

## **TENTATIVE AGREEMENT**

### **ARTICLE 12**

#### **DISCIPLINE**

##### **12.1 Probationary Employees**

Dismissal of probationary employees is at the discretion of the District and such action shall not be subject to the provisions of this article or Article 13 (Grievance Procedure).

##### **12.2 Permanent Employees**

Discipline shall be imposed on permanent bargaining unit employees only for just cause. Disciplinary action includes, but is not limited to dismissal, demotion, suspension or a reduction in hours or pay.

##### **12.3 Causes for Discipline**

Bargaining unit members may be subject to disciplinary action for any one or more, but not limited to, the following reasons:

12.3.1 Incompetence, inefficiency, insubordination, inattention to or dereliction of duty.

12.3.2 Being under the influence of alcohol or unlawful controlled substances while on duty or using or processing alcohol or controlled substances while on duty.

12.3.3 Furnishing alcohol or a controlled substance to a minor.

12.3.4 Discourteous treatment of the public or fellow employees, or any other willful failure of good conduct tending to injure the public service.

12.3.5 Willful and persistent violation of the provisions of the Education Code or of rules, regulations, policies or procedures adopted by the Board of Trustees.

12.3.6 Dishonesty

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12.3.7 Political activities engaged in by an employee during the employees' assigned hours of employment.

12.3.8 Conviction of a serious crime by a court of law, a record of one or more convictions which indicate that the person is a poor employment risk, failure to disclose material facts regarding criminal records, and other false or misleading information on application forms or examinations and employment records concerning material matters.

12.3.9 Frequent unexcused absences or tardiness.

12.3.10 Falsification of leave reports and/or time cards.

12.3.11 Failure to report for review of criminal records or for health examinations after due notice.

12.3.12 Advocating the overthrow of the Government of the United States or the State of California by force, violence, or other unlawful means.

12.3.13 During initial probationary period, the discovery or development of any physical, emotional, and/or mental condition which would have precluded employment.

12.3.14 Abandonment of position.

12.3.15 Material and intentional misinterpretation or concealment of any fact in connection with obtaining employment with The District.

12.3.16 Misappropriation of District funds or property.

12.3.17 Willful damage to District property, waster of District Supplies or equipment, or excessive carelessness with District property or funds.

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12.3.18 Negligently fails to obtain possess or keep in effect any license, certificate or other similar requirement specified in the law or the employee's class specification or otherwise necessary for the employee to perform the duties of the position.

12.3.19 Unlawful discrimination, including harassment, on the basis of race, religious creed, color, national origin, ancestry, disability, marital status, sex, or age against the public or other employees while acting in the capacity of a district employee.

12.3.20 Unlawful retaliation against any District officer, employee, student, or member of the public who, in good faith, reports or discloses or otherwise brings to the attention of any appropriate authority any information relative to an actual or suspected violation of any law of this state or the United States occurring on the job or directly related hereto.

#### 12.4 **Disciplinary Terms**

Discipline under this Article is defined as follows:

##### 12.4.1 Suspension

Suspension is temporary removal from the employment of the District (with or without pay) for a specified period of time, not to exceed thirty (30) working days.

##### 12.4.2 Involuntary Demotion

Involuntary demotion is placement in a lower classification.

##### 12.4.3 Dismissal

Termination of employment with the District.

#### 12.5 **Progressive Steps**

In handling disciplinary matters, it is intended that the discipline shall be commensurate with the offense and that, whenever possible, progressive steps should be utilized unless the incident giving rise to the discipline is of such a nature that more severe action is appropriate. It is recognized that not all steps should be utilized in all cases. Progressive steps may be as follows:

##### 12.5.1 Verbal Warnings

Except in those situations where an emergency suspension is justified, an employee whose work or conduct is of such character as to incur discipline shall

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first be specifically warned by the supervisor. Such warnings shall state the reasons underlying any intention the supervisor may have of recommending any disciplinary action. A copy of any written warning shall be sent to the Chapter President unless otherwise requested by the unit member. The supervisor, normally, shall give a reasonable period of advance warning to permit the employee to correct the deficiency without incurring disciplinary action. Written warnings are not appealable and are therefore not subject to a Skelly meeting, an appeal hearing, or grievance procedures (Article 13).

#### 12.5.2 Written Reprimand

A copy of the written reprimand shall be placed in the employee's personnel file. A copy of the written reprimand shall also be sent to the Chapter President, unless otherwise requested by the employee. The employee has the right to write a response and that response shall be attached to the memorandum. Written reprimands are not appealable and are therefore not subject to a Skelly meeting, an appeal hearing, or grievance procedures (Article 13).

#### 12.5.3 Suspension

#### 12.5.4 Involuntary Demotion

#### 12.5.5 Dismissal

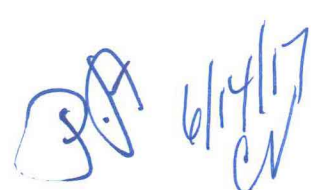
### 12.6 Emergency Suspension

CSEA and the District recognize that emergency situations can occur involving the health and welfare of students or employees. If the employee's presence would, in the judgment of the Superintendent, or designee, be a danger to the lives, safety or health of students, or fellow employees, the District may immediately suspend the employee. Such suspension shall be with pay until the employee has been given the written notice described in 12.7 above. Thereafter the employee may be suspended with or without pay.

### 12.7 Procedure for Discipline

#### 12.7.1 Notice of Intent to Recommend Discipline

12.7.1.1 A permanent classified employee shall receive a preliminary written notice of intent to recommend discipline. The notice must contain the following:

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12.7.1.1.2 The proposed disciplinary action.

12.7.1.1.3 A statement of charges including the cause(s) for the personnel action, as set forth above.

12.7.1.1.4 A statement of the specific act or omissions, including dates, time and location, if applicable, upon which the causes are based. If a violation or rule, policy or regulation of the District is alleged, the rule, policy or regulation violated shall be stated in the statement of charges.

12.7.1.1.5 A statement of the employee's right to a Skelly meeting and the manner and time within which the request for a Skelly meeting must be filled.

12.7.1.1.6 Copies of any known written materials upon which the proposed disciplinary action is based must be attached to the preliminary written notice.

12.7.1.2 The unit member shall have the right to respond either orally or in writing within ten (10) working days after service of the notice and statement of charges. A card (form) shall be provided to the employee with the notice, the signing of which shall constitute a demand for a Skelly meeting and a denial of all charges. Failure to request a Skelly meeting within the ten (10) working days shall constitute a waiver of the right to such a meeting. The purpose of the Skelly meeting shall be to permit the employee to respond to the charges, to offer information and to examine the materials, if any, on which the proposed discipline is based.

12.7.1.3 The Skelly Officer shall consider the employee's response and recommend to the Superintendent or designee that the proposed disciplinary action either be taken or not taken. Unless the Superintendent withdraws the proposed disciplinary action following the Skelly hearing, the Superintendent or designee shall prepare a final notice of discipline pursuant to Article 12.7.2 below.

#### 12.7.2 Final Notice of Suspension or Demotion or Dismissal

The Superintendent or designee initiating the action shall file the final notice of discipline with the Governing Board for approval. If the Board approves the action, a copy of the notice shall be served upon the employee either personally or by registers or certified mail, return receipt requested, at the employee's last known address. The notice shall contain the same statement of charges contained in the preliminary notice and shall inform the employee of the effective date of the disciplinary action. The notice shall also include the following information regarding the employee's appeal rights:

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12.7.2.1 The employee has the right to a formal hearing on the charges. If the employee elects a formal hearing, s/he shall have the option to have the Board of Trustees hear the case, or to move the matter an advisory arbitrator, but in no instance may the employee select both. The selection of an arbitrator will be in accordance with the Grievance mechanism at Article 13.6.3 and Article 12.10 (Employee Representation).

12.7.2.2 The employees request for a formal hearing must be in writing, mailed or delivered to the District Office no later than ten (10) working days after the date on which the Districts' final notice of discipline is served on the employee. Failure of the employee to file a request for a hearing within the ten (10) working days timeline shall constitute a waiver of the employee's right to a formal hearing.

12.7.2.3 The right to be represented by CSEA at the hearing.

12.7.2.4 The advisory arbitrator or Board of Trustees, as selected by the employee shall, as soon as possible, hear the evidence and render a decision on the matter.

### 12.7.3 Employee's Status Pending Appeal (or Waiver of Appeal)

#### 12.7.3.1 Paid Administrative Leave

A permanent, classified employee may be placed on paid administrative leave at any time during the disciplinary process.

#### 12.7.3.2 Unpaid Administrative Leave

An employee against whom dismissal is recommended shall be placed on unpaid administrative leave from the date that the final notice of discipline is served on the employee pursuant to Article 12.7.2 above, until the effective date of his/her dismissal.

### 12.8 Referral to Board

12.8.1 The Board of Trustees may, at its discretion, refer any disciplinary hearing to an advisory arbitrator using the alternate strike process described in Article 13. If the Board of Trustees elects to refer the matter to advisory arbitration, the referral must occur within 45 calendar days. The Board of Trustees should act to accept, modify or reflect the arbitration award within 15 calendar days after receipt of the arbitrator's decision.

12.8.2 If the Board of Trustees unilaterally refers a matter to advisory arbitration, the District shall be responsible for the fee of the arbitrator and the fee for the appearance of the court reporter. Each side will bear (their own) other costs and fees, if any.

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12.9 **Review of Hearing Body (Advisory Arbitrator or Board)**

12.9.1 The hearing body may also review, if requested in the appeal, the determination that there was "just cause" for the penalty.

12.9.2 The hearing body shall have the authority to issue finds of fact and conclusions and determine whether the penalty is inappropriate for the offense.

12.9.3 After hearing and after both parties have had an opportunity to make written arguments, the Advisory Arbitrator or Board of Trustees shall submit in writing to all parties their findings within forty-five (45) calendar days.

12.10 **Employee Representation**

Employees have the right to be represented by CSEA at all appeal stages of the disciplinary procedure. CSEA reserves the right to refuse to appeal a disciplinary action to any level including Advisory Arbitration. If CSEA exercises its rights herein, an employee may appeal as an alternative to Advisory Arbitration, a disciplinary action to the Board of Trustees as provided for in Education Code Section 45113.

6/14/2017 Cari Vaut

6/14/2017 Patricia Pearson