

Classified Personnel

TERMINATION OF EMPLOYMENT

The District will give two weeks' written notice of intention to terminate employment except in extreme cases where summary dismissal is warranted.

Except in those situations where the conduct of the unit member warrants immediate suspension or termination, a unit member shall be progressively disciplined in order to correct negative behaviors.

Progressive discipline involves first orally counseling the employee, then a written warning/reprimand placed in the unit member's personnel file which documents the negative conduct or performance and sets out possible future consequences, and finally a suspension or termination.

Resignation

To resign in good standing, a classified employee shall submit a written resignation at least two weeks prior to the last working day (exclusive of accrued vacation) unless an earlier date is determined by mutual consent.

In the event a new employee terminates employment prior to completion of one year's service, he/she shall have deducted from his/her final paycheck an amount equal to any payment he/she has received for unearned vacation.

Demotion, Suspension, or Dismissal

1 . Definitions

Suspension means either temporary removal of an employee from his/her position with loss of pay as a disciplinary measure, or his/her removal preliminary to investigation of charges pending demotion or dismissal.

Demotion means reduction of an employee from a given class (or group of similar positions combined under a common title) to a class having a lower salary rate.

Dismissal means separation, discharge, or permanent removal of any employee from his/her position for cause in accordance with the provisions of the Education Code and these rules.

Classified Personnel

TERMINATION OF EMPLOYMENT (continued)

2. Grounds for Demotion, Suspension, or Dismissal

The continued employment of a permanent classified employee is contingent upon proper performance of assigned duties and personal fitness.

No employee in the permanent classified service shall be suspended, demoted, or dismissed except for any of the following causes:

- a. Incompetency, inefficiency, inattention to or dereliction of duty, lack of ability or failure to perform the assigned duties in a satisfactory manner.
- b. Insubordination, failure to obey reasonable directions or observe reasonable rules of school district superiors, or willful violation of the provisions of the Education Code.
- c. Dishonesty, immoral conduct, drinking, drunkenness, or reporting for duty with a diminished capacity; use of or addiction to illegal drugs; misuse of legal drugs; fraud in obtaining employment with this school district; conviction of any felony or a misdemeanor involving moral turpitude.
- d. Improper political activity during the assigned hours of duty.
- e. Discourteous treatment of the public, fellow employees, or students.
- f. Physical or mental incapacity.
- g. Absence from duty without leave; absenteeism (defined as absences which excessively interfere with the efficiency of the District's work, or suggest a pattern of absence before or after holidays, Fridays, Mondays, or when particularly difficult work is anticipated).
- h. Knowing membership by the employee in the Communist Party and/or violation of any provision in Sections 12952-12957 of the Education Code.

Nothing in these rules shall be construed to prevent layoffs for lack of work or funds or because of discontinuance of a particular position from the classification plan.

Classified Personnel

TERMINATION OF EMPLOYMENT (continued)

3. Dismissal for Prohibited Conduct Under Controlled Substances and Alcohol Testing Program (BP 4212.42/AR 4212.42)

In addition to those grounds for disciplinary action stated in Section 2, above, "prohibited conduct" under the District's Controlled Substances and Alcohol Testing Program (BP 4212.42/AR 4212.42) may constitute cause for immediate dismissal of the employee, without a requirement of progressive discipline.

4. Hearing Procedure

Any permanent employee who is suspended, demoted, or dismissed from the classified service shall be given immediate written notice of the specific charges against him/her and a statement of his/her right to a hearing on such charges. A card or paper, the signing and filing of which shall constitute a demand for hearing and a denial of all charges, shall be included with the notice which will be sent to the employee by registered mail or delivered personally.

The employee may request a hearing by returning the card or paper by registered mail or personal delivery within five work days after service of the notice to the employee. Written notification of the hearing date will be sent to the employee by registered mail or personal delivery at least fourteen calendar days in advance. The hearing shall be conducted by the Board of Education or its designated representatives. At the conclusion of the hearing, the decision to sustain or deny the appeal shall be made by the Board of Education, whose decision is final and not subject to review.

No disciplinary action shall be taken for any cause which arose prior to the date the employee attained permanent status, nor for any cause which arose more than two years preceding the date of the filing of the notice of cause unless such cause was concealed or not disclosed by such employee when it could be reasonably assumed that the employee should have disclosed the facts to the employing district.

Classified Personnel

TERMINATION OF EMPLOYMENT (continued)

Legal Reference:

EDUCATION CODE

- 44009 Conviction of specified crimes
- 44010 Sex offense
- 44011 "Controlled substance offense" defined
- 44940 Leave of absence; employee charged with mandatory or optional leave of absence offense
- 44940.5 Compulsory leave of absence; procedures; extension; compensation; bond or security; reports
- 45101 Definitions (including "disciplinary action," "cause")
- 45109 Fixing of duties
- 45113 Rules and regulations for classified service in districts not incorporating the merit system
- 45123 Employment after conviction of sex or narcotics offense
- 45302 Demotion and removal from permanent classified service
- 45303 Additional cause for suspension or dismissal of employees in classified service
- 45304 Suspension for reasonable cause; filing of charges; employee charged with mandatory or optional leave of absence offense

CSEA v. FOOTHILL COMMUNITY COLLEGE DISTRICT, 52 Cal. App. 3rd 150, 155-156, 124 Cal. Rptr 830 (1975) ("Conduct unbecoming an employee" too vague)

Policy

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CHULA VISTA ELEMENTARY SCHOOL DISTRICT
Chula Vista, California