

7. Except as noted above, all other sections of Article IX shall remain in force for the peer evaluation process.

ARTICLE X - PROFESSIONAL STANDARDS

No bargaining unit member shall be disciplined except for just cause. Discipline imposed shall be proportionate to the proven offense taking into account, where appropriate, the concept of progressive discipline.

- A.** For the purpose of this Article, "discipline" means any suspension without pay for up to fifteen (15) days and/or any derogatory (not directive) writing issued by the District to a bargaining unit member which may serve as a basis for affecting the status of that bargaining unit member's employment. For purposes of this Article, "writings" shall include but not be limited to Notices of Unprofessional Conduct pursuant to Education Code section 44938. Notices of Unprofessional Conduct shall not be grievable under this Article while charges of dismissal based on the facts contained in the Notice are filed against the bargaining unit member, or if the bargaining unit member is terminated or found to have committed the alleged act by a Commission of Professional Competence.
- B.** Alleged violations of this Article shall be processed through the grievance procedure except: (1) that the decision of the arbitrator with respect to any alleged violation(s) of this Article shall be final and binding on the parties; (2) that grievances under this Article to challenge Notices of Unprofessional Conduct shall not be filed until after one hundred twenty (120) calendar days from the expiration of the notice period; (3) that the time limit for filing a grievance to challenge a Notice of Unprofessional Conduct shall not begin to run until after 120 days from the expiration of Notice period; and (4) that all time limits pertaining to a grievance to challenge a Notice of Unprofessional Conduct shall be tolled while charges of suspension or dismissal based upon the facts contained in the Notice are pending against the bargaining unit member.
- C.** The arbitrator shall have the power to rule on all issues of procedural and substantive arbitrability that arise as a result of grievances that allege a violation of this Article.

- D.** This Article shall apply only to permanent certificated bargaining unit members of the District. This Article shall not apply to evaluations pursuant to Article IX or Notices of Unsatisfactory Performance pursuant to Education Code section 44938. However, the arbitrator shall have the authority to determine whether a Notice of Unsatisfactory Performance pursuant to Education Code section 44938 was given as a subterfuge to avoid the provisions of this Article X.
- E.** With the exception of employees from the Information Technology Department, at no time shall surveillance leading to discipline be performed by non-management employees of the District.