

ARTICLE 13
DISCIPLINARY ACTION

13.1 General Provisions:

- 13.1.1 A permanent bargaining unit employee shall be subject to disciplinary action only for cause as prescribed by law or as set forth below under Section 13.2, Causes for Disciplinary Action. For purposes of this article, disciplinary action shall mean an unpaid suspension not to exceed thirty (30) working days, demotion, or dismissal.
- 13.1.2 No disciplinary action shall be taken against any permanent bargaining unit employee for any cause which arose prior to the date in which the employee became permanent, nor for any cause which arose more than two (2) years preceding the date of the filing a Notice of Disciplinary Action, unless such cause was concealed or not disclosed by the employee when it could reasonably be assumed that the employee should have disclosed the facts to the District.
- 13.1.3 Probationary employees may be released at any time during the term of their probationary period without cause and shall not be entitled to any of the procedures in this article or to any appeal of any action by the Board of Trustees to release them.
- 13.1.4 Only a Vice President or higher shall place a bargaining unit member on paid administrative leave pending an investigation that may lead to discipline.
- 13.1.5 Employees retain the right to representation at any level of the discipline process.

13.2 Causes for Disciplinary Action:

- 13.2.1 Performance-Related Causes
 - a. Incompetence, below standard work performance, a pattern of inefficiency or continued negligence in the performance of the duties of her/his position.
 - b. Repeated or unexcused tardiness or absence after warning.
 - c. Persistent discourteous conduct toward other employees, students, or the public.
 - d. Repeated or unexcused absences, after warning.

- e. Persistent violation or refusal to obey District safety rules or other procedures made applicable to the District by the Board or any appropriate state or federal agency.
- f. Willful or persistent violation of these rules or adopted and implemented procedures of a department when such procedures are made known to the employee in writing.

13.2.2 Misconduct-Related Causes

- a. Insubordination, including, but not limited to refusal to do reasonably assigned work or any other serious breach of discipline. (The refusal to follow an unlawful order or directive does not constitute insubordination.)
- b. Dishonesty when it undermines the trust and confidence required in an employment relationship.
- c. Offensive or abusive conduct toward other employees, students, or the public.
- d. Misuse, theft, destruction or mishandling of District property, or property of employees or students of the District.
- e. Offering anything of value, or offering any service in exchange for special treatment in connection with the employee's job or employment, or accepting of anything of value or any service in exchange for granting any special treatment to another employee or to any member of the public.
- f. Unauthorized possession of opened alcoholic beverage containers or drinking alcoholic beverages or being intoxicated while on the job.
- g. Unauthorized possession of unlawful drugs, or being under the influence of drugs not prescribed by a physician, while on the job.
- h. Engaging in political activities during assigned hours of employment.
- i. Immoral conduct.
- j. Conviction of a crime of violence or moral turpitude or a serious crime where the nature of the crime is such that it will indicate that the employee is a poor employment risk for the particular job which he/she holds in the District.
- k. Conviction of a sex offense as defined in the Education Code Section 87010. Note: an employee convicted of a sex offense as defined in the Education Code shall be dismissed.

- l. Conviction of a narcotics offense as defined in the Education Code Section 87011. Note: an employee convicted of a narcotics offense as defined in the Education Code shall be dismissed.
- m. Knowingly falsifying any information supplied to the District including but not limited to information supplied on application forms, employment records, and other records.
- n. Any willful failure of good conduct tending to injure the public service or its reputation with particular regards to students.
- o. Abandonment of position, which shall be interpreted to mean an absence without continued notification in excess of five (5) working days except in case of dire emergency.
- p. Advocacy of the overthrow of federal, state, or local government by force, violence, or other unlawful means.
- q. Failure to report for review of criminal records or for a health examination after due notice.
- r. Sexual harassment of any student, employee, member of the Board of Trustees, or any member of the public while on any of the District campuses or facilities as prohibited in Board Policy 4112.2.

13.3 Notice of Disciplinary Action

An employee recommended for disciplinary action shall be served with a notice of recommended disciplinary action which shall, in ordinary and concise language, set forth the following information:

- a. A statement of the nature of the disciplinary action being recommended (e.g., suspension without pay, demotion, dismissal).
- b. The specific causes and charges for disciplinary action.
- c. A statement of the specific acts or omissions on which the causes are based. If a violation of a rule, policy, or regulation of the District is alleged, the rule, policy or regulation shall also be stated.
- d. Information about the employee's right to present information relative to the causes and charges for disciplinary action at a Pre-Disciplinary Conference (commonly called a "Skelly review meeting"), which shall take place not less than five (5) working days after receipt of the notice.
- e. The date, time, and place of the Skelly review meeting.
- f. The employee's right to contact CSEA concerning representation and to be accompanied by a representative of the employee's choice.

13.4 Disciplinary Procedure

- 13.4.1 At the Skelly review meeting, the employee shall be provided an opportunity to respond to the notice to the Superintendent/President or designee. An employee shall have the right to representation at any such meeting. At the conclusion of the Skelly review meeting, the Skelly Review Officer shall forward his or her recommendation to the Superintendent/President.
- 13.4.2 After the employee has had an opportunity to respond to the notice of recommended disciplinary action or has not requested such an opportunity to respond, the Superintendent/President shall determine whether to proceed with the recommendation for disciplinary action. In the event that the Superintendent/President determines to recommend disciplinary action, such recommendation shall be submitted to the Board of Trustees.
- 13.4.3 The Board of Trustees may either accept, modify or reject the recommendation for disciplinary action. In the event that the Board of Trustees takes action to impose discipline, such disciplinary action shall be implemented on the day following the Board of Trustees' action.
- 13.4.4 No disciplinary action shall be implemented prior to action by the Board of Trustees. However, the District may initiate an immediate suspension without pay pending final disciplinary action by the Board of Trustees when reasonable cause exists to believe the suspension is to protect the best interest of the District. In the event the District immediately suspends an employee without pay, the District shall provide the employee with a notice of disciplinary action within one (1) day after the unpaid suspension. An employee shall have the right to respond to the immediate unpaid suspension and to the notice of disciplinary action as set forth in Section 13.4 above.

13.5 Progressive Steps in the Discipline Process

13.5.1 Discipline for Performance-Related Causes

In connection with discipline for the Performance-Related Causes set forth in Section 13.2.1 above, progressive steps shall be used to assist the employee and give the employee an opportunity to improve and correct any conduct or performance that negatively affects his or her job performance. Progressive steps may be repeated as deemed appropriate by the District.

Prior to disciplining an employee for the Performance-Related Causes set forth in Section 13.2.1 above, the District shall, at a minimum, have provided the employee with a Conference Memorandum and a Written Reprimand.

A supervisor shall meet with an employee to discuss any concerns about the employee's conduct or performance. The meeting shall be documented with a Conference Memorandum. The Conference Memorandum should be prepared after the meeting and summarize the discussion which took place at the meeting. A copy of the Conference Memorandum shall be given to the employee within 10 working days of the conference and the original retained by the supervisor. The employee may submit a written response to the Conference Memorandum within 10 work days of receipt. On request, the supervisor shall acknowledge receipt of the response. The Conference Memorandum shall not be placed in the employee's personnel file except as provided below.

A Written Reprimand will not be given to an employee unless he or she has been given a Conference Memorandum relating to the subject matter of the Written Reprimand within the previous 12 months and given a chance to improve his conduct or work behavior. A copy of the Conference Memorandum, and any reply, shall be attached to the Written Reprimand.

Following the issuance of a Written Reprimand, the supervisor shall meet with the employee and with input from the employee develop a written Performance Improvement Plan which will set specific recommendations for improved performance and specific time periods for that improvement. The supervisor shall review with the employee any assistance the supervisor might be able to provide the employee. The Performance Improvement Plan shall include any assistance the supervisor will provide the employee. Upon completion, the Performance Improvement Plan shall be forwarded to the Office of Human Resources and attached to the Written Reprimand.

13.5.2 Discipline for Misconduct-Related Causes

The procedures set forth in Section 13.5.1 do not need to be followed for discipline related to the Misconduct-Related Causes set forth in Section 13.2.2 above. In connection with the Misconduct-Related Causes, the District may take action appropriate to the misconduct, which may range from an oral warning to dismissal depending on the severity of the misconduct. The District may use the steps set forth in Section 13.5.1 for such misconduct as it deems appropriate.

- 13.6 In imposing discipline under this Article, the District shall not rely upon any written reprimand, any document memorializing an oral reprimand or warning or any formal complaint against the unit member which is not contained in the unit member's personnel file.