

Article 27 Just Cause and Formal Complaints

27.1 Just Cause

27.1.1 A faculty member shall not be reprimanded, suspended, or dismissed without just cause.

27.1.1.1 The purpose of this article is to provide additional guidance and oversight for a faculty member experiencing difficulties in their work and to substantiate efforts at improvement.

27.1.1.2 If a faculty member receives a notice of discipline, the District shall include in that notice the faculty member's right to request LRCFT representation regarding the issue.

27.1.1.3 Any discipline related to a demonstrated failure to meet professional expectations as defined in Sections 11.2.3, 11.2.4 and college/district service responsibilities as defined in Section 4.1.3 must follow the due process procedures outlined below.

27.1.1.4 If a faculty member receives a written recommendation for a suspension or dismissal, the District shall include in the written recommendation the faculty member's right to request LRCFT representation prior to any further meeting(s) regarding the issue. In addition, the District shall notify LRCFT at the same time as the faculty member of the written recommendation for a suspension or dismissal.

27.1.2 The following just cause guidelines shall be recognized:

- a. The faculty member shall be adequately informed of the potential consequences of their conduct.
- b. A fair and objective investigation should reveal the necessity for disciplinary action.
- c. Rules and penalties should be applied fairly and equitably.
- d. Disciplinary action should be appropriate and reasonably related to the nature of the offense.
- e. Progressive discipline shall be utilized except for conduct which is of such a nature that progressive discipline normally would not result in corrective conduct. The elements of progressive discipline shall be administered in a timely manner.

27.1.2.1 Steps in the discipline process include (exceptions to the due process steps may occur when the nature of the conduct warrants an exception):

27.1.2.1.1 *Step 1:* If discipline/corrective action is being considered, the manager shall discuss with the faculty member their actions/omissions for further fact finding prior to issuing an oral reprimand.

27.1.2.1.2 *Step 2:* If an oral reprimand does not result in corrected conduct, a counseling letter may be issued.

27.1.2.1.3 *Step 3:* Prior to administering subsequent discipline, a faculty member shall be provided notice and an opportunity to be heard. Notice shall include a statement of the incident(s) or misconduct which form the basis for the disciplinary action and a statement of the discipline to be imposed. Such notice shall be given within five (5) working days of the decision to administer the discipline.

27.1.2.1.4 *Step 4:* If suspension without pay is recommended as a disciplinary action, the offense shall be severe or preceded by at least two (2) related written reprimands issued within the last two (2) years prior to the proposed suspension.

27.1.3 Corrective Action

27.1.3.1 Throughout the progressive discipline process, when supporting information indicates that improvement is needed, the District may initiate a work plan that should set forth observable and measurable performance goals. Such goals are to be met within a specific, achievable time frame. If such a plan is contemplated, the LRCFT shall be notified. At the faculty member's request, the LRCFT shall participate in developing the work plan.

27.2 **Investigation Procedures**

27.2.1 **Misconduct Investigation Defined.** A misconduct investigation is a District-initiated investigation of a faculty member alleged to have engaged in misconduct, based on information received from a formal or informal complaint made by an identifiable author, a credible report of misconduct, manager observations, or other credible sources of information. An anonymous accusation of specific misconduct that--if true--would constitute material misconduct or present a threat to the health or safety of others

may also be investigated; however, an employee may not be disciplined based on any such anonymous claims unless there are sufficient corroborating details to require an investigation and the investigation establishes misconduct.

- 27.2.2 The District must adhere to this Article and the procedures outlined in District Administrative Regulation 2423 for misconduct investigations regarding unlawful discrimination complaints, including complaints of sexual harassment. Violations of these procedures may be subject to the grievance procedures as outlined in Article 13.
- 27.2.3 The Federation must be informed of any proposed changes in the procedures of Administrative Regulation 2423 and, to the extent allowed by law, such proposed changes shall be negotiated upon request.
- 27.2.4 Employees who are the subject of misconduct investigations have the right to request representation by LRCFT in the investigation. LRCFT has the right, upon request, to represent employees in such investigations. Those employees who are involved in misconduct investigations may request to be accompanied by a representative of LRCFT to any meetings with the District relating to the investigation.
- 27.2.5 If LRCFT is representing an employee who is the subject of a misconduct investigation, a complainant, or a witness, the Federation must be provided all information, including documents, provided to the represented employee within five (5) instructional days.
- 27.2.6 If LRCFT is representing an employee who is the subject of a misconduct investigation, the District must, provide the employee an opportunity to confer with the Federation prior to any investigatory interview.
- 27.2.7 Prior to the investigatory interview of the employee, if LRCFT is representing an employee who is the subject of a misconduct investigation , the District will, provide LRCFT with the following information related to the alleged misconduct, to the extent it is available to the District: (1) a description of the alleged misconduct by the employee, including the basic facts giving rise to the allegation(s) in the complaint; (2) the specific date(s), time(s), and location(s) of the alleged misconduct by the employee; and (3) a description of whether the complainant is a student, a faculty member, an administrator, or not a member of the college community. If appropriate, and at the discretion of the Associate Vice Chancellor of Human Resources, the District may also provide LRCFT with the name of the complainant(s) or individual(s) whose concerns caused the District to initiate an investigation. The District will provide this information to LRCFT no later than five (5) instructional days before any investigatory interview of the employee, and the parties will reschedule the interview as may be necessary to comply with this requirement.

In the event that new allegations arise during an investigation but before the interview of the employee, the District will provide LRCFT with information related to the new allegations consistent with the requirements of this section no later than five (5) instructional days before any investigatory interview of the employee, and the parties will reschedule the interview as may be necessary to comply with this requirement.

After the completion of the investigatory interview with the employee, and upon request from LRCFT, the District must provide LRCFT with a copy of any written complaint received by the District and a detailed summary of all of the allegations of any verbal complaint received by the District, including any emails or other writings setting forth verbal complaints.

27.2.7.1 The information provided to LRCFT after the completion of the interview must include detailed allegations, including dates, times, and specific details of alleged incidents, to the extent that information is available to the District.

27.2.7.2 In the event that the district may need to spend additional time gathering information and materials, the parties will communicate with each other and mutually adjust any timelines or scheduled investigatory interviews as needed.

27.2.7.3 If the materials to be provided include identifiable information about a student, the District may redact the student's name, any title, and any information that would identify the student with reasonable certainty to a reasonable person in the school community lacking personal knowledge of the relevant circumstances. Typically, this would be the student's name, their role in the college, and other identifiable characteristics. In the event the District redacts this information, it will, upon request by the Federation, meet and confer about the information request, including its reasons for the redactions and any alternate methods to provide the requested information, such as non-publication agreements or providing the information to LRCFT separately from the provision of complaint and allegation materials.

27.2.8 Upon completion of any misconduct investigation in which LRCFT has represented the employee, the District will provide a copy of the summary investigation report to LRCFT within five (5) instructional days.

27.2.9 Upon receipt by LRCFT of the summary investigation report, LRCFT may request additional information from the District, including but not limited to investigation documents, correspondence, witness statements, notes, and both summary and complete investigation reports.

27.2.9.1 The District must use the preponderance of evidence standard for any findings from a misconduct investigation, including whether the employee engaged in any misconduct or violated any District policies or procedures. If the District intends to impose discipline or corrective action, or take any employment action regarding the employee as a result of a misconduct investigation, all such requested materials under 27.2.9, and any materials the District will use in the imposition of that discipline, must be provided to the employee and LRCFT. The District must provide all such requested materials along with any notice of intended discipline, at least five (5) instructional days prior to any disciplinary processes.

27.2.9.2 If the District does not conclude the employee engaged in any misconduct or violated any District policies or procedures and if the District also does not intend to impose discipline/corrective action or take any employment action regarding the employee as a result of a misconduct investigation, LRCFT agrees that it will limit its requests for disclosure of additional information to those instances where LRCFT has reasonable concerns about the investigative process or is evaluating potential grievances, rather than as a matter of course. If such a request is made, the parties must meet and confer to discuss the request and any District objections to the request, including any objections based upon confidentiality. The District must not withhold documents based upon a generalized fear of retaliation.

27.3 Student Complaints Not Resulting in Misconduct Investigation (General, Non-Formal)

27.3.1 General, non-formal complaints (exclusive of student reviews) to a dean which do not result in a misconduct investigation may be used for purposes of supporting items in a performance review. Such complaints are to be shared with the faculty member within two (2) weeks of the time they are received by the dean.

27.3.1.1 No such complaints may be used in any performance review unless they have first been shared with the faculty member under review and the faculty member has been given an opportunity to respond.

27.4 Student Grievances (Formal)

27.4.1 Formal complaints (excluding discrimination / sexual harassment) against a faculty member not resulting in a misconduct investigation must be

handled according to the procedures outlined in Board Policy and Administrative Regulation 2412.

27.4.1.1 The District (generally the campus Student Grievance Officer or Human Resources manager) will notify the faculty member within seven (7) days when a formal complaint, excluding discrimination / sexual harassment is filed by a student which does not result in a misconduct investigation. The notification will include a statement that the faculty member has a right to request LRCFT representation. (See Board Policy 2412 and Education Code 76224)

27.5 Statutory Rights to Information and Documents

Nothing in this Article shall waive or supersede the District's, LRCFT's, or a faculty member's right to request and receive information and documents as allowed by the EERA, Education Code, or other law.