

## CITRUS COMMUNITY COLLEGE DISTRICT HUMAN RESOURCES

### **AP 7509    Discipline: Classified Administrator/Manager and Supervisor/Confidential**

References: Education Code Sections 88013 and 88016

A permanent classified administrator/manager and supervisor/confidential employee may be suspended, demoted, or dismissed by the Board of Trustees upon the recommendation of the Superintendent/President.

#### **1. DEFINITIONS**

- A. *Suspension* means the temporary removal of an employee with loss of pay as a result of disciplinary measure.
- B. *Demotion* means the reassignment of an employee to a lower classification as the rate of pay appropriate for that classification.
- C. *Dismissal* means the separation, discharge, or permanent removal of employees from his/her position for cause in accordance with the provisions of the Education Code 88013 and these rules.
- D. *Mediation Review* means the employee's opportunity to respond orally or in writing to the charges contained in a Notice of Proposed Disciplinary Action.
- E. *Mediator* means the person appointed by the State Mediation and Conciliation Service to conduct a requested review of a Notice of Proposed Disciplinary Action.
- F. *Hearing Officer* means the person selected to act as the Hearing Officer for purposes of an appeal of a Notice of Proposed Disciplinary Action.

#### **2. CAUSES FOR DISCIPLINE**

One or more of the following are declared to be causes for the suspension, demotion, or dismissal of any permanent employee in the classified service.

- A. Incompetency.
- B. Inefficiency, inattention to or dereliction of duty, lack of ability or failure to perform the assigned duties in a satisfactory manner.
- C. Insubordination, failure to obey reasonable directions, including but not limited to, refusal to do assigned work, or observe reasonable Board Policies and Administrative Procedures, or willful and repeated violation of the provisions of the Education Code.
- D. Conviction of a felony or conviction of a misdemeanor involving moral turpitude.
- E. Engaging in political activity during the assigned hours of employment.
- F. Discourteous treatment of the public, students or fellow employees.

- G. Use of, possession of, and/or reporting to or being on the job while under the influence of controlled substances, including alcoholic beverages, narcotics or other illegal restricted or unauthorized substances.
- H. Committing any dishonest act, which adversely affects in any way the District, its employees, students and/or public; and/or the operation or purpose of a District position.
- I. Carelessness or negligence in the performance of duty or in the care of use of District property.
- J. Absence and/or repeated tardiness without authority or sufficient reason.
- K. Abuse of illness leave privileges.
- L. Evident unfitness for service.
- M. Sleeping while on or during assigned work hours.
- N. 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 documents.
- O. Persistent violation or refusal to obey safety rules or regulations made applicable to public schools by the governing board or by any appropriate state or local governmental agency.
- P. Abandonment of position, which shall be interpreted to mean an absence without continued notification in excess of one day, except when conditions prevail that makes it impossible for the employee to contact the District.
- Q. Offering of anything of value or offering any service in exchange for special treatment in connection with the employee's job or employment, or the 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.
- R. Taking for personal use from any person in connection with work any fee, gift or other valuable thing when such fee, gift or other valuable thing has been given in the hope or expectation of receiving a favor or better treatment than that accorded other persons.
- S. Inducing or attempting to induce any person, firm, or corporation doing business with the school district to show any material favor consideration of any kind to any person including giving employment to any person.
- T. Inducing or attempting to induce an employee of the District to commit an unlawful act or to act in violation of any lawful and reasonable departmental or official regulation or order.

### 3. PROGRESSIVE DISCIPLINE

Prior to implementing formal discipline of suspension, demotion, and/or termination, the District will first utilize progressive discipline, except where the Director of Human Resources, or designee, determines that the employee's conduct requires immediate and more serious corrective action.

- A. Progressive discipline shall include the following steps:
  - (1). Verbal warning(s)
  - (2). Written warning(s)
  - (3). Formal written reprimand(s)

- B. Written confirmation of a verbal warning and written warnings may be placed in the personnel file at the time of issuance. If such warnings or confirmation of verbal warnings is used in support of a formal disciplinary action, the warning shall be placed in the personnel file. The employee shall be given written notice of the placement of the document in his/her file. The employee shall have an opportunity to submit a written response for inclusion in the personnel file within ten (10) working days of the notice of intended placement of the document in his/her file. In addition, an employee who is issued a written warning or a formal written reprimand may, within ten (10) working days of receipt of a written warning or formal written reprimand, request a conference with the next level supervisor above the manager/supervisor who issued the written warning or formal written reprimand, for the purpose of contesting the statements contained in any such warning or reprimand which are believed by the employee to be false.
- C. Written warnings may include references to the employee's formal evaluation.
- D. The steps in progressive discipline under this article are not subject to the grievance procedure.

#### 4. PROCEDURE FOR DISCIPLINARY ACTION

The District may, for disciplinary purposes, suspend, demote, or dismiss any employee holding a position in the classified service. Demotion may include reduction in pay from a step within the class to one or more lower steps. Except as provided for in the Education Code, discipline may only be implemented after the employee has exhausted his/her hearing rights as set forth in Section 5 below.

##### A. Notice of Proposed Discipline

For employees to be suspended, demoted, or dismissed the District shall provide the effected employee:

##### (1). Notice of Proposed Disciplinary Action

Whenever the District intends to suspend an employee, demote the employee, or dismiss the employee, s/he shall be given a written notice of the proposed discipline, signed by the Superintendent/President or his/her designee, which sets forth the following:

- a). The disciplinary action intended.
- b). The specific charges upon which the proposed action is based.
- c). A factual summary of the grounds upon which the charges are based.
- d). A copy of all written materials, reports, and documents upon which the proposed discipline is based.
- e). Notice of the employee's right to a mediation review and formal hearing rights.
- f). Notice that failure to respond at the time specified shall constitute a waiver of the right to respond prior to final discipline being imposed.
- g). The Notice will also be sent to the employee's representative, if any.
- h). The Notice will be personally delivered or sent by certified mail to the employee's address contained in the District's Human Resources office records.

##### (2). Appeal of Proposed Disciplinary Action: Request for Mediation Review and/or Formal Hearing

#### Mediation Review of Notice of Proposed Disciplinary Action

An employee who is served with a Notice of Proposed Disciplinary Action may request a mediation review of the causes and charges set forth in the Notice of Proposed Disciplinary Action. Such request must be made within ten (10) working days of the receipt of the Notice of Proposed Disciplinary Action by filing a written request for mediation review with the Human Resources office on the form provided for that purpose.

Within five (5) working days of such a receipt, the District will request the services of a mediator from the California State Mediation and Conciliation Service.

The function of the Mediator shall be to facilitate a conversation between the District and the employee and his/her representative concerning the proposed disciplinary action and, where appropriate, to recommend terms for possible resolution. The Mediator shall not have the authority to impose a settlement upon the parties.

If an agreement is reached during the mediation, a written statement of the agreement shall be prepared and signed by the parties. If the mediation process ends without an agreement, then the District shall send Notice of Disciplinary Action, which is to include the following:

- a). The disciplinary action intended.
  - b). The specific charges upon which the action is based.
  - c). A factual summary of the grounds upon which the charges are based.
  - d). A copy of all written materials, reports, and documents upon which the discipline is based.
  - e). Notice of the employee's right to a formal hearing.
  - f). Notice that failure to respond at the time specified shall constitute a waiver of the right to respond prior to the final discipline being imposed.
  - g). The Notice will also be sent to the employee's representative, if any.
  - h). The Notice will be personally delivered or sent by certified mail to the employee's address contained in the District's Human Resources office records.
- (3). Upon receipt of the Notice of Disciplinary Action, the employee may proceed to a formal hearing as provided under Section 5 below.

#### Request for a Formal Hearing

An employee who is served with a Notice of Disciplinary Action may request a formal hearing by submitting a written request to Human Resources on the form provided for that purpose. Such request must be filed with Human Resources within ten (10) working days of receipt of the Notice. If the employee requested mediation review of the Notice of Proposed Disciplinary Action, then the request for a hearing must be filed within five (5) working days from the receipt of the Notice of Disciplinary Action.

### 5. FORMAL HEARING PROCEDURE

#### A. Time for Hearing

A Hearing Officer shall, within a reasonable time from the filing of the appeal, commence the hearing.

B. Selection of the Hearing Officer

The Board shall secure the services of an experienced Hearing Officer within ten (10) working days of receipt of the employee's request for a formal hearing. The Director of Human Resources, or designee, and the employee and/or representative shall attempt to agree upon the individual to hear the matter. If no agreement can be reached, they shall request the California State Mediation and Conciliation Service to provide a roster of seven (7) names of persons experienced in hearing disciplinary matters in public agencies. Each party shall alternately strike a name until only one name remains. The order of striking shall be determined by lot. The remaining name shall be that of the Hearing Officer. If this individual will not be available for the hearing within a reasonable time, not to exceed thirty (30) days, the parties shall secure another list and repeat the selection unless they mutually agree to waive this time provision.

C. Failure to Appear

Any employee, having filed an appeal with the Board and having been notified of the time and place of the hearing, who fails to make an appearance before the Hearing Officer without good cause shall be deemed to have abandoned his or her appeal. In this event, the Hearing Officer will determine whether there was good cause and may dismiss the appeal.

D. Conduct of the Hearing, Record of Proceedings, and Costs

(1). All disciplinary appeal hearings may, at the discretion of either party or the Board of Trustees, be recorded by a court reporter.

(2). Any hearing which does not utilize a court reporter shall be recorded by audio tapes.

(3). If a court reporter is requested by either party, that party shall pay the cost of the court reporter.

(4). Evidence

The hearing need not be conducted in accordance with technical rules relating to evidence in California law and witnesses, but hearings shall be conducted in a manner most conducive to determination of the truth. Any relevant evidence may be admitted if it is the type 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 objection in civil actions.

Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence that shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.

The rules dealing with the privileges shall be effective to the same extent that they are now or hereafter may be recognized in civil actions. Irrelevant and unduly repetitious evidence may be excluded.

The Hearing Officer shall determine relevancy, weight and credibility of testimony and evidence. Decisions of this nature made by the Hearing Officer shall not be invalidated by any informality of the proceedings.

During examination of a witness, all other witnesses, except the parties, shall be excluded from the hearing upon the motion of either party.

(5). Burden of Proof

In a disciplinary appeal, the District has the burden of proof by preponderance of the evidence.

(6). Proceed with Hearing or Request for Continuance

Each side should be asked if it is ready to proceed. If either side is not ready and wishes a continuance, good cause must be stated.

(7). Testimony under Oath

All witnesses shall be sworn in for the record prior to offering testimony at the hearing.

6. WRITTEN FINDINGS, CONCLUSION, AND DECISION OF THE FORMAL HEARING

The Hearing Officer shall render findings, conclusions, and decision as soon after the conclusion of the hearing as possible. A finding must be made by the Hearing Officer on each material issue. The Hearing Officer may sustain or reject any or all of the charges filed against the employee. The Hearing Officer may sustain, reject or reduce the disciplinary action invoked against the employee.

The Hearing Officer will issue a proposed decision to be submitted to the Board of Trustees.

The proposed decision, the record of the hearing, and all documentary evidence shall be available for review by the Board when it deliberates.

The Board may adopt the proposed decision, modify the proposed decision, or render a new decision. In the event the Board of Trustees upholds a recommendation for disciplinary action, the recommended disciplinary action will be implemented on a date following the Board of Trustees' decision.

7. DECISION OF THE BOARD

The decision of the Board of Trustees in all cases shall be final.

Board Approval	02/07/12
Desk Review	08/26/13
Desk Review	03/15/17
Desk Review	10/31/19