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

**September 22, 2023**

8 **ARTICLE 13 - DISCIPLINARY PROCEDURE**

9 13.1 The disciplinary procedure set forth below shall apply to major disciplinary action, including but  
10 not limited to, discharge, suspension, demotion or termination taken against permanent, non-  
11 probationary employees.

12 **13.2 Informal Hearing Prior to Disciplinary Action**

13 13.2.1 Notice

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

22 **13.2.2 Hearing**

23 At the hearing, the employee shall be given the right to respond verbally or in writing to a person  
24 with authority (Hearing Officer) to make the final decision regarding the proposed disciplinary  
25 action or to recommend what final decision should be made. If the employee's response is heard  
26 by a person with authority to recommend, the employee's response shall be fully and fairly  
27 communicated to the Superintendent-President who makes the decision regarding the proposed  
28 action.

29 **13.2.3 Association Representative**

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

33 13.2.4 Exception

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

38 13.2.5 Decision

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

43 13.2.6 Right to Formal Hearing

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

50 13.3 Formal Hearing

51 13.3.1 Selection of Hearing Officer

52 The review panel shall be conducted by a single hearing officer. The State Mediation and  
53 Conciliation Service will be asked to appoint the hearing officer. The hearing officer shall set the  
54 time for the hearing on the matter and shall give the employee at least five (5) working days'

55 notice in writing of the date and place of the hearing.

56 13.3.2 Rights of Parties Before Hearing Officer

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

59 (1) To be represented by counsel or any other person at the hearing. The name of the  
60 employee's representative shall be given in writing to the Office of Human Resources at  
61 least three (3) working days in advance of the scheduled hearing so that a folder of the  
62 formal exhibits can be prepared for the representative. The formal exhibits shall consist of  
63 notice of proposed action; the employee's initial request for a hearing (if any); the  
64 District's written decision; and the employee's request. The folder of formal exhibits shall  
65 be given to the employee's representative at least two (2) days before the scheduled  
66 hearing.

67 (2) To testify under oath.

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

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

74 (5) To impeach any witness.

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

77 (7) To argue the case.

78 13.4 Procedure for Hearing Before Hearing Officer

79 The hearing shall be conducted in the manner most conducive to determination of the truth, and  
80 neither the District nor the hearing officer shall be bound by technical rules of evidence. The  
81 hearing officer shall determine the relevancy, weight, and credibility of the testimony and  
82 evidence. At the hearing officer review panel's discretion, irrelevant and repetitious evidence may  
83 be excluded. The burden of proof shall be on the District.

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

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

#### 91 13.5 Findings and Recommendations of Hearing Officer

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

#### 97 13.6 Post-Hearing Procedure

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

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

#### 114 ~~13.7~~ Suspension Removal

115 Prior suspensions will be expunged and therefore not form the basis for any disciplinary

116 action according to the following schedule:

117 ~~13.7.1 After two (2) years, a prior suspension will be removed.~~

118 ~~13.7.2 After four (4) years, a prior second suspension will be removed.~~

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120 **13.7 Disciplinary Action Causes and Time Limits**

121 The District shall not initiate any disciplinary action for any cause alleged to have arisen prior to the unit  
122 member becoming permanent nor for any cause alleged to have arisen more than two (2) years  
123 preceding the date of the filing of the notice of intent to impose discipline, unless such cause was  
124 concealed or not disclosed by such unit member when it could be reasonably assumed that the unit  
125 member should have disclosed the facts to the District. However, the District may use prior discipline and  
126 written warnings and/or reprimands to establish a prior pattern of conduct. EDC: 88013

127 **13.8 Personnel Files and Disciplinary Action**

128 Disciplinary actions, including written reprimands, suspensions, involuntary demotions, or terminations,  
129 which may be deemed as derogatory information, shall be placed, after a period of 10 days, in the  
130 bargaining unit employee's personnel file. The bargaining unit employee shall have the right to enter, and  
131 have attached to the noted disciplinary action, their own comments. EDC: 87031

132 **13.9 Right of Representation (Weingarten Rights)**

133 A bargaining unit employee has the right to CSEA representation in discipline or investigator matters. The  
134 bargaining unit employee has the right to seek a postponement of a meeting that could lead to discipline  
135 and request CSEA representation. If CSEA representation is requested, the meeting shall be rescheduled  
136 within five (5) working days to allow for CSEA representation.

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