

ARTICLE 34: LETTERS OF REPRIMAND AND SUSPENSIONS

Section 34.1: PURPOSE

The intent of this Article is to establish a process for progressive actions which may lead to a letter of reprimand, or to a suspension to which this Article applies.

Section 34.2: LETTERS OF REPRIMAND

34.2.1. The steps set forth below will be followed with respect to unit members whose performance or conduct warrants action by his/her supervisor. Reasons for a letter of reprimand include, but are not limited to, unsatisfactory performance, unprofessional conduct, and persistent violation of or refusal to obey the school laws of the state or reasonable regulations prescribed by the governing board of the school district.

34.2.1.1. Verbal warning (Oral only, not provided in writing.)

34.2.1.2. Written warning (Maintained in unit member's site or program personnel file)

34.2.1.3. Letter of Reprimand (Maintained in unit member's district personnel file)

The supervisor shall have the discretion to determine the number of verbal and written warnings prior to issuing a written reprimand.

34.2.2. In cases of egregious conduct, the supervisor may issue a letter of reprimand without previously having issued either a verbal or written warning.

34.2.3. If a unit member wishes to contest the issuance of a letter of reprimand, he/she may request review of the matter by the superintendent's designee. The request for review must be made in writing to the superintendent's designee within ten (10) workdays following either personal service or service by mail of the letter of reprimand.

34.2.4. Within ten days of receipt of the appeal, the superintendent's designee will meet with the unit member to discuss the reprimand and will render a written decision as to whether or not the letter of reprimand is appropriate within ten (10) workdays following the meeting.

34.2.5. The Association, on behalf of the unit member, shall have the right to request a hearing to review the decision of the superintendent's designee. The request shall be made in writing to the superintendent's designee within ten (10) workdays following either personal service or service by mail of the decision. The Parties shall attempt to reach mutual agreement on a permanent list of hearing officers from which to select a hearing officer on a case-by-case basis. Failing agreement, the hearing officer shall be randomly selected from the panel of district Classified Employment Regulations hearing officers. Formal administrative hearing procedures shall not be required. The Parties shall have the right to present oral and documentary evidence. The hearing officer shall render a written decision either upholding or setting aside the letter of reprimand. The hearing officer's decision shall be final and binding. All hearing costs shall be borne equally by the District and the Association.

- 34.2.6. If at any stage of appeal the reprimand is found to be appropriate, the reprimand, and any rebuttal the unit member may wish to submit will be placed in the unit member's personnel file. The decision upholding the reprimand will be kept in the Human Resource Services Division separately from the unit member's personnel file. If the reprimand is found not to be appropriate, the reprimand, the decision and all documents generated under this appeal procedure will be kept in the Human Resources Services Division separately from the unit member's personnel file.

Section 34.3: SUSPENSIONS

- 34.3.1. The suspension procedures in this Section are adopted pursuant to Government Code Section 3543.2. These procedures exclusively govern unit member suspensions without pay up to fifteen (15) days. Nothing herein shall be construed to deny to the Board of Education rights prescribed by law.
- 34.3.2. Unit members may be suspended for any of the reasons set forth in the Education Code Section 44932. These reasons include, but are not limited to: unsatisfactory performance, unprofessional conduct, and persistent violation of or refusal to obey the school laws of the state or reasonable regulations prescribed by the governing board of the school district.
- 34.3.3. Except in cases of egregious conduct by a unit member, before a unit member is recommended for suspension he/she shall have been apprised of his/her performance deficiencies by each of the following methods: one verbal warning, one written warning, and one letter of reprimand.
- 34.3.4. Unit members to be suspended shall be provided a written statement of the charges forming the basis for the suspension.
- 34.3.5. The Association, on behalf of the unit member, shall have the right to request a hearing to contest the suspension charges by filing a written request for hearing with the superintendent's designee within ten (10) workdays of personal service or service by mail of the suspension charges. The hearing shall be presided over by a mutually-agreed upon hearing officer. If a hearing officer is not agreed upon within ten (10) workdays following the hearing request, the hearing shall be presided over by a State Office of Administrative Hearings administrative law judge. The District shall make the request for the appointment of the administrative law judge. Documents to be submitted by either party at the hearing shall be exchanged at least five (5) workdays before the hearing date. During the hearing each party may present oral and documentary evidence and may call and cross-examine witnesses. The standard of proof shall be preponderance of the evidence. The unit member shall have the right to a transcript of the proceedings. All hearing costs shall be borne equally by the Association and District. Subject to the provisions of Section 34.3.6, the decision of the hearing officer shall be final and binding on the Association, the District and the unit member.
- 34.3.6. The suspension hearing decision may be reviewed by the Superior Court through a petition for writ of mandate under Code of Civil Procedure Section 1094.5. Any such petition must be filed within thirty (30) days after the issuance of the decision.

Section 34.4: EXCLUSIONS

- 34.4.1. This Article does not apply to or impose conditions for the dismissal of unit members or the non-reelection of probationary unit members. This Article also does not apply to the issuance of notices of unprofessional conduct or the issuance of notices of unsatisfactory performance relating to dismissals or relating to suspensions not covered by this Article. These matters shall be governed exclusively by the Education Code.

- 34.4.2. The provisions of this Article are not subject to the grievance procedure. Written reprimands or suspensions covered by this Article shall be exclusively adjudicated as set forth herein.