

# NICASIO SCHOOL DISTRICT

## Board Policy

Series 4000: Personnel

BP 4218

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### CLASSIFIED PERSONNEL

#### **Dismissal/Suspension/Disciplinary Action**

##### Termination of Probationary Employment

At any time prior to the expiration of the one-year probationary period, the Superintendent or designee may, at his/her discretion, dismiss a probationary classified employee from district employment. A probationary employee shall not be entitled to a hearing.

#### **A. Disciplinary Action**

The following disciplinary actions may be taken by the district against a permanent employee for the causes listed in Section B:

1. *Dismissal* - is removal from employment in the district.
2. *Suspension* - is temporary removal from employment in the district for a specified period of time.
3. *Involuntary Reassignment* - is a change of assignment whereby an employee is placed in the same or similar classification position with different hours
4. *Involuntary Demotion* - is placement in a lower classification.

#### **B. Cause**

A permanent employee may have disciplinary action taken against him or her for any of the following causes:

1. Neglect of duty
2. Inefficiency
3. Incompetency
4. Violation of rules and regulations
5. Insubordination
6. Dishonesty

7. Consumption of alcoholic beverages that directly or indirectly have an adverse effect on the district
8. Immoral conduct
9. Illegal use of narcotics or other controlled substances
10. Conviction of a sex offense as defined in Education Code 44010, conviction of narcotics offense as defined in 45123, or conviction as a sexual psychopath as defined in Education Code 45124
11. Repeated, unexcused tardiness
12. Repeated, unexcused failure to report to work as assigned
13. Excessive absence that is detrimental to the district
14. Inability to work harmoniously with others to such a degree that district functioning is disrupted
15. Failure to maintain such conditions and standards required by the district policies and job descriptions
16. Damage to public property
17. Disorderly conduct
18. Evident unfitness for service
19. Failure to maintain licenses or certificates required by law for the job

#### Dismissal Procedures for Permanent Employees

##### **1. Written Notice**

A permanent employee who is to have disciplinary action taken against him/her 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 that have been violated. No charge, however, shall be made which occurred prior to the employee's becoming permanent nor more than two years prior to the filing of this statement of charges.
- b. *Right to a Hearing* - The employee may request a hearing in writing within five calendar days after service of the statement of charges. A card shall be provided to the employee, the signing of which shall constitute a demand for a hearing and denial of all charges. Failure to request a hearing within the five calendar days shall be deemed to be a waiver of the right to the hearing.

c. *Access to Material* - The employee may, upon request, have copies of the material upon which the charges are based.

## 2. **Hearing**

a. The hearing shall be held within a reasonable period of time but not less than five calendar days after the filing of a request for a hearing.

b. If the employee does not request a hearing by the set date, disciplinary action may be taken without a hearing.

c. The employee may be represented at the hearing by a representative of his or her choice.

d. The hearing shall be conducted before the Governing Board or before its designee.

### (1) Hearing before Board

(a) The employee shall have the right to appear personally and testify, to call favorable witnesses, and to cross-examine witnesses.

### (2) Hearing before Designees

(a) A dismissal hearing may be delegated to a hearing officer.

(b) A suspension, involuntary reassignment or demotion hearing may be delegated to the Superintendent or his/her designee.

(c) The designee shall submit a written recommended decision to the Board which shall include proposed findings of fact and determination of issues. A copy of the recommended decision shall be sent to the employee.

(d) Prior to making a final decision, the Board shall afford the employee the opportunity to present arguments to it on the sufficiency of cause for disciplinary action. The Board shall not be required to conduct an evidentiary hearing.

Any modified decision shall include findings of fact and determination of issues by the Board.

3. **Results of the Hearing** - A written decision shall be sent to the employee within 10 working days of the Board's decision, including the findings of fact and determination of issues.

Legal Reference:

EDUCATION CODE

35161 Delegation of powers and duties

44009 Conviction of specified crimes

44010 Sex offense

44011 "Controlled substance offense" defined

44940 Leave of absence; employee charged with mandatory or optional leave of absence offense

44940.5 Compulsory leave of absence; procedures; extension; compensation; bond or security; reports  
45101 Definitions (including "disciplinary action," "cause")  
45109 Fixing of duties  
45113 Rules and regulations for classified service in districts not incorporating the merit system  
45123 Employment after conviction of sex or narcotics offense  
45124 Dismissal: Sexual Psychopath  
45302 Demotion and removal from permanent classified service  
45303 Additional cause for suspension or dismissal of employees in classified service  
45304 Suspension for reasonable cause; filing of charges; employee charged with mandatory or optional leave of absence offense

UNITED STATES CODE, TITLE 42  
12101 -12213 Americans With Disabilities Act

1<sup>st</sup> Reading: March 12, 2008  
2<sup>nd</sup> Reading: April 23, 2008  
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