

TTA MEMBER TOOLKIT

UNDERSTANDING THE DISCIPLINARY PROCESS

For several years, TTA members have encountered a distressing, and in many instances a bad faith, application of employee discipline by TUSD administrators. A pattern of disregard for both contractual and legal rules and procedures has emerged, along with a stated emphasis by TUSD to maintain administrative discretion regardless of unit member rights. TTA leadership feels it is imperative to inform our members and provide information and resources to protect your rights and your contract. Keep this resource and refer to it as needed.

TTA insists that TUSD work through the negotiations process and a collaborative consultation process to develop disciplinary systems that each side agrees to, and to set clear expectations that all parties are adequately trained to implement.

So far, TTA Leadership has consulted with TUSD on the development of their TUSD Guide to Employee Accountability, but TUSD has not had a faithful rollout of their own stated processes. TTA Leaders have requested multiple times to sit down with TUSD to evaluate the Guide, its rollout, and the use of the processes described therein. TUSD has yet to set a meeting date with the Association.

TTA currently has the discipline article open at the bargaining table in an effort to codify the agreed upon processes. So far, TUSD is reluctant to agree to language because they do not want to be held accountable for adhering to employee rights. Therefore, the Association is notifying members to know and exert your rights!

Know Your Rights

NEVER GO ALONE!

You have a right to representation (Weingarten Rights).

If a unit member has a reasonable belief that discipline or other adverse consequences may result from what they say, the unit member has the right to request union representation. When the unit member makes the request for a union representative to be present, administrators have three options:

1. stop questioning until the representation arrives.
2. end the interview and potentially reschedule at a later time when the representative can be present, or,
3. tell the employee they will end/postpone the interview unless the employee voluntarily gives up his/her rights to union representation (**an option the employee should always refuse**).

SCOTUS Decision, NLRB v. Weingarten

TTA Leadership Recommends:

NEVER go into a meeting with an administrator without a witness or representation.

ALWAYS bring someone with you - your site rep or a colleague you trust.

NEVER sign any documents waiving your rights or documents you don't understand.

ALWAYS read what's put in front of you for signature. If you don't know for sure, ask for help from TTA.

NEVER go into a meeting without being told what it's about.

ALWAYS ask before you go. You have a right to know the allegations against you before the meeting. Your representative has a legal right to provide representation to you. (*Contra Costa Community College District*, PERB Decision No. 2652)

TUSD has a history of unfair labor practices regarding these very issues (*Torrance Teachers Association v. Torrance Unified School District*, PERB Decision No. HO-U-1876). If you find yourself midway through a meeting that has turned in an unexpectedly negative way, **stop the meeting and demand representation – even if you waived it prior**. Once you request representation, they must comply!

Know Your Contract and District Policies

Progressive Discipline procedures should be followed in disciplinary cases. As per the contract:

"Progressive discipline may include but need not be limited to *verbal warnings, written warnings and letters of reprimand*." [Emphasis added.]

- TUSD/TTA Collective Bargaining Agreement, Article XVIII.B (p. 54)

Your contract REQUIRES that "JUST CAUSE" must be shown in order to initiate disciplinary procedures:

"The following procedure is intended to establish a fair process which recognizes the right of the District to appropriately discipline employees while also *recognizing the right of employees to be subject to discipline only upon a showing of just cause*." [Emphasis added.]

- TUSD/TTA Collective Bargaining Agreement, Article XVIII.A (p. 54)

JUST CAUSE is a legal standard in which seven tests for fair investigations and disciplinary action must be met. TUSD outlines these seven tests in their *TUSD Guide to Employee Accountability* (which can be found on our website under Member Resources [HERE](#)).

Discipline protocols and procedures are a mandatory subject of bargaining. TUSD cannot alter or skip contractual obligations without negotiating with TTA.

Intermediate Discipline (possible suspensions) is covered in the contract:

Article XVIII.G, 1-6 (p. 55)

Procedure for fair investigations into allegations of teacher misconduct (TTA's position based upon law):

- 1 - Allegations (what happened): you must be informed of allegations against you per PERB and NLRB rulings—not just generic allegations, but enough

information to “allow meaningful representation.” There should be no “ambush” meetings.

2 - Interview (investigation): you should be provided the opportunity to tell your side of the story and provide the names of additional witnesses and information pertinent to resolving the allegations. You also have a right to speak to any digital data collected as evidence against you.

3 - Findings (report back): you will be informed of the findings and any potential remedies, supports, and disciplinary actions.

TTA is currently at the table fighting for the right to grieve progressive discipline. TUSD doesn't want to be accountable to you or your due process rights. They continue to balk at following their own protocols, as well as the contracts. TUSD administrators often skip several steps of progressive discipline in order to be unnecessarily punitive. TTA Leadership continues to find mechanisms to fight TUSD on these measures, but TUSD does not care that they are causing irreparable harm to members and the relational trust between employee and employer. So know your rights, and fight for them!

NEVER relinquish your right to due process, as outlined in law and in our contract.

ALWAYS insist that procedures and protocols are properly followed.

Protect Your Rights

PROTECT YOURSELF

- Document everything (send follow up emails after every conversation with an administrator documenting what was said in the meeting)
- Follow school procedures and rules
- Communicate with your site rep
- Be proactive: Anticipate issues and communicate with your administration BEFORE it becomes a problem
- Administrators are watching you and documenting, so BE AWARE!

BE ASSERTIVE

- Insist that your rights are ALWAYS respected
- Insist that procedure is ALWAYS followed
- Insist that your contract is ALWAYS respected
- Insist that the law is ALWAYS followed

KNOW WHAT TO SAY

- If you find yourself in a meeting that turns out to be disciplinary or impacting your working conditions, say the following (**and repeat as needed**):
“If this discussion could in any way lead to my being disciplined or terminated, or affect my personal working condition, I respectfully request that my union representative be present at the meeting. Without representation, I choose not to answer any questions.”
- Bring this information with you to ALL meetings with administrators

PROTECT YOUR CONTRACT

- Grieve, Grieve, Grieve! When your contract is violated - file a grievance!!! (Your site rep can help you.) Grieving is how we hold TUSD accountable!
 - TUSD/TTA Collective Bargaining Agreement, Article XIX (p. 55-60) outlines the Grievance timelines and process.

SPEAK UP

- Write to the School Board
Contact Information: <https://www.tusd.org/boe>
- Speak at a School Board meeting
Meeting schedule: <https://www.tusd.org/boe/board-meetings>

STAND WITH YOUR COLLEAGUES

- Wear TTA BLUE on Thursdays
- Take a faculty picture and send it to the TTA office
- Be an advocate for your colleagues
- Share this information with your colleagues

**Know your rights.
Protect your contract.
Insist that your rights are always respected.**