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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 2. Tenure of Managerial Employees [19590 - 19593] (Heading of Article 2 renumbered from Article 4 by Stats. 1985, Ch. 794, Sec. 29.)

19590. Notwithstanding Article 1 (commencing with Section 19570), persons who have been designated as managerial employees under Section 3513 from the beginning of their current appointment, but whose positions are not in the career executive category, shall hold their appointments subject to the following adverse action process:

(a) The employee may be demoted, dismissed, or otherwise disciplined under this section for any of the causes specified in Section 19572, but shall not be disciplined for any cause constituting prohibited discrimination as set forth in Sections 19700 to 19703, inclusive.

(b) At least 20 days prior to the effective date of the disciplinary action, the appointing power shall give the employee written notice of the proposed action setting forth the reasons for the action, the effective date of the action, the right of the employee to answer the notice orally or in writing within 10 days of receipt of notice, and the employee's appeal rights. Within 15 days after the effective date of the disciplinary action, a copy thereof shall be filed with the board.

(c) The board, at the written request of a disciplined managerial employee filed within 30 days of the employee's receipt of the notice of the disciplinary action, may investigate with or without a hearing the reasons for the action.

If the adverse action taken against the employee was a disciplinary action other than demotion or dismissal, the board shall, after the investigation or hearing, affirm, reduce, or overturn the action of the appointing power.

If the adverse action taken against the employee was a demotion or dismissal from state civil service, the board shall, after the investigation or hearing and subject to Section 19592.5, affirm or reduce the action, restore the employee to the position from which he or she was demoted, or reinstate the employee to the position from which he or she was dismissed or to a position to which he or she could have transferred.

The decision of the board to modify the action of the appointing power pursuant to this subdivision shall be taken only if the board determines, after investigation or hearing, that there is no substantial evidence to support the reason or reasons for disciplinary action, or that the disciplinary action was made in fraud or bad faith. In any such proceeding, the disciplined managerial employee shall have the burden of proof. Subject to rebuttal by the employee, it shall be presumed that the action was free from fraud and bad faith and that the statement of reasons in the notice of disciplinary action is true.

(Amended by Stats. 1985, Ch. 794, Sec. 30.)

19590.5. Notwithstanding Section 19590, a managerial employee who, without a subsequent break in service due to a permanent separation, has previously served with permanent status in a nonmanagerial state civil service position, may be dismissed from state service only as provided in Article 1 (commencing with Section 19570). Similarly, a managerial employee who has served in a state civil service managerial position for a combined period of at least 12 months, may be dismissed from state service only as provided in Article 1 (commencing with Section 19570). Section 19590 shall apply, however, to a dismissal action against a managerial employee who does not have previous permanent status as described in this section, if the dismissal action is taken during the first year of his or her service in a state civil service managerial position or positions.

(Amended by Stats. 1985, Ch. 794, Sec. 31.)

19591. Any employee demoted pursuant to Section 19590 shall, as specified by Section 19140.5, have the right to be reinstated to his or her former civil service position.

(Added by Stats. 1982, Ch. 985, Sec. 3.)

19592. When action is taken under this article, the provisions of this article and related board and Department of Human Resources rules shall constitute the entire disciplinary action and review process, except that the provisions of Sections 19574.1, 19583.5, and 19584 shall also apply in a manner consistent with the provisions of this article.

(Amended by Stats. 2012, Ch. 665, Sec. 75. (SB 1308) Effective January 1, 2013.)

19592.2. Pending investigation by the appointing power of accusations against an employee involving any of the causes for discipline specified in Section 19572, 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 the leave is terminated, the leave shall be with pay.

If adverse action is taken on or before the date the leave is terminated, the adverse action may be taken retroactive to any date on or after the date the employee went on leave. The adverse action, under these 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.

(Added by Stats. 1983, Ch. 801, Sec. 5.)

19592.5. Notwithstanding any other provisions of law, when a demotion action is taken against a managerial employee who was hired from outside of state civil service pursuant to Section 18930, and the action is taken during the first year of his or her service in a state civil service managerial position or positions, he or she may only transfer, reinstate, be reduced in class or demoted to other positions designated as managerial.

(Amended by Stats. 1984, Ch. 331, Sec. 5.)

19593. This article shall not apply to managerial appointments that took effect prior to January 1, 1984, or in subsequent appointments, except that it shall apply when the provisions of this part and board rule would have required the employee to serve a new probationary period in a subsequent appointment. Where service of a new probationary period would have been discretionary on the part of the appointing power, the appointing power may either apply the provisions of this article to the new appointment, or require the employee to serve the probationary period previously prescribed for the class by the State Personnel Board, or appoint the employee with no new probationary period.

(Amended by Stats. 1983, Ch. 801, Sec. 7.)