

Human Resources

1 AP 7365 DISCIPLINE AND DISMISSAL – CLASSIFIED EMPLOYEES

2 References:

- 3 Education Code, Section 88013
- 4 Government Code, Sections 3300 et seq.

5 Discipline

6 No employee in the classified service shall be disciplined because of his/her political or
7 religious opinions or affiliations, or race, color, gender, gender identity, gender
8 expression, medical condition, genetic information, sexual orientation, physical or mental
9 disability, age, national origin, ancestry, marital status or other category prohibited by law.

10 The Board of Trustees retains broad discretionary powers in the matters of imposition of
11 disciplinary actions on classified employees. A permanent classified employee of the
12 District shall be accorded rights to due process in relation to disciplinary actions.

13 Probationary Dismissal

14 At any time prior to the expiration of the probationary period, the Board of Trustees may,
15 at its sole discretion, dismiss a probationary classified employee from District employment
16 without cause. A probationary classified employee shall not be entitled to an appeal or
17 to a hearing.

18 Cause for Discipline

19 A permanent classified employee shall be subject to disciplinary action for cause including
20 but not limited to demotion, suspension or dismissal from employment.

21 The term "cause" shall include, but shall not be limited to the following:

- 22 1) Incompetence or inefficiency in the performance of the duties of the position held.
- 23 2) Insubordination (including, but not limited to, refusal to do assigned work), or
24 insolence or disrespect toward authority.
- 25 3) Carelessness or negligence in the performance of duty or in the care or use of
26 District property.
- 27 4) Discourteous, offensive, or abusive conduct or language toward other employees,
28 students, or the public.
- 29 5) Dishonesty.
- 30 6) Possession, consumption, or being under the influence of alcoholic beverages or
31 intoxicants while on duty.
- 32 7) Unauthorized use or possession during working time of any illegal drugs or
33 controlled substances or prescription drugs for which an employee does not have
34 a valid, current prescription issued to him/her.
- 35 8) Personal conduct unbecoming an employee of the District, whether or not such
36 conduct amounts to a crime.

- 37 9) Conviction of a felony or of any crime involving moral turpitude, or any crime
38 bringing discredit upon the District.
- 39 10) Conviction of a sex offense as defined in Education Code Section 87010.
- 40 11) Absence and/or repeated tardiness without authority or sufficient reason.
- 41 12) Excessive absenteeism and/or tardiness regardless of reason.
- 42 13) Abuse of leave privileges.
- 43 14) Falsification or omission of any information supplied or required to be supplied to
44 the District, including but not limited to, information supplied on application forms,
45 employment records, or any other college District records.
- 46 15) Violation or refusal to obey the school laws of the state or reasonable regulations
47 prescribed for the government of community colleges by the Board of Governors
48 or by the Board of Trustees of the District.
- 49 16) Offering of anything of value or offering any service in exchange for special
50 treatment in connection with the employee's job or employment, or accepting
51 anything of value or any service in exchange for granting any special treatment to
52 another employee or to any member of the public.
- 53 17) Willful refusal to follow the lawful directives of the employee's supervisor or other
54 supervisory or managerial directives.
- 55 18) Willful failure of good conduct tending to injure the public service.
- 56 19) Abandonment of position, by being absent without authorization for five (5) or more
57 days.
- 58 20) Immoral conduct.
- 59 21) Evident unfitness for service.
- 60 22) Engaging in political activities during assigned hours of duty.
- 61 23) Inability to meet requirement of job description, including but not limited to,
62 possession of licenses, etc.
- 63 24) Any conduct that threatens or tends to threaten the welfare and/or the property of
64 the students or employees of the District, including the employee(s) involved in the
65 conduct.
- 66 25) The refusal of any officer or employee of the District to testify under oath before
67 any court, grand jury, or administrative officer having jurisdiction over any then
68 pending cause of inquiry in which the District is involved. Violation of this provision
69 may constitute of itself sufficient ground for the immediate discharge of such officer
70 or employee.
- 71 26) Working overtime without authorization.

72 **Disciplinary Actions**

73 Disciplinary action taken by the District against a permanent member of the classified
74 service may include, but not be limited to oral reprimand, written reprimand, and the
75 following:

- 76 • **Reduction in pay or demotion** – The District may reduce the pay or demote an
77 employee whose performance of the required duties falls below standard, or for
78 misconduct.
- 79 • **Suspension** – An employee may be suspended for disciplinary purposes without
80 pay.

- 81 • **Discharge** – A permanent member of the classified service may be discharged for
82 just cause at any time. Formal written notice of discharge may be made after
83 considered action during a period of suspension.

84 **Procedure for Disciplinary Action and Appeal**

85 The District may, for disciplinary purposes, suspend, demote or terminate any employee
86 holding a position in the classified service. Demotion shall include reduction in pay from
87 a step within the class to one or more lower steps. For classified employees suspended,
88 demoted or discharged the District shall follow a pre-disciplinary procedure as follows:

89 **Notice to Employees**

90 The District shall give notice to any permanent employee subject to dismissal from
91 employment prior to taking the disciplinary action. The notice shall be in writing,
92 and shall contain the following information:

- 93 1) The specific charge(s) against the employee, including a description of the
94 conduct giving rise to the charge(s) and the specific cause(s) for discipline
95 in accordance with Board Policy.
- 96 2) The date, time, and place at which a pre-disciplinary administrative review
97 meeting will be conducted. The meeting shall be conducted not less than
98 five (5) days and not more than ten (10) days after the date of service of
99 notice to the employee.
- 100 3) A statement informing the employee that failure to appear at the pre-
101 disciplinary administrative review meeting will result in his/her waiver of the
102 right to such a review.

103 **Pre-Disciplinary Administrative Review**

104 The pre-disciplinary administrative review shall be before the Vice President of
105 Human Resources or designee, and shall constitute the administrative review
106 required by these policies. The administrative review shall be convened at a time
107 designated by the District. The employee may elect to be represented by the
108 recognized employee association, outside counsel, or the employee may elect to
109 represent himself/herself. The administrative review meeting shall be informal,
110 and the employee shall have the opportunity to present to the Vice President of
111 Human Resources or designee any relevant evidence in the form of a narrative
112 presentation or documents relative to the disciplinary action of which the employee
113 received notice. Following the administrative review meeting, the Vice President
114 of Human Resources or designee shall decide whether the disciplinary action shall
115 be imposed, and if not, whether lesser disciplinary action shall be imposed.

116 **Notice of Disciplinary Action/Demand for Hearing**

117 Any permanent employee against whom disciplinary action is initiated by the
118 District shall be given written notice by the Vice President of Human Resources or
119 designee. Such notice shall indicate the nature of the disciplinary action, the
120 cause(s) for such action, and the specific charge(s) against the employee. If the
121 disciplinary action is suspension, demotion and/or dismissal from employment, the
122 notice shall contain a statement of his/her right to a hearing on such charges, the
123 time within which such hearing may be requested (which shall not be less than five

124 (5) workdays after service of the notice on the employee) and said notice shall be
125 accompanied by a card or paper, the signing and the filing of which with the Vice
126 President of Human Resources or his/her authorized representative shall
127 constitute a demand for a hearing and a denial of all charges. Failure of the
128 employee to file a request for hearing within the time specified shall constitute a
129 waiver of the employee's right to a hearing.

130 At any time before an employee's appeal is submitted to the Board of Trustees or
131 to a Hearing Officer for decision, the District may serve on the employee and file
132 with the Board or the Hearing Officer an amended or supplemental
133 recommendation of disciplinary action. If the amended or supplemental
134 recommendation presents new causes or allegations, the employee shall be
135 afforded a reasonable opportunity to prepare his/her defense thereto. Any new
136 causes or allegations shall be deemed controverted and any objections to the
137 amended or supplemental causes or allegations may be made orally at the hearing
138 and should be noted on the record.

139 **Conduct of Hearing**

140 ***Hearing Officer***

141 The Board of Trustees shall appoint a Hearing Officer to hear the matter unless
142 the Board of Trustees determines to hear the matter.

143 ***Notice of Hearing***

144 The Vice President of Human Resources or designee shall set the matter for
145 hearing and shall give the employee at least five (5) workdays, notice in writing of
146 the date, time, and the place of such hearing.

147 ***Rights of Employee and the District***

148 The employee shall attend the hearing, and shall be entitled to:

- 149 1) Be represented by counsel or any other person at such hearing;
- 150 2) Testify under oath;
- 151 3) Compel the attendance of other employees of the District to testify in his/her
152 behalf;
- 153 4) Cross-examine all witnesses appearing against him/her and all employees of
154 the District whose actions are in question or who have investigated any of the
155 matters involved in the hearing and whose reports are offered in evidence
156 before the Hearing Officer or the Board;
- 157 5) Impeach any witness;
- 158 6) Present such evidence as the Hearing Officer or the Board deems pertinent to
159 the inquiry; and
- 160 7) Argue his/her case.

161 The District shall be entitled to the same rights.

162 ***Evidence***

163 The hearing shall be informal and need not be conducted according to technical
164 rules relating to evidence and witnesses. Any relevant evidence shall be admitted

165 if it is the sort of evidence on which responsible persons are accustomed to rely in
166 the conduct of serious affairs, regardless of the existence of any common law or
167 statutory rule which might make improper the admission of such evidence over
168 objection in civil actions. Hearsay evidence may be admitted for any purpose, but
169 shall not be sufficient in itself to support a finding unless it would be admissible
170 over objection in civil actions. The rules of privilege and of official or judicial notice
171 shall be effective to the same extent as in civil actions. Irrelevant and repetitious
172 evidence shall be excluded. Oral evidence shall be taken only under oath or
173 affirmation.

174 ***Exclusion of Witness***

175 The Hearing Officer of Board of Trustees may, in its/his/her discretion, exclude
176 witnesses not under examination, except the employee and the party attempting
177 to substantiate the charges against the employee and their respective counsel.
178 When hearing testimony on scandalous or indecent conduct, all persons not
179 having a direct interest in the hearing may be excluded.

180 ***Burden of Proof***

181 The burden of proof shall be upon the party attempting to substantiate the
182 charge(s).

183 ***Findings and Decision***

184 Upon completion of the hearing, written Findings of Fact and Conclusions of Law
185 shall be signed and filed by the Hearing Officer with the Board of Trustees and
186 shall constitute his/her decision. If the case is heard by the Board of Trustees, it
187 shall prepare written Findings of Fact and Conclusions of Law.

188 ***Decision of a Hearing Officer***

189 The Board of Trustees may accept, reject, or modify the decision of a Hearing
190 Officer. Final decision regarding disciplinary matters rests with the Board of
191 Trustees.

192 ***Final Decision – Effect and Notice***

193 Unless the decision by the Board of Trustees provides otherwise, it shall be
194 effective immediately. Notice of the decision shall be mailed promptly to the
195 employee or his/her counsel or representative. Except for the correction of clerical
196 error, such decision shall be final and conclusive.

197 ***Report of Hearing***

198 Hearings shall be recorded by use of a stenographic reporter or electronic
199 recording machine.

200 ***Transcripts of Hearings***

201 Transcripts of hearing shall be furnished to any party involved in the disciplinary
202 action on payment of the cost of preparing such transcripts. When transcripts are
203 provided by the employees of the District, the cost shall be determined by the Vice
204 President of Business Services. When transcripts are provided by an independent
205 contractor, the cost will be established by the independent contractor.

206 **Continuances**
207 The Board of Trustees or a Hearing Officer may grant a continuance of any hearing
208 upon such terms and conditions as it may deem proper.

209 **Emergency Suspension**
210 If an employee's presence on District facilities creates or has the potential of
211 creating a danger or threat to the District's property or to the safety or health of
212 students or employees, including the employee at issue, the District may
213 immediately suspend without pay any employee for a period not to exceed 30 full
214 days pending an investigation of the situation. After the investigation of the
215 employee's conduct in creating an emergency situation the information obtained
216 may be used as the basis, in whole or in part, for disciplinary action as provided in
217 the policy.

218 **Record Filed**
219 When final action is taken, the documents shall be placed in the employee's
220 personnel file.

221 Office of Primary Responsibility: Vice President, Human Resources

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(Replaces former Cerritos CCD Policies 7336, 7337, 7338, 7339, and 7340)