

## SECTION 260 – DISCIPLINARY ACTIONS

### 261 DISCIPLINARY ACTIONS

Disciplinary action may result from a wide range of types and severity of rules, regulations, policies, or laws. The types of action may involve suspension, demotion, or dismissal.

- A. Suspension refers to exclusion of an employee from his/her job without pay for a prescribed number of days. Suspension must occur only for a reasonable cause and shall not be for more than thirty (30) days.
- B. Demotion refers to a downward movement of an employee from a class of positions to another, and involves a reduction in pay.
- C. Dismissal refers to the permanent separation of the employee from employment within the District.

The burden of proof in any disciplinary proceedings shall remain with the Governing Board, and any rule or regulation to the contrary shall be void.

### 262 SEX OFFENSE OR NARCOTICS OFFENSE

No person shall be employed or retained in employment by the District who has been convicted of the specific crimes as defined in sections 87010 and 87011 or any other section of the Education Code relating to arrests. If an employee is charged with the commission of any sex offense or narcotics offense as outlined in section 88123 of the Education Code, the Governing Board of the District may immediately suspend the employee for not more than ten (10) days following the date of the entry of the court judgment. Extensions to the suspension beyond the ten (10) day period may be made as outlined in section 88123 of the Education Code.

### 263 CAUSES FOR DISCIPLINARY ACTION

No person in the classified service shall be disciplined except for reasonable cause designated by rule of the Personnel Commission.

An employee may be suspended without pay for not more than thirty (30) days, or he/she may be demoted or dismissed following the procedures set forth in this section. This section shall not be construed to prevent layoffs for lack of work or lack of funds.

Any of the following actions may be deemed sufficient for suspension, demotion, or dismissal:

- Fraud in securing appointment
- Incompetence or inefficiency
- Insubordination
- Inattention or dereliction of duty
- Consecutive unsatisfactory performance ratings
- Unexcused absences or tardiness, abuse of leave provisions or absence without notification
- Discourteous, offensive or abusive conduct towards others
- Immoral conduct on the job
- Verbal or physical abuse or altercation
- Uninsurability of an employee to drive a District vehicle when such is a requirement of the employee's position
- Unauthorized access to, creating, changing, or deleting of data or other information and/or use of same for personal or other unauthorized purposes or unauthorized release to others and/or violation of confidentiality or privacy
- Possession of opened alcoholic beverages containers, drinking, or being intoxicated while on duty and/or use or possession of illegal or dangerous drugs, while on duty, except as prescribed by a physician and not otherwise impairing behavior or ability

- Work-related dishonesty, theft, willful destruction or mishandling of District property
- Unauthorized possession of a firearm or other weapon while on duty
- Political activities engaged in by any employee during his/her assigned hours of employment
- Any willful or persistent violation of the rules, provisions, regulations, or procedures adopted by the Governing Board or the Personnel Commission
- Knowing membership by the employee in the Communist Party, or other conduct specified in section 1028 of the Government Code
- Arrest and/or conviction of any sex or controlled substance offense as outlined in section 88123 of the Education Code
- Any other work-related offense so grievous that a reasonable person would interpret it as an unacceptable work behavior or action

## 264 PROCEDURE

The following procedure shall be followed in all cases of suspension, demotion, dismissal, or other disciplinary action taken against an employee.

### 264.1 INTENT TO IMPOSE DISCIPLINARY ACTION

No probationary or permanent classified employee may be subject to disciplinary action until the employee has been provided a written notice of the *Intent to Impose Disciplinary Action* and the employee has had an opportunity to respond to the charges. Such notice shall be hand delivered or deposited in the U.S. registered mail to the employee no less than ten (10) days prior to the action date. The notice shall include:

- Statement of proposed disciplinary action to be taken
- Statement of the causes, acts or omissions upon which the disciplinary action is based
- Designation of the rule, regulation, policy, procedure, or statute (if any) which the employee has violated
- Statement of employee's right to examine any materials upon which disciplinary action is based
- Statement of the employee's right to present relevant facts, materials, and information on his/her behalf orally or in writing
- Timeline for the employee to respond to charges and the party to whom the response is to be made

If the employee requests to present facts in person and requests a meeting, he/she shall have the right to representation at such meeting.

All material on which the charge is based shall be provided to the employee upon request.

A copy of the written notice of the *Intent to Impose Disciplinary Action* shall be sent to the Director of Personnel for Personnel Commission notification purposes.

### 264.2 NOTICE OF DISCIPLINARY ACTION

Once a decision to impose disciplinary action is made, written notice from the Vice Chancellor, Human Resources or designee must be served on the employee. Such notice shall include:

- Statement of disciplinary action to be taken
- Statement of the causes, acts, or omissions upon which the disciplinary action is based
- Designation of the rule, regulation, policy, procedure, or statute (if any) that the employee has violated

A copy of the written notice of the disciplinary action shall be sent to the Director of Personnel.

### 264.3 NOTICE OF APPEAL RIGHTS

The Director of Personnel shall, within ten (10) days of the disciplinary action, file written charges with the Commission and hand deliver a copy of the charges to the employee or deposit it in the U.S. registered mail with postage prepaid, addressed to the employee at his/her last known place of address.

The notification shall include a copy of the charges, related rules, contract and Education Code provisions and a statement of the employee's right to request a hearing to appeal the disciplinary action if such right applies.

#### **264.4 APPEAL**

A permanent classified employee may appeal a suspension, demotion, or dismissal to the Personnel Commission by filing a written request for an appeal hearing. The request for appeal must be postmarked or hand-delivered to the Director of Personnel within fourteen (14) days of service of the copy of the charges and appeal procedures. Probationary classified employees do not have the right of appeal or hearing by the Commission. An employee who is a permanent classified employee and probationary in the class may be demoted to the previous class without right to an appeal or hearing by the Commission, provided the demotion does not result in separation from the permanent classified service. (Ed. Code, § 88124.)

Failure on the part of an accused employee to file an answer within the specified fourteen (14) days shall be construed as an admission of the truth of the charges, and judgment shall be in favor of the complainant.

All appeal hearings shall be scheduled to provide the employee with the most expeditious hearing date(s) which is/are reasonably consistent with the work schedules of all parties involved and the complexity of the disciplinary situation. The employee may utilize a representative at the appeal hearing procedure.

The Commission shall investigate the matter on appeal and may require further evidence from either party, and may—and upon request of an accused employee shall—order a hearing within a reasonable length of time and after written notice to both parties. The accused employee shall have the right to appear in person or with counsel and to be heard in his/her own defense. The decision shall not be subject to review by the Governing Board. Both the accuser and the accused shall have the right and opportunity to submit all proper and pertinent evidence and to have witnesses. (Ed. Code, § 88125.)

The Personnel Commission may authorize a hearing officer or other representative to conduct any hearing or investigation as outlined in Education Code section 88131.

The Personnel Commission shall have the right to sustain or reject any or all of the charges filed against the employee, take action to sustain or modify or reject the disciplinary action against the employee, but not to invoke more stringent discipline.

If the Commission sustains the employee, it may order paid all or part of his/her full compensation from the time of suspension, demotion, or dismissal and it shall order his/her reinstatement. (Ed. Code, § 88126.)