

ARTICLE 16

PROGRESSIVE DISCIPLINE

Progressive Discipline

- 16.1 Progressive discipline is a strategy for taking positive steps in order to stimulate the improvement of employee performance. Progressive discipline enables supervisors to assist employees to meet performance standards and adhere to established rules, procedures and expectations of acceptable job behavior. Progressive discipline should be administered in an objective, consistent, reasonable, and confidential manner.
- 16.2 CSEA and the District agree that progressive discipline will be applied except in cases of gross misconduct. Acts of gross misconduct are intentional, wanton, willful, deliberate, reckless, or in deliberate indifference to the District's interest. Insubordination is the willful or intentional disregard of the lawful and reasonable instructions of the employer or the refusal to obey an order which a manager/supervisor/designated lead is entitled to give and have obeyed. Acts of gross misconduct and/or insubordination may result in the pursuit of immediate disciplinary action.
- 16.3 The rule of thumb regarding the use of progressive discipline is the employee should:
- a. Be informed of performance standards and job behavior expected on the job;
 - b. Be given feedback on any problems of job performance or behavior.
 - c. Be given no less than one verbal warning that is documented and maintained by the supervisor or may be given a Letter of Direction in conjunction with the initial verbal warning if the offence is not illegal, or does not rise to the level of gross misconduct.
 - d. Neither preceding action will result in documentation being placed in the employee's personnel file.
 - e. Should a regularly scheduled evaluation be due within 90 days of the act which would have resulted in implementation of progressive discipline, Article 8 may be utilized in lieu of the section above

A Letter of Direction shall include specific recommendations and time periods for improvement, and if appropriate, provisions for assisting the employee in implementing any recommendations made. Failure to comply with the Letter of Direction may result in written reprimand and/or disciplinary action.

- 16.4 Employees shall have the right to CSEA chapter representation and/or a Labor Relations Representative present during any verbal counseling, disciplinary meeting, hearing or appeal conducted by the District administration. Both the employee and CSEA chapter representative(s) shall have the right to reasonable travel time to and from the verbal counseling meeting, disciplinary meeting, hearing or appeal.

Disciplinary Action Procedures

- 16.5 The causes for disciplinary action are enumerated in Administrative Regulation 4319.
- 16.6 Disciplinary action may include suspension with or without pay, demotion or termination. No disciplinary action shall be taken against any permanent unit employee for any cause

which arose prior to the date in which the employee became permanent, nor for any cause which arose more than two (2) years preceding the date of the filing of a Notice of Disciplinary Action, unless such cause was concealed or not known to the District. Bargaining unit employees with permanent status shall be subject to discipline only for just cause, pursuant to this article. The District retains the right to terminate initial-entry probationary employees without cause.

16.7 If the District proposes that an employee receive discipline, the following due process procedure shall be followed:

16.7.1 The employee shall be notified in writing of the intent to discipline. The notice shall in ordinary and concise language outline the specific acts and/or omissions upon which the disciplinary action is based; the rule or regulation, policy, practice or law which the employee has violated; the level of discipline to be imposed; any materials upon which the action is based; and the length of time in which the employee will have to respond either orally or in writing to the due process (Skelly) notice. This notice shall also include a "Request for Skelly Meeting" form.

16.7.2 The employee shall have the opportunity to respond to the notice orally (Skelly meeting) or in writing within ten (10) calendar days. This meeting shall be held before a Cabinet-level administrator who is not a party to the proposed disciplinary action, either as the supervisor initiating the proposed disciplinary action or as a direct witness to the proposed charges. In the alternative, the permanent employee may elect to respond in writing to the notice of recommended disciplinary action to the designated administrator. The Skelly officer shall have the authority to uphold, reduce, or dismiss the discipline and/or charges brought forth by the District.

16.7.3 If disciplinary action is proposed after the due process (Skelly) meeting, the employee shall be notified in writing of the specific acts and/or omissions upon which the disciplinary action is based; the rule or regulation, policy practice or law which the employee violated; the level of discipline to be imposed; any materials upon which the action is based; and the length of time in which the employee will have to appeal the disciplinary action.

16.7.4 If the employee chooses to appeal the disciplinary action, he/she must file a "Request for Evidentiary Hearing" with the Human Resources Office within ten (10) calendar days of the date of service of the written notice specified in 16.7.3. Service of notice shall be by mail to the employee's address of record on file in the Human Resources Department unless the district elects to serve the notice by personal delivery in lieu of mail delivery. This form shall be included with the written notification specified in Article 16.7.3. The hearing will be conducted in accordance with Administrative Regulation 4319. Hearings may be heard by the Board of Trustees, or a designated hearing officer agreeable to both the District and CSEA.

16.7.5 After the permanent employee has had an opportunity to respond to the notice of recommended disciplinary action, but has not requested a hearing or has failed to request a hearing in the prescribed time period, the recommendation

of disciplinary action shall be submitted to the Board of Trustees. The employee shall have the right to address the Board of Trustees regarding the proposed disciplinary action pursuant to the provisions of the Government Code.

16.7.6. The permanent employee shall be provided written notification of the Board's decision.

16.7.7 This article is not subject to the grievance procedure.