

Kern Community College District
Board Policy
Chapter 6 – Confidential and Management Employees

Governance Process: Information Only

Reason for Revision: To Amend District Policy

6B Confidential and Management Employment Policies

6B1 General Policies

- 6B1A** Confidential and management employees are appointed by the Board of Trustees in accordance with provisions of the Education Code.
- 6B1B** Announcements of management and confidential position openings shall be posted at the Colleges, centers, and the District Office of the Kern Community College District.
- 6B1C** Assignment of management staff shall be upon the recommendation of the College President. The recommendation for reorganization and assignment of management staff will be forwarded to the Chancellor for approval and action by the Board of Trustees.
- 6B1D** Assignment of District Office management staff shall be recommended by the Chancellor for action by the Board of Trustees.
- 6B1E** The probationary period for confidential ~~and classified management~~ employees is one (1) year from the date of initial Board of Trustees appointment.

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6C Confidential and Management Compensation

- 6C1** The Board of Trustees approves the Confidential and Management Salary Grade Structure.
- 6C2** The salary grade and step placement of confidential and management employees shall be recommended by the Chancellor for approval by the Board of Trustees. See [Procedure 6C2](#) of this Manual for Salary Administration Procedures for Confidential/Management Employees.
- 6C3** The step increase increment date is July 1 each year for confidential and management employees. A new employee must be employed eighty (80) working days prior to July 1 in order to receive the step advancement.
- 6C4** Upon the recommendation of the Chancellor, the Board of Trustees may grant ~~two-year (2-year)~~ up to a maximum of three-year (3-year) employment contracts to ~~Associate Chancellors and College Presidents~~ management employees.

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BP 6J Discipline and Dismissal – Classified Employees

6J1 Disciplinary procedures and causes for discipline regarding bargaining unit members are set out in the collective bargaining agreement between Kern Community College District and the California School Employees Association (CSEA) Chapters.

6J2 Discipline of classified management or confidential employees shall be in accordance with the provisions of the Education Code, these policies and procedures, or pursuant to the terms of an individual employment contract. Discipline includes but is not limited to dismissal, demotion, and suspension.

6J3 In the absence of an express agreement to the contrary, management employees serve at the pleasure of the Board. (Education Code 72411.5)

6J4 Reassignment to other duties does not constitute discipline.

6J5 The causes for discipline for classified employees who are not member of any bargaining unit are:

6J5A Incompetency or inefficiency in the performance of the duties of his/her position.

6J5B Insubordination or unethical or disgraceful conduct while on duty (including, but not limited to, refusal to do assigned work).

6J5C Carelessness or negligence in the performance of duty or in the care or use of District property.

6J5D Offensive or abusive conduct.

6J5E Dishonesty.

6J5F Possession of alcoholic beverages while on or in District property.

6J5G Drinking alcoholic beverages while on duty or report for duty while intoxicated.

- 6J5H Possession or use of narcotics or controlled substances without prescription.
- 6J5I Conviction of any criminal offense or of a misdemeanor involving moral turpitude.
- 6J5J Conviction of a sex offense as defined in the Education Code Sections 88022, 87009, and 87010.
- 6J5K Revocation of any license needed for employment in a specific position.
- 6J5L Repeated and unexcused absence or tardiness or the documented abuse of sick leave privileges.
- 6J5M Absences from duty without proper authorization.
- 6J5N Abandonment of position.
- 6J5O Incapacity due to mental or physical disability, to be determined by a medical examination.
- 6J5P Falsifying any information supplied to the District, including, but not limited to, information supplied on applications forms, employment records, time sheets or cards, absence forms, or any other District records.
- 6J5Q Persistent violation or refusal to obey safety rules or regulations or training mandated by the District Injury and Illness Prevention Program or by any appropriate state, federal or local governmental agency.
- 6J5R Offering of anything of value or offering any service in exchange for special treatment in connection with the employee's job or employment, or the accepting of anything of value or any service in exchange for granting any special treatment to another employee or to any member of the public.
- 6J5S The use, threat to use, or attempt to use political influence in securing promotion, leave-of-absence, transfer, change of range, step, or character of work.
- 6J5T Has been induced, has induced, or has attempted to induce an officer or employee of the Kern Community College District to commit an unlawful act or to act in violation of any lawful and reasonable departmental or District regulation or order; or has taken any fee, gift, or other valuable thing in the course of his/her work or in connection with it, for his/her personal use from any citizen when such fee, gift or other valuable thing is given in the hope or expectation of receiving a favor or better treatment than that accorded other citizens.
- 6J5U Willful or persistent violation of the Education Code or rules of the Board of Trustees.

6J5V Advocacy of or membership in any group which advocates overthrow of federal, state or local government by force, violence, or other unlawful means.

6J6 The Chancellor shall specify the procedure for discipline of classified management and confidential employees consistent with this policy.

Admin 7/30/18
ChC 8/21/18
CC 8/28/18

**Kern Community College District
Administrative Procedure**
Chapter 6 – Confidential and Management Employees

Governance Process: Information Only

Reason for Revision: To Establish District Procedure

References:

Education Code Section 88013; Government Code Sections 3300 et seq.

Grounds for Discipline

A permanent member of the classified service shall be subject to disciplinary action for just cause, including but not limited to, written reprimand, reduction in pay, demotion, suspension, or termination, for any of the grounds set out in Board Policy 6J:

Disciplinary Actions

Disciplinary action against a permanent member of the classified service may include, but not be limited to, the following:

- **Reduction in pay or demotion** – The District may reduce the pay or demote an employee for cause.
- **Suspension** – An employee may be suspended without pay.
- **Termination** – A permanent member of the classified service may be terminated.

Procedure for Disciplinary Action

For classified employees suspended, demoted, or discharged the District shall follow a pre-disciplinary procedure as follows:

Notice of Intent: Whenever the District intends to suspend, demote, or terminate an employee, the College President or appropriate Vice Chancellor shall provide the employee with written notice of discipline which sets forth the following:

- The disciplinary action intended:
- The specific charges upon which the action is based:

- A factual summary of the grounds upon which the charges are based;
- A copy of all written materials, reports, or documents upon which the discipline is based;
- Notice of the employee's right to participate in a pre-determination meeting, commonly referenced as a Skelly conference, with the administrator who issued the Notice of Intent.
- The date and time by which the employee may respond within no less than five business days from delivery of the notice;
- Notice that failure to respond by the time specified shall constitute a waiver of the right to respond prior to final discipline.

Response by Employee: The employee shall have the right to respond orally or in writing to the administrator who issued the Notice of Intent. If requested, a Skelly conference will be conducted not less than five business days of receipt of the request or at a time mutually agreed between the employee and administrator. The employee shall have a right to be represented at any meeting set to hear the employee's response.

Final Notice: After the conclusion of the Skelly conference or the expiration of the employee's time to respond to the Notice of Intent, the Skelly Officer will inform the employee of his or her decision. The Skelly Officer may:

1. Dismiss the Notice of Intent and take no disciplinary action against the employee; or
2. Modify the intended disciplinary action; or
3. Go forward with the discipline as set out in the Notice of Intent.

The Vice Chancellor of Human Resources will prepare and serve upon the employee a final notice of disciplinary action, if appropriate. The final notice of disciplinary action shall include the following:

- The disciplinary action taken;
- The effective date of the disciplinary action taken;
- Specific charges upon which the action is based;
- A summary of the facts upon which the charges are based;
- A card or paper, the signing and filing of which shall constitute a demand for hearing;
- The written materials, reports, and documents upon which the disciplinary action is based; and

- The employee's right to a hearing before the Board of Trustees.

Time for Board Hearing: The Board of Trustees shall, within a reasonable time from the filing of the written request, commence the hearing. The decision of the Board shall be final. The Board of Trustees may affirm, modify, or revoke the discipline. Any employee, having filed a request for hearing with the Board and having been notified of the time and place of the hearing, who fails to make an appearance before the Board, may be deemed to have abandoned their right to such a hearing. In this event, the Board shall affirm the administrative determination of discipline or dismissal.

Conduct of the Hearing:

- The Board may conduct the hearing itself, or it may secure the services of an experienced hearing officer or Administrative Law Judge to conduct the hearing and render a proposed decision for consideration by the Board. However, in every case, the decision of the Board itself shall be final.
- Hearings are conducted in noticed closed sessions of regular or special meetings of the Board of Trustees.
- The hearing need not be conducted in accordance with technical rules relating to evidence and witnesses, but hearings shall be conducted in a manner most conducive to determination of the truth.
- The classified employee is entitled to representation during the hearing.
- Any relevant evidence may be admitted if it is the type of evidence on which responsible persons are accustomed to relying in the conduct of serious affairs.
- Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence that shall not be sufficient in itself to support a finding.
- Irrelevant and unduly repetitious evidence may be excluded.
- The Board, or the hearing officer shall determine relevancy, weight, and credibility of testimony and evidence. Decisions made by the Board shall not be invalidated by any informality in the proceedings.
- During examination of a witness, all other witnesses, except the parties, shall be excluded from the hearing upon request of either party.

Deliberation upon the Case: The Board of Trustees or the hearing officer should consider all oral and documentary evidence, the credibility of witnesses, and other appropriate factors in reaching their decision.

Findings and Decision: The Board shall render its findings and decision as soon after the conclusion of the hearing as possible. A finding must be made by the Board on each

charge. The Board may sustain or reject any or all of the charges filed against the employee. The Board may sustain, reject, or modify the disciplinary action invoked against the employee.

Decision of the Board to be Final: The decision of the Board of Trustees in all cases shall be final.

Emergency Suspension: Employees may be suspended prior to the Board of Trustees' final decision following a Skelly conference before the College President or his or her designee or appropriate Vice Chancellor or his or her designee. The employee may be suspended without pay following the meeting only if the employee's presence at work could prove injurious, harmful, or seriously disruptive to the District or the employee's misconduct causes an actual or reasonable foreseeable risk to the health or safety of students or other employees or loss or damage to District property. Employees charged with a sex, controlled substance, or criminal offense may be suspended pursuant to Education Code Section 88123. If, after a hearing, the suspension is upheld, the Board of Trustees shall determine whether the suspension is with or without pay.

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