

CITRUS COMMUNITY COLLEGE DISTRICT

Board Policy

P-4220
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SUSPENSION, DEMOTION, AND DISMISSAL (Permanent Classified Employees)

A permanent classified employee may be suspended, demoted or dismissed by the Board of Trustees upon the recommendation of the Superintendent/President. The Superintendent/President when recommending such disciplinary action shall file with the Board of Trustees written charges in support of the recommendation.

1. DEFINITIONS

- A. Suspension means either temporary removal of an employee with loss of pay as a disciplinary measure, or removal of an employee preliminary to investigation of charges pending demotion, or dismissal.
- B. Demotion means the reassignment of an employee to a lower classification at the rate of pay appropriate for that classification.
- C. Dismissal means separation, discharge or permanent removal of employees from their position for cause in accordance with the provisions of the Education Code 88013 and these rules.
- D. Skelly Meeting is the employee's opportunity to respond orally or in writing to the charges contained in a Notice of Proposed Disciplinary Action.
- E. Skelly Officer is the person appointed by the District to conduct a Skelly meeting, who shall not have been involved in the original recommendation for discipline.
- F. Hearing Officer means the body or person selected to act as the Hearing Body or Officer for purposes an appeal of a final 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 Services:

- 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 Administrative Regulations and/or Board Policies, 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 of 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 make 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 or 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.
- U. Any other cause which when considered can reasonably be interpreted as negatively affecting, to a significant degree, the purposes and functions of an office, division or employee as determined by the Superintendent/President or a designated representative of the Superintendent/President.

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 may be used in support of a formal disciplinary action, the warning shall be placed in the personnel file. All formal written reprimands 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) workdays of the notice of intended placement of the document in his/her file.

C. Written warnings may include references to the employee's formal evaluation.

D. The steps in progressive discipline under this policy 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.

A. Pre-disciplinary / Skelly Procedure

For employees to be suspended, demoted, or dismissed, the District shall follow a pre-disciplinary / Skelly procedure as follows:

(1). Notice of Proposed Disciplinary / Skelly 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 request a Skelly meeting to respond to the charges either orally or in writing (Skelly 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). Employee's Request for a Skelly Meeting

The completed form to request a Skelly meeting shall be received by the Human Resources Office within ten (10) working days of the postmark or personal delivery of the Notice of Proposed Disciplinary Action.

(3). Notice of the Date, Time, and Location of the Skelly Meeting, and of the Identification of the Skelly Officer.

Notice of the date, time, location of the Skelly meeting, and the name of the individual who will conduct the Skelly meeting will be sent to the employee within ten (10) working days of receipt of the request for the Skelly meeting, to the extent possible. In no event will the notice be sent fewer than ten (10) working days prior to the date of the proposed meeting.

(4). Response by Employee (Skelly Meeting)

The employee shall have the right to respond, orally or in writing to a district appointed Skelly Officer. At the Skelly meeting set to hear the employee's response, the employee shall have a right to be represented. In cases of suspensions, demotions, or dismissal, the employee's response will be considered before final action is taken.

(5). Skelly Recommendation

After the Skelly meeting or the expiration of the employee's time to respond to the Notice of Proposed Disciplinary Action, the appointed Skelly Officer shall:

- a). accept the Notice of Proposed Disciplinary Action, **or**
- b). modify the intended disciplinary action, **or**
- c). recommend that no disciplinary action be taken against the employee.
- d). The appropriate authority (Skelly Officer) shall report his/her recommendation to the Office of Human Resources in writing.

(6). Continuances

The employee and his/her representative, if any, and the District may agree, in writing, to the extension of any timelines contained in this pre-disciplinary procedure.

B. Final Notice of Disciplinary Action

After considering the recommendation of the Skelly Officer and reviewing associated materials, the Superintendent/President or his/her designee shall send a written notice of the intended disciplinary decision to the employee and their representative meeting. This written notice will constitute the District's recommendation for Final Notice of Disciplinary Action. This recommendation will be forwarded to the Board of Trustees for approval. If the Board of Trustees approves the recommendation, the Final Notice of Disciplinary Action will be prepared.

- (1). The Final Notice of Disciplinary Action shall include the following:

- a). The disciplinary action taken by the Board of Trustees;
 - b). The effective date of the disciplinary action taken by the Board of Trustees;
 - c). Specific charges upon which the action is based;
 - d). A factual summary of the facts upon which the charges are based; and,
 - e). The employee's right to appeal.
- (2). Disciplinary actions become effective on the date the Board of Trustees approves the recommendation for Final Notice of Disciplinary Action.

C. Appeal of Disciplinary Action and Request for Formal Hearing

If an employee, having been issued the Final Notice of Disciplinary Action, wants to appeal the action, he or she shall, within ten (10) working days from the date it was postmarked, appeal to the Board of Trustees by filing a written answer to the charges and request for hearing with Human Resources, on the form provided for that purpose.

D. Formal Hearing Procedure

(1). Time for Hearing

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

(2). Selection of the Hearing Officer

The Board may conduct the hearing itself, or it may secure the services of an experienced Arbitrator, selected from a list provided by the California State Mediation and Conciliation Service to serve as a Hearing Officer. In the event the Board of Trustees chooses to secure the services of a Hearing Officer, the Director of Human Resources or designee and the employee 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 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.

(3). 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 will 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.

(4). Conduct of the Hearing, Record of Proceedings and Costs

- a). All disciplinary appeal hearings may, at the discretion of either party or the Board of Trustees, be recorded by a court reporter.
- b). Any hearing which does not utilize a court reporter shall be recorded by audio tapes.
- c). If a court reporter is requested by either party, that party shall pay the cost of the court reporter.

(5). 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 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 in 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.

(6). Burden of Proof

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

(7). 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.

(8). Testimony under Oath

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

E. 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.

In those cases where the Board does not act as the Hearing Officer in a disciplinary matter, the Hearing Officer will issue a proposed decision to be submitted to the Board of Trustees.

In those cases where the Board of Trustees has received a proposed decision from a Hearing Officer, the proposed decision, the record of the hearing and all documentary evidence shall be available for review by the Board when it deliberates.

In those cases where the Board has received a proposed decision from a Hearing Officer, the Board may adopt the proposed decision, modify the proposed decision or render a new decision. If the Board recommends reinstatement of the terminated employee, the employee is only entitled to back pay minus the sum the employee has earned during the period of absence.

F. Decision of the Board to be Final

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

5. ALTERNATIVE HEARING

As an alternative to the type of hearing provided for under Conduct of Hearing, the employee may request that the hearing to be conducted be an informal one by so stating in his demand for hearing. In the event the employee requests an informal hearing the Superintendent/President or designee shall arrange with the employee,

