

AP 7230-9 Confidential Employees – Disciplinary Action

- 1.0 Confidential employees are expected to conduct themselves in a professional and ethical manner at all times. A breach of this conduct is cause for disciplinary action, including suspension, demotion, or dismissal.
- 2.0 "Cause" relating to disciplinary action against a confidential employee means those grounds for discipline or offenses enumerated in the law and the written rules of the District.
- 3.0 "Informal Corrective Measures" include verbal warnings, written warning notices, reprimands, performance evaluations, and performance improvement plans and the like, and do not constitute disciplinary action as defined in this procedure.
- 4.0 **Causes for Disciplinary Action:** The causes for discipline of confidential employees include, but are not necessarily limited to, the following:
 - 4.1 Incompetency or inefficiency in the performance of assigned duties, inattention to or dereliction of duty, lack of ability, or failure to perform assigned duties in a satisfactory manner.
 - 4.2 Possession of unauthorized, dangerous, and/or deadly weapons on District property.
 - 4.3 Insubordination: A refusal to obey a legal and reasonable order of a management supervisor, including refusal to do assigned work.
 - 4.4 Dishonesty affecting the institution or District, including but not limited to, theft or unauthorized personal use of District property, failing to disclose material facts regarding criminal convictions, fraud in securing employment or knowingly providing false or misleading information on application forms and employment records concerning material matters, or knowingly falsifying any other institutional or District records.
 - 4.5 Negligence in the care of or use of District property.
 - 4.6 Use or possession on District sites of alcohol or illegal drugs as defined by law or any sex or narcotics offense requiring mandatory suspension as specified by law.
 - 4.7 Conviction of a crime involving moral turpitude.
 - 4.8 Evident unfitness for service.
 - 4.9 Unexcused absence, abuse of sick leave, or absence without leave.
 - 4.10 Excessive absenteeism; repeated and unexcused tardiness.
 - 4.11 Abandonment of position, including failure to return to duty upon expiration of any authorized leave of absence, or absence of five (5) consecutive working days without prior notification and/or permission, or failure to notify the District of a valid or acceptable reason for absence.

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- 4.12 Inability to perform assigned duties due to failure to meet job qualifications, including but not limited to, legal inability or physical inability such as failure to maintain a license or other certification that is required for the job, inability of the District to provide liability insurance due to the wrongful action of the employee, or failure to meet physical examination requirements.
 - 4.13 Violation of the Education Code or of District rules, regulations, policies, or procedures; violation or refusal to obey safety rules and regulations made applicable to community colleges by the Board of Trustees or the laws and regulations of the state or federal government; failure to report for health or X-ray examination after due notice.
 - 4.14 Sexual or racial harassment and/or unlawful discrimination against a subordinate, student, or fellow employee.
 - 4.15 Offensive or abusive conduct or language toward other employees, students, or the public; conduct that threatens the welfare and/or the property of the employee, or of the students or other employees of the District.
 - 4.16 Unprofessional conduct or personal conduct adversely affecting the institution or District.
- 5.0 No disciplinary action shall be taken for any cause that arose prior to the confidential employee becoming permanent, or for any cause that arose more than two years preceding the date of the filing of the notice of cause, unless the cause was concealed or not disclosed by the employee when it could be reasonably assumed that the employee should have disclosed the facts to the District.
- 6.0 **Procedure for Discipline of Probationary Confidential Employees:** Probationary confidential employees may be subject to disciplinary action, including dismissal, without benefit of notice or hearing.
- 7.0 **Procedure for Discipline of Permanent Confidential Employees:**
- 7.1 Notice of Disciplinary Action: A permanent confidential employee subject to proposed disciplinary action shall be given a written notice of disciplinary action by personal delivery or by registered mail, return receipt requested, to the employee's last known place of address. The notice shall contain the following:
 - 7.1.1 A statement of the charges against the employee, in ordinary and concise language, specifying the acts and omissions upon which the disciplinary action is based.
 - 7.1.2 A statement of the cause for the action taken and, if it is claimed that the employee has violated a rule or regulation of the District, such rule or regulation shall be set forth in the notice.
 - 7.1.3 A statement of the proposed disciplinary action.

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- 7.1.4 A statement of the employee's right to a hearing on the charges, and the time within which the hearing may be requested, which shall not be less than five (5) calendar days after service of the notice to the employee, and a statement that the hearing will be conducted in closed session unless the employee requests a public hearing.
- 7.1.5 A card or paper, the signing and timely filing of which shall constitute a demand for hearing, and a denial of all charges.
- 7.2 Right to a Hearing: A permanent confidential employee subject to proposed disciplinary action may request a hearing on the charges by the signing and timely filing of a demand for hearing, as provided in section 7.1.5. Failure of the employee to submit a timely demand for hearing shall be deemed a waiver by the employee of the right to a hearing and the Board of Trustees may act upon the charges without further notice.
 - 7.2.1 The Board of Trustees may conduct the hearing or may secure the services of an impartial third party hearing officer.
 - 7.2.2 The hearing will be conducted in closed session unless the employee submits, contemporaneously with the demand for hearing, a written request for a public hearing.
 - 7.2.3 The employee shall be given written notice of the date, time and place where the hearing will be held, by personal delivery or by registered mail, return receipt requested, to the employee's last known place of address. Failure of the employee to appear, having been duly notified of the date, time and place of the hearing, shall be deemed a waiver by the employee of the right to a hearing and the Board of Trustees may act upon the charges without further notice.
 - 7.2.4 The employee shall have the right to represent himself/herself in the hearing or to be represented by counsel.
 - 7.2.5 The conduct of the hearing will be determined by the Board of Trustees or by the hearing officer, if applicable, who shall have the right to control the proceedings. Formal rules of evidence shall not apply, and any relevant evidence may be admitted.
 - 7.2.6 Pursuant to its findings, conclusions, and decision, the Board may sustain or reject any or all of the charges against the employee and may sustain, modify, or reject the disciplinary action proposed or invoked. In those cases where the Board has received a proposed decision from a third-party hearing officer, the Board may accept, modify or reject the decision and recommendation of the hearing officer.
 - 7.2.7 The decision of the Board of Trustees in all cases shall be final.

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