

**YUBA COMMUNITY COLLEGE DISTRICT  
SKELLY PROTOCOL**

**I. INTRODUCTION**

In *Skelly v. State Personnel Board* (1975) 15 Cal.3d 194, the California Supreme Court ruled that as a part of due process, certain public employees are entitled to procedural safeguards before serious discipline is imposed against them. Other non-disciplinary actions may also be subject to the Skelly process, as described below.

This protocol will focus on the right of certain employees, in the circumstances described below, to have advance notice of the proposed/intended action, and the opportunity to respond to the proposed/intended action, prior to a final decision being made on that action. This opportunity to respond is commonly referred to as a "Skelly" review meeting.

**II. APPLICABILITY**

**A. Discipline**

Pursuant to case law and policy, as described below, this protocol applies to the following disciplinary actions: (1) suspension, demotion, and termination of permanent members of classified service ([AP 7365](#)) and (2) suspension and termination of academic employees ([AP 7360](#)).

**B. Other Employment Actions**

Pursuant to law, other actions requiring a Skelly Review Meeting include placement of the 39-month list pursuant to Education Code 88192(g), involuntary unpaid leave of absence, and job abandonment.

**C. Conflicts**

Should this protocol conflict with an applicable policy, procedure, and/or collective bargaining agreement, the policy, procedure, and/or collective bargaining agreement shall govern.

**III. SKELLY PROCESS – NOTICE OF INTENT**

Pursuant to [AP 7365](#), in appropriate situations District is required to provide – before making a final decision – a Notice of Intent (NOI). [AP 7365](#) specifies the content of the NOI, including the opportunity to respond to the NOI. Per [AP 7365](#), the employee must be given a minimum of five (5) working days to provide their response.

**IV. SKELLY PROCESS – EMPLOYEE RIGHTS AND RESPONSIBILITIES**

It is the employee's responsibility to attend the designated Skelly Review Meeting and preparing any presentation, whether oral and/or written. The employee is entitled to have a representative. The representative may, at the employee's choosing, make the full Skelly presentation, or a portion thereof, on behalf of the employee.

## **V. SKELLY PROCESS – SELECTION OF SKELLY OFFICER**

The Office of Human Resources will identify the appropriate individual to conduct the Skelly Review Meeting (“Skelly Officer”). The Skelly Officer may, in some circumstances, be within the reporting chain of the impacted employee. The Skelly Officer need not be an expert in the work performed by the impacted employee. However, the Skelly Officer should have sufficient knowledge regarding work rules, policies, or professional standards relevant to the proposed discipline such that the Skelly Officer can adequately assess the employee’s presentation. The Office of Human Resources is available to the Skelly Officer to answer questions pertaining to process, policy, procedure, and this protocol.

## **VI. SKELLY PROCESS – ROLE OF SKELLY OFFICER**

The role of the Skelly Officer is to ensure that the District’s decision as to whether or not to discipline is appropriately informed by the employee’s response to the Notice of Intent. In this regard, the Skelly Officer is to review the Notice of Intent, all attached documentation, and consider the affected employee’s oral and/or written response to evaluate:

- A.** Whether there is a reasonable basis to believe the employee engaged in the performance failure or misconduct charged, and
- B.** Whether the proposed disciplinary action appears to be within the range of reasonable penalties.

## **VII. SKELLY PROCESS – MATTERS OUTSIDE SCOPE OF SKELLY REVIEW**

The role of the Skelly Officer does not include conducting an independent investigation or disregarding the findings of a District investigation, trying to determine or resolve questions of fact (*e.g.*, whether the employee did/did not actually engage in the misconduct), and/or determining whether the Skelly Officer would propose the same disciplinary action.

## **VIII. SKELLY REVIEW MEETING**

The Skelly Review Meeting is the opportunity for the employee to present their version of events to the Skelly Officer. The employee may request to submit written documents for the Skelly Officer to consider, request an opportunity to speak directly with the Skelly Officer (in-person, virtually, or by telephone), or both. The disciplinary notice will identify the Skelly Officer and typically provide a pre-scheduled date and time for a virtual Skelly Review Meeting. The employee may request to conduct the Skelly Review Meeting in person at the pre-scheduled date. Human Resources should be consulted if availability and/or scheduling issues arise.

### **A. Prior to the Skelly Review Meeting**

In advance of the Skelly Review Meeting, the Skelly Officer will review the notice of the intended action and supporting documents, this Skelly Protocol, the applicable policy and MOU provisions, and any written response and/or documents submitted by the employee in advance of the meeting (if any).

## **B. At the Beginning of the Skelly Review Meeting:<sup>1</sup>**

The Skelly Officer should open the meeting with introductions and document the names of all attendees. The Skelly Officer should also explain that, upon completion of the meeting, the Skelly Officer will consider the information provided and make a recommendation to the District administrator proposing the disciplinary action (“disciplinary authority”). The Skelly Officer should then explain that the Skelly Review Meeting is the opportunity for the employee to provide evidence and information which allows the Skelly Officer to evaluate the factors identified in Section VI.A and VI.B.

## **C. Employee Presentation**

The Skelly Officer will listen carefully to the presentation made by the employee and/or their representative. The Skelly Officer should ask clarification questions, where clarification is needed. The Skelly Officer may answer procedural questions but is not there to speak for the District, the disciplinary authority, or to answer substantive questions regarding the proposed action.

## **D. After Skelly Review Meeting**

The Skelly Officer should review all information presented by the employee, as well as all relevant documents, including the Notice of Intent and attachments and issue a recommendation pursuant to Section XI, below.

# **IX. SKELLY REVIEW – WRITTEN RESPONSE ONLY**

If the employee opts to only provide a written response, the employee must do so by the deadline indicated in the Notice. A reasonable extension is appropriate if requested (usually not more than three business days). Once the written response is submitted, the Skelly Officer should consider the Notice of Intent and all attachments and the written response by the employee when evaluating the factors identified in Section VI.A and VI.B. and issue a recommendation pursuant to Section XI, below.

# **X. SKELLY REVIEW – NO EMPLOYEE RESPONSE**

If the employee does not respond by the deadline contained in the Notice of Intent, the Skelly Officer should review the Notice of Intent and all attachments and issue a recommendation pursuant to Section XI, below.

# **XI. SKELLY PROCESS – FINAL RECOMMENDATION**

## **A. Recommend Upholding the Proposed Action**

If the Skelly Officer recommends upholding the proposed action, the Skelly Officer will complete a recommendation letter and provide a signed copy of the letter to Human Resources for final processing.

---

<sup>1</sup> The Skelly Officer may choose to utilize the Skelly Meeting format attached hereto as Attachment A.

**B. Skelly Officer's Concerns Regarding Proposed Action:**

If the Skelly Officer has questions or concerns about the proposed disciplinary action, they should contact Human Resources, which will coordinate a discussion among the Skelly Officer and the disciplinary authority to address the Skelly Officer's questions and/or concerns. If the discussion does not result in a consensus, Human Resources will ask the Skelly Officer to complete a recommendation letter with all attachments and submit that letter to Human Resources.

ATTACHMENT A: SKELLY MEETING FORMAT

**1. Date of Skelly Review Meeting:** \_\_\_\_\_

**2. Introductions:** Ask all attendees to introduce themselves and document all attendees:

Skelly Officer: \_\_\_\_\_ Employee Rep (if any): \_\_\_\_\_ (if any)

Employee: \_\_\_\_\_ HR Rep (if any): \_\_\_\_\_

**3. Explanation of Process:**

The purpose of this Skelly review is to allow you, the employee, to present your versions of events to the District for consideration prior to the implementation of any disciplinary action, if any. Please note a final decision regarding this matter has not been made.

It is not my role to make final determinations of fact, to conduct an investigation, or to determine whether I, personally, would take a different course of action. Instead, it is my role to fully consider your response when evaluating:

- o Whether there is a reasonable basis to believe that you engaged in the performance failure or misconduct charged, and
- o Whether the proposed disciplinary action appears to be within the range of reasonable penalties, without regard to whether I would have proposed the same or different action.

Once I fully consider your response, I will make a recommendation to the appropriate administrator (the person who signed the notice) as to whether to implement the proposed disciplinary action, modify that action, or withdraw the proposed action altogether.

To be clear, my role is to provide a recommendation. The appropriate administrator may adopt or reject my recommendation. Either way, the appropriate administrator will provide you a notice of the final decision. In making your presentation, you may choose to have a representative with you and that representative may, at your election, present your response or a portion of it. While I may ask clarifying questions, my primary role is to listen to and consider your presentation when evaluating these two factors. In preparation for this meeting, I have reviewed:

- o Notice of Intent w/ attached documents
- o Any documents you submitted in advance of this this meeting, if any.

Before we get started, do you have any questions about this process or my role?

**Now please present your response to the Notice of Intent.**

#### **4. Conclusion**

Thank you for presenting your response for my consideration. I would like to note that you have provided the following documents (if any) today for my consideration

---

---

After full consideration of all of the relevant documents and your presentation today, I will prepare my recommendation and submit to the Human Resources pursuant to the District's process.

If you have additional documents, you would like me to consider, please provide them to me no later than close of business tomorrow (or next business day). You may provide these to me via email.

If you have any follow-up or procedural questions, please contact Human Resources for further assistance.

Thank you.