

39 result in disciplinary action. A bargaining unit employee may request
40 postponement of such a meeting in order to obtain CSEA representation. Upon
41 request for representation, the meeting shall be rescheduled within five (5)
42 working days to allow for CSEA representation.

44 Notable Disciplinary Measures

45 The disciplinary procedure set forth below shall apply to major disciplinary action,
46 including but not limited to, discharge, suspension, demotion or termination taken
47 against permanent, non-probationary employees.

48 **13.2 Informal Hearing Prior to Disciplinary Action**

49 13.2.1 Notice

50 Prior to imposing major disciplinary action, the District will provide the employee with a
51 written notice of the proposed action, the specific charges or materials on which the
52 action is based, and the reasons for the proposed action. The written notice will also
53 advise the employee of the right to request a hearing on the proposed action (“Skelly
54 hearing”) and will include a Request for Hearing form, which is to be returned by a
55 specified date which shall be no less than five (5) working days after service of the
56 written notice. An employee's failure to return the request for hearing form within the time
57 specified shall constitute a waiver of the right to a hearing before the initial imposition of
58 disciplinary action.

59 **13.2.2 Hearing**

60 At the hearing, the employee shall be given the right to respond verbally or in writing to a
61 person with authority (Hearing Officer) to make the final decision regarding the proposed
62 disciplinary action or to recommend what final decision should be made. If the
63 employee's response is heard by a person with authority to recommend, the employee's

64 response shall be fully and fairly communicated to the Superintendent-President who
65 makes the decision regarding the proposed action.

66 **13.2.3 Association Representative**

67 Upon the employee's request, the employee shall have the right to have a CSEA
68 representative present at the hearing. Within ten (10) working days after the employee's
69 response is heard, the employee shall be advised in writing of the hearing officer's
70 decision.

71 13.2.4 Exception

72 The only exceptions to this procedure is when the District believes that the employee's
73 conduct creates a danger to the public, students, other employees, or the District, or
74 when the employee may be suspended for the (10) days or less. In these cases, a
75 disciplinary suspension may begin before the employee receives a notice of intent and
76 informal hearing.

77 13.2.5 Decision

78 The hearing officer's decision shall be presented to the Superintendent/President who
79 shall present the recommendation to the Board of Trustees with any other pertinent
80 information at its next regular business meeting, subject to the notice requirements of
81 the Brown Act. The employee shall be advised in writing of the District's decision and
82 the effective date.

83 13.2.6 Right to Formal Hearing

84 When the employee is advised of the District's decision and its effective date, the
85 employee shall also be advised of his/her right to obtain a formal hearing. If the
86 employee desires such a hearing, the employee must submit a written request within five
87 (5) working days after receiving notification of the District's decision. The employee's
88 request shall be submitted on a form provided by the District to the Office of Human

89 Resources. The formal hearing may, but need not, occur prior to initial imposition of
90 discipline.

91 13.3 Formal Hearing

92 13.3.1 Selection of Hearing Officer

93 The review panel shall be conducted by a single hearing officer. The State Mediation
94 and Conciliation Service will be asked to appoint the hearing officer. The hearing officer
95 shall set the time for the hearing on the matter and shall give the employee at least five
96 (5) working days' notice in writing of the date and place of the hearing.

97 13.3.2 Rights of Parties Before Hearing Officer

98 The employee shall attend any hearing unless excused by the hearing officer. The
99 employee and the District shall be entitled to the following rights at the hearing:

- 100 (1) To be represented by counsel or any other person at the hearing. The name of
101 the employee's representative shall be given in writing to the Office of Human
102 Resources at least three (3) working days in advance of the scheduled hearing
103 so that a folder of the formal exhibits can be prepared for the representative. The
104 formal exhibits shall consist of notice of proposed action; the employee's initial
105 request for a hearing (if any); the District's written decision; and the employee's
106 request. The folder of formal exhibits shall be given to the employee's
107 representative at least two (2) days before the scheduled hearing.
- 108 (2) To testify under oath.
- 109 (3) To compel the attendance of other employees of the District to testify. To arrange
110 for attendance during working hours, the names of such employees must be
111 provided to the Office of Human Resources no later than three (3) working days
112 before the scheduled hearing.
- 113 (4) To cross-examine all witnesses and all employees of the District whose reports
114 are offered in evidence before the hearing officer.
- 115 (5) To impeach any witness.
- 116 (6) To present such affidavits, exhibits, and other evidence as the hearing officer
117 deems pertinent to the inquiry.
- 118 (7) To argue the case.

119 13.4 Procedure for Hearing Before Hearing Officer

120 The hearing shall be conducted in the manner most conducive to determination of the
121 truth, and neither the District nor the hearing officer shall be bound by technical rules of
122 evidence. The hearing officer shall determine the relevancy, weight, and credibility of the
123 testimony and evidence. At the hearing officer review panel's discretion, irrelevant and
124 repetitious evidence may be excluded. The burden of proof shall be on the District.
125 Each party will be permitted an opening statement, with the District or its designated
126 representative opening first. The District and its designated representative shall present
127 its witnesses and evidence to sustain its charges, and the employee will then present
128 witnesses and evidence in defense. Each party will be allowed to cross-examine
129 witnesses.
130 The hearing officer may exclude witnesses not under examination except the employee
131 and the party attempting to substantiate the charges against the employee and their
132 respective counsel or representative.

133 13.5 Findings and Recommendations of Hearing Officer

134 The hearing officer shall issue his or her findings and recommendations within thirty (30)
135 calendar days after the conclusion of the hearing. The hearing officer may sustain or
136 reject any or all of the charges filed against the employee and may recommend
137 modifications of the disciplinary action proposed by the District. The findings and
138 recommendations of the hearing officer shall be served on all parties and their
139 designated representatives.

140 13.6 Post-Hearing Procedure


141 The Superintendent-President shall review the findings and recommendations submitted by the
142 hearing officer and make a final recommendation to the Board of Trustees. The Superintendent-
143 President's recommendation may not contain a penalty greater than that proffered in the original
144 charges. The Superintendent-President shall notify the affected employee and his/her
145 designated representative of the Superintendent-President's recommendation no later than five
146 (5) working days prior to the meeting of the Board of Trustees at which the matter will be
147 considered.

148 An employee wishing to present oral argument to the Board of Trustees concerning the
149 Superintendent-President's recommendation must notify the Superintendent-President at least
150 twenty-four (24) hours prior to the meeting at which the Board of Trustees is scheduled to
151 review the findings and recommendations and render a decision. The Board of Trustees shall
152 make a final decision within thirty (30) calendar days after said meeting. The Board of Trustees
153 shall not impose a penalty greater than that proffered in the original charges. In the event the
154 Board of Trustees makes a final decision to modify or reverse the initial action taken by the
155 District and the discipline has already been imposed, the employee shall be entitled to such
156 make-whole relief as the Board of Trustees deems appropriate. Notice of the Board's decision
157 shall be mailed to the employee and his/her counsel or other representative.

158
159 Effective Date: Unless otherwise stated in the Agreed-Upon Language above, the changes set
160 forth herein shall be retroactive to the effective date of the negotiated successor Collective
161 Bargaining Agreement.

162
163 This Tentative Agreement is subject to ratification by the CSEA Chapter 777 membership and
164 approval by the PACCD Board of Trustees. Upon ratification and Board approval, the terms set
165 forth herein shall be incorporated into the parties' Collective Bargaining Agreement.
166

167 FOR THE DISTRICT

168 

169 _____
170 Robert S. Blizinski,
171 Vice-President, Human Resources

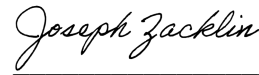
172 

173 _____
174 Brian Cummins,
175 Director, Human Resources
176

FOR CSEA Chapter 777



Gregory Zemanek,
CSEA, Chapter 777 President



Joseph Zacklin,
CSEA Labor Relations Representative