

HEARING PROCEDURES FOR SUSPENSION OR DISMISSAL OF CLASSIFIED EMPLOYEES

When a permanent classified employee is to be dismissed, suspended for more than five working days, or reduced in compensation pursuant to the Collective Agreement so as to materially affect the employee's salary for an amount in excess of five working days pay, the subject employee shall be:

- a. Given prior written notice by the Vice Chancellor of Human Resources and Organizational Development or his designee informing the employee of the intended discipline, the effective date, a specific statement of the charges.
- b. Given the reasons therefore, providing the employee, whenever feasible, with copies of the material upon which the proposed action is based (should the subject material not be attached or not complete, a statement will be included in the notice informing the employee that he/she has access to all materials supporting the proposed action and that copies will be provided upon request).
- c. Given notice of the opportunity to respond either orally or in writing to the Vice Chancellor of Human Resources and Organizational Development or his designee within a period of time of six working days, as designated by the "Skelly" notice, stating that should the employee fail to do so he/she shall have waived the rights to review.

Procedure

1. Written Notice

A permanent employee who is to have disciplinary action taken against him/her shall be given written notice, similar in content to the "Skelly" procedure above and the employee shall be informed in writing of the following:

- a. **Statement of Charges.** A statement of the specific charges against the employee shall be written in ordinary and concise language of the specific acts and omissions on which the disciplinary action is based and shall include the cause and any rules and regulations which have been violated. With the exception of charges involving concealment or fraud, no charge shall be made in which the facts giving rise to the allegation occurred prior to the employee's becoming permanent, nor shall a charge be made for matters arising more than two years preceding the date of filing.

2. Hearing

- a. The hearing shall be held within a reasonable period of time and, normally, not less than five working days or more than thirty calendar days after the filing of a request for a hearing. (Whenever possible, the scheduling of hearings shall conform to the regular board calendar.)
- b. If the employee does not request a hearing by the set date, disciplinary action will become final without a hearing.
- c. The hearing shall be held in closed session unless the employee requests an open public hearing.
- d. Hearings shall be held and presided over by the Governing Board, or by mutual agreement, a hearing officer selected by the parties.

- e. The employee may appear:
 - 1) On his/her own behalf; or
 - 2) The employee may be represented at the hearing by designated individual representative of his/her choice, provided that the exclusive agent of the employee's bargaining unit signs a waiver statement; or
 - 3) The employee may be represented by an attorney at law; or
 - 4) The employee may be represented by an employee organization provided that if the employee is a member of an appropriate unit which has a certified exclusive representative. (Only the exclusive representative may represent the employee.)
3. Conduct of Hearing of Governing Board (Before Hearing Officer)
- a. The hearing officer shall be responsible for conducting the hearing, initiating the ruling or questions of evidence and procedure.
 - b. Normally, the following order of proceedings shall be followed:
 - 1) Presentation by charging party,
 - 2) Appellant-cross,
 - 3) Presentation by appellant,
 - 4) Charging party cross,
 - 5) Rebuttal by each party.
 - c. The employee shall have the right to personally appear and testify, to call and cross-examine witnesses.
 - d. Documentary and oral evidence shall be accepted so long as it conforms with that normally acceptable by reasonable and ordinary persons as being relevant, material, and operational.
 - e. Hearsay evidence is admissible but will be given diminished weight unless it supports direct evidence.
 - f. Irrelevant or unduly repetitious evidence shall be excluded.
 - g. The charging party has the burden of proof and shall first present evidence and testimony.
 - h. The employee shall have the burden of going forward with mitigating evidence.
 - i. The decision shall be based solely on the facts and arguments presented.
 - j. Hearings will be recorded at the request of the parties or the hearing officer in advance.
 - k. Findings:
 - 1) The Hearing Officer shall submit a written recommended decision to the Governing Board which shall include proposed findings of fact, determination of issues and recommended decision.
 - 2) The Governing Board may accept, reject, or modify the recommended decision. Should the decision be modified, pursuant to a review of the record, the Governing Board shall draft its final decision to include any findings of fact and determinations of issues giving weight to the modifications.
4. Conduct of Hearing Before Governing Board
- a. The Board President/designee shall be responsible for conducting the hearing, including the ruling on questions of evidence and procedures.
 - b. Normally, the following order of proceedings shall be followed:
 - 1) Presentation by charging party,
 - 2) Appellant-cross,
 - 3) Presentation by appellant,
 - 4) Charging party cross,
 - 5) Rebuttal by each party.

- c. The employee shall have the right to personally appear and testify, to call and cross-examine witnesses.
- d. Documentary and oral evidence shall be accepted so long as it conforms with that normally acceptable by reasonable and ordinary persons as being relevant, material, and operational.
- e. Hearsay evidence is admissible but will be given diminished weight unless it supports direct evidence.
- f. Irrelevant or unduly repetitious evidence shall be excluded.
- g. The charging party has the burden of proof and shall first present evidence and testimony.
- h. The employee shall have the burden of going forward with mitigating evidence.
- i. The decision shall be based solely on the facts and arguments presented.
- j. Hearings will be recorded at the request of the parties or the hearing officer in advance.
- k. Attendance of persons in a hearing shall be limited to persons having a direct interest in the hearing. The retirement of other witnesses may be required during the testimony of certain witnesses. The Governing Board President shall deem as to whether any other person may attend hearings.

5. Results of Hearing

- a. The Governing Board may make its decision at the hearing, or take the matter under consideration for decision at a specified future time.
- b. Where the Governing Board, itself, upholds a disciplinary action, it shall state the facts found, and upon which its decision is based.
- c. The Governing Board's findings and decision shall be (a) expressed in writing and a copy provided to the employee by first class mail, (b) effective when announced in public session, and (c) final and conclusive.
- d. If the appeal of the employee is sustained, the Governing Board shall order all such records pertaining to the charges not placed in the employee's personnel file.