

**735 CAUSES AND PROCEDURES FOR SUSPENSION, DEMOTION, AND
DISMISSAL**

Education Code Sections

87010. Sex offense,” as used in Sections 87405, 88022, and 88123, means any one or more of the offenses listed below:

(a) Any offense defined in Section 261.5, 266, 267, 285, 286, 288, or 647.6 of, or former Section 288a or 647a of, paragraph (2) or (3) of subdivision (a) of Section 261 of, paragraph (1) or (2) of subdivision (a) of Section 262 of, or subdivision (a) or (d) of Section 647 of, the Penal Code.

(b) Any offense defined in former subdivision 5 of former Section 647 of the Penal Code repealed by Chapter 560 of the Statutes of 1961, or any offense defined in former subdivision 2 of former Section 311 of the Penal Code repealed by Chapter 2147 of the Statutes of 1961, if the offense defined in those sections was committed prior to September 15, 1961, to the same extent that such an offense committed prior to that date was a sex offense for the purposes of this section prior to September 15, 1961.

(c) Any offense defined in Section 314 of the Penal Code committed on or after September 15, 1961.

(d) Any offense defined in former subdivision 1 of former Section 311 of the Penal Code repealed by Chapter 2147 of the Statutes of 1961 committed on or after September 7, 1955, and prior to September 15, 1961.

(e) Any offense involving lewd and lascivious conduct under Section 272 of the Penal Code committed on or after September 15, 1961.

(f) Any offense involving lewd and lascivious conduct under former Section 702 of the Welfare and Institutions Code repealed by Chapter 1616 of the Statutes of 1961, if the offense was committed prior to September 15, 1961, to the same extent that such an offense committed prior to that date was a sex offense for the purposes of this section prior to September 15, 1961.

(g) Any offense defined in Section 286 or former Section 288a of the Penal Code prior to the effective date of the amendment of either section enacted at the 1975-76 Regular Session of the Legislature committed prior to the effective date of the amendment.

(h) Any attempt to commit any of the above-mentioned offenses.

(i) Any offense committed or attempted in any other state that, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses.

LOS ANGELES COMMUNITY COLLEGE DISTRICT
PERSONNEL COMMISSION

735

LAW AND RULES

February 14, 2024

87011. Controlled substance offense” as used in Sections 87405, 88022, and 88123 means any one or more of the following offenses:

(a) Any offense in Sections 11350 to 11355, inclusive, 11366, 11368, 11377 to 11382, inclusive, and 11550 of the Health and Safety Code.

(b) Any offense committed or attempted in any other state or against the laws of the United States which, if committed or attempted in this state, would have been punished as one or more of the above-mentioned offenses.

(c) Any offense committed under former Sections 11500 to 11503, inclusive, 11557, 11715, and 11721 of the Health and Safety Code.

(d) Any attempt to commit any of the above-mentioned offenses.

87405. (a) Governing boards of community college districts shall not employ or retain in employment persons who have been convicted of any sex offense as defined in Section 87010 or controlled substance offense as defined in Section 87011. If, however, any such conviction is reversed and the person is acquitted of the offense in a new trial or the charges against him or her are dismissed, this section does not prohibit his or her employment thereafter.

(b) Notwithstanding subdivision (a), no person shall be denied employment or not be retained solely on the basis that he or she has been convicted of a sex offense or a controlled substance offense if he or she has obtained or applied for a certificate of rehabilitation and pardon under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code, and if his or her probation has been terminated and the information or accusation has been dismissed pursuant to Section 1203.4 of the Penal Code.

(c) Notwithstanding subdivision (a), a person may be employed or retained despite being convicted of a sex offense or a controlled substance offense if the governing board determines from the evidence presented that the person has been rehabilitated for at least five years, or has received a certificate of rehabilitation and pardon pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code, or if the accusation or information against the person has been dismissed and he or she has been released from all disabilities and penalties resulting from the offense pursuant to Section 1203.4 of the Penal Code.

88016. A notice of disciplinary action shall contain a statement in ordinary and concise language of the specific acts and omissions upon which the disciplinary action is based, a statement of the cause for the action taken and, if it is claimed that an employee has violated a rule or regulation of the public school employer, such rule or regulation shall be set forth in said notice.

LOS ANGELES COMMUNITY COLLEGE DISTRICT
PERSONNEL COMMISSION

735

LAW AND RULES

February 14, 2024

A notice of disciplinary action stating one or more causes or grounds for disciplinary action established by any rule, regulation, or statute in the language of the rule, regulation, or statute, is insufficient for any purpose.

A proceeding may be brought by, or on behalf of, the employee to restrain any further proceedings under any notice of disciplinary action violative of this provision.

This section shall apply to proceedings conducted under the provisions of Article 3 (commencing with Section 88060) of this chapter.

88022. No person shall be employed or retained in employment by a community college district who has been convicted of any sex offense as defined in Section 87010 or controlled substance offense as defined in Section 87011. If, however, any such conviction is reversed and the person is acquitted of the offense in a new trial or the charges against him or her are dismissed, this section does not prohibit his or her employment thereafter.

Further, the governing board of a community college district may employ a person convicted of a controlled substance offense if the governing board of the district determines, from the evidence presented, that the person has been rehabilitated for at least five years.

The governing board shall determine the type and manner of presentation of the evidence, and the determination of the governing board as to whether or not the person has been rehabilitated is final.

88023. No person shall be employed or retained in employment by a community college district who has been determined to be a sexual psychopath, as defined in Section 6300 of the Welfare and Institutions Code or under similar provisions of law of any other state. If, however, such a determination is reversed and the person is determined not to be a sexual psychopath in a new proceeding, or the proceeding to determine whether he or she is a sexual psychopath is dismissed, this section does not prohibit his or her employment thereafter.

88080. (a) The commission shall prescribe and, amend, and interpret subject to this article, such rules as may be necessary to insure the efficiency of the service and the selection and retention of employees upon a basis of merit and fitness. The rules shall not apply to bargaining unit members if the subject matter is within the scope of representation, as defined in Section 3543.2 of the Government Code, and is included in a negotiated agreement between the governing board and that unit. The rules shall be binding upon the governing board, but shall not restrict the authority of the governing board provided pursuant to other sections of this code.

(b) No rule or amendment which would affect classified employees who are represented by a certified or recognized exclusive bargaining representative shall be adopted by the commission until the exclusive bargaining representative and the community college employer of the classified employees who would be affected have been given reasonable notice of the proposal.

LOS ANGELES COMMUNITY COLLEGE DISTRICT
PERSONNEL COMMISSION

735

LAW AND RULES

February 14, 2024

88081. (a) The rules shall provide for the procedures to be followed by the governing board as they pertain to the classified service regarding applications, examinations, eligibility, appointments, promotions, demotions, transfers, dismissals, resignations, layoffs, reemployment, vacations, leaves of absence, compensation within classification, job analyses and specifications, performance evaluations, public advertisement of examinations, rejection of unfit applicants without competition, and any other matters necessary to carry out the provisions and purposes of this article.

(b) With respect to those matters set forth in subdivision (a) which are a subject of negotiation under the provisions of Section 3543.2 of the Government Code, such rules as apply to each bargaining unit shall be in accordance with the negotiated agreement, if any, between the exclusive representative for that unit and the public school employer.

88121. No person in the permanent classified service shall be demoted or removed except for reasonable cause designated by rule of the commission as detrimental to the efficiency of the service. This section shall not be construed to prevent layoffs for lack of work or lack of funds.

88122. In addition to any causes for suspension or dismissal which are designated by rule of the commission, employees in the classified service shall be suspended and dismissed in the manner provided by law for any one or more of the following causes:

(a) Knowing membership by the employee in the Communist Party.

(b) Conduct specified in Section 1028 of the Government Code.

88123. For reasonable causes, an employee may be suspended without pay for not more than 30 days, except as provided in this section, or may be demoted or dismissed. In such case, the personnel director, shall within 10 days of the suspension, demotion, or dismissal, file written charges with the commission and give to the employee or deposit in the United States registered mail with postage prepaid, addressed to the employee at his or her last known place of address, a copy of the charges.

Whenever an employee of a community college district is charged with the commission of any sex offense, defined in Section 87010, or any narcotics offense, as defined in Section 87011, or a violation of Sections 11357 to 11361, inclusive, 11363, 11364, or 11377 to 11382, inclusive, insofar as such sections relate to, any controlled substances in paragraph (4) or (5) of subdivision (b) of Section 11056, or any controlled substances in subdivision (d) of Section 11054, except paragraphs (10), (11), (12), and (17) of such subdivision, of the Health and Safety Code by complaint, information, or indictment filed in a court of competent jurisdiction, the governing board of the district may immediately suspend the employee for a period of time extending for not more than 10 days after the date of the entry of the court judgment. However, the suspension may be extended beyond such 10-day period in case the governing board gives notice within such 10-day period that it will dismiss the employee 30 days after the service of the notice, unless the employee demands a hearing. An employee so suspended shall continue

LOS ANGELES COMMUNITY COLLEGE DISTRICT
PERSONNEL COMMISSION

735

LAW AND RULES

February 14, 2024

to be paid his or her regular salary during the period of the suspension if and during such time as he or she furnishes to the district a suitable bond, or other security acceptable to the governing board, as a guarantee that the employee will repay to the district the amount of salary so paid to him or her during the period of the suspension in case the employee is convicted of such charges, or the employee does not return to service after such period of suspension. If the judgment determines that the employee is not guilty of such charges, or if the complaint, information, or indictment is dismissed, the district shall reimburse the employee for the cost of the bond; or, if the employee has not elected to furnish such bond, the district shall pay to the employee his or her full compensation during the period of the suspension; provided the employee returns to service after such period of suspension.

88124. Any employee in the permanent classified service who has been suspended, demoted, or dismissed may appeal to the commission within 14 days after receipt of a copy of the written charges by filing a written answer to the charges. Such an appeal is not available to an employee who is not in the permanent classified service except as provided by rules of the commission. An employee in the permanent classified service who has not served the time designated by the commission as probationary for the class may be demoted to the class from which promoted without recourse to an appeal or hearing by the commission, except as otherwise provided by rules of the commission; and provided, that such demotion does not result in the separation of the employee from the permanent classified service. Nothing in this section shall operate to alter the protections guaranteed under Section 88128.

88125. The commission shall investigate the matter on appeal and may require further evidence from either party, and may, and upon request of an accused employee shall, order a hearing. The accused employee shall have the right to appear in person or with counsel and to be heard in his or her own defense. The decision shall not be subject to review by the governing board.

88126. If the commission sustains the employee, it may order paid all or part of his or her full compensation from the time of suspension, demotion, or dismissal, and it shall order his or her reinstatement upon terms and conditions that it deems appropriate. The commission may modify the disciplinary action, but may not make the action more stringent than that approved by the board. In addition, the commission may direct any other action that it finds necessary to effect a just settlement of the appeal, including, but not limited to, compensation for all or part of the legitimate expenses incurred in pursuit of the appeal, seniority credit for off-duty time pending reinstatement, transfer or change of location of the employee, and expunction from the employee's personnel record of disciplinary actions, cause, and charges that were not sustained by the commission. Upon receipt of the commission's written decision, the board shall comply with its provisions. When the board has fully complied with the commission's decision, it shall so notify the commission in writing.

88128. Any permanent classified employee of a community college district, who voluntarily resigns from his or her permanent classified position, may be reinstated or reemployed by the governing board of the district, within 39 months after the employee's last day of paid service and without further competitive examination, to a position in his or her former classification as

LOS ANGELES COMMUNITY COLLEGE DISTRICT
PERSONNEL COMMISSION

735

LAW AND RULES

February 14, 2024

a permanent or limited-term employee, or as a permanent or limited-term employee in a related lower class or a lower class in which the employee formerly had permanent status.

If the governing board elects to reinstate or reemploy a person as a permanent employee under this section, it shall disregard the break in service of the employee and classify him or her as, and restore to the employee all of the rights, benefits and burdens of, a permanent employee in the class to which he or she is reinstated or reemployed.

88131. The commission may authorize a hearing officer or other representative to conduct any hearing or investigation which the commission itself is authorized by this article to conduct. Any such authorized person conducting such hearing or investigation may administer oaths, subpoena and require the attendance of witnesses and the production of books or papers, and cause the depositions of witnesses to be taken in the manner prescribed by law for like depositions in civil cases in the superior court of this state under Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure. The commission may instruct such authorized representative to present findings or recommendations. The commission may accept, reject or amend any of the findings or recommendations of the said authorized representative. Any rejection or amendment of findings or recommendations shall be based either on a review of the transcript of the hearing or investigation or upon the results of such supplementary hearing or investigation as the commission may order.

The commission may employ by contract or as professional experts or otherwise any such hearing officers or other representatives and may adopt and amend such rules and procedures as may be necessary to effectuate this section.

88190. (a) Governing boards of community college districts may grant voluntary leaves of absence and vacations, with or without pay, to persons employed in the classified service of the district.

(b) If a community college district places an employee on an involuntary leave of absence during the period the employee is charged with a criminal offense, is under a criminal investigation, or is waiting due to administrative delay for necessary job-related administrative determinations, then upon the conclusion of the proceedings in favor of the employee, the community college district shall pay to the employee the employee's full compensation for the period of the involuntary leave of absence upon the employee's return to service in the community college district. For purposes of this subdivision, "involuntary leave of absence" includes, but is not limited to, a compulsory leave of absence or a suspension. This subdivision shall not reduce any entitlement to paid leave or replace any relevant procedures under any other law.

(c) This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

Government Code Section

12920. It is hereby declared as the public policy of this state that it is necessary to protect and safeguard the right and opportunity of all persons to seek, obtain, and hold employment without discrimination or abridgment on account of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, reproductive health decision making, or military and veteran status.

It is recognized that the practice of denying employment opportunity and discriminating in the terms of employment for these reasons foments domestic strife and unrest, deprives the state of the fullest utilization of its capacities for development and advancement, and substantially and adversely affects the interests of employees, employers, and the public in general.

Further, the practice of discrimination because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, veteran or military status, or genetic information in housing accommodations is declared to be against public policy.

It is the purpose of this part to provide effective remedies that will eliminate these discriminatory practices.

This part shall be deemed an exercise of the police power of the state for the protection of the welfare, health, and peace of the people of this state.

A. Definitions

1. Suspension means 1) the temporary removal of an employee from their position for cause without pay or 2) the removal of an employee from their position for cause with or without pay as determined by the District pending investigation into issues and/or charges which may lead to demotion or dismissal of the employee.
2. Demotion means a change in assignment of an employee from a position in one class to a position in another class that is allocated to a lower maximum salary rate.
3. Dismissal means the release or discharge of an employee from employment for cause.

B. Nondiscrimination Policy

No employee in the Classified Service shall be suspended, demoted, dismissed or in any way discriminated against because of their race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender,

gender identity, gender expression, age, sexual orientation, reproductive health decision making, military and veteran status (as listed in Government Code Section 12920), or political affiliation (except as provided by Paragraph C.).

C. Causes for Discipline

Employees in the Classified Service may be suspended, demoted, or dismissed for any of the following causes.

1. Incompetence
2. Inefficiency
3. Insubordination
4. Willful misconduct or any other willful failure of good conduct tending to injure the public service
5. Inattention to or dereliction of duty
6. Willful and persistent violation of the provisions of the Education Code, public policy, or of policies, rules, regulations, or procedures adopted by the Board of Trustees or the Personnel Commission
7. Dishonesty
8. Discourteous, abusive, or threatening language or behavior directed toward any person, including sexual harassment, racial harassment, or other legally prohibited actions or behavior
9. Immoral conduct
10. Appearing for work under the influence of alcohol or controlled substance or using alcohol or a controlled substance illegally while on duty
11. Conviction of any controlled substance offense as defined in Education Code Section 87011
12. Failure to abide by the conditions of an agreement regarding participation in an alcohol or substance abuse rehabilitation program
13. Frequent unexcused absence or tardiness
14. Abuse of leave privileges by habitual use of leave for trivial indispositions or by absence so frequent that the efficiency of the service is impaired
15. Absence without leave or abandonment of position
16. Failure to disclose material facts or the making of any false or misleading statement on any official document of the District or Personnel Commission
17. Failure to report for a health examination after reasonable notice
18. The discovery or development during an initial probationary period of any physical, emotional, and/or mental condition which precludes an employee from satisfactorily performing the essential duties of the position classification to which assigned
19. Failure to disclose material facts regarding criminal records
20. Failure to report for review of criminal records after reasonable notice
21. One or more criminal convictions which indicate that the person is a poor employment risk in the job classification they hold
22. Conviction of any sex offense as defined in Education Code Section 87010

23. Engagement in political activities during assigned hours of employment
24. Advocacy of overthrow of the government of the United States or the State of California by force, violence, or other unlawful means
25. Knowingly becoming or knowingly remaining a member of the Communist Party on or after November 12, 1952, as defined in Education Code Section 88122
26. Active participation by a management or confidential employee in the affairs of an employee organization which is an exclusive representative
27. Unauthorized use or abuse of District or student body property
28. Failure to successfully complete a training program or to meet a special entrance qualification that is required for a job classification

D. Notices of Unsatisfactory Service

1. A notice of unsatisfactory service shall be given to a regular employee whose service or conduct is held to be below work performance standards.
2. A notice of unsatisfactory service must be given to a permanent employee not less than 10 calendar days nor more than 90 calendar days before the effective date of demotion or dismissal, or in the case of suspension, not more than 90 calendar days before the effective date of the suspension. If the 90 calendar day time provision would result in a suspension falling during a period of time excluded from the employee's assignment basis, the effective date of the suspension may be more than 90 calendar days after the issuance of the notice, but no later than the first assigned day of the employee's assignment basis.
3. The notice of unsatisfactory service shall be in writing on the prescribed form issued by the Employee and Labor Relations Office and shall contain a statement in ordinary and concise language of the specific acts, omissions, or reasons for which the notice is given.
4. A notice of unsatisfactory service may be issued by anyone who exercises supervisory responsibility over the employee. All unsatisfactory notices shall be signed by the initiating supervisor and countersigned by the Chancellor, college president, or division head.
5. The notice of unsatisfactory service shall be personally issued to the employee by the initiating supervisor when practicable. The employee shall be requested to sign the notice as acknowledgment of receipt. If an employee refuses to sign, the notice of unsatisfactory service shall be presented in the presence of a witness and signed by that witness. If the employee is unavailable to sign, the notice shall be sent to the Employee and Labor Relations Office for issuance by certified mail. When personal delivery is impracticable, the intent of obtaining the signature of the employee shall be considered as having been carried out if a certified letter, with return receipt requested, has been mailed to the last-known address of the employee. A copy of the certified letter shall also be mailed via first class mail. Notification by the United States Postal Service that delivery cannot be made at the address of record shall be deemed to meet the requirements of "receipt".

E. Suspension for Specific Offenses

A regular employee charged with the commission of any sex offense as defined in Section 87010 or controlled substance offense as defined in Section 87011 of the Education Code by complaint, information, or indictment filed in a court of competent jurisdiction may be suspended as provided for in Section 88123 of the Education Code. Such a suspension will be processed as an involuntary personal leave in accordance with the provisions of this rule relative to suspensions. The employee may receive compensation as provided for in Section 88123. Such suspension shall be reviewed by the Personnel Commission every 90 calendar days. An employee who is suspended under this provision has no right to appeal the suspension to the Personnel Commission.

F. Suspension, Demotion, and Dismissal

1. An employee may be immediately suspended for not more than 30 calendar days, or demoted or dismissed by the Board of Trustees for the causes identified in Paragraph C.
2. The administrative officer of the Employee and Labor Relations Office shall, within 10 calendar days after Board of Trustees action to suspend, demote, or dismiss an employee, file a Statement of Charges with the Personnel Commission.
3. Within the same 10 calendar days, the employee shall be personally served or mailed a copy of the Statement of Charges. If mailed, the Statement of Charges shall be sent to the last-known address of the employee via United States registered mail with return receipt requested. A copy of the registered letter shall also be mailed via first class mail. Notification by the United States Postal Service that delivery cannot be made at the address of record shall be deemed to meet the requirements of "receipt".

G. Right of Appeal

1. Permanent Employee

Following public action by the Board of Trustees to suspend, demote, or dismiss a permanent employee, the Personnel Commission staff shall send the employee a notification of their right to appeal the decision. The employee shall have 14 calendar days from receipt to file a written appeal on the prescribed form appealing the suspension, demotion, or dismissal.

2. Employee with Probationary Status Only

An employee with probationary status only has no right of appeal to the Personnel Commission.

3. Notification Procedures

The employee notifications noted above shall be sent to the last-known addresses of the employee electronically or via first class and certified mail with return receipt requested. Notification by the United States Postal Service that delivery cannot be made at the address of record shall be deemed to meet the requirements of “receipt”.

4. Grounds for Appeal

Appeals for suspension, demotion, or dismissal can be made only on the basis of one or more of the following grounds:

- a. That the procedures set forth in these rules have not been followed.
- b. That the suspension, demotion or removal was made because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, reproductive health decision making, military and veteran status (as listed in Government Code Section 12920), or political affiliation (except as provided by Paragraph C.).
- c. That there has been abuse of discretion.
- d. That the action taken was not in accord with the facts.

5. Notification of Decision to Appeal

Upon receipt by the Personnel Commission of a timely appeal, the Personnel Director shall promptly provide written notification of the appeal to the administrative officer of the Employee and Labor Relations Office, the Deputy Chancellor, and the General Counsel.

H. Hearing Officer

The Personnel Commission may authorize a hearing officer to conduct any hearing or investigation which the commission itself is authorized by this article to conduct. Such hearing officer is authorized to set proceedings, administer oaths, request the issuance of subpoenas, cause the depositions of witnesses to be taken, present findings and recommendations, and to perform any and all other acts in connection with such proceedings as authorized or implied by law or these rules.

I. Subpoenas

Hearing officers and parties to the appeal are to request subpoenas from the Personnel Director of the Personnel Commission in time to allow for preparation and service as indicated below. If a subpoena is limited to a notice to appear, it must be served on a party or person's attorney at least 10 calendar days before the date to appear. If books, documents, or other items are to be produced by a person, the subpoena must be served 20 calendar days in advance. The service deadlines above are based on personal service. Where service is by mail, another 5 calendar days must be added to the deadlines. Personal service of subpoenas shall be the responsibility of the requesting party.

Both parties shall respond to any request from the Personnel Director for witness lists no later than 14 calendar days prior to the initial date of the hearing.

J. Hearing Procedures

The Personnel Commission shall make every effort to begin the hearing no later than 60 calendar days from the day the appeal is received. The parties shall be notified of the hearing date(s) and location as soon as they are established. Continuances will be discouraged.

1. The parties shall be notified that all hearings shall be public unless the appellant requests a closed hearing.
2. Hearing proceedings shall be electronically recorded unless a court reporter is present. If a request for a transcript of the electronically recorded proceedings is granted, the cost of the transcription shall be shared by the District and appellant. If a request to have the proceedings recorded and transcribed by a court reporter is granted, the cost of this service shall be shared by the District and appellant.

K. Hearing Proceedings and Rules of Evidence

1. The hearing shall be confined to issues contained in the Statement of Charges issued by the Board of Trustees.
2. The Board's representative shall first present evidence and witnesses in support of the Statement of Charges. An equal opportunity will then be afforded the appealing employee to present their responses to the Statement of Charges.
3. The hearing shall not be bound by technical rules of evidence. Informality in any proceeding or in the manner of taking testimony shall not invalidate any order, decision, rule, or regulation made, approved, or confirmed by the Personnel Commission.

L. Failure to Appear at Hearing

1. Failure of the District to appear at the hearing shall be deemed a withdrawal of the District's disciplinary case. Failure of the employee to appear at the hearing shall be deemed a withdrawal of the employee's appeal. Upon showing of good cause by either party, the Personnel Commission may reinstate the appeal and conduct a hearing.
2. The Personnel Commission may assess the defaulting party for the cost of the hearing.

M. Decision

1. The findings of fact, conclusions, and recommendations of the hearing officer shall first be provided to the Personnel Commission and no other party. Every effort shall be made by the hearing officer to submit their report to the Personnel Commission no later than 30 calendar days from the last date of hearing proceedings. The Personnel Commission shall within a reasonable period of time set a date to consider their decision on the appeal. Copies of the hearing officer's report shall be provided to the parties in the appeal no later than 14 calendar days prior to the established date.
2. If either party to the appeal believes that there has been abuse of discretion on the part of the hearing officer, they must submit a written statement to the Personnel Commission with a copy to the opposing representative detailing the abuse and the remedy sought no later than 7 calendar days before the date set for consideration of the decision on the appeal.
3. The Personnel Commission may accept, reject, or amend any of the findings or recommendations presented to them by the Hearing Officer. Any rejection or amendment of findings or recommendations shall be based either on a review of the transcript of the hearing or upon the results of such supplementary hearing or investigation as the commission may order. The Personnel Commission may modify the disciplinary action taken against the employee but may not make the action more stringent than that approved by the Board of Trustees.
4. The decision of the Personnel Commission shall be provided in written form to the Board of Trustees and appellant. Copies shall also be sent to the administrative officer of the Employee and Labor Relations Office, Deputy Chancellor, and General Counsel. The decision of the Personnel Commission shall be binding upon the Board of Trustees. The Board of Trustees shall notify the Commission in writing when it has fully complied with the decision of the Personnel Commission.
5. If the Personnel Commission sustains the employee, it will order payment of all of the appellant's full compensation from the time of suspension, demotion, or dismissal. In addition, the Personnel Commission may direct other action as it finds necessary to effect a just settlement of the appeal including, but not limited to, compensation for all or part of the legitimate expenses incurred in pursuit of the appeal, seniority credit for off-duty time pending

reinstatement, transfer or change of location, and expunction from the employee's personnel record of disciplinary actions, causes, and charges which were not sustained by the Personnel Commission.

N. Demotion of a Permanent Employee During Probationary Period

1. A permanent employee who fails to complete the required days of service in a probationary period established for the applicable class may be demoted to the class from which they were promoted with no rights to appeal or hearing, provided the demotion does not result in separation of the employee from the permanent classified service. The employee may request an administrative review by the Personnel Director or their designee within 14 calendar days after receiving written notification of not being granted permanency in the applicable class.
2. The purpose of the administrative review will be to determine whether there were reasonable grounds for not granting permanency in the job classification based on the administrative record already in existence. Reasonable grounds means a set of facts or circumstances which would satisfy an ordinary cautious and prudent person. The review shall not be required to follow the procedures for appeals and hearings set forth elsewhere in these rules.
3. The Personnel Director shall notify the Vice Chancellor of Human Resources and employee in writing of their findings.
4. If the Personnel Director or designee finds indications of arbitrary or discriminatory action, they shall report the findings to the Personnel Commission. The Personnel Commission may order a formal hearing.
5. Employee patterns of being unsuccessful in multiple probationary periods may be referred to the Office of Employee and Labor Relations for further review and determination of course of action.