

**FOLSOM CORDOVA UNIFIED SCHOOL DISTRICT  
Personnel**

**Classified Personnel**

**DISCIPLINE/DISMISSAL OF CLASSIFIED EMPLOYEES**

**AR 4216**

Discipline Defined

1. Discipline, as used in this Regulation, means dismissal, demotion, suspension, and/or reduction in hours or classification for performance related reasons, without the employee's consent.
2. A layoff or reduction in hours, based on lack of work or lack of funds, shall not be considered discipline.
3. This regulation shall not limit the District's right to evaluate, to counsel, or to reprimand an employee, whether orally or in writing.
  - a. Oral Warning
  - b. An *oral warning* means an interview by the supervisor with the employee to discuss the problem, to listen to the employee, to discuss solutions, and to advise the employee of what is expected in the future.
  - c. Written Reprimand
  - d. A written reprimand means a statement by the supervisor in ordinary and concise language of the specific acts and omissions of the employee. A written reprimand shall be placed in the individual's personnel file after a period five (5) days from issuance during which the employee may submit a written rebuttal for consideration and inclusion in the file.

**Probationary Employees**

1. Dismissal During Probationary Period

The probationary period is an extension of the District's personnel selection process. As such, the Governing Board, upon recommendation of the Superintendent or designee, may dismiss a probationary classified employee from District employment, with or without cause. A probationary employee shall not be entitled to any hearing regarding such dismissal.
2. Discipline Short of Dismissal

Discipline short of dismissal for a probationary employee may be initiated by a District official having administrative supervision over the employee disciplined. A probationary employee who wishes to appeal such an action may do so by delivering a written statement within five (5) days of the discipline outlining objections to the Superintendent or his/her designee. The Superintendent or designee shall thereafter render a final decision regarding whether the proposed discipline should be sustained or reversed. The decision of the Superintendent or designee to sustain or reverse the action shall be final.

**Permanent Employees**

1. Progressive Discipline

In accordance with the concept of "progressive discipline," counseling and an opportunity for improvement shall typically precede disciplinary action. However, this concept shall not apply in cases involving gross misconduct or other circumstances deemed appropriate by the District.
2. Basis for Discipline
  - a. Discipline shall be imposed on permanent employees in the classified service only for cause.
  - b. Discipline less than discharge will be undertaken for corrective purposes only.
  - c. No disciplinary action shall be taken for any cause which arose prior to the employee's becoming permanent, nor for any cause which arose more than two (2) years preceding the date of the filing of the notice of cause unless such cause was concealed or not

disclosed by such employee when it could be reasonably assumed that the employee should have disclosed the facts to the District. Such prior cause(s), however, may be utilized in determining the appropriate level of discipline for a current cause of discipline.

### 3. Causes for Discipline

In addition to any disqualifying or actionable causes otherwise provided for by State statute or regulation, or by policy or regulation of this District, each of the following constitutes cause for disciplinary action against a permanent classified employee:

- a. Incompetence or inefficiency in the performance of duties.
- b. Carelessness, negligence, or neglect in the performance of duties, or in the care or use of District property or another's property.
- c. Excessive absence and/or tardiness from duty.
- d. Absence from duty not authorized by District policies, including absence without proper notice to the District.
- e. Abuse of leave privileges.
- f. Physical or mental disability which precludes the employee from performing the duties of his/her position, as determined by competent medical authority (except as otherwise provided by contract, and/or by federal and State laws and regulations, including laws regulating retirement of employees and the rights of disabled or handicapped individuals).
- g. Dishonesty.
- h. Falsifying any information supplied to the District, including but not limited to, information supplied on application forms, employment records, time cards or sheets, absence forms, or any other District records.
- i. Insubordination, including, by way of illustration and not limitation, the refusal or failure to perform assigned duties, cooperate fully with instructions, or comply with rules, regulations, and reasonable orders issued by competent authority in a reasonable time and manner.
- j. Discourteous, offensive, or abusive conduct or language toward other employees, students, or the public.
- k. Consumption of an alcoholic beverage, or an intoxicant of any kind, while on duty, or in such close time proximity thereto as to cause any detrimental effect upon the employee or upon employees associated with him/her.
- l. Possession of an alcoholic beverage, or an intoxicant of any kind, at a District facility or on District property.
- m. Use, possession of, unlawful sale/furnishing of, or being under the influence of a controlled substance (*Health and Welfare Code Sections 11007, et seq.*).
- n. Conviction of any felony; conviction of any sex offense made relevant by provisions of law, or conviction of a misdemeanor of moral turpitude or which is of such a nature as to adversely affect the employee's ability to perform the duties and responsibilities of his/her position. A plea or verdict of guilty, or a conviction following a plea of nolo contendere, is deemed to be a conviction for this purpose.
- o. Personal conduct or immoral conduct, whether on or off the job, unbecoming of an employee of the District.
- p. Violation of District, Board or departmental rule, policy, or procedures.
- q. 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.
- r. Failure to possess or keep in effect any license, certificate, or other similar requirement specified in the employee's class specification or otherwise necessary for the employee to perform the duties of the position.
- s. Unlawful discrimination, including harassment, on the basis of any protected status or characteristic, including but not limited to, race, religious creed, color, national origin,

- ancestry, disability, marital status, sex, sexual orientation, or age, against the public or other employees while acting in the capacity of a District employee.
- t. Unlawful retaliation against any other District officer or employee or member of the public who, in good faith, reports, discloses, divulges, or otherwise brings to the attention of any appropriate authority any information relative to an actual or suspected violation of State or federal law occurring on the job or directly related thereto.
  - u. Refusal to take and subscribe any oath or affirmation which is required by law in connection with employment.
  - v. Any other failure of good behavior during or outside of duty hours which is of such nature that it negatively impacts the employee's ability to render service to the District.

## **Procedures Relating to Discipline**

### **1. Informal Conference**

- a. An employee who has been tentatively recommended for discipline shall be afforded the opportunity to present facts in his/her defense at an informal conference prior to a final determination by the District.
- b. The employee shall have the right to a representative of his/her choice at the informal conference.
- c. Where the proposed discipline would result in the loss of any classification or incident of employment of greater than five (5) working days, the informal conference shall be conducted by an administrator other than the administrator who has made the recommendation for discipline.

### **2. Notice of Proposed Discipline**

Following the informal conference, the person initiating the disciplinary action shall file a written recommendation of personnel action with the Superintendent or his/her designee. The Notice of the recommended action shall:

- a. Be written in ordinary and concise language;
- b. Be sent to the employee by registered or certified mail, return receipt requested, be personally delivered on the employee, or be actually received by the employee;
- c. Be served at least five (5) days prior to the date of the proposed discipline;
- d. Include a statement of the nature of the personnel action, including length of any proposed suspension without pay;
- e. Include a statement of the cause or causes for the personnel action, as set forth above;
- f. Include a statement of the specific acts or omissions upon which the causes are based. If a violation of rule, policy, or regulation of the District is alleged, the rule, policy, or regulation violated shall be stated in the recommendation;
- g. Include a statement of the employee's right to file with the Superintendent a request for a hearing before the Governing Board of the District, and the manner and time within which the appeal must be filed;
- h. Include a card or paper, the signing and filing of which shall constitute a demand for hearing and a denial of all charges; and
- i. Include a statement that if the employee does not respond pursuant to (2.g) above, the District will impose the discipline as noticed.

### **3. Amended/Supplemental Charges**

- a. At any time before an employee's appeal is finally submitted to the Board or to a hearing officer for decision, the complainant may, with the consent of the Board or hearing officer, serve on the employee and file with the Board an amended or supplemental recommendation of personnel action.
- b. If the amended or supplemental recommendation presents new causes or allegations, the employee shall be afforded a reasonable opportunity to prepare his/her defense. Any new causes or allegations shall be deemed controverted, and any objections to the

amended or supplemental causes or allegations may be made orally at the hearing and shall be noted on the record.

#### 4. Hearing Procedures

- a. The hearing shall be held at the earliest convenient date, not less than five (5) or more than thirty-five (35) working days from the service of the employee's appeal on the District. In setting the hearing date, the Superintendent or his/her designee shall take into consideration the established schedule of the Board or hearing officer and the availability of counsel and witnesses. The parties shall be notified of the time and place of the hearing. The employee shall be entitled to appear personally, produce evidence, and be represented by counsel. The employee shall be entitled to a public hearing if he/she demands it at least five (5) days prior to the scheduled date of the hearing. The complainant may also be represented by counsel. The procedure entitled "Administrative Adjudication" commencing with *Government Code* 11500 shall not apply to any such hearing before the Board or a hearing officer. Neither the Board nor a hearing officer shall be bound by rules of evidence used in California courts. Informality in any such hearing shall not invalidate any order or decision made or approved by the hearing officer or the Board.
- b. All hearings shall be heard by a hearing officer (who shall be an attorney licensed in the State of California) except in those cases where the Board determines to hear the appeal itself. In any case in which the Board hears the appeal, the Board may use the services of its counsel or a hearing officer in ruling upon procedural questions, objections to evidence, and issues of law. If the appeal is heard by the Board, the Board shall affirm, modify, or revoke the recommended personnel action.
- c. If the employee fails to appear at the hearing, the employee shall be deemed to have waived any right to participate or be represented at hearing. Thereafter, action may be taken without further notice to the employee in accordance with the recommendation for disciplinary action which was previously served on the employee
- d. If the appeal is heard by a hearing officer, he/she shall prepare a proposed decision in a form that may be adopted by the Board as the decision in the case. A copy of the proposed decision shall be received and filed by the Board and furnished to each party within ten days after the proposed decision is filed by the Board. The Board may:
  - i. Adopt the proposed decision in its entirety;
  - ii. Reduce the personnel action set forth in the proposed decision and adopt the balance of the proposed decision;
  - iii. Reject a proposed reduction in personnel action, approve the personnel action sought by the complainant or any lesser penalty, and adopt the balance of the proposed decision; or
  - iv. Reject the proposed decision in its entirety.
- e. If the Board rejects the proposed decision in its entirety, each party shall be notified of such action and the Board may decide the case upon the record including the transcript, with or without the taking of additional evidence, or may refer the case to the same or another hearing officer to take additional evidence. If the case is so assigned to a hearing officer, he/she shall prepare a proposed decision, as provided in item 4 d 3) above, upon the additional evidence and the transcript and other papers which are part of the record of the prior hearing. A copy of this proposed decision shall be furnished to each party within 10 days after the proposed decision is filed by the Board.
- f. In arriving at a decision or a proposed decision on the propriety of the proposed personnel action, the Board or the hearing officer may consider the records of any prior personnel action proceedings against the employee in which a personnel action was ultimately sustained and any records that were contained in the employee's personnel files and introduced into evidence at the hearing.

5. Decision of the Board

- a. The decision of the Board shall be in writing and shall contain findings of fact and the personnel action approved, if any. The findings may reiterate the language of the pleadings or simply refer to them.
- b. The decision of the Board shall be certified to the Superintendent or designee, who shall enforce and follow the decision. A copy of the decision shall be delivered to the appellant or his/her designated representative personally or by registered mail.
- c. The decision of the Board shall be final.

**Compulsory Dismissal**

- 1. The District shall not employ or retain in employment any person who has been convicted of any sex offense as defined in *Education Code 44010* or any controlled substance offense as defined in *Education Code 44011*. However, the District may employ a person convicted of a controlled substance if the Board determines from the evidence it requires that the person has been rehabilitated for at least five years. If any such conviction is reversed and the person acquitted or charges dismissed except as otherwise provided below, the employee may be re-employed by the District, although re-employment is not a guarantee. (*Education Code 45123*)
- 2. The District reserves the right to dismiss an employee for any acts upon which the original criminal charges were based, despite the disposition by the courts. If dismissal is recommended and upheld, an employee will not be re-employed or compensated for the time he/she was suspended unless otherwise required by law. An employee shall be given notice of the possibility of not being reimbursed during mandatory suspension if he/she is ultimately dismissed for the acts upon which the original charges were based.

Adopted: 02/17/70  
Revised: 02/16/71  
Revised: 02/17/76  
Revised: 08/04/81  
Revised: 11/07/90  
Revised: 12/06/94  
Revised: 11/01/07