

Office in writing of such election no later than ten (10) days after receiving notice of layoff.

Rule 14.02 Reemployment

A. Substitute or Temporary Employees who are ~~laid off~~released shall hold no reemployment rights ~~as such~~.

B. ~~Probationary Employees who are laid off shall be returned to their former rank on the original eligibility list from which they were assigned with only such status as their position on the eligibility list gives them. Upon reappointment they shall be given credit for the position of the probationary period served before layoff. Persons laid off will be placed on a reemployment list and be eligible for reemployment for a period of 39 months, and shall be reemployed in reverse order of layoff in preference to new applicants/eligibility lists. They shall also have the right to participate in promotional examinations during the period of 39 months. Upon reemployment, the layoff absence shall not be regarded as a break in service.~~

C. ~~Employees who take voluntary demotions or reductions in assigned time in lieu of layoff or to remain in their present positions rather than be reclassified or reassigned, shall be granted the same rights as persons laid off and shall be eligible to be considered for reemployment for an additional 24 months, subject to the same tests for fitness under which they qualified for appointment to the class.~~

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C. ~~Permanent Employees who are laid off shall be placed upon the reemployment list in reverse order of the layoff. The list shall supersede the existing eligibility list and shall be in effect for 39 months from the date of layoff. When an employee thus laid off is reemployed, the absence shall not be regarded as a break in service, but the layoff period shall not be included in computing length of service.~~

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1. An employee who receives such notice of reemployment and refuses to accept in writing the offer of reemployment in the classification held at the time of layoff within ten (10) work days, shall be deemed to have rejected that offer of reemployment. Failure to reply within ten (10) workdays will be considered a refusal. After an employee has declined two (2) such offers in the classification held at the time of layoff, he/she by such action relinquishes all reemployment restoration rights with the District.
2. If the employee in a layoff status accepts the classification being offered, the employee shall have up to ten (10) work days from the

date of acceptance to report for work. This does not preclude an employee from returning to work in fewer than ten (10) work days after acceptance of such an offer. Should the employee fail to return to work within ten (10) workdays following acceptance, all reemployment rights are relinquished.

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ARTICLE XV

SUSPENSIONS, DEMOTIONS, AND DISMISSALS

Rule 15.01 Power to Suspend, Demote or Dismiss -- Suspensions, demotions, or dismissals of classified employees may be made only by the Board on the recommendation of the Superintendent.

Rule 15.02 Causes for Suspension, Demotion, or Dismissal -- Causes for suspension, demotion, or dismissal are:

- A. Use of fraud, deception or misrepresentation of material facts in obtaining an appointment or a place on an eligibility list.
- B. Willful violation of the Education Code or the rules and regulations of the District.
- C. Incompetence, inefficiency, insubordination, dishonesty, inattention to or dereliction of duty, lack of ability, or failure to perform assigned duties in a satisfactory manner.
- D. Conduct unbecoming an employee of the District, either on or off duty.
- E. Immoral conduct, drunkenness on duty, intemperance, addiction or use of narcotics, or conviction of a felony.
- F. Political activity during assigned hours of duty.
- G. Absence without good cause, or any unauthorized absence for more than three (3) days.
- H. Failure to pay or make reasonable provision for the payment of just debts.

Rule 15.03 Suspension -- Except as provided by law with respect to possible sex offenses, all suspensions shall be limited to a maximum of 30 working days, and shall be without pay.

Rule 15.04 Appeal by Employee for Suspension, Demotion, or Dismissal -- No appeal is possible in the following cases:

- A. Dismissal of a new employee during his probationary period.
- B. Demotion of an employee during his probationary period back to the position from which he had been promoted when both positions are in the permanent classified service.

Within ten (10) working days after any ~~other~~ suspension, demotion, or dismissal of an employee in the permanent classified service, the Personnel Director, shall file the Board's written charges with the Commission and provide a copy of the charges to the employee personally or by deposit in the United States registered or certified mail with postage prepaid and return receipt requested addressed to the employee at his last known address. Within 14 working days after such charges are filed, the subject employee may appeal by filing with the Commission a written answer to the charges.

Rule 15.05 Grounds for Appeal – Appeal can be made only on one or more of the following grounds:

- A. That the procedure set forth in these rules has not been followed.
- B. ~~That the removal was made because of political or religious beliefs or opinions, race, color, or marital status.~~
That the removal was made unlawfully because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation.
 [Govt. Code § 12940; Ed. Code § 45293]
- C. That the charges made do not constitute sufficient cause for the actions taken.
- D. That the action taken was not in accordance with the facts.
- E. That there has been an abuse of discretion.

Rule 15.06 Investigation on Appeal – The Commission shall investigate the matter on appeal. It may require further evidence from either party. Upon request of the appealing employee, the Commission shall order a hearing, which will be held within a reasonable length of time from the receipt of the appeal. The investigation and the hearing, if any, shall be confined to the truth or falsity of the written charges and the written answer.

Rule 15.07 Conduct of Hearing – If a hearing is so ordered, it will be closed to the general public. The representative of the Board ~~of Trustees~~ shall first present

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evidence in support of the charges. The appealing employee, who may be represented by counsel, shall have the right to present his evidence. Witnesses desired by either side shall be **subject to subpoenaed issued** by the Commission, but requests for subpoenas must be filed with the Commission at least five (5) working days prior to the date of hearing.

Testimony of all witnesses shall be presented **orally** at the hearing. If in the opinion of the Commission **or other trier of fact**, a witness has good and sufficient reason for being unable to be present, written testimony will be accepted under the following conditions:

- A. Such evidence must be submitted by sworn **affidavit/declaration** of the witness. The **affidavit/declaration** shall be confined to a statement of facts bearing on the case and within the knowledge of the witness, and shall not contain any conclusions of the witness.
- B. Copies of all such affidavits must be filed with the Commission at least five (5) working days prior to the date of the hearing, and may be inspected by the other party to the hearing, who shall be notified of the filing of such affidavits.
- C. The Commission may reject any such affidavit submitted which fails to comply with any of the foregoing conditions.

The Commission may authorize a hearing officer to conduct any hearing or investigation which the Commission itself is authorized to conduct. The hearing officer may administer oaths, subpoena and require the attendance of witnesses and the production of books or papers, and cause the deposition of witnesses to be taken in the manner prescribed by law. The Commission may instruct such hearing officer to present findings and recommendations. The Commission may accept, reject or amend any of the findings or recommendations of the hearing officer. Any rejection or amendment of findings or recommendations shall be based either on a review of the hearing transcript 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 a professional expert or otherwise any such hearing officer or representative and may adopt and amend such rules and procedures as may be necessary.

[Ed. Code § 45312]

Rule 15.08 ~~Technical~~ Rules of Evidence **Not Followed** – All hearings before the Commission shall be governed by the above procedure, and in the conduct thereof neither the Commission nor any commissioner, nor the Personnel Director, nor other authorized agents of the Commission shall be bound by the technical rules of evidence. Evidence may be admitted if it is the type of information commonly relied on in the conduct of serious affairs. No informality in any proceeding or in the manner of taking testimony before the Commission shall invalidate any order, rule or regulation made, approved or confirmed by the Commission.

Rule 15.09 Decision of the Commission – The decision of the Commission, arrived at by majority action, shall be rendered in writing within ten (10) working days after the hearing is completed, or, if a hearing is conducted by a hearing officer, within 10 working days after the Commission's receipt of a proposed decision. If no hearing is held, a decision will be rendered within a reasonable time after the employee filed his written answer. Copies shall be sent to the bBoard and to the employee. The decision shall not be subject to review by the Board.

Rule 15.10 Failure to Answer – If the accused employee fails to appeal by filing his written answer within the time provided, the order of suspension, demotion, or dismissal shall be final without any action by the Commission.

Rule 15.11 Dismissed Employee Not Eligible – Any classified employee dismissed from employment shall be removed from all eligibility lists and may not take examinations thereafter without specific consent of the Board.

Rule 15.12 Reinstatement of Sustained Employees – If the Commission sustains grants the appeal of the employee, in part or in whole, it may order paid all or part of his full compensation from the time of suspension, demotion, or dismissal, and it shall may order a lesser form of discipline or order his reinstatement. Upon notification of the Commission's decision, the Board shall reinstate take such action as is necessary to implement the Commission's decision the employee and authorize such compensation as the Commission directs.