

ARTICLE 23 - DISCIPLINARY ACTION

23.1 Definition: Disciplinary action is any action which deprives a unit member of any classification and includes, but is not limited to, dismissal, demotion, suspension without pay or reduction in pay.

23.2 Causes:

23.2.1 Probationary unit members may be terminated during the probationary period at the will of the governing Board if it is determined that such person has failed in any manner to meet with standards of the District. Such termination may become effective upon written notice from the Superintendent. Such action may not be appealed to the Board.

23.2.2 Permanent unit members may be disciplined for reasonable cause, including but not limited to, the following:

1. Unsatisfactory attendance, such as:
 - a. Repeated absence, without notification.
 - b. Excessive absence.
 - c. Repeated unexcused absence or tardiness.
 - d. Abuse of sick leave privilege.
 - e. Incarceration which adversely affects job performance.
 - f. Leaving the job during the work day without prior authorization
2. Unsatisfactory personal conduct, such as:
 - a. Commission or conviction of any criminal act, whether a misdemeanor or felony, which is detrimental or prejudicial to the public service. As used herein, "conviction" means a plea of guilty, a verdict of guilty, a finding of guilt by a court in a trial without a jury or a plea of nolo contendere.
 - b. Commission of any act involving moral turpitude.
 - c. Discourteous, offensive, or abusive conduct or language toward others.
 - d. Dishonesty.
 - e. Reporting for work while intoxicated, possession of an open container of an alcoholic beverage on District property, or in a District owned vehicle, use of alcohol in a manner affecting job performance.
 - f. Reporting to work or working while under the influence of a drug, or use of drugs in a manner affecting job performance.
 - g. Conviction (or proof of commission) of any sex offense as defined in Education Code 44010, or a conviction (or proof of commission) under penal Code 261.5.

ARTICLE 23 - DISCIPLINARY ACTION

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- h. Conviction (or proof of commission of any narcotics offense as defined in Education Code 44011 or a conviction (or proof of commission) under Health and Safety Code 11361.
 - i. Falsifying any information supplied to the School District, including but not limited to, information supplied on application forms, employment records, leave verification forms or any District records.
 - j. Altering or falsifying records of the District.
 - k. Repeated malingering during the course of a normal working day.
 - l. Engaging in political activities while on a work duty status.
 - m. Release of personal information concerning any employee or any pupil who is not his own child or ward to any person other than teacher or administrator in the school which the pupil attends or is enrolling.
 - n. Excessive fraternizing with students.
 - o. Possession of a deadly or dangerous weapon on school grounds.
 - p. Theft or use without authorization of District property for personal gain.
 - q. Offering of anything of value or offering any service 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.
3. Unsatisfactory fulfillment of job responsibilities, such as:
- a. Incompetency or efficiency in the performance of the duties of the position.
 - b. Insubordination (including, but not limited to, refusal to do assigned work).
 - c. Carelessness or negligence in the performance of duty, or in the care and use of District property.
 - d. Misuse or misappropriation of District property and/or District funds.
 - e. Willful violation of the Education Code, Title V of the California Administrative Code, any other Code or Administrative Code of California, or any rules of the Governing Board.
 - f. Denial, suspension, revocation or nonrenewal of a license, permit or any other document(s) required by the nature of the position.
 - g. Receipt by the District from the District's insurance carrier of a request in writing for an endorsement excluding the employee from coverage under the District's insurance policy while driving a motor vehicle because of increased risk due to the employee's poor driving record.
 - h. Physical inability to perform duties of the assignment.
 - i. Refusal to take a physical examination (at District expense) when requested to do so in writing by direction of the Superintendent.
 - j. Physical or mental condition unfitting the employee to associate with children.

ARTICLE 23 - DISCIPLINARY ACTION

4. Other reasons, such as:

- a. Advocacy of overthrow of federal, state or local government by force, violence or other unlawful means.
- b. Membership in the Communist Party.
- c. Abandonment of position (absence without approved leave and without acceptable excuse).
- d. Failure to wear required uniform or failure to wear clothing which appropriately represents a professional public image.

23.2.3 Nothing herein prevents the use of disciplinary action for causes stated herein in a progressive discipline program. Said program will consist of verbal warnings, written warnings, written reprimands, and suspension. Any documentation of employee performance related to this disciplinary program may be, if corrective action has not been taken by the employee, placed in the employee's personnel file after providing the employee with copies and notice of an opportunity to attach his/her own statement.

23.3. Procedures:

23.3.1 Prior to the taking of disciplinary action, the affected unit member shall have the right to discuss the incident with his/her supervisor and the District Superintendent. If dismissal is to be recommended to the Governing Board, the affected permanent unit member shall receive any written documentation upon which the recommendation is based. The unit member may request a hearing before the Governing Board for the purpose of challenging the recommendation.

23.3.2 The dismissal, demotion or suspension hearing shall be held in Closed Session before the Governing Board unless an open session is requested by the employee. 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 themselves for an advisory decision. In the event of the use of a Hearing Officer, the District shall request a list of seven Hearing Officers from the State Conciliation and Mediation Service. The Hearing Officer shall be the person remaining on the list after alternate strikes by the district and CSEA. A recording of the hearing shall be provided for the employee by the District. The unit member will be allowed to testify under oath and to present witnesses on his/her behalf who also may testify under oath. The Governing Board shall deliberate in private and report their decision after deliberation.

23.3.3 Nothing herein shall be interpreted as preventing the Superintendent or designee from immediately suspending a unit member during the investigation of a disciplinary matter, so long as the unit member is not deprived of pay. A suspension without pay cannot be implemented without first offering the unit member an opportunity for a hearing before the Governing Board.

ARTICLE 23 - DISCIPLINARY ACTION

- 146 | 23.3.4 | Only the procedures utilized in implementing discipline are subject to the
147 | | grievance procedure, Article 15, of this Agreement. The cause for
148 | | discipline and the decision of the Governing Board are not subjects which
149 | | can be grieved.
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- 151 | 23.3.5 | Prior to any conference or evaluation that would lead to disciplinary
152 | | action, or before questioning in matters which might lead to discipline, the
153 | | unit member will be informed in advance of the nature of the meeting and
154 | | of the opportunity to have a representative of their choosing present. The
155 | | district will allow reasonable time for the unit member to contact his/her
156 | | representative. When matters related to the safety of staff, students, and
157 | | the public occur, the District may contact the Association leadership for
158 | | the immediate appointment of a representative for the employee.