

ARTICLE 18**DISCIPLINE****18.1 District Rights**

The decision to discipline classified employees is at the discretion of the District and shall not be subject to the grievance procedure. Discipline of probationary employees shall not be subject to the provisions of this Article. Discipline of permanent employees shall be pursuant to the procedures enumerated herein.

18.2 CSEA Representation

Classified employees shall have the option to request CSEA representation during any phase of the disciplinary process as defined in this Article.

18.3 Definitions**18.3.1 Day**

For the purposes of this Article only, a "day" shall be defined as a day that the Human Resource Office is open for the transaction of business.

18.3.2 Suspension Pending Termination

The District may opt to suspend a classified employee without pay pending dismissal. In the event of a suspension without pay, the employee shall remain in benefitted status.

18.3.3 Suspension

Suspension is temporary removal from the employment of the District (without pay) for a specified time period, not to exceed thirty (30) days. The employee shall remain in benefitted status during the period of suspension.

18.3.4 Involuntary Demotion

Involuntary demotion is the placement in a lower classification without the employee's consent arising from disciplinary consideration.

18.4 Conduct Subject to Disciplinary Action

Permanent classified employees may be subject to disciplinary action for any one (1) or more of, but not limited to, the following reasons:

1. Fraud in securing employment or making a false statement on an application for employment.
2. Incompetence, i.e., inability to comply with the minimum standard of an employee's position for a significant period of time.
3. Inefficiency or inexcusable neglect of duty, i.e., failure to perform duties required of an employee in the position.
4. Disobedience or insubordination.
5. Dishonesty involving employment.

6. Being impaired by or under the influence of alcohol or illegal drugs or narcotics while on duty.
7. Excessive absenteeism or tardiness.
8. Unexcused absence without leave and/or abandonment of position.
9. Abuse or misuse of sick leave.
10. The conviction of either a misdemeanor or a felony involving moral turpitude shall constitute grounds for dismissal of any employee. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. A plea or verdict of guilty, or a conviction showing a plea of *nolo contendere* made to charge a felony or any offense involving moral turpitude, is deemed to be a conviction within the meaning of this Section.
11. Discourteous treatment of the public, students or other employees, or other failure of good conduct tending to injure the public service.
12. Improper or unauthorized use of District resources.
13. Refusal to subscribe to any oath or affirmation, which is required by law in connection with District employment.
14. Any willful act of conduct undertaken in bad faith, either during or outside of duty hours which is of such a nature that it causes discredit to the District, the employee's department or division.
15. Inattention to duty, tardiness, indolence, carelessness or negligence in the care and handling.
16. Mental or physical impairment, which renders the employee unable to perform the essential functions of the job without reasonable accommodation or without presenting a direct threat to the health and safety of self or others.
17. Acceptance from any source of a reward, gift, or other form of remuneration in addition to regular compensation to an employee for the performance of his or her official duties.
18. The refusal of any officer or employee of the District to testify under oath before any court, grand jury, or administrative officer having jurisdiction over any then pending cause of inquiry in which the District is involved. Violation of this provision may constitute of itself sufficient ground for the immediate discharge of such officer or employee.
19. Willful violation of policies, procedures and other rules, which may be prescribed by the District, college(s) or departments.
20. Working overtime without authorization.

18.5 Progressive Discipline

The District shall follow the principles of progressive disciplinary action if it determines the underlying facts and circumstances support its use as a tool to attempt to improve an employee's performance. There may be circumstances where progressive discipline may appropriately be partially or wholly avoided. It is recognized that not all steps of progressive discipline should be utilized in each case. Progressive discipline may consist of, but not be limited to: Suspension without pay, involuntary demotion, and termination. Oral counseling, written warnings or reprimands, performance evaluations, and similar adverse incidents are not considered discipline for purposes of this Article. The employee has the right to submit a written response to be attached to and placed with any written warning or reprimand in the employee's personnel file.

18.6 Disciplinary Procedures

18.6.1 Draft Statement of Charges

An employee who is the potential subject of disciplinary action will receive a draft Statement of Charges stating the recommendation for discipline to be imposed on the employee, the specific acts or omissions upon which the discipline is based, any rule or regulation violated by the employee, and any documents that the District intends to use to support the charges. Upon receiving the draft Statement of Charges, the employee may respond orally at a Skelly meeting

or in writing within five (5) days to the authority imposing the discipline. By mutual consent, the timeline to respond may be extended.

18.6.2 Skelly Meeting

A Skelly meeting is a pre-disciplinary meeting to provide the employee an opportunity to respond to the draft charges either verbally or in writing. The employee shall have the right to have a CSEA representative represent them at this meeting.

18.6.3 Failure to Respond

Following the five (5) day period, if the employee has not responded, the District may pursue the charges, revise the charges or withdraw the charges.

18.6.4 Conclusion of Skelly Meeting

If a Skelly meeting occurs, the District shall consider the recommendation(s) of the Skelly officer and may revise, withdraw, or pursue the charges as set forth in the draft Statement of Charges. If the District decides to pursue discipline, a final Statement of Charges shall be provided to the employee with all of the appropriate attachments, including a statement of the employee's right to a hearing and a form the employee may sign to request such a hearing.

18.6.5 Request for Hearing

Upon receipt of a final Statement of Charges from the District, an employee shall have five (5) days to request a hearing to appeal the discipline, by signing the form provided along with the final Statement of Charges and returning it to the Human Resources Director or designee.

18.6.5.1 Suspensions of Five (5) or Fewer Days

Upon receipt of a suspension of five or fewer days, if the employee elects, he/she may request a formal hearing on the sufficiency of cause before the Board or the Board's designee, who shall be a District administrator at the Cabinet level who does not have direct supervisory responsibility over the employee or who does not have direct involvement with the subject matter of the discipline. The hearing administrator shall render a written advisory decision on the suspension, which shall be reviewed by the Board, which will render a final and binding decision.

18.6.5.2 Suspensions of Longer than Five (5) Days/Termination/ Demotion

18.6.5.2.1 Right to a Hearing

The employee shall be entitled to a hearing to review the sufficiency of cause for the suspension, termination or demotion, during which the employee has the right to appear personally, with or without representation, before a hearing officer or Administrative Law Judge (ALJ) designated for the hearing and to present evidence.

18.6.5.2.2 Hearing Procedure

The hearing shall be conducted by a hearing officer or Administrative Law Judge, not affiliated with the College and appointed by the District in its sole discretion, to conduct a hearing and render an advisory

opinion to the Board concerning whether the employee should be disciplined.

18.6.5.2.3 Decision of the Designated Administrator and Appeal

Upon completion of the hearing, the decision of the hearing officer or ALJ shall be communicated in writing to the District and the employee. An employee who wishes to appeal an advisory decision must do so in writing within five (5) days after service of the notice to the employee of the decision. Failure to file a timely appeal shall constitute waiver of appeal rights. Upon appeal, the Board shall review the record of the hearing and the advisory decision of the hearing officer or ALJ and make a final and binding decision regarding whether the employee shall be suspended and for what duration. The burden of proof justifying suspension shall remain with the District; however, the Board's determination of the sufficiency of the cause for suspension, and its duration, shall be conclusive.

18.6.5.2.4 Reinstatement of Employment

If a suspension hearing results in a decision by the hearing officer to not discipline the employee and the Board upholds that determination, or if the employee successfully appeals to the Board a decision by the hearing officer, employment shall be reinstated and the employee shall be fully compensated for any period of time the employee was in