

**DISCIPLINE AND DISMISSAL – CLASSIFIED –UNIT MEMBERS**

**BP No.  
7365**

Board Adopted: 12-13-65; 7-1-66; 10-10-73; 6-29-76;  
6-7-78; 1-10-79; 5-14-08; 5-11-11

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Probationary Period and Permanent Status

1. The probationary period of all members of the classified service shall be specified in the union contract.
2. During the probationary period any employee in the classified service shall be subject to disciplinary action, including, demotion or termination, and shall not have a right to a hearing with respect thereto.
3. Upon completion of the probationary period by any member of the classified service, such person is hereby designated as a permanent employee who shall be subject to disciplinary action only for cause as prescribed in these rules and regulations.
  - I. The Superintendent/President shall implement the procedures specified in this policy for the disciplinary proceedings applicable to permanent classified employees of the District. Such procedures shall conform to the requirements of the Education Code.
  - II. Any employee designated as a permanent employee shall be subject to disciplinary action only for cause. The Board's determination of the sufficiency of cause for disciplinary action of a classified employee shall be conclusive.
  - III. No disciplinary action shall be taken for any cause that arose prior to the employee becoming permanent, or for any cause that arises more than two years preceding the date of the filing of any charge against the employee, unless the cause was concealed or not disclosed by the employee when it could be reasonably assumed that the employee should have disclosed the facts to the District.
  - IV. An employee may be placed on paid administrative leave pending an investigation of misconduct. A permanent member of the classified service shall be subject to disciplinary action, including, but not limited to, reduction in pay, demotion, suspension, or discharge, for any of the following grounds.

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- A. Incompetence, inefficiency, inattention to or dereliction of duty, lack of ability or failure to perform the assigned duties in a satisfactory manner, or recklessness in the care and handling of District property.
- B. Fraud in securing employment or making a false statement that is material to securing employment.
- C. Willful disobedience and insubordination; a willful failure to obey reasonable directions or observe reasonable rules of college managers or supervisors; insolence or disrespect toward authority.
- D. Dishonesty
- E. Being under the influence of alcohol or illegal drugs or narcotics while on duty.
- F. Excessive absenteeism and/or repeated tardiness, unexcused absence, abuse or repeated misuse of sick leave, or failure to call in or show up to work.
- G. The conviction of either a misdemeanor or a felony involving moral turpitude or immoral conduct and dishonesty. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. A plea or verdict of guilty, or a conviction showing a plea of nolo contendere made to charge a felony or any offense involving moral turpitude, is deemed to be a conviction within the meaning of this Section.
- H. Evident unfitness for service.
- I. Mental or physical impairment which renders the employee unable to perform the essential functions of the job even with reasonable accommodation.
- J. Acceptance of a bribe to use his/her position in the District to arrange for or provide a benefit for someone.

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- K. Willful or repeated violation of laws or regulations governing the District, or of Board policies, procedures or rules prescribed by the District.
- L. Discourteous treatment of the public or of fellow employees, or other willful failure of good conduct tending to injure the public service, or conduct unbecoming a college employee, whether or not it amounts to a crime.
- M. Failure to pay bills resulting in frequent contacts by creditors with the District.
- N. Political activity during the assigned hours of duty.
- O. Immoral conduct.
- V. Any permanent employee against whom disciplinary action is initiated by the District shall be given written notice of the specific charges against him/her and the proposed disciplinary action if the disciplinary action involves termination, suspension or demotion.

The notice shall contain a statement in ordinary and concise language of the specific acts and omissions upon which the disciplinary action is based, a statement of the cause for the action taken and if it is claimed that the employee violated a rule or regulation of the District such rule or regulation shall be set forth in the notice.

The notice shall contain a statement of his/her right to a hearing on such charges, the time within which such hearing may be requested, which shall be not less than five (5) business days after service of the notice on the employee, and said notice shall be accompanied by a card or paper, the signing and filing of which with, Human Resources shall constitute a demand for a hearing and a denial of all charges. Failure of the employee to file a request for hearing within the time specified shall constitute a waiver of the employee's right to a hearing.

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In dismissal cases, an employee may be placed in unpaid status pending final resolution of the dismissal action if necessary in the best interest of the college. The District must give the employee a written notice that the District is proposing that the employee be placed in unpaid status and invite the employee to an informal hearing with the Human Resources Director or designee to present any reasons why he/she should not be placed in unpaid status or terminated. After the informal hearing regardless of whether the employee chose to attend, the District may commence the employee's unpaid status. Such action shall be reported to the Board of Trustees.

In suspension cases, the District may impose a suspension of 10 days or less following an informal hearing. If the employee requests a formal hearing, such hearing shall be viewed as an appeal of the suspension. If the employee prevails, the employee shall be reimbursed for the loss of pay.

VI. Conduct of Formal Hearing

A. Hearing Board

The Governing Board shall determine whether any hearing will be conducted before the entire Governing Board, or appoint one or more named members of the Governing Board, a Hearing Board, an officer, or administrative law judge. The Board shall make such appointments, when the employee requests a hearing, but designates authority to the Superintendent/President to make such appointments for suspensions of 10 days or less after consultation with the Board President. The term "Hearing Board/Officer" shall mean any board, board member or other person appointed under this rule to conduct any hearing.

B. Notice of Hearing

The date for a hearing shall be agreed upon by CSEA and the District. The Governing Board or the Hearing Board/Officer shall set the manner for the hearing and shall give the employee at least five (5) business days notice in writing of the date and place of such hearing.

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C. Rights of Employee

The employee shall attend any hearing, unless excused by the Governing Board or the Hearing Board/Officer, and shall be entitled to:

1. Be represented by counsel or any other person at such hearing.
2. Testify under oath.
3. Compel the attendance of other employees of the District to testify in his behalf.
4. Cross-examine all witnesses appearing against him and all employees of the District whose actions are in question or who have investigated any of the matters involved in the hearing and whose reports are offered in evidence before the Hearing Board/Officer.
5. Impeach any witness.
6. Present such affidavits, exhibits and other evidence as the Hearing Board/Officer deems pertinent to the inquiry.
7. Argue his/her case.

The party attempting to substantiate the charges against the employee shall be entitled to the same privileges.

D. Evidence

The hearing shall be informal and need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rules which might make improper the admission of such evidence over the objection in civil actions. Hearsay evidence may be admitted for any purpose but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of

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privilege and of official or judicial notice shall be effective to the same extent as in civil actions. Irrelevant and repetitious evidence shall be excluded. Oral evidence shall be taken only under oath or affirmation.

E. Exclusion of Witnesses

The Hearing Board/Officer may in its discretion exclude witnesses not under examination, except the employee and the party attempting to substantiate the charges against the employee, and their respective counsel. When hearing testimony on scandalous or indecent conduct, all persons not having interest in the hearing may be excluded.

F. Burden of Proof

The burden of proving the charge by a preponderance of evidence shall be the responsibility of the College.

G. Findings and Decision

Upon completion of the hearing, Findings of Fact and Conclusions shall be adopted by the Governing Board, which shall constitute its decision. If the hearing is not before a quorum of the Governing Board, proposed written findings and conclusions shall be submitted by the Hearing Board/Officer to the Governing Board for its approval. If the Governing Board accepts such findings and conclusions, it need not read the record of hearing. If it declines to accept such findings and conclusions, it must read the record, after which it may make its own findings and conclusions. The Governing Board may also remand the matter to the Hearing Board/Officer for further proceedings and order a new hearing.

Unless the decision provides otherwise, it shall be retroactive to date of service of the Statement of Charges. Notice of the decision shall be provided promptly to the employee and CSEA. Except for the correction of clerical error, such decision shall be final and conclusive. If the Governing Board's decision reinstates the employee and declines to impose a suspension during all or part of the period of unpaid absence, the employee shall be paid in full by the college (back-pay) for any unpaid

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days which are not part of a suspension ruling by the Governing Board.

H. Report of Hearing

Hearings will be reported either by a court reporter or by a recording machine. Upon written request of the employee, copies of the record will be supplied to the employee provided he/she pays the cost thereof. Any cost associated with a court reporter shall be split between the District and the employee (Association) if the parties mutually agree that a court reporter should be utilized, or later requests a copy of the transcript.

I. Continuances

The Hearing Board/Officer may grant a continuance of any hearing upon such terms and conditions as it may deem proper, including in its discretion the condition that the employee shall be deemed to have waived salary for the period of the continuance. Any request for continuance made less than 48 hours prior to the time set for the hearing will be denied unless good cause is shown for the continuance.

Source/Reference

EC 88013