

Administrative Regulation

Classified Employees; Preliminary Appeal HearingA. Action If Appeal Is Not Filed

If the employee does not respond and request a Preliminary Appeal Hearing within the five (5) working day period outlined in the Notice of Proposed Disciplinary Action, the district administration shall recommend to the Board that the proposed disciplinary action be approved. The Board shall have the power to either accept, lessen, or reject the recommendation of the district administration. The Board shall not act to provide for a penalty or disciplinary action more severe than that recommended by the district administration.

B. Preliminary Appeal Hearing Before Personnel Director

If the employee submits an appeal notice to the Personnel Commission office within five (5) working days after receipt of the Notice, the employee shall have a right to have a Preliminary Appeal Hearing before the personnel director, and the effective date of the proposed disciplinary action shall be stayed pending the outcome of the appeal process. The Preliminary Appeal Hearing shall be held prior to the district administration's recommendation of disciplinary action to the Board, and shall be held within ten (10) working days of the Personnel Commission office's receipt of the appeal form.

C. Notification of Hearing to Employee

The personnel director shall notify the superintendent upon receipt or lack of receipt of an appeal notice, and shall coordinate the scheduling of the Preliminary Appeal Hearing if a timely appeal is filed. The personnel director shall notify the employee in writing of the time, date, and place of the Preliminary Appeal Hearing. Notification shall be either in person or sent by certified mail (Return Receipt Requested). This requirement will be deemed to have been met if the notification of the Preliminary Appeal Hearing is sent certified mail to the last known home address on file in the Personnel Commission office. Failure of the employee to retrieve delivered mail, or respond to notifications by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification, or the staying of the timelines outlined in these rules. For purposes of this rule, if a notice is mailed, the third working day following the mailing date of the notice shall be considered to be the official date of receipt.

D. Designee for Personnel Director

If the personnel director is unable or unwilling to serve as the preliminary appeal hearing officer, the personnel director may assign a designee. That designee must be an administrator who has the authority and authorization to accept, modify, or rescind the proposed disciplinary action. The administrator may not be a party to the proposed action, either as the supervisor initiating proposed disciplinary action, or as a witness.

E. Employee Shall Have Opportunity to Refute Charges

The employee shall have the opportunity to refute all charges and shall be allowed to fully present his/her case at the preliminary appeal hearing.

F. Right to Representation

The employee may, at his/her option, be represented by legal counsel, union representation, or any other person designated by the employee. If the employee files an appeal, the employee shall be required to attend the preliminary appeal hearing before the personnel director, even if the employee's designated representative appears on his/her behalf. If the employee fails to appear, the employee will be deemed to have forfeited rights to further appeal at this level and the district administration may recommend action to the Board of Education.

G. Preliminary Appeal Decision

The personnel director shall issue a written decision within five (5) working days after the conclusion of the Preliminary Appeal Hearing, to either continue the proposed disciplinary action, to modify the proposed disciplinary action, or to rescind and halt the proposed disciplinary action. The personnel director shall not act to provide for a penalty or disciplinary action more severe than that recommended in the Notice of Proposed Disciplinary Action. The written decision of the personnel director shall be filed with the Personnel Commission office. The personnel director shall be responsible for notification of the employee as to the findings of the appeal hearing, pursuant to Rule 4236.4(B).

If the employee requests a hearing with the personnel director, and at that hearing the employee and district agree on an alternative course of action pursuant to Rule 4236.1(G), this agreement shall be in writing. If the agreed upon alternative action requires Board action, the district administration shall recommend to the Board that the alternative action be approved. The Board's decision to accept or reject the alternative action shall be final.

H. Permanent Employee in Probationary Position

A permanent classified employee who has not served the full probationary period for the class to which promoted, and who is subjected to disciplinary action that would result in the separation of the employee from the permanent classified service, shall have full appeal rights as if the employee had completed permanency in his/her present class.

I. Effective Date of Action Against Employee

If the decision of the Preliminary Hearing is to terminate or take other disciplinary action against an employee, the district may take the disciplinary action immediately or at any date after the decision is reached, and then seek ratification of the action by the Board of Education. The Preliminary Hearing written decision shall indicate an effective date if disciplinary action is still being proposed in the decision.