

## **AP 7240-9 Management Employees – Disciplinary Action**

- 1.0 Management 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 management 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, performance improvement plans, and the like, and do not constitute disciplinary action as defined in this procedure.
- 4.0 Unless expressly provided otherwise by the terms and conditions of an individual employment contract, the causes and procedures for discipline of management employees shall be as specified below:

### 4.1 Disciplinary Action - Classified Management Employees

- 4.1.1 Causes for Disciplinary Action: The causes for discipline of classified management employees include, but are not necessarily limited to, the following:
  - 4.1.1.1 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.
  - 4.1.1.2 Possession of unauthorized, dangerous, and/or deadly weapons on District property.
  - 4.1.1.3 Insubordination: A refusal to obey a legal and reasonable order of a management supervisor, including refusal to do assigned work.
  - 4.1.1.4 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.
  - 4.1.1.5 Negligence in the care of or use of District property.
  - 4.1.1.6 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.
  - 4.1.1.7 Conviction of a crime involving moral turpitude.
  - 4.1.1.8 Evident unfitness for service.

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- 4.1.1.9 Unexcused absence, abuse of sick leave, or absence without leave.
- 4.1.1.10 Excessive absenteeism; repeated and unexcused tardiness.
- 4.1.1.11 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.
- 4.1.1.12 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.
- 4.1.1.13 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; or failure to report for health or X-ray examination after due notice.
- 4.1.1.14 Sexual or racial harassment and/or unlawful discrimination against a subordinate, student, or fellow employee.
- 4.1.1.15 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.
- 4.1.1.16 Unprofessional conduct or personal conduct adversely affecting the institution or the District.
- 4.1.2 No disciplinary action shall be taken for any cause that arose prior to the classified management employee's 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.
- 4.1.3 Procedure for Discipline of Probationary Classified Management Employees: Probationary classified management employees may be subject to disciplinary action, including dismissal, without benefit of notice or hearing.

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### 4.1.4 Procedure for Discipline of Permanent Classified Management Employees

4.1.4.1 Notice of Disciplinary Action: A permanent classified management 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:

4.1.4.1.1 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.

4.1.4.1.2 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.

4.1.4.1.3 A statement of the proposed disciplinary action.

4.1.4.1.4 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.

4.1.4.1.5 A card or paper, the signing and timely filing of which shall constitute a demand for hearing, and a denial of all charges.

4.1.4.2 Right to a Hearing: A permanent classified management 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 section 4.1.4.1.5. 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.

4.1.4.2.1 The Board of Trustees may conduct the hearing or may secure the services of an impartial third party hearing officer.

4.1.4.2.2 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.

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- 4.1.4.2.3 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.
- 4.1.4.2.4 The employee shall have the right to represent himself/herself in the hearing or to be represented by counsel.
- 4.1.4.2.5 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.
- 4.1.4.2.6 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.
- 4.1.4.2.7 The decision of the Board of Trustees in all cases shall be final.

### 4.2 Disciplinary Action - Academic Management Employees

- 4.2.1 Causes for Disciplinary Action: Academic management employees may be disciplined for one or more of the following causes:
  - 4.2.1.1 Immoral or unprofessional conduct.
  - 4.2.1.2 Dishonesty.
  - 4.2.1.3 Unsatisfactory performance.
  - 4.2.1.4 Evident unfitness for service.
  - 4.2.1.5 Physical or mental condition that makes the employee unfit to instruct or associate with students.

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- 4.2.1.6 Persistent violation of, or refusal to obey, the school laws of the state or reasonable regulations prescribed for the government of the community colleges by the Board of Governors of the California Community Colleges or by the governing board of the District.
- 4.2.1.7 Conviction of a felony or of any crime involving moral turpitude.
- 4.2.1.8 Any sex offense or controlled substance offense as defined in Sections 87010 and 87011 of the Education Code.
- 4.2.1.9 Conduct specified in section 1028 of the Government Code (e.g., advocating overthrow of the government or knowing membership in an organization which, during the time of the employee's membership, advocates the overthrow of the state or federal government by force or violence).

### **4.2.2 Procedure for Discipline of Academic Management Employees**

- 4.2.2.1 When the Board of Trustees has determined to dismiss or penalize an academic management employee and has satisfied the requirements of Education Code Section 87671, it shall deliver a written statement of the decision to dismiss or penalize the employee pursuant to Education Code Section 87672.
- 4.2.2.2 If the employee objects to the decision of the Board, or the reasons therefore, the employee shall notify, in writing, the Board, the Chancellor, and the President of the college at which the employee serves of his or her objection within 30 days of the date of the service of the notice.
- 4.2.2.3 Upon receipt by the Board of the employee's written objections, the matter shall either be heard by an arbitrator pursuant to Education Code Sections 87674-87677, or by an administrative hearing officer pursuant to Education Code Sections 87678-87683. Proceedings shall be conducted under the provisions of the Administrative Procedures Act, commencing with Section 11500 of the Government Code, and Education Code Section 87675 (in the case of an arbitrator) or Education Code Section 87679 (in the case of an administrative hearing officer).

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