



Butte-Glenn Community College District ADMINISTRATIVE PROCEDURE

AP 7365 Discipline and Dismissal – Classified Employees

Approved by Leadership: August 2014

References: Education Code Section 88013; Government Code Sections 3300 et seq.; CSEA Collective Bargaining Agreement Article 20

Grounds for Discipline

The continued employment of any unit member is contingent upon acceptable performance of assigned duties and personal fitness. A permanent member of the classified service shall be subject to disciplinary action, including but not limited to, oral reprimand, written reprimand, reduction in pay, demotion, suspension, or discharge, for any of the following grounds:

- Fraud in securing employment or making a false statement on an application for employment, employment records or any other District record.
- Incompetence, i.e., inability to comply with the minimum standard of an employee's position for a significant period of time.
- Inefficiency or inexcusable neglect of duty, i.e., failure to perform duties required of an employee within his/her position.
- Willful disobedience and insubordination, a willful failure to submit to duly appointed and acting supervision or to conform to duly established orders or directions of persons in a supervisory position or insulting or demeaning the authority of a supervisor or manager.
- Dishonesty involving employment.
- Being under the influence of alcohol or illegal drugs or narcotics while on duty, being impaired by alcohol or illegal drugs in the employee's biological system while on duty which could impact the employee's ability to do his/her job or being in possession of and/or drinking alcoholic beverages on District property.
- Active addiction to or being under the influence of narcotics or hallucinatory agents; conviction of a narcotics offense.
- Excessive absenteeism or habitually taking sick leave for trivial indispositions or other abuses of leave privileges.
- Inexcusable absence without leave.
- Abuse of sick leave, i.e., taking sick leave without a doctor's certificate when one is required, or misuse of sick leave.
- Dishonesty in handling District funds, reporting time on and off the job, and other matters of similar nature.
- 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. The Office of Human Resources may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline, or the determination if such conviction is an offense involving moral turpitude. 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.

- Discourteous treatment of the public or other employees.
- Improper or unauthorized use of District property.
- Refusal to subscribe to any oath or affirmation that is required by law in connection with District employment, with exceptions given to employees who object on religious grounds.
- 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.
- Inattention to duty, tardiness, indolence, carelessness, or negligence in the care and handling of District property.
- Violation of the rules and regulations published in any department.
- Mental or physical impairment that render the employee unable to perform the essential functions of the job with or without reasonable accommodation, or without presenting a direct threat to the health and safety of self or others.
- 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/her official duties.
- 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 grounds for the immediate discharge of such officer or employee.
- Willful violation of any of the provisions of the ordinances, resolutions or any rules, regulations or policies, which may be prescribed by the District.
- Improper political activity. Example: Those campaigning for or espousing the election or non-election of any candidate in national, state, county or municipal elections while on duty and/or during working hours or the dissemination of political material of any kind while on duty and/or during working hours.
- Working overtime without authorization.

The causes listed above are illustrative and not intended to be an inclusive list.

Background Checks

Background checks may be conducted as part of disciplinary or harassment investigations. (Civil Code Sections 1786 et seq. Fair Credit Reporting Act)

Advanced notice of discipline/harassment investigations may be provided to those under investigation. If the investigation results in action that adversely affects the employee, the employee shall receive oral, written, or electronic notice of the adverse action.

Disciplinary Actions

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

- **Reduction in pay or demotion** – The District may reduce the pay or demote an employee whose performance of the required duties falls below standard, or for misconduct.
- **Suspension** – An employee may be suspended for disciplinary purposes without pay.
- **Discharge** – A permanent member of the classified service may be discharged for just cause at any time. Formal written notice of discharge may be made after considered action during a period of suspension.

Procedure for Disciplinary Action and Appeal

The District may, for disciplinary purposes, suspend, demote or discharge any employee holding a position in the classified service. Demotion shall include reduction in pay from employee's current step to a step appropriate to the lower classification.

For classified employees suspended, demoted or discharged the District shall follow a pre-disciplinary procedure as follows:

- **Recommendation of Suspension, Demotion or Discharge for Cause**
A recommendation to suspend, demote or discharge a unit member may be made by the Superintendent/President to the Governing Board.
- **Notice of Intent**
Prior to instituting the disciplinary process by making a recommendation to the Governing Board, the Superintendent/President shall provide notice to the unit member stating the discipline being contemplated; the causes for the discipline; the facts substantiating the causes for discipline; and the opportunity for the employee to present facts as to why the discipline should not be implemented, either in person or in writing, to a fact finder who has the authority to make a recommendation.
- **Fact Finder Recommendation**
The fact finder shall submit such recommendation to the Superintendent/President. Where the recommendation is based on unsatisfactory work performance the finder of fact shall certify that the unit member's supervisor has previously provided appropriate written corrective guidance, and opportunity for work improvement, in accordance with District policy.
- **Final Notice**
After the response or the expiration of the employee's time to respond to the notice of intent, the Superintendent/President shall: 1) dismiss the notice of intent and take no disciplinary action against the employee; 2) modify the intended disciplinary action; or 3) prepare and serve upon the employee a final notice of disciplinary action. The final notice of disciplinary action shall include the following:
 - The disciplinary action taken;
 - The effective date of the disciplinary action taken;
 - Specific charges upon which the action is based;
 - The written materials reports and documents upon which the disciplinary action is based;
 - The employee's right to appeal.
- **Employee Rights**
Employee shall not be suspended, demoted or discharged except in accordance with the above notice. Employee shall have the right to a hearing to appeal the recommendation of action to suspend demote or discharge.
 - **Appeal and Request for Hearing**
If a classified employee, having been issued the final notice of disciplinary action, wants to appeal the action, he/she shall appeal to the Governing Board by filing a written answer to the charges and a request for hearing with the Chief Human Resources Officer.

- **Hearing Before the Board of Trustees**
The hearing shall be conducted by the Board of Trustees, or a Board appointed Hearing Officer (an Administrative Law Judge appointed through the California Office of Administrative Hearings), in accordance with all relevant provisions in the Education Code and District rules and regulations.
- **Time of Hearing**
A hearing by the Governing Board of the District, or a Board Appointed Hearing Officer, relating to the validity of the charges upon which the recommendation for suspension, demotion and/or discharge action was based shall be commenced, if possible, not later than thirty (30) days after filing the request for hearing.
- **Notice of Hearing**
The employee shall be given not less than ten (10) calendar days written notice of the date, time and place of the Board, or Hearing Officer, hearing. The method of delivery shall be certified or registered mail, return receipt requested, and shall be effective from the date signed by the employee on the return receipt, or five (5) calendar days, whichever is sooner.
- **Conduct of Hearing**
At the time and place designated, the Governing Board, or Hearing Officer, shall hold a hearing for the purpose of determining the validity of the charges brought against the employee. Such hearing shall be closed to the public unless otherwise requested by the employee. The employee shall be present and shall have the right to representation of his/her choice, present evidence, and cross-examine witnesses.
- **Access to Records**
The employee and his/her representative, if any, shall be allowed access to any documents and District records, within the policies defining confidentiality, for the purposes of the hearing.
- **Non-disclosure of Proceedings**
During the hearing before the Governing board, or Hearing Officer, no disclosure of the proceedings shall be made public without the concurrence of the Board and the employee.
- **Burden of Proof**
The Superintendent/President shall carry the burden of proof in support of the suspension, demotion or discharge action. The Superintendent/President and the employee may call witnesses, shall have the right of cross-examination, and may present documentary and demonstrative evidence.
- **Continuance**
At any time during the hearing the Governing Board, or Hearing Officer, may order a continuance for a reasonable period of time.
- **Decision of Hearing Officer**
The Hearing Officer shall present a written decision to the Governing board with a statement of findings as to the validity of the charges upon which the suspension, demotion or discharge is being recommended.

- **Decision of the Governing Board**

The written decision of the Governing Board shall state its findings as to the validity of the charges upon which the suspension, demotion or discharge action is being recommended. The decision shall also state the action to be imposed, if any, and the effective date. The action imposed by the Governing Board shall not be more severe than that recommended by the Superintendent/President unless the employee is given notice of the intention to impose more severe action. Under these circumstances, the Board will give such notice and grant a continuance for a minimum of five (5) working days. Such notice may be given verbally at the hearing and the continuance may be waived by the employee. The decision of the Governing Board in all cases shall be final.

- **Notice of Decision**

A copy of the decision, including notice of its effective date, shall be given to the unit member either personally or by certified mail.

- **Record Filed**

A copy of the Notice of Decision shall be placed in the employee's permanent file.

Emergency Suspension

If an employee's conduct presents an immediate threat to the health and safety of the employee or others, the employee may be suspended without compliance with the provisions of this procedure. However, as soon as possible after suspension, the employee shall be given notice as set forth herein.