

DISCIPLINARY ACTION AND APPEAL FOR NON-LICENSED PERSONNEL

1. Policy

In compliance with LCSD Policies GB - Employment and Compensation, GCAA - Transfers/Reassignments/Promotions, and GCAB - Resignation, and any applicable Collective Bargaining Agreement (CBA); disciplinary action, up to and including termination, may be implemented for unsatisfactory performance or for misconduct including, but not limited to, the following:

- a. Conduct unbecoming of an employee in the District's service, or discourteous treatment of members of the public or a coworker, or any other act of omission or commission that impacts negatively on the public's perception of the integrity or credibility of the District or erodes public confidence in the District.
- b. Falsification of or making a material omission on forms, records, or reports including applications, time cards, and other District records.
- c. Absence from work without permission or without notification to an appropriate administrator or manager/supervisor, habitual absence or tardiness, or misuse of sick leave.
- d. Unauthorized possession, removal, or use of the District's property, including, but not limited to, funds, records, keys, confidential information of any kind, equipment, supplies, or any other materials.
- e. Insubordination, refusing to follow directions, or other disrespectful conduct directed toward an administrator or manager/supervisor.
- f. Harassment, bullying, or other prohibited behavior directed toward another employee, member of the public, vendor, student, parent, or anyone doing business with the District, or anyone present on premises owned or controlled by the District.
- g. Actual or threatened violence, including, but not limited to, intimidation, overt or subtle threats, harassment, stalking, or any form of coercion.
- h. Possession or inappropriate use of drugs, prohibited substances, or alcohol on property owned or controlled by the District, or while on duty or in an on-call status.
- i. Possession of or aiding others in bringing unauthorized firearms, weapons, hazardous biological material or chemicals, or other dangerous substances onto property owned or controlled by the District.
- j. Violation of safety or health policies or practices, or engaging in conduct that creates a safety or health hazard to other employees, the public, vendors, or oneself.
- k. Dishonesty, including intentionally or negligently providing false information, intentionally falsifying records, employment applications, or other documents.

- l. Violating or failing to comply with federal, state, or local law, or the District's policies, rules, regulations, and/or procedures.
- m. Unsatisfactory work performance
- n. Gross misconduct
- o. A failure to report incidents (i.e. bullying, discrimination based on race, suspected child abuse/neglect, etc.) as required by state/federal law and policy.
- p. Failure to report arrests and convictions as required by LCSD Board Policy GBBW Reporting Arrests, Charges, Convictions, Investigations, and Change of License.

Forms of Disciplinary Action

Progressive disciplinary action will be documented and may follow the progression outlined below. Progressive disciplinary action includes, but is not limited to, the following:

- a. Verbal warning
- b. Written warning/reprimand
- c. Letter of concern
- d. Letter of admonition
- e. Suspension without pay
- f. Demotion
- g. Termination

Signed, or if the employee refuses to sign, unsigned copies of the above items (a - g) will be placed in the employee's master personnel file, with a copy provided to the employee.

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ADMINISTRATIVE REGULATIONS***

***NOTE:** Non-licensed personnel who are covered by a CBA must follow the grievance procedures outlined in that approved document. The procedures outlined below apply to non-licensed personnel who are NOT covered by a CBA.*

1. Due Process

Prior to taking disciplinary action involving suspension, reduction in pay, demotion, or termination against any regular employee, the District will take action intended to ensure that the employee is afforded due process. Due process in regard to employment-related disciplinary action includes, among other actions, making certain the employee is provided notice of the reason for the disciplinary action and is given the opportunity to provide a response to the proposed disciplinary action prior to an appropriate administrator or manager/supervisor making a final decision regarding the disciplinary action. Employees who are covered by a collective bargaining agreement may exercise their rights under the applicable collective bargaining agreement.

2. Written Notice

In situations where the proposed disciplinary action involves a suspension without pay, demotion, and/or termination, written notice of the proposed disciplinary action will be delivered in person, sent through email with a read receipt, or sent by certified mail to the employee. However, if circumstances warrant such action the District may, in the exercise of its discretion, impose a particular discipline or terminate employment without following the steps of progressive discipline. The notice will include the following information:

- a. The nature of the disciplinary action proposed;
- b. The effective date of the proposed disciplinary action;
- c. The evidence supporting the proposed disciplinary action;
- d. A statement advising the employee of their right to file a written response, or to submit a written request for a pre-disciplinary conference with the administrator or supervisor/manager, within five (5) work days of receipt of the notice of proposed disciplinary action; and
- e. A statement that the employee's failure to file a written response or request a pre-disciplinary conference in a timely manner or to appear at the pre-disciplinary conference after requesting such will constitute a forfeiture of the employee's rights to any further appeal.

3. Employee Review

By request, the employee will be given the opportunity, as soon as practical, to review the documents or other evidence, if any (except for confidential and privileged documents). If the

employee requests, the District will provide a copy of the documents used to support the proposed disciplinary action.

4. Conference Prior to Implementation of Disciplinary Action

When the employee requests a conference after receipt of notice of the proposed disciplinary action, but prior to any disciplinary action being imposed, the administrator or supervisor/manager will schedule a meeting with the employee in a timely manner to review the reason for and basis of the proposed disciplinary action. The employee may choose to bring one trained representative if they wish. At this conference, the employee will be provided with an opportunity to present relevant information which may have an impact on the nature or severity of the proposed disciplinary action.

5. Implementation of Discipline

No later than five (5) work days from receipt of the employee's written response or conclusion of the pre-disciplinary conference, the administrator or supervisor/manager will issue a written decision to the employee. The written decision will inform the employee that:

- a. The proposed disciplinary action will be implemented; or
- b. The proposed disciplinary action will be modified, with an explanation; or
- c. The proposed disciplinary action is rescinded, with an explanation.

6. Appeal

The employee may appeal the disciplinary action to the Human Resources Director by filing a written appeal with the Human Resources Director within five (5) work days of the date of receipt of the written notification for the disciplinary action. The written appeal must be based on new evidence that was not known/presented, or a procedural error that significantly impacted the outcome of the investigation. If an employee fails to file a written appeal conforming to these requirements within the prescribed time limit, the employee is deemed to have waived the right to appeal.

After an employee has appealed in a timely manner to the Human Resources Director, the Human Resources Director will set a date for a disciplinary appeal hearing. At the disciplinary appeal hearing, the employee will have the right to be represented by an attorney or other representative retained by the employee to present evidence and argument in response to the disciplinary action and to question and cross-examine adverse witnesses. The appeal hearing may be conducted informally without conforming to the formal rules of evidence and such informality of the appeal hearing process shall not invalidate the decision rendered. The Human Resources Director will issue to the parties a decision following such hearing within five (5) work days. The decision of the Human Resources Director* is final

**If the final decision-maker served or could have served as a witness in the behavior/conduct leading up to the intended disciplinary action, or otherwise has a conflict related to the situation, an alternative decision-maker who does not come under the authority of the final decision-maker will be selected in collaboration with the District's legal counsel and/or*

designee which may include outside legal counsel retained by the District. The alternative decision-maker will be a person who is a functional equivalent for the decision-maker, but who does not otherwise have a conflict, whether perceived or actual. The selection of the alternative decision maker is final and appeals will not be allowed.

7. Administrative Leave during Disciplinary Proceeding

By notifying the employee in writing the District may place an employee on administrative leave, with or without pay, pending an investigation of alleged misconduct or performance deficiencies prior to or during a disciplinary proceeding, or during the review of the employee's response to a proposed disciplinary action. The notice of administrative leave will include a statement that the leave is not a disciplinary action. An employee placed on administrative leave without pay who is later reinstated without punitive disciplinary action being imposed will be reimbursed for any pay lost during the administrative leave.