

**MORA-SAN MIGUEL ELECTRIC COOPERATIVE, INC.**  
**DISCIPLINARY APPEAL PROCEDURE FOR NON-UNION EMPLOYEES**  
**POLICY NO. 213**  
**Supersedes Policy #63**

**SUBJECT:** Disciplinary Appeal Procedure for Non-Union Employees

**OBJECTIVE:** To establish a procedure for discipline of all Non-Union employees, exclusive of the Cooperative Manager and Attorney

**POLICY:**

General:

The Board recognizes that in relation to discipline of employees:

1. All union employees shall be disciplined and all appeals of disciplinary action shall proceed pursuant to the current union contract.
2. The Manager and the attorney for the Cooperative are "at will" employees and may be terminated with or without cause upon a majority vote of the Board of Trustees.
3. The procedure for discipline and appeal of disciplinary action for all non-union non-probationary employees is contained herein.
4. The only disciplinary action that may be appealed by non-union non-probationary employees is termination. All other disciplinary actions including oral and written reprimands, demotions, and suspensions shall be at the sole discretion of the Cooperative Manager and shall not be appealable.
5. All employees shall be probationary employees for the first six (6) months of full time employment. Probationary employees may be terminated "at will" and shall have no right to appeal any disciplinary action. Such employee shall be advised in writing of the conduct, actions, or omissions which form the basis of the disciplinary action.

Termination:

1. Cause. Non-union non-probationary employees may only be terminated for cause under the Board policies in effect at the time of the proposed termination. If the Manager proposes to terminate such employee, he shall outline in writing the cause for the proposed termination and summarize the factual support for this proposed action and transmit this writing to the affected employee.

2. Pre-Termination Hearing. Prior to the termination for cause of any non-union non-probationary employee, the Manager shall conduct a pre-termination hearing which shall be an informal hearing, conducted either orally or in writing, at the choice of the employee, an opportunity to state his or her position in regard to the proposed termination. The employee shall have three (3) calendar days after receipt of the notice of proposed termination within which to request a hearing. Once requested, the hearing shall be held within three (3) calendar days unless the parties otherwise agree in writing.

3. Upon completion of the pre-termination hearing, the Manager shall determine whether termination is in order. If the decision is made to terminate the employee, the Manager shall notify the employee in writing of the action taken and the basis for the action, and that the employee has three (3) working days to appeal the termination in writing.

4. **Should the employee file an appeal of the termination, the matter shall be referred to the Board's Labor Committee for a formal hearing. The Labor Committee may determine to hear the matter themselves, or to appoint a neutral hearing officer. Upon appointment of a hearing officer, the employee shall be allowed to object to the hearing officer only upon a showing of good cause. Cause shall be determined by the Board's Labor Committee.**

**The formal hearing shall be conducted as follows:**

A. The employee and the Cooperative may be represented by counsel at their own expense.

B. The Cooperative shall have the burden of proof and the burden of going forward with the evidence.

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C. Each party may require other Cooperative employees to testify at the formal hearing. Other witnesses may be requested to appear. Witnesses will be sworn by a notary public.

D. The parties may make opening statements, present evidence, cross examine witnesses, present rebuttal evidence, and make closing statements orally or in writing.

E. The formal hearing shall be recorded. The hearing shall be closed to the public, except that the affected employee may request other non-witnesses to be present during the hearing.


F. Upon conclusion of the formal hearing, the Labor Committee shall give its written recommendation to the full Board who shall make a final decision as to whether the termination should be upheld.

The Board shall be responsible for the enforcement of this Policy.

Approved: February 24, 1995.

Amended: July 31, 1995

Second Amendment: April 29, 1997

  
Board Secretary