

## **ARTICLE XVII: DISCIPLINARY PROCESS**

### **17.1 Exclusive Procedure**

All permanent classified employees may be disciplined with cause following the provisions in Article XVII.

The College District hereby states its commitment to the principle of progressive discipline.

### **17.2 Definition of Discipline**

Discipline shall only be imposed on permanent employees for just cause. Discipline includes suspension, reduction in pay, involuntary demotion, or termination.

The College District shall not initiate any disciplinary action for any cause alleged to have arisen prior to the employee becoming permanent nor for any cause alleged to have arisen more than two (2) years preceding the date that the College District serves the notice of proposed disciplinary action (i.e., Skelly Notice), unless the cause was concealed.

### **17.3 Grounds for Discipline**

Discipline may be based on an employee's violation of a Board Policy or Administrative Procedure, Board Policy 7365 and Administrative Procedure 7365, state regulation, state law, federal regulation, or federal law.

The following is also grounds for discipline:

1. Consistent inefficiency or failure to perform required duties in a satisfactory manner.
2. Fraud in obtaining employment with the College District or making a false statement on an application for employment.
3. Dishonesty in the workplace.
4. Willful refusal to comply with lawful directions of a supervisor.
5. Excessive tardiness and/or excessive absenteeism, including absence from duty without leave and abuse or misuse of sick leave.

5a. Excessive tardiness and/or excessive absenteeism shall be understood to mean when absenteeism is in excess of what has been earned or granted to the employee by law or contract, and when such absenteeism is of such a substantial level as to signify a clear pattern of abuse. Simply using sick leave, or other contractual or granted leaves, shall not be considered to be excessive without the additional burden of a clear demonstration of a pattern of abuse.

5b. The College District recognizes that there may be incidents of catastrophic illness or on-going medical conditions that may require repeated leave taking. Merely taking leave, even when repeated, does not constitute "excessive" absenteeism. In such cases, the College District will not take disciplinary action based on absenteeism so long as the condition is medically documented, the repeated absences are supported by medical necessity, and does not

demonstrate a clear pattern of abuse.

6. Abandonment of position by being absent without authorization for five (5) or more days.
7. Unauthorized use of College District property, including but not limited to, theft of College District property, destruction, or theft of property which is on College District premises.
8. The conviction of either a misdemeanor or a felony involving moral turpitude (moral turpitude is commonly defined as an act or behavior that gravely violates moral sentiment or accepted moral community standard) may be cause for dismissal.
9. Gifts accepted for personal use in the course of assigned work in exchange for providing favorable or better treatment.
10. Verbal and/or physical altercations between and among employees; use of threatening or abusive language.
11. Being impaired, possession, consumption or being under the influence of alcohol or drugs or narcotics, and/or controlled substance, while on duty.
12. Refusal to testify under oath or affirmation which is required by law in connection with College District employment.

#### 17.4 **Pre-Disciplinary Action**

The following steps are designed to assist the supervisor and employee to reach an understanding of what is expected in the workplace. They are not disciplinary actions in and of themselves, but may be taken into account in subsequent discipline if continued action is required.

##### 17.4.1 **Informal Counseling**

Informal discussion designed to assist the employee to develop or improve skills, abilities or to correct conduct. Verbal counseling may also be used to clarify College District policies, solve a problem, or discuss job performance. Verbal counseling shall be followed by an email from the supervisor to the employee summarizing the conversation. Employees shall have a reasonable period of time to correct deficiencies as noted during the counseling session (and email) prior to subsequent and more formal disciplinary methods. In no event shall counseling be placed in an employee's personnel file, but the email may be used to substantiate the need for more progressive discipline.

##### 17.4.2 **Formal Counseling**

Formal counseling is designed to assist the employee to develop or improve skills, abilities or to correct conduct. Formal counseling may also be used to clarify College District policies, solve a problem, or discuss job performance. Formal counseling shall be in writing and documentation of formal counseling will be placed in the employee's personnel file. The employee will have the opportunity to file a rebuttal within five (5) working days, with the

assistance of a CSEA representative, if so desired.

After two (2) years of the documentation being placed in the personnel file, the employee may request, in writing, to have the formal counseling documentation removed from the personnel file. If no further incidents have occurred, the documentation may be removed from the personnel file.

Employees shall have a reasonable period of time to correct deficiencies noted in the formal counseling prior to being issued a letter of reprimand or subsequent discipline.

#### 17.4.3 **Letter of Reprimand**

In the event the performance or behavior does not improve, or dependent upon the nature of the offense, a written reprimand will be issued to the employee and placed in the employee's personnel file. The employee has the opportunity to file a rebuttal, within five (5) working days, with the assistance of a CSEA representative, if so desired, which will also be placed in the employee's personnel file. In the event a meeting is held after the issuance of a reprimand, the employee shall be allowed reasonable notice to allow the attendance of a CSEA representative.

#### 17.5 **Emergency Discipline**

The CSEA and the College District recognize that emergency situations can occur involving the health and welfare of students or employees. If the employee's presence would lead to a clear and present danger to the lives, safety, or health of students or fellow employees, or conduct which rises to the level of serious concern, the College District shall immediately suspend the employee for up to three (3) days with pay. Examples of conduct which rise to the level of serious concern include gross negligence, violation of any State or Federal law, and/or the threat of or actual violence. During the three (3) days, the College District shall serve notice and the statement of facts upon the employee, who shall be entitled to respond to the contentions supporting the emergency. A copy of any notice of an emergency discipline shall be delivered to the CSEA President or designee.

#### 17.6 **Administrative Leave**

From time to time, it may be necessary for the College District to place a classified Employee on paid administrative leave. This may be to investigate a matter, to facilitate organizational actions, or to address other issues of a temporary or transitory nature. Administrative leave is NOT discipline and employees so placed are not to be stigmatized or otherwise negatively affected based solely on being on this form of leave. The Chapter President and/or Labor Relations Representative shall be notified in advance of any classified employee being placed on administrative leave and will have the opportunity to be present with administrators when the employee is notified, where reasonably possible.

#### 17.7 **Disciplinary Procedures**

The College District and CSEA agree to follow the established disciplinary procedures pursuant to and in accordance with the College District's Discipline and Dismissal Policy Procedures 7365.