

Perris Union HSD

Administrative Regulation

Dismissal/Suspension/Classified Personnel

AR 4218(a)

DISMISSAL/SUSPENSION/DISCIPLINARY ACTION

Causes for Disciplinary Action

A permanent classified employee may be subject to suspension, demotion, involuntary reassignment, or dismissal for one or more of the following causes:

1.

~~1. _____ Causes~~

~~In addition to any disqualifying or actionable causes otherwise provided for by statute or by policy or regulation of this district, each of the following constitutes cause for personnel action against a permanent classified employee:~~

~~a. ~~Falsifying~~ Immoral conduct, including, but not limited to, egregious misconduct that is the basis for a sex offense as defined in Education Code 44010, a controlled substance offense as defined in Education Code 44011, or child abuse and neglect as described in Penal Code 11165.2-11165.6~~

(cf. 4112.5/4212.5/4312.5 - Criminal Record Check)

(cf. 4119.24/4219.24/4319.24 - Maintaining Appropriate Adult-Student Interactions)

(cf. 5141.4 - Child Abuse Prevention and Reporting)

2. Conduct that constitutes a violent or serious felony as defined in Penal Code 667.5(c) or 1192.7(c)

3. Unlawful discrimination, including harassment, against any student or other employee

(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

4. Violation of or refusal to obey state or federal law or regulation, Board policy, or district or school procedure

5. Falsification of any information supplied to the ~~school~~ district, including, but not limited to, information supplied on application forms, employment records, or any other school district records.

6. Unsatisfactory performance

7. Unprofessional conduct

8. ~~_____ b. Incompetency.~~

~~_____ e. Inefficiency.~~

~~d. Dishonesty~~

9. Neglect of duty ~~or absence without leave~~

~~e. 10. Insubordination.~~

~~_____ f. Dishonesty.~~

~~_____ g. Excessive absenteeism.~~

~~h. Drinking alcoholic beverages~~ 11. Use of alcohol or a controlled substance while on duty or in such close time proximity thereto as to ~~cause any detrimental effect upon~~ affect the employee or upon employees associated with him/her. ~~employee's performance~~

AR 4218(b)

DISMISSAL/SUSPENSION/DISCIPLINARY ACTION (continued)

(cf. 4020 - Drug and Alcohol-Free Workplace)

~~i. Possessing or being under the influence of a controlled substance at work or away from work, or furnishing a controlled substance to a minor.~~

~~j. Conviction of a felony, conviction of any sex offense made relevant by provisions of law, or conviction of a misdemeanor which is of such a nature as to adversely affect the employee's ability to perform the duties and responsibilities of his/her position. A plea or verdict of guilty, or a conviction following a plea of nolo contendere, is deemed to be a conviction for this purpose.~~

~~_____ k. Absence without leave.~~

~~_____ l. Immoral conduct.~~

~~_____ m. Discourteous treatment of the public, students, or other employees.~~

~~_____ n. Improper political activity.~~

~~o. Willful disobedience.~~

~~p. Misuse~~ (cf. 4112.41/4212.41/4312.41 - Employee Drug Testing)
(cf. 4112.42/4212.42/4312.42 - Drug and Alcohol Testing for School Bus Drivers)
(cf. 4159/4259/4359 - Employee Assistance Program)

12. Destruction or misuse of district property.

~~q. Violation of district, Board or departmental rule, policy, or procedure.~~

~~r. Failure to possess or keep in effect~~ (cf. 4040 - Employee Use of Technology)

13. Failure to fulfill any ongoing condition of employment including, but not limited to, maintenance of 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.

~~s. Refusal to take and subscribe any oath or affirmation which is required by law in connection with his/her employment.~~

~~t~~ (cf. 4112.4/4212.4/4312.4 - Health Examinations)
(cf. 4212 - Appointment and Conditions of Employment)

14. A physical or mental **disability condition** which precludes the employee from the proper performance of ~~his/her~~ duties and responsibilities as determined by competent medical authority, except as otherwise provided by a contract or by law ~~regulating the retirement of employees.~~

~~u. 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 district employee.~~

~~v. Unlawful retaliation against any other district officer or employee or member of the public~~ (cf. 4030 - Nondiscrimination in Employment)
(cf. 4032 - Reasonable Accommodation)

15. Retaliation against any **person** who, in good faith, reports, discloses, divulges, or otherwise brings to the attention of any appropriate authority any information relative to an actual or suspected violation of state or federal law occurring on ~~the job~~ or directly related ~~thereto~~ to the **job**

~~w~~ (cf. 4119.1/4219.1/4319.1 - Civil and Legal Rights)

16. Violation of Education Code 45303 or Government Code 1028 (advocacy of communism)

17. Any other ~~failure of good behavior either during or outside of duty hours~~ misconduct which is of such nature that it causes discredit or injury to the district or ~~his/her employment~~.the employee's position

~~Except as defined in item "t" above, no personnel~~An employee shall not be suspended, disciplined, reassigned, transferred, dismissed, or otherwise retaliated against solely for acting to protect a student, or for refusing to infringe on a student's protected conduct, when that student is exercising free speech or press rights pursuant to Education Code 48907 or 48950. (Education Code 48907, 48950)

(cf. 5145.2 - Freedom of Speech/Expression)

No disciplinary action shall be taken for any cause which arose before the employee became permanent, nor for any cause which arose more than two years before the date of the filing of the notice of cause unless this cause was concealed or not disclosed by the employee when it could be reasonably assumed that the employee would have disclosed the facts to the district. (Education Code 45113)

2. _____ *(cf. 4216 - Probationary/Permanent Status)*

Initiation and Notification of Charges

The Superintendent or designee ~~may initiate a personnel action as defined herein against a permanent classified employee.~~

~~In all cases involving a personnel action, the person initiating the action shall file a written~~any recommendation ~~of personnel~~for a disciplinary action in writing with the Governing Board.- A copy of the recommendation shall be served upon the employee either personally or by registered or certified mail, return receipt requested, at the employee's last known address.—~~The recommendation shall include:~~

a.~~A statement of the nature of the personnel action (suspension without pay, demotion, reduction of pay step in class, or dismissal) and its effective date.~~

b. _____~~A statement of the cause or causes for the personnel action, as set forth above.~~

~~c.A statement of the specific acts or omissions upon which the causes are based. If a violation of rule, policy, or regulation of the district is alleged, the rule, policy, or regulation violated shall be stated~~The notice shall, in ordinary and concise language, inform the employee of the specific charge(s) or cause(s) for the disciplinary action, the specific acts and omissions upon which the action is based, and, if applicable, the district rule or regulation that the employee has allegedly violated. In addition, the notice shall include the employee's right to a hearing on those charges, the time within which the hearing may be requested which shall be not less than five days after service of the notice to the employee, and a card or paper which the employee may sign and file to deny the charges and request a hearing. (Education Code 45113, 45116)

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

Request for Hearing

Within the time specified in the notice of the recommendation.

~~d. A statement of the employee's right to appeal the recommendation and the manner and time within which the appeal must be filed.~~

~~e. A card or paper, the signing and filing of which shall constitute a demand for hearing and a denial of all charges.~~

3. ~~Employment Status Pending Appeal or Waiver~~

~~Except as provided herein, any employee against whom a recommendation of personnel of disciplinary action has been issued shall remain on active duty status and responsible for fulfilling the duties of the position pending his/her appeal or waiver thereof.~~

~~If the Superintendent or designee determines that a permanent classified employee should be dismissed and that his/her continuing in active duty status would present an unreasonable risk of harm to students, staff, or property while proceedings are pending, the Superintendent or designee may order the employee immediately suspended from duty with or without pay in conjunction with the recommendation of personnel action. This suspension order shall be in writing and shall state the reasons that the suspension is deemed necessary. The suspension order shall be served upon the employee either personally or by registered or certified mail, return receipt requested, immediately after issuance. Except in cases of emergency when the employee must be removed from the premises immediately, the Superintendent or designee shall give the employee written notice of the proposed recommendation of dismissal at least five calendar days before the effective date of any order of suspension without pay issued in conjunction with a recommendation involving dismissal. This notice shall state that immediate suspension without pay is being considered, the reasons for the proposed dismissal and proposed immediate suspension without pay, materials upon which the proposed action is based, and the employee's right to respond to the Superintendent or designee orally or in writing before the final recommendation and order are issued.~~

4. ~~Time Limit of Suspension~~

~~Except for a suspension imposed under #3 above, any suspension invoked under these rules against any one person for one or more periods shall not aggregate more than 90 calendar days in any 12-month period; however, this time limitation shall not apply to cases in which a personnel action of dismissal is modified by the Board to a suspension.~~

5. ~~Right to Appeal~~

~~Within five calendar days after receiving the recommendation of personnel action described above, the employee may appeal~~ may request a hearing on the charges by signing and filing the card or paper included with the ~~recommendation.~~ notice. (Education Code 45113)

Any other ~~similar~~ written document signed and appropriately filed within the specified time limit by the employee shall constitute a sufficient notice of ~~appeal~~. ~~A notice of appeal is filed only by delivering the notice of appeal~~ request for a hearing. The request shall be delivered to the office of the Superintendent or designee during normal work hours of that office. ~~A notice of appeal may be~~ If mailed to the office of the Superintendent or designee ~~but~~, it must be received or postmarked no later than the time limit ~~stated herein~~ ~~specified by the district~~. In cases where an order of suspension without pay has been issued in conjunction with a recommendation of dismissal, any ~~appeal of~~ request for a hearing on the ~~recommendation of~~ dismissal shall also constitute ~~an appeal of~~ a request to hear the suspension order, and the necessity of the suspension order shall be an issue in the ~~appeal~~ hearing.

Employment Status Pending a Hearing

A classified employee against whom a recommendation of disciplinary action has been issued shall remain on active duty status pending any hearing on the charges, unless the Superintendent or designee determines that the employee's continuance in active duty would present an unreasonable risk of harm to students, staff, or property. The Superintendent or designee may, in writing, order the employee immediately suspended from duty without pay and shall state the reasons that the suspension is deemed necessary. The suspension order shall be served upon the employee either personally or by registered or certified mail, return receipt requested, immediately after issuance. ~~If the employee fails to file a notice of appeal within the time specified in these rules, he/she shall be deemed to have waived his/her right to appeal, and the Board may order the recommended personnel action into effect immediately.~~

~~6. Amended/Supplemental Charges~~

~~At any time before an employee's appeal is finally submitted to the Board or to a hearing officer for decision, the complainant may, with the consent of the Board or hearing officer, serve on the employee and file with the Board an amended or supplemental recommendation of personnel action.~~

~~If the amended or supplemental recommendation presents new causes or allegations, the employee shall be afforded a reasonable opportunity to prepare his/her defense. Any new causes or allegations shall be deemed controverted and any objections to the amended or supplemental causes or allegation may be made orally at the hearing and shall be noted on the record.~~

~~7. Hearing Procedures~~

~~a. The hearing shall be held at the earliest convenient date, taking into consideration the established schedule of the Board or hearing officer and the availability of counsel and witnesses. The parties shall be notified of the time and place of the hearing.~~

~~The employee shall be entitled to appear personally, produce evidence, and have counsel. The employee shall be entitled to a public hearing if he/she demands it when the Board is hearing the appeal. The complainant may also be represented by counsel. The procedure entitled~~

~~"Administrative Adjudication" commencing with Government Code 11500 shall not apply to any such hearing before the Board or a hearing officer. Neither the Board nor a hearing officer shall be bound by rules of evidence used in California courts. Informality in any such hearing shall not invalidate any order or decision made or approved by the hearing officer or the Board.~~

~~b.All hearings shall be heard by a hearing officer (who shall be an attorney licensed in the State of California) except in those cases where the Board determines to hear the appeal itself. In any case in which the Board hears the appeal, the Board may use the services of its counsel or a hearing officer in ruling upon procedural questions, objections to evidence, and issues of law. If the appeal is heard by the Board, the Board shall affirm, modify or revoke the recommended personnel action.~~

~~e.If the appeal is heard by a hearing officer, he/she shall prepare a proposed decision in a form that may be adopted by the Board as the decision in the case. A copy of the proposed decision shall be received and filed by the Board and furnished to each party within ten days after the proposed decision is filed by the Board. The Board may:~~

~~(1) Adopt the proposed decision in its entirety.~~

~~(2)Reduce the personnel action set forth in the proposed decision and adopt the balance of the proposed decision.~~

~~(3)Reject a proposed reduction in personnel action, approve the personnel action sought by the complainant or any lesser penalty, and adopt the balance of the proposed decision.~~

~~(4) Reject the proposed decision in its entirety.~~

~~d.If the Board rejects the proposed decision in its entirety, each party shall be notified of such action and the Board may decide the case upon the record including the transcript, with or without the taking of additional evidence, or may refer the case to the same or another hearing officer to take additional evidence. If the case is so assigned to a hearing officer, he/she shall prepare a proposed decision, as provided in item "e" above, upon the additional evidence and the transcript and other papers which are part of the record of the prior hearing. A copy of this proposed decision shall be furnished to each party within 10 days after the proposed decision is filed by the Board.~~

~~e.In arriving at a decision or a proposed decision on the propriety of the proposed personnel action, the Board or the hearing officer may consider the records of any prior personnel action proceedings against the employee in which a personnel action was ultimately sustained and any records that were contained in the employee's personnel files and introduced into evidence at the hearing.~~

~~f.A hearing officer selected by the Board shall be ineligible for subsequent selection as a hearing officer for a period of one year from the date of the hearing.~~

Compulsory Leave of Absence

Upon being informed by law enforcement that a classified employee has been charged with a "mandatory leave of absence offense," the Superintendent or designee shall immediately place the employee on a leave of absence. A mandatory leave of absence offense includes:

1. Any sex offense as defined in Education Code 44010
2. Violation or attempted violation of Penal Code 187 (murder or attempted murder)
3. Any offense involving the unlawful sale, use, or exchange to minors of controlled substances as listed in Health and Safety Code 11054, 11055, and 11056

The Superintendent or designee may place on an immediate compulsory leave of absence a classified employee who is charged with an "optional leave of absence offense," defined as a controlled substance offense specified in Education Code 44011 and Health and Safety Code 11357-11361, 11363, 11364, and 11370.1 except as it relates to marijuana, mescaline, peyote, or tetrahydrocannabinols.

An employee's compulsory leave for a mandatory or optional leave of absence offense may extend for not more than 10 days after the entry of judgment in the criminal proceedings. However, the compulsory leave may be extended if the Board gives notice, within 10 days after the entry of judgment in the proceedings, that the employee will be dismissed within 30 days from the date of service of the notice unless the employee demands a hearing on the dismissal.

~~8. _____ Hearing Decision~~

~~The decision of the Board shall be in writing and shall contain findings of fact and the personnel action approved, if any. The findings may reiterate the language of the pleadings or simply refer to them.~~

~~The decision of the Board shall be certified to the Superintendent or designee who recommended the personnel action, and he/she shall enforce and follow this decision. A copy of the decision shall be delivered to the appellant or his/her designated representative personally or by registered mail. The decision of the Board shall be final.~~

~~9. _____ Compulsory Dismissal~~

~~The district shall not employ or retain in employment any person who has been convicted of any sex offense as defined in Education Code 44010 or any controlled substance offense as defined in Education Code 44011. However, the district may employ a person convicted of a controlled~~

~~substance offense if the Board determines from the evidence it requires that the person has been rehabilitated for at least five years. If any such conviction is reversed and the person acquitted or charges dismissed except as otherwise provided below, the employee may be reemployed by the district, although reemployment is not a guarantee. (Education Code 45123)~~

~~The district reserves the right to dismiss an employee for any acts upon which the original criminal charges were based, despite the disposition by the courts. If dismissal is recommended and upheld, an employee will not be reemployed or compensated for the time he/she was suspended unless otherwise required by law. An employee shall be given notice of the possibility of not being reimbursed during mandatory suspension if he/she is ultimately dismissed for the acts upon which the original charges were based.~~

~~10. _____ Extension of Compulsory Leave~~

~~The Board may extend an employee's compulsory leave of absence by giving him/her notice, within ten days after the entry of judgment in the proceedings, that he/she will be dismissed in 30 days unless he/she demands a hearing. Employee compensation during the period of compulsory leave shall be made in accordance with law. (Education Code 44940.5)~~

~~11. _____ Suspension Without Pay of Five Days or Less~~

~~The Superintendent or designee may suspend classified employees for periods of five days or less by providing them a written notice indicating the effective date of the suspension without pay and the cause or causes for the suspension. The notice shall also set out the specific acts or omissions upon which the causes are based.~~

~~An employee who is suspended without pay will have an opportunity to convince the Superintendent or designee that the proposed action is not appropriate. This opportunity shall be given to the employee either prior to the suspension, during the suspension, or within a reasonable time period following the suspension. The notice will indicate that the employee has five days from the date of the notice to either request a meeting or submit a written statement.~~

~~Following the implementation of the suspension without pay, the employee may appeal the suspension to the Superintendent and thereafter to the Board or its designee. Any such appeal shall be an informal hearing where the employee will be provided an opportunity to convince the decision maker that the action was not appropriate and the district representative will be given an opportunity for a brief rebuttal.~~

Regulation
approved: April

revised:
revised:
revised:

PERRIS UNION HIGH SCHOOL DISTRICT
25, 1990
Perris, California
June 13, 1990
September 28, 1994
March 19, 2003

Revised: Pending Board Adoption October 2019