

ARTICLE 21: DISCIPLINE PROCEDURE

- 21.1 This Article was entered into pursuant to Government Code Section 3543.2(b). This Article does not include the termination of any permanent teacher and does not include the implementation of Education Code Sections 44939, 44940, 44941 and 44942 and any amendments to those Sections or successor laws to those Sections.
- 21.2 An employee in the bargaining unit may be disciplined by the District for just cause. For purposes of this Article, the term "discipline" shall be limited to an involuntary transfer for disciplinary reasons or suspension without pay for up to and including five (5) days and loss of extra compensation. The provisions of this Article shall not apply to involuntary transfers that result from the implementation of Article 12 (Evaluation Procedures) and Exhibit L (The Certificated Evaluation Process for Teachers) of this Agreement. The discipline imposed shall be reasonably related to the seriousness of the misconduct or shall be reasonable in light of the number and frequency of prior incidents of misconduct by the employee.
- 21.2.1 The following progressive discipline steps shall normally be utilized. However, the process may be initiated at any level if, in the opinion of the supervisor, such action is warranted based on the seriousness of the employee's misconduct.
- 21.2.1.1 Verbal warning with option to follow up with a conference summary (may be included in Personnel file);
- 21.2.1.2 Letter of warning (may be included in Personnel file);
- 21.2.1.3 Letter of reprimand (for Personnel file).
- 21.3 Prior to the taking of discipline, the Superintendent or designee shall give written notice to the employee. This written notice of proposed disciplinary action shall be served by mail or personal delivery to the employee at least ten (10) work days prior to the date when discipline may be imposed. In cases of serious misconduct where it is deemed appropriate to remove the employee immediately, the employee may continue to be paid the regular salary during the period of suspension if the employee furnishes to the District a suitable bond, or other security acceptable to the District, as a guarantee that the employee will repay to the District the amount of salary paid to the employee during the period of suspension in the event that this discipline is upheld pursuant to the provisions of this Article. The term serious misconduct does not include the use of reasonable physical force by a teacher against a student in self-defense, or reasonable physical force by a teacher against a student in a reasonable attempt to restrain or direct such student. The term serious misconduct does include the use of unreasonable physical force by a teacher against a student. Loss of compensation in all cases may occur after the tenth (10th) work day following the date written notice was served.
- 21.4 Upon written request from the employee within five (5) work days of service of the written notice herein, the Superintendent or designee shall not implement the discipline in Provision 21.2 until the final decision is rendered by an arbitrator except in cases of serious misconduct. If the District does not prevail, District will pay all arbitrator fees. If

the District prevails, the District and BTA will share arbitrator fees. In cases of serious misconduct, the Superintendent or designee, at the discretion of the Superintendent or designee, may or may not implement discipline in provision 21.2; and any implementation or lack of implementation shall not prejudice or adversely affect any issue as to whether or not a proposed discipline involved serious misconduct.

21.5 The written notice of proposed disciplinary action shall be served by personal delivery or by certified mail. Service by certified mail shall be deemed completed on the date of mailing. The contents of the written notice shall include at least the following:

21.5.1 A statement identifying the District.

21.5.2 A statement in ordinary and concise language of the specific act(s) and omission(s) upon which the proposed disciplinary action is based.

21.5.3 The specific disciplinary action proposed and effective date(s).

21.5.4 The cause(s) or reason(s) for the specific disciplinary action proposed.

21.5.5 A copy of the applicable regulation(s) where it is claimed a violation of regulation(s) took place.

21.5.6 A statement that the 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) work days following the date the written notice was served. Nothing contained herein shall prohibit the introduction of evidence at any hearing which may be requested pursuant to this Article.

21.5.7 A statement that the employee, upon request, is entitled to appear personally before the Superintendent or designee regarding the matters raised in the written notice prior to the end of the ten (10) work days following the date the written notice was served. At such meeting, the employee shall be granted a reasonable opportunity to make any representations the employee believes are relevant to the case.

21.5.8 A statement that any disputes arising out of this Article may be submitted to final and binding arbitration as provided in Article 6 (Grievance Procedure) of this Agreement and initiated at Step 3 of the grievance process. All proposed actions against an employee shall be stayed until the arbitrator's decision is rendered, except in cases of serious misconduct or in instances of when the possible consequences of potential repetition requires immediate action, in which case the stated discipline may be imposed pending the outcome of the arbitration.

21.6 With respect to probationary employees whose probationary period commenced during the 1983-84 fiscal year or any fiscal year thereafter, the following provisions shall apply:

21.6.1 The parties acknowledge that such probationary employees may be dismissed or suspended without pay for a specified period of time in excess of fifteen (15) work days under Education Code Section 44948.3. Nothing in this Article shall be construed to limit such right to dismiss or suspend. Among the reasons

that may be deemed sufficient by the District to dismiss or suspend without pay such probationary employees are:

- 21.6.1.1 Unsatisfactory performance determined pursuant to the Stull Act (Education Code Sections 44660, et seq.);
- 21.6.1.2 Cause, as defined in Education Code Section 44932.
- 21.6.2 The District Superintendent or designee shall give thirty (30) days prior written notice of dismissal not later than March 15 in the case of second-year probationary employees. Notice of suspension without pay shall be given pursuant to Section 21.5 The notice shall include a statement of the reasons for the dismissal or suspension and notice of the opportunity to appeal. In the event of a dismissal or suspension for unsatisfactory performance, a copy of the evaluation conducted pursuant to Education Code Section 44664 shall accompany the written notice.
- 21.6.3 If the notice of dismissal or suspension is given, the employee shall have fifteen (15) days from receipt of the notice of dismissal or suspension to submit to the Board of Education a written request for a hearing. The failure of an employee to request a hearing within fifteen (15) days from receipt of a dismissal or suspension notice shall constitute a waiver of the right to a hearing. The hearing provided for in Section 21.5 shall constitute the hearing on the dismissal or suspension. However, the arbitrator's decision shall constitute a recommendation to the Board of Education and shall be advisory only.