

The District may take disciplinary action respecting a non-represented classified supervisor, manager, or director (“employee”) including dismissal, suspension, demotion, or reassignment without the employee’s voluntary consent, subject to the provisions of this procedure and the Education Code.

**I. Definitions of Disciplinary Action**

A non-represented classified employee may be suspended with or without pay, demoted, reassigned, or dismissed by the Superintendent/President or their designee subject to approval or ratification by the Board of Trustees.

- Demotion means the removal of an employee for disciplinary causes from the employee’s present classification and reclassification to a lower pay range.
- Reassignment means the transfer of an employee to another classification in the same pay range; transfer to another division, department, or work station; or assignment to a different supervisor where such action is taken for disciplinary causes.
- Suspension is defined to mean either temporary removal of an employee from the employee’s position with loss of pay as a disciplinary measure, or the employee’s removal preliminary to investigation of charges pending dismissal and hearing with or without pay.
- Dismissal means separation, discharge, and permanent removal as a District employee. It is understood that placing an employee on paid administrative leave does not constitute disciplinary action.

**II. Suspension, Demotion, Reassignment, or Dismissal of a Probationary Non-Represented Classified Supervisor, Manager, or Director**

A probationary non-represented classified employee may be suspended, demoted, reassigned, or dismissed from the District during the employee’s probationary period. The employee shall be given a written notice of such action by Human Resources. The notice shall state the reason or reasons giving rise to the action and the effective date thereof.

A probationary non-represented classified employee shall not be eligible for a hearing regarding such suspension, demotion, reassignment, or dismissal, and the recommendation for such action shall be final subject to recommendation by the Superintendent/President and approval or ratification by the Board of Trustees.

**III. Causes for Involuntary Suspension, Dismissal, Demotion, or Reassignment of a Permanent Non-Represented Classified Supervisor, Manager, or Director**

**A. Limits**

Disciplinary action respecting a permanent non-represented classified employee shall not be taken for any cause which arose prior to the employee's becoming permanent nor for any cause which arose more than two (2) years preceding the date of the filing of the final notice unless such cause was concealed or not disclosed by such employee when it would be reasonably assumed that the employee should have disclosed the facts to the District.

## B. Causes

One or more of the following causes may be grounds for disciplinary action respecting a permanent non-represented classified employee:

- 1) Fraud in securing employment or making a false statement on an application of employment.
- 2) Incompetence (i.e., inability to comply with minimum standards of an employee's position for a significant period of time.)
- 3) Inexcusable neglect of duty (i.e., failure to perform duties required of an employee in the position.)
- 4) Willful disobedience and insubordination, a willful failure to submit to duly appointed and acting supervision, conform to duly established orders or directions or insulting or demeaning the authority of a supervisor or manager.
- 5) Dishonesty involving employment.
- 6) Being impaired by or under the influence of alcohol, drugs, or narcotics while on duty, which could impact the ability to do the job.
- 7) Excessive absenteeism.
- 8) Unexcused absence without leave.
- 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.
- 12) Improper or unauthorized use of District property.
- 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 care and handling of District property.
- 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 their 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 in itself sufficient grounds 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.
- 20) Advocacy to overthrow federal, state, or local government by force, violence, or other unlawful means.
- 21) Failure to submit to a medical examination by a California Board-certified physician or clinical psychologist upon direction from the District.

#### IV. Notification and Hearing – Permanent Supervisor, Manager, or Director

##### A. Preliminary Notice

A permanent non-represented classified employee shall be given a preliminary written notice by certified mail, email, or in person by Human Resources of any proposed disciplinary action including suspension, demotion, reassignment, or dismissal and the reason or reasons thereof.

The employee shall also be notified prior to the institution of any action by the District that the employee may respond orally or in writing to Human Resources within five (5) work days of the issuance of the notice.

##### B. Final Notice

A permanent non-represented classified employee who is recommended by the Superintendent/President or their designee to the Board of Trustees to be suspended, demoted, reassigned, or dismissed from the District shall be given written notice of the charges against the employee, a statement of the employee's right to a hearing, and a request for hearing form, the signing and filing of which shall constitute a demand of all charges. The final notice shall be prepared by Human Resources and shall be served on the employee by certified mail, email, or by personal service.

##### C. Hearing Procedures

Within five (5) calendar days after service of the final notice of disciplinary action, the employee may request a hearing by signing and filing the request for hearing form accompanying the written notice of such action. The employee shall be given written notification of the date of such hearing by the Vice President of Human Resources. The hearing shall be held after at least fifteen (15) calendar days have elapsed since the issued notice of hearing. The hearing shall be conducted by the Board of Trustees or its designated representative(s). If the hearing is conducted before the Board of Trustees' designated representative(s), the representative(s) shall submit a recommended decision to the Board of Trustees. The decision of the Board of Trustees shall be final. The decision of the Board of Trustees shall be in writing and shall contain the Board of Trustees' findings.

## V. Immediate Suspension Pending Dismissal

Nothing herein shall preclude the District from effectuating an immediate suspension pending dismissal with subsequent action pursuant to Section IV of this procedure when reasonable cause exists to believe that such suspension is in the best interests of the District. Immediate suspension without pay pending dismissal shall be preceded by a “Skelly” hearing offered to the employee. Such suspension shall be with pay if the dismissal is subsequently overruled.

## VI. Judicial Review – Permanent Classified Supervisor, Manager, or Director Dismissal

Judicial Review of the permanent non-represented classified employee’s dismissal pursuant to this procedure may be had by filing a petition for writ of mandate in accordance with the provisions of the Code of Civil Procedure. Any such petition shall be filed within thirty (30) calendar days after the effective date of the decision or the last day on which reconsideration can be ordered. The right to petition shall not be affected by the failure to seek reconsideration before the Board of Trustees.

The complete record of the hearing proceedings, if one has been held and a record has been made, or such parts thereof as are designated by the petitioner, shall be prepared by the District and shall be delivered to petitioner, after a request therefore by the employee, upon the payment of the fee cost to the District for providing the transcript, the cost of preparation of other portions of the record, and for certification thereof. The complete record includes the pleadings, all notices and orders issued by the District or Board of Trustees, the final decision, a transcript of all proceedings, if made, the exhibits admitted or rejected, the written evidence, and any other papers in the case.

## VII. Effective Date – Employee Dismissal

The effective date of the dismissal of a permanent non-represented classified employee shall be the date of which the Board of Trustees makes a decision, unless otherwise specified in the decision or in the case of “Immediate Suspension Pending Dismissal” pursuant to Section V of this procedure.

### **References:**

Education Code Section 88013

El Camino College

Adopted: 4/15/19