

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

If an investigation is conducted by a third party, advanced notice shall be provided to those under investigation. If the third-party investigation results in action that adversely affects the employee, the employee shall receive oral, written, or electronic notice of:

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

Disciplinary action taken by the district against a permanent member of the classified service may include, but not be limited to the following:

- A. **Warning.** The employee shall be notified verbally and/or in writing by their immediate supervisor of the basis for the action and their right to respond. If written, the notice shall remain in the supervisor's file for a period not to exceed two (2) years. Any further violations will result in the warning being immediately transferred to the employee's permanent personnel file.

Written reprimand. The employee shall be notified in writing by their immediate supervisor and/or the department head of the basis for the action. The notice will be placed in the employee's permanent personnel file. This may include a written performance improvement plan (PIP) associated with a performance assessment. The employee shall have five (5) working days from receipt of the notice to submit a written response. The response will be attached to the reprimand and be made a part of the employee's permanent personnel file.

- B. Suspension. An employee may be suspended for disciplinary purposes with or without pay.
- C. Demotion. The district may demote an employee whose performance of the

demotions, or dismiss, the employee's response will be considered before recommending final action to the Board of Trustees.

After the response or the expiration of the employee's time to respond to the Notice of Intent, the superintendent/president or designee shall: (1) dismiss the Notice of Intent and take no disciplinary action against the employee; or (2) recommend final disciplinary action to the Board of Trustees with or without modification and notify the employee of their decision.

- A. Final Notice: In the event that the Board of Trustees takes disciplinary action, a final notice shall be given. The final notice of disciplinary action shall include the following:
1. The disciplinary action taken.
 2. The effective date of the disciplinary action taken.
 3. The specific charges upon which the action is based.
 4. The employee's right to appeal.
 5. A card or paper, the signing and filing of which shall constitute a demand for hearing and a denial of all c of n

shall be recorded by audio tapes. If a court reporter is requested by either party, that party shall pay the cost of the court reporter.

The hearing need not be conducted in accordance with technical rules relating to evidence and witnesses but hearings shall be conducted in a manner most conducive to determination of the truth.

Any relevant evidence may be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rules that might make improper the admission of such evidence over objection in civil actions.

Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence that shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.

The rules dealing with privileges shall be effective to the same extent that they are now or hereafter may be recognized in civil actions.

Irrelevant and unduly repetitious evidence may be excluded.

The board shall determine relevancy, weight, and credibility of testimony and evidence. Decisions made by the board shall not be invalidated by any informality in the proceedings.

During examination of a witness, all other witnesses, except the parties, shall be excluded from the hearing upon motion of either party.

In a disciplinary appeal, the district has the burden of proof by preponderance of the evidence.

Each side should be asked if it is ready to proceed. If either side is not ready and wishes a continuance, good cause must be stated.

All witnesses shall testify under oath.

- B. The appealing party (employee) shall be permitted to make an opening statement.
- C. The district shall produce its evidence.
- D. The party appealing from such disciplinary action (employee) may then offer their evidence.
- E. The district followed by the appealing party (employee) may offer rebutting evidence.
- F. Closing arguments shall be permitted at the discretion of the board or hearing officer. The party with the burden of proof shall have the right to go first and to close the hearing by making the last argument. The board or hearing officer may place a time limit on closing arguments. The board or hearing officer or the parties may request the submission of written briefs. After the request for submittal of written briefs, the board or hearing officer will determine whether to allow the parties to submit written briefs and determine the number of pages of briefs.

The district representative and the employee representative will address their remarks, including objections, to the president of the board or hearing officer. Objections may be ruled upon summarily or argument may be permitted. The board or hearing officer reserves the right to discharge argument at any time and issue a ruling regarding an objection or any other matter, and thereafter the representative shall continue with the presentation of their case.

While the parties are generally free to present their case in the order that they prefer, the board or hearing officer reserves the right to control the proceedings, including, but not limited to, altering the order of witnesses, limiting redundant or irrelevant testimony, or by the direct questioning of witnesses.

The board or hearing officer should consider all oral and documentary evidence, the credibility of witnesses, and other appropriate factors in reaching their decision. The board may deliberate in closed session at the close of the hearing or at a later fixed date and time.

The board may sustain, reject, or modify the disciplinary action invoked against the employee. In the event the board receives a proposed decision from a hearing officer, it may adopt the proposed decision, modify the proposed decision, render a new decision after consideration of the entire record or return the matter to the hearing officer for additional evidence. In all cases, the decision of the Board of Trustees shall be final.

If an employee's conduct presents an immediate threat to the health and safety of the employee or others, the superintendent/president or designee may suspend the employee without compliance with the provisions of this procedure. However, as soon as possible after suspension, the employee shall be given notice as set forth herein.

When final action is taken, the documents shall be placed in the employee's personnel file.