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Classified employees who are members of a collective bargaining unit are subject to the disciplinary procedures outlined in the bargaining agreement. All other classified employees who are not part of a bargaining unit and have passed probation shall be subject to the disciplinary procedures outlined below.

Grounds for Discipline

Classified employees who fall under these procedures may be subject to disciplinary action which includes, but is not limited to, oral reprimand, written reprimand, reduction in pay, demotion, suspension, or dismissal, for any of the following grounds:

- Unauthorized or excessive absence from work.
- The conviction of either a misdemeanor or a felony involving moral turpitude and/or a sex offense and/or a narcotics offense as defined in the Education Code shall constitute grounds for discipline/dismissal of any employee. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The Human Resources Office may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or the determination if such conviction is an offense involving moral turpitude and/or a sex offense and/or a narcotics offense as defined in the Education Code. 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.
- The conviction of either a misdemeanor or a felony where there is nexus to the job as determined by the District.
- Dishonesty.
- Unprofessional conduct.
- Disorderly conduct.
- Incompetence, i.e., inability to comply with the minimum standard of an employee's position for a significant period of time.
- Unsatisfactory performance.
- Willful disobedience and insubordination, a willful failure to submit to duly appointed and acting supervision or to conform to duly established orders or directions of persons in a supervisory position or insulting or demeaning the authority of a supervisor or manager.

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- The unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance (e.g., alcohol or other intoxicants) at any facilities under the control and use of the District.
- Being under the influence of alcohol or illegal drugs or narcotics while on duty, being impaired by alcohol or illegal drugs in the employee's biological system while on duty which could impact the ability to do the employee's job.
- Inefficiency or neglect of duty, i.e., failure to perform duties required of employees within their position.
- Carelessness or negligence in the care and handling of District property or willful damage to District property. Improper or unauthorized use of District property.
- Willful violation of any of the provisions of the ordinances, resolutions or any rules, regulations or policies, which may be prescribed by the District. Refusal to subscribe to any oath or affirmation that is required by law in connection with District employment.
- Falsification of any information supplied to the District including fraud in securing employment or making a false statement on an application for employment.
- Abuse of or excessive use of sick leave.
- Conduct unbecoming any employee in public service, including discourteous treatment of the public or other employees. Any willful act of conduct undertaken in bad faith, either during or outside of duty hours which is of such a nature that it causes discredit to the District, the employee's department or division.
- Violation of any District policy including, but not limited to, the nondiscrimination/prohibition of harassment policy.
- The refusal of any officer or employee of the District to testify under oath before any court, grand jury, or administrative officer having jurisdiction over any then pending cause of inquiry in which the District is involved. Violation of this provision may constitute of itself sufficient ground for the immediate discharge of such officer or employee.
- Improper political activity. Example: Those campaigning for or espousing the election or non-election of any candidate in national, state, county, or municipal elections while on duty or during working hours or the dissemination of political material to urge the support or defeat of any ballot measure or candidate of any kind while on duty or during working hours.

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- Acceptance from any source of a reward, gift, or other form of remuneration that is a conflict of interest or creates the perception of a conflict of interest.
- Any other ground which the District believes is sufficient to warrant discipline based on either misconduct by the employee or deficiencies in performance.

Disciplinary Actions

Disciplinary action may include, but may not be limited to oral reprimand, written reprimand, reduction in pay, demotion, suspension, and dismissal.

Procedure for Disciplinary Action and Appeal

The District may, for disciplinary purposes, suspend, demote, reduce the pay of or dismiss any employee. The District may also reprimand (orally or in writing) a classified employee; but for reprimands, there shall not be an appeal right or any pre-disciplinary due process. Rather, for written reprimands, since they are entered into the employee's personnel file, the District shall provide the employee with an opportunity to submit a response in accordance with Education Code section 87031 for placement into the employee's personnel file.

For employees who are subject to suspension, demotion, reduction in pay, or dismissal, the District shall use the following pre-disciplinary procedure:

Notice of Intent – The employee shall be given a written notice of intent to discipline, which sets forth the following:

- The disciplinary action intended;
- The specific grounds (as set forth above) upon which the action is based;
- A summary of the facts which support the violation of the grounds;
- A copy of all written materials, reports, or documents upon which the discipline is based;
- Notice of the employee's right to respond to the charges either orally or in writing to the appropriate manager or administrator;
- The date, time and person before whom the employee may respond in no less than five working days;

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- Notice that failure to respond at the time specified shall constitute a waiver of the right to respond prior to final discipline being imposed.

Response by Employee – The employee shall have the right to respond to the appropriate manager or administrator orally or in writing. The employee shall have a right to be represented at any meeting where the employee will provide a response. The employee's response will be considered before final action is taken.

Final Notice – After the response or the expiration of the employee's time to respond to the notice of intent, the appropriate authority shall:

- affirm the discipline proposed in the Notice of Intent; or
- modify the discipline proposed in the Notice of Intent; or
- dismiss the discipline proposed in the Notice of Intent and take no disciplinary action against the employee.

The appropriate authority shall prepare and serve upon the employee a final notice of action. When discipline is imposed, the final notice of action shall include the following:

- The disciplinary action taken;
- The effective date of the disciplinary action taken;
- The specific grounds upon which the action is based;
- A summary of the facts which support the violation of the grounds;
- The written materials, reports and documents upon which the disciplinary action is based;
- The employee's right to appeal.

Appeal and Request for Hearing – If a classified employee, having been issued the final notice of disciplinary action, wants to appeal the action, the employee shall, within ten calendar days from the date of delivery of the notice, appeal by filing a written request, which must respond to each of the charges, to the Chief Human Resources Officer. Failure to file a timely appeal shall constitute a waiver of the employee's right to appeal and right to a hearing.

Hearing – After the appeal is filed, the Human Resources Department will coordinate a date(s) for the hearing (based on availability of the parties) with the employee (or the employee's representative) and the representative for the District, as well as with the

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Superintendent/President. The Superintendent/President may conduct the hearing him/herself, or may secure the services of an experienced hearing officer or Administrative Law Judge to conduct the hearing. Whether the Superintendent/ President conducts the hearing or secures the services of a hearing officer or Administrative Law Judge, that person will render a non-binding advisory decision for consideration by the Governing Board. After the Governing Board receives the non-binding advisory decision, it will consider such decision at a Board meeting at which it may affirm, modify or revoke the discipline. The decision of the Governing Board shall be final.

An employee, having filed an appeal and having been notified of the time and place of the hearing, who fails to appear at the hearing, may be deemed to have abandoned the appeal. In this event, the Governing Board may dismiss the appeal.

Record of Proceedings and Costs – The disciplinary appeal hearing shall be recorded by the District.

Conduct of the Hearing

The hearing need not be conducted in accordance with technical rules relating to evidence 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 on 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 not 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.

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The person hearing the appeal shall determine relevancy, weight, and credibility of testimony and evidence. Decisions made by the person hearing the appeal 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 motion of either party.

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

Testimony under Oath – All witnesses shall be sworn in for the record prior to offering testimony at the hearing. The chairperson will request the witnesses to raise their right hand and respond to the following:

"Do you swear that the testimony you are about to give at this hearing is the truth, the whole truth and nothing but the truth?"

Presentation of the Case – The hearing shall proceed in the following order unless the Superintendent/President, for special reason, directs otherwise:

- The party imposing discipline (District) shall be permitted to make an opening statement.
- The appealing party (employee) shall be permitted to make an opening statement.
- The District shall produce its evidence.
- The party appealing from such disciplinary action (employee) may then offer their evidence.
- The District followed by the appealing party (employee) may offer rebutting evidence.
- The employee may then offer rebuttal evidence to that rebuttal evidence which was offered by the District.
- The parties shall be permitted to make closing arguments. They can either be made orally at the close of the evidence, or if parties mutually agree, the parties can submit closing brief in lieu of oral closing arguments. If made orally, the District's representative shall present first followed by the employee's representative. The District's representative shall then be permitted to respond to the employee's representative since the District has the burden of proof. If in

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writing, a briefing schedule shall be established by the person hearing the matter with parties' representatives.

Procedure for the Parties – The District representative and the employee representative will address their remarks, including objections, to the person hearing the matter. Objections may be ruled upon summarily or argument may be permitted. The person hearing the matter reserves the right to terminate argument at any time and issue a ruling regarding an objection or any other matter, and thereafter the representative shall continue with the presentation of their case.

Right to Control Proceedings – While the parties are generally free to present their case in the order that they prefer, the person hearing the matter reserves the right to control the proceedings, including, but not limited to, altering the order of witnesses, limiting redundant or irrelevant testimony, or by the direct questioning of witnesses.

Hearing Demeanor and Behavior – All parties and their attorneys or representatives shall not, by written submission or oral presentation, disparage the intelligence, ethics, morals, integrity or personal behavior of their adversaries or members of the Governing Board.

Written Findings, Conclusion, and Decision – The person hearing the matter shall render findings, conclusions and a non-binding advisory decision after the conclusion of the hearing. The person hearing the appeal and issuing the non-binding advisory decision may sustain or reject any or all of the grounds filed against the employee. The person hearing the matter and issuing the non-binding advisory decision may sustain, reject, or modify the disciplinary action invoked against the employee.

Decision of the Governing Board – The non-binding advisory decision will be submitted to the Governing Board who will review it and either sustain, reject, or modify the non-binding advisory decision. The Governing Board's decision is final.

Emergency Suspension – If an employee's conduct presents an immediate threat to the health and safety of the employee or others, the employee may be suspended without compliance with the provisions of this procedure. However, as soon as possible after suspension, the employee shall be given notice as set forth herein.

Record Filed – When final action is taken, the documents shall be placed in the employee's personnel file.

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Pay During Proceedings – An employee who is subject to proposed disciplinary action may be placed in unpaid status thirty (30) calendar days after the employee submits a timely demand for hearing.

References: Education Code Section 88013;
Government Code Sections 3300 et seq.

Approved: 2/8/13

Revised: 11/17/26