

HARTNELL COMMUNITY COLLEGE DISTRICT

AP 7362 Discipline and Dismissal – Classified and Educational Administrators

These discipline, dismissal, and due process procedures shall apply to classified and educational administrators who are not tenured College faculty, are not covered by one of the College's collective bargaining agreements, or are not covered by an individual contract (hereinafter "administrators"). All administrators shall uphold the highest level of professional integrity and ethics.

A. Causes for Discipline

Administrators may be dismissed or disciplined for one or more of the following causes:

1. Immoral conduct;
2. Unprofessional conduct;
3. Dishonesty;
4. Evident unfitness for service;
5. Persistent violation of, or refusal to obey, the school laws of the state or reasonable regulations prescribed for the government of the community colleges by the Board of Governors, the Governing Board of the District, or a College Department.
6. Conviction of a felony or of any crime involving moral turpitude;
7. Fraud in securing employment or making a false statement on an application for employment or promotion.
8. Incompetence, i.e., inability to comply with the minimum standard of the administrator's position for a significant period of time.
9. Inefficiency or inexcusable neglect of duty, i.e., failure to perform duties required of the administrator in the position.
10. Willful disobedience and insubordination, a willful failure to submit to duly appointed and acting supervision, conform to duly established orders or directions of, or insulting or demeaning the authority of a supervisor, including but not limited to the superintendent/president and/or the Board of Trustees.
11. Being impaired by or under the influence of alcohol or illegal drugs or narcotics (including marijuana) while on duty, which could impact the ability to do the job.
12. The conviction of either a felony or any crime involving moral turpitude shall constitute grounds for dismissal of any administrator. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. A plea or verdict of guilty, or a conviction showing a plea of nolo contendere made to charge a felony or any offense involving moral turpitude, is deemed to be a conviction within the meaning of this Section.
13. Improper or unauthorized use of District property.
14. Refusal to subscribe to any oath or affirmation which is required by law in connection with District employment.
15. Mental or physical impairment which renders the administrator unable to perform the essential functions of the job without reasonable accommodation or without presenting a direct threat to the health and safety of self or others.

16. Acceptance from any source of a reward, gift, or other form of remuneration in addition to regular compensation to an administrator for the performance of his or her official duties.
17. Falsification of any information supplied to the District, including but not limited to application forms, employment records, or any other District record.
18. Personal conduct unbecoming to an agent or employee of the District. An agent is someone who represents the District to the student or the public.

B. Placement on Involuntary Paid Administrative Leave Pending Investigation of Misconduct

An academic administrator who is placed on involuntary paid administrative leave and is subject to accusations of misconduct is entitled to be provided with the general nature of the accusations made against him/her at least two business days before the employee is placed on leave. At least two business days before he/she is placed on involuntary paid administrative leave, the employee shall be notified in writing of the general nature of the allegation or allegations of misconduct upon which the decision to place the employee on leave is based.

The two business day advance notice requirement does not apply in the event of a serious risk of physical danger or other necessity arising from the specific allegations, and the employee may immediately be placed on involuntary paid administrative leave. The employee shall be provided with, at minimum, the general nature of the accusations made against him/her within five business days of the employee being placed on leave.

Within 90 days of placing an employee on involuntary paid administrative leave, the District should complete its investigation of the accused misconduct and initiate disciplinary proceedings against, or reinstate, the employee.

C. Disciplinary Actions

Disciplinary action taken by the District against an administrator may include verbal warning, written reprimand, suspension, demotion, and/or dismissal. The District will follow progressive discipline steps as appropriate and in order to achieve correction of behavior when circumstances permit. The progressive discipline steps are:

1. **Verbal Warning** – The verbal warning may be included in the employee’s personnel file. To the extent, conduct continues, the verbal warning may be mentioned in subsequent discipline.
2. **Written Reprimand** – The letter should include reasons for the reprimand, a statement that the administrator has already been given a verbal warning, or that the infraction is sufficiently serious to warrant a written reprimand. It should also include specific directives to correct the issues. A copy of any written reprimand will be provided to the administrator and placed in his/her personnel file.
3. **Suspension or Demotion** – An administrator may be suspended or demoted for disciplinary purposes. Suspension may be with or without pay. Demotion shall be to a position in a lower classification at a lower rate of pay.

4. **Dismissal** – An administrator may be dismissed for cause at any time. Formal written notice of dismissal may be made after considered action during a period of suspension.

Although the above steps are sequential, the nature of the conduct may warrant skipping the previous step or steps and such decision will be in the sole discretion of the superintendent/ president or his/her designee. If material will be placed in an Administrator's personnel file, he/she shall be given an opportunity to prepare a written response to such materials. The response will be attached to the materials in the personnel file.

D. Procedure for Disciplinary Action

The District may, for disciplinary purposes, suspend, demote, or dismiss any administrator.

In order to suspend, demote, or dismiss an administrator, the District shall follow these pre-disciplinary procedures:

1. **Notice of Charges:** The administrator shall be given a written notice of discipline which sets forth the following:
 - a. The disciplinary action intended;
 - b. The specific charges upon which the action is based;
 - c. A factual summary of the grounds upon which the charges are based;
 - d. A copy of written materials, reports, or documents upon which the discipline is based.
2. **Request for Hearing:** If an administrator wants to contest the action, he/she shall within fifteen (15) calendar days from the date of receipt of the notice, appeal to the Board of Trustees by filing a written answer to the charges and a request for hearing with the superintendent/president. Failure to timely request a hearing shall constitute a waiver of the right to a hearing and the Board of Trustees may act on the proposed discipline without a hearing.
3. **Time for Hearing:** The Board of Trustees shall, within a reasonable time from the filing of the appeal, commence the hearing. The Board of Trustees may conduct the hearing itself, or it may secure the services of an Administrative Law Judge from the Office of Administrative Hearings to conduct a hearing and render a proposed decision for consideration by the Board of Trustees. However, in every case, the decision of the Board of Trustees itself shall be final. The Board of Trustees may affirm, modify or revoke the discipline. Any administrator, having filed a request for hearing with the Board of Trustees and having been notified of the time and place of the hearing, who fails to make an appearance before the Board of Trustees or presiding officer, may be deemed to have abandoned his/her request. In this event, the Board of Trustees may dismiss the request for hearing and proceed with the proposed discipline.

- 4. Record of Proceedings and Costs:** All disciplinary hearings may, at the discretion of either party or the Board of Trustees, be recorded by a court reporter. Any hearing which does not utilize a court reporter shall be recorded by audio tapes. If a court reporter is requested by either party, that party shall pay the cost of the court reporter.
- 5. Conduct of the Hearing:** The hearing need not be conducted in accordance with technical rules relating to evidence and witnesses but hearings shall be conducted in a manner most conducive to determination of the truth.
- 6. Burden of Proof:** In a disciplinary appeal the District has the burden of proof by a preponderance of the evidence.
- 7. Testimony under Oath:** All witnesses shall be sworn in for the record prior to offering testimony at the hearing.
- 8. Deliberation upon the Case:** The Board of Trustees or presiding officer should consider all oral and documentary evidence, the credibility of witnesses, and other appropriate factors in reaching their decision. The Board of Trustees or presiding officer may deliberate at the close of the hearing or at a later fixed date and time. In those cases where the Board of Trustees has received a proposed decision from an Administrative Law Judge, the proposed decision, the record of the hearing and all documentary evidence shall be available for review by the Board of Trustees when it deliberates.
- 9. Written Findings, Conclusion, and Decision:** The Board or presiding officer shall render its findings, conclusions and decision as soon after the conclusion of the hearing as possible. The Board of Trustees or presiding officer may sustain or reject any or all of the charges filed against the administrator. In those cases where the Board of Trustees has received a proposed decision from a hearing officer or Administrative Law Judge, the Board of Trustees may adopt the proposed decision, modify the proposed decision or render a new decision. If the Board of Trustees recommends reinstatement of the terminated administrator, the administrator is only entitled to back pay minus the sum the administrator has earned during the period of absence.
- 10. Decision of the Board of Trustees to be Final:** The decision of the Board of Trustees in all cases shall be final.
- 11. Emergency Suspension:** If an administrator's conduct presents an immediate threat to the health and safety of the administrator or others, the administrator may be suspended without compliance with the provisions of this procedure. However, as

soon as possible after suspension, the administrator shall be given notice as set forth herein.

12. Record Filed: When final action is taken, the documents shall be placed in the administrator's personnel file.

See Board Policy 7362

Approved by Superintendent/President: September 17, 2019