

McCLOUD COMMUNITY SERVICES DISTRICT
Policy and Procedure Manual

POLICY TITLE: Personnel Action
POLICY NUMBER: 2260
ADOPTED: November 12, 2002
REVIEWED: 10/28/13, 11/12/13, 04/12/16, 01/10/17
AMENDED: January 27, 2014, February 13, 2017

2260.10 Because the District and its employees are judged on their performance and results, it is important that both retain the ability to determine their respective relationships with one another. Consequently, it is important to note that employees and the District share the right to sever the employment relationship at will, at any time, with or without cause or advance notice. Any personnel action initiated by the District is subject to an employee's right of appeal as set forth below.

2260.20 Dismissal

All regular and part time employees of the District shall serve at the pleasure of the General Manager. The General Manager shall serve at the pleasure of the Board of Directors and may be dismissed at the will of the Board of Directors on the conditions set forth in the General Managers' employment contract.

2260.30 Other Personnel Action

As used herein, "personnel action" may also include, but is not limited to, disciplinary action other than dismissal such as warning, written reprimand, reduction of pay step, suspension from job duties with or without pay, demotion or probation.

2260.40 Persons Authorized to Initiate Personnel Action

The General Manager and/or Public Works Superintendent shall have the authority to initiate personnel action against an employee. The employee who is the subject of such personnel action shall have an automatic right to appeal to the Board of Directors as set forth herein. The General Manager may delegate authority to initiate personnel action against non-supervisory personnel to department heads.

2260.50 Grounds for Personnel Action

Rules outlining acceptable conduct of employees are necessary for the orderly operation of District business and for the benefit and protection of the rights and safety of all employees. Examples of impermissible conduct that may lead to personnel action are identified below to promote understanding of what is considered to be unacceptable conduct and to encourage consistent action by the District in the event of violation. However, it is impossible to provide an exhaustive list of types of conduct that may result in personnel action. The following list will therefore contain only some of the examples of conduct that may lead to the imposition of personnel action, including dismissal.

Employees are also reminded that the employment relationship is "at will."

1. Fraud in securing employment.
2. Incompetency.
3. Inefficiency.
4. Inexcusable neglect of duty.
5. Insubordination.
6. Dishonesty.
7. Being under the influence of alcohol, narcotics or habit-forming drugs while on duty.
8. Addiction to the use of narcotics or habit-forming drugs or use or possession of such materials in such a manner as to adversely affect job performance.
9. Inexcusable absence without leave.
10. Conviction of a felony or conviction of a misdemeanor which is of such a nature as to adversely affect the employee's ability to perform the duties and responsibilities of their position. A plea of guilty, or a conviction following a plea of nolo contendere is deemed to be conviction within the meaning of this section.
11. Disrespectful treatment of the public or other employees.
12. Improper political activity as governed by the Federal Hatch Act and the California Government Code.
13. Willful disobedience.
14. Refusal to take and subscribe to any oath or affirmation which is required by law in connection with employment.
15. Any failure of good behavior either during or outside of duty hours which is of such nature that it causes discredit to the agency or employment.
16. Physical or mental disability when disability precludes the employee from the proper and safe performance of their duties and responsibilities and reasonable accommodation is not possible as determined by competent medical authority and business necessity.
17. Failure to possess or keep in effect any license or certificate or other similar requirement.

18. When use of sick leave interferes with the orderly operation of the District or the satisfactory performance of duties.
19. Job abandonment or unauthorized absences from work for 3 consecutive work days.
20. Excessive tardiness.
21. Theft.
22. Altercations, whether physical or verbal, with other employees or supervisors.
23. Unlawful harassment including sexual or other harassment of other employees or customers.
24. Consistent failure to observe safety regulations after counseling, or other unsafe conduct.
25. Violation of District policies.
26. Wearing District Uniforms when not on duty is prohibited.

2260.60 Notice of Proposed Personnel Action

2260.61 The employee normally will be given advance notice of dismissal or other proposed personnel action. The employee will usually be given ten (10) calendar days to respond to the Notice of Proposed Personnel Action or Notice of Proposed Dismissal. However, if the General Manager or the Board of Directors has reasonable cause to believe that retention of an employee pending review of their response to the Notice of Proposed Personnel Action or proposed dismissal will result in damage to District property or will be detrimental to the interests of the District or injurious to the employee, fellow workers or the general public, then the General Manager and/or Board of Directors may suspend said employee immediately without pay and without benefits pending the employee's response and pending any appeal or hearing.

2260.62 The Notice of Proposed Personnel Action or proposed dismissal shall be served on the employee either personally or by certified mail.

2260.63 During the notice period, the employee is on normal pay status and normally remains on the job unless said employee has been suspended immediately without pay and without benefits. An employee also need not be paid during the notice period if he or she is unavailable to work, absent without leave or in jail.

2260.64 Contents of the Notice of Proposed Dismissal shall include:

2260.641 A statement that the employee is being dismissed and the effective date of the dismissal.

2260.642 If the dismissal is for cause, the notice should contain a specific statement of the causes upon which the dismissal is based. If the dismissal is without cause, the notice should contain a statement that the employee is being dismissed or terminated at the will of the Board of Directors or at the will of the General Manager as the case may be.

2260.643 A statement advising the employee of his right to appeal to the Board of Directors if the dismissal notice has been initiated by the General Manager and of the manner and time within which said appeal must be taken and of the required content of the appeal notice.

2260.65 Contents of the Written Notice of Proposed Personnel Action notice shall include:

2260.651 A clear and concise statement of the reasons for such action, including the acts or omissions and rules or policies violated, if any, on which the disciplinary action is based.

2260.652 A description of the proposed action to be taken and the date it will be effective.

2260.653 A statement advising the employee of the right to respond, either verbally or in writing, to the authority proposing the action prior to its effective date.

2260.654 A statement that a copy of the materials upon which the action is based is available for review.

2260.655 A statement advising the employee of the method and right to appeal and the time within which the appeal must be made.

2260.66 If the employee agrees with the proposed discipline, it shall be forwarded to the supervisor who shall meet with the employee within seven (7) working days to confirm the disciplinary action.

2260.67 If an employee wishes to formally appeal a written reprimand, the employee shall submit a written request to the General Manager within ten (10) days of receipt of the memorandum or the written notice of paragraph 2.

2260.68 The General Manager shall meet with the affected parties within ten (10) working days of receipt of a formal appeal and render his/her final decision within ten (10) working days thereafter. The employee shall have the right to submit a written response to the reprimand which shall also be placed in the employee's personnel file.

2260.70 Appeal and Answer

An employee may appeal in writing to the Board of Directors with respect to any dismissal or personnel action initiated by the General Manager within ten (10) calendar days of receiving the notice of proposed dismissal or personnel action.

2260.80 Failure to File Appeal Notice

If the employee against whom personnel action is filed fails to file a notice of appeal within the time specified, the personnel action shall be deemed final.

2260.90 Appeal Hearing and Timing

A hearing will be conducted at the earliest administratively convenient date (in closed session, unless the employee requests open session), taking into consideration the established schedule of the General Manager and the availability of the Board, counsel and witnesses (if applicable). The employee shall be entitled to appear personally, produce evidence and witnesses. The complainant may also be present. Informality in any such hearing shall not invalidate any order or decision made or approved by the Board of Directors.

2260.100 Hearing by the Board of Directors; Form and Content of Decision; Delivery of Copy to Party

The appeal shall be heard by a quorum of the Board of Directors. The Board may utilize the services of its counsel when ruling upon procedural questions, objections to evidence and issues of law.

2260.101 In hearing the appeal, the Board of Directors shall prepare a proposed decision which shall be in writing and shall contain findings of fact and either affirm, modify or revoke the proposed dismissal or other proposed personnel action.

2260.102 The decision of the Board shall also set forth the personnel action approved, if any.

2260.103 In arriving at a decision on the propriety of the proposed dismissal or other personnel action, the Board of Directors may consider the records of any relevant prior proceeding against the employee under these rules in which personnel action was ultimately sustained and any records contained in the employee's personnel files.

2260.110 Processing of Decision

The decision of the Board of Directors shall be certified in writing to all parties involved. A copy of the decision shall be delivered to the employee against whom the personnel action is taken and his or her designated representative personally or by certified mail. The decision of the Board shall be final.