

## DISCIPLINARY ACTION OF CLASSIFIED PERSONNEL

The continued employment of any classified employee is contingent upon the appropriate performance of the assigned duties and the employee's personal fitness. Cause for disciplinary action shall include, but shall not be limited to the following factors:

1. Incompetency, inefficiency, insubordination, inattention to or dereliction of duty, discourteous treatment of the public or co-workers, or any willful failure of good conduct that tends to injure the public service, or any willful or persistent violation of the provisions of the California Ed. Code, or policies, rules, regulations, or procedures adopted by the Board of Trustees.
2. Engaging in a political activity during assigned working hours by the employee.
3. Any of the grounds set forth in the California Education Code concerning a regular employee.
4. Frequent requests for unexcused absences that result in the disruption and loss of efficiency in the operating unit in which the employee is assigned.
5. Continuing absences because of illness after the exhaustion of sick leave benefits or when sick leave is taken for trivial dispositions.
6. The use of fraud, deception, or misrepresentation of material facts in obtaining an appointment or a place on the eligibility list.

No disciplinary action shall be taken for any cause that occurred more than two (2) years preceding the date of the filing of notice of cause unless the cause was concealed or not disclosed by the employee when it could be reasonably assumed that the employee should have disclosed the information to the district.

All recommendations for disciplinary action shall be completed by the appropriate administrator or the Chancellor. They shall be in writing and shall state all the charges and conditions involved. Recommendations shall be routed to the Deputy Chancellor for review and forwarded to the Chancellor.

In cases where disciplinary action is recommended, the Chancellor will notify the board and the employee and state the reasons. Such notice shall be in writing, and shall be served upon the employee personally by the Chancellor or an appointed designee. If the employee cannot be contacted on the job or at the last known place of residence, the provisions of this

policy shall be deemed to have complied with if a copy of the charges is mailed at a United States Post Office, addressed to the employee's last known mailing address as recorded in the office of Human Resources.

When the employee is classified as a permanent employee, a written notice of the specific charges shall include a statement of the employee's right to a hearing on the charges and the period within such a hearing will occur. The investigation, hearing, and defense shall be limited to the reasons for the charge by the appropriate administrator or Chancellor.

The representative of the district shall first present evidence to support the charges of the Board of Trustees. The employee shall then have the right to present evidence. Witnesses called by either side shall be subpoenaed by the board. Requests for subpoenas must be filed with the secretary of the board at least seventy-two (72) hours prior to the date of the hearing. A list of witnesses shall be submitted to the board at least twenty-four (24) hours prior to the date of the hearing. At the conclusion of the hearing, the charges shall be considered, either in open or closed session, and a decision shall be made. The employee may waive the right to a public hearing.

At the hearing, the employee, appropriate administrator, or the Chancellor shall have the right to speak and present evidence.

The following rules of evidence shall apply.

1. Oral evidence shall be taken only on oath or affirmation.
2. Each party shall have these rights:
  - a. To call and examine witnesses
  - b. To introduce exhibits
  - c. To cross-examine opposing witnesses on any matter relevant to the issues, even though the matter was not covered during direct examination
  - d. To impeach any witness, regardless of which party called the witness to testify
  - e. To rebut the evidence against the witness

If the employee respondent does not testify, the employee may be called and examined as if under cross-examination.

3. The hearing need not be conducted according to technical rules related to presenting evidence and calling witnesses. Any relevant evidence shall be admissible if it is the type of evidence responsible persons are accustomed to rely on in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make the admission of the evidence improper over an objection in civil actions.

Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but it shall not be sufficient in itself to support a finding unless it would be admissible over an objection in civil actions. The rules of privilege shall be effective to the same extent they are recognized in civil actions. Irrelevant or unduly repetitious evidence shall be excluded.

All hearings before the Board of Trustees shall be governed by the aforementioned procedure. The board shall not be bound by technical rules of evidence.

The Board of Trustees may retain the services of a hearing officer to conduct the hearing and make a recommended decision to the Board of Trustees. The hearing officer shall submit a written recommended decision to the Board of Trustees. At its next schedule of meetings, the Board of Trustees shall review the hearing officer's recommended decision and make a final decision. The board shall make the judgment that the recommendation of the hearing officer or the appropriate administrator or the Chancellor was taken for reasonable cause or that the recommendation of the hearing officer or the appropriate administrator or the Chancellor be sustained in full, modified, or rescinded.

If the board concludes that the disciplinary action was for a reasonable cause and the recommendation of the appropriate administrator or the chancellor should be modified, the modification may provide that in lieu of dismissal, the employee should be demoted to a lower classification for which the employee is properly qualified or restored to the position formerly held, subject to forfeiture of pay for all or a portion of the period the employee was removed from duty.

Any finding by the board shall not be subject to judicial review. In addition, the determination of the sufficiency of cause for disciplinary action shall be conclusive.

*Reference:*

*California Education Code, Sections 87732*

Adopted: 2-13-68  
Revised: 9-29-69  
Revised: 4-20-89  
Technical Update: 4-26-99  
Revised: 5-28-02  
Revised: 7-30-12