

## **Personnel – Classified**

### **Administrative Rules and Procedures**

#### **4430 Disciplinary Action (Suspension, Demotion or Dismissal of Permanent Classified Employee)**

##### **1. Grounds for the Disciplinary Action or Dismissal of Permanent Classified Employee**

One or more of the following causes shall be grounds for suspension, demotion or dismissal of any permanent classified employee:

- a. incompetence or inefficiency in the performance of the duties of this position;
- b. inability to perform assigned duties due to failure to meet job qualifications (including but not limited to failure to possess required licenses, failure to pass required tests or failure to meet District insurability requirements);
- c. insubordination (including, but not limited to, refusal to do assigned work);
- d. carelessness or negligence in the performance of duty or in the care or use of District property;
- e. discourteous, offensive, or abusive conduct or language toward other employees, students, or the public;
- f. dishonesty;
- g. possession of alcoholic beverages on District property, drinking alcoholic beverages on the job, or reporting for work while intoxicated;
- h. the use of narcotics or restricted substances while on the job or reporting to work while under the influence of a narcotic or restricted substance;
- i. personal conduct unbecoming an employee of the District;

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- j. engaging in political activity during assigned hours of employment;
- k. conviction or commission of a felony or any crime involving moral turpitude;
- l. conviction or commission of a sex offense or of a controlled substance offense as defined in Education Code Section 87010 or 87011;
- m. duplication of any key to a District facility without proper authorization;
- n. repeated and unexcused absence or tardiness;
- o. excessive absence;
- p. abuse of illness leave privileges;
- q. failure to disclose or falsifying any information supplied to the District, including but not limited to, information supplied on application forms, employment records, or any other District records or reports;
- r. persistent violation or refusal to obey safety rules, regulations made applicable to public schools or community colleges by the Governing Board or by an appropriate federal, state or local governmental agency;
- s. 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;
- t. using the credit, time, facilities, equipment or supplies of the District for the employee's private gain or advantage or the private gain or advantage of another;

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- u. willful or persistent violation of the Education Code or policies, rules and regulations of the District or any lawful order or instruction issued by a District supervisor or manager;
- v. any willful conduct tending to injure the public services;
- w. abandonment of position;
- x. advocacy of overthrow of federal, state or local government by force, violence or other unlawful means;
- y. knowing membership in the Communist Party in violation of state law;
- z. physical or mental incapacity or failure to adequately perform bona fide requirements of the position held;

This section shall not be construed to prevent layoffs for lack of work or lack of funds.

#### 2. Procedures and Notice of Proposed Disciplinary Action to Permanent Classified Employee

- a. A written recommendation for suspension, demotion or dismissal may originate with the President or Vice Chancellor to whom the employee being charged is assigned. The recommendation will enumerate the particular causes and for each cause there will be specific acts and omissions, described in ordinary and concise language. This recommendation will be submitted to the Chancellor, or designee.

Within fifteen (15) working days following receipt of such recommendation, the Chancellor or designee shall meet in conference with the employee and advise the employee of the charges made and shall offer the employee an opportunity for response. Following this conference, the Chancellor or designee will determine whether to submit a recommendation for disciplinary action to the Board.

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- b. Notification to a permanent employee of proposed disciplinary action shall be deemed sufficient when it is delivered in person to the employee or when it is deposited in the U.S. Certified Mail, postage prepaid and addressed to the last known address of the employee.

The notification to the employee shall contain the following:

- 1) a statement of the specific acts and omissions upon which the disciplinary action is based;
- 2) a statement of the cause for the action taken;
- 3) if it is claimed that the employee has violated a rule or regulation of the District, a statement of the rule or regulation;
- 4) a statement of the action proposed to the Board;
- 5) a statement that the employee has a right to a hearing on such charges if demanded within five (5) days after service of the notice to the employee;
- 6) a card or paper, the signing and filing of which with the Governing Board shall constitute a demand for hearing, and denial of all charges.

#### **3. Hearing on Suspension, Demotion or Dismissal of Permanent Classified Employee**

Within thirty (30) days after receipt of a demand for a hearing by a permanent employee who has been given notice of a proposed suspension, demotion, or dismissal, a hearing shall be scheduled. The Governing Board shall hold such hearing at a time and place designated by the Board. The employee shall be given at least five (5) days' written notice of the time and place of the hearing unless such notice is specifically waived by him/her.

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The employee and the District management shall be afforded equal opportunity to present evidence. At the close of the hearing, the Governing Board shall render its decision which shall be final. The Board may appoint as its authorized representative to conduct the hearings under this section either a hearing officer or a hearing panel. A hearing officer shall not hold any other employment with the District. A hearing panel shall be limited to three (3) members who may be employees of the District or may be from without the District, as determined by the Board. Following completion of the hearings, the hearing officer or hearing panel will recommend a decision to the Governing Board. Hearings shall be held in closed session unless the employee requests an open hearing in the written demand for hearing.

#### **4. Waiver of Hearing on Suspension, Demotion or Dismissal of Permanent Classified Employee**

If the employee fails to make a timely request for a hearing, the Governing Board may act upon said charges after notifying the employee of the time and place of the Board's meeting to act on the charges.

#### **5. Decision of the Board and Disciplinary Penalties Imposed by the Board**

The Board shall consider the findings of fact and recommendations of the hearing officer or panel and make its decisions thereon.

If the Board finds for the employee, it shall so notify the employee within five (5) working days after the finding, and all records pertaining to the incident shall be removed from the employee's personnel files.

If the Board finds that sufficient cause exists, it may impose disciplinary action proposed by the Chancellor or designee or it may impose a lesser or greater disciplinary penalty. The order of the Board of the disciplinary action imposed shall declare the effective date. The Governing Board's determination of the sufficiency of the cause for disciplinary action and the degree is conclusive.

#### **6. Immediate Demotion or Suspension without Pay or Benefits of**

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If the Chancellor or his/her designee determines that pending a hearing on the demotion, suspension or dismissal of a permanent classified employee, the immediate demotion or suspension of the employee without pay would be in the best interests of the District, the following procedure shall be initiated prior to imposing the demotion or suspension:

- a. In addition to the written notice of the proposed disciplinary action as provided in Section 3, the employee shall be given written notice of the demotion or suspension without pay and the charges upon which this action is based and his/her right to respond to those charges both orally at a conference and in writing.
- b. The employee shall be given notice of the immediate demotion or suspension sufficiently in advance of the action to review the charges and to frame a response.
- c. The demotion or suspension action should be discussed prior to its occurrence at a conference with the Chancellor or his designee, during which time the employee shall have the right to present any rebutting evidence.

Nothing in this section shall be construed to prohibit an immediate interim suspension prior to notice and a conference where an immediate suspension is required to protect lives or property, or to maintain order, nor shall immediate suspensions of five (5) days or less be prohibited, provided that:

- a. The suspended employee is given written notice in person or by deposit in U.S. Certified Mail of the charges upon which the suspension was based within one (1) working day after suspension;
- b. The employee is notified of his/her right to file a written response or to have a conference with the appropriate administrator;
- c. A reasonable opportunity is afforded the employee for a conference within five (5) days from the date of the suspension.

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Any employee charged with the commission of any sex offense as defined in Education Code Section 87010 or any controlled substance offense as defined in Section 87011 of the Education Code by complaint, information or indictment filed in a court of competent jurisdiction may be suspended as provided for in Section 88123 of the Education Code.

#### **7. Compensation for Loss of Salary during Demotion or Suspension without Pay**

If disciplinary action against the employee is not upheld by the Governing Board, the employee shall be compensated for any loss of District salary resulting from a demotion or suspension without pay prior to the hearing.