

Disciplinary Action and Appeal-AR

1. Due Process

Prior to taking disciplinary action involving suspension, reduction in pay, demotion, or termination against any regular, classified employee, the District will take action intended to ensure that the employee is afforded due process. Due process in regard to employment-related disciplinary action includes, among other actions, making certain the employee is provided notice of the reason for the disciplinary action and is given the opportunity to provide a response to the proposed disciplinary action prior to an appropriate administrator or manager/supervisor making a final decision regarding the disciplinary action.

2. Written Notice

In situations where the proposed disciplinary action involves a suspension, suspension without pay, demotion, and/or termination, written notice of the proposed disciplinary action will be delivered or sent by certified mail to the employee. However, if circumstances warrant such action, the District may, in the exercise of its discretion, impose a particular discipline or terminate employment without following the steps of progressive discipline. The notice will include the following information:

- a. The nature of the disciplinary action proposed;
- b. The effective date of the proposed disciplinary action;
- c. A statement of the proposed disciplinary action with documentation, statements, and/or other evidence supporting the proposed disciplinary action;
- d. A statement advising the employee of his/her right to file a written response, or to submit a written request for a pre-disciplinary conference with the Superintendent/designee, within five work days of receipt of the notice of proposed disciplinary action; and
- e. A statement that the employee's failure to file a written response or request a pre-disciplinary conference in a timely manner or to appear at the pre-disciplinary conference after requesting such will constitute a forfeiture of the employee's rights to any further appeal.

3. Employee Review

If the employee requests, s/he will be given the opportunity, as soon as practical, to review the documents or other evidence, if any (except for confidential and privileged documents), on which the proposed disciplinary action is based. If the employee requests, the District will provide a copy of the documents used to support the proposed disciplinary action.

4. Pre-disciplinary Conference

When the employee requests a conference after receipt of notice of the proposed disciplinary action, but prior to any disciplinary action being imposed, the Superintendent/designee will schedule a meeting with the employee and his/her representative (if the employee requests a representative be present) in a timely manner to review the reason for and basis of the proposed disciplinary action. At this conference, the District will also provide the employee with an opportunity to present relevant information which may have an impact on the nature or severity of the proposed disciplinary action.

5. Implementation of Discipline

No later than five work days from receipt of the employee's written response or conclusion of the pre-disciplinary conference, the Superintendent/designee will issue a written decision to the employee. The written decision will inform the employee that

- a. The proposed disciplinary action will be implemented; or
- b. The proposed disciplinary action will be modified, with an explanation; or
- c. The proposed disciplinary action is rescinded, with an explanation.

6. Appeal

The employee may appeal the disciplinary action to the Superintendent/designee by filing a written appeal with the Superintendent/designee within five work days effective date of the disciplinary action. The written appeal must state the basis of the appeal and contain a specific admission or denial of each of the material statements in the decision. If an employee fails to file a written appeal conforming to these requirements within the prescribed time limit, s/he is deemed to have waived the right to appeal.

After an employee has appealed timely to the Superintendent/designee, the Superintendent/designee will set a date for a disciplinary appeal hearing. At such hearing, the employee will have the right to be represented by an attorney or other representative retained by the employee to present evidence and argument in response to the disciplinary action and to question and cross-examine adverse witnesses. The hearing may be conducted informally without conforming to the formal rules of evidence and such informality of the hearing process shall not invalidate the decision rendered. The Superintendent/designee will issue to the parties a decision following such hearing within five work days. The decision of the Superintendent/designee is final and may only be appealed as provided for in a collective bargaining agreement.

7. Administrative Leave during Disciplinary Proceeding

By notifying the employee in writing, the District may place an employee on administrative leave, with or without pay, pending an investigation of alleged misconduct or performance deficiencies prior to or during a disciplinary proceeding or during the review of the employee's response to a proposed disciplinary action. The notice of administrative leave will include a statement that the leave is not a disciplinary action. An employee placed on administrative leave without pay who is later reinstated without disciplinary action being imposed will be reimbursed for any pay lost during the administrative leave.