

VENTURA COUNTY OFFICE OF EDUCATION

**ADMINISTRATIVE
REGULATION NO. 4218.2**

ADOPTED: 02/14/96

CLASSIFICATION: Personnel

REVISED:

SUBJECT: Disciplinary Action Policy - Classified Employees

The discipline of any regular, non-probationary member of the classified staff shall be for cause only, and in compliance with the California Education Code, and procedures established by the Ventura County Superintendent of Schools and approved by the Ventura County Board of Education.

A. Discrimination

No employee in the classified service shall be suspended, demoted, dismissed or in any way discriminated against because of his or her race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex.

B. Causes for Disciplinary Action

The tenure of each classified employee who has permanent status shall be subject to his or her good behavior and the rendering of efficient service. Any classified employee may be disciplined for cause, including, but not limited to:

1. Incompetency
2. Inefficiency
3. Insubordination
4. Inattention to or dereliction of duty
5. Lack of cooperation or courtesy to the public or fellow employees.
6. Violation of the Education Code, or of rules, regulations, or procedures adopted by the County Board of Education pursuant to the Education Code.
7. Dishonesty

8. Use, possession, or being under the influence of alcohol, narcotics, or other dangerous drugs while on duty or on the premises of facilities or grounds under the authority of the Ventura County Office of Education.
9. Engagement in political activities during assigned hours of employment.
10. Conviction of any felony, or a misdemeanor involving moral turpitude.
11. Making false or misleading statements on application or employment records.
12. Excessive and/or unexcused absences or tardiness.
13. Failure to report for required health examination after due notice.
14. Advocacy of overthrow of the government of the United States or the State of California by force, violence, or unlawful means.
15. Negligence
16. Misuse or abuse of public property or equipment.
17. Abandonment of position
18. Conviction of a sex offense as defined in Education Code Section 44010 or determination as a sexual psychopath pursuant to Education Code Section 45124.
19. Inability to perform the tasks or duties of the position.
20. Failure to comply with Office rules, policies, or regulations.
21. Theft
22. Addiction to or use of narcotics or other controlled substances.
23. Failure to possess or keep in effect any license, certificate, or other similar requirement specified in the employee's class specification or otherwise necessary for the employee to perform the duties of the position.
24. Unlawful discrimination, including harassment, on the basis of race, religious creed, color, national origin, ancestry, physical handicap, marital status, sex, or age against the public or other employees while acting in the capacity of a County Office of Education employee.
25. Other acts which are inconsistent with or incompatible with the employee's position or other failure of good behavior either during or outside of duty hours which is of such a nature that it causes discredit or reasonably tends to cause discredit to the employee, his/her fellow employees, or the Office.

C. Oral Warning/Reprimand

Whenever a permanent employee's job performance falls below a satisfactory level or when an employee's conduct presents just cause for disciplinary action, his or her supervisor shall inform the employee promptly, specifically outlining and discussing the improper conduct involved. When appropriate, following a discussion of the matter, a reasonable time for improvement or correction may be allowed the employee before any further disciplinary action is initiated.

D. Written Warning/Reprimand

In situations where an oral warning or reprimand has not resulted in the improvement or correction of an employee's conduct, or where more severe initial action is appropriate, a written warning or reprimand may be sent to an employee.

1. The written warning or reprimand shall be signed by the affected employee's supervisor, department head, or the Superintendent.
2. The employee who is being warned or reprimanded shall be given the opportunity to review the written warning or reprimand, and may submit a written response to be attached thereto. Any written response must be submitted by the employee to the Human Resources Department within ten (10) business days of the employee's receipt of a copy of the warning or reprimand.

E. Suspension of Less Than Five (5) Days

A Department Head may immediately suspend an employee, for cause, for less than five (5) days by serving on the employee a Notice of Suspension. The Notice of Suspension shall include: ordinary and concise language outlining the specific acts and/or omissions upon which the disciplinary action is based; the rule or regulation, or cause under Section B of this Policy which the employee has violated; the number of days of suspension to be imposed; any materials upon which the action is based; and the length of time allowed for the employee to submit an appeal.

1. Appeal to Director of Human Resources: Within five (5) working days after receiving a Notice of Suspension, an employee may, in writing, appeal the suspension to the Director of Human Resources. Upon receipt of such an appeal, the Director shall schedule a meeting with the employee to be held within five (5) working days. At that meeting, the employee shall be given the opportunity to respond to the charges in the Notice of Suspension. Following the meeting, the Director shall consider the employee's response. Within ten (10) days of the appeal meeting, the Director shall respond to the employee's appeal in writing.
2. Failure to Appeal to Director of Human Resources: If an employee fails to file a timely appeal with the Director, the discipline imposed shall be final and affirmed in writing by the Superintendent.

3. Appeal to the Superintendent: Within five (5) days of receiving the Director of Human Resources' decision on an appeal, an employee who is dissatisfied with the decision of the Director of Human Resources may, in writing, appeal to the Superintendent and request a hearing pursuant to Section G of this Policy. Appeal to the Superintendent shall be on the following grounds only:
 - (a) That the procedures set forth in this Disciplinary Action Policy have not been followed.
 - (b) That the action was being taken because of: his or her race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex;
 - (c) That the charges made do not constitute sufficient cause for the proposed disciplinary action; or
 - (d) That the facts are not as stated in the charges.
4. Failure to Appeal to Superintendent: If an employee fails to file a timely appeal with the Superintendent, the discipline imposed shall be final and affirmed in writing by the Superintendent.

F. Dismissal, Demotion, and Suspension of Five (5) Days or More

Any employee may be suspended or demoted for cause. A probationary, limited term, or emergency employee may be dismissed at any time, without cause, and with no right of appeal under this Policy. Any regular, non-probationary employee may be dismissed for cause. To initiate a suspension of five or more days, a demotion of any employee, or the dismissal of any regular, non-probationary employee, a Department Head shall serve on the employee who is to be disciplined a Notice of Intent to Discipline. The Notice of Intent to Discipline shall include: ordinary and concise language of the specific acts and/or regulation, or cause under Section B of this Policy which the employee has violated; the disciplinary action intended to be imposed; any materials upon which the disciplinary action is based; and the length of time the employee has to submit an appeal.

1. Appeal to Director of Human Resources: Within five (5) working days after receiving a Notice of Intent to Discipline, an employee may, in writing, appeal the proposed disciplinary action to the Director of Human Resources. Upon receipt of such an appeal, the Director shall schedule a meeting with the employee to be held within five (5) working days. At this meeting, the employee may respond to the charges contained in the Notice of Intent to Discipline. Following this meeting, the Director shall consider the employee's response to the proposed discipline discussed during the meeting, and within ten (10) days respond in writing to the employee's appeal.
2. Failure to Appeal to Director of Human Resources: If an employee fails to file a timely appeal with the Director, the discipline imposed shall be final and affirmed in writing by the Superintendent.

3. Appeal to Superintendent: Within five (5) days after receiving the Director of Human Resources' decision on an appeal, an employee against whom discipline is to be imposed who is dissatisfied with the decision of the Director may, in writing, appeal to the Superintendent and request a hearing. Appeal to the Superintendent can be made on the following grounds only:
 - (a) That the procedures set forth in this Disciplinary Action Policy have not been followed;
 - (b) That the action was being taken because of his or her race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex;
 - (c) That the charges made do not constitute sufficient cause for the proposed disciplinary action; or
 - (d) That the facts are not as stated in the charges.
4. Failure to Appeal to Superintendent: If an employee fails to file a timely appeal with the Superintendent, the discipline imposed shall be final and affirmed in writing by the Superintendent.

G. Time and Conduct of Appeal Hearing

Upon receipt of a request for an appeal hearing from an employee, the Superintendent shall set a hearing date which shall begin not less than five (5) working days from the date of receipt of the request but shall be within a reasonable length of time thereafter. The hearing shall be confined to the causes set forth in the Notice of Discipline presented to the employee and the grounds for appeal contained in the employee's written request pursuant to Part E(3) or Part F(3) of this Policy. The employee shall have the right to be represented by counsel of his/her choice during the appeal hearing. The hearing shall be conducted in the following manner:

1. The Superintendent shall serve as Hearing Officer and conduct the appeal hearing, or may contract for the services of a Hearing Officer pursuant to the provisions of Chapter 14 (commencing with Section 27720), Part 3, Division 2, Title 3 of the California Government Code to conduct the hearing. (California Education Code Section 35207.)
2. The Hearing Officer is authorized to issue subpoenas, receive evidence, administer oaths, rule on questions of law and the admissibility of evidence, receive testimony and weigh the credibility of witnesses, and see that a record of the proceedings is prepared.

3. Each side will be permitted an opening statement, the opportunity to present witnesses and evidence, and to present closing arguments. The District shall present the first opening statement, shall first present its witnesses and evidence to sustain the charges against the employee, and to give the first closing argument.
4. The District shall have the burden of proof regarding the charges upon which the proposed discipline is based.
5. Each side will be allowed to examine and cross-examine witnesses.
6. Witnesses who are employees of the Ventura County Office of Education shall be granted release time to appear at appeal hearings conducted pursuant to this Policy.
7. The Hearing Officer may, upon the request of either party, grant a continuance for any reason believed to be important to his or her reaching a fair and proper decision.
8. The hearing shall be conducted in closed session unless otherwise requested by the employee.
9. The Hearing Officer shall render a decision as soon after the conclusion of the hearing as possible, but in no event later than thirty (30) working days. The Hearing Officer's decision shall include factual findings based on the evidence, and conclusions regarding whether or not the charges against the employee have been sustained. The Hearing Officer may sustain or reject any or all of the charges filed against the employee. The Hearing Officer may sustain, reject, or modify the disciplinary action proposed against the employee. The Hearing Officer may not provide for disciplinary action which is more stringent than or in excess of the disciplinary action proposed in the Notice of Discipline.
10. If the Hearing Officer is the Superintendent, his/her decision shall be final and conclusive. If the Hearing Officer is designated pursuant to Part G(1) of this Policy, the Hearing Officer's decision shall be a recommendation and not binding on the Superintendent. The Superintendent shall review the recommended decision and issue a final decision within ten (10) working days of receiving the Hearing Officer's recommendations. The Superintendent's decision shall be final and conclusive.

H. Failure to Appeal or Answer

If an employee against whom disciplinary action is proposed fails to appeal the disciplinary action within the time limitations contained herein, the intended disciplinary action shall be imposed upon the employee without any further action by the Superintendent.