

**PERSONNEL**

**SUBJECT: Suspension, Demotion or Dismissal of A Permanent, Classified Employee (Confidential, Management, and Other Non-Represented Classified Employees)**

**EXCLUSION OF PROBATIONARY EMPLOYEES & REPRESENTED EMPLOYEES**

The provisions of this Policy apply only to confidential, management, and non-represented permanent classified employees. The probationary period for confidential, management, and non-represented classified employees shall be 12 months. Probationary employees are subject to disciplinary action up to and including termination without appeal at the sole discretion of the District. Employees represented by the California School Employees Association ("CSEA") are subject to disciplinary action pursuant to the current collective bargaining agreement with CSEA.

**REMEDIATION EFFORT**

The Board recognizes that an effort at remediation should be made by the District prior to terminating a permanent employee. Examples of such efforts include, but are not limited to: verbal and/or written warnings, suspension with or without pay, or any other appropriate effort to correct or remediate an employee's unsatisfactory fulfillment of his/her job responsibilities, unsatisfactory attendance or unsatisfactory personal conduct. However, the Board also recognizes that certain acts and/or omissions by an employee may, by their very nature and/or degree, be serious enough to warrant immediate discipline consistent with this Policy. In such situations the District may move to immediately discipline the employee without making any effort at remediation.

**EMPLOYEE'S PRIOR MISCONDUCT**

In arriving at its decision as to what disciplinary action (if any) is suitable, the Board may consider any prior disciplinary action against the employee by the District.

**INFORMAL MEETING**

A permanent employee may request an informal meeting with his/her immediate supervisor prior to the imposition of discipline by the District. If requested, such a meeting will be held.

**RIGHT TO SUSPEND**

The District retains the right to suspend an employee, with or without pay, without warning when the health and/or welfare of the employee, students, the public, or other employees is endangered by the continued presence of the employee, and/or where the employee's presence is a danger to the property of the District or others, and/or in cases of aggravated insubordination. Suspensions shall be made by the Superintendent or his/her designee(s).

Any employee charged with the commission of any sex offense as defined in Education Code Section 44010 or any narcotics offense as defined in Section 44011 of the Education Code by complaint, information or indictment filed in a court of competent jurisdiction may be suspended as provided for in Section 45304 of the Education Code.

This Policy shall not be construed to diminish the District's authority to take disciplinary action in accordance with the law, including such actions as authorized by Education Code Sections 44010, 44011, and 45304.

CAUSES

The Board of Education may suspend, demote or dismiss a permanent classified employee for reasonable cause, including but not limited to the following:

- A. Unsatisfactory attendance, such as:
  - 1. Repeated absence without notification.
  - 2. Excessive absence.
  - 3. Repeated unexcused absence or tardiness.
  - 4. Abuse of sick leave privilege.
  - 5. Incarceration which adversely affects job performance.
  
- B. Unsatisfactory personal conduct, such as:
  - 1. Conviction of a crime carrying felony punishment even though such punishment may not be imposed.
  - 2. Conviction of any crime involving moral turpitude.
  - 3. Discourteous, offensive, or abusive conduct or language toward another employee, a pupil or a member of the public.
  - 4. Dishonesty.
  - 5. Reporting to work while intoxicated, possession of an open container of an alcoholic beverage on District property, or in a District-owned vehicle, or working while under the influence of alcohol.
  - 6. Addiction to the use of narcotics or habit forming drugs or reporting to work or working while under the influence of a drug which interferes with job performance.
  - 7. Conviction (or proof of commission) of any sex offense as defined in Education Code 44010, or a conviction (or proof of commission) under Penal Code 261.5.
  - 8. Conviction (or proof of commission) of any narcotics offense as defined in Education Code 44011, or a conviction (or proof of commission) under Health and Safety Code 11361.
  - 9. Falsifying any information supplied to the District including, but not limited to, information supplied on application forms, employment records, or any District records.
  - 10. Altering or falsifying records of the District.

11. Repeated malingering during the course of a normal working day.
  12. Engaging in political activities while on a work duty status.
  13. Release of personal information concerning any employee or any pupil who is not his/her own child or ward to any person other than teacher or administrator in the school which the pupil attends or is enrolling.
  14. Excessive fraternizing with students.
  15. Possession of a deadly or dangerous weapon on school grounds.
  16. Offering anything of value or offering any service in exchange for special treatment in connection with the employee's job or employment, or accepting anything of value or any special service in exchange for granting any special treatment to another employee or to any member of the public. The term "conviction" as used above shall mean conviction in trial court based upon a plea of guilty or nolo contendere or a finding of guilty after a court or jury trial.
- C. Unsatisfactory fulfillment of job responsibilities, such as:
1. Incompetency or inefficiency in the performance of the duties of the position.
  2. Insubordination (including, but not limited to, refusal to do assigned work).
  3. Carelessness or negligence in the performance of duty, or in the care and use of District property.
  4. Misuse or misappropriation of District property.
  5. Willful violation of the Education Code, Title V of the California Administrative Code, any other code or administrative code of California, or any rules of the Governing Board.
  6. Denial, suspension, revocation or non-renewal of a license, permit or any other document(s) required by the nature of the position.
  7. Receipt by the District from the District's insurance carrier of a request in writing for an endorsement excluding the employee from coverage under the District's insurance policy while driving a motor vehicle because of increased risk due to the employee's poor driving record.
  8. Violation of firearms guidelines for Security Guards.
  9. Physical inability to perform duties of the assignment.
  10. Refusal to take a physical examination (at District expense) when requested to do so in writing by direction of the Board of Education.
- D. Other reasons, such as:
1. Advocacy of overthrow of federal, state or local government by force, violence or other unlawful means.

### PRE-DISCIPLINARY PROCEDURES

Employees shall receive written notification of the District's intent to discipline prior to such action becoming effective in all cases other than those situations set forth above involving the District's right to suspend.

With the notice of intent to discipline, the employee shall receive notice of the effective date of the intended action, a statement of the specific acts and/or omissions upon which the proposed disciplinary action is based, the date by which the employee may respond either orally or in writing, and copies of documents and other materials which support the proposed action.

#### DISCIPLINARY PROCEDURES

Following the employee's response, if any, a determination will be made by the District as to the appropriate disciplinary action, if any.

If the District determines action should be taken, the employee shall receive in person, or be sent by certified mail, notice of this determination accompanied by notice of the effective date of the action, a statement of the specific acts and/or omissions upon which the disciplinary action is based, copies of documents and other materials which support the action, and a statement advising the employee of the employee's right to a formal hearing wherein the employee shall have the right to representation.

If the employee desires a formal hearing, the employee must sign and return a written request for such within the ten (10) workdays following the personal delivery or mailing of this notice. Failure to comply with these time limits shall result in the employee's waiver of his/her right to a formal hearing.

#### FORMAL HEARING

All formal disciplinary hearings shall be held before a hearing officer. The hearing officer shall be mutually selected and agreed to by the District and the employee. If the parties are unable to agree on a hearing officer, the District shall request that the California State Mediation and Conciliation Services identify a panel of five potential hearing officers. The parties shall strike names until one hearing officer is identified. The hearing shall be closed unless at the time the hearing is requested by the employee a written request for an open hearing is submitted to the District. The hearing officer shall set the time and place of the hearing.

The following guidelines shall be used in conducting hearings:

1. Oral evidence shall be taken only on oath or affirmation.
2. Each party shall have the right to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses; in the discretion of the hearing officer, to recall any witness regardless of which party first called him/her to testify; and to rebut the evidence against him/her. If the accused employee does not testify in his/her own behalf, s/he may be called and examined as if under cross-examination.

3. 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. Hearsay evidence may be used for the purpose of supplementing and examining other evidence but shall not be sufficient standing by itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing. Irrelevant and unduly repetitious evidence shall be excluded.
4. The hearing shall be conducted in the English language.
5. Upon completion of the hearing, the hearing officer shall prepare Findings of Fact and Conclusions of Law that constitute the results of the hearing, and form a basis for the decision of the Board of Education. The decision of the Board of Education shall be final.

#### SUMMARY DISCIPLINE

Summary discipline shall be defined as a suspension without pay for not more than three (3) days. When practical, such action shall be initiated by written notice from the Assistant Superintendent Personnel Services.

Within ten (10) work days of receipt of a summary discipline notice, the unit member shall have the right to appeal said discipline in writing to the Superintendent or his/her designee. Within five (5) work days after the response to the appeal referenced above, the unit member shall have the right to appeal in writing to the Board of Education. The Board may hear the appeal, designate one (1) of its members to hear the appeal, or designate a hearing officer to hear the appeal on its behalf. The hearing officer shall not be an employee of the Jurupa Unified School District. The Board's determination shall be conclusive and final.

Failure of a unit member to appeal summary discipline shall not prejudice the unit member's right to defend allegations in subsequent hearings.

#### FINALITY OF BOARD'S DECISION

The decision of the Board of Education shall become final, upon personal service upon the employee or upon mailing to the employee at his/her recent address as shown on the records of the District.