

SDCRAA HUMAN RESOURCES STANDARDS AND PROCEDURES

Section:	Classified Service Employees
Standard:	SUSPENSION, DEMOTION, AND TERMINATION (Non-represented/Non-probationary Classified Service Employees)
Section #:	I-02
Effective:	December 15, 2009

See Also:

GENERAL STANDARD

The Authority may, for disciplinary purposes, suspend, demote, or dismiss any employee holding a position in the Classified Service. Demotion may include reduction in pay. This guideline establishes an overview of the disciplinary and hearing process for all Classified Service employees who have completed their probationary period of their employment.

A probationary employee shall not have the right to appeal or grieve any form of disciplinary action imposed by the Authority.

DEFINITIONS

“At-will” employee – see **Unclassified Service Employee**.

Authority – the San Diego County Regional Airport Authority.

Classified Service – positions not specifically included in the unclassified service.

Discipline – suspension, demotion, reduction in pay and/or termination of a non-probationary Classified Service Employee.

Executive Team – the team of management level employees comprised of the President/CEO and the Vice Presidents.

Hearing - the employee’s opportunity to respond orally or in writing to the charges contained in a Notice of Proposed Disciplinary Action as more fully described herein.

Hearing Officer(s) – the person(s) appointed by the President/CEO to conduct a *Skelly* meeting, who shall not have been involved in the original recommendation for discipline.

President/CEO – the President/Chief Executive Officer of the Authority.

Probationary Employee – a non-represented Classified Employee during the employee's initial period of employment, generally comprising the first calendar year of employment.

Unclassified Service Employee (also known as) – an employee who has no property interest in her or her employment or expectation of continued employment who may be discharged from employment with or without cause and with or without prior notice.

GUIDELINES

One or more of the following are grounds for discipline. Discipline shall include suspension, demotion, and/or termination of employment when, in his/her sole discretion, the President/CEO deems that a non-probationary Classified Employee's performance, behavior or conduct warrants such an action. Conduct resulting in discipline includes, but is not limited to any action to:

- Solicit, sell, display, promote, or distribute merchandise, literature or services, or conduct a similar form of business activity, or solicit on Authority property unless authorized in writing by the President/CEO;
- Threaten or carry out acts of violence;
- Harass (sexually, racially or otherwise), ridicule a coworker, supervisor or visitor; provoke, instigate, or participate in a fight on Authority property;
- Falsify Authority or other public records or information;
- Steal, damage, misuse or misappropriate property, products or equipment that belong to the Authority, other employees or visitors, or use Authority property or equipment unless authorized to do so by appropriate management;
- Consume or be under the influence of any narcotic, or controlled substance while on assignment or on Authority property, with the exception of lawfully prescribed medication;
- Unlawfully possess, manufacture, distribute, dispense, sell or offer to sell a narcotic, controlled substance, prescription drug or intoxicant on Authority property, on job assignment, or when operating an Authority vehicle;
- Consume or be under the influence of alcoholic beverages while on job assignment or on Authority property without appropriate management authorization;
- Be insubordinate;
- Gamble on Authority property;
- Enter any restricted area of the Authority not related to one's regular duties without proper authorization;
- Slow, restrict, or interfere with other employees' work or Authority business;
- Post or remove material from Authority bulletin boards unless authorized to do so by appropriate management;
- Refuse to cooperate with law enforcement authorities while on Authority property or on Authority business;
- Refuse or fail to properly perform work as assigned by a supervisor;

- Walk off the job without the permission of one's manager or supervisor or act insubordinate to one's supervisor or manager;
- Participate in any unlawful or improper conduct that adversely affects an employee's relationship to the job, to co-workers, or to an employee's supervisor or that in any way discredits the Authority's reputation or goodwill in the community;
- Photograph, videotape, audiotape or record any Authority operation or employee without Authority authorization and without the consent of each affected employee;
- Use abusive or profane language;
- Sleep on the job or leave the job or assigned work location without authorization;
- Violate conflict of interest rules;
- Disclose or use confidential information or proprietary information without authorization;
- Engage in outside employment without prior notification and authorization;
- Violate any Authority Policy or Code now existing or as amended.

PROCEDURES

The Authority may, for disciplinary purposes, suspend, demote, and/or terminate any employee holding a position in the Classified Service. Demotion may include reduction in pay.

REQUIRED NOTICE

Prior to imposing discipline on a non-probationary Classified Employee by demotion, suspension without pay, or termination, the President/CEO or designee shall serve the employee with Written Notice of the proposed discipline which shall include:

- a) the disciplinary action intended;
- b) the reasons for the proposed discipline;
- c) a copy of all document(s) relating to the basis for the proposed discipline;
- d) notice of the employee's right to request a hearing to respond to the charges either orally or in writing, normally within three (3) business days;
- e) notice that failure to respond at the time specified shall constitute a waiver of the right to respond prior to final discipline being imposed; and

The notice shall be personally delivered to the employee or sent by certified mail to the employee's address contained in the Authority's Human Resources Office records.

REQUIRED MEETING AND APPEAL RIGHTS

Step A – First Level Appeal

(1) Employee Request for a Hearing

- a) Within three (3) business days of the service of the Written Notice, the employee shall notify the Authority either verbally or in writing, or both, of his/her desire to request and attend a Hearing to respond to the allegations and proposed discipline to the Director, Human Resources or designee.
- b) Within ten (10) business days of receipt of the employee's written or verbal request, unless another date is mutually agreed upon, a Hearing will be scheduled between the employee and the Director, Human Resources or the Director's designee.

(2) Hearing

The employee may, at his/her expense, be represented by legal counsel or other individual of the employee's choosing and shall be permitted to introduce relevant evidence in response to the allegations and proposed discipline.

(3) Hearing Decision

Following the Hearing, a written decision ("Hearing Decision") shall be rendered by the Director, Human Resources or designee, upholding, modifying, or vacating the proposed action. Said decision shall be served upon the employee.

- a) Except in unusual circumstances, the written Hearing Decision shall be delivered to the employee within ten (10) calendar days of the Hearing.
- b) Failure of an employee to appear at a scheduled Hearing after having requested the Hearing shall be deemed as a forfeiture of the employee's right to a Hearing and, unless good cause is shown to the contrary, shall be sufficient grounds to impose the proposed discipline.

(4) Continuances

The employee and the Authority may agree verbally or in writing to the extension of any timelines contained in these Step A procedures.

Step B – Second Level Appeal

If a proposed disciplinary action for demotion, suspension without pay, reduction in pay or termination is upheld at Step A, any non-probationary Classified Service Employee shall have the right to request a second level appeal Hearing.

(5) Employee Request for a Second Level Appeal Hearing

- a) Within ten (10) business days of the service of the written Hearing Decision from Step A, the President/CEO shall provide the employee an opportunity to request and attend a second level appeal hearing before an Executive Hearing Officer as specified below.

(6) Second Level Appeal Hearing (“Appeal Hearing”)

The Employee, at his/her own expense, may be represented by legal counsel or other individual of the employee’s choosing and shall be permitted to introduce relevant evidence to respond to the disciplinary action.

(7) Second Level Appeal Hearing Decision

After the Second Level Appeal Hearing, a written decision (“Second Level Appeal Hearing Decision”) upholding, modifying, or vacating the proposed action shall be served upon the employee.

- a) Except in unusual circumstances, the Second Level Appeal Hearing Decision shall be delivered to the employee within ten (10) business days of the required Appeal Hearing.
- b) Failure of an employee to appear at the Appeal Hearing after having requested the same shall be deemed a forfeiture of employee’s right to an Appeal Hearing, and, unless good cause is shown to the contrary, shall be sufficient grounds to impose the proposed discipline.

(8) Continuances

The employee and the Authority may agree verbally or in writing to the extension of any timelines contained in these Step B procedures.

APPEAL HEARING PROCEDURES

(1) Selection of the Executive Hearing Officer

The selection of the Executive Hearing Officer shall be at the sole discretion of the President/CEO or designee. In extraordinary or special situations, more than one hearing officer may be selected.

(2) Failure to Appear at Appeal Hearing

Any employee, having filed an appeal with the Authority and having been notified of the time and place of the Second Level Appeal Hearing, who fails to make an appearance before the Executive Hearing Officer without good cause will be deemed to have abandoned his or her appeal. The Executive Hearing Officer shall determine whether or

not there was good cause for the failure to appear. In the absence of good cause, the appeal may be dismissed.

(3) Evidence

The Second Level Appeal Hearing need not be conducted in accordance with the California Evidence Code. However, such hearings shall be conducted in a manner most conducive to the determination of the truth. Any relevant evidence may be admitted if it is of the type of evidence which responsible persons are accustomed to rely upon in the conduct of serious affairs, regardless of the existence of any common law or statutory rules which might make improper the admission of such evidence over objection in civil actions.

Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in and of itself to support a finding unless it would be admissible over objection in civil actions in California.

The rules dealing with privileges shall be effective to the same extent that they are now or hereafter may be recognized in civil actions in California. Irrelevant and unduly repetitious evidence may be excluded.

The Hearing Officer shall determine relevancy, weight and credibility of testimony and evidence. Decisions of this nature made by the Executive Hearing Officer shall not be invalidated by any informality in the proceedings.

During examination of a witness, all other witnesses, except the parties and the investigating officer, shall be excluded from the hearing upon the motion of either party.

(4) Burden of Proof

In a Second Level Appeal Hearing, the Authority has the burden of proof by a preponderance of the evidence.

(5) Proceeding with the Second Level Appeal Hearing or Requesting a Continuance

Each side shall be asked if it is ready to proceed with the Second Level Appeal Hearing. If either side is not ready and wishes a continuance, good cause must be stated.

(6) Written Findings, Conclusions and Decision in the Second Level Appeal Hearing

The Executive Hearing Officer shall render written findings, conclusions and a decision as soon after the conclusion of the Second Level Appeal Hearing as possible. A finding must be made by the Executive Hearing Officer on each material issue. The Executive Hearing Officer may sustain or reject any or all of the charges filed against the employee. The Hearing Officer may sustain, reject or reduce the disciplinary action imposed against the employee.

(7) Decision of the Hearing Officer to be Final

The decision of the Executive Hearing Officer in a Second Level Appeal Hearing in all cases shall be final.