

RULE 20

DISCIPLINARY PROCEDURES--DISCIPLINARY APPEAL

2001 General

A classified employee may be informally or formally disciplined by the District. Informal discipline for a non-permanent employee includes a range of disciplinary actions from a reprimand to dismissal. Informal discipline for a permanent employee includes any disciplinary action which does not involve suspension, demotion or dismissal. Formal discipline involves the suspension, demotion or dismissal of a permanent employee.

2002 Reasons for Discipline

Following are some of the reasons that the District may deem sufficient for discipline:

1. Unauthorized absences
2. Abuse of sick leave. Examples include, but may not be limited to, a habitual pattern of absences on Mondays/Fridays, and/or before or after holidays or vacation periods, and/or a pattern of excessive absences.
3. Unauthorized lateness to work
4. Failure to observe precautions for personal safety, posted rules, signs, written or oral safety instructions, or to use protective clothing or equipment
5. Failure to perform regular or other assigned duties
6. Conviction of any criminal act involving moral turpitude
7. Disorderly or immoral conduct while in a paid status
8. Violation of any lawful order by a supervisor
9. Insubordination
10. Incompetency or inefficiency in performance of duties
11. Intoxication while on duty
12. Illegal use of narcotics or drugs
13. Damage to or waste of District property or supplies due to negligence or willful acts, or conversion of public property
14. Violation of any of the District's regulations regarding duties, conduct, or performance of a classified employee
15. Willful conduct tending to injure the public service
16. Sexual harassment

2003 Guidelines for Disciplinary Action

The following examples of reasons for which a classified employee may be disciplined are divided into two groups. Those reasons listed in Group 1 are examples of potentially remedial work behaviors which result in less than satisfactory employee performance. Any classified employee exhibiting one or more behaviors of this type may be disciplined and encouraged to improve her/his performance so as to eliminate the risk of more severe disciplinary action. The offenses listed in Group 2 are examples of very serious offenses which could warrant very severe disciplinary action. These examples are guidelines only and are not intended to cover every type of offense for which an employee may be disciplined. The examples of discipline are examples only and do not in any way limit the authority of the district to discipline an employee.

A. Group 1

Examples of Group 1 Reasons	Examples of Discipline for Offenses		
	1 st	2 nd	3 rd
Unauthorized absences	Reprimand	Reprimand to Short Suspension	Reprimand to Termination
Abuse of sick leave	Reprimand	Reprimand to Suspension	Suspension to Termination
Unauthorized lateness to work	Reprimand	Reprimand to Suspension	Suspension to Termination
Failure to observe precautions for personal safety, posted rules, signs, written or oral safety instructions, or to use protective clothing or equipment	Reprimand to Short Suspension	Reprimand to Removal	Suspension to Termination

B. Group 2

These offenses are very serious and, depending on the circumstances, may warrant severe discipline up to and including removal.

Examples of Group 2 Reasons	These offenses are very serious and, depending on the circumstances, may warrant severe discipline up to and including dismissal.
Failure to perform regular or other assigned duties	
Conviction of any criminal act involving moral turpitude	
Disorderly or immoral conduct while in a paid status	
Violation of any lawful order by supervisor	
Insubordination	
Incompetency or inefficiency in performance of duties	
Intoxication while on duty	
Use of narcotics or drugs illegally	
Damage to or waste of District property or supplies due to negligence or willful acts, or conversion of public property	
Violation of any of the District's regulations regarding duties, conduct, or performance of a classified employee	
Willful conduct tending to injure the public service	
Sexual harassment	
Failure to report to duty for three (3) consecutive days without District approval	
Failure to return from a leave of absence within five (5) working days after the expiration of an authorized leave.	

2004 Procedure for Informally Disciplining an Employee

Informal disciplinary action may be imposed for corrective purposes and may include written reprimand and/or involuntary transfer to a vacant position.

- A. The employee shall be given a written notice of the informal discipline (i.e., the written reprimand or the involuntary transfer notice).
- B. Contents of the Written Reprimand/Notice

The notice shall include but not be limited to the following:

1. A statement in ordinary and concise language of the specific acts and/or omissions upon which the action is based.
2. A statement of the improvement(s) or correction(s) required.
3. A statement that the employee has the right to respond to the matters raised in the disciplinary action, both orally and in writing, prior to the end of the ten (10) calendar days following the date the written notice was served.
4. A statement of the possible or probable disciplinary consequences should the offense occur again.
5. A statement that the employee, upon request, prior to the end of the ten (10) calendar days following the date the written notice was served, is entitled to appear personally before the Superintendent/Designee regarding the disciplinary action. At such meeting the employee shall be granted a reasonable opportunity to make any representations the employee believes are relevant to the case.
6. The Superintendent shall notify the classified employee, within seven (7) calendar days, of his/her final determination of the disposition of the disciplinary action and such decision shall not be subject to the grievance procedure.

2005 Procedure for Formally Disciplining a Permanent Employee

A. Procedural Due Process—Pre-disciplinary Safeguards

Prior to taking formal disciplinary action, the District shall give written notice to the classified employee. This written notice of proposed formal disciplinary action shall be personally delivered or sent to the employee by certified mail at least ten (10) calendar days prior to the date when formal discipline may be imposed. (Service by certified mail shall be deemed complete on the date of mailing.)

In emergency situations, when it is deemed appropriate to remove an employee from the job immediately, the employee will not lose compensation prior to the date when disciplinary action is imposed by the District. Loss of compensation in all cases may occur after the 10th calendar day following the date written notice was served.

B. Contents of the Written Notice

The contents of the written notice shall include, but need not be limited to the following:

1. A statement identifying the District.
2. A statement in ordinary and concise language of the specific acts and/or omissions upon which a proposed formal disciplinary action is based.
3. The specific formal disciplinary action proposed and effective date(s).
4. The reason(s) for the specific formal disciplinary action proposed.
5. A copy of the applicable regulations where it is claimed a violation of regulations took place.
6. A statement that the employee has the right to respond to the matters raised in the written notice both orally and in writing, including the submission of affidavits, prior to the end of the ten (10) calendar days following the date the written notice was served.
7. A statement that the employee, upon request, prior to the end of the ten (10) calendar days following the date the written notice was served, is entitled to appear personally before the Superintendent/designee regarding the matters raised in the written notice. At such meeting the employee shall be granted a reasonable opportunity to make any representations the employee believes are relevant to the case.
8. A statement that the District will notify the employee of its decision regarding formal disciplinary action within a reasonable period of time; and that no evidentiary hearing will be held unless a written demand for the hearing is delivered to the Personnel Commission within fourteen (14) calendar days after the employee is notified of the District's decision.
9. A statement that the employee may demand an evidentiary hearing by:
 - (a) filing a written response to the specific acts and/or omissions which led to the formal disciplinary action with the Personnel Commission within fourteen (14) calendar days after being notified of the District's decision;
 - (b) after filing the written demand, the employee is entitled to a full evidentiary hearing conducted by the Personnel Commission before the District's formal disciplinary action becomes final;
 - (c) by demanding a full evidentiary hearing, the employee waives the right to process the disciplinary action under a grievance procedure.

C. Limitations

No formal disciplinary action shall be taken for any reason which arose more than two years preceding the date of the filing of the notice unless such reason was concealed or not disclosed by such employee when it could reasonably be assumed that the employee should have disclosed the facts to the District.

2006 Appeal

A. A permanent employee who has been suspended, demoted, or dismissed may appeal to the Personnel Commission within fourteen (14) days after having been furnished with a copy of the written charges by filing a written answer to such charges. Appeal can be made on the following grounds:

1. That the procedures set forth in these rules have not been followed.
2. That the action was taken because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, or sexual orientation.
3. That there has been abuse of discretion.
4. That the charges made were not in accord with the facts.
5. Discipline invoked is excessive.

EDUCATION CODE SECTION 45305

2007 Hearing Procedure

- A. The Personnel Commission shall conduct hearings of appeals or may appoint a hearing officer to conduct the hearing, either public or private at the employee's option, and report findings and recommendations to the Commission.
- B. Hearings shall be conducted in the manner most conducive to determinations of the truth, and neither the Commission nor its hearing officer shall be bound by technical rules of evidence.
- C. The Personnel Commission or its hearing officer shall determine the relevancy, weights, and credibility of testimony and evidence. It shall base its findings on the preponderance of evidence.

- D. Each side will be permitted an opening statement beginning with the Governing Board (Board)/Designee and closing arguments beginning with the employee. The Board/Designee shall first present its witnesses and evidence to sustain its charges and the employee will then present witnesses and evidence in defense.
- E. Each side will be allowed to examine and cross-examine witnesses.
- F. Both the Board/Designee and the employee will be allowed to be represented by legal counsel or other designated representation.
- G. The Commission may, and shall, if requested by the Board/Designee or the employee, allow witnesses and may require the parties to produce records or other material evidence.
- H. The Commission may, prior to or during a hearing, grant a continuance for any reason it believes to be important to its reaching a fair and proper decision.
- I. Whether the hearing is held in a public or closed session, the Commission, after it concludes the hearing, may deliberate its decision in executive session. No persons other than members of the Commission shall be permitted to participate in the deliberations.
- J. The Commission shall render its judgment as soon after the conclusion of the hearing as possible. Its decision shall set forth which charges, if any, are sustained and the reasons therefore.
- K. Decisions made by the Commission shall not be invalidated by an informality in the proceedings.
- L. The Commission's decision will be filed with the Board/Designee and the charged employee.
- M. A verbatim record of the hearing shall be made.

2008 Reinstatement and Employee Compensation; Determination of Terms and Conditions, Notification

If the Commission sustains the employee, it may order paid all or part of the full compensation from the time of suspension, demotion, or dismissal, and it shall order reinstatement upon such terms and conditions as it may determine appropriate. The Commission may modify the disciplinary action, but may not take action more stringent than that approved by the Board. In addition, the Commission may direct such other action as it may find necessary, compensation

for all or part of the legitimate expenses incurred in pursuit of the appeal, seniority credit for off-duty time pending reinstatement, and expunction from the employee's personnel record of any charges which were not sustained by the Commission. Upon receipt of the Commission's written decision, the Board shall forthwith comply with the provisions thereof. When the Board has fully complied with the Commission's decision, it shall so notify the Commission in writing.

EDUCATION CODE SECTION 45307

Rule 20 Revised 11/1988, 11/2012, 02/2013, 07/2018