

The College Council of Classified Employees CFT/AFT Local #4522 (CCE)
Proposal to the
Palomar Community College District (District)
for
2023-2024 Successor Negotiations

July 13, 2023

ARTICLE 17 - DISCIPLINE

17.1 General Provisions

The District recognizes that employee discipline must be fairly imposed with adherence to the concept of progressive discipline; provided, however, that the level of discipline initially imposed may vary depending upon the seriousness of the offense. The term “discipline” for the purposes of this Article does not include adverse or negative evaluations or pre-disciplinary corrective measures.

The employee has the right to request representation from the CCE/AFT during disciplinary conferences between the employee and his/her supervisors or managers.

17.2 Steps in Pre-Disciplinary Corrective Measures

In most circumstances the following sequence of pre-disciplinary, corrective measures would be used in order to avoid the need for formal disciplinary measures:

- Informal conference(s) will be held between the supervisor and the employee to discuss: (1) performance standards and behaviors expected on the job; and (2) feedback on problems regarding job performance and behavior.
- Verbal warning(s) will be identified as such at a meeting between employee and supervisor to clarify expectations and attempt to foster increased understanding of the established standards of performance and/or behavior if problems regarding job performance or behavior persist.
- Written warning(s) to be given at a meeting between the employee and supervisor if problems regarding job performance or behavior persist, which will outline the performance and behavioral issues, clearly state expectations relating to performance and/or behaviors, and indicate that failure to improve may result in future discipline.
- Written reprimand(s) outline the concerns, expectations, provide direction, and state future disciplinary consequences, should the previous concerns continue. The written reprimand will be placed in the employee’s personnel file. Prior to the reprimand being placed in the file, the employee will have the opportunity to attach a written response to the reprimand within ten (10)

business days.

17.3 Types of Disciplinary Action

A permanent classified employee may be disciplined by the District for cause (see Article 17.6). The term “discipline” refers to the following disciplinary actions, penalties, and/or settlements: suspension without pay, demotion or dismissal except when such demotion or dismissal is part of a layoff for lack of work or lack of funds. All discipline must be reasonable, timely, and related in severity to the seriousness of the offense.

17.4 Written Notice of Proposed Disciplinary Action

17.4.1 Process and Timeframe for Notice

After consultation with the Assistant Superintendent/Vice President, Human Resource Services, the appropriate Senior or Executive Administrator or designee shall give written notice to the classified employee of the proposed disciplinary action. Such notice shall be served by certified mail or personal delivery to the classified employee at least ten (10) business days prior to the date when discipline may be imposed. Service by certified mail shall be deemed complete on the day of mailing. A second copy of the notice shall be sent to the President or designee of CCE/AFT.

17.4.2 Emergency Situations

In emergency situations where it is deemed necessary to remove the classified employee immediately from the position held, the classified employee shall not lose compensation prior to the date when discipline may commence. Loss of compensation in all cases may occur after the tenth business day following the date the notice was served.

17.4.3 Contents of Written Notice

The contents of the written notice shall include at least the following:

- A statement in ordinary and concise language of the specified acts and omissions upon which the proposed disciplinary action is based. Such statement may incorporate by reference the acts and omissions described in attached memoranda or other attached documents.
- The specific disciplinary action proposed.
- The cause(s) or reason(s) for the specific disciplinary action proposed.
- A copy of the applicable regulation(s) where it is claimed a violation of regulations took place.
- A statement that the classified employee, upon request, is entitled to appear personally before the Superintendent/President or designee with authority to reverse or modify the proposed decision, and who can render an unbiased opinion, regarding the matters raised in the

written notice prior to the end of the ten (10) business days following the date the written notice was served for a pre-disciplinary (Skelly) meeting. The employee shall be informed of the right to CCE/AFT representation at this meeting.

- A statement that the classified employee has the right to respond to the matters raised in the written notice both orally and in writing, including the submission of affidavits, prior to the end of the ten (10) business days following the date the written notice was served.
- A statement that no pre-disciplinary (Skelly) meeting shall be held unless notice is delivered to the Superintendent/President or designee within ten (10) business days after the date the written notice of proposed disciplinary action was served.

17.4.4 Pre-Disciplinary Meeting

In the event that the employee timely requests a pre-disciplinary meeting, such a meeting shall be held upon at least five (5) business days' notification to the employee. At such a meeting the classified employee shall be granted a reasonable opportunity, either in person or in writing, to make any representations the classified employee believes are relevant to the case and put forth any information as to why the intended action should not proceed.

17.5 Review by the Governing Board

17.5.1 Initial Review by Governing Board

- At the conclusion of the pre-disciplinary meeting or after the scheduled time allotted, if the recommendation of the Superintendent/President or designee is to proceed with the disciplinary action, that recommendation shall be carried to the Governing Board for action.
- The action taken by the Governing Board shall be communicated to the employee in writing.
- If the disciplinary recommendation is upheld by the Governing Board, the statement shall include the charges. The employee will also be notified in writing of his/her right to request an evidentiary hearing before the Board, which must be requested within five (5) business days after service of the notice, with a copy sent to the President or designee of the CCE/AFT. The notice shall include a statement that failure to submit the demand for a hearing to the Vice President for Human Resource Services within five (5) business days after service of the notice shall constitute a waiver of the right to an evidentiary hearing before the Governing Board. Attached or enclosed with the written notice of the disciplinary action shall be a card or paper, the

signing and filing of which shall constitute a demand for hearing, and a denial of all charges.

17.5.2 Evidentiary Hearing with the Governing Board

- If an employee files a card requesting a hearing within five (5) business days after service of notice of the Governing Board's action to approve the imposition of discipline, the Governing Board shall set a date for the hearing before the Governing Board itself or shall appoint a hearing officer to hear the matter and make a recommended decision to the Governing Board.
- The hearing normally will be held before the Governing Board or a hearing officer designated by the Governing Board, within forty-five (45) days of the hearing demand. The classified employee shall have the right to appear in person, with counsel, with a CCE/AFT representative and/or such other lawful representation.
- The District will have the burden of proof and shall first present evidence. Normal procedures shall be following: i.e., charging party presentation, defense cross-examination, defense presentation, charging party cross-examination and rebuttal evidence from each party. The hearing will be recorded at the request of either party with such expense being borne by both parties.
- The matter will be heard in Closed Session, unless the employee requests to have the matter heard in Open Session. The Governing Board may deliberate in Closed Session. The Board will take action to accept, amend, or reject the recommended disciplinary action.
- The Board's determination of the sufficiency of the cause for disciplinary action shall be conclusive in all cases.
- A permanent employee who timely requests a hearing on charges against the them shall not be suspended without pay, suspended with a reduction in pay, demoted with a reduction in pay, or dismissed before a decision is rendered after a hearing unless the governing board finds that at the time discipline was imposed at the conclusion of the Skelly process, the District demonstrated by a preponderance of the evidence that the employee engaged in criminal misconduct, misconduct that presents a risk of harm to students, staff, or property, or committed habitual violations of the district's policies or regulations.

- If a hearing on the charges will be conducted by an impartial third-party hearing officer or the governing board, the district may stop paying a permanent employee before a decision is rendered after 30 calendar days from the date the hearing is requested in accordance with Educational Code Section 88013.

17.6 Causes for Disciplinary Action

The term “cause” for disciplinary action shall include the following:

- Incompetence or inefficiency in the performance of assigned duties;
- Insubordination, including the refusal to perform assigned duties or the refusal to obey a lawful directive from a supervisor;
- Carelessness or negligence in the performance of assigned duties or in the care or use of District property;
- Discourteous, offensive, or abusive conduct or language toward other employees, students, or the public;
- Dishonesty;
- Drinking alcoholic beverages on the job, or reporting to work while intoxicated;
- Use of narcotics on the job, or reporting to work under the influence. The use of drugs under and consistent with the directions of a physician which does not impair the performance of a classified employee is not prohibited;
- Personal conduct of an unlawful nature or other conduct which a reasonable person would know may have adverse impact on the District;
- Engaging during required work time in political or union activity not authorized by law;
- Conviction of any felony or any crime involving moral turpitude;
- Repeated unexcused absence or tardiness;
- Abuse of any leaves or vacation;
- Falsifying any information supplied to the District, including, but not limited to, information supplied or application forms, employment records, or any other District records;
- Persistent violation or refusal to obey safety rules and regulations made applicable to public schools by the Governing Board or by any appropriate federal, state, or local governmental agency;
- Offering of anything of value or offering any service in exchange for special treatment in connection with the classified employee’s assigned duties, or the accepting of anything of value or any service in exchange for granting

any special treatment to another employee or to any member of the public;

- Willful, negligent or intentional violation of any law concerning the District;
- Abandonment of position;
- Advocacy of overthrow of federal, state, or local government by force, violence or other unlawful means;
- Any other action or lack of action that is detrimental to the District.

17.7 Exclusion of Probationary and Non-Permanent Employees

Probationary employees and other non-permanent classified employees are not covered by any provision in this Article.










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Final Audit Report

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