

Administrative Regulation

Classified Employees; Suspension, Demotion, or Dismissal, Causes forA. Causes for Suspension, Demotion, or Dismissal

Persons employed in the classified service may be suspended, demoted, or dismissed for any of the following causes:

1. Incompetency, below standard work performance, a pattern of inefficiency, or continued neglect or dereliction in the performance of assigned duties;
2. Insubordination, including but not limited to refusal to do reasonably assigned work, or any other serious breach of discipline;
3. Discourteous, offensive, or abusive conduct toward other employees, pupils, or the public;
4. Misuse, theft, destruction, or mishandling of district property or property of employees of the district;
5. 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;
6. Possession of opened alcoholic beverage containers, drinking alcoholic beverages, or being intoxicated while on the job;
7. Addiction to the use of narcotics or hallucinogens, or possession of any restricted dangerous drug other than prescribed by a licensed physician;
8. Engaging in political or personal activities during assigned hours of employment;
9. Conviction of any felony or crime;
10. Conviction of a sex offense as defined in Education Code Section 44010;
11. Repeated or unexcused absence or tardiness after warning;

12. Abuse of leave privileges;
13. A history of excessive absences;
14. Knowingly falsifying any information supplied to the district including but not limited to information supplied on application forms and employment records;
15. Failure to report for review of criminal records or for health examination after due notice;
16. Gambling on school property;
17. Persistent violation or refusal to obey safety rules or other procedures made applicable by the Board of Education or by any appropriate state or governmental agency;
18. Any willful failure of good conduct tending to injure the public service or its reputation with particular regard to students;
19. Abandonment of position, which shall be interpreted to mean an absence without continued notification in excess of one day, except in case of dire emergency;
20. Membership in the Communist Party or another organization which advocates the overthrow of federal, state, or local government by force, violence, or other unlawful means as defined in Section 1028 of the Government Code;
21. Willful or persistent violation of these rules or adopted and implemented procedures of a division when such procedures are made known to the employee in writing;
22. Refusal to accept changes in shift assignment, working hours, or work location, provided that such changes were made in accordance with these rules;
23. Any other cause which, when considered, can reasonably be interpreted as negatively affecting, to a significant degree, the purposes and functions of the office, division, or employee.

A classified employee may be subject to removal from service or change in status under this rule due to physical, emotional, or mental unfitness for service. The employee shall retain the right to appeal.

B. Dismissal During Probationary Period

The Board of Education may dismiss an employee at any time during the period of probation. The employee shall be notified in writing of the action taken and the charges. The employee does not have the right of appeal.

C. Dismissal of Limited-Term and Substitute Employees

A limited-term or substitute employee may be terminated at any time during an assignment without regard to procedures set forth in this rule.

D. Procedure for Disciplinary Action and Appeal

When the appointing authority is recommending disciplinary action under this rule, the employee shall be given preliminary written notice of the proposed action, the effective date, and the specific charges, in ordinary and concise language describing the individual acts or omissions which have resulted in the recommendation.

The written notice shall also clearly indicate the employee's right to respond to the person designated in the notice within five working days. The notice shall state the date on which the period of five working days ends.

When the Board has taken final action to suspend, demote, or dismiss an employee, the superintendent or the designated representative shall, within three working days, notify the personnel director in writing. The notice shall include the specific charges.

The personnel director shall file written charges with the Personnel Commission and notify the employee within 10 days of the disciplinary action.

The notification shall be handed personally to the employee by the personnel director or by a person designated by him/her, or sent by certified mail. The provisions of this section shall be deemed to have been complied with if a copy of the notification is deposited in the United States Post Office addressed to the employee at the last known mailing address on file in his/her official personnel folder. The notice shall contain:

1. A statement of the charges., written in ordinary and concise language, stating the specific acts and omissions upon which the disciplinary action is based, the cause for the action taken, and the specific rule or regulation violated. This statement must be so clearly worded that the employee will know the exact complaints and may be expected to be able to respond to them.
2. The time allowed to file an appeal;
3. The right of the employee to a hearing on the appeal;
4. The requirements for the employee's answer as set forth in these rules.

The employee may, within 14 calendar days after receipt of the notice from the personnel director, appeal to the Personnel Commission by filing a written answer to the charges; he/she may also request a hearing.

The written answer to the charges must include facts based on the grounds that:

1. The charges made do not constitute sufficient cause for the action taken.
2. The action taken was not in accord with the facts.
3. There has been an abuse of discretion.
4. The procedures set forth in these rules have not been followed.
5. The disciplinary action was taken because of political affiliations, religious beliefs or opinions, race, color, national origin, ancestry, sex, employee organization membership or nonmembership, marital status, age, or physical handicap.

Notwithstanding the procedures prescribed above, an employee may be suspended prior to Board approval at the discretion of the superintendent, subject to later ratification by the Board, no later than the second regularly scheduled meeting of the Board of Education following notification of suspension. Requirements in regard to changes and notifications must be met when the Board ratifies the action.

Dismissal shall cause removal of the employee's name from all employment lists.

E. Hearings

After an employee has made and filed an appeal in answer to charges, the Personnel Commission shall investigate or cause to be investigated the matter on appeal and may require further evidence from either party. The Commission may, and upon request of an accused employee shall, order a hearing. If a hearing is to be conducted, the Personnel Commission shall then fix the time and place of the hearing, which shall be within a reasonable length of time from the receipt of the appeal.

The Personnel Commission may appoint a hearing officer to conduct any hearing and report findings and recommendations to the Commission. Such recommendations shall not be binding on the Commission.

Hearings shall be conducted in the manner most conducive to determination of the truth, and neither the Commission nor its hearing officers shall be bound by technical rules of evidence. Decisions made by the Commission shall not be invalidated by an informality in the proceedings.

The Personnel Commission or its hearing officer shall determine the relevancy, weight, and credibility of testimony and evidence. It shall base its findings on a preponderance of evidence.

The burden of proof shall be on the Board.

The investigation and hearing shall be confined to the reasons for the disciplinary action as charged by the appointing authority and the relevant defenses set forth by the employee in the appeal and answer. The Commission's decision shall not be subject to review by the Board of Education.

Each party will be allowed to examine and cross-examine witnesses.

The Board, the Commission, and the employee will be allowed to be represented by separate legal counsel or other designated representatives.

The Commission may, and shall if requested by the Board of Education or the employee, subpoena witnesses, require the production of records or other material evidence, and cause the depositions of witnesses to be taken in the manner prescribed by law for like depositions in civil cases in the Superior Court of this state.

The Commission may, prior to or during a hearing, grant a continuance for any reason it believes to be important to its reaching a fair and proper decision.

The Commission may permit an amendment of the charges at any time prior to the decision. The employee shall be given notice of the amendment and an opportunity to show that it will be prejudicial unless the hearing is reopened to permit the introduction of additional evidence. If such prejudice is shown, the hearing shall be reopened to permit the introduction of additional evidence.

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