

**POWAY UNIFIED SCHOOL DISTRICT
ADMINISTRATIVE PROCEDURE**

Originator: Asst. Superintendent, PSS

Issue No: 2

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PC 60.500

ARTICLE: 4.0 PERSONNEL SUPPORT SERVICES

4.3 CLASSIFIED PERSONNEL

4.313 EMPLOYEE DISCIPLINE

SECTION 4.313.1 Disciplinary Action

Purpose/Scope

1. To provide guidelines for disciplining classified employees in accordance with applicable laws, District policy, and Personnel Commission rules.
2. Appropriate managers and supervisors are authorized to initiate action to include disciplinary counseling, oral and written warning, and reprimand.
3. The Superintendent is authorized to implement suspensions (with or without pay) and to initiate demotions or dismissal subject to approval of the Board.

Regulations

1. Probationary (and restricted status) classified employees shall be subject to disciplinary action for any reasonable cause, without the right of appeal.
2. No permanent employee shall be suspended, demoted, or dismissed for any cause which arose prior to the date upon which the employee became permanent, nor for any cause which arose more than two years preceding the date of the filing of the notice of cause, unless such cause was concealed or not disclosed by the employee when it could reasonably be assumed that the employee should have disclosed the facts to the District.
3. No employee in the classified service shall be subjected to disciplinary action or in any way discriminated against because of – his political or religious acts, opinions, or affiliations; race, color, national original; sex, or marital status; age, or because of his exercise of the rights guaranteed by Section 3540 et. seq. of the California Government Code related to collective bargaining.
4. A permanent employee shall have the right to appeal a suspension, demotion, or dismissal to the Personnel Commission following formal action by the Board of Education.
 - a. In the event of a timely appeal by the employee, the employee's position shall not be filled on a regular basis until such time as the Commission renders its judgment.
5. Permanent classified employees shall be subject to disciplinary action only for the causes prescribed below:
 - a. Incompetence or inefficiency in the performance of duties.
 - b. Inability to perform assigned tasks due to failure to meet job qualifications (including, but not limited to, failure to possess required licenses, failure to pass required tests, or failure to meet District insurability requirements).
 - c. Insubordination (including, but not limited to, refusal to do assigned work).

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- d. Carelessness or negligence in the performance of duty or in the care or use of District property.
- e. Discourteous, offensive, or abusive conduct or language toward other employees, pupils, or the public,
- f. Dishonesty.
- g. Drinking alcoholic beverages on the job, or reporting for work while intoxicated.
- h. Addiction to the use of narcotics or a restricted substance; use of narcotics or restricted substances while on the job or reporting for work while under the influence of a narcotic or restricted substance.
- i. Personal conduct unbecoming an employee of the District.
- j. Engaging in political activity during assigned hours of employment.
- k. Conviction of any crime involving moral turpitude.
- l. Arrest for a sex offense as defined in Education Code Section 44010.
- m. Conviction of a narcotics offense as defined in Education Code Section 44011.
- n. Repeated and unexcused absences or tardiness.
- o. Abuse of illness leave privileges.
- p. Falsifying any information supplied to the District, including, but not limited to, information supplied on application forms, employment records, or any other District records.
- q. Persistent violation or refusal to obey safety rules, regulations made applicable to public schools by the Board of Education, or by an appropriate state or local governmental agency.
- r. Offering anything of value or offering any service in exchange for special treatment in connection with the employee's job or employment, or accepting anything of value or any service in exchange for granting any special treatment to another employee or to any member of the public.
- s. Willful or persistent violation of the Education Code or rules and regulations of the District.
- t. Any willful conduct tending to injure the public services.
- u. Abandonment of position.
- v. Advocacy of overthrow of federal, state, or local government by force, violence, or other unlawful means.
- w. Membership in the Communist Party.
- x. Physical or mental incapacity.

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- y. Disclosure of confidential information to unauthorized parties.

Implementation

1. A system of Progressive Discipline shall be followed whenever practicable.
 - a. Progressive efforts to correct deficiencies in employee performance and/or behavior may include counseling, verbal warnings, written reprimands, and other appropriate remedies administered at the discretion of the appropriate manager/supervisor.
 - b. The appropriate manager/supervisor shall be responsible to document all steps in the disciplinary process.
 - c. If material of a derogatory nature or material pertaining to a disciplinary action is to be placed in an employee's personnel file, he shall notify the assistant superintendent, Personnel Support Services, who will assist in the preparation and notice of proposed disciplinary action to be forwarded to the employee.
2. When an appropriate District manager determines that a permanent classified employee should be suspended, demoted, or dismissed, he shall notify the assistant superintendent, Personnel Support Services, who will assist in the preparation and notice of proposed disciplinary action to be forwarded to the employee.
 - a. Notification shall be delivered in person or by U.S. certified mail, addressed to the last known address of the employee.
 - b. Notice of the proposed disciplinary action shall include the following:
 - (1) Statement of the proposed action and its effective date.
 - (2) Statement of the cause for the proposed action.
 - (3) A statement of the specific acts or omissions upon which the proposed action is based.
 - (4) Any written materials, reports, or documents upon which the action is based.
 - (5) Statement of the employee's right to respond either orally at a conference, in writing, or both, to the charges and proposed actions.
3. If the Superintendent or his designee determines that, pending a Board hearing on the demotion, suspension or dismissal of a permanent classified employee, the immediate suspension of the employee without pay would be in the best interests of the District, the following procedure shall be initiated prior to imposing the demotion or suspension:
 - a. In addition to the written notice of the proposed disciplinary action as provided above, the employee shall be given written notice of the suspension without pay and the charges upon which this action is based and his/her right to respond to those charges, both orally at a conference and in writing.
 - b. The employee shall be given notice of the immediate suspension sufficiently in advance of the action to review the charges and to prepare a response.

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- c. The demotion or suspension action should be discussed prior to its occurrence at a conference with the Superintendent or his designee, during which time the employee shall have the right to present any rebutting evidence.
 - d. The Superintendent may suspend the employee pending a hearing before the Board of Education if, after considering the employee's response, if any, the Superintendent is of the opinion that such action is in the best interests of the District.
4. Nothing in this procedure shall be construed to prohibit an immediate interim suspension pay prior to notice and a conference where an immediate suspension is required to prevent serious harm to the District, and/or the public
- a. The suspended employee is given written notice, in person or by deposit in U.S. Certified Mail, employee's of the charges upon which the suspension was based within one working day after suspension.
 - b. The employee is notified of his right to file a written response or to have a conference with the appropriate manager.
 - c. A reasonable opportunity is afforded the employee for a conference within five (5) days from the date of suspension.
5. Any employee charged with the commission of any sex offense as defined in Education Code Section 44010 or any narcotics offense as defined in Section 44011 of the Education Code by complaint, information, or indictment filed in a court of competent jurisdiction may be suspended as provided for in Section 45304 of the Education Code.
6. After allowing the employee a reasonable opportunity to respond to the proposed disciplinary action, the Superintendent (or his designee) shall review the recommendation and all supporting evidence. He shall make such inquiry as he deems necessary before approving a recommendation for suspension or submitting the recommendation for demotion or dismissal to the Board of Education.
- a. Should the Superintendent determine that there is insufficient cause for the action recommended, he shall return the recommendation to the originating authority for whatever action he directs.
 - b. Should the Superintendent approve a recommendation for suspension, the action and charges shall be reported to the director, Personnel Commission, who shall notify the employee in accordance with Personnel Commission Rules and report the action to the Personnel Commission by mail and at its next regular meeting.
7. If the Board of Education is requested to take action on a recommendation for demotion or dismissal, the employee shall be notified of the date, time, and place of the Board meeting and shall be provided with copies of all documents submitted to the Board pertaining to the recommended action.
- a. Notification of consideration by the Board shall be provided the employee at least five (5) days prior to the meeting at which the action is to be taken.
 - b. Notification shall include a statement of the employee's right to action, a hearing before the Board prior to its consideration of the recommended disciplinary action.

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8. The Board of Education shall, at its next regularly scheduled meeting following receipt of the recommendation to demote or dismiss, take such action as it deems proper.
 - a. The Board will permit the employee or his/her representative to make a statement (oral or written) prior to its deliberations on the recommendation.
 - b. It is the Board's prerogative to ask questions, and request additional information or additional documents before taking final action.
 - c. If disciplinary action against the employee is not upheld by the Board of Education, the employee shall be compensated for any loss of school salary resulting from a demotion or suspension without pay prior to Board consideration.

9. When final disciplinary action has been approved by the Board of Education, the action and charges shall be reported to the director, Personnel Commission, who shall within ten (10) days notify the employee in accordance with Personnel Commission Rules and report the action to the Personnel Commission by mail and at its next regular meeting.