

AR 7365 – Discipline and Dismissal - Classified Employees (New)

References:

Education Code Section 88013
Government Code Sections 3300 et seq.

A permanent classified employee of the District may be disciplined by the District for just cause. The causes for discipline shall include but not be limited to:

1. Incompetency
2. Inefficiency
3. Insubordination
4. Inattention to or dereliction of duty
5. Discourteous treatment of the public or of fellow employees
6. Any willful or persistent violation of the provisions of the Education Code or rules, regulations, or procedures adopted by the Board of Trustees
7. Political activity engaged in by an employee in violation of BP 4227
8. Immoral or unprofessional conduct
9. Any violation of Article 4 (commencing with Section 11400 of Chapter 3 of Title I of Part 4 of the Penal Code)
10. Dishonesty
11. Evident unfitness for service
12. Physical or mental condition which makes him or her unfit to instruct or associate with students
13. Persistent violation of or refusal to obey the school laws of the state or reasonable regulations prescribed by the board of governors or by the Board of Trustees
14. Conviction of a felony or any crime involving moral turpitude
15. Conduct specified in Section 1028 of the Government Code
16. Any other willful failure of good conduct tending to injure the public service

No disciplinary action shall be taken for any cause which arose prior to the employee's becoming permanent, nor for any cause which arose more than two years preceding the date of the filing of the notice of cause unless such cause was concealed or not disclosed by the employee when it could be reasonably assumed that the employee should have disclosed the facts to the District (Education Code Section 88013).

All notices of proposed disciplinary action shall be processed through the Vice Chancellor of Human Resources or their designee.

The employee shall be notified in writing of any intent to discipline and given the opportunity to respond orally/and in writing to the specific charges (Skelly hearing).

If disciplinary action is proposed after the due process (Skelly) meeting, the employee shall be notified in writing of the specific acts and/or omissions upon which the proposed disciplinary action is based ("written notice of charges"); the rule or regulation, policy, practice or law which the employee has violated; the proposed level of discipline to be imposed; any materials upon which the proposed action is based; and the length of time in which the employee will have to appeal the disciplinary action.

The written notice of the charges shall include a statement of the employee's right to an evidentiary hearing on such charges and the time within which such hearing may be requested. Included will be a Request for Evidentiary Hearing form, the signing and filing of which with the party delivering or mailing the written notice of charges shall constitute a request for hearing and a denial of all charges.

If the employee chooses to appeal the proposed disciplinary action set forth in the written notice of charges, he/she must file the Request for Evidentiary Hearing with the Human Resources Office within ten (10) calendar days of the date of service of the written notice of charges. The evidentiary hearing will be held within a reasonable period of time from the District's timely receipt of the

Request for an Evidentiary Hearing. Evidentiary Hearings may be heard by the Board of Trustees or a designated hearing officer agreeable to both the District and the classified union or the employee if they are represented by a union.

If the employee fails to request an evidentiary hearing or has failed to request an evidentiary hearing in the prescribed time period set forth above, the recommendation for disciplinary action/written notice of charges shall be submitted to the Board of Trustees. The employee shall have the right to address the Board of Trustees regarding the proposed disciplinary action pursuant to the provisions of the Government Code.

If the employee chooses to have an Evidentiary Hearing, the hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort 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 rule which might make improper the admission of such evidence over objection in civil actions. Irrelevant and unduly repetitious evidence shall be excluded. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions.

The employee shall have a right to appear in person, with counsel or such other representation as determined by the employee. The District will have the burden of proof and shall first present evidence. Normal procedures shall be followed: i.e., District presentation, defense cross-examination and rebuttal evidence from each party. Each party may introduce exhibits or cross examine witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination, to impeach any witness regardless of which party first called the witness to testify. If the employee does not testify in his own behalf, the respondent may be called and examined as if under cross examination by the District.

A request by the employee for the presence of District witnesses shall be submitted to the Vice Chancellor of Human Resources or their designee in writing at least 72 hours prior to the date of the hearing. After the hearing, the matter shall be given consideration, either in open or closed session after which a decision shall be made. An employee has the right to a public hearing upon request.

If the hearing was conducted by a hearing officer, the hearing officer shall submit a recommendation to the Board within ten days after the conclusion of the hearing or in a reasonable time agreed upon by both parties. Within five days after receiving such recommendation from the hearing officer, the District must agendaize the matter to go before the Board of Trustees for the next regular Board meeting.

The Board's decision may be that the recommended discipline be sustained in full, modified, or rescinded.

The Board's determination of the sufficiency of cause for disciplinary action shall be final.

If the hearing was conducted by the Board, it shall make a decision within fifteen days after the conclusion of the hearing.

Adopted: _____