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**GOVERNMENT CODE - GOV**

**TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA [8000 - 22980]** ( Title 2 enacted by Stats. 1943, Ch. 134. )

**DIVISION 5. PERSONNEL [18000 - 22980]** ( Division 5 added by Stats. 1945, Ch. 123. )

**PART 2. STATE CIVIL SERVICE [18500 - 19799]** ( Part 2 added by Stats. 1945, Ch. 123. )

**CHAPTER 7. Separations From Service [19570 - 19593]** ( Heading of Chapter 7 renumbered from Chapter 8 by Stats. 1985, Ch. 794, Sec. 27. )

**ARTICLE 1. Disciplinary Proceedings [19570 - 19589]** ( Heading of Article 1 renumbered from Article 3 by Stats. 1983, Ch. 142, Sec. 55. )

**19570.** As used in this article "adverse action" means dismissal, demotion, suspension, or other disciplinary action. This article shall not apply to any adverse action affecting managerial employees subject to Article 2 (commencing with Section 19590), except as provided in Sections 19590.5, 19592, and 19592.2.

(Amended by Stats. 1985, Ch. 794, Sec. 28.)

**19571.** In conformity with this article and the board rule, adverse action may be taken against any employee, or person whose name appears on any employment list for any cause for discipline specified in this article.

(Amended by Stats. 1981, Ch. 526, Sec. 2.)

**19572.** Each of the following constitutes cause for discipline of an employee, or of a person whose name appears on any employment list:

- (a) Fraud in securing appointment.
- (b) Incompetency.
- (c) Inefficiency.
- (d) Inexcusable neglect of duty.
- (e) Insubordination.
- (f) Dishonesty.
- (g) Drunkenness on duty.
- (h) Intemperance.
- (i) Addiction to the use of controlled substances.
- (j) Inexcusable absence without leave.
- (k) Conviction of a felony or conviction of a misdemeanor involving moral turpitude. A plea or verdict of guilty, or a conviction following a plea of nolo contendere, to a charge of a felony or any offense involving moral turpitude is deemed to be a conviction within the meaning of this section.
- (l) Immorality.
- (m) Discourteous treatment of the public or other employees.
- (n) Improper political activity.
- (o) Willful disobedience.
- (p) Misuse of state property.
- (q) Violation of this part or of a board rule.
- (r) Violation of the prohibitions set forth in accordance with Section 19990.

- (s) Refusal to take and subscribe any oath or affirmation that is required by law in connection with the employment.
  - (t) Other failure of good behavior either during or outside of duty hours, which is of such a nature that it causes discredit to the appointing authority or the person's employment.
  - (u) Any negligence, recklessness, or intentional act that results in the death of a patient of a state hospital serving the mentally disabled or the developmentally disabled.
  - (v) The use during duty hours, for training or target practice, of any material that is not authorized for that use by the appointing power.
  - (w) Unlawful discrimination, including harassment, on any basis listed in subdivision (a) of Section 12940, as those bases are defined in Sections 12926 and 12926.1, except as otherwise provided in Section 12940, against the public or other employees while acting in the capacity of a state employee.
  - (x) Unlawful retaliation against any other state officer or employee or member of the public who in good faith reports, discloses, divulges, or otherwise brings to the attention of, the Attorney General or any other appropriate authority, any facts or information relative to actual or suspected violation of any law of this state or the United States occurring on the job or directly related to the job.
- (Amended by Stats. 2004, Ch. 788, Sec. 8. Effective January 1, 2005.)*

**19573.** The Department of Human Resources may establish disciplinary criteria applicable to adverse actions taken by appointing bodies pursuant to the causes of discipline set forth in Section 19572.

*(Added by Stats. 2012, Ch. 665, Sec. 71. (SB 1308) Effective January 1, 2013.)*

**19574.** (a) The appointing power, or its authorized representative, may take adverse action against an employee for one or more of the causes for discipline specified in this article. Adverse action is valid only if a written notice is served on the employee prior to the effective date of the action, as defined by board rule. The notice shall be served upon the employee either personally or by mail and shall include: (1) a statement of the nature of the adverse action; (2) the effective date of the action; (3) a statement of the reasons therefor in ordinary language; (4) a statement advising the employee of the right to answer the notice orally or in writing; and (5) a statement advising the employee of the time within which an appeal must be filed. The notice shall be filed with the board not later than 15 calendar days after the effective date of the adverse action.

(b) Effective January 1, 1996, this subdivision shall apply only to state employees in State Bargaining Unit 5. This section shall not apply to discipline as defined by Section 19576.1.

*(Amended by Stats. 2008, Ch. 150, Sec. 10. Effective January 1, 2009.)*

**19574.1.** (a) An employee who has been served with notice of adverse action, or a representative designated by the employee, shall have the right to inspect any documents in the possession of, or under the control of, the appointing power which are relevant to the adverse action taken or which would constitute "relevant evidence" as defined in Section 210 of the Evidence Code. The employee, or the designated representative, shall also have the right to interview other employees having knowledge of the acts or omissions upon which the adverse action was based. Interviews of other employees and inspection of documents shall be at times and places reasonable for the employee and for the appointing power.

(b) The appointing power shall make all reasonable efforts necessary to assure the cooperation of any other employees interviewed pursuant to this section.

*(Amended by Stats. 2008, Ch. 150, Sec. 11. Effective January 1, 2009.)*

**19574.2.** (a) Any party claiming that his or her request for discovery pursuant to Section 19574.1 has not been complied with may serve and file a petition to compel discovery with the Hearing Office of the State Personnel Board, naming as respondent the party refusing or failing to comply with Section 19574.1. The petition shall state facts showing that the respondent party failed or refused to comply with Section 19574.1, a description of the matters sought to be discovered, the reason or reasons why the matter is discoverable under Section 19574.1, and the ground or grounds of the respondent's refusal so far as known to the petitioner.

(b) The petition shall be served upon the respondent party and filed within 14 days after the respondent party first evidenced his or her failure or refusal to comply with Section 19574.1 or within 30 days after the request was made and the party has failed to reply to the request, whichever period is longer. However, no petition may be filed within 90 days of the date set for commencement of the administrative hearing, except upon a petition and a determination by the administrative law judge of good cause. In determining good cause, the administrative law judge shall consider the necessity and reasons for the discovery, the diligence or lack of diligence of the moving party, whether the granting of the petition will delay the commencement of the administrative hearing on the date set, and the possible prejudice of the action to any party. The respondent shall have a right to file a written answer to the petition. Any answer shall be filed with the Hearing Office of the State Personnel Board and the petitioner within 15 days of service of the petition.

Unless otherwise stipulated by the parties and as provided by this section, the administrative law judge shall review the petition and any response filed by the respondent and issue a decision granting or denying the petition within 20 days after the filing of the

petition. Nothing in this section shall preclude the administrative law judge from determining that an evidentiary hearing shall be conducted prior to the issuance of a decision on the petition. In the event that a hearing is ordered, the decision of the administrative law judge shall be issued within 20 days of the closing of the hearing.

A party aggrieved by the decision of the administrative law judge may, within 30 days of service of the decision, file a petition to compel discovery in the superior court for the county in which the administrative hearing will be held or in the county in which the headquarters of the appointing power is located. The petition shall be served on the respondent party.

(c) If from a reading of the petition the court is satisfied that the petition sets forth good cause for relief, the court shall issue an order to show cause directed to the respondent party; otherwise the court shall enter an order denying the petition. The order to show cause shall be served upon the respondent and his or her attorney of record in the administrative proceeding by personal delivery or certified mail and shall be returnable no earlier than 10 days from its issuance nor later than 30 days after the filing of the petition. The respondent party shall have the right to serve and file a written answer or other response to the petition and order to show cause.

(d) The court may, in its discretion, order the administrative proceeding stayed during the pendency of the proceeding, and, if necessary, for a reasonable time thereafter to afford the parties time to comply with the court order.

(e) Where the matter sought to be discovered is under the custody or control of the respondent party and the respondent party asserts that the matter is not a discoverable matter under Section 19574.1, or is privileged against disclosure under Section 19574.1, the court may order lodged with it matters which are provided in subdivision (b) of Section 915 of the Evidence Code and shall examine the matters in accordance with the provisions thereof.

(f) The court shall decide the case on the matters examined by the court in camera, the papers filed by the parties, and any oral argument and additional evidence as the court may allow.

(g) Unless otherwise stipulated by the parties, the court shall no later than 45 days after the filing of the petition file its order denying or granting the petition; provided, however, that the court may on its own motion for good cause extend the time an additional 45 days. The order of the court shall be in writing setting forth the matters or parts the petitioner is entitled to discover under Section 19574.1. A copy of the order shall forthwith be served by mail by the clerk upon the parties. Where the order grants the petition in whole or in part, the order shall not become effective until 10 days after the date the order is served by the clerk. Where the order denies relief to the petitioning party, the order shall be effective on the date it is served by the clerk.

(h) The order of the superior court shall be final and, except for this subdivision, shall not be subject to review by appeal. A party aggrieved by the order, or any part thereof, may within 30 days after the service of the superior court's order serve and file in the district court of appeal for the district in which the superior court is located, a petition for a writ of mandamus to compel the superior court to set aside, or otherwise modify, its order. Where a review is sought from an order granting discovery, the order of the trial court and the administrative proceeding shall be stayed upon the filing of the petition for writ of mandamus; provided, however, that the court of appeal may dissolve or modify the stay thereafter, if it is in the public interest to do so. Where the review is sought from a denial of discovery, neither the trial court's order nor the administrative proceeding shall be stayed by the court of appeal except upon a clear showing of probable error.

(i) Where the superior court finds that a party or his or her attorney, without substantial justification, failed or refused to comply with Section 19574.1, or, without substantial justification, filed a petition to compel discovery pursuant to this section, or, without substantial justification, failed to comply with any order of court made pursuant to this section, the court may award court costs and reasonable attorney fees to the opposing party. Nothing in this subdivision shall limit the power of the superior court to compel obedience to its orders by contempt proceedings.

*(Amended by Stats. 2013, Ch. 427, Sec. 73. (AB 1062) Effective January 1, 2014.)*

**19574.5.** Pending investigation by the appointing power of accusations against an employee involving misappropriation of public funds or property, drug addiction, mistreatment of persons in a state institution, immorality, or acts which would constitute a felony or a misdemeanor involving moral turpitude, the appointing power may order the employee on leave of absence for not to exceed 15 days. The leave may be terminated by the appointing power by giving 48 hours' notice in writing to the employee.

If adverse action is not taken on or before the date such a leave is terminated, the leave shall be with pay.

If adverse action is taken on or before the date such leave is terminated, the adverse action may be taken retroactive to any date on or after the date the employee went on leave. Notwithstanding the provisions of Section 19574, the adverse action, under such circumstances, shall be valid if written notice is served upon the employee and filed with the board not later than 15 calendar days after the employee is notified of the adverse action.

*(Amended by Stats. 1981, Ch. 526, Sec. 5.)*

**19575.** The employee has 30 calendar days after the effective date of the adverse action to file with the board a written answer to the notice of adverse action. The answer shall be deemed to be a denial of all of the allegations of the notice of adverse action not expressly admitted and a request for hearing or investigation as provided in this article. With the consent of the board or its

authorized representative an amended answer may subsequently be filed. If the employee fails to answer within the time specified or after answer withdraws his or her appeal the adverse action taken by the appointing power shall be final. A copy of the employee's answer and of any amended answer shall promptly be given by the board to the appointing power.

*(Amended by Stats. 2008, Ch. 150, Sec. 13. Effective January 1, 2009.)*

**19575.5.** At any time before an employee's appeal is submitted to the board or its authorized representative for decision, the appointing power may with the consent of the board or its authorized representative serve on the employee and file with the board an amended or supplemental notice of adverse action. If the amended or supplemental notice presents new causes or allegations the employee shall be afforded a reasonable opportunity to prepare his defense thereto, but he shall not be entitled to file a further answer unless the board or its authorized representative so orders. Any new causes or allegations shall be deemed controverted and any objections to the amended or supplemental causes or allegations may be made orally at the hearing or investigation and shall be noted in the record.

*(Amended by Stats. 1981, Ch. 526, Sec. 7.)*

**19576.** Whenever an answer is filed by an employee who has been suspended without pay for five days or less, or who has received a formal reprimand or up to a one-step reduction in pay for four months or less, the board or its authorized representative shall make an investigation with or without a hearing as it deems necessary. However, in the event an employee receives one of these actions under subdivision (r) of Section 19572 for behavior or acts outside of duty hours, the employee shall, if he or she files an answer to the action, be afforded a hearing. If the employee receives one of the cited actions in more than three instances in any 12-month period, the employee shall, upon each additional action within the same 12-month period, be afforded a hearing if the employee files an answer to the action.

If the provisions of this section concerning whether a hearing should be held are in conflict with the provisions of a memorandum of understanding reached pursuant to the State Employer-Employee Relations Act (SEERA), commencing with Section 3512, the memorandum of understanding shall be controlling without further legislative action, except that if those provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

*(Amended by Stats. 2008, Ch. 150, Sec. 14. Effective January 1, 2009.)*

**19576.1.** Effective January 1, 1996, notwithstanding Section 19576, this section shall apply only to state employees in State Bargaining Unit 5.

Whenever an answer is filed by an employee who has been suspended without pay for five days or less or who has received a formal reprimand or up to a five percent reduction in pay for five months or less, the Department of Human Resources or its authorized representative shall make an investigation, with or without a hearing, as it deems necessary. However, if he or she receives one of the cited actions in more than three instances in any 12-month period, he or she, upon each additional action within the same 12-month period, shall be afforded a hearing before the State Personnel Board if he or she files an answer to the action.

The Department of Human Resources shall not have the above authority with regard to formal reprimands. Formal reprimands shall not be appealable by the receiving employee by any means, except that the State Personnel Board, pursuant to its constitutional authority, shall maintain its right to review all formal reprimands. Formal reprimands shall remain available for use by the appointing authorities for the purpose of progressive discipline.

Disciplinary action taken pursuant to this section is not subject to Sections 19180, 19574.1, 19574.2, 19575, 19575.5, 19579, 19580, 19581, 19581.5, 19582, 19583, and 19587, or to State Personnel Board Rules 51.1 to 51.9, inclusive, 52, and 52.1 to 52.5, inclusive.

Notwithstanding any other law or rule, if the provisions of this section are in conflict with the provisions of the memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

*(Amended by Stats. 2012, Ch. 665, Sec. 72. (SB 1308) Effective January 1, 2013.)*

**19578.** Except as provided in Section 19576, whenever an answer is filed to an adverse action, the board or its authorized representative shall within a reasonable time hold a hearing. The board shall notify the parties of the time and place of the hearing. The hearing shall be conducted in accordance with the provisions of Section 11513 of the Government Code, except that the employee and other persons may be examined as provided in Section 19580, and the parties may submit all proper and competent evidence against or in support of the causes.

*(Amended by Stats. 2008, Ch. 150, Sec. 17. Effective January 1, 2009.)*

**19579.** Failure of either party (the employee, the employer, or their representatives) to proceed at the hearing shall be deemed a withdrawal of the action or appeal, unless the hearing is continued by mutual agreement of the parties, or upon showing of good cause.

*(Repealed and added by Stats. 1985, Ch. 1195, Sec. 4.5.)*

**19580.** Either by deposition or at the hearing the employee may be examined and may examine or cause any person to be examined under Section 776 of the Evidence Code.

*(Amended by Stats. 1965, Ch. 299.)*

**19581.** The board or its authorized representative shall issue subpoenas for witnesses for the employee upon his written request and at his cost. The board or its authorized representative may require such costs to be prepaid.

*(Amended by Stats. 1953, Ch. 1536.)*

**19581.5.** Prior to the scheduling of a contested adverse action or rejection on probation for hearing, the board may require or any party may request a prehearing or settlement conference. The administrative law judge presiding over the settlement conference shall not preside over any subsequent hearing on the contested adverse action or rejection on probation unless agreed to by both parties.

*(Added by Stats. 1988, Ch. 788, Sec. 1.)*

**19582.** (a) Hearings may be held by the board, or by any authorized representative, but the board shall render the decision that in its judgment is just and proper.

During a hearing, after the appointing authority has completed the opening statement or the presentation of evidence, the employee, without waiving his or her right to offer evidence in the event the motion is not granted, may move for a dismissal of the charges.

If it appears that the evidence presented supports the granting of the motion as to some but not all of the issues involved in the action, the board or the authorized representative shall grant the motion as to those issues and the action shall proceed as to the issues remaining. Despite the granting of the motion, no judgment shall be entered prior to a final determination of the action on the remaining issues, and shall be subject to final review and approval by the board.

(b) If a contested case is heard by an authorized representative, he or she shall prepare a proposed decision in a form that may be adopted as the decision in the case. A copy of the proposed decision shall be furnished by the board to each party within 10 days after the board has adopted, modified, rejected, or remanded the proposed decision. The board itself may adopt the proposed decision in its entirety, may remand the proposed decision, or may reduce the adverse action set forth therein and adopt the balance of the proposed decision.

(c) If the proposed decision is not remanded or adopted as provided in subdivision (b), each party shall be notified of the action, and the board itself may decide the case upon the record, including the transcript, with or without taking any additional evidence, or may refer the case to the same or another authorized representative to take additional evidence. If the case is so assigned to an authorized representative, he or she shall prepare a proposed decision as provided in subdivision (b) upon the additional evidence and the transcript and other papers that are part of the record of the prior hearing. A copy of the proposed decision shall be furnished to each party. The board itself shall decide no case provided for in this subdivision without affording the parties the opportunity to present oral and written argument before the board itself. If additional oral evidence is introduced before the board itself, no board member may vote unless he or she heard the additional oral evidence.

(d) In arriving at a decision or a proposed decision, the board or its authorized representative may consider any prior suspension or suspensions of the appellant by authority of any appointing power, or any prior proceedings under this article.

(e) In arriving at a decision or a proposed decision, the board, in exercising its discretion consistent with its authority under Section 3 of Article VII of the California Constitution, shall give consideration and respect to any applicable disciplinary criteria established pursuant to Section 19573, and the extent to which the employee's conduct resulted in, or if repeated is likely to result in, harm to the public service, the circumstances surrounding the offense or misconduct, and the likelihood of recurrence.

(f) The decision shall be in writing and contain findings of fact and the adverse action, if any. The findings may be stated in the language of the pleadings or by reference thereto. Copies of the decision shall be served on the parties personally or by mail.

*(Amended by Stats. 2013, Ch. 427, Sec. 74. (AB 1062) Effective January 1, 2014.)*

**19582.5.** The board may designate certain of its decisions as precedents. Decisions of the board are subject to Section 11425.60. The board may provide by rule for the reconsideration of a previously issued decision to determine whether or not it shall be designated as a precedent decision. All decisions designated as precedents shall be published in a manner determined by the board.

*(Amended by Stats. 1995, Ch. 938, Sec. 56. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938.)*

**19582.51.** Effective January 1, 1996, notwithstanding Section 19582.5, this section shall only apply to state employees in State Bargaining Unit 5. The board may designate certain of its decisions as precedents. Precedential decisions shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3. The board may provide by rule for the reconsideration of a previously issued decision to determine whether or not it shall be designated as a precedent decision. All decisions designated as precedents shall be published in a manner determined by the board.

For purposes of this section, decisions reached pursuant to Section 19576.1 are not subject to board precedential decision. Arbitrators shall not be bound by board precedential decisions, and the board may not adopt an arbitrator's decision as a precedential decision.

*(Added by Stats. 1995, Ch. 768, Sec. 10. Effective October 12, 1995.)*

**19583.** The board shall render a decision within a reasonable time after the hearing or investigation. The adverse action taken by the appointing power shall stand unless modified or revoked by the board. If the board finds that the cause or causes for which the adverse action was imposed were insufficient or not sustained, or that the employee was justified in the course of conduct upon which the causes were based, it may modify or revoke the adverse action and it may order the employee returned to his or her position with appropriate restoration of backpay and lost benefits either as of the date of the adverse action or as of such later date as it may specify. The decision of the board shall be entered upon the minutes of the board and the official roster. In arriving at a decision, the board, in exercising its discretion consistent with its authority under Section 3 of Article VII of the California Constitution, shall give consideration and respect to any applicable disciplinary criteria established pursuant to Section 19573.

*(Amended by Stats. 2012, Ch. 665, Sec. 74. (SB 1308) Effective January 1, 2013.)*

**19583.1.** Dismissal of an employee from the service shall, unless otherwise ordered by the board:

- (a) Constitute a dismissal as of the same date from any and all positions which the employee may hold in the state civil service.
- (b) Result in the automatic removal of the employee's name from any and all employment lists on which it may appear.
- (c) Terminate the salary of the employee as of the date of dismissal except that he shall be paid any unpaid salary, and paid for any and all unused and accumulated vacation and any and all accumulated compensating time off or overtime to his credit as of the date of dismissal.

*(Added by Stats. 1949, Ch. 1416.)*

**19583.5.** (a) Any person, except for a current ward of the Division of Juvenile Facilities, a current inmate of the Department of Corrections and Rehabilitation, or a current patient of a facility operated by the State Department of State Hospitals, with the consent of the board or the appointing power may file charges against an employee requesting that adverse action be taken for one or more causes for discipline specified in this article. Charges filed by a person who is a state employee shall not include issues covered by the state's employee grievance or other merit appeals processes. Any request of the board to file charges pursuant to this section shall be filed within one year of the event or events that led to the filing. The employee against whom the charges are filed shall have a right to answer as provided in this article. In all of these cases, a hearing shall be conducted in accord with this article and if the board finds that the charges are true it shall have the power to take any adverse action as in its judgment is just and proper. An employee who has sought to bring a charge or an adverse action against another employee using the grievance process, shall first exhaust that administrative process prior to bringing the case to the board.

(b) This section shall not be construed to supersede Section 19682.

*(Amended by Stats. 2012, Ch. 440, Sec. 21. (AB 1488) Effective September 22, 2012.)*

**19584.** Whenever the board revokes or modifies an adverse action and orders that the employee be returned to his or her position, it shall direct the payment of salary and all interest accrued thereto, and the reinstatement of all benefits that otherwise would have normally accrued. "Salary" shall include salary, as defined in Section 18000, salary adjustments and shift differential, and other special salary compensations, if sufficiently predictable. Benefits shall include, but shall not be limited to, retirement, medical, dental, and seniority benefits pursuant to memoranda of understanding for that classification of employee to the employee for that period of time as the board finds the adverse action was improperly in effect.

Salary shall not be authorized or paid for any portion of a period of adverse action that the employee was not ready, able, and willing to perform the duties of his or her position, whether the adverse action is valid or not or the causes on which it is based state facts sufficient to constitute cause for discipline.

From any such salary due there shall be deducted compensation that the employee earned, or might reasonably have earned, during any period commencing more than six months after the initial date of the suspension.

*(Amended by Stats. 1994, Ch. 814, Sec. 4. Effective January 1, 1995.)*



**19585.** (a) This section shall apply to permanent and probationary employees and may be used in lieu of adverse action and rejection during probation when the only cause for action against an employee is his or her failure to meet a requirement for continuing employment, as provided in this section. This section shall not apply to cases subject to the provisions of termination or demotion for medical reasons or retirement for disability.

(b) An appointing power may terminate, demote, or transfer an employee who fails to meet the requirement for continuing employment that is prescribed by the board on or after January 1, 1986, in the specification for the classification to which the employee is appointed. Notwithstanding the foregoing, as prescribed by Article 11 (commencing with Section 19991) of Chapter 1 of Part 2.6, the appointing power may grant the employee a leave of absence in lieu of one of the actions specified above. In prescribing requirements for continuing employment, the board may specify standards to ensure that the requirements are consistently applied. The board may also specify when separation from a position for failure to meet requirements for continuing employment also constitutes separation from former positions that the employee held in other classifications that have the same or greater requirements for continuing employment.

(c) The federal Immigration Reform and Control Act of 1986 requires termination of an employee for failure to meet the employment eligibility requirements of that act, and if this is the only cause for action against that employee, the termination shall be carried out pursuant to this section. If a person fails to meet the employment eligibility requirements of the federal Immigration Reform and Control Act of 1986, that information, when used under this section, except for purposes of the appeals process, shall be confidential, as provided in the federal Immigration Reform and Control Act of 1986.

(d) For the purposes of this section, requirements for continuing employment shall be limited to the acquisition or retention of specified licenses, certificates, registrations, or other professional qualifications, education, or eligibility for continuing employment or advancement to the fully qualified level within a particular class series. The board shall prescribe procedures to ensure that employees affected by the requirements are informed of them. Requirements for continuing employment that are established for the purposes of this section shall not include medical, physical ability, work, or academy performance standards.

(e) For the purposes of this section, an employee who has filed a proper and timely application for renewal of a required license, registration, or certificate shall be considered as having maintained the license, registration, or certificate unless it is subsequently denied, revoked, or suspended.

(f) The employee shall receive at least five days' written notice of termination, demotion, or transfer and shall have the right to appeal the action to the board.

(g) When the requirements for continuing employment have been regained, terminated, demoted, or transferred employees may be reinstated pursuant to Section 19140.

(h) Any action under this section shall be considered nondisciplinary for the purposes of the State Civil Service Act and board rules.

(i) Whenever the board revokes or modifies a termination, demotion, or transfer under this section, the board shall direct the payment of salary and benefits to the employee calculated on the same basis and using the same standards as provided in Section 19584.

*(Amended by Stats. 1999, Ch. 310, Sec. 18. Effective January 1, 2000.)*

**19586.** Within 30 days after the day a copy of the decision rendered by the board in a proceeding under this article is served by the board upon the parties to the decision, either party may petition the board for rehearing of the decision. The petition for rehearing shall be in writing and shall contain all of the grounds upon which a rehearing should be granted.

Within 30 days after the filing of a petition for rehearing with the board, the board shall cause notice thereof to be served upon the other parties to the proceeding by mailing to each a copy of the petition for rehearing. The other parties to the proceeding shall have 20 calendar days from the date of service of a copy of the petition for rehearing to file with the board and serve upon the petitioner a response to the petition for rehearing.

Within 90 days after service of notice of filing of a petition for rehearing, the board shall either grant or deny the petition in whole or in part. Failure to act upon a petition for rehearing within this 90-day period is a denial of the petition.

*(Amended by Stats. 2013, Ch. 427, Sec. 76. (AB 1062) Effective January 1, 2014.)*

**19587.** If the petition for rehearing is granted, the matter shall be set down for rehearing by the board or its authorized representative. If the matter is set for hearing before an authorized representative, the hearing shall be conducted as to the matters on which granted in substantially the same manner and under like rules of procedure as an original hearing upon charges under this article. If the matter is set for hearing before the board itself, the board may provide the parties with an opportunity to provide written or oral argument and may decide the case upon the record, including the transcript, with or without taking additional evidence.

*(Amended by Stats. 1990, Ch. 478, Sec. 16.)*

**19588.** The right to petition a court for writ of mandate, or to bring or maintain any action or proceeding based on or related to any civil service law of this State or the administration thereof shall not be affected by the failure to apply for rehearing by filing written

petition therefor with the board.

*(Added by Stats. 1953, Ch. 1536.)*

**19589.** Letters of reprimand shall be removed from the personnel file of the state employee and destroyed not later than three years from the date the letters were issued.

*(Added by Stats. 1983, Ch. 618, Sec. 1.)*