

**Kern Community College District
Administrative Procedure**
Chapter 6 – Confidential and Management Employees

Governance Process: Information Only

Reason for Revision: To Establish District Procedure

References:

Education Code Section 88013; Government Code Sections 3300 et seq.

Grounds for Discipline

A permanent member of the classified service shall be subject to disciplinary action for just cause, including but not limited to, written reprimand, reduction in pay, demotion, suspension, or termination, for any of the grounds set out in Board Policy 6J:

Disciplinary Actions

Disciplinary action 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 for cause.
- **Suspension** – An employee may be suspended without pay.
- **Termination** – A permanent member of the classified service may be terminated.

Procedure for Disciplinary Action

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, demote, or terminate an employee, the College President or appropriate Vice Chancellor shall provide the employee with 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 participate in a pre-determination meeting, commonly referenced as a Skelly conference, with the administrator who issued the Notice of Intent.
- The date and time by which the employee may respond within no less than five business days from delivery of the notice;
- Notice that failure to respond by the time specified shall constitute a waiver of the right to respond prior to final discipline.

Response by Employee: The employee shall have the right to respond orally or in writing to the administrator who issued the Notice of Intent. If requested, a Skelly conference will be conducted not less than five business days of receipt of the request or at a time mutually agreed between the employee and administrator. The employee shall have a right to be represented at any meeting set to hear the employee's response.

Final Notice: After the conclusion of the Skelly conference or the expiration of the employee's time to respond to the Notice of Intent, the Skelly Officer will inform the employee of his or her decision. The Skelly Officer may:

1. Dismiss the Notice of Intent and take no disciplinary action against the employee; or
2. Modify the intended disciplinary action; or
3. Go forward with the discipline as set out in the Notice of Intent.

The Vice Chancellor of Human Resources will prepare and serve upon the employee a final notice of disciplinary action, if appropriate. 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 summary of the facts upon which the charges are based;
- A card or paper, the signing and filing of which shall constitute a demand for hearing;
- The written materials, reports, and documents upon which the disciplinary action is based; and

- The employee's right to a hearing before the Board of Trustees.

Time for Board Hearing: The Board of Trustees shall, within a reasonable time from the filing of the written request, commence the hearing. The decision of the Board shall be final. The Board of Trustees may affirm, modify, or revoke the discipline. Any employee, having filed a request for hearing with the Board and having been notified of the time and place of the hearing, who fails to make an appearance before the Board, may be deemed to have abandoned their right to such a hearing. In this event, the Board shall affirm the administrative determination of discipline or dismissal.

Conduct of the Hearing:

- The Board may conduct the hearing itself, or it may secure the services of an experienced hearing officer or Administrative Law Judge to conduct the hearing and render a proposed decision for consideration by the Board. However, in every case, the decision of the Board itself shall be final.
- Hearings are conducted in noticed closed sessions of regular or special meetings of the Board of Trustees.
- 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.
- The classified employee is entitled to representation during the hearing.
- Any relevant evidence may be admitted if it is the type of evidence on which responsible persons are accustomed to relying in the conduct of serious affairs.
- 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.
- Irrelevant and unduly repetitious evidence may be excluded.
- The Board, or the hearing officer shall determine relevancy, weight, and credibility of testimony and evidence. Decisions made by the 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 request of either party.

Deliberation upon the Case: The Board of Trustees or the hearing officer should consider all oral and documentary evidence, the credibility of witnesses, and other appropriate factors in reaching their decision.

Findings and Decision: The Board shall render its findings and decision as soon after the conclusion of the hearing as possible. A finding must be made by the Board on each

charge. The 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.

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

Emergency Suspension: Employees may be suspended prior to the Board of Trustees' final decision following a Skelly conference before the College President or his or her designee or appropriate Vice Chancellor or his or her designee. The employee may be suspended without pay following the meeting only if the employee's presence at work could prove injurious, harmful, or seriously disruptive to the District or the employee's misconduct causes an actual or reasonable foreseeable risk to the health or safety of students or other employees or loss or damage to District property. Employees charged with a sex, controlled substance, or criminal offense may be suspended pursuant to Education Code Section 88123. If, after a hearing, the suspension is upheld, the Board of Trustees shall determine whether the suspension is with or without pay.

Admin 7/30/18
ChC. 8/21/18