

ARTICLE 22: DISCIPLINE

Section 22.1-No permanent or probationary unit member shall be disciplined without just cause. The District shall have the right to warn, reprimand, discipline, or suspend with or without pay, any unit member for just cause. "Just Cause" shall mean such cause as shall constitute sufficient reason to take an action to meet the needs of a given situation. The action must be appropriate and reasonable provided it is taken in reference to the given circumstances. The unit member must have fair notice, and action shall in no way affront due process. Furthermore, a unit member shall not be suspended based solely on hearsay.

Section 22.2-In the administration of this Article, the District shall observe for similar or related offenses the following progressive remediation steps:

- a. A verbal warning. This shall include written verification that the verbal warning has taken place.
- b. A conference with the unit member, which is memorialized in a memorandum, but not placed in the personnel file.
- c. A written reprimand, which is placed in the personnel file. The content of oral or written communications in Steps a, b, and c shall not be subject to the grievance procedure.
- d. Imposition of a first suspension not to exceed five (5) consecutive workdays. Any suspension shall be based upon the just cause, as defined in Section 1, and shall include, but not be limited to, insubordination, failure to perform assigned or expected duties, unprofessional conduct, excessive or inappropriate absenteeism or tardiness, or the causes set forth in Ed Code 44932.
- e. Imposition of additional suspensions not to exceed ten (10) consecutive workdays. (Suspension procedure will be same as section 21.2.d above)
- f. In the event of major or serious infractions, failure to follow safety procedures as outlined in Article 14, or inappropriate behavior, defined in Board Policy 6640 and Ed Code 44932 and 44933, the District may impose discipline without following the progressive steps set forth above.

Section 22.3-In the event of a suspension under the provisions of this Article, it is agreed that the following provisions shall be adhered to:

- a. Prior to imposing a suspension without pay, the District shall provide the unit member with written notice thereof which shall include the cause or causes for disciplinary action in a specific statement of charges. A conference shall be held between the unit member and his/her immediate supervisor or other appropriate administrator, at which time the unit member shall have the opportunity to respond to the charges and to any written materials upon which the charges are based. The unit member may be represented by the Association during this conference.
- b. After the conference, the immediate supervisor or other appropriate administrator shall decide whether or not to impose a suspension without pay and give the unit member written notice thereof. Except in cases of major or serious infractions, this suspension shall not be imposed until the time limit for appeal to arbitration has expired and in the event that the appeal to arbitration is timely filed, the suspension (except in cases of

serious or major infractions) shall be held in abeyance until the decision of the arbitrator has been rendered.

- c. Upon being served with written notice of suspension, the unit member may request the Association to ask for a hearing before an arbitrator who shall be chosen by mutual agreement of the District and the Association. If mutual agreement cannot be reached within five (5) calendar days after a request for hearing is received, the parties shall request a list of five (5) arbitrators from the State Conciliation Service. As soon as the list of five (5) potential arbitrators is received, the parties shall strike names and the remaining individual shall serve as the arbitrator. [should add first choice determined by lot as written earlier in contract]
- d. The Association must file the request for hearing, under Section c above, with the Superintendent's office no later than ten (10) calendar days (excluding winter and spring recesses) after receiving the notice of suspension. Failure to file a written appeal within the ten (10) calendar day period shall be deemed a waiver of any right to a hearing.
- e. The arbitrator shall prepare written findings and a decision within twenty (20) calendar days after the close of the hearing. The decision shall be binding on all parties, but the arbitrator shall have authority only to affirm, modify, or revoke the suspension without pay. Any modification shall be limited to decreasing the number of suspension days, and if the suspension is reduced or revoked, the unit member shall be entitled to back pay for the number of suspension days rescinded.

Section 22.4

- a. Steps a and b only of Section 22.2 shall not be carried more than twelve (12) calendar months beyond the last similar infraction.
- b. If no further infraction of a similar nature occurs within thirty-six (36) calendar months of the written reprimand (Section 22.2.c) the District shall begin again with Section 22.2.a for any subsequent similar infraction.

Section 22.5-The terms "discipline", "disciplinary action", and "suspension", for the purposes of this Article, means suspensions without pay not to exceed ten (10) consecutive workdays. The term "major or serious infractions" means any acts committed that would be grounds for dismissal under the Education Code.

Section 22.6-The costs of an arbitrator shall be borne equally by the District and the Association. Each party shall bear its own costs of representation of the hearing.

Section 22.7-Nothing contained in this Article shall be construed to limit or restrict the authority of the Governing Board to dismiss, suspend, or to take disciplinary action under the Education Code or other applicable law. Suspensions of ten (10) consecutive workdays or less shall be subject to the due process procedure set forth in this Article, and the contractual grievance procedures shall not apply.

Section 22.8-If, after having been disciplined, the unit member serves the District for forty-eight (48) months without the need for further disciplinary action, upon request, the District shall seal the written reprimand and/or suspension notice within the personnel file.