

TUSD Guide to Employee Accountability



Table of Contents

SECTION I: ACKNOWLEDGMENTS, PHILOSOPHY, & PURPOSE **Page 4**

Part 1–Acknowledgments

Part 2 – Philosophy

A Restorative, Student-Centered Approach to Accountability

Part 3 – Purpose

Framework for Consistency, Lawful Practice, and Equity

SECTION II: LEGAL RIGHTS AND RESPONSIBILITIES **Page 6**

Part 1 – The Law, Board Policy, Rulings, and the Contract

- Loudermill Rights
- Weingarten Rights
- Skelly Hearings
- Garrity and Lybarger Protections
- Morrison Standards

Part 2 – Just Cause and Employee Rights & Responsibilities

- Understanding Just Cause
- Just Cause Requirements & the Seven Tests

Part 3 – Employer Rights & Responsibilities

SECTION III: PROCEDURES AND DOCUMENTATION **Page 13**

Part 1 – The Investigatory Process

- Allegation or Incident Initiation
- Paid Administrative Leave (If Necessary)
- Initial Notification of Fact-Finding
- Fact-Finding
- Written Notification of Investigatory Interview
- Initial Investigatory Interview
- Evidence Gathering
- Follow-up Interviews (If Necessary)
- Return to Allegations Letter (If Applicable)
- Completion of the Investigative Report & Letter of Findings
- Presentation of Investigative Report & Letter of Findings

Part 2 – Progressive Discipline

- Stages: Verbal Warning to Termination

Part 3 – Timelines and Statutes of Limitation

- 10-Day Rule (Ed. Code §44031)
- 4-Year Consideration Window

- Skelly Process Timeline
- Reports & Referrals to the CTC (Ed. Code §44242.5)
- Allegations that May Result in Suspension or Dismissal

Part 4 – Complaints, Grievances, Evaluations & Misconduct

- Complaints
- Grievances
- Disciplinary Action
- Performance Evaluation

SECTION IV: CLASSIFIED ACCOUNTIBILITY

Page 23

- Introduction
- Legal Foundation and Due Process
- Disciplinary Action: Definition and Scope
- Framework for Progressive Discipline
- Serious Disciplinary Measures Impacting Property Rights
- Due Process and Appeal Rights
- Special Circumstances
- Causes for Disciplinary Action
- Implementation Standard
- Conclusion
- Legal Citations

SECTION V: APPENDIX

Page 30

Part 1 – Glossary of Terms

- Definitions of Legal and Procedural Vocabulary

Part 2 – Key Legal Authorities and Frameworks

- Relevant California Education Code (e.g., §§44031, 44932–44944, 44242.5)
- Relevant California Government Code (e.g., §§3543.2, 6254)
- Title 5 CCR (e.g., §§80303, 80331–80338)
- Key Federal Laws and Constitutional Protections
- Key California Case Law
- PERB Precedents and Rulings (e.g., Chula Vista, Novato, Los Angeles USD)
- TUSD Board Policies and Administrative Regulations
- Collective Bargaining Agreement (CBA) Provisions
- FRISK® Documentation Model

Part 3 – Sample Documents

- Letter of Warning
- Letter of Reprimand
- Performance Improvement Plan (PIP)
- Skelly Hearing Notice
- Letter of Findings

conduct. This responsibility demands that every member of our team, regardless of role, act with integrity, respect, and a steadfast focus on what is best for students.

Our collective work must reflect a shared belief: that a safe, respectful, and collaborative environment for both students and staff is essential to educational excellence. Maintaining this environment requires professionalism, clear and consistent expectations, and competence and honesty from all employees. Just as we expect students to learn and grow through guidance and support, we believe employees deserve the same transparency, fairness, and support in how we address behavior and performance.

This guide is grounded in the principle that discipline is not punitive, but restorative and developmental—aimed at reinforcing trust, improving practice, and ensuring that every adult in our schools models the values we wish to instill in our students. In partnership with our professional associations and guided by our district’s values, we will navigate challenges with benevolence, reliability, and a focus on continuous improvement.

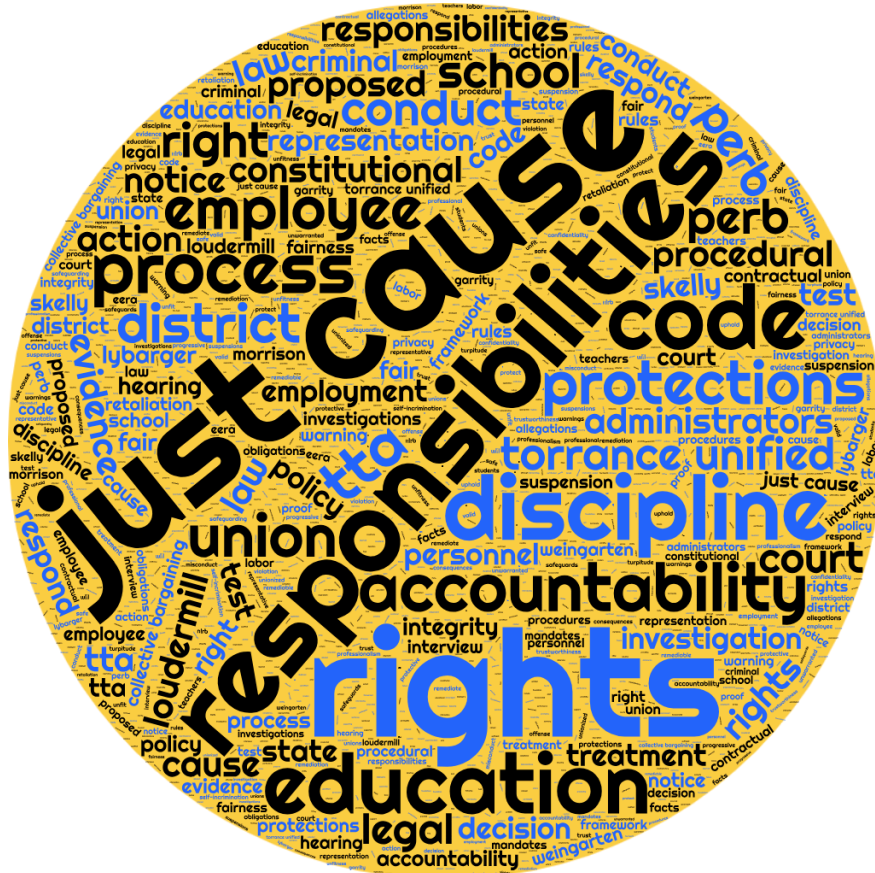
Ultimately, every policy and procedure in this document is intended to serve one central purpose: supporting a school culture where students thrive because the adults around them, and at all levels, are held to and supported in meeting the highest standards of conduct, care, and professionalism.

Part 3: Purpose

The purpose of developing an Employee Accountability Guide is to establish uniform procedures for all incidents regarding employee conduct. These processes may include: Complaints, Grievances, Initial Inquiry, Investigations, or Informal and Formal Discipline.

The Employee accountability process is a foundational element of the District’s commitment to high professional standards, student safety, and instructional excellence. Developed to address both misconduct and underperformance in a consistent, lawful, and fair manner, this framework is designed to uphold the integrity of the teaching profession while fostering a productive educational environment. The process is firmly rooted in the California Education Code, applicable collective bargaining agreements, and longstanding judicial precedents that guide the treatment of certificated employees. It balances the district’s obligation to protect students and ensure instructional quality with the employee’s right to due process, progressive remediation, and fair administrative procedures. This accountability framework is not merely reactive; it is designed as a proactive tool to support continuous improvement, promote transparency, and protect the District from legal liabilities associated with inconsistent or unlawful disciplinary actions and protects employees from potential harm.

SECTION II - LEGAL RIGHTS AND RESPONSIBILITIES



Part 1: The Law, Board Policy, Rulings, and the Contract

Accountability at Torrance Unified School District (TUSD) is grounded in a legal framework that upholds employee rights, preserves procedural fairness, and ensures district integrity. These foundations are established by constitutional protections, state statutes, case law, collective bargaining agreements (CBAs), and board policy. Understanding these rights and legal rulings is essential for both site administrators and Torrance Teachers Association (TTA) bargaining unit members to maintain fairness and due process throughout evaluative, investigative and disciplinary procedures.

Legal Authority and Case Law Support California law provides a robust statutory framework for managing certificated personnel. Education Code sections 44932 through 44944 establish the grounds and procedures for the discipline, suspension, and dismissal of permanent certificated employees. These statutes

emphasize the necessity of just cause, prior notice, and opportunities for correction, particularly in cases involving remediable performance issues. The legal framework is further informed by key court rulings:

- *Skelly v. State Personnel Board* (1975) 15 Cal.3d 194 – Established due process requirements: notice of charges, access to evidence, and opportunity to respond.
- *Fontana Teachers Assn. v. Fontana Unified School District* (1988) 201 Cal.App.3d 1517 – Emphasized factual documentation and objective evaluations.
- *Bakas v. California State Personnel Board* (1977) 65 Cal.App.3d 500 – Supported progressive discipline for remediable behavior.
- *Morrison v. State Board of Education* (1969) 1 Cal.3d 214 – Established a framework for evaluating an employee's fitness for duty.
- *Bekiaris v. Board of Education* (1972) 6 Cal.3d 575 – Reiterated need for feedback and opportunity to improve before dismissal.
- *Contra Costa Community College District* (2019) PERB Decision No. 2652–Affirms an employee's right to meaningful representation and the union's right to reasonable notice of alleged wrongdoing prior to an investigatory interview.
- *County of Santa Clara* (2018) PERB Decision No. 2613-M – Affirms an employee's right to discuss allegations against them with other employees.

Pre-Disciplinary Procedural Safeguards: Skelly and Loudermill Rights

The following procedural safeguards are part of one coordinated pre-disciplinary process to ensure employees understand their rights and the steps involved.

- **Skelly Hearing: Procedural Safeguards for Serious Discipline**

The California Supreme Court ruling in *Skelly v. State Personnel Board* (1975) 15 Cal.3d 194 mandates that a public employee facing suspension, demotion, or dismissal must be granted a hearing before discipline is imposed. The hearing must include:

- Written notice of the proposed action,
- The specific charges and evidence supporting the action,
- A meaningful opportunity to respond to the proposed discipline.

This pre-disciplinary process serves as an essential procedural safeguard. At TUSD, Skelly hearings are convened when a certificated employee is to be disciplined without pay or facing potential dismissal. The Superintendent or designee presides over the meeting.

- **Loudermill Rights: Due Process Before Termination**

Derived from the landmark U.S. Supreme Court case *Cleveland Board of Education v. Loudermill* (1985), Loudermill Rights affirm that public employees with a property interest (permanent status) in their employment cannot be deprived of that employment without due process. At a minimum, due process under Loudermill requires that an employee be given:

1. Notice of the charges or proposed disciplinary action,
2. An explanation of the employer's evidence, and
3. An opportunity to respond, either orally or in writing, before the discipline is imposed.

For TUSD, this means that prior to the imposition of discipline the employee must be afforded a pre-disciplinary meeting. The *Loudermill* decision reinforces the constitutional requirement of due process under the Fourteenth Amendment.

Weingarten Rights: Representation in Investigatory Interviews

Weingarten Rights stem from *NLRB v. J. Weingarten, Inc.* (1975) and guarantee that unionized employees have the right to request union representation during an investigatory interview that they reasonably believe might result in disciplinary action.

While not required, administrators informing employees of their right to representation beforehand is preferable as it clarifies the purpose of meetings and values the timeliness of the process. If an investigatory meeting has already started and a request for representation has been made, administration will cease the interview until representation is available. These meetings, when conducted appropriately, are an opportunity to build trust in the process and foster positive relations among staff members. Ultimately, there should be no “ambush meetings” in which the employee is caught off guard or not knowing what the meeting is about.

Garrity and Lybarger: Self-Incrimination Protections for Public Employees

Garrity v. New Jersey (1967) established that public employees cannot be compelled to incriminate themselves in an employee investigation conducted by their employer. Statements are protected from their being. Employers may require employees to respond to questions during a workplace investigation under the condition that refusal to do so may result in disciplinary action, including termination. However, when public employees are compelled to provide statements under such circumstances, those statements—and any evidence derived from them—are constitutionally protected and **cannot be used against the employee in subsequent criminal proceedings**.

Lybarger v. City of Los Angeles (1985) extended this principle, requiring public employers to give a “Lybarger warning” when an employee is compelled to participate in an administrative interview that could lead to criminal liability. The warning must inform the employee that:

- They must cooperate with the administrative investigation,
- Any statements they provide will not be used against them in a criminal proceeding,
- Failure to cooperate may result in discipline.

Morrison Standards: Evaluating Fitness to Teach

In *Morrison v. State Board of Education* (1969) 1 Cal.3d 214, the California Supreme Court developed a legal framework for evaluating whether a teacher’s conduct renders them unfit to teach. The court laid out criteria such as:

- The likelihood of recurrence,
- Proximity of the conduct to job duties,
- Extent of harm to students or the educational environment,
- Degree of moral turpitude,
- The employee’s ability and willingness to remediate.

This standard is incorporated into Education Code §44932 and plays a pivotal role in both dismissal proceedings and determinations of appropriate discipline at TUSD. Administrators are tasked with evaluating conduct in context to determine its impact on professional competence and trustworthiness.

Part 2: Just Cause and Employee Rights & Responsibilities

Understanding Just Cause

The concept of **just cause** is the legal and contractual foundation upon which all disciplinary actions within TUSD must be built. It ensures that no employee is disciplined unfairly, arbitrarily, or without solid reasoning. Just cause means that the District must have a valid, evidence-based reason for taking disciplinary action, and that the process used to investigate and respond to misconduct or underperformance is **fair, consistent, and legally sound** meeting constitutional guarantees of due process.

Just Cause Requirements & the Seven Tests

The District must demonstrate:

- A valid basis for the discipline,
- That the employee had fair notice of expectations, and
- That discipline is proportionate to the behavior.

To meet the threshold of just cause, the district must be able to demonstrate that ALL the requirements of just cause were satisfied as summarized in the seven tests for just cause.

The concept of just cause was most famously articulated in the arbitration case Enterprise Wire Co. and Enterprise Independent Union (46 LA 359, Daugherty, 1966), which set forth the seven tests still widely accepted by courts, arbitrators, and the Public Employment Relations Board (PERB).

Failure to meet any one of the following tests indicates that just cause did not exist. TUSD has the burden to prove that all seven tests were satisfied.

1. The Notice Test:

The employee was aware of the rule or expectation. TUSD must show that the employee was forewarned and that the possibility of disciplinary action would result if the rule was violated. There can also be what is called "negative notice." In other words, other employees have committed the same infraction with TUSD's knowledge with no disciplinary action or the employee themselves have engaged in the conduct without disciplinary action.

2. The Reasonable Rule Test:

TUSD is applying the rule in a manner that is reasonable for the use of that particular rule, policy, or expectation. Rules are considered unreasonable if they are inconsistent with the contract, are in conflict with established past practice, or affect employee's lives off the job. Reasonable rules can be unreasonably applied, such as applying the rule in a discriminatory or arbitrarily restrictive manner or when compliance is not possible. If an employee feels that a rule is unreasonable or being unreasonably applied, the employee should follow the directive, unless it endangers the health or safety of the employee or others, or would require the employee to perform an illegal act. The employee has the right to grieve or file a complaint thereafter.

3. **The Investigation Test:**

The District, before administering discipline to an employee, makes an adequate timely effort to discover whether the employee did in fact violate or disobey a rule or order of management. The investigation must include inquiry into any possible justifications for the rule violation, collection and preservation of evidence, interviewing all witnesses, and providing a meaningful opportunity for the employee to be heard.

4. **The Fair Investigation Test:**

The investigation into the incident was thorough, fair, and objective. For example, the investigator cannot be a prosecutor, judge, and witness. The end result of the investigation should not be a foregone conclusion. Most importantly, if TUSD is provided with mitigating evidence, they must follow up on it and cure any inaccuracies in their investigation.

5. **The Proof Test:**

In order for the district to find the charges against the employee substantiated, TUSD must obtain substantial and credible evidence that the misconduct occurred. Three basic requirements must be met so that the employee has a fair opportunity to respond:

1. A proper charge that clearly specified the nature of the misconduct is made prior to discipline being imposed.
2. There is proof of the misconduct charged against the employee.
3. Proof of the charge existed at the time discipline was issued against the employee.

The burden of proof in disciplinary matters lies with the District, who must establish that the discipline is warranted by a "preponderance of the evidence." Preponderance of evidence is a legal standard of proof that states that the proof demonstrates that it is more likely than not that the claimed version of the facts is true. The evidence must be more convincing and persuasive than the opposing evidence.

6. The Equal Treatment Test:

The rules, directives, and penalties issued to employees are evenhandedly and equally applied without discrimination to all employees.

- All employees involved in similar incidents receive the same level of discipline,
- Employees who commit the same offense are not treated disparately,
- Race, color, religion, creed, national origin, ancestry, sex, age, physical disability, mental disability, veteran status, marital status, or union involvement are not taken into consideration when issuing disciplinary action.

Essentially, the District is prohibited from treating employees in a disparate manner or retaliating against them in the application of rules.

7. The Penalty Test:

Discipline was applied progressively, giving the employee an opportunity to correct behavior, AND the consequence is proportionate to the nature and severity of the violation. Except in cases of gross misconduct employees must receive progressive discipline. The penalty must consider the employee's record and length of service, the severity of the offense, and mitigating or aggravating factors. TUSD must also show that the employee could not have learned from a lesser level of discipline.

Part 3: Employer Rights & Responsibilities

To meet its responsibilities as a public school employer, TUSD is given legal rights to manage personnel. District rights and responsibilities includes the following:

RIGHT: Education code authorizes school districts to take disciplinary action, including suspension or dismissal, against permanent certificated employees for causes such as immoral conduct, unprofessional conduct, dishonesty, evident unfitness for service, and persistent violation of or refusal to obey school rules and laws.

RESPONSIBILITY: The District is required to provide advance notice and an opportunity to remediate performance issues before initiating dismissal proceedings, where the conduct is deemed remediable.

RESPONSIBILITY: The District is mandated to apply progressive discipline in a fair and non-discriminatory manner. This principle of graduated discipline is underscored in case law which emphasizes that discipline must serve corrective purposes before punitive consequences are imposed.

RESPONSIBILITY: The District is required to maintain accurate and legally defensible documentation. Education code requires that any derogatory material placed in an employee's personnel file must be clearly identified, shared with the employee in a timely manner, and must afford the employee the right to submit a written rebuttal. Documentation should adhere to best practices such as the FRISK® model, which emphasizes specificity, factual support, and constructive feedback.

RESPONSIBILITY: Prior to initiating any formal disciplinary action, TUSD administrators are required to consult with the Human Resources department to ensure legal compliance, procedural consistency, and support in crafting appropriate documentation.

RESPONSIBILITY: Under the EERA, discipline is a mandatory subject of bargaining. TUSD has a legal duty to negotiate with TTA on matters of discipline not covered by statute or case law.

RESPONSIBILITY: The District is required to provide support and training to certificated staff. In cases involving performance deficiencies, the law and case precedent demand that employees be given meaningful feedback, resources, and time to improve. Where improvement is required, administrators should implement Performance Improvement Plans (PIPs) that include clear goals, timelines, and support mechanisms. Documentation of specific support and the opportunity to improve are prerequisites for disciplinary action related to performance.

RIGHT: TUSD administrators have the discretion to determine appropriate disciplinary outcomes based on the specific facts of each case. While the CBA and Education Code promote progressive discipline, they do not preclude the imposition of more serious consequences at the outset if the misconduct is severe. Education code grants the governing board the discretion to act decisively when student or staff safety, educational integrity, or public trust is at stake. The substantive decision regarding whether to discipline and the form that discipline takes remain within the District's managerial rights, subject to negotiation on procedures.

RESPONSIBILITY: The District must ensure that all disciplinary actions are applied consistently and without discrimination. The District is required to treat similarly situated employees similarly. Disparate treatment is prohibited.

RIGHT: The District retains the legal authority to withhold certain information before interviews or findings are disclosed. Government code and court rulings authorize withholding of personnel records when disclosure would constitute an unwarranted invasion of privacy, or compromise the integrity of an investigation.

RESPONSIBILITY: The District must provide TTA with sufficient information for meaningful representation.

RESPONSIBILITY: The District's right to withhold information is balanced with the constitutional right to privacy and obligations to protect complainants and witnesses from retaliation.

2. Placement on Paid Administrative Leave (If Necessary)

If the preliminary review suggests a potential threat to students or staff, if the employee's presence may impede the investigation, or if the nature of the allegation is sufficiently serious, a determination must be made as to whether the employee should be placed on paid administrative leave. This decision, reached by the site administrator in consultation with a cabinet level administrator, considers whether the presence of the employee may interfere with the investigation or compromise the safety of the school environment. Paid Administrative Leave may also be used to protect the employee or address issues not related to misconduct. If leave is deemed appropriate, the rationale for this action must be clearly documented in writing. Any employee placed on Paid Administrative Leave will be granted access to their workspace to collect their personal effects within 48 hours.

3. Initial Notification of Fact-Finding

The administrator invites the employee to a fact-finding meeting. The written invitation informs the employee that a complaint or allegation has been received, the date of the complaint or allegation, that the employee is not yet the subject of an investigation, and that they have the right to consult with and bring their union representative. At this stage, specific findings are not disclosed; however, the employee will be provided with a general description of the nature of the complaint to ensure transparency and procedural fairness.

4. Fact-Finding

Following the initial notification, the administrator, in collaboration with HR, decides whether to begin the process with a preliminary fact-finding meeting or to immediately launch a formal investigation. A fact-finding meeting with the employee and their union representative may help determine whether a full investigation is warranted or if the case should be closed. However, in cases where the allegation is severe or where evidence could be compromised, the administrator may decide to bypass fact-finding and proceed directly with a formal investigation. This determination is based on professional judgment and must be justified and recorded. If fact-finding is bypassed, the administrator will notify the employee in writing as outlined in number 5 below of that decision and provide a rationale for doing so.

5. Written Notification of Investigatory Interview

Upon conclusion of the fact-finding process, the employee will be notified in writing of the administrator's intent to close the case or proceed to a formal investigation. If a formal investigation is initiated, the written notification will restate the allegations, the date of the complaint or allegation, and the right to representation. The representative may request further information from the District if they feel the District has not provided enough information to meaningfully represent the employee. An investigator—either internal or external—is assigned to lead the inquiry. The scope and objectives of the investigation are clearly outlined, and a list of potential witnesses is developed and prioritized. Throughout the process, the investigator adheres to principles of just cause, ensuring impartiality and that the rights of all parties are respected. There must be no predetermination of guilt. **When the investigator has a conflict of interest, an impartial third party will conduct the investigation.**

6. Initial Investigatory Interview

As part of the investigation, the employee under review is interviewed, with their union representative present. This interview is scheduled with adequate notice, and the employee is provided a restatement of the allegations. The employee is then given an opportunity to respond fully and provide any clarifying information. The interview is thoroughly documented.

7. Evidence Gathering

The investigator continues by gathering all relevant data and artifacts that support and/or refute the allegations. This may include video surveillance footage, electronic communications, written correspondence, personnel records, and corroborating or contradictory witness statements. Witnesses and evidence by both claimant and respondent must be collected and considered. All materials collected during this phase are maintained with strict confidentiality and securely stored to protect the integrity of the investigation. Interviews will be scheduled at mutually agreeable times while working toward a speedy resolution.

8. Follow-Up Interviews (If Necessary)

Once the initial evidence has been reviewed, the investigator may determine that an additional interview with the subject employee is necessary. If so, a follow-up interview could be conducted to clarify new findings or address discrepancies that emerged during the analysis. This follow up interview would allow the employee to respond to additional evidence ensuring their due process rights. All follow up interviews are conducted with the employee's union representative present and appropriately documented.

9. Return to Allegations Letter (If Applicable)

If new or clarified allegations arise during the process, the District may issue a **revised or supplemental allegations letter**. This ensures that the employee is fully aware of all concerns being considered and has a fair chance to respond. Additional interviews may be scheduled accordingly.

10. Completion of the Investigative Report & Letter of Findings

After completing all interviews and evidence collection, the administrator or designee compiles a comprehensive investigation report. This document includes a summary of the allegations, the methodology used during the investigation, summaries of all interviews conducted, a catalog of all evidence reviewed and cited in the Letter of Finding, and an analysis of the findings. The report is written with objectivity and must meet legal standards of completeness, impartiality, and evidentiary sufficiency.

Once the report is finalized, the administrator or designee reviews its contents and makes a formal determination regarding the allegations. Each allegation is classified as one of the following:

- **Substantiated:** There was evidence that establishes “more likely than not” the allegations are true.
- **Unsubstantiated:** There is evidence but not enough to establish that “more likely than not” the allegations are true.
- **Unfounded:** There is no evidence to establish that “more likely than not” the allegations are true.

Using the legal standard of “preponderance of evidence”, the administrative determination must demonstrate that the evidence shows it is more likely than not that the misconduct occurred.

If one or more allegations are substantiated, the administrator determines the appropriate remedy or consequence in accordance with the severity of the misconduct, prior disciplinary history, applicable collective bargaining agreements, and district disciplinary guidelines. Consequences may include a verbal or written warning, a coaching memorandum, a Performance Improvement Plan, a letter of reprimand, a Notice of Unprofessional Conduct (NUC) or Notice of Unsatisfactory Performance (NUP), a suspension without pay, a reassignment, a recommendation for termination, or a combination of consequences depending on the findings and mitigating or aggravating factors.

Following this decision, the administrator or designee completes a formal Letter of Findings, which summarizes the results of the investigation. The letter outlines the findings on each allegation, the disciplinary actions or remedies being imposed (if any), and includes notice of the employee’s right to appeal or file a grievance. This letter undergoes legal review before being finalized and shared.

11. Presentation of Investigative Report & Letter of Findings

The final step involves a formal meeting between the administrator, the subject employee, and the employee’s union representative. During this meeting, the investigative report and Letter of Findings are presented and reviewed. Any disciplinary measures are explained, and the employee is given the opportunity to respond or pose questions. A record of this meeting is created and signed by the employee to acknowledge receipt of the documents, with the documentation placed in the employee’s personnel file no fewer than 10 days after the employee has received a copy of the documentation. The employee has the right to have their own written comments attached to any negative or derogatory material placed in their personnel files.

This procedure ensures that all complaints are handled consistently and in accordance with legal, ethical, and contractual obligations while safeguarding the rights of both the complainant and the employee under investigation.

Part 2: Progressive Discipline

Progressive discipline within TUSD is a structured, legally compliant process that supports both corrective employee development and accountability for professional conduct. The District’s approach is informed by California Education Code provisions, binding case law, Public Employment Relations Board (PERB) decisions, the TTA-TUSD Collective Bargaining Agreement (CBA), and best practices outlined in Torrance Unified School Board Board Policy 4118 and Administrative Regulation 4118. While the District recognizes the importance of progressively escalating interventions where appropriate, Education Code sections 44932 and 44938 authorize administrators to exercise discretion based on the severity of the misconduct, the employee’s prior disciplinary history, and the impact on student safety and educational integrity. The purpose of progressive discipline is to provide a consistent and universal process that is used with fidelity. Except in the most egregious instances, the steps of progressive discipline should be followed.

1. Verbal Warning

The first level of Progressive Discipline is a **Verbal Warning**, which serves as an informal notice that the employee's conduct or performance is inconsistent with district expectations. Though not documented in the personnel file, this action should be accompanied by notes (called a **Coaching Memo**) retained by the administrator with a copy provided to the employee.

A Verbal Warning is informal discipline and can only be issued during the Fact-Finding process. Any administrator using this first level of discipline must still adhere to the employee's due process rights and allow the employee to speak to the allegations made against them.

2. Written Warning

A **Written Warning** is the second level of progressive discipline, but it is the first level of formal discipline that is placed in the employee's official personnel file. In a Written Warning, the employee is advised of specific concerns and advised of expectations for improvement. These could be accompanied by a Performance Improvement Plan (PIP), a formal document detailing expectations, timelines, and specific support provided to help the employee correct cited deficiencies and misconduct. PIPs are consistent with the "support-first" philosophy embedded in Article XVIII, Section A of the CBA. Employees have the right to submit a written rebuttal to this document.

3. Letter of Reprimand

A **Letter of Reprimand** is the third level of progressive discipline, and the second level of formal discipline. A Letter of Reprimand may be issued for more serious or repeated concerns. Again, this letter becomes part of the employee's official personnel file and must include an opportunity for the employee to submit a written rebuttal. The Letter of Reprimand communicates the District's concern that continued misconduct or performance failure could result in more serious consequences. A Letter of Reprimand could be accompanied by a PIP.

4. Notice of Unprofessional Conduct/Notice of Unsatisfactory Performance

When the concern rises to the level of serious misconduct or chronic performance issues, the administrator may issue a **Notice of Unprofessional Conduct (NUC)** or a **Notice of Unsatisfactory Performance (NUP)**. These are formal notices and are a legal prerequisite to any future dismissal proceedings for permanent certificated employees in cases involving remediable behavior. The notice must specify the nature of the conduct, provide documentation, and provide a PIP allowing the employee 45 days to correct the issue before a dismissal process may be initiated. NUCs and NUPs become part of the employee's official personnel file and must include an opportunity for the employee to submit a written rebuttal.

5. Suspension without Pay

If unprofessional conduct persists or if the original offense is sufficiently serious, the District may proceed to a **Suspension without Pay**. According to Article XVIII, Section G of the CBA, a unit member may be suspended for up to 15 days for just cause. The District is required to provide written notice specifying the alleged infraction, the proposed length of the suspension, and the rules or statutes

allegedly violated. The employee has two working days to request a meeting with the Superintendent to appeal the decision to suspend. Suspensions of 1–5 days are final upon the Superintendent’s decision. Suspensions of 6–15 days may be grieved beginning at Level III (arbitration). Suspensions of any length are documented as part of the employee’s official personnel file and must include an opportunity for the employee to submit a written rebuttal. Suspensions of more than 10 days are mandatorily referred to the California Commission on Teacher Credentialing (CTC).

6. Recommendation for Termination

Should misconduct be egregious or chronic and not subject to remediation, the District may initiate a **Recommendation for Termination** of employment. These actions must follow the due process requirements set forth in *Skelly v. State Personnel Board*, including notice of charges, opportunity to respond, and a fair hearing. When misconduct raises concerns regarding credential fitness, the District may report the matter to the California Commission on Teacher Credentialing (CTC) for review. This is typically triggered by findings of immoral conduct, evident unfitness for service, or criminal behavior.

7. Other Considerations

Disciplinary actions can also include involuntary (administrative) transfers or paid administrative leave to ensure the integrity and safety of the educational environment.

Grievance rights allow employees to challenge disciplinary decisions in certain circumstances. While verbal and written warnings, coaching memos, and Letters of Reprimand are not grievable, suspensions without pay of 6–15 days are subject to arbitration, beginning at Level III.

Part 3: Timelines and Statutes of Limitation

Disciplinary procedures within Torrance Unified School District (TUSD) are governed by legally established timelines and statutes of limitation, which are designed to protect employee rights, ensure administrative accountability, and preserve procedural fairness. These timelines are codified in the California Education Code, Government Code, California Code of Regulations, Public Employment Relations Board (PERB) rulings, and are further clarified by TUSD Board Policies and the TTA/TUSD Collective Bargaining Agreement (CBA).

The “10-Day Rule”

The foundational timeline that governs the placement of evaluative or disciplinary materials in an employee’s personnel file is the so-called “10-Day Rule.” This provision requires that any written material of a derogatory nature shall not be entered into a certificated employee’s personnel file without prior notice and an opportunity to review and respond. Specifically, the law mandates that the employer must wait 10 days before including such material into the employee’s personnel file. After the 10 days, the documents may be added AND the employee contractually retains the right to prepare and submit a written response, which must be attached to the document once submitted.

The “4-Year Rule”

The “4-Year Rule” refers to the practical time frame during which previous acts of misconduct or performance deficiencies may be considered relevant in the application of progressive discipline. Case law and arbitrator guidance recognize that conduct occurring more than four years prior may lack relevance unless it establishes a persistent pattern or involves egregious behavior.

Skelly Hearing

The Skelly Doctrine, which originates from the due process guarantees of the Fourteenth Amendment, mandates that public employees receive (1) advance written notice of the proposed action, (2) access to the evidence supporting the proposed discipline, and (3) an opportunity to respond, either orally or in writing, before discipline is imposed. In the TUSD context, this procedure is specifically incorporated in Article XVIII, Section G of the TTA-TUSD CBA, which outlines the right of unit members to a meeting with the Superintendent and the procedures for suspension without pay.

Reports and Referrals to the Commission on Teacher Credentialing

Districts are required to report to the California Commission on Teacher Credentialing (CTC), within 30 days, including any suspensions of more than 10 days, or adverse employment action taken against an employee for acts involving moral turpitude, sexual misconduct, or criminal conduct. Failure to report in a timely manner may subject the District to liability and impede the Commission’s ability to safeguard public schools. This duty is complemented by Education Code section 44021, which **compels credential-holding employees to report arrests or convictions**, and obliges districts to act accordingly to protect student welfare.

Allegations that May Result in Suspension or Dismissal

Specific notice requirements are established in cases involving allegations of serious misconduct that may result in suspension or dismissal. For conduct deemed remediable, the District must issue a written notice that describes the nature of the conduct, specifies what needs to be corrected, and affords the employee at least 45 calendar days to remediate before proceeding with dismissal. For non-remediable offenses or those involving criminal conduct, no remediation period is required, and immediate action may be taken.

To ensure legal compliance and mitigate liability, TUSD administrators must adhere strictly to all applicable disciplinary timelines. They must issue notices with specificity, observe employee response windows, and act promptly on investigative findings. Proper documentation of timelines, delivery receipts, and response windows are essential to establishing procedural validity and safeguarding against procedural challenges under PERB precedent and judicial review.

Part 4: Complaints & Grievances in Response to Evaluations & Disciplinary Actions

Evaluations and disciplinary actions are subject to scrutiny through the ability of employees to file grievances, complaints, and/or PERB charges against the District. These processes give employees the opportunity to challenge what they consider to be unfair applications of laws and policies against them. These are mechanisms to hold administrators accountable for adhering to the processes outlined in this document, the CBA, and in law. While complaints, evaluations, and disciplinary actions may follow a common investigative structure, their triggers, applicable Board Policies, and resulting consequences differ

substantially. TUSD administrators must apply sound judgment in determining the appropriate legal and policy framework for each case, thereby ensuring that all personnel actions remain procedurally sound, legally defensible, and educationally appropriate. This clarity enables both administrators and association members to navigate the accountability framework effectively, collaboratively, and with confidence in its legal integrity.

Complaints

Complaints are tools to hold employees, administrators, and parents to account. Complaints can trigger investigations into employee conduct, but do not necessarily result in disciplinary action. There are four basic types of complaints that can be filed: whistleblower complaints alleging administrative wrongdoing, civility complaints (which can be filed against parents, employees, and administrators), Board Policy and Administrative Regulation 4030 which cover nondiscrimination in employment, and Williams complaints that allege a lack of resources for students. Each of these complaint processes are outlined in TUSD Board Policy and Administrative Rules.

Formal complaints originate from students, parents, staff, or community members. The District retains the right and discretion to determine which Board Policy or Administrative Regulation governs the investigation of a particular complaint based on the content and nature of the complaint filed.

Upon receipt of a complaint, TUSD administrators will evaluate the nature of the allegations and determine the appropriate investigative framework. All complaints are subject to fair and thorough investigation, including collection of evidence, witness interviews, and providing the employee under review with notice and an opportunity to respond. If substantiated, outcomes may include verbal or written warnings, coaching directives, mandated training, or initiation of formal disciplinary processes.

Grievances

Grievances are a formal process to enforce the provisions and protections of the TTA/TUSD CBA. The process begins with an informal grievance that must be initiated within fifteen (15) days of the alleged harm or when the grievant should have reasonably known about the harm. Once formally initiated, each level of the grievance process includes specific deadlines for response and appeal, ensuring that disputes are resolved promptly and that all parties are afforded adequate time to prepare and respond.

Disciplinary Actions

Misconduct investigations are initiated in response to allegations of actions that may violate the California Education Code, district policy, professional standards, or law. If investigations result in disciplinary action, a grievance may be filed for any suspension without pay of six days or more. These grievances start at level III, arbitration. If the employee believes that disciplinary action is taken against them illegally, in violation of due process, and/or in retaliation, the employee may work with union representatives to file a charge with the Public Employees Relations Board (PERB) to resolve the issue.

Performance Evaluations

Performance Evaluations are developmental in purpose and are conducted to assess a certificated employee's instructional and professional competency. The evaluation cycle is designed to promote instructional growth, identify areas of strength, and flag any persistent deficiencies. When performance deficiencies are observed, the administrator must issue a Performance Improvement Plan (PIP) per the CBA

before issuing a final evaluation. After consistent underperformance, administrators may issue a Notice of Unprofessional Performance (NUP) and develop a PIP which provides a 90 working day period for remediable performance issues. The administrator also has discretion to offer an involuntary transfer to another assignment or school site as a corrective measure. If performance does not improve, the District may proceed with dismissal procedures.

SECTION IV CLASSIFIED ACCOUNTABILITY

Introduction

The **Classified Employee Accountability Plan** defines the standards, procedures, and legal authority guiding the fair, transparent, and constitutionally sound administration of disciplinary actions for classified employees within the Torrance Unified School District (TUSD). This plan is constructed upon the foundational policies of Chapter 19 of the TUSD Personnel Commission Handbook and is harmonized with the California Education Code, relevant provisions of the California Code of Regulations, and judicial interpretations of the U.S. and California Constitutions. In doing so, it seeks to ensure that disciplinary actions serve both corrective and preventive functions, while maintaining employee dignity and due process. This plan is not merely procedural—it represents a commitment to organizational integrity, equity, and the fostering of a professional, respectful, and mission-driven workforce.

Legal Foundation and Due Process

The disciplinary framework established in this plan is rooted in the Fourteenth Amendment to the United States Constitution, which explicitly guarantees that no person shall be deprived of life, liberty, or property without due process of law. In the public employment context, this provision means that permanent classified employees—those who have completed their probationary periods—have a protected property interest in their continued employment. This was affirmed by the United States Supreme Court in *Cleveland Board of Education v. Loudermill* (1985) 470 U.S. 532, which held that such employees are entitled to a pre-disciplinary process including notice of the charges, disclosure of the evidence against them, and a meaningful opportunity to respond.

The California Supreme Court reinforced this principle in *Skelly v. State Personnel Board* (1975) 15 Cal.3d 194, requiring that public employees receive a "Skelly hearing" prior to the imposition of discipline that affects their job status or pay. This hearing must be conducted before a neutral decision-maker and must allow the employee to review the evidence and present a response.

The California Education Code, particularly § 45113, provides local governing boards with the authority to establish disciplinary procedures for classified employees, while ensuring compliance with constitutional protections. Furthermore, federal labor protections—most notably *NLRB v. J. Weingarten, Inc.* (1975) 420 U.S. 251—ensure the right of union representation in investigatory interviews that the employee reasonably believes may lead to disciplinary action.

Disciplinary Action: Definition and Scope

Within the scope of this plan, "disciplinary action" encompasses any formal adverse employment decision made against a permanent classified employee that results in the loss of salary, change in classification, or termination of employment—absent the employee's voluntary, written consent. These actions include:

Dismissal refers to the involuntary and permanent severance of the employment relationship due to significant misconduct, insubordination, or chronic performance failure that has not been corrected through prior interventions.

Suspension without pay, limited to no more than thirty (30) assigned workdays, may be imposed for violations of a serious nature or for repeated infractions following earlier corrective efforts. It removes the employee from duties while imposing a financial consequence, thus signaling the gravity of the conduct in question.

Demotion involves the reassignment of an employee to a position of lower rank, responsibility, and compensation. It is typically used when performance or conduct suggests that the employee is no longer suited to their current classification but may still serve the District in a less demanding role.

Reassignment with reduction in pay is similar to demotion, but may apply in cases where the change in duties does not involve a formal reclassification but nonetheless results in lower compensation. Such actions must be justified and documented, particularly when the employee does not consent.

Importantly, disciplinary action is separate from layoff procedures due to lack of work or funds, which are governed by Education Code §§ 45298 and 45308. Furthermore, under Education Code § 45113 and Government Code § 19635, discipline cannot be based on conduct occurring before the employee attained permanent status or conduct that occurred more than two years prior, unless the behavior was concealed or unknown to the District.

Framework for Progressive Discipline

The District embraces a **progressive discipline model**, in which interventions escalate in severity to give employees multiple opportunities to correct behaviors and avoid termination, unless the conduct is so egregious that immediate action is warranted.

A **verbal warning** is typically the first step in addressing minor performance deficiencies or behavioral concerns. Delivered privately, it allows supervisors to engage employees in a corrective discussion that identifies the issue, sets expectations for improvement, and records the interaction informally. Although not entered into the personnel file, it serves as the initial stage of awareness and development.

A **formal written warning** builds on this foundation by documenting specific concerns and expectations for change. It clearly outlines the nature of the issue, refers to violated rules or policies, and details the consequences of continued noncompliance. While this document is not subject to formal appeal, employees are given ten calendar days to provide a written response, which is attached to the record. Supervisors are encouraged to use the FRISK model—emphasizing Facts, Rules, Impact, Suggestions, and Knowledge—to craft precise and legally defensible documentation.

A **Performance Improvement Plan (PIP)** is a structured, time-bound plan offering detailed performance benchmarks, monitoring mechanisms, and support resources. This approach emphasizes correction rather than punishment, giving employees the tools to succeed. PIPs are commonly used when deficiencies are significant but potentially remediable. The PIP process upholds principles affirmed in *Gilbert v. Homar* (1997) 520 U.S. 924, which stressed the fairness of incremental discipline combined with opportunity for improvement.

A **written reprimand** is a formal admonishment for misconduct or performance issues that are either persistent or severe enough to warrant permanent documentation. Entered into the employee's personnel file, it functions as a critical warning that subsequent infractions may result in suspension, demotion, or dismissal. Employees may rebut the reprimand in writing, as part of their due process rights under *Loudermill* and Education Code § 44031.

Serious Disciplinary Measures Impacting Property Rights

A **Notice of Unsatisfactory Service** formally initiates disciplinary action that could impact the employee's job status, classification, or compensation. The notice must detail the specific charges, underlying facts, and applicable District policies or rules, and inform the employee of their rights, including the opportunity for a *Skelly* hearing.

Suspension without pay is used when the nature of the misconduct or failure to improve justifies temporary removal from the workplace with financial consequence. Prior notice and a pre-disciplinary hearing are required under *Skelly* and Education Code § 45116 to safeguard employee rights.

A **demotion or reassignment with reduction in pay** may be warranted when an employee demonstrates sustained inability to perform in their classification or engages in conduct incompatible with their role. The employee has the right to challenge the action before the Personnel Commission under Rule 19.5.

Dismissal, the most severe disciplinary measure, is invoked only when an employee's conduct renders them unsuitable for continued employment and prior interventions have failed, or the conduct is so egregious that immediate termination is necessary. The case of *Coleman v. Department of Personnel Administration* (1991) 52 Cal.3d 1102 affirmed that dismissals must be supported by credible evidence and must satisfy procedural due process requirements.

Due Process and Appeal Rights

Procedural safeguards apply to all disciplinary actions, particularly those involving property rights. The process includes multiple phases to ensure fairness:

A **Notice of Proposed Disciplinary Action** under P.C. Rule 19.2 must inform the employee of the intended disciplinary measure, the factual allegations, and the policies allegedly violated. This fulfills the "notice" requirement articulated in *Loudermill*.

The **Preliminary Skelly Hearing**, pursuant to P.C. Rule 19.3, allows the employee to present their side before a neutral administrator, either orally or in writing. The hearing serves as a safeguard against unjust or arbitrary actions.

Following this, a **Skelly Hearing Decision and Final Notice** is issued (P.C. Rule 19.4), documenting the findings and final determination, and summarizing the rationale behind the disciplinary decision.

If the discipline involves suspension, demotion, or dismissal, the employee may seek a full evidentiary hearing before the **Personnel Commission**, as prescribed by P.C. Rule 19.5. The Commission's ruling is final and binding.

Special Circumstances

Employees **charged with serious criminal offenses** such as those involving controlled substances or acts of moral turpitude may be placed on **compulsory unpaid leave** under Education Code § 45304. If the employee is acquitted, the leave must be rescinded, and back pay restored.

An **immediate suspension with pay** may be issued when it is necessary to remove an employee from the workplace pending investigation. This is not a disciplinary action but a neutral measure to protect the integrity of the process.

Temporary and probationary employees, who have not attained permanent status, may be separated without cause. However, if such action affects a previously held permanent classification, the employee retains the right to due process, consistent with Education Code § 45305.

Causes for Disciplinary Action

The District recognizes a range of causes that may justify discipline, including but not limited to the following:

- **Incompetence or inefficiency** in job performance that disrupts the educational mission or creates operational inefficiencies.
- **Insubordination**, which includes intentional refusal to follow lawful directives or disrespect toward supervisors.
- **Chronic absenteeism or tardiness** that undermines productivity and staffing continuity.
- **Dishonesty, theft, or falsification of records**, all of which erode trust and violate fiduciary responsibilities.
- **Harassment, violence, or hostile behavior**, which threaten a safe and inclusive working and learning environment.
- **Substance abuse violations**, including being under the influence or possessing drugs or alcohol on District property.
- **Criminal convictions**, especially felonies or crimes involving moral turpitude, which may render the employee unfit for public service.

- **Unauthorized political activity** during work hours, prohibited under Education Code § 7055.
- **Unprofessional conduct**, including violations of ethical norms and misuse of position.
- **Misuse of District property**, including using equipment or materials for unauthorized personal gain.

Each disciplinary cause must be substantiated with clear, convincing evidence and documented in a manner compliant with the **California Administrative Procedure Act**, ensuring integrity in the process and fairness to the employee.

Implementation Standards

To uphold the principles of this plan, TUSD administrators must ensure that disciplinary actions are:

- **Applied consistently and equitably** across all departments and employee classifications, with consideration of the severity of the conduct and past corrective efforts.
- **Documented thoroughly**, including a detailed account of the misconduct, corrective attempts, employee responses, and outcomes.
- **Conducted with procedural fairness**, with strict adherence to notice requirements and opportunities to respond.
- **Supported with remediation**, including professional development, retraining, coaching, or mentoring wherever feasible and appropriate.
- **Legally compliant**, aligned with collective bargaining agreements, Education Code provisions, labor regulations, and constitutional due process mandates.

All formal disciplinary documentation must be filed in accordance with **5 CCR § 16023** and subject to the employee's rights to access and rebut per **Education Code §§ 44031 and 45113**.

Conclusion

The **TUSD Classified Employee Accountability Plan** affirms the District's dual commitment to excellence in public service and the constitutional and statutory rights of its workforce. By reinforcing transparent, corrective, and legally grounded discipline, the District not only protects the integrity of its operations but also fosters a climate of trust, accountability, and continuous improvement. The plan stands as a guiding framework for

principled decision-making and a tool for ensuring that every employee is treated with fairness, dignity, and respect throughout their career with Torrance Unified.

Legal Citations

1. Constitutional and Case Law References:

- **Cleveland Board of Education v. Loudermill, 470 U.S. 532 (1985):** This U.S. Supreme Court decision affirms that public employees with a property interest in their employment are entitled to notice and a pre-termination hearing before dismissal. [Justia Law](#)
- **Skelly v. State Personnel Board, 15 Cal.3d 194 (1975):** The California Supreme Court ruled that permanent public employees must receive a pre-disciplinary hearing, known as a "Skelly hearing," before the imposition of significant disciplinary actions.
- **NLRB v. J. Weingarten, Inc., 420 U.S. 251 (1975):** This case established that employees have the right to union representation during investigatory interviews that the employee reasonably believes might result in disciplinary action.
- **Gilbert v. Homar, 520 U.S. 924 (1997):** The Supreme Court held that the suspension of a public employee without pay does not necessarily violate due process, provided that a prompt post-suspension hearing is available.
- **Coleman v. Department of Personnel Administration, 52 Cal.3d 1102 (1991):** This decision addressed the automatic resignation of a state employee due to unauthorized absence and the procedures required for reinstatement. [Justia Law+1lawpipe.com+1](#)

2. California Education Code Sections:

- **§ 45113:** Authorizes school district governing boards to adopt rules and regulations for the disciplinary proceedings of classified employees, ensuring consistency with due process requirements.
- **§ 45298:** Provides that individuals laid off due to lack of work or funds are eligible for reemployment within 39 months, with reemployment rights taking precedence over new applicants. [CalPubLaw+1Findlaw+1](#)
- **§ 45308:** Specifies that the order of layoff for classified employees is determined by length of service, with those having the shortest service being laid off first. [CalPubLaw+2CalPubLaw+2Findlaw+2](#)
- **§ 45116:** Mandates that a notice of disciplinary action must clearly state the specific acts or omissions upon which the action is based, along with the cause for the action and any relevant rules or regulations violated. [CalPubLaw+1Findlaw+1](#)

- **§ 45304:** Allows for the suspension, demotion, or dismissal of an employee for reasonable causes, with the requirement that written charges be filed with the personnel commission within ten days of such action.
- **§ 45305:** Grants permanent classified employees the right to appeal disciplinary actions such as suspension, demotion, or dismissal to the personnel commission within 14 days of receiving the written charges. [CalPubLaw](#)
- **§ 44031:** Ensures that employees have the right to inspect their personnel records and mandates that derogatory information cannot be placed in these records without the employee being given notice and an opportunity to comment. [CalPubLaw](#)
- **§ 7055:** Permits the governing body of each local agency to establish rules and regulations regarding political activities of officers and employees during working hours and on the premises of the local agency. [CalPubLaw](#)

3. California Code of Regulations:

- **Title 5, § 16023:** Classifies certain school district records as permanent and outlines the requirements for their indefinite retention. [Legal Information Institute](#)

4. Administrative Procedure Act:

- Establishes the rulemaking procedures and standards for state agencies in California, ensuring public participation and the clarity, necessity, and legality of regulations. [oal.ca.gov](#)

In summary, the legal citations incorporated into the Classified Employee Accountability Plan are accurate and appropriately support the policies and procedures outlined within the document.

SECTION IV - APPENDIX



Part 1: Glossary of Terms

Appendix: Key Terms, Legal Authorities, and Reference Frameworks

This appendix provides an expanded list of key legal terms, statutory provisions, case law, and regulatory references that are directly or indirectly applicable to certificated employee accountability practices within Torrance Unified School District (TUSD). These resources ensure both administrators and Torrance Teachers Association (TTA) members have a legally sound and comprehensive framework to support decision-making, resolve disputes, and maintain consistent and lawful personnel practices.

Key Terms

4-year Rule–The expectation is that no offense older than four years will be included in investigatory reports & letters of finding.

10-day Rule–The mandate that the District must wait 10 days before placing negative or derogatory information into the employee’s personnel file.

Administrative Discretion – The lawful authority granted to school administrators to make fact-specific personnel decisions, consistent with Ed. Code, Board policy, and applicable rulings.

Administrative Leave – A temporary paid leave status authorized under Education Code § 44940 while allegations are investigated. The employee must still be available during school hours. Being placed on paid leave is not a punishment, but is used to prevent potential further harm to the claimant and the respondent, prevent the employee's presence potentially impeding the investigation, or protect all involved if the nature of the allegation is sufficiently serious.

Allegation – A claim or assertion that an employee has engaged in conduct that may violate law, policy, or professional standards, which requires investigation.

Allegations Letter– A letter presented to an employee outlining allegations of misconduct lodged against them with the date and time of the alleged event. The letter invites them to an interview and informs them of their right to representation.

Claimant–The person who makes a complaint or says someone else did something wrong.

Coaching Memo – A non-disciplinary written communication intended to provide guidance, set expectations, and support employee improvement.

Complaints–There are several types of complaints outlined in law and board policy. The most common are whistleblower complaints (administrator misconduct) and civility complaints. Other types include the more serious uniform complaints and the Williams complaints for adequate school resources.

Confidential Personnel Record – Documentation that must be protected per Ed. Code § 44031 and Gov. Code § 6254(c), balancing privacy and procedural transparency.

Credential Revocation Recommendation– A formal request to the state to take away an educator's credential if they did something like lie, steal, or commit a crime.

Derogatory Material – Any documentation containing negative or critical commentary on employee conduct or performance that must comply with Ed. Code § 44031 and include the right to respond.

Dismissal– Being fired for cause. This is the last step after other attempts to correct behavior didn't work or for nonremedial misconduct.

Legal References: Ed Code §§44934–44944

Disparate Treatment – Unequal disciplinary or evaluative treatment of similarly situated employees, in violation of PERB precedent and constitutional equal protection.

Due Process – The procedural and substantive rights guaranteed to employees under the Fourteenth Amendment and codified in *Skelly* and *Loudermill* rulings.

Fact-Finding– is a preliminary, non-disciplinary process initiated by an administrator to gather objective information in response to a received complaint or allegation involving a district employee. It is conducted **prior to the commencement of a formal investigation and serves as a tool to determine whether further investigatory steps are warranted**

Findings – At the conclusion of an investigation, in the Investigative Report/Letter of Finding, the determination of meeting the preponderance of evidence is listed in three classifications: *substantiated*—meaning that through the preponderance of evidence, the employee more likely than not committed misconduct; *unsubstantiated*—meaning that through the preponderance of evidence, the employee may have committed misconduct, but there is insufficient evidence; and *unfounded*—meaning that there is no evidence of misconduct.

FRISK® Model – A factual, structured administrative documentation method emphasizing Facts, Rules violated, Impact on students/school, Suggestions for improvement, and Knowledge of consequences.

Garrity Rights – Rights established by *Garrity v. New Jersey* (1967) 385 U.S. 493, protecting public employees from compelled self-incrimination during investigatory interviews.

Grievance—a process to find remedy for the District violating the Collective Bargaining Agreement (CBA). This process is outlined in Article XIX of the CBA.

Investigatory Interview –A formal meeting to ask the respondent about the allegations. They must know what the complaint is about and can bring a union rep or support person.

Investigative Report– A formal document that summarizes what was discovered during an investigation into allegations of misconduct. It includes interview notes, witness statements, evidence, and a determination of whether it is more likely than not that misconduct occurred. This document is only presented to the respondent unless mandated by law to be made available to the claimant.

Just Cause – A legal standard that must be met before discipline is imposed, requiring that the discipline be reasonable, based on evidence, and consistent with due process. Codified in Ed. Code § 44932 and supported by PERB and court rulings. Means the District needs a fair and legal reason to discipline someone. The District must pass the seven tests that prove they conducted a fair investigation.

Letter of Findings– This document provides the determination of the Investigative Report and does not provide the remedy if any that was issued to a public employee.

Letter of Reprimand– More serious than a verbal or written warning, this formal written notice is placed into an employee's personnel file documenting substantiated misconduct or performance concerns. It typically means the employee has engaged in misconduct more than once or has committed a more serious act.

Letter of Warning– A formal written notice that is part of progressive discipline which is placed into the employee's personnel file. It documents substantiated allegations of misconduct and provides expectations and support for correction of behavior for the employee.

Loudermill Rights– Established by the U.S. Supreme Court case *Cleveland Board of Education v. Loudermill* (1985), Loudermill Rights affirm that public employees with a property interest (permanent status) in their employment cannot be deprived of that employment without due process.

Lybarger Admonition– An admonition given during an investigatory interview stating that the district compels an employee to provide information that might incriminate themselves, but prohibits the District from sharing that compelled evidence with police.

Morrison Standards of Fitness to Teach– Established in *Morrison v. State Board of Education* (1969) 1 Cal.3d 214, the California Supreme Court developed a legal framework for evaluating whether a teacher’s conduct renders them unfit to teach.

Nonremedial Misconduct- refers to employee behavior—most commonly by a certificated employee—that is so serious, egregious, or inherently harmful that it cannot be corrected or mitigated through remediation efforts, such as warnings, evaluations, or professional improvement plans. This classification of misconduct justifies immediate disciplinary action, including dismissal, without the requirement of prior written notice or an opportunity to correct the behavior.

Notice of Unprofessional Conduct (NUC) – A form of progressive discipline that documents serious or consistent misconduct. It is a formal notice initiating remediation of remediable misconduct. NUCs are typically given when an employee consistently behaves unprofessionally or commits a serious offense. The NUC outlines a PIP and gives 45 days to correct the behavior before potentially implementing stronger discipline. *Legal Reference: Ed Code §44938.*

Notice of Unprofessional Performance (NUP) – Issued when an employee is not meeting the professional standards of their job. NUPs include a PIP that outlines what professional standards need improvement and gives the employee at least 45 days to fix it. *Legal Reference: Ed Code §44938(b)(1)*

Opportunity Transfer – A reassignment of an employee to a different work site or position as a non-punitive intervention in response to performance or environmental factors.

Performance Improvement Plan (PIP) – A structured document outlining specific areas of concern, expectations for improvement, and timelines, with administrator support to help the employee succeed.

Preponderance of Evidence– In law, preponderance of the evidence is the standard of proof used in most civil cases. In employee discipline, it means that the District has the burden of proof and must present evidence that shows it's more likely than not that the allegations of misconduct are true.

Progressive Discipline– gradually escalating interventions to correct employee misconduct.

Qualified Immunity- is a legal doctrine that protects public school district employees, including teachers, administrators, and support staff, from being held personally liable for civil damages under federal law—particularly 42 U.S.C. §1983—when performing their official duties, as long as their conduct does not violate clearly established statutory or constitutional rights that a reasonable person would have known.

Qualified immunity is designed to shield public employees from lawsuits for reasonable but mistaken judgments made in the course of their job, unless their actions were plainly incompetent or knowingly unlawful

Remedial Misconduct-refers to conduct by a certificated employee that, while inappropriate or in violation of professional standards, is not so inherently serious or harmful as to warrant immediate dismissal. Instead, it is conduct that can potentially be corrected or improved through written notice, guidance, and reasonable opportunity to remediate. Under California law, school districts must provide such employees notice and time to correct the behavior before pursuing formal dismissal.

Respondent– The person whom a complaint is made against. They have the right to know what they are being accused of and to have someone represent them.

Skelly Hearing – A due process meeting required under *Skelly v. State Personnel Board* (1975) 15 Cal.3d 194 before a suspension or dismissal is imposed.

Statement of Charges – A document that outlines specific violations of policy or law and serves as the basis for statutory dismissal proceedings under Ed. Code §§ 44934–44938.

Suspension – A disciplinary action temporarily removing an employee from their duties, with or without pay, as allowed under Ed. Code §§ 44939–44940. If issued without pay, the contract establishes procedures for appeals and grievances. If an unpaid suspension of more than 10 days is issued, it must be reported to the Commission on Teacher Credentialing (CTC). *Legal Reference: Ed Code §44932*

Suspension/Revocation of Credential– If an employee commits egregious wrongdoing (like a crime), the district may ask the CTC to suspend or revoke their teaching license. *Legal Reference: Ed Code §44421*

Undocumented Conversations– Talks between staff and supervisors that are not part of the official discipline process and are not written down.

Verbal Warning– An administrator tells the employee (in person) that their behavior needs to change. It is not put in the employee's official file.

Weingarten Rights – The right of an employee to have union representation during interviews that may result in disciplinary action, from *NLRB v. Weingarten, Inc.* (1975) 420 U.S. 251.

Relevant California Education Code Sections

§ 44021 – Mandatory reporting of criminal charges and convictions by certificated employees.

[§ 44031](#) – Personnel file access and rebuttal rights.

[§ 44242.5](#) – Reporting misconduct to the California Commission on Teacher Credentialing (CTC).

[§§ 44660–44664](#) – Evaluation procedures for certificated employees.

§ 44932 – Statutory grounds for dismissal and suspension of permanent certificated employees.

§ 44938 – Requirement for remediation period in unprofessional conduct and performance.

§§ 44939–44944 – Statutory due process, mandatory leaves, suspension, and dismissal procedures.

§§ 44940, 44942 – Authority to place an employee on administrative leave or mandatory leave of absence.

Relevant California Government Code Sections

§ 3543.2(a) – Management rights of public school employers under the Educational Employment Relations Act (EERA).

§ 6254(c) – Public Records Act exemption for personnel file information.

California Code of Regulations (Title 5)

CCR Title 5, § 80303 – Mandates for reporting change in employment status related to alleged misconduct.

CCR Title 5, § 80331–80338 – Rules governing credential discipline.

Key Federal Laws and Constitutional Protections

Skelly v. State Personnel Board (1975) 15 Cal.3d 194 – Requires pre-disciplinary procedural safeguards, including notice, opportunity to respond, and access to evidence.

Cleveland Board of Education v. Loudermill (1985) 470 U.S. 532 – Constitutional due process rights for permanent public employees.

NLRB v. Weingarten, Inc. (1975) 420 U.S. 251 – Right to union representation during investigatory interviews.

Garrity v. New Jersey (1967) 385 U.S. 493 – Prohibits compelled self-incrimination in investigatory settings for public employees.

Lybarger v. City of Los Angeles (1985) 40 Cal.3d 822 – Clarifies Garrity protections for California public employees.

Key California Case Law

Morrison v. State Board of Education (1969) 1 Cal.3d 214 – Defines standards of unfitness to teach and relevance of off-duty conduct.

San Diego Teachers Assn. v. Superior Court (1979) 24 Cal.3d 1 – Clarifies the application of due process in teacher evaluations and dismissals.

Bekiaris v. Board of Education (1972) 6 Cal.3d 575 – Establishes evidentiary standards in teacher discipline.

PERB Precedents and Rulings

Chula Vista Elementary School District (1992) PERB Decision No. 979 – Upholds management's right to impose discipline within procedural boundaries.

Novato Unified School District (1982) PERB Decision No. 210 – Affirms that just cause must be based on substantial and timely evidence.

Los Angeles Unified School District (1984) PERB Decision No. 414 – Reinforces administrative discretion over investigations.

Redwoods Community College District (1990) PERB Decision No. 789 – Acknowledges Weingarten representation rights.

Contra Costa Community College District (2019) PERB Decision No. 2652 – Affirms an employee's right to meaningful representation and the union's right to reasonable notice of alleged wrongdoing prior to an investigatory interview.

County of Santa Clara (2018) PERB Decision No. 2613-M – Affirms an employee's right to discuss allegations against them with other employees.

Board Policies and Administrative Regulations

BP/AR 1312.1 – Complaints against district employees.

BP/AR 1312.2 – Complaints about instructional materials.

BP/AR 1312.3 – Uniform Complaint Procedures.

AR 5145.71 – Title IX sexual harassment investigations and response protocols.

BP/AR 4030 – Nondiscrimination in employment.

BP/AR 4118 – Suspension/Disciplinary action.

BP 4144 / BP 4244 – Employee complaints and grievances.

BP/AR 4112.6 – Personnel files, employee rights to respond to material.

Collective Bargaining Agreement (CBA) Provisions – TTA and TUSD

Article VII – Evaluation Procedures.

Article XVIII – Intermediate Discipline.

Article XIX – Grievance Procedures.

Peer Assistance and Review (PAR) – As referenced in the CBA and Evaluation articles, provides support and remediation for underperforming educators.

FRISK® Documentation Model

A widely used administrative documentation system endorsed by for progressive discipline, emphasizing:

- **Facts**
- **Rule or expectation violated**
- **Impact on students or school operations**
- **Suggestions for improvement**
- **Knowledge that continued conduct may lead to consequences**

This appendix serves as a centralized reference hub for understanding the comprehensive legal and contractual landscape that governs employee accountability in California public education and is essential to the effective implementation of discipline, support, and evaluative systems within Torrance Unified School District.

Sample Documents

- Letter of Warning
- Letter of Reprimand
- Performance Improvement Plans
- Skelly Hearing Notice
- Letter of Findings