

## Notice of Proposed Suspension

Date

Employee's Name  
Employee's Job Title  
Department  
San José State University

Subject: Notice of Proposed Suspension

I.

Based on the recommendation made by <<Manager, (Dean, AVP, etc)>> of the Department, I have concluded that the initiation of formal disciplinary proceedings is appropriate. Therefore, unless you are otherwise notified, you will be suspended for <<number of days (#) >> working days in accordance with the provisions of this notice.

II.

This proposed suspension is based upon your unprofessional conduct as defined in subsections <<(b) >>of section 89535 of the California Education Code. Your violation of this section is cause for your suspension.

III.

The events upon which the foregoing cause is based are as follows:

<<On Friday, January 13, 2006, you entered the cubicle of co-worker Name as Mr. Name was meeting with a student assistant, Name. You shouted at Name and used profanity toward him. You then picked up a trash can and threw the can at Name. The trash can struck Name on the left shoulder. You then picked up a potted plant and threw it at Mr. Name. The plant and container landed at Mr. Name's feet>>.

<<You admitted to the University Police that you were "immature and wrong" in your behavior. In addition, Name and co-worker Name verified this unacceptable behavior. This is the third occasion that you have displayed unprofessional conduct in the workplace>>.

#### IV.

Your conduct is aggravated by the following:

1. <<On April 4, 2003, you were issued a Memo of Concern due to your unprofessional conduct and disruptive behavior in the workplace>>.
2. <<On October 21, 2002, you were issued a Letter of Reprimand due to your unprofessional and disruptive behavior>>.

#### V.

The materials upon which this Notice is based are enclosed. You are entitled to respond to this Notice in writing or orally. You must submit any written response or request a meeting with

- Brenda Wilhelm, 408-924-4303, Washington Square Hall, Room 120
- Terry Crisp, 408-924-1984, Facilities Development & Operations Administration Building, 2<sup>nd</sup> Floor, Room 222
- Robb Drury, 408-924-1110, Clark Hall, 3<sup>rd</sup> Floor, Room 388
- Martin Schalter, 408-924-6000, Administration Building, 1<sup>st</sup> Floor, Room 110
- Sharon Willey, 408-924-5985, Administration Building, 2<sup>nd</sup> Floor, Room 218

within five (5) working days after the date you receive this Notice. If this notice was mailed to you, your time to request an administrative review is extended by an additional five (5) days, for a total of ten (10) days from the date it was mailed. Mr./Ms. (Name) is designated to review your written response or to meet with you, to evaluate your response, and to recommend to President Kassing that the suspension be stayed, modified, or sustained. If you elect to meet with Name, the Reviewing Officer, you have the right to be accompanied by a representative. If you fail to timely respond to Mr./Ms. Reviewing Officer, your suspension will become effective on the day after the time to respond has expired. If you timely respond, you will be notified of Mr./Ms. Name recommendation, the President's decision to stay, modify, or sustain the suspension and, if applicable, the date upon which the suspension or modified disciplinary action will become effective.

#### VI.

In addition to, and separate from a review by the Reviewing Officer, you may, pursuant to the California Education Code sections 89535 and 89539, request a hearing by the State Personnel Board. If you wish to have a hearing on the matter, you must file a written request for a

hearing with the State Personnel Board (801 Capitol Mall, Sacramento, California 95814) within 30 days of the date you receive this Suspension Notice, not from the date that the Reviewing Officer concludes his/her review or the date on which the suspension or modified disciplinary action becomes effective. If you do so, the Board will schedule a hearing and notify you of its time and place. This hearing will most likely occur after the suspension or disciplinary action has been imposed.

Any questions you may have regarding this matter should be directed to Cindy Delgado, Employee Relations Manager at 408-924-2151. Two copies of this document, with attachments and enclosures, are provided for you.

Respectfully,

Vice President's Name  
Vice President's Title

c: Maria Elena Rivera, AVP, Human Resources  
Employee Official Personnel File  
(Union Representative) - Optional

Attachments:

- a. California Education Code Sections 89535 and 89539
- b. <<Memo of Concern dated April 4, 2003>>
- c. <<Letter of reprimand dated October 21, 2002>>
- d. <<Police report of Incident dated January 13, 2006>>
- e. <<Interview Statements dated January 13, 2006>>

I acknowledge that I was provided with a copy of Notice of Proposed Suspension.

\_\_\_\_\_  
Signature Date

This is to certify that on the \_\_\_\_\_ day of \_\_\_\_\_  
I provided Mr./Ms. Employee's Name with a copy of this Notice of Proposed Suspension.

\_\_\_\_\_  
Signature

## California Education Code

### **89535. Cause for dismissal, demotion, or suspension**

Any permanent or probationary employee may be dismissed, demoted, or suspended for the following causes:

- (a) Immoral conduct.
- (b) Unprofessional conduct.
- (c) Dishonesty.
- (d) Incompetency.
- (e) Addiction to the use of controlled substances.
- (f) Failure or refusal to perform the normal and reasonable duties of the position.
- (g) Conviction of a felony or conviction of any misdemeanor involving moral turpitude.
- (h) Fraud in securing appointment.
- (i) Drunkenness on duty.

### **89539. Hearing for employee dismissed, suspended, demoted, or reassigned**

(a) (1) Any employee dismissed, suspended, or demoted for cause may request a hearing by the State Personnel Board by filing a request, in writing, with the board within 30 days of being served with the notice.

(2) The request may be on any one or more of the following grounds:

- (A) The required procedure was not followed.
- (B) There is no ground for dismissal, suspension, or demotion.
- (C) The penalty is excessive, unreasonable, or discriminatory.
- (D) The employee did not do the acts or omissions alleged as the events or transactions upon which the causes are based.
- (E) The acts or omissions alleged as the events or transactions upon which the causes are based were justified.

(b) The State Personnel Board shall hold a hearing, following the same procedure as in state civil service proceedings, and shall render a decision affirming, modifying, or revoking the action taken. In a hearing, the burden of proof shall be on the party taking the dismissal action.

(c) An administrative employee reassigned pursuant to Section 66609 may request a hearing by the trustees by filing a request for a hearing, in writing, with the trustees within 30 days of being served with the notice. The request may be on the grounds that the required procedure was not followed or that the position to which the employee is reassigned is not commensurate with his or her qualifications. The trustees shall hold a hearing, and shall render a decision affirming, modifying, or revoking the action taken.

(d) The State Personnel Board may bill the California State University for the costs incurred in conducting hearings involving employees of the California State University pursuant to Sections 89535 to 89542, inclusive.