

1 **COUNTER PROPOSAL FROM THE**
2 **PASADENA AREA COMMUNITY COLLEGE DISTRICT TO THE**
3 **CALIFORNIA SCHOOL EMPLOYEES ASSOCIATION, AND ITS PASADENA CHAPTER 777**
4

5 **August 23, 2023**
6

7 The collective bargaining proposal presented herein by the Pasadena Area Community College
8 District to the California School Employees Association and its Pasadena Chapter 777 is
9 expressly made pursuant to the Educational Employment Relations Act and the Collective
10 Bargaining Contract between the parties.
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12 The following articles shall be deemed to remain unchanged in the Collective Bargaining
13 Agreement except as set forth below:
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15 **ARTICLE 13**
16 **DISCIPLINARY PROCEDURES**

17 13.1 The disciplinary procedure set forth below shall apply to major disciplinary action, including but
18 not limited to, discharge, suspension, demotion or termination taken against permanent, non-
19 probationary employees.

20 **13.2 Informal Hearing Prior to Disciplinary Action**

21 13.2.1 Notice

22 Prior to imposing major disciplinary action, the District will provide the employee with a written
23 notice of the proposed action, the specific charges or materials on which the action is based, and
24 the reasons for the proposed action. The written notice will also advise the employee of the right
25 to request a hearing on the proposed action ("Skelly hearing") and will include a Request for
26 Hearing form, which is to be returned by a specified date which shall be no less than five (5)
27 working days after service of the written notice. An employee's failure to return the request for
28 hearing form within the time specified shall constitute a waiver of the right to a hearing before the
29 initial imposition of disciplinary action.

30 **13.2.2 Hearing**

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

34 by a person with authority to recommend, the employee's response shall be fully and fairly
35 communicated to the Superintendent-President who makes the decision regarding the proposed
36 action.

37 **13.2.3 Association Representative**

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

41 13.2.4 Exception

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

46 13.2.5 Decision

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

51 13.2.6 Right to Formal Hearing

52 When the employee is advised of the District's decision and its effective date, the employee shall
53 also be advised of his/her right to obtain a formal hearing. If the employee desires such a hearing,
54 the employee must submit a written request within five (5) working days after receiving
55 notification of the District's decision. The employee's request shall be submitted on a form
56 provided by the District to the Office of Human Resources. The formal hearing may, but need not,
57 occur prior to initial imposition of discipline.

58 13.3 Formal Hearing

59 13.3.1 Selection of Hearing Officer

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

64 13.3.2 Rights of Parties Before Hearing Officer

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

67 (1) To be represented by counsel or any other person at the hearing. The name of the
68 employee's representative shall be given in writing to the Office of Human Resources at
69 least three (3) working days in advance of the scheduled hearing so that a folder of the
70 formal exhibits can be prepared for the representative. The formal exhibits shall consist of
71 notice of proposed action; the employee's initial request for a hearing (if any); the
72 District's written decision; and the employee's request. The folder of formal exhibits shall
73 be given to the employee's representative at least two (2) days before the scheduled
74 hearing.

75 (2) To testify under oath.

76 (3) To compel the attendance of other employees of the District to testify. To arrange for
77 attendance during working hours, the names of such employees must be provided to the
78 Office of Human Resources no later than three (3) working days before the scheduled
79 hearing.

80 (4) To cross-examine all witnesses and all employees of the District whose reports are
81 offered in evidence before the hearing officer.

82 (5) To impeach any witness.

83 (6) To present such affidavits, exhibits, and other evidence as the hearing officer deems
84 pertinent to the inquiry.

85 (7) To argue the case.

86 13.4 Procedure for Hearing Before Hearing Officer

87 The hearing shall be conducted in the manner most conducive to determination of the truth, and
88 neither the District nor the hearing officer shall be bound by technical rules of evidence. The

89 hearing officer shall determine the relevancy, weight, and credibility of the testimony and
90 evidence. At the hearing officer review panel's discretion, irrelevant and repetitious evidence may
91 be excluded. The burden of proof shall be on the District.

92 Each party will be permitted an opening statement, with the District or its designated
93 representative opening first. The District and its designated representative shall present its
94 witnesses and evidence to sustain its charges, and the employee will then present witnesses and
95 evidence in defense. Each party will be allowed to cross-examine witnesses.

96 The hearing officer may exclude witnesses not under examination except the employee and the
97 party attempting to substantiate the charges against the employee and their respective counsel or
98 representative.

99 13.5 Findings and Recommendations of Hearing Officer

100 The hearing officer shall issue his or her findings and recommendations within thirty (30) calendar
101 days after the conclusion of the hearing. The hearing officer may sustain or reject any or all of the
102 changes filed against the employee and may recommend modifications of the disciplinary action
103 proposed by the District. The findings and recommendations of the hearing officer shall be served
104 on all parties and their designated representatives.

105 13.6 Post-Hearing Procedure

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

112 An employee wishing to present oral argument to the Board of Trustees concerning the
113 Superintendent-President's recommendation must notify the Superintendent-President at least
114 twenty-four (24) hours prior to the meeting at which the Board of Trustees is scheduled to review
115 the findings and recommendations and render a decision. The Board of Trustees shall make a
116 final decision within thirty (30) calendar days after said meeting. The Board of Trustees shall not
117 impose a penalty greater than that proffered in the original charges. In the event the Board of
118 Trustees makes a final decision to modify or reverse the initial action taken by the District and the
119 discipline has already been imposed, the employee shall be entitled to such make-whole relief as
120 the Board of Trustees deems appropriate. Notice of the Board's decision shall be mailed to the

121 employee and his/her counsel or other representative.

122 ~~13.7~~ **Suspension Removal**

123 **Prior suspensions will be expunged and therefore not form the basis for any disciplinary**
124 **action according to the following schedule:**

125 ~~13.7.1~~ **After two (2) years, a prior suspension will be removed.**

126 ~~13.7.2~~ **After four (4) years, a prior second suspension will be removed.**

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