KNOW YOUR RIGHTS!

Discipline

PROTECTIONS AGAINST UNFAIR DISCIPLINE

SDEA members are protected against unfair discipline by our union contract and state law, and recently won an important improvement to our rights: The District can only discipline members **for cause**, using the **preponderance of evidence** standard. This means the District must show evidence that the reason for discipline is more likely true than not.

PROGRESSIVE DISCIPLINE

Progressive Discipline is a key element of just cause. It gives educators a chance to correct misconduct at the lowest level of discipline possible and protects them from administrators using high levels of discipline for relatively minor infractions. *(Supervisors may determine how many lower-level warnings a member receives before the next level of discipline.)*

Initial warning (IW): Written & kept in member's site or program personnel file. Member may attach a written response.

Letter of Warning (LOW): Written & kept in member's site or program personnel file. Member may attach a written response.

Letter of Reprimand (LOR): Written & kept in member's District personnel file. Member may attach a written response.

Suspension and/or Termination: State law procedures & deadlines apply for suspension or termination, and at this stage members should seek advice and representation from an attorney. SDEA members have access to union lawyers. (Not yet a member? Join now!) Start by contacting your union rep!

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AM I BEING FAIRLY DISCIPLINED?

If members file a grievance over unfair discipline and it goes to arbitration, arbitrators use the "Seven Tests of Just Cause" to decide whether the discipline was fair. These tests can help members and union reps think about how to respond to discipline, and to answer two questions: "Is there cause for discipline?" and "What level of discipline is appropriate?"

SEVEN TESTS OF JUST CAUSE:

1. **Fair Notice:** If you are being accused of breaking a rule, were you reasonably informed of the rule and the consequences for not following it?
2. **Prior Enforcement:** Has the District enforced the rule consistently?
3. **Due Process:** Were you fairly investigated before discipline?
4. **Evidence:** Do the facts support the allegations?
5. **Equal Treatment:** Have similar violations been treated similarly with other employees?
6. **Progressive Discipline:** Did the District follow the discipline steps in your contract? Or did egregious conduct justify skipping them?
7. **Mitigating & Extenuating Circumstances:** Are there special circumstances?

EGREGIOUS (MIS)CONDUCT

The District can skip lower levels of discipline *only* in cases of very serious or "egregious" conduct involving safety or legal compliance. For example, an educator showing up late can be given a warning so they have a chance to improve, but if they endanger students or break the law, administrators can give them a more serious consequence (like issuing a LOR without first issuing an IW or LOW.)

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Complaints

COMPLAINTS: WHAT ARE MY RIGHTS?

To protect all members and students, the District must investigate concerns about performance or alleged misconduct. Our union contract has protections so complaints can be handled fairly, and unsubstantiated complaints cannot be placed in personnel files or used as the basis of discipline.

General concerns: Complaints can be handled informally if they are unlikely to result in discipline or if they do not involve any (alleged) violation of a specific policy or law. Supervisors may address concerns through direct or facilitated conversations between the member and the person who shared the complaint.

Formal Complaints: If an allegation involves a violation of a specific policy or law, or if it may lead to formal discipline, the District must conduct a fair, objective investigation.

FACING A COMPLAINT OR INVESTIGATION?

Contact your union representative! If called into a meeting, say: **"If this discussion could lead to discipline or affect my working conditions, I request union representation."** If management denies you this right, attend the meeting but let your rep know immediately.

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FORMAL COMPLAINT INVESTIGATIONS

During the investigation process, members have the right to:

Written notice: A formal notice of the investigation, who is conducting it, and some basic information about member rights (for example, the right to union representation) and cautions (for example, prohibition of false statements and retaliation.)

Basic details before an interview: Reasonable notice of the alleged misconduct and, if available, the identity of the complainant(s). The District does not need to provide evidence or names of other witnesses beforehand.

Notice of the outcome: Information on whether the District found each allegation substantiated by a preponderance of evidence.

**These procedures do not apply to certain investigations governed by separate laws or District policies, including Title IX, Williams Act, and Uniform Complaint investigations.*

SOURCE: SDEA Contract, Article 33

ADDITIONAL RESOURCES:

- Labor Notes: Using just cause
- UE: The 7 Tests of Just Cause
- Discipline-Related Definitions
- KYR: Union Representation
- KYR: SDEA Grievance Process
- 2026 Training: Discipline & Complaints