

Classified/Confidential Employee Discipline Procedures

1. **Reasons to Initiate Discipline (P-6912) Employee's Name**

- 1.1.1. Insubordination, inefficiency, dereliction of duty or repeated failure or refusal to preform duties in satisfactory manner;
- 1.1.2. Carelessness or negligence in performance of duties;
- 1.1.3. Absence from duty without leave; repeated unexcused absences or tardiness or other abuses of leave privileges;
- 1.1.4. Willful misuse of or negligent damage to or waste of property or equipment in the possession or care of District;
- 1.1.5. Persistent violation or refusal to obey safety rules or regulations;
- 1.1.6. Discourteous, offensive or abusive conduct or language;
- 1.1.7. Dishonesty in handling District funds, reporting time on and off the job, and other matters of a similar nature; misuse of District resources;
- 1.1.8. Possession of and/or drinking alcoholic beverages on District property or reporting for work while under the influence of alcohol;
- 1.1.9. Addiction to or being under the influence of controlled substance; conviction of a controlled substance-related offense;
- 1.1.10. Falsifying information supplied to the District;
- 1.1.11. Conviction of a felony or a misdemeanor involving moral turpitude;
- 1.1.12. Knowingly making, duplicating or causing to be duplicated any key to any District facility without authorization from the administrative officer; providing a key or its use to an unauthorized user;
- 1.1.13. Offering anything of value or offering any service in exchange for special treatment in connection with the employee's job or employment, or the accepting of anything of value or any service in exchange for granting any special treatment to another employee or to any member of the public;
- 1.1.14. Abandonment of position;
- 1.1.15. Advocacy of overthrow of federal, state or local government by force, violence or other unlawful means (See General Counsel);
- 1.1.16. Violation of District policies or regulations;
- 1.1.17. Refusal to perform essential job functions due to a disability despite reasonable accommodation provided by the District. (See General Counsel)

Other:___

What type of Discipline will be imposed:

- Oral Counseling
- Counseling Memo
- Letter of Reprimand
- Suspension – Severe Discipline
- Demotion – Severe Discipline
- Reduction in Pay – Severe Discipline
- Dismissal – Severe Discipline

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2 **Confidential Employee Discipline (P-9413)**

Termination or other discipline of a confidential employee shall be governed by the policies and regulations applicable to classified employees. (P-9413 section 1.3)

COUNSELING MEETING

3 **Supervisor's counseling meeting (P-6913)**

Date: enter a date.

An informal supervisor's counseling meeting should be held prior to the issuance of a counseling memo or letter of reprimand. Serious violations may lead to sever discipline without prior counseling. (P-6913, section 1.1.1)

If a problem has not been resolved through informal discussion meetings, the supervisor/administrator of the operating unit, following consultation with the Administrative Officer (the Vice President of Administration of the college or the appropriate department manager at District Office/Central Maintenance (P-6911 section 1.2)), may deliver a written counseling memo or letter of reprimand detailing the area(s) of concern. Letters of reprimand shall be considered more severe than counseling memos. (P-6913, section 2.1)

COUNSELING MEMO

4 **Counseling Memo (P-6913/R-6913)**

Date: enter a date.

Clearly define the specific violation as outlined in Board Policy (P-6912) and the steps which must be taken for improvement, (R-6913 section 1.1) and shall include:

an itemized description giving date, time and nature of violations along with applicable rules and regulations (R-6913 section 1.1.1);

the possible consequences for the employee's action, if improvement does not occur (R-6913 section 1.1.2);

steps which must be taken for improvement (R-6913 section 1.1.3); and

should state "There is **no** right to appeal." (R-6913 section 2.4)

The memo may be on the District's/College's standard form or in the form of a letter clearly marked as such. (R-6913 section 2.1)

The Administrative Officer, immediate supervisor and/or manager shall:

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- discuss with the employee the contents of the counseling memo; **and**
 - shall outline requirements for the employee's attaining a reasonable standard of performance. (R-6913 section 2.2)
 - Copies of the counseling memo shall be provided to:
 - the employee (R-6913 section 2.3); and
 - the next higher level of administrative authority. (R-6913 section 2.3)
 - A counseling memo shall **not** be placed in the employee's personnel file, except as an attachment to a subsequent document. (R-6913 section 2.3)
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LETTER OF REPRIMAND

5 **Letter of Reprimand (P-6913/R-6913)**

Date: enter a date.

- Clearly define the specific violation as outlined in Board Policy (P-6912) and the steps which must be taken for improvement, (R 6913 section 1.1) and shall include:
 - the **date, time** and **nature** of violations along with applicable rules and regulations (R-6913 section 1.1.1);
 - the possible consequences for the employee's action, if improvement does not occur (R-6913 section 1.1.2);
 - steps which must be taken for improvement (R-6913 section 1.1.3); and
 - should state "If a permanent employee wishes to appeal a letter of reprimand, the individual may do so by delivering to the Administrative Officer within **five (5) working days of receipt**, a written statement describing the objections. The Administrative Officer shall investigate the action and determine whether the action should be sustained, modified or reversed. The decision of the Administrative Officer shall be final." (R-6913 section 3.4)
- The memo may be on the District's/College's standard form or in the form of a letter. (R-6913 section 3.1)
 - If the standard form is not used, letters of reprimand shall contain the words: "Letter of Reprimand" at the start of the document. (R-6913 section 3.1)

The Administrative Officer, immediate supervisor and/or manager shall:

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- discuss with the employee the contents of the letter of reprimand; **and**
- shall outline requirements for the employee's attaining a reasonable standard of performance. (R-6913 section 3.2)

Copies of the letter of reprimand shall be provided to:

- the employee;
 - the next higher level of administrative authority; and
 - Human Resources for inclusion in the employee's personnel file. (R-6913 section 3.3)
- Include any written comments regarding the letter of reprimand by the employee in the employee's personnel file. (R-6913 section 3.3)

APPEAL PROCESS FOR LETTER OF REPRIMAND

6 **Letter of Reprimand Appeal Process (P/R-6913)**

If a permanent employee wishes to appeal a letter of reprimand, the individual may do so by:

- delivering a Letter of Appeal to the Administrative Officer **within five (5) working days** of receipt of Letter of Reprimand, a written statement describing their objections. (R-6913 section 3.4)
- The Administrative Officer shall investigate the action and determine whether the action should be sustained, modified or reversed. (R-6913 section 3.4)
- The decision of the Administrative Officer shall be final. (R-6913 section 3.4)

SEVERE DISCIPLINARY ACTIONS

7 **Severe Disciplinary Actions (P/R-6914)**

The Chancellor may impose severe discipline when the Chancellor determines that the employee:

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has violated Board Policy or other applicable regulations or laws and has not modified the behavior after having been apprised of the violation and given an opportunity to correct the inappropriate conduct (P-6914 section 1.1.1); or

whenever the employee has committed an act which is so severe as to warrant immediate action. If the discipline is not appealed, the Chancellor shall submit the discipline to the Board for final action. (P-6914 section 1.1.2)

employees have the right to a hearing for severe discipline unless the employee has abandoned their position. (P-6914 section 2.2)

A recommendation to impose discipline more severe than a letter of reprimand shall be made by the Administrative Officer to the Director, Human Resources. (R-6914 section 1.1)

The written correspondence shall contain detailed reasons for the recommendations (R-6914 section 1.1)

An investigation shall be conducted by the Director, Human Resources. (R-6914 section 1.2)

If the Director, Human Resources finds, after investigation, that the reasons given justify the action recommended, the employee will be given a written Notice of Intent to Discipline. (R-6914 section 1.2)

ADMINISTRATIVE LEAVE

8 **Administrative Leave (P/R-6913)**

The Chancellor may place an employee on administrative leave prior to the pre-disciplinary meeting if the Chancellor deems it is in the best interest of the District. (R-6914 section 3.1)

Administrative leave shall be effective when a written notice of administrative leave by the Chancellor is served upon the employee. (R-6914 section 3.1.1)

The employee shall remain in full paid status during the period of administrative leave. (R-6914 section 3.1.2)

The employee must remain available to participate in administrative procedures. (R-6914 section 3.1.3)

Administrative leave status will terminate when the action becomes final. (R-6914 section 3.1.4)

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If an employee abandons a position, the employee shall not be entitled to a predisciplinary meeting provided, however, that the District shall provide written notice of its intent to terminate at least ten (10) days before the effective date of the termination (R-6914 section 6.0)

NOTICE OF INTENT TO DISCIPLINE

9 **Notice of Intent to Discipline (R-6914)**

Date: enter a date.

The written Notice of Intent to Discipline shall include the following:

- a description of the proposed discipline **and** the effective date (R-6914 section 2.1.1);
 - a statement of the specific acts or omissions upon which the action is based (R-6914 section 2.1.2);
 - a statement of the cause for the action taken (R-6914 section 2.1.2);
 - if it is claimed that the employee has violated a rule or regulation, such rule or regulation will be quoted or referenced (R-6914 section 2.1.1);
 - a statement of the employee's right to a pre-disciplinary meeting (R-6914 section 2.1.3);
 - a statement that the employee has **five (5) working days** to request a pre-disciplinary meeting (R-6914 section 2.1.4);
 - a statement that the employee may represent himself/herself at all pre-disciplinary meeting or be represented by an attorney or any other person of the employee's choice (R-6914 section 2.1.5); and
 - a request for hearing form (R-6914 section 2.1.6);.
 - all document needed to prove the allegations of the Notice of Intent
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PRE-DISCIPLINARY HEARING

10 **Pre-disciplinary hearing request (R-6914)**

Date: enter a date.

The employee may request a predisciplinary meeting with the Chancellor, or designee.

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The pre-disciplinary meeting is an informal, non-evidentiary meeting. (R-6914 section 4.1)

Request received within five (5) working days of the NOI

Skelly Meeting Date: enter a date.

The Chancellor, or designee will issue a decision **within ten (10) working days** of the pre-disciplinary meeting. (R-6914 section 4.1)

Decision issued: enter a date.

If the decision is to impose discipline, the decision will include a statement of the discipline; **and**

If the decision is to impose discipline, the decision will include a statement of the right to appeal. (R-6914 section 4.1)

11 **Hearing Request (R-6914)**

Date Received: enter a date.

Within ten (10) working days of mailing, the employee may file a request with the Chancellor for a hearing pursuant to Board Policy. (R-6914 section 5.1)

Failure to file a request for a hearing within ten (10) working days of the mailing shall constitute a waiver of any right to a hearing. (R 6914, section 5.1)

If the employee fails to appeal, the Board shall act upon the Chancellor's decision at a closed session of the Board. The Board's action shall be final. (R 6914, section 5.2)

APPEAL PROCESS (P-6915)

12 **The General Counsel shall select the hearing officer by lot from a pool of hearing officers. Hearing Officer:** _____

13 **The hearing shall be conducted in accordance with the following procedures:**

A hearing shall be commenced not later than thirty (30) days after filing the request for hearing, **except by mutual agreement.** (P-6915 section 1.3.1)

Hearing Commenced: Click or tap to enter a date.

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The employee shall be given ten (10) calendar days' written notice of the date, time and place of the hearing. (P-6915 section 1.3.2) Notice Sent: enter a date.

The method of delivery shall be:

personal service; or

certified or registered mail; postage paid; return receipt requested; and sent to the employee's last known address. Notice by mail shall be effective at the time of postal deposit. (P-6915 section 1.3.2)

THE HEARING

14 **Hearing procedures.**

At the time and place designated, a hearing shall be held for the purpose of determining the validity of the charges and the appropriateness of the disciplinary action brought against the appellant employee. (P-6915 section 1.3.3)

Such hearing shall be closed to the public unless otherwise requested by the employee in writing at the time of the request for a hearing. (P-6915 section 1.3.3)

The employee shall be present and shall have the right to representation of the employee's choice, the right to call witnesses, cross-examine witnesses, and may present documentary and demonstrative evidence. (P-6915 section 1.3.3)

The employee and the employee's representative, if any, shall be allowed access to any documents and District records, within the policies defining confidentiality, which will assist in adjudicating the complaint in the disciplinary action. (P-6915 section 1.3.4)

The District shall carry the burden of proof in support of the disciplinary action. (P-6915 section 1.3.5)

The hearing may be informal and need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be admitted for any purpose but shall not be sufficient in itself to support a finding unless it would be admissible in civil actions. The rules of privileges and of official or judicial notice shall be effective to the same extent as in civil actions. Irrelevant and

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repetitious evidence shall be excluded. Oral evidence shall be taken only under oath or affirmation. (P-6915 section 1.3.6)

During the pendency of the hearing, no disclosure of the proceedings shall be made public without the concurrence of the Hearing Authority and the appellant employee. (P-6915 section 1.3.7)

At any time during the hearing, the Hearing Authority may order a continuance for a reasonable period of time. (P-6915 section 1.3.8)

If an employee-initiated request for continuance is granted, the employee shall be deemed to have waived salary for the period of the continuance. (P-6915 section 1.3.8.1)

Any request for continuance made less than forty-eight (48) hours prior to the time set for the hearing will be denied unless good cause is shown for the continuance. (P-6915 section 1.3.8.1)

Hearings may be conducted without a stenographic reporter or audio tape recording machine unless either party requests that the hearing be reported or recorded. (P-6915 section 1.3.9)

Transcripts of hearings shall be furnished on payment of the cost of preparing such transcripts. When transcripts are provided by the employees of the District, the cost shall be determined by the employee in charge of business affairs of the District. When transcripts are provided by an independent contractor, the cost will be established by the independent contractor. (P-6915 section 1.3.9.1)

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Hearing Decision.

Date: enter a date.

The written decision of the Hearing Authority shall:

state the findings as to the validity of the charges upon which the disciplinary action is being recommended (P-6915 section 1.4); and

the action to be imposed. (P-6915 section 1.4)

The decision shall not be more severe than that imposed or recommended by the Chancellor unless the employee is given notice of the intention to impose more severe action and a continuance for five (5) working days. (P-6915 section 1.4)

Notice may be given verbally at the hearing and the continuance may be waived by the employee. (P-6915 section 1.4)

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Board Determination.

Date: enter a date.

If the hearing is not before the full Board, written findings and recommendations shall be submitted by the Hearing Authority to the full Board for its approval. (P-6915 section 1.4.1)

If the Board accepts such findings and conclusions, it need not review the record of the hearing; if it declines to accept such findings and conclusions, it must review the record or provide for an additional opportunity to be heard, after which it may adopt the findings and conclusions made by the Hearing Authority, or make its own findings and conclusions. (P-6915 section 1.4.1)

The determination is effective immediately unless the decision provides otherwise. (P-6915 section 1.4.2)

A copy of the decision, including notice of its effective date, shall be mailed promptly (within 30 days) to the employee or the employee's representative by certified mail. (P-6915 section 1.4)

There shall be **no** administrative appeal available beyond that described above. (P-6915 section 1.4.4)

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POBR (Only): **Board Determination Appeal in Open Session**

Date: enter a date.