

4.19P

**DISCIPLINARY PROCEDURES FOR CLASSIFIED
MANAGERS AND CONFIDENTIAL EMPLOYEES**

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COURT CASE: (Skelly vs. California Personnel
Board, 15 CAL 3D 194, 1975)**I. Application.**

No permanent employee shall be disciplined except for cause as prescribed herein or in the Education Code of the State of California. The Board of Trustees' determination of the sufficiency of the cause for disciplinary action shall be conclusive. Permanent employees who become probationary in a different classification may be removed from such classification, without cause, and returned to the former classification, during the probationary period.

II. Definition.

Definitions as used herein:

"Disciplinary Action" Any action whereby an employee is demoted, suspended, or dismissed, excluding a layoff for lack of work or lack of funds.

"Cause" Relating to disciplinary actions against employees means those grounds for discipline, or offenses, enumerated in the law or in this policy/procedure.

III. Two (2) Year Limit.

No disciplinary action shall be taken for any cause which arose prior to the employee becoming permanent, nor for any cause which arose more than two (2) years preceding 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.

IV. Probationary.

Probationary employees shall be subject to termination without cause at any time during the probationary period.

V. Causes.

A. Employees are subject to disciplinary action for any of the following causes:

1. Unauthorized or excessive absence from work.
2. Abuse of sick leave.

3. Possession and/or use of controlled substance on the job, or reporting for work while under the influence of controlled substances. Possession and proper use of drugs prescribed by a licensed physician are not prohibited.
4. Discourteous, offensive, or abusive conduct or language toward other employees, students or the public when on duty.
5. Dishonesty.
6. Drinking alcoholic beverages on the job, or reporting for work while under the influence of alcohol.
7. Willfully falsifying any information supplied on application forms, employment records, or any other District records.
8. Incompetence or inefficiency in the performance of duties.
9. Insubordination (including, but not limited to, refusal to do assigned work and/or follow lawful directives).
10. Repeated unexcused absence or tardiness.
11. Conviction of felony or of any crime involving moral turpitude.
12. Disorderly or immoral conduct.
13. Willful or persistent violation of the Education Code or per Title 5 regulations of the State of California, or of any provision of the Board's Policy/Procedures.
14. Incapacity due to mental or physical disability (to the extent permitted by law).

VI. Procedures for Discipline.

A. Employees shall be subject to the following disciplinary procedures:

1. The charges shall be served upon the employee in writing by certified mail or by personal delivery, together with a statement of the proposed discipline.
2. The charges shall contain a clear and concise statement of the acts and omissions upon which the proposed discipline is based, and a statement of the cause for the action. If it is claimed that the employee has violated a rule or regulation, i.e., policy or procedure, of the Board of Trustees, such rule or regulation shall be set forth in the notice.
3. A permanent employee who has been recommended for suspension, demotion or dismissal shall be given written notice of a hearing on such charges, and the time within which such hearing may be requested, which shall be not less than five (5) days after service of the notice to the employee, and a card or paper, the signing and filing of which shall constitute a request for a hearing and a denial of all charges. Failure to request a hearing within the time limit stated in the notice constitutes a waiver of the right to a hearing.
4. Upon initial review, the Board of Trustees shall determine whether to hear the matter or refer it to an arbitrator selected by the Board of Trustees for an advisory opinion.
 - a. The decision and award shall be made solely upon the evidence and arguments presented at the hearing by the respective parties. Neither offers

nor concessions for settlement made prior to the hearing shall be admissible at the hearing.

- b. If the matter is referred to an arbitrator, the decision of the arbitrator shall be advisory. The Board of Trustees shall act to accept or reject the arbitrator's decision within thirty (30) days of receipt of the decision. The decision of the Board of Trustees shall be in writing, and include a finding of facts and justification for the decision. The decision of the Board of Trustees shall be final.
- c. The hearing shall be scheduled within thirty (30) days of when the statement of charges is filed with the Board of Trustees or within thirty (30) days following selection of an arbitrator, or as soon as possible thereafter.
- d. The cost of employing the arbitrator and court reporter shall be borne by the District. All other costs such as, but not limited to attorney's fees and witness fees, shall be borne only by the party incurring that cost. Employees of the District called to testify at a hearing by either party shall do so on work time if said testimony coincides with the employee's regular work schedule.

B. Notice of Disciplinary Action.

This notice indicating the disciplinary action to be imposed after a hearing or after a waiver of the right to a hearing shall be given to the employee in writing by certified mail or personal delivery.

C. Disciplinary Actions.

Such actions shall be governed solely by the provisions of this policy/procedure and shall not be subject to any grievance procedure.

D. Alternate Methods.

The parties may mutually agree to alternative methods of resolving disciplinary matters, including but not limited to mediation and informal hearings prior to submitting a disciplinary matter to arbitration.

VII. Non Grievable.

Disciplinary actions shall be governed solely by the provisions of this policy/procedure and shall not be subject to any grievance procedure.

VIII. Administrative Leaves With Pay And Immediate Suspensions Without Pay.

In the event the College Superintendent/President or designee determines that the cause for disciplinary action presents genuine issues relating to the safety of college employees, students or members of the public or the safety of college property or property owned or possessed by employees or students or members of the public while at the college, the employee may be placed on paid administrative leave until such time as a Skelly (Skelly vs. California Personnel Board, 15 CAL 3D 194, 1975) review may be conducted. In the event a Skelly review is conducted and such concerns continue to exist, the employee may be suspended without pay pending the evidentiary hearing requested by the employee.

IX. Non-Reemployment of Classified Administrators: When the Governing Board determines it will not renew the employment of a classified administrator at the end of their scheduled contract or employment, the Policy and these Procedures will not apply. (See Education Code 72411)