspended from duty without pay in conjunction with the recommendation of personnel action after a Skelly Hearing has been conducted.

This suspension order shall be in writing and shall state the reasons that the suspension is deemed necessary. The suspension orders shall be served upon the employee either personally or by registered or certified mail, return receipt requested, immediately after issuance. Except in cases of emergency when the employee must be removed from the premises immediately, the Superintendent or designee shall give the employee written notice of the proposed recommendation of dismissal at least ten (10) calendar days before the effective date of any order of suspension issued in conjunction with a recommendation involving dismissal.

- G. **Right to Appeal** – Within ten (10) calendar days after receiving the recommendation of personnel action described above, the employee may appeal in writing to the office of the Superintendent or designee during normal work hours. If the employee fails to file a notice of appeal within the time specified in these rules, he/she shall be deemed to have waived his/her right to appeal, and the Board may order the recommended personnel action into effect immediately.
- H. **Amended/Supplemental Charges** – At any time before an employee’s appeal is finally submitted to the Board for decision, the complainant may, with the consent of the Board, serve on the employee and file with the Board an amended or supplemental recommendation of personnel action. If the amended or supplemental recommendation presents new causes or allegations, the employee shall be afforded a reasonable opportunity to prepare his/her defense.

I. Hearing Procedures

- 1. The hearing shall be held at the earliest convenient date. All parties shall be notified of the time and place of the hearing. The employee shall be entitled to appear personally, produce evidence, and have counsel. The employee shall be entitled to a public hearing if he/she demands it when the Board is hearing the appeal. The Board shall be bound by rules of evidence used in California courts. Informality in any such hearing shall not invalidate any order or decision made or approved by the Board.
- 2. If the appeal is heard by the Board, the Board shall affirm, modify or revoke the recommended personnel action.
- 3. The Board may consider the records of any prior personnel action proceedings against the employee in which a personnel action was ultimately sustained and any records that were contained in the employee’s personnel files and introduced into evidence at the hearing.

- J. **Hearing Decision** – The decision of the Board shall be in writing and shall contain findings of fact and the personnel action approved, if any. A copy of the decision shall be delivered to the appellant personally or by registered mail. The decision of the Board shall be final.