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Administrative Regulation

DISCIPLINARY APPEALS

A. Disciplinary Appeal Process

For punitive action involving the equivalent of thirty, (30) calendar days suspension or less, or other actions in excess of thirty (30) calendar days shall provide a process for the employee to appeal the decision.

B. Step – 1. Administrative Hearing

1. Initiation and Notification of Charges

- a. The superintendent/President may initiate discipline by filing a written action, as defined in Board Policy and Administrative Regulation 7365, with the Board of Trustees against a permanent classified employee.
- b. Filing with the Board of Trustees shall be accomplished when the Superintendent/President places a “Recommendation for Personnel Action” on the agenda for the next Board meeting.

2. Within five (5) work days of the filing, a copy of the Recommendation for Personnel Action shall be served on the employee either in person or by registered/certified mail, return receipt requested, at the employee’s last known address.

3. It shall include the following:

- a. A statement of the personnel action being recommended (e.g., suspension with/without pay or dismissal).
- b. A statement of the cause phrased in ordinary and concise language and not in the language of the District’s rule, regulation, or statute.
- c. A statement of the specific acts or omissions on which the causes are based.
- d. A statement of the employee’s right to appeal and the manner and time his/her appeal must be filed.
- e. An official notice, the signing and timely filing of which shall constitute a demand for hearing and a denial of all charges.

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- f. Notice of the date, time, and place of an administrative hearing conducted by the Department Head to provide the employee an opportunity to present information relative to the charges to be considered by the Board.
 - 1) The employee is entitled to be accompanied by a representative of his/her choice.
 - 2) Failure to appear at the scheduled administrative hearing, or to obtain a postponement, shall be deemed to be a waiver of the employee's right to an administrative hearing.
 - 3) Participation, or failure to participate in the scheduled administrative hearing, shall not prejudice the employee's right to demand a hearing before the Board of Trustees or an appeal in mediation.

C. Step – 2. Appeal to the Board of Trustees

1. The Board of Trustees may conduct its own appeal hearing or appoint a designee to conduct the hearing and report findings, conclusions, and recommendations to the Board of Trustees.
2. Such hearing shall take place within a reasonable period of time but not before five (5) business days after the filing of a request for a hearing
3. Hearings will be presided over by Board of Trustees or its designee.
4. The employee shall have a right to appear in person on his/her own behalf with designee or such representation as he/she requests to represent his/her defense. However, if the employee is a member of a bargaining unit in which an exclusive representative has been certified, no other employee organization may represent the employee.

D. Decisions

The recommendation of the Board of Trustees designee shall be submitted to the Board of Trustees and shall be in writing summarizing the facts, setting forth findings, and making a recommended decision. A copy shall be served by registered/certified regular U.S. Mail upon the appellant.

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E. The employee shall have the right to appeal the designees decision to the Mediator within fifteen (15) business days after the proposed decision is filed with the Board.

F. Step – 3. Appeal to Mediation

1. Mediation Appeal Rights

a. For punitive action involving the equivalent of thirty (30) calendar days suspension or less, or other actions in excess of thirty (30) calendar days the parties shall provide a process for the employee to appeal the decision. The parties will utilize the services of the State of California Mediation/Conciliation Service if the matter cannot be resolved by the appeal to the Board of Trustees.

2. Hearing Procedures

a. The hearing shall be held at the earliest convenient date, considering the established schedule of a mediator, and the availability of counsel and witnesses. The parties shall be notified of the date, time, and place of the hearing.

b. The employee shall be entitled to appear personally and have counsel. The District may also be represented by counsel.

c. The mediator shall prepare a proposed decision, and it shall be furnished to each party within ten (10) business days after the proposed decision is filed with the Board.

d. In arriving at a decision or proposed decision, the Mediator may consider the records of any prior personnel action proceedings against the employee in which another personnel action was sustained and any records contained in the employee's personnel files within the last two years if the records were introduced into evidence at the hearing.

G. Hearing Decision

The decision of the Mediator shall be certified to the Board of Trustees. Both parties agree to accept the mediator's findings of facts as final. The Board may

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accept or reject the mediators decision, however if the decision of the Board is different than that of the mediator, the reasons will be submitted in writing to CSEA. A copy of the decision shall be delivered to the appellant and his/her designated representative personally or by registered mail, postage prepaid, and delivered to the employee's last known address. The decision of the Mediator shall be final, subject only to appeal in a Court of competent jurisdiction.

H. Limitations

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 reasonable be assumed that the employee should have disclosed the facts to the District. Disciplinary action taken shall be commensurate with the offense.

Adopted: 5/20/91

Renumbered from Administrative Regulation 4218.1: 02/02/15