

AP 7360 Discipline and Dismissal, Academic Employees

Reference:

Education Code Section 87669; 87732

Causes for Discipline

A regular employee or academic employee may be dismissed or penalized for one or more of the following causes:

- Immoral or unprofessional conduct.
- Dishonesty.
- Unsatisfactory performance.
- Evident unfitness for service.
- Physical or mental condition that makes him or her unfit to instruct or associate with students.
- Persistent violation of, or refusal to obey, the school laws of the state or reasonable regulations prescribed for the government of the community colleges by the Board of governors or by the governing board of the district
- Conviction of a felony or of any crime involving moral turpitude.
- Conduct specified in Section 1028 of the Government Code. (i.e., knowing membership in the Communist Party or of any organization which advocates the overthrow of the government of the United States by force or violence.)

Background Checks

Background checks may be conducted as part of disciplinary or harassment investigations. (Civil Code Section 1786, et seq. Fair Credit Reporting Act)

Advanced notice of discipline/harassment investigations *[shall/shall not]* be provided to those under investigation. If the investigation results in action that adversely affects the employee, the employee shall receive oral, written, or electronic notice of:

- the adverse action;
- the name, address, and telephone number of the third party agency that furnished the report;
- the employee's right to obtain a free copy of the report; and
- the employee's right to dispute the accuracy or completeness of any of the information in the report.

Notice and Appeal

The District shall not act upon any charges of unprofessional conduct or unsatisfactory performance unless during the preceding term or half college year prior to the date of the filing of the charge, and at least 90 days prior to the date of the filing, the employee against whom the charge is filed has been given written notice of the unprofessional conduct or unsatisfactory performance, specifying the nature of the conduct with specific instances of behavior and with particularity to permit the employee an opportunity to correct his or her faults and overcome the grounds for the charge. The written notice shall include the most recent evaluation of the employee.

If the Board decides it intends to dismiss or penalize a contract or regular employee, a written statement, signed and verified, shall be delivered to the employee setting forth the complete and precise decision of the Board and the reasons for the decision.

The written statement shall be delivered by serving it personally on the employee or by mailing it by United States registered mail to the employee at his or her address last known to the district.

If the employee objects to the decision on any ground, the employee shall give written notice of the objection to the board, the CEO of his or her objection within 30 days of the date of the service of the notice.

Within 30 days of receipt of the employee's demand for a hearing, the employee and the CHRO shall attempt to agree upon an arbitrator to hear the matter. When there is agreement as to the arbitrator, the CHRO shall enter into the records of the governing board written confirmation of the agreement signed by the employee and an authorized representative of the district. Upon entry of such confirmation, the arbitrator shall assume complete and sole jurisdiction over the matter.

If within 30 days of the receipt of the employee's demand for hearing, no written agreement has been reached between the employee and the district regarding appointment of an arbitrator the District will certify the matter to the California State Office of Administrative Hearings and request the appointment of an administrative law judge.

Upon appointment, the arbitrator or the Administrative Law Judge shall conduct the proceedings in accordance with the California Administrative Procedures Act, except that the right of discovery shall not be limited to those matters set forth in Section 11507.6 of the California Government Code but shall include the rights and duties of any party in a civil action brought in a superior court. In all cases, discovery shall be completed prior to one week before the date set for hearing.

The arbitrator or Administrative Law Judge shall determine whether there is cause to dismiss or penalize the employee. If the arbitrator finds cause, the arbitrator shall determine whether the employee shall be dismissed, the precise penalty to be imposed, and whether the decision should be imposed immediately or be postponed.

No witness shall be permitted to testify at the hearing except upon oath or affirmation. No testimony shall be given or evidence introduced relating to matters that occurred more than four years prior to the date of the filing of the notice. Evidence of records regularly kept by the district concerning the employee may be introduced, but no decision relating to the dismissal or suspension of any employee shall be made based on charges or evidence of any nature relating to matters occurring more than four years prior to the filing of the notice.

The decision of the arbitrator or Administrative Law Judge will be made in writing and provided to all parties.