

Administrative Regulation

Classified Employees; General Provisions on Disciplinary Actions

A. Disciplinary Action Only Pursuant to This Rule

A regular classified employee shall be subject to disciplinary action only for cause as prescribed by these rules and regulations, and only pursuant to the procedures outlined herein.

B. Time Limits on Disciplinary Action

No disciplinary action shall be taken against an employee for any cause which arose prior to the employee's becoming permanent, nor for any cause which arose more than two (2) years prior to the date of the Notice of Proposed Disciplinary Action 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.

C. Prohibited Acts Related to Discipline

No employee shall be suspended, demoted, dismissed, subjected to any form of disciplinary action, sexually harassed, or in any way discriminated against based on a protected characteristic, including actual or perceived race, color, ancestry, national origin, citizenship, ethnic group identification, religion, age (40 or older), marital status, pregnancy, sexual orientation, gender, gender identity, gender expression, mental or physical disability, medical condition (cancer-related or genetic characteristics), genetic information (including family medical history), service in the uniformed services (as defined by the Uniformed Services Employment and Reemployment Rights Act of 1994), or on the basis of a person's association with a person or group with one or more of these actual or perceived characteristics. Employees also are protected from disciplinary action based on employee organization membership (including non-membership or legal activities related to membership) and/or their political beliefs or acts, except as provided in Section E.

D. Definition of Discipline

Disciplinary action includes any action whereby a regular classified employee is deprived of any classification or any incident of any classification, including dismissal, suspension, demotion, or any reassignment, without the employee's voluntary written consent, except a layoff for lack of work or lack of funds.

E. Causes for Disciplinary Action

The following causes shall be grounds for disciplinary action:

1. Incompetency - A pattern of below standard work performance.
2. Inefficiency - The continued inability to perform the assigned duties of the position.
3. Insubordination - Knowingly refusing to perform lawful and reasonably assigned duties.
4. Inattention to or Dereliction of Duty - A pattern of continued neglect or dereliction in the performance of assigned duties.
5. Willful and persistent violation of the Education Code, or rules and regulations, or procedures adopted by the district or a department when such procedures are made known to the employee in writing.
6. Knowingly falsifying or withholding any material information supplied to the district, including but not limited to, information supplied on application forms and employment records.
7. Possession of opened alcoholic beverage containers on district property, drinking alcoholic beverages on district property, or being intoxicated while on duty. For designated safety-sensitive positions, engaging in conduct prohibited by federal and/or state law including: Drinking alcohol within four hours of performing safety-sensitive duties, being in possession of alcohol while on duty, having an alcohol concentration of .04 or greater, or more than one occurrence of having an alcohol concentration of .02 to .0399, as determined by an evidential breath test, or refusal to take a required evidential breath test.
8. The use or possession while on duty of illegal or restricted dangerous drugs, other than that prescribed by a licensed physician. For designated safety-sensitive positions, failure to submit to a required drug test or a positive drug test result obtained pursuant to federal and/or state law.
9. Arrested, being formally charged, and convicted of a sex offense as defined in Education Code Section 44010. Conviction of such offense shall result in dismissal.

10. Arrested, being formally charged, and convicted of a narcotics offense as defined in Education Code Section 44011. Conviction of such offense shall result in dismissal.
11. Engaging in political and/or personal activities during assigned hours of duty.
12. Conviction of a crime involving moral turpitude.
13. Initiating an unprovoked verbal assault on a pupil, a member of the public, another district employee, or a district official.
14. Initiating an unprovoked physical attack on a pupil, a member of the public, another district employee, or a district official.
15. Repeated unexcused absence or tardiness, abuse of leave privileges, or absence without notification, or excessive absences.
16. Abandonment of Position - Absence of three (3) consecutive working days without notification or permission (and failure to notify the district of a valid or acceptable reason for absence).
17. Failure to return to work or notify the district within three (3) working days following an authorized leave of absence except in the case of dire emergency.
18. The uninsurability of an employee to drive a district vehicle when such is a requirement of the employee's position. Upon notification or confirmation by the district's insurance carrier, discipline under this section shall be handled in the following manner:

The district shall attempt to reassign the employee within the same class or to a vacant position in a related class (with the approval of the Commission) not requiring operation of a motor vehicle.

If reassignment is not possible, then the employee may be demoted, pursuant to these rules and regulations.

If a position does not exist for a demotion to be accomplished, then the employee may be dismissed, pursuant to these rules and regulations.
19. Violation of local, state, or federal law which results in cancellation or suspension of a license required for the performance of assigned duties.
20. Dishonesty, theft, willful misuse for personal gain, willful destruction or mishandling of district property.

21. Ethnic, racial, religious, or sexual harassment of another (sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal, visual or physical conduct of a sexual nature, made by someone from or in the work setting).
 22. Failure to obey a subpoena issued by the Personnel Commission and duly served, or any refusal to furnish testimony or documents, other than self-incriminating, at a hearing or investigation before the Commission or Board of Education.
 23. Offering anything of value or offering any service in exchange for special treatment in connection with the employee's job or employment, or the accepting of anything of value or any service in exchange for granting any special treatment to another employee or to any member of the public.
 24. Conviction of a felony or serious crime or a record of one (1) or more convictions which indicate that the person is a poor employment risk for the particular job which the employee holds in the district. A plea, verdict, or finding of guilty, or a conviction following a plea of nolo contendere is to be deemed a conviction within the meaning of these rules.
 25. Conduct or acts detrimental to the welfare of the school, the district, or the pupils thereof.
 26. Any other cause which can be reasonably interpreted as negatively affecting the purposes or functions of: the district; the office, division or school to which the employee is assigned; or other employees.
- F. Progressive Discipline - Written Reprimand

Except in situations where an immediate suspension is reasonably justified, a permanent employee whose work performance or conduct is of such character as to incur discipline shall first be specifically reprimanded in writing by the immediate supervisor. Such written reprimand shall state the rule violated, the acts or omissions in violation, a recommended performance improvement plan (P.I.P.) developed in conjunction with the employee, and a reasonable time period during which the permanent employee's performance will be reviewed for improvement or attainment of goals. The supervisor shall give a reasonable period of time to permit the permanent employee the opportunity to correct the deficiency without incurring disciplinary action.

G. Progressive Discipline - Suspension

After a written reprimand, if the permanent employee continues to violate a cause treated in Rule 4236.1(E) above, then the employee may be suspended for up to thirty (30) calendar days without pay. The proposed length of suspension shall reasonably relate to the seriousness of the alleged offense.

An alternative to a part or all of the suspension may be the employee's participation in an approved employee treatment program. Allowable reasons for participation in the employee treatment program are limited to the following causes for disciplinary action: 4236.1(E)-1 through 4236.1(E)-4; 4236.1(E)-7 through 4236.1(E)-8; 4236.1(E)-13 (except involving a student); and 4236.1(E)-15. To participate in the treatment program, the employee must show reasonable justification, and enter into an agreed upon performance improvement plan with his/her supervisor and the district.

H. Progressive Discipline - Final Step

If the behavior warranting action under Rule 4236.1(F) and Rule 4236.1(G) continues, for the same cause, substantially related cause, or other cause listed in these rules, the employee may be subjected to other forms of disciplinary action, including demotion or termination.

I. Immediate Suspension Without Pay

An employee may be immediately suspended without pay if charged with the commission of any sex offense or narcotics offense referred to in Education Code Sections 44010, 44011, and 45304, and the suspension shall continue for not more than ten (10) days after the date of the entry of the court judgment. Any employee so suspended shall continue to be paid his/her regular salary during the period of suspension if the employee furnishes to the district a suitable bond, or other security acceptable to the Board of Education, as a guarantee that the employee will repay the district the amount of salary so paid to him/her during the period of suspension in case the employee is convicted of such charges, or the employee does not return to service after such period of suspension. If the complaint, information, or indictment is dismissed, the district shall reimburse the employee for the cost of the bond; or, if the employee has not elected to furnish such bond, the district shall pay to the employee his/her full compensation during the period of the suspension, provided the employee returns to service after such period of suspension.

J. Immediate Suspension - With Pay

An employee, other than stated in Rule 4236.1(I) above, may be immediately suspended without loss of compensation pending the initiation and completion of disciplinary action procedures to the Board level, if there is a clear and present danger to the health, safety, and well being of the employee, students, fellow employees, or district property. The district may end the suspension without loss of compensation to the employee or take action to suspend without pay in accordance with these rules as warranted.

K. Dismissal of Exempt Classified Employees

A substitute, limited-term, provisional, or other temporary employee may be terminated at any time during his/her assignment without regard to procedures set forth in this chapter.

L. Burden of Proof

The burden of proof in all hearings and proceedings under these rules shall remain with the district; and any rule, regulation, policy, practice, or procedure to the contrary shall be void.

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Ref: EC Sections 212.5, 230, 44010, 44011, 45260, 45261, 45302-45304
Government Code Sections 1028, 12926
Health and Safety Code Sections 11054, 11056, 11357-11361,
11363-11364, 11377-11382
Penal Code Section 261
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