


Tentative Agreement
February 10, 2009
3:30 p.m.

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ARTICLE XXIV

DISCIPLINE

~~24.1 Except for the provisions of Education Code 44939, 44940 and 44942, no unit member shall be suspended for up to fifteen days without just cause and according to the principles of progressive discipline.~~

24.1 Just Cause/Due Process

24.1.1 The District may discipline a unit member only for just cause. Discipline shall conform to the principles and procedures of progressive discipline.

24.1.2 Unit members shall be entitled to exercise their legal right to Association representation throughout the progressive discipline process.

24.1.3 Except for the provisions of Education Code 44939 (Immediate suspension; hearing upon certain charges), 44940 (Leave of absence; certificated employee charged with mandatory or optional leave of absence offense; suspension of credentials; definitions), and 44942 (Suspension or transfer of certificated employee on ground of mental illness; examination; mandatory sick leave), discipline under this Article shall not include dismissal or suspensions for more than fifteen (15) working days.

~~24.2 The District shall notify the Association concurrently with notification to the unit member of any disciplinary action taken or contemplated in writing. The notice shall contain a specific statement of the act(s) or infraction(s) upon which the disciplinary action is based, the proposed disciplinary action to be taken by the District and where applicable, a statement of the rules, regulations, or statutes which the unit member is alleged to have violated. All information or proceedings regarding any such actual or proposed disciplinary action shall be kept confidential by the District.~~

24.2 Progressive Discipline

The principles and procedures of progressive discipline will be applied except where the serious nature of the offense may require the District to bypass progressive discipline steps set forth in this Article. Whether the serious nature of the offense required bypassing progressive discipline steps set forth in this Article is subject to Article V, Grievance Procedure, of the Agreement except when

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suspension is the first and immediate step proposed to be imposed. Progressive Discipline steps will include the following:

24.2.1 Verbal Warning

24.2.2 Written Warning

The unit member will sign the written warning to acknowledge receipt and a copy may be placed in the unit member's personnel file. The unit member may file a written rebuttal for attachment to the written warning if done within ten (10) working days.

24.2.3 Written Reprimand

The unit member will sign the reprimand to acknowledge receipt and a copy may be placed in the unit member's personnel file. The unit member may file a written rebuttal for attachment to the written reprimand if done within ten (10) working days.

24.2.4 Suspension

24.2.4.1 *In all instances the length of a suspension, up to fifteen (15) days, must relate to the severity of the action.*

24.2.4.2 *Written notice of suspension will be served in person upon the unit member by the Superintendent or designee no less than ten (10) days prior to the effective date of the proposed suspension. A copy will be concurrently provided to the Association President.*

~~24.3 Any proposed or actual suspension of a bargaining unit member shall be preceded by written notice of the right to appeal the action by filing a grievance as provided in Article V (Grievance Procedure) of this Agreement.~~

24.3 Notice of Suspension

The District shall notify the Association in writing concurrently with the written notification to the unit member of the proposed suspension. The notice shall contain:

24.3.1 *A statement of the specific act(s), infraction(s), or omission(s) upon which the action is based;*

24.3.2 *A statement of the cause(s) for which action is recommended;*

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24.3.3 *Where applicable, the Education Code section, policy, rule regulation, or directive violated;*

24.3.4 *The penalty proposed and effective date;*

24.3.5 *Copies of the documentary evidence upon which the recommendation is based; and*

24.3.6 *A statement of the unit member's right to challenge the proposed suspension by requesting in writing a binding arbitration hearing that shall be submitted simultaneously to the District and the Association within ten (10) workdays following receipt of the notice of suspension. If the Association has not received such a request from the unit member by the tenth (10th) workday following issuance of the notice, the Association shall immediately contact the District to obtain a copy of the request if one has been submitted. Upon receipt of the unit member's request, the Association shall notify the District in writing within five (5) workdays of the Association's next regularly scheduled Executive Board meeting whether it will be providing representation to a unit member who has requested a hearing. If the Association is not providing representation, the unit member may notify the District and the Association in writing of his/her affirmation to individually pursue binding arbitration and the name of his/her representative within five (5) workdays of the Association's decision not to represent the unit member. If the Association has not received such an affirmation from the unit member by the fifth (5th) workday following the Association's decision, the Association shall immediately contact the District to obtain a copy of the affirmation if one has been submitted. Thereafter, the arbitration procedure of Article V, Grievance Procedure, of this Agreement shall be followed. Failure by the unit member to meet any of the timelines set forth herein shall constitute forfeiture of his/her right to a binding arbitration hearing and the District may proceed with the proposed suspension.*

~~24.4 This Article shall be interpreted in accordance with accepted arbitral standards and applicable State and Federal laws.~~

24.4 Grievance Procedure

24.4.1 *Verbal warnings, written warnings, and written reprimands may not be submitted to Article V, Grievance Procedure, other than within the context of a suspension hearing, or regarding whether the serious nature of the offense required bypassing progressive discipline as set forth in Section 24.2. Proposed suspensions set forth in this Article may be appealed by the unit member directly to final and binding arbitration by following Section 24.3.6 above and thereafter the*

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grievance procedure in Article V, Grievance Procedure, of the Agreement. The proposed suspension will not be imposed until the arbitrator's decision is rendered, except for just cause necessitating the immediate removal of the unit member from the worksite, in which case the unit member shall be placed on administrative leave with pay pending the outcome of the arbitration.

24.4.2 *Nothing herein shall prevent the District and the Association from agreeing to utilize the procedure in Sections 5.3.4.1 through 5.3.4.4 in Formal Level Three of Article V, Grievance Procedure, during this process to discuss the proposed suspension and/or the bypassing of progressive steps prior to commencement of arbitration proceedings.*

~~24.5—Any disputes arising out of this Article may be submitted to final and binding arbitration as provided in Article V (Grievance Procedure) of this Agreement and all proposed actions against a unit member shall be stayed until the arbitrator's decision is rendered, except in cases of severe violation or in instances of when the possible consequences of potential repetition requires immediate action, in which case the unit member shall be suspended with pay pending the outcome of the arbitration.~~

24.5 *Confidentiality*

All information or proceedings regarding any action(s) or proposed action(s) pursuant to the Article will be kept confidential by the parties to the extent required by law.

~~24.6—Suspensions may be without pay, but shall not reduce or deprive the unit member of fringe benefits.~~

24.6 *Education Code*

24.6.1 *This Article shall not reduce the rights of permanent bargaining unit members contained in Education Code Section 44932 (Grounds for dismissal of permanent employees) and 44944 (Conduct of hearing; decision; expenses and costs).*

24.6.2 *Nothing in this Article precludes or in any manner affects or reduces the District's right to initiate and pursue dismissal proceedings under the Education Code.*

~~24.7—This Article shall not reduce the rights of permanent bargaining unit members contained in Education Code Sections 44932 and 44944.~~