



Suspension/Disciplinary Action

Classified Personnel

1. Definition of Probationary Period and Permanent Status

All employees in positions not requiring certification qualifications shall be classified employees.

The probationary period of all members of the classified service shall be six months of actual service which shall be deemed to include days of absence for illness or injury to which the employee is entitled without loss of pay pursuant to the requirements and authority of Section 45191 of the Education Code

During the probationary period, any employee in the classified service shall be subject to disciplinary action, including termination. The employee shall not have a right to a hearing regarding any disciplinary action taken during the probationary period.

Upon completion of the probationary period by any member of the classified service, such person is hereby designated as a permanent employee who shall be subject to disciplinary action only for cause as prescribed in these Rules and Regulations.

2. Cause for Suspension or Termination

A permanent classified employee shall be subject to disciplinary action, including suspension, demotion or termination, for any of the following causes:

- a. Incompetency or inefficiency
- b. Absence and/or repeated tardiness without authority or sufficient reason
- c. Insobriety or unauthorized use or possession of alcohol, narcotics or habit-forming drugs during duty hours
- d. Insubordination or insolence or disrespect toward superiors
- e. Dishonesty
- f. Conviction of a felony, any crime involving moral turpitude, or any crime bringing discredit upon the district
- g. Immoral conduct



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- h. Evident unfitness for service
- i. Physical or mental conditions unfitting him/her for service
- j. Violation of or refusal to obey the school laws of the state or rules and regulations of the district.
- k. Discourteous treatment of the public, pupils or other employees while on duty
- l. Conduct in violation of Section 1028 of the Government Code, which provides:

“It shall be sufficient cause for the dismissal of any public employee when such public employee advocates or is knowingly a member of the Communist Party or of an organization which during the time of his/her membership he/she knows advocates overthrow of the government of the United States or of any state by force or violence.
- m. Any conduct inimical to the welfare of the schools or the pupils
- n. For employees who drive a vehicle in the regular course of their employment:
 - 1. Failure to maintain a good personal or business driving record
 - 2. Failure to satisfy the insurability requirements of the district’s insurance carrier under the district’s regular insurance policies. The district’s ability to obtain insurance for the employee under a high risk or any policy other than the regular insurance policies does not mitigate this failure.
- o. Neglect of duty
- p. Material and intentional misrepresentation or concealment of any fact in connection with obtaining employment
- q. Willful damage to public property, waste of public supplies or equipment or excessive carelessness with district property or funds



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- r. Failure to possess or keep in effect any license, certificate or other similar requirement specified in the law or the employee's class specification or otherwise necessary for the employee to perform the duties of the position
 - s. Engaging in a strike, work stoppage, slowdown or other interference with the operation of the district
3. Procedure

- a. Preliminary Written Notice

A permanent classified employee shall receive a preliminary written notice of any proposed suspension without pay or termination. The written notice must contain a specific statement of charges or grounds upon which the proposed disciplinary action is based and the date the disciplinary action will be effective.

Any known written materials, reports or documentation upon which the disciplinary action is based must be attached to the preliminary written notice.

The classified employee shall have the right to respond either orally or in writing within a specified reasonable time to the superintendent or superintendent's designee. The superintendent or designee shall consider the employee's response and recommend within fifteen calendar days that the proposed disciplinary action either be taken or not taken.

- b. Notice of Intention to Suspend or Dismiss

Any permanent classified employee against whom the district initiates suspension without pay or termination action shall be given written notice by the superintendent or his authorized representative of the specific charges against him. The notice shall contain a statement of his rights to a hearing on such charges. The time within which such hearing may be requested shall not be less than five calendar days after service of the notice on the employee and said notice shall be accompanied by a paper, the signing and filing of which with the superintendent or his authorized representative shall constitute a demand for a hearing and a denial of all charges. Failure of the employee to file a request for hearing within the time specified shall constitute a waiver of the employee's right to a hearing.



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c. Administrative Leave

Any permanent classified employee may be placed on administrative leave from duty with pay pending a determination of whether or not discipline will be recommended by the superintendent.

d. Sex or Narcotics Offenses: Compulsory Leave

Any classified employee charged with the commission of any sex offense as defined in, but not limited to, Education Code Section 44010, or with the commission of any narcotics offense as defined in, but not limited to, Education Code Section 44011, may be placed upon compulsory leave of absence pending final disposition of such charges.

An employee placed on compulsory leave shall continue to be paid his/her regular salary during such leave if he/she furnishes to the district a suitable bond to guarantee that the employee is convicted of such charges, or fails to return to service following expiration of the compulsory leave. If the employee does not furnish a bond and if the employee is acquitted of such offense, or the charges dropped, the district shall pay to the employee upon his/her return to service, the full amount of salary which was withheld during the compulsory leave.

e. Conduct of the Hearing

1. Hearing Board: The governing board shall determine whether any hearing will be conducted before the entire governing board or one of more named member of the governing board or a hearing board or officer appointed by the governing board and shall make such appointments as may be necessary. The term "Hearing Board" shall mean any board, board member or other person named or appointed under this rule to hear any hearing.
2. Notice of Hearing: The governing board or the hearing board shall set the matter for hearing and shall give the employee at leave five calendar days' notice in writing of the date and place of such hearing.



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3. Rights of Employee: The employee shall attend any hearing, unless excused by the governing board or the hearing board and shall be entitled to:
 - i. be represented by counsel or any other person at such hearing;
 - ii. testify under oath;
 - iii. compel the attendance of other employees of the district to testify in his behalf;
 - iv. cross-examine all witnesses appearing against him and all employees of the district whose actions are in question or who have investigated any of the matters involved in the hearing and whose reports are offered in evidence before the hearing board;
 - v. impeach any witness;
 - vi. present such affidavits, exhibits and other evidence as the hearing board deems pertinent to the inquiry;
 - vii. argue his case.

The party attempting to substantiate the charges against the employee shall be entitled to the same privileges.

4. Evidence: The hearing shall be informal and 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 that might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be admitted for any purpose but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privileges and of official or judicial notice shall be effective to the same extent as in civil actions. Irrelevant and repetitious evidence shall be excluded. Oral evidence shall be taken only under oath or affirmation.
5. Exclusion of Witnesses: The hearing board may in its discretion exclude witnesses not under examination, except the employee and the party attempting to substantiate the charges against the employee and their



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respective counsel. When hearing testimony on scandalous or indecent conduct, all persons not having a direct interest in the hearing may be excluded.

6. Burden of Proof: The burden of proof shall be upon the party attempting to substantiate the charges.
7. Findings and Decision: Upon completion of the hearing, Findings of Fact and Conclusions of Law shall be signed and filed by the governing board which shall constitute its decision. If the hearing is not before a quorum of the governing board, written findings and conclusions shall be submitted by the hearing board to the governing board for its approval. If the governing board accepts such findings and conclusions, it need not read the record of the hearing; if it declines to accept such findings and conclusions, it must read the record or hold a new hearing, after which it may adopt the findings and conclusions made by the Hearing Board or make its own findings and conclusions.

Unless the decision provides otherwise, it shall be effective immediately. Notice of the decision shall be mailed promptly to the employee or his counsel or representative. Except for the correction of clerical error, such decisions shall be final and conclusive.

8. Report of Hearings: Hearings may be conducted without a stenographic reporter or phonographic recording machine unless the employee requests in writing, at least one full business day before the day set for the hearing, that such hearing be reported or recorded and pays the cost or fee for such reporting or recording as estimated by the superintendent or his authorized representative.
9. Transcripts of Hearings: Transcripts of hearing shall be furnished to any person on payment of the cost of preparing such transcripts. When transcripts are provided by the employees of the district the cost shall be determined by the employee in charge of business affairs of the district. When an independent contractor provides transcripts, the independent contractor will establish the cost.



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10. Continuances: The hearing board may grant a continuance of any hearing upon such terms and conditions as it may deem proper, including in its discretion the condition that the employee shall be deemed to have waived salary for the period of the continuance. Any request for continuance made less than 48 hours prior to the time set for the hearing will be denied unless good cause is shown for the continuance.

f. Alternative Hearing

As an alternative to the type of hearing provided for in subdivision c. above, 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, or his designee shall arrange with the employee for the type of informal hearing to be conducted and the parties may agree in writing upon what person or persons shall hear the matter and how the hearing shall be conducted. In the event the parties fail to agree in writing with ten calendar days after filing of the notice of demand for hearing upon who shall hear the matter and how it shall be conducted, the hearing shall be conducted as provided for in subdivision c. above. In the event the matter is informally heard as agreed upon in writing, the decision of the persons hearing the matter shall be final and conclusive and there shall be no right of appeal by the employee to the governing board or to the courts unless otherwise stipulated in the written agreement to handle as an informal hearing.

Legal Reference:

EDUCATION CODE

45113

45116