

Human Resources
DRAFT as of 8/13/08

AP 7126 APPLICANT BACKGROUND CHECKS

References:

Civil Code Sections 47, 1785.16, 1785.20, and 1786.16 et seq.;
Penal Code Sections 11075-11081;
Fair Credit Reporting Act (Federal)

Applicants for positions may be subject to background or reference checks.

Where a background investigation is performed by a third party, the Vice President of Human Resource Services or designee shall make a clear and conspicuous disclosure to the applicant on a separate form before the report is procured. The applicant shall be provided an option to receive or not receive the report. If the applicant is not hired, or the District takes other action that adversely effects any applicant based in whole or in part upon the third-party report, the Vice President of Human Resource Services or designee shall provide oral, written, or electronic notice of:

- the adverse action to the applicant
- the name, address, and telephone number of the third party agency that furnished the report
- the applicant's right to obtain a free copy of the report and
- the applicant's right to dispute the accuracy or completeness of any of the information in the report

Also see AP 7337 titled Fingerprinting

Office of Primary Responsibility: Human Resource Services

NOTE: *This procedure is **legally advised**. The language in **red type** is recommended from the Community College League and legal counsel (Liebert Cassidy Whitmore). The information in **blue type** is additional language to consider including in this procedure. The language in **green ink** reflects revisions/additions made by Human Resource Services.*

Date Approved:

(This is a new procedure recommended by the CC League and the League's legal counsel)

Human Resources
DRAFT as of 10/2/08

AP 7145 PERSONNEL FILES

References:

Education Code Section 87031;
Labor Code Section 1198.5

Personnel records are private, accurate, complete, and permanent. All personnel files shall be kept in locked cabinets with access limited to appropriate Human Resource Services personnel serving legitimate District purposes. To ensure privacy, files shall not be left open or unattended in unlocked office areas. Inspection of personnel files by authorized individuals shall occur within the Office of Human Resource Services in the presence of the Director of Human Resource Services or designee.

Every employee has the right to inspect personnel records pursuant to the Labor Code.

Information of a derogatory nature shall not be entered into an employee's personnel records unless and until the employee is given notice and an opportunity to review and comment on that information. The employee shall have the right to enter and have his or her own comments attached to any derogatory statement. The review shall take place during normal business hours and the employee shall be released from duty for this purpose without salary reduction.

The employee shall not have the right to inspect personnel records at a time when the employee is actually required to render services to the District.

Nothing in this procedure shall entitle an employee to review ratings, reports, or records that (a) were obtained prior to the employment of the person involved, (b) were prepared by identifiable examination committee members, or (c) were obtained in connection with a promotional examination or interview.

Inspection of personnel files by employee representatives is subject to the provisions in the applicable collective bargaining agreement or employee handbook. A signed release form from the employee is required prior to such access.

Office of Primary Responsibility: Human Resource Services

NOTE: This procedure is **legally advised**. The language in **red type** is recommended from the Community College League and legal counsel (Liebert Cassidy Whitmore). The information in **blue type** is additional language to consider including in this procedure. The language in **green ink** reflects revisions/additions made by Human Resource Services.

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(This is a new procedure recommended by the CC League and the League's legal counsel)

Human Resources
DRAFT as of 10/2/08

AP 7250 EDUCATIONAL ADMINISTRATORS

References:

Education Code Sections 72411 et seq., 87002(b), and 87457-87460;
Government Code Section 3540.1(g) and (m)

Educational administrators shall be compensated in the manner provided for by the appointment or contract of employment. Compensation shall be set by the Governing Board upon recommendation by the Superintendent/President. Educational administrators shall further be entitled to health and welfare benefits made available by action of the Governing Board upon recommendation by the Superintendent/President.

Educational administrators shall be entitled to vacation leave, sick leave, and other leaves as provided by law, these policies, and administrative procedures adopted by the Superintendent/President.

Every educational administrator shall be employed by an appointment or contract of **up to four years in duration.**

The Governing Board may, with the consent of the administrator concerned, terminate, effective on the next succeeding first day of July, the term of employment and any contract of employment with the administrator, and reemploy the administrator on any terms and conditions as may be mutually agreed upon by the Governing Board and the administrator, for a new term to commence on the effective date of the termination of the existing term of employment.

If the Governing Board determines that the administrator is not to be reemployed when his or her appointment or contract expires, notice to an administrator shall be in accordance with the terms of the existing contract. If the contract is silent, notice shall be in accordance with Education Code Section 72411.

An educational administrator who has not previously acquired tenure as a faculty member in the District shall have the right to become a first year probationary faculty member once his or her administrative assignment expires or is terminated, if the following criteria are met:

- The administrator meets the criteria established by the District for minimum qualifications for a faculty position, in accordance with procedures developing jointly by the Superintendent/President and the Academic Senate and approved by the Governing Board. The Board shall rely primarily on the advice and judgment of the Faculty Senate to determine that an administrator possesses minimum qualifications for employment as a faculty member.
- The requirements of Education Code Section 87458(c) and (d), or any successor statute, are met with respect to prior satisfactory service and reason for termination of the administrative assignment.

- The administrator was not hired prior to July 1, 1990 and/or is not part of the classified service.

Refer to the current Administrative Association Handbook for details regarding retreat rights.

❖ From current Palomar Policy 27 titled Administrator Retreat Rights

~~In accordance with Education Code Section 87458 an instructional or student services administrator hired after June 30, 1990, who was not previously tenured shall have the right to become a first-year probationary faculty member at the conclusion of the administrative assignment if all of the following apply:~~

- ~~A. The administrator meets the minimum qualifications for the discipline in accordance with Education Code 87356.~~
- ~~B. The administrator has completed at least two years of satisfactory District service as a faculty member or as an instructional or student services administrator.~~
- ~~C. The termination of the administrative assignment is for any reason other than cause.~~

~~*This policy does not apply to:*~~

- ~~A. administrators who were hired prior to July 1, 1990.~~
- ~~B. administrators who are part of the classified service.~~

❖ From current Palomar Policy 154.1 titled Supervision of Faculty

~~Faculty members are under the supervision of the department chairperson/director, the dean of the appropriate division, and the Assistant Superintendent/Vice President for Instruction with reference to their teaching duties. The faculty in conduct of their instruction are to be facilitated in every possible way by all members of the administrative staff.~~

❖ From current Palomar Procedure 154.1 titled Supervision of Faculty

Division Organization

Instruction

~~The educational program consists of five instructional divisions:~~

- ~~• ARTS AND LANGUAGES DIVISION~~
- ~~• MATHEMATICS AND THE NATURAL AND HEALTH SCIENCES DIVISION~~
- ~~• MEDIA, BUSINESS, AND COMMUNITY SERVICES DIVISION~~
- ~~• HUMAN ARTS AND SCIENCES DIVISION~~
- ~~• VOCATIONAL TECHNOLOGY DIVISION~~

~~The deans of the five instructional divisions are responsible to the Assistant Superintendent/Vice President for Instruction. Their duties require extensive communication with chairpersons and directors, with each other, and with the Assistant Superintendent/Vice President for Instruction in the interest of maintaining a viable program which uses all college resources in meeting the needs of the entire community.~~

~~The instructional departments and programs are: American Indian Studies; Art; Athletics; Behavioral Sciences; Business Education; Chemistry; Child Development; Communications; Computer Science and Information Systems; Cooperative Education; Counseling, Guidance, and Career Development; Dental Assisting; Earth Sciences; Economics, History, and Political Science; Emergency Medical Education Programs; English; English as a Second Language; Family and Consumer Sciences; Foreign Languages; Library/Media Center; Life Sciences; Mathematics; Multicultural Studies; Nursing Education; Performing Arts; Physical Education; Physics and Engineering; Public Safety Programs; R.O.P.; Reading Services; Special Education; Speech Communication/Forensics/ASL; Trades and Industry; and Vocational Programs.~~

Student Services

~~Student Services is divided into six primary areas of responsibility: Enrollment Services; Counseling, Guidance, and Career Development; Student Support Programs; Student Affairs, Intercollegiate Athletics, and Matriculation.~~

~~Enrollment Services covers the entire admissions and registration process as well as records evaluation for the purpose of determination of graduation eligibility. The process of veteran benefit eligibility and monitoring is also a part of this area.~~

~~Counseling, Guidance, and Career Development includes all functions of counseling on and off campus.~~

~~It includes the Counseling Center, Career Center, Transfer Center, and Assessment. Counseling is also an integral part of the Disabled Student Programs and Services (DISABILITY RESOURCE CENTER) and the Extended Opportunity Program and Services (EOP&S).~~

~~Student Support Programs includes a wide diversity of services including Financial Aid and Scholarships, Extended Opportunity Programs and Services (EOP&S), Disabled Student Programs and Services (DISABILITY RESOURCE CENTER), Student Job Placement, Tutorial Services, Health Services, GEARUP, TRIO/SSS, and Upward Bound Program.~~

~~Student Affairs includes the areas of Student Government, student clubs and activities, and discipline.~~

~~Matriculation activities span a number of different programs and services and reports organizationally to the Assistant Superintendent/Vice President for Student Services, but has reporting responsibilities to the Assistant Superintendent/Vice President for Instruction as well, due to secondary effects of the programs on instruction and curriculum.~~

~~Intercollegiate Athletics includes men's and women's athletics, athletic trainers, and athletic equipment and facilities.~~

Office of Primary Responsibility: [Human Resource Services](#)

NOTE: This procedure is **suggested as good practice**. The language in **red type** is recommended from the Community College League and legal counsel (Liebert Cassidy Whitmore). The information in **blue type** is additional language to consider including in this procedure. The language in **black type** is current Palomar Policies 27 titled Administrator Retreat Rights and 154.1 titled Supervision of Faculty with no adoption date and Procedure 154.1 titled Supervision of Faculty with no date. The language in **green ink** reflects revisions/additions made by Human Resource Services.

Date Approved:

(Replaces current Palomar Policies 27 and 154.1 and Procedure 154.1)

**AP 7127 RESTRICTIONS GOVERNING THE EMPLOYMENT OF APPLICANTS
WITH CRIMINAL RECORDS**

References:

Education Code Sections 87405-87406, 87009-87011, and 88022

**❖ From current Palomar Policy 112 titled Restrictions Governing the
Employment of Applicants with Criminal Records (98-19462)**

The Palomar Community College District shall not employ an applicant for any position under any of the following circumstances:

- There is a conviction of any sex offense or controlled substance offense, which prohibits employment under Education Code Sections 87405 and 88022. An applicant may be employed under the exceptions in Education Code Sections 87405 and 88022.
- ⊖ There is a conviction of a felony or of any crime involving moral turpitude, including but not limited to criminal acts involving intentional dishonesty for the purpose of personal gain, within the previous five years. Moral turpitude includes, but is not limited to, offenses that are substantially related to the position for which the applicant is applying. ~~There are no exceptions.~~

~~Note: The California Supreme Court has held that “criminal acts involving intentional dishonesty for the purpose of personal gain are acts involving moral turpitude.”~~

- There is a conviction of a felony or of any crime involving moral turpitude more than five years ago, unless there is substantial evidence presented that the person has been rehabilitated. The burden of proof is on the applicant, and the decision of the Governing Board is final.
- ⊖ There is a conviction of any felony involving physical violence toward another. ~~There are no exceptions.~~
- There is a conviction of any misdemeanor involving physical violence toward another within the previous five years. ~~There are no exceptions.~~
- There is a conviction of any misdemeanor involving physical violence against another more than five years ago, unless there is substantial evidence presented that the person has been rehabilitated. The burden of proof is on the applicant, and the decision of the Governing Board is final.
- There are two or more convictions for driving under the influence of alcohol or a controlled substance within the previous five years. ~~There are no exceptions.~~
- There is a conviction of any crime that involves treason against the United States. ~~There are no exceptions.~~

[Also see AP 7126 titled Applicant Background Checks and AP 7337 titled Fingerprinting](#)

[Office of Primary Responsibility: Human Resource Services](#)

NOTE: This procedure is **suggested as good practice**. The information in **black ink** is current Palomar Policy 112 titled Restrictions Governing the Employment of Applicants with Criminal Records adopted on 4-27-99. The information in **blue type** is additional language to consider including in this procedure. The language in **green ink** reflects revisions/additions made by Human Resource Services.

Date Approved:

(Replaces current Palomar Policy 112)

AP 7175 AWARDS

References:

Education Code Sections 87801 and 88160

❖ **From current Palomar Procedure 7.13 titled Awards**

~~Awards may be made to The Superintendent/President may authorize awards for individuals performing exemplary service to the District or public education. Monetary awards require advance approval by the Governing Board, and where authorized, shall be made consistent with applicable law and Board policy and procedure. Recommendation of individuals for awards shall be made by a committee appointed by the Superintendent/President or in accordance with written, established District procedures. Unless otherwise provided by written, established District procedures, a representative committee appointed by the Superintendent/President or designee shall review nominations of individuals for awards and make recommendations, including the amount and type of award, to the Superintendent/President. The committee shall recommend the type of award. Awards in cash may be made consistent with law and Board policy. The cost per individual award shall not exceed \$200 unless expressly approved by the Board. Awards shall be approved by the Superintendent/President. The Superintendent/President shall inform the Board of the names of all award recipients, the purpose for which the award was given, and the type of award.~~

~~The Board determines that these activities are in accordance with Education Code Section 72233 and serve the educational purpose as follows:~~

- ~~• Recognizes exceptional academic achievement;~~
- ~~• Increases community participation in service to education;~~
- ~~• Promotes communication of local educational priorities; and~~
- ~~• Commends exemplary service to education.~~

❖ **From current Palomar Policy 7.131 titled Faculty Award for Excellence in Teaching (91-15039, 98-19356)**

The Governing Board encourages, honors, and rewards employee excellence through the following annual awards:

- Distinguished Faculty Award for Excellence in Teaching
- Faculty Service Award
- Faculty Research Award
- Employee of the Year Awards for the classified, confidential and supervisory, and administrative employee groups, respectively
- The Gift of Time Award

~~The Board encourages, honors, and rewards excellence in education by approval of an annual award of \$1,000 net of taxes, paid by District funds, to the recipient of the Faculty Award for Excellence in Teaching.
GB 5-26-92 rev. 2-23-99~~

❖ From current Palomar Policy 7.133 titled Award for Administrative Association Employee of the Year (90-14388, 98-19357)

~~The Governing Board encourages, honors, and rewards excellence in administrators by approval of an annual award of \$1,000 net of taxes, paid by District funds, to the recipient of the Administrative Association Employee of the Year Award.
GB 4-23-91 rev. 2-23-99~~

❖ From current Palomar Policy 7.134 titled Award for Classified Employee of the Year (87-12217, 98-19358)

~~The Governing Board encourages, honors, and rewards excellence in classified employees by approval of an annual award of \$1,000 net of taxes, paid by District funds, to the recipient of the Classified Employee of the Year Award.
GB 2-9-88 rev. 2-23-99~~

Office of Primary Responsibility: [Human Resource Services](#)

NOTE: The information in **blue ink** is additional language to consider including in this policy. The information in black ink is current Palomar Procedure 7.13 titled Awards with no date and current Palomar Policies 7.131 titled Faculty Award for Excellence in Teaching adopted on 5-26-92 and revised on 2-23-99; 7.133 titled Award for Administrative Association Employee of the Year adopted on 4-23-91 and revised on 2-23-99; and 7.134 titled Award for Classified Employee of the Year adopted on 2-9-88 and revised on 2-23-99. The language in **green ink** reflects revisions/additions made by Human Resource Services.

Date Approved:

(Replaces current Palomar Procedure 7.13 and current Palomar Policies 7.131, 7.133, and 7.134)

Human Resources
DRAFT as of 12/2/08

AP 7360 DISCIPLINE AND DISMISSAL – ACADEMIC EMPLOYEES

References:

Education Code Sections 87669 and 87732

Causes for Discipline

A regular employee or academic employee may be dismissed or penalized for one or more of the following causes:

- Immoral or unprofessional conduct
- Dishonesty
- Unsatisfactory performance
- Evident unfitness for service
- Physical or mental condition that makes him or her unfit to instruct or associate with students
- 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 or by the Governing Board of the District
- Conviction of a felony or of any crime involving moral turpitude
- Conduct specified in Section 1028 of the Government Code. (i.e., knowing membership in the Communist Party or of any organization which advocates the overthrow of the government of the United States by force or violence)

Notice and Appeal

The District shall not act upon any charges of unprofessional conduct or unsatisfactory performance unless during the preceding term or half academic year prior to the date of the filing of the charge, and at least 90 days prior to the date of the filing, the employee against whom the charge is filed has been given written notice of the unprofessional conduct or unsatisfactory performance, specifying the nature of the conduct with specific instances of behavior and with particularity to permit the employee an opportunity to correct his or her faults and overcome the grounds for the charge. The written notice shall include the most recent written evaluation of the employee, if applicable.

If the Governing Board decides it intends to dismiss or penalize a contract or regular employee, a written statement, signed and verified, shall be delivered to the employee setting forth the complete and precise decision of the Board and the reasons for the decision.

The written statement shall be delivered by serving it personally on the employee or by mailing it by United States registered mail to the employee at his or her address last known to the District.

If the employee objects to the decision on any ground, the employee shall give written notice of the objection to the Board and the Superintendent/President within 30 days of the date of the service of the notice.

Within 30 days of receipt of the employee's demand for a hearing, the employee and the Chief Human Resources Officer shall attempt to agree upon an arbitrator to hear the matter. When there is agreement as to the arbitrator, the Chief Human Resources Officer shall enter into the records of the Governing Board written confirmation of the agreement signed by the employee and an authorized representative of the District. Upon entry of such confirmation, the arbitrator shall assume complete and sole jurisdiction over the matter.

If within 30 days of the receipt of the employee's demand for hearing, no written agreement has been reached between the employee and the District regarding appointment of an arbitrator, the District will certify the matter to the California State Office of Administrative Hearings and request the appointment of an administrative law judge.

Upon appointment, the arbitrator or the Administrative Law Judge shall conduct the proceedings in accordance with the California Administrative Procedures Act, except that the right of discovery shall not be limited to those matters set forth in Section 11507.6 of the Government Code but shall include the rights and duties of any party in a civil action brought in a superior court. In all cases, discovery shall be completed prior to one week before the date set for hearing.

The arbitrator or Administrative Law Judge shall determine whether there is cause to dismiss or penalize the employee. If the arbitrator finds cause, the arbitrator shall determine whether the employee shall be dismissed, the precise penalty to be imposed, and whether the decision should be imposed immediately or be postponed.

No witness shall be permitted to testify at the hearing except upon oath or affirmation. No testimony shall be given or evidence introduced relating to matters that occurred more than four years prior to the date of the filing of the notice. Evidence of records regularly kept by the District concerning the employee may be introduced, but no decision relating to the dismissal or suspension of any employee shall be made based on charges or evidence of any nature relating to matters occurring more than four years prior to the filing of the notice.

The decision of the arbitrator or Administrative Law Judge will be made in writing and provided to all parties.

Office of Primary Responsibility: [Human Resource Services](#)

NOTE: This procedure is **suggested as good practice/legally advised** (as noted above). The language in **red type** is recommended from the Community College League and legal counsel (Liebert Cassidy Whitmore). The information in **blue type** is additional language to consider including in this procedure. The language in **green ink** reflects revisions/additions made by Human Resource Services.

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Human Resources
DRAFT as of 12/2/08

AP 7361 ACADEMIC DUE PROCESS

References:

Recommend for deletion (procedure should follow Academic Senate's)

❖ From current Palomar Procedure 177 titled Academic Due Process

~~Academic due process is a system of procedures designed to resolve personnel issues in an academic institution in a clear, fair, and orderly manner. These procedures apply to actions which interfere with and/or exert a harmful effect upon the functions of the College and may involve faculty, administrative staff, classified staff, and/or students. These guidelines are intended to achieve an equitable solution that will resolve the issue with due regard for the rights of the accused or aggrieved, the protection of staff and student body, and the interest of the College. The best academic due process is possible only when all involved believe that justice must be based upon orderly procedure.~~

Preliminary Action

~~If a grievance cannot be resolved through normal personnel procedures, the person with the grievance should submit a grievance form to the Superintendent/President or designee. Within ten calendar days of receiving such a form, the President, or designee, shall notify the Governing Board of the issue and appoint an ombudsperson who will preside over the informal hearing. The ombudsperson may be a representative of the President, of the Faculty Senate, of the faculty, of the classified staff, of the students, or an outside person such as an attorney or a representative from an outside organization. If the President is directly involved in the dispute, the appointment of the ombudsperson shall be made by the President of the Faculty Senate.~~

Informal Conciliation

~~Within ten calendar days after appointment, the ombudsperson shall convene an informal conciliation conference. It shall be the objective of this conference to resolve the issues of the dispute. The conference may be continued only with the explicit consent of all parties to the dispute. If agreement is reached between the parties to the dispute, a written statement signed by both shall be filed with the President, or designee, and the matter will be considered closed.~~

~~If no agreement is reached, a written request for a formal hearing may be filed with the President, or designee, and with the appropriate body representing the party filing the grievance: Staff, Faculty Senate, or The Faculty; Students, Executive Committee of the Associated Student Government. (Refer to Administrative Team Handbook and the Handbook of Policies for the CCE/AFT for applicable procedures.) If neither party submits a request for formal hearing within ten calendar days after termination of the conciliatory conference, the matter will be considered closed.~~

Formal Hearing

~~Upon notification, the appropriate body will establish a list of names of individuals willing to serve on a Hearing Committee. This committee shall be composed of five members, two chosen to represent peer interests of each party to the dispute, one to represent the interests of the College community at large.~~

~~Each party will be permitted challenges for cause and one peremptory challenge. In the establishment of the Hearing Committee, the ombudsperson will serve to coordinate the formation of the committee, providing information as needed to assist parties to the dispute in challenges to membership on the committee; and, if necessary, ruling on challenges for cause.~~

~~The Hearing Committee will select one of its members as chairperson. The committee shall conduct the proceedings according to the procedural standards specified in the Guidelines for Academic Due Process, and shall submit its findings and recommendations to each party to the dispute and to the President, or designee, for implementation.~~

~~All proceedings subsequent to the level of informal conciliation shall be precisely recorded, e.g., taped and/or stenographically preserved inviolate throughout all levels of process, whether on campus or off.~~

~~They will be available on demand to all legitimate parties to a dispute, and to their counsel, at every stage, on campus or off, until final resolution of the dispute shall be conceded by all parties, at which time the records will be destroyed.~~

Final action

- ~~A. Appeal of Committee Recommendations: Either party to the dispute may, within a period of 15 calendar days, submit an appeal to the Governing Board. Within 30 calendar days after submission of the appeal, the Governing Board shall complete its review of the records and of the committee's recommendation, and shall make a final determination. Immediately after such determination becomes final, the records of the hearing shall be destroyed by the Chairperson of the Hearing Committee.~~
- ~~B. Within 30 calendar days after the presentation of the committee's recommendations, the President, or designee, shall file a report covering the matter, including the steps taken to implement the committee's recommendations, with the Governing Board, the appropriate body, and the parties to the dispute.~~
- ~~C. If either party to the dispute is not satisfied that the Hearing Committee's recommendations have been implemented properly, he/she may file an appeal with the Governing Board within a period of one year.~~

Office of Primary Responsibility: [Human Resource Services](#)

NOTE: The information in **blue type** is additional language to consider including in this procedure. The information in **black ink** is current Palomar Procedure 177 titled Academic Due Process with no approval date. The language in **green ink** reflects revisions/additions made by Human Resource Services.

Date Approved:

(Replaces current Palomar Procedure 177)

Human Resources
DRAFT as of 12/2/08

AP 7365 DISCIPLINE AND DISMISSAL – CLASSIFIED EMPLOYEES

Reference:

Education Code Section 88013

Discipline and dismissal of classified employees is subject to the appropriate collective bargaining agreement and employee handbooks.

Grounds for Formal Discipline

A permanent member of the classified service shall be subject to disciplinary action, including but not limited to, reduction in pay, demotion, suspension, or discharge, for any of the following grounds:

- Fraud in securing employment or making a false statement on an application for employment
- Incompetence, i.e., inability to comply with the minimum standard of an employee's position for a significant period of time
- Inefficiency or inexcusable neglect of duty, i.e., failure to perform duties required of an employee within his position
- Willful disobedience and insubordination, a willful failure to submit to duly appointed and acting supervision or to conform to duly established orders or directions of persons in a supervisory position or insulting or demeaning the authority of a supervisor or manager
- Dishonesty involving employment
- Being under the influence of alcohol or illegal drugs or narcotics while on duty, being impaired by alcohol or illegal drugs in your biological system while on duty which could impact the ability to do the job
- Excessive absenteeism
- Inexcusable absence without leave
- Abuse of sick leave, i.e., taking sick leave without a doctor's certificate when one is required, or misuse of sick leave
- 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. The Office of Human Resources may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or the determination if such conviction is an offense involving moral turpitude. 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.
- Discourteous treatment of the public or other employees
- Improper or unauthorized use of District property
- Refusal to subscribe to any oath or affirmation that is required by law in connection with District employment

- 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
- Inattention to duty, tardiness, indolence, carelessness, or negligence in the care and handling of District property
- Violation of the rules and regulations published in any department
- Mental or physical impairment that render 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
- 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 his or her official duties
- 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 of itself sufficient ground for the immediate discharge of such officer or employee.
- Willful violation of any of the provisions of the ordinances, resolutions or any rules, regulations, or policies which may be prescribed by the District
- Improper political activity. Example: Those campaigning for or espousing the election or non-election of any candidate in national, state, county, or municipal elections while on duty and/or during working hours or the dissemination of political material of any kind while on duty and/or during working hours.
- Working overtime without authorization

Disciplinary Actions

Where informal discipline fails to adequately address the problem or where otherwise provided in this procedure, formal disciplinary action taken by the District against a permanent member of the classified service may include, but not be limited to the following:

- Reduction in pay or demotion – The District may reduce the pay or demote an employee whose performance of the required duties falls below standard or for misconduct.
- Suspension – An employee may be suspended for disciplinary purposes without pay.
- Discharge – A permanent member of the classified service may be discharged for just cause at any time. Formal written notice of discharge may be made after considered action during a period of suspension.

Procedure for Disciplinary Action and Appeal

The District may, for disciplinary purposes, suspend, demote, or terminate any employee holding a position in the classified service. Demotion shall include reduction in pay from a step within the class to one or more lower steps.

For classified employees suspended, demoted or discharged the District shall follow a pre-disciplinary procedure as follows:

Notice of Intent: Whenever the District intends to suspend an employee, demote the employee, or dismiss the employee, the employee shall be given a written notice of discipline which sets forth the following:

- The disciplinary action intended
- The specific charges upon which the action is based
- A factual summary of the grounds upon which the charges are based
- A copy of all written materials, reports, or documents upon which the discipline is based
- Notice of the employee's right to respond to the charges either orally or in writing to the appropriate manager
- The date, time, and person before whom the employee may respond in no less than five working days and
- Notice that failure to respond at the time specified shall constitute a waiver of the right to respond prior to final discipline being imposed

Response by Employee: The employee shall have the right to respond to the appropriate manager orally or in writing. The employee shall have a right to be represented at any meeting set to hear the employee's response. In cases of suspensions, demotions, or dismissal, the employee's response will be considered before final action is taken.

Final Notice: After the response or the expiration of the employee's time to respond to the notice of intent, the appropriate authority shall: 1) dismiss the notice of intent and take no disciplinary action against the employee; or 2) modify the intended disciplinary action; or 3) prepare and serve upon the employee a final notice of disciplinary action. The final notice of disciplinary action shall include the following:

- The disciplinary action taken
- The effective date of the disciplinary action taken
- Specific charges upon which the action is based
- A factual summary of the facts upon which the charges are based
- The written materials reports and documents upon which the disciplinary action is based and
- The employee's right to appeal

Appeal and Request for Hearing: If a classified employee, having been issued the final notice of disciplinary action, wants to appeal the action, he or she shall within ten calendar days from the date of receipt of the notice, appeal to the Governing Board by filing a written answer to the charges and a request for hearing with the [Chief Human Resources Officer](#).

Time for Hearing: The Governing Board shall, within a reasonable time from the filing of the appeal, commence the hearing. The Governing Board may conduct the hearing itself or it may secure the services of an experienced hearing officer or Administrative Law Judge, [mutually selected by the District and the employee](#), to conduct a hearing and render a proposed decision for consideration by the Board. However, in every case, the decision of the Governing Board itself shall be final. The Governing Board may affirm, modify, or revoke the discipline. Any employee, having filed an appeal with the Board and having been notified of the time and place of the hearing, who fails to make an appearance before the Governing Board, may be deemed to have abandoned his or her appeal. In this event, the Board may dismiss the appeal.

Record of Proceedings and Costs: All disciplinary appeal hearings may, at the discretion of either party or the Governing Board, be recorded by a court reporter. Any

hearing which does not utilize a court reporter shall be recorded by audio tapes. If a court reporter is requested by either party, that party shall pay the cost of the court reporter.

Conduct of the Hearing:

- The hearing need not be conducted in accordance with technical rules relating to evidence and witnesses but hearings shall be conducted in a manner most conducive to determination of the truth.
- Any relevant evidence may be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rules which might make improper the admission of such evidence over objection in civil actions.
- Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence that shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.
- The rules dealing with privileges shall be effective to the same extent that they are now or hereafter may be recognized in civil actions.
- Irrelevant and unduly repetitious evidence may be excluded.
- The Governing Board shall determine relevancy, weight, and credibility of testimony and evidence. Decisions made by the Governing Board shall not be invalidated by any informality in the proceedings.
- During examination of a witness, all other witnesses, except the parties, shall be excluded from the hearing upon motion of either party.

Burden of Proof: In a disciplinary appeal the District has the burden of proof by preponderance of the evidence.

Proceed with Hearing or Request for Continuance: Each side should be asked if it is ready to proceed. If either side is not ready and wishes a continuance, good cause must be stated.

Testimony under Oath: All witnesses shall be sworn in for the record prior to offering testimony at the hearing. The chairperson will request the witnesses to raise their right hand and respond to the following:

“Do you swear that the testimony you are about to give at this hearing is the truth, the whole truth and nothing but the truth?”

Presentation of the Case: The hearing shall proceed in the following order unless the Governing Board, for special reason, directs otherwise:

- The party imposing discipline (District) shall be permitted to make an opening statement.
- The appealing party (employee) shall be permitted to make an opening statement.
- The District shall produce its evidence.
- The party appealing from such disciplinary action (employee) may then offer their evidence.
- The District followed by the appealing party (employee) may offer rebutting evidence.

- Closing arguments shall be permitted at the discretion of the Governing Board. The party with the burden of proof shall have the right to go first and to close the hearing by making the last argument. The Governing Board may place a time limit on closing arguments. The Board or the parties may request the submission of written briefs. After the request for submittal of written briefs, the Governing Board will determine whether to allow the parties to submit written briefs and determine the number of pages of briefs.

Procedure for the Parties: The District representative and the employee representative will address their remarks, including objections, to the President of the Board. Objections may be ruled upon summarily or argument may be permitted. The Governing Board reserves the right to terminate argument at any time and issue a ruling regarding an objection or any other matter, and thereafter the representative shall continue with the presentation of their case.

Right to Control Proceedings: While the parties are generally free to present their case in the order that they prefer, the Governing Board reserves the right to control the proceedings, including, but not limited to, altering the order of witnesses, limiting redundant or irrelevant testimony, or by the direct questioning of witnesses.

Hearing Demeanor and Behavior: All parties and their attorneys or representatives shall not, by written submission or oral presentation, disparage the intelligence, ethics, morals, integrity, or personal behavior of their adversaries or members of the Governing Board.

Deliberation Upon the Case: The Governing Board should consider all oral and documentary evidence, the credibility of witnesses, and other appropriate factors in reaching their decision. The Board may deliberate at the close of the hearing or at a later fixed date and time. In those cases where the Governing Board has received a proposed decision from a hearing officer or Administrative Law Judge, the proposed decision, the record of the hearing and all documentary evidence shall be available for review by the Board when it deliberates.

Written Findings, Conclusion, and Decision: The Governing Board shall render its findings, conclusions, and decision as soon after the conclusion of the hearing as possible. A finding must be made by the Board on each material issue. The Governing Board may sustain or reject any or all of the charges filed against the employee. The Board may sustain, reject, or modify the disciplinary action invoked against the employee. In those cases where the Governing Board has received a proposed decision from a hearing officer or Administrative Law Judge, the Board may adopt the proposed decision, modify the proposed decision, or render a new decision. If the Governing Board recommends reinstatement of the terminated employee, the employee is only entitled to back pay minus the sum the employee has earned during the period of absence.

Decision of the Board to be Final: The decision of the Governing Board in all cases shall be final.

Emergency Suspension: If an employee's conduct presents an immediate threat to the health and safety of the employee or others, the employee may be suspended

without compliance with the provisions this procedure. However, as soon as possible after suspension, the employee shall be given notice as set forth herein.

Record Filed: When final action is taken, the documents shall be placed in the employee's personnel file.

Office of Primary Responsibility: **Human Resource Services**

NOTE: This procedure is **legally required**. The language in **red type** is recommended from the Community College League and legal counsel (Liebert Cassidy Whitmore). The information in **blue type** is additional language to consider including in this procedure. The language in **green ink** reflects revisions/additions made by Human Resource Services.

Date Approved:

(This is a new procedure recommended by the CC League and the League's legal counsel)