Date: July 1, 1976

To: Presidents

From: Glenn S. Dumke, Chancellor

Subject: Executive Order No. 245, Interim Disciplinary Action Procedures for Academic Personnel of The California State University and Colleges

I am transmitting to you five copies of Executive Order No. 245, which continues in effect Interim Disciplinary Action Procedures for Academic Personnel, established by Executive Order No. 232, along with the following documents:

1. Interim Disciplinary Action Procedures for Academic Personnel of The California State University and Colleges (Attachment A. This attachment is the same as the one attached to superseded Executive Order No. 232, except for changes in Sections 1.2, 6.9, 6.20, 8.1.2, 9.4.2 and 10.12.2, which are either technical or make the Procedures analogous to Executive Order No. 240);

2. Appendix of Code Sections (Attachment B. This attachment now includes Education Code Section 24306.1, omitted previously.)

These Procedures are continued in effect until July 1, 1977 because consultation with the Academic Senate, CSUC, on replacement procedures has not yet been concluded. At such time as that consultation has been completed, and employee organizations have met and conferred on the subject, should they wish to do so, more permanent procedures will be issued, and this Executive Order superseded.

Please arrange distribution to the various areas concerned with this subject.

GSD/bc

Enclosures (Attachments A and B)
Executive Order No: 245

Title: Interim Disciplinary Action Procedures for Academic Personnel of The California State University and Colleges

Executive Order No. 245

Effective Date: July 1, 1976

Supersedes: Executive Order No. 232

This Executive Order is issued pursuant to Education Code Section 24315 and Section 43525 of Title 5 of the California Administrative Code.

1. With those changes in Sections 1.2, 6.3, 6.9, 8.1.2, 9.4.2 and 10.12.2, shown in Attachment A to this Executive Order, the Interim Disciplinary Action Procedures for Academic Personnel of The California State University and Colleges established by Executive Order No. 232 are continued in effect, until July 1, 1977, unless sooner superseded, and shall govern disciplinary action proceedings for academic employees according to its terms. A copy of these Procedures is attached to, and made a part of, this Executive Order.

2. These Procedures supersede all other Disciplinary Action Procedures for Academic Personnel previously in force in The California State University and Colleges.

3. These Procedures are continued in effect because consultation with the Academic Senate, CSUC, on replacement procedures has not yet been concluded. At such time as that consultation has been completed and employee organizations have met and conferred on the subject, should they wish to do so, more permanent procedures will be issued, and this Executive Order superseded.

4. The Procedures shall be made available to all academic personnel covered by its terms.

GSD/bc

Enclosures

Copies to: Chancellor's Staff

Glenn S. Dumke

Chancellor
Interim Disciplinary Action Procedures For Academic Personnel
of The California State University and Colleges

Sections
1. Coverage and Scope
2. Authority of the President
3. Temporary Suspension; Withdrawal of Consent to Remain on Campus
4. Effect of Other Proceedings
5. Administrative Officer
6. Disciplinary Action Panel and Committee
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PREAMBLE

These Procedures apply only to those actions or conduct that exert a harmful effect upon the academic functions of the University or College, those that adversely affect the students, the administration, or other faculty members, and those that adversely affect the teaching process or the proper administration of the University or College.

The American Association of University Professors' Statement of Professional Ethics which has been adopted by the Academic Senate of the California State University and Colleges provides, "As a member of his community, the professor has the rights and obligations of any citizen. He measures the urgency of these obligations in the light of his responsibilities to his subject, to his students, to his profession, and to his institution. When he speaks or acts as a private person, he avoids creating the impression that he speaks or acts for his College or University. As a citizen engaged in a profession that depends upon freedom for its health and integrity, the professor has a particular obligation to promote conditions of free inquiry and to further public understanding of academic freedom." At the same time, faculty enjoy the rights of citizens in the community, and it is not intended that these Procedures should reach into and control the personal actions or conduct of faculty members where those actions, or that conduct, do not exert a harmful effect upon the academic functions of the University or College.

Section 1.0 Coverage and Scope

1.1 These Procedures are applicable to determinations of charges which may result in disciplinary action pursuant to Education Code Sections 24306 and 24306.1, and are intended to implement the provisions of Education Code Section 24315 with respect to disciplinary action.1/

1.2 These Procedures are established pursuant to, and in order to implement, Sections 42701, 43522, 43525 and 43526 of Title 5 of the California Administrative Code, and Education Code Sections 22505, 24306, 24306.1, 24308 and 24315.

1.3 These Procedures are applicable to all academic employees, except temporary employees who have not been employed as an academic employee for at least one prior full term, all or part of which must have been during the 12 months preceding the semester or quarter in which these Procedures are invoked as to the employee.

Section 2.0 Authority of the President

2.1 All determinations and findings under these Procedures made by anyone other than the President are in the nature of recommendations to the President, who shall have final authority at the campus level.

1/ Specific code sections referred to in these Procedures are set out in Appendix A.
2.2 The functions of the President as described in these Procedures, may be delegated by the President to individual designees who are employees of the campus, and who shall exercise those functions in the President's name. However, the President shall be responsible for any action taken under his or her authority. All references in these Procedures to the President include such designees.

Section 3.0 Temporary Suspension; Withdrawal of Consent to Remain on Campus

3.1 The President may order the temporary suspension of any academic employee as provided in Section 43522 of Title 5 of the California Administrative Code, an interim suspension pursuant to Education Code Section 22505, or both. In the case of interim suspension pursuant to Education Code Section 22505, or of withdrawal of consent to remain on campus pursuant to Penal Code Section 626.4, the academic employee shall be afforded an opportunity for a hearing on that issue within ten calendar days of the respective action. If that hearing should occur prior to the disciplinary hearing under these Procedures, the issue shall be whether a continued withdrawal of consent pending such disciplinary hearing is required in order to protect lives or property and to insure the maintenance of order, and on any issues presented by a request for hearing pursuant to Penal Code Section 626.4(c).

Section 4.0 Effect of Other Proceedings

4.1 Action under these Procedures shall go forward regardless of any other possible or pending proceedings, whether administrative, civil, or criminal, arising out of the same or other events.

4.2 The President may reopen disciplinary proceedings on the basis of new evidence developed in proceedings arising out of the same events as gave rise to the campus disciplinary proceedings. The President shall cause campus action to be initiated on the basis of the criminal conviction of an academic employee whenever applicable statutes or regulations require it.

Section 5.0 Administrative Officer

5.1 General

5.1.1 The President shall designate an academic administrative officer, who shall have general charge of the administration of these Procedures, the duties described in these Procedures, and such other duties as the President may determine. The person so designated shall serve in this assignment at the pleasure of the President.

5.1.2 The person so assigned may use such local, administrative title as the President may determine but, for convenience, is referred to herein as the "Administrative Officer."
5.1.3 All references in these Procedures to the Administrative Officer shall include such other persons as are authorized by the President to assist or act for the Administrative Officer.

5.1.4 The Administrative Officer shall investigate all conduct alleged to be within the scope of Education Code Section 24306 and these Procedures. All requests for disciplinary action within the scope of these Procedures shall be filed with the Administrative Officer.

5.1.5 The Administrative Officer shall promptly submit allegations of such misconduct to the person charged, who may present a written answer within three campus working days of receipt. The Administrative Officer shall conduct an investigation of the allegations and any answer to these, including a review of the documentary and other material available, to determine whether or not further proceedings are warranted. Such determination shall normally be made within seven campus working days after the person charged has been initially informed by the Administrative Officer of the allegations.

5.1.6 Following the investigation, the Administrative Officer shall make a recommendation to the President as to whether the matter should proceed. A hearing shall be held whenever the President determines that it is warranted, or whenever required by statute, action by the Board of Trustees, or the Chancellor.

5.1.7 If it is determined that the matter should not proceed, then, unless new evidence sufficient in the opinion of the President to warrant reopening the case is subsequently discovered, the disciplinary proceeding shall be deemed closed.

5.2 Notices

5.2.1 The Administrative Officer shall prepare and mail notices and other correspondence as appropriate to the person charged, addressed to that person at the last address posted on the records of the Personnel Officer of the campus. When deposited in the United States mail, first class postage prepaid, such materials shall be presumed to have been received and read by the person charged.

5.2.2 The Administrative Officer shall initiate hearing procedures against a person charged, by having a written notice of charges personally served on him or her which:

5.2.2.1 Contains a statement of the charges, in terms of the appropriate subdivisions of Education Code Section 24306, or such other statutes or

2/ "Campus working day" is defined in Section 5.2.3.
5.3 The person charged may waive a hearing and accept a sanction as recommended by the Administrative Officer and approved by the President. The person charged may accept this sanction without admitting to having engaged in the conduct charged. Acceptance of the recommended sanction by the person charged shall constitute a waiver of any right to review by the State Personnel Board pursuant to Education Code Sections 24306 - 24309, inclusive. If the sanction is not accepted, the matter shall proceed to hearing, and no cognizance shall be taken of the recommendation made pursuant to this Section 5.3.

5.4 The person charged shall elect in writing to receive a disciplinary action hearing by either:

5.4.1 The State Personnel Board, pursuant to Education Code Sections 24306 to 24309, inclusive. Should this alternative be elected, a notice of dismissal, demotion, or suspension for cause shall be served on the employee as provided in Education Code Section 24308. Upon election of this alternative, the President shall forward his or her recommendation for disciplinary dismissal, demotion, or suspension to the Chancellor for appropriate action. The Chancellor shall take such action on the recommendation of the President, as the Chancellor considers appropriate. Upon election of the alternative contained in this provision, all that follows hereafter in these Procedures shall be inapplicable to the disciplinary action.

3/ The administrative practice of the State Personnel Board in disciplinary hearings is that such hearings are open to the public.
5.4.2 A faculty committee as provided hereinafter in these Procedures. If electing this alternative, the person charged shall also elect either that the hearing be open to the public or closed to all persons except as specified in Section 7.8 below. Failure to advise in writing as to this election respecting the hearing shall act as a waiver of the right to have the hearing open to the public.

Failure to provide the Administrative Officer with a written election of a faculty committee hearing within five campus working days of written request to make an election shall constitute an election of a State Personnel Board hearing as provided in Section 5.4.1 of these Procedures.

An election made pursuant to this Section 5.4 shall be irrevocable unless the President and the person charged agree otherwise.

5.5 The Administrative Officer shall make physical and scheduling arrangements for the hearing of cases.

5.6 The Administrative Officer shall attend the hearing and, except as provided in Section 7.7.2, shall marshal and present the evidence against the person charged.

Section 6.0 Disciplinary Action Panel and Committee

6.1 Each campus shall have a Disciplinary Action Panel, hereinafter "Panel".

6.2 The Panel shall consist of full-time, currently employed members of the campus faculty.

6.3 The Panel shall consist of 25% of the full-time equivalent faculty (FTEF), except that no Panel shall have a membership of fewer than 40 persons:

6.3.1 Each department or equivalent unit having at least 4.0 FTEF shall elect from its own members a number equivalent to 25% of its FTEF.

6.3.2 Departments or equivalent units of fewer than 4.0 FTEF shall be combined by the campus into electoral units which shall elect from the membership of the combined units a number equivalent to 25% of the FTEF of the combined units.

6.3.3 The vote of part-time lecturers shall be equivalent to that part of a full-time appointment which they hold, e.g., a lecturer holding an 0.50 appointment would have one-half vote.

6.4 Terms of Panel members shall be two years, except that half of those elected initially shall have one-year terms.

6.5 Notwithstanding Sections 6.3 - 6.4 above, each campus by agreement of the President and the campus academic senate may determine the size of the panel, the manner of election of its members, and their terms.

6.6 A Panel meeting the requirements of Sections 6.3 - 6.5, elected at a campus as a Grievance Panel, may be utilized as a Disciplinary Action Panel at the option of the campus.

6.7 The Panel shall be elected by the full and part-time members of the campus faculty, as "faculty" is defined by each campus.
6.8 Service as a member of the Panel, and as a member of a Disciplinary Action Committee hereinafter referred to as "Committee", unless excused by the President for good cause, is part of the normal and reasonable duties of every employee elected pursuant to Section 6.7 of these Procedures.

6.9 Annually, the President and the chief officer of the Academic Senate shall jointly designate 3 members of the Panel to serve as the Executive Committee of the Panel. In the absence of agreement, then one shall designate one person from the Panel, and those 2 shall designate a third from the Panel. The 3-person Executive Committee shall function by majority vote. Any member of the Executive Committee may perform the functions of Executive Officer, unless otherwise determined by a majority of the Executive Committee. In all cases in which action of the Executive Committee is required, such action shall be by majority vote.

6.10 The Executive Officer may abstain from serving in that capacity in a particular case when serving in that case would be inappropriate. In such event, a substitute Executive Officer for that grievance shall be appointed pursuant to Section 6.9.

6.11 Within three campus working days of service of formal written charges by the Administrative Officer, the Executive Officer shall cause a Committee of three members and one alternate to be selected by lot from among the members of the Panel. The person charged and the Administrative Officer shall each be informed of the Panel members selected for the Committee.

6.12 The person charged and the Administrative Officer shall each have the right to excuse as many as two persons from those selected, pursuant to Section 6.11 above, without cause. Each may challenge any person selected pursuant to Section 6.11 above, but only for cause as provided in Section 6.13 below. Actions to excuse or to challenge must be exercised by the close of the campus working day following the day information as to the persons selected for the Committee is given, pursuant to Section 6.11. The Executive Officer shall rule on all challenges for cause of a person selected for the Committee.

6.13 Challenges for cause may be made by submitting a written statement to the Presiding Officer (see Section 7.6), with a copy to the other party, setting forth facts which establish that:

6.13.1 The person challenged was a participant in the events out of which the action arose, other than events connected with the conduct of a hearing, or

6.13.2 The person challenged is related to or has had past association with the person charged or his or her adviser, the Administrative Officer or his or her adviser, or another person who has been adversely affected by the events giving rise to the action which past association is of a kind which would prejudice his or her judgment to the degree that it appears that a fair hearing could not be had. "Past association" does not include an association acquired in connection with a previous hearing; or

6.13.3 The person challenged is biased or has previously expressed an opinion on the case so that it appears that a fair hearing could not be had; or

6.13.4 The person challenged is not currently employed by the campus.
The Presiding Officer shall determine whether the facts present grounds for disqualification and his or her decision shall be final.

6.14 Vacancies on the proposed Committee, including the alternate's position, caused by challenge or excuse shall be filled by lot from among other members of the Panel, and shall be subject to excuse or challenge as provided in Sections 6.12 and 6.13, except that the aggregate number of persons who may be excused without cause pursuant to Section 6.12, shall not exceed two each for the person charged and the Administrative Officer, subject to Section 6.21.2 below.

6.15 If a member of the Committee, as finally selected, cannot continue, the Director shall notify the alternate that he or she is now a member of the Committee. The alternate shall then listen to the entire audio tape made to date except for those portions of the hearing he or she has personally attended. Once the alternate becomes a member of the Committee, the original member replaced shall take no further part in the proceeding. If the Committee is reduced to one member, the person charged and the Administrative Officer may agree that the Committee shall conclude its work with only one member.

6.16 Decisions of the Committee, except rulings made by its Director (see Section 6.18) shall be by majority vote of the three members.

6.17 Upon first convening, the Committee shall elect a Director and acquaint itself with these Procedures. If, at any time before dissolution of the Committee, the alternate takes the place of the member designated as the Director, the Committee shall designate a new Director.

6.18 Unless overruled by a majority of the Committee, rulings of the Director shall be final on all questions except the substance of the findings and recommendations of the Committee which are sent to the President. All other provisions of these Procedures pertaining to the authority of the Director shall be subject to this section.

6.19 Two members of the Committee, one of whom must be the Director, shall constitute a quorum for transaction of the business of the Committee. No member who is absent during any part of the hearing may participate in the preparation of findings and recommendations of the Committee without first listening to the tape recording of the portion of the hearing conducted in his absence.

6.20 Upon the agreement of the person charged and the campus representative, the Committee shall be discharged and a new Committee selected to conduct a hearing at any time prior to the President's decision on the Committee report.

6.21 Consolidated Hearings

6.21.1 Where more than one academic employee is charged with conduct arising out of a single occurrence, or out of connected multiple occurrences, a single hearing may be held for all of the academic employees so charged, unless some wish a hearing open to the public and some do not, in which case those wishes must be accommodated.

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4/ Any reference to a majority of the Committee excludes the alternate, unless the alternate has replaced a member of the Committee.
The Executive Officer shall make determinations regarding consolidation.

6.21.2 In event of consolidation, the Administrative Officer shall have the right to excuse as many as two persons selected for the Committee, without cause, pursuant to Section 6.12 above for each person charged. Each person charged in a consolidated hearing retains the right to excuse two Committee members without cause.

6.21.3 A majority of the Committee hearing a consolidated case may petition the Executive Officer to sever a case. The ruling of the Executive Officer on all such petitions shall be final. The severance of one or more cases from a group of cases previously set for a consolidated hearing shall not be considered to affect the remaining cases in the group.

Section 7.0 General Provisions for Hearings

7.1 Both the person charged and his or her advisor, and the Administrative Officer and advisor may:

7.1.1 Agree upon evidence to be presented without challenge, and stipulate as to agreed upon facts.

7.1.2 Be present at all proceedings of the hearing whenever any evidence is being presented.

7.1.3 Examine all documents or other evidence presented.

7.1.4 Present relevant evidence and question witnesses presented by the other. The Administrative Officer shall present evidence supporting the charges, following which other evidence shall be received.

7.1.5 Present an oral or written summary of arguments at the conclusion of the presentation of evidence at the hearing. If there is such argument, the Administrative Officer shall go first, and then have a final opportunity to rebut the closing argument of the person charged.

7.2 Evidence

7.2.1 Formal rules of evidence shall not apply.

7.2.2 Any relevant evidence shall be admitted if it is the sort 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 rule which might make improper the admission of evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be
7.2.3 No evidence other than that received at the hearing shall be considered by the Committee.

7.3 The person charged will not be required to give self-incriminating evidence, and no inference of his guilt shall be drawn by reason of his declining to give evidence on this ground.

7.4 Times Within Which Hearings Are to Proceed

7.4.1 Matters preliminary to hearings shall be decided, hearings conducted, and cases determined under these Procedures as quickly as possible, consistent with reasonable notice.

7.4.2 The person charged, the Administrative Officer, and the General Counsel (in the event the person charged elects to be represented by an attorney at the hearing as provided in Section 7.7.1) shall each have not less than five campus working day's notice of commencement of a hearing. Each of them may waive this requirement.

7.4.3 Hearings will normally be held within ten campus working days of the date notice pursuant to Section 5.2.2 is served upon the person charged.

7.4.4 Extensions of time for hearings shall be authorized only for good and compelling reasons. The possibility or pendency of other administrative, civil or criminal proceedings against the person charged is not such a reason, unless the other trial or hearing is scheduled for the same day as the campus hearing, or unless it is physically impossible for the person charged to attend the campus hearing. Prior to the designation of the Director, the Administrative Officer shall decide requests for extensions. After that, should any further requests be made, the Director shall rule on them.

7.5 The Director shall:

7.5.1 Make all rulings on matters relating to the conduct of the hearing, including matters regarding admission of evidence.

7.5.2 Maintain an orderly hearing and permit no person to be subjected to abusive treatment. Anyone who refuses to be orderly may be ejected or excluded. Should the person charged be excluded, the Director shall make such provision as is practical on behalf of the person charged.

7.5.3 Recognize only members of the Committee, the person charged, the Administrative Officer and their advisers, if any, for
the purpose of questioning witnesses or presenting argument, evidence or requests. The Director may also question witnesses.

7.5.4 Make such further rules for the conduct of the hearing as he or she deems appropriate, not inconsistent with these Procedures.

7.6 The President shall designate a Presiding Officer who, with the Committee always in attendance, and enabled to ask questions, shall conduct the hearing on the charges, functioning as the Director on procedural matters only. It will be the function of the Presiding Officer to make rulings on the conflicts that can arise in adversary hearings. This shall include but not be limited to deciding on the admissibility of evidence; prevention of intimidation or harassment of witnesses; and the keeping of the hearing on course and not allowing it to digress into irrelevant areas.

7.6.1 The Chancellor shall designate one or more Presiding Officers, who shall serve for terms as determined by the Chancellor.

7.6.2 Presiding Officers shall be attorneys, admitted to the practice of law in California, who are qualified by professional experience in presiding at judicial or quasi-judicial adversary proceedings, or who have been members of the California State Bar for at least five years. They will not hold any employment, or other contract (other than as a Presiding Officer) with any California State University or College during the period of their service.

7.6.3 Challenges to the Presiding Officer for cause may be made by submitting a written statement to the Executive Officer with a copy to the other party, setting forth facts which establish one of the grounds specified in Sections 6.13.1 - 6.13.3.

The Executive Officer shall determine whether the facts present grounds for disqualification and that determination shall be final. The Presiding Officer may disqualify himself on his or her own motion. No peremptory challenges may be made.

7.7 Advisers; attorneys

7.7.1 The person charged may be accompanied by one adviser, who may act on his or her behalf. If the person charged desires that the adviser be an attorney, written notice of the name and office address of the attorney must be given to the Administrative Officer at least four working days before the time set for commencement of the hearing; if there are less than five working days between that time and the date
of the notice of hearing, then the notice that the adviser will be an attorney must be given at the earliest reasonable time. Otherwise at the hearing, the Administrative Officer may move for a continuance for the period of time reasonably necessary to secure an attorney from the Office of General Counsel, and to enable such attorney to prepare adequately. Such continuance shall be granted.

7.7.2 Should a person charged advise that he or she will be accompanied by an attorney, the Administrative Officer shall immediately advise the Office of General Counsel so that an attorney may be present to present the case on behalf of the Administrative Officer.

7.8 Persons Who May Attend Hearings; Discovery; Confidentiality

7.8.1 Not later than the commencement of presentation of evidence at the hearing, the Administrative Officer and the person charged shall each provide the other with the names of witnesses they reasonably expect to call. If the hearing is open to the public, pursuant to Section 5.4.2 above, all such witnesses, except the person charged and the Administrative Officer shall be excluded except while presenting evidence. The Committee may permit the calling of a witness previously unlisted who has attended all or any part of the hearing, when the presenting party's need for that witness is based on surprise.

7.8.2 Hearings closed to the public shall be closed to everyone other than the Committee, the alternate if the alternate wishes to attend, the Presiding Officer, the person charged, his or her adviser, if any, the Administrative Officer, his or her adviser, if any, the person designated to record the hearing pursuant to Section 7.9, a court reporter, if any, witnesses while they are presenting evidence, and the representatives of not more than two recognized faculty organizations as provided in this Section. At a hearing, open or closed, only the members of the Committee, the Presiding Officer, the person charged, the Administrative Officer, their advisers if any, and witnesses while giving evidence may participate.

7.8.2.1 The person charged and the President may each authorize one person who is a representative of a recognized professional faculty organization or of the academic senate or council of the campus to attend the hearing as an observer.

7.8.3 It is the policy of The California State University and Colleges that evidence, proceedings, findings and recommendations in hearings closed to the public (but not the final decision of the President) are confidential and shall not be made public by the campus or by any participant in a hearing, including
the person charged and the faculty organization observers, except as any of the foregoing may be filed in court or introduced as evidence in an administrative or court proceeding brought to review and action taken pursuant to these Procedures. In the event these matters should become public, however, such public statements as are appropriate may be made. This policy of confidentiality shall not preclude discussion of the case with others as necessary to prepare for hearings, nor shall it preclude the campus from taking any action following appropriate procedures against any person or entity on the basis of evidence developed at the hearing.

7.9 The Administrative Officer shall arrange for making an audio tape of all hearings. The Director shall encourage all participants to identify themselves for the tape recording at the beginning of the hearing, and when speaking during the hearing. Security and integrity of the tape recording shall be the responsibility of the Director. Following completion of the hearing, the person charged may purchase a copy of the audio tape at cost.

7.9.1 The person charged, at his or her own expense, or the President, at campus expense, may have a court reporter present to record the hearing, with the other party at that party's own expense able to obtain a copy of the reporter's transcript, if one is made.

7.10 If the person charged does not appear, without satisfactory explanation of absence having been made to the Director in advance, or if the person charged leaves the hearing before its conclusion or adjournment, the hearing shall proceed and the Committee shall make its findings and recommendation based on the available evidence, just as though the person charged had been present throughout the hearing. The Committee shall determine whether any reason given for nonappearance, or for leaving the hearing before its conclusion or adjournment, is satisfactory. However, the pending of an administrative hearing or a civil or criminal trial to which the person charged is a party shall not be considered a satisfactory explanation unless the actual hearing or trial date conflicts with the campus hearing date.

7.11 The Committee, through its Director, may obtain advice concerning these provisions, as needed, from the Office of the Chancellor or from the Executive Officer.

7.12 Arguments concerning the legal applicability or validity of any statute, regulation, resolution of the Board of Trustees, Standing Order, or Chancellor's Executive Order shall be in writing and addressed to the Committee for forwarding to the Office of General Counsel with a copy to the other party. The Committee shall complete the hearing, but not complete the drafting of its Report until General Counsel's opinion is received, and the Committee shall be bound by this opinion. A copy of that opinion shall be provided by the Committee to the person charged and the Administrative Officer.
Section 8.0 Report of the Disciplinary Action Committee

8.1 Following conclusion of its hearing, the Committee shall meet in executive session, with only the Committee members present. All other persons, including the Presiding Officer and the alternate shall be excluded. In this session, the Committee shall consider the evidence and shall prepare a written report. The report shall contain as to each person charged:

8.1.1 Findings of fact with respect to the evidence presented;

8.1.2 As to each cause listed in Education Code Sections 24306 and 24306.1 with which the person was charged, a finding of whether the cause is established by the facts found;

8.1.3 If the Committee finds any of the grounds charged for disciplinary action are established by the evidence, a recommendation to the President as to what disciplinary action, if any, should be taken as provided below. Otherwise, it shall advise the President that no cause for discipline exists.

If a cause for disciplinary action exists, the recommendation of the Committee to the President may include:

8.1.3.1 Dismissal with denial of access to the campus and all campus facilities for a period not to exceed one year.

8.1.3.2 Dismissal.

8.1.3.3 Demotion.

8.1.3.4 Suspension with denial of access to the campus and all campus facilities for the period of the suspension.

8.1.3.5 Suspension.

8.1.3.6 A written reprimand.

8.1.3.7 An oral reprimand.

8.1.3.8 Other appropriate action.

And:

8.1.4 The reasons for the Committee's recommendations.

8.2 Findings shall be based upon a preponderance of the evidence.

8.3 In reaching its decision and in preparing its Report, the Committee shall consider only the notice of charges, evidence received at the hearing, arguments of the parties made in accordance with these Procedures, and any opinions received pursuant to Section 7.12.
8.4 Within five campus working days of conclusion of the hearing, the Committee shall transmit its report to the campus President, the Administrative Officer, and the person charged. Concurrently, it shall transmit all physical evidence and the tape recording of the hearing to the President. The person charged, the President and the Panel Chairperson shall be notified in writing of the date of the transmittal of the recommendation.

9.0 Action by the President

9.1 The President shall decide what disciplinary action should be taken, if any, within twenty calendar days of the transmittal of the Committee's report to the President.

9.2 If no disciplinary recommendation is received by the President within the five campus working day period provided in Section 8.4 above, the President shall nevertheless determine the appropriate disciplinary action, if any, to be taken.

9.3 The President may return the matter to the Committee for clarification or further proceedings as appropriate.

9.4 The decision of the President shall concur with the recommendations of the Committee except when,

9.4.1 The evidence at the hearing supported different findings of fact than those made by the Committee, or did not support some or all of the Committee's findings of fact, or both; or

9.4.2 The Committee's findings of fact supported a conclusion respecting the causes for discipline listed in Education Code Sections 24306 and 24306.1 with which the person was charged different from the one arrived at by the Committee.

9.4.3 The disciplinary action recommended by the Committee was not appropriate to the causes of discipline established; or

9.4.4 The Committee made an error of law; or

9.4.5 The Committee violated these Procedures in a way that substantially affected its recommendation.

In the event that the President's decision is not in accord with the Committee's recommendation, the compelling reasons for this decision shall be stated in detail and in writing to the person charged, to the Committee and to the Administrative Officer. At this time, the President and the Committee shall make an effort to resolve their differences regarding disposition of the case. In the event that no such resolution of differences is made, the decision of the President on each case is final at the campus level, but shall not be implemented until it has been arbitrated and upheld, or until the time limit for reference to arbitration has passed without such reference having been initiated. The person charged shall be notified in writing of the President's decision.
9.5 If the President's decision concurs with the final recommendation of the Committee, and if that decision is to impose disciplinary action, the President shall forward his or her recommendation for disciplinary dismissal, demotion, or suspension to the Chancellor for appropriate action, and the person charged shall be so notified. It shall be accompanied by the report made to the President by the Committee pursuant to Section 8.0, except as the latter recommendation may be modified pursuant to Section 9.4. There shall be no further proceedings in the matter under these Procedures and under Education Code Section 24315.

9.6 The Chancellor or his designee shall take such action on the recommendation of the President, as the Chancellor considers appropriate.

Section 10.0 Arbitration

10.1 If there is disagreement between the Committee's recommendation and the President's decision (If the President does not send notification of his decision to the person charged within twenty calendar days of transmittal of the Committee's final report pursuant to Sections 8.4 and 9.4 above, the President shall be presumed to have disagreed with the Committee's recommendation), either the person charged or the President may refer the matter to arbitration by written notification within seven calendar days of transmittal of the Committee's final report, pursuant to Sections 8.4 and 9.4, above, to the Executive Officer of the Disciplinary Action Panel specifying the disagreement and requesting arbitration with a copy to the other party. Failure to make such notification within the time specified shall, for all purposes, constitute a waiver by both the person charged and the President of all rights to proceed to arbitration under these Procedures and Education Code Section 24315 and the President shall proceed as provided in Section 11.0.

10.2 Arbitrators shall be persons admitted to practice law before any state or federal court.

10.3 The Executive Officer shall attempt to obtain written agreement by the President and the person charged upon an arbitrator or committee of arbitrators. If such agreement can be obtained, the matter will proceed as specified in Section 10.6 and the sections following it below. The agreement shall be irrevocable once the arbitrator accepts the invitation.

10.4 If such agreement cannot be obtained within five calendar days of the date notification was sent the Executive Officer, the Executive Officer shall attempt to obtain written agreement of the parties to one of the following three listed arbitration agencies:

Federal Mediation Service
State Conciliation Service
American Arbitration Association

If such agreement is obtained, the Executive Officer shall petition the agreed-upon agency on behalf of the party seeking arbitration for a list of seven disinterested persons meeting the requirement of Section 10.2 above. The agreement shall be irrevocable upon the submission of the
petition. Upon receipt of that list, the Executive Officer shall have each party alternate in striking individual names, and the person remaining after the names have been stricken shall be designated as the arbitrator. The determination as to which party shall first strike off a listed name shall be determined by the toss of a coin. The matter shall then proceed as specified in Section 10.6 and the sections following it below.

10.5 If agreement on an arbitration agency is not obtained within seven calendar days of the date notification was sent to the Executive Officer, the Executive Officer shall determine by lot which agency shall be used, and shall petition that agency on behalf of the party seeking arbitration for a list of seven disinterested persons meeting the requirement of Section 10.2 above. Upon receipt of that list, the Executive Officer shall have each party alternate in striking individual names, and the person remaining after six names have been stricken shall be designated as the arbitrator. The determination as to which party shall first strike off a listed name shall be determined by the toss of a coin. If an arbitrator should resign, die, withdraw, refuse or be unable or disqualified to perform, the vacancy shall be filled in the manner specified in this Section 10.0, and the matter resubmitted to the new arbitrator.

10.6 Upon designation of, and acceptance by, an arbitrator, the Executive Officer shall transmit to the arbitrator:

10.6.1 A copy of these Procedures;

10.6.2 A copy of the President's decision, if any;

10.6.3 A copy of the Committee's report; and

10.6.4 All physical evidence and the tape recording of the hearings.

and notify the person charged and the Administrative Officer that this has been done.

10.7 The person charged and the President may prepare written arguments, based only upon these Procedures and evidence in the record, and furnish them in duplicate to the Executive Officer for simultaneous transmission to the arbitrator and the other party. There shall be no other communication by, or on behalf of, the parties with the arbitrator.

10.8 By written agreement of the person charged and the President furnished to the Executive Officer, a matter may be settled and withdrawn from arbitration at any time. Such withdrawal shall be irrevocable.

10.9 If the campus disciplinary action hearing was closed, the policy of confidentiality stated in Section 7.8.3 shall apply at the arbitration level.
10.10 The arbitrator shall make an initial determination of jurisdiction to rule in the matter, including whether or not a disagreement between the Disciplinary Action Committee's recommendation and the President's decision exists.

10.11 If the arbitrator determines that there is a lack of jurisdiction, the Executive Officer shall be so notified by a written report of decision. Such report shall state the reason for the arbitrator's determination. The Executive Officer shall promptly transmit a copy of the report of decision to the President and to the person charged.

10.12 If the arbitrator determines that jurisdiction exists, the report of decision ultimately to be written in the matter shall so state, and the arbitrator shall proceed to decide whether the President's disagreement with the recommendations of the Disciplinary Action Committee were compelling. The disagreement shall be found by the arbitrator to be compelling if:

10.12.1 The evidence at the Committee hearing supported different findings of fact that those made by the Committee, or did not support some or all of the Committee's findings of fact, or both; or

10.12.2 The Committee's findings of fact supported a conclusion, respecting the causes for discipline listed in Education Code Sections 24306 and 24306.1 with which the person was charged, different from the one arrived at by the Committee; or

10.12.3 The disciplinary action recommended by the Committee was not appropriate to the causes of discipline established; or

10.12.4 The Committee made an error of law; or

10.12.5 The Committee violated these Procedures in a way that substantially affected its recommendation.

10.13 If the arbitrator does not find the President's disagreement with the Disciplinary Action Committee recommendation justified, the Committee recommendation shall be adopted as the arbitrator's decision. If the arbitrator finds to the contrary, the President's decision shall be adopted as the arbitrator's decision.

10.14 The arbitrator shall review all materials presented by the Executive Officer of the Disciplinary Action Panel provided, however, that the arbitrator need not listen to the tape recording of the hearing unless the facts of the case, in his or her opinion, make it necessary. The arbitrator shall be bound by the policy of confidentiality stated.
in Section 7.8.3 of these Procedures. If the arbitrator has questions about facts or policy, he or she, through the Executive Officer, shall invite written comment on such questions from both the President and the Disciplinary Action Committee, who shall send copies of such comments each to the other.

10.15 Within 30 calendar days of receipt of the materials pursuant to Section 10.6, unless extended by agreement of the President and the person charged, the arbitrator shall mail a report of decision which shall include reasons for that decision, to the Executive Officer, with a copy to the President and the person charged, accompanied by all materials furnished the arbitrator by that Executive Officer.

10.16 Prior arbitration decisions shall not be used as precedent for any subsequent case. No arbitrator shall have any authority to add to, detract from, or in any way alter the provisions of these Procedures, any federal or California statute or regulation, or any rules or policies of the Office of the Chancellor or of the campus.

10.17 The arbitrator's decision as to matters properly before him or her, insofar as consonant with rules and policies of the Trustees, Office of the Chancellor and of the campus, and insofar as consonant with the laws of California and the United States, shall be final and binding upon the campus and the person charged.

10.18 Arbitrator's billings shall be submitted to the campus for payment.

Section 11.0 Subsequent Action

11.1 Following receipt of the arbitrator's report, if dismissal, demotion or suspension is to be imposed, the President shall forward the recommendation for disciplinary dismissal, demotion or suspension to the Chancellor for appropriate subsequent action. It shall be accompanied by the report made to the President by the Disciplinary Action Committee pursuant to Section 8.0 above, except as the latter recommendation may be modified pursuant to Section 9.4, and by the report of decision of an arbitrator.

11.2 The Chancellor shall take such action on the recommendation of the President, as the Chancellor considers appropriate.

Section 12.0 Other Provisions

12.1 An academic employee of a campus who is accused of conduct as described in Section 11.1, alleged to have been committed at another campus of the California State University and Colleges, shall be subject to disciplinary action at the campus with respect to which the violation is alleged to have occurred, and all references to the President and the Administrative Officer, shall refer to those persons at that campus; provided that a Disciplinary Action Committee
of the campus at which the person charged is an academic employee, shall be utilized, and the President of that latter campus shall make the final campus decision with respect to discipline.

12.2 Compliance with these Procedures shall be presumed despite technical departures from them or errors in their application, unless in the opinion of the President or the arbitrator, the technical departures or errors were substantially prejudicial to the person charged or to the campus.

12.3 In applying the singular language of these Procedures to consolidated hearings, the singular number includes the plural.

12.4 All references in these Procedures to the Chancellor shall include designees.
Title 5, California Administrative Code Sections:

42701. Consultative Procedure. It is the policy of the Trustees that faculty be consulted on academic personnel matters. Each campus shall develop campus-wide procedures whereby only members of the faculty who are tenured, and such department chairmen and academic administrators as the campus procedures shall provide, may participate at any level of consideration in the deliberations or vote on recommendations relating to appointment, retention, tenure or promotion of faculty. The procedures shall provide that those making such recommendations should consider information from other faculty members and any other source, including, but not limited to students.

The campus-wide procedures shall be consonant with the regulations, policies and procedures of the Board of Trustees and the Chancellor and shall be approved by the president.

43522. Temporary Suspension. When there is strong and compelling evidence that the presence of an employee on his job might create serious problems, if such evidence were subsequently proven to be correct, a president or the Chancellor may temporarily suspend an employee pending investigation and/or the furnishing of formal notice of disciplinary action pursuant to Section 24308 of the Education Code. Unless earlier terminated by the president or the Chancellor, as the case may be, such temporary suspension shall automatically terminate upon the furnishing of formal notice of disciplinary action or, unless extended as provided by this section 30 days after its commencement, whichever first occurs.

The date for such automatic termination of the period of temporary suspension, where no furnishing of formal notice of disciplinary action has occurred, may be extended upon the written statement of the employee addressed to the president or the Chancellor, as the case may be requesting such extension.

Suspension under this section shall not prejudice the case of the employee or any rights he may be provided under this article.

43525. Disciplinary Action Procedures for Academic Personnel. The Chancellor shall prescribe, and may from time to time revise, Disciplinary Action Procedures for Academic Personnel of the California State University and Colleges. These procedures shall be applicable to all full-time tenured and probationary academic employees, including those on leave of absence with or without pay. The Chancellor shall report to the Board on procedures issued or revised pursuant to this section.
Disruption of Campus Activities. Notwithstanding any provision in this Subchapter 7 to the contrary, any employee of the California State University and Colleges who, following appropriate procedures at the campus, is found to have disrupted or to have attempted to disrupt, by force or violence, any part of the instructional program of a campus, or any meeting, recruiting interview or other activity authorized to be held or conducted at the campus may, in the discretion of the President, be disciplined pursuant to Section 24306 of the Education Code.

Education Code Sections:

22505. The chief administrative officer of a community college, state college, or state university shall take appropriate disciplinary action against any student, member of the faculty, member of the support staff, or member of the administration of the community college, state college, or state university who, after a prompt hearing by a campus body, has been found to have willfully disrupted the orderly operation of the campus. Nothing in this section shall be construed to prohibit, where an immediate suspension is required in order to protect lives or property and to insure the maintenance of order, interim suspension pending a hearing; provided that a reasonable opportunity be afforded the suspended person for a hearing within 10 days. The disciplinary action may include, but need not be limited to, suspension, dismissal, or expulsion. The provisions of Sections 24308 to 24310, inclusive, shall be applicable to any state college employee dismissed pursuant to this section. The chief administrative officer of each such institution shall submit periodic reports as to the nature and disposition of cases acted upon pursuant to this section to his governing board.

24306. 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 narcotics or habit-forming drugs.
(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.

24306.1. Any permanent or probationary employee who is physically or mentally unfit for the position occupied may be suspended, demoted, or dismissed pursuant to the provisions of Sections 24308, 24309, and 24310.
Notice of dismissal, demotion, or suspension for cause of an employee shall be in writing, signed by the chancellor or his designee and be served on the employee, setting forth a statement of causes, the events or transactions upon which the causes are based, the nature of the penalty and the effective date, and a statement of the employee's right to answer within 20 days and request a hearing before the State Personnel Board.

Notice of the reassignment of an administrative employee pursuant to Section 22607 shall be in writing and shall be served on the employee setting forth a statement of the employee's right to answer within 20 days and request a hearing before the trustees but only on the question of whether the position to which he is reassigned is commensurate with his qualifications.

Grievances and disciplinary actions shall be heard by a faculty hearing committee composed of full-time faculty members, selected by lot from a panel elected by the campus faculty, which shall make a recommendation to the president of the state university or college.

The grievance or disciplinary hearing shall be open to the public at the option of the person aggrieved or the person charged in a disciplinary hearing.

Each party to the dispute shall have the right of representation by a faculty adviser or counsel of his choice and to be provided access to a complete record of the hearing.

If there is disagreement between the faculty hearing committee's decision and the university or college president's decision, the matter shall go before an arbitrator whose decision shall be final.

The costs incurred in arbitration shall be paid by the university or college.

If the parties cannot agree upon an arbitrator, either party may petition either the Federal Mediation Service, the State Conciliation Service, or the American Arbitration Association for a list of seven qualified, disinterested persons, from which list each party shall alternate in striking three names, and the remaining person shall be designated as the arbitrator.
The grievance procedure established pursuant to this section shall be exclusive with respect to any grievance which is not subject to a State Personnel Board hearing. In the case of a grievance or disciplinary action which is subject to a State Personnel Board hearing, pursuant to Sections 24306 to 24309, inclusive, and Section 24311.1 the procedures provided for in those sections or those provided for in this section may be utilized. The academic employee shall have the choice of which procedures shall be utilized.

For purposes of this section, a "grievance" is an allegation by an employee that he was directly wronged in connection with the rights accruing to his job classification, benefits, working conditions, appointment, reappointment, tenure, promotion, reassignment, or the like. A grievance does not include matters, such as the salary structure, which require legislative action.

Government Code Section:

18025. All employees shall be entitled to the following holidays: the first day of January, the 12th day of February, the third Monday in February, the last Monday in May, the fourth day of July, the first Monday in September, the ninth day of September, the second Monday in October, the 11th day of November, the 25th day of December, the day chosen by an employee pursuant to the provisions of Section 18025.1, and every day appointed by the Governor of this state for a public fast, thanksgiving, or holiday.

When a day herein listed falls on a Sunday, the following Monday shall be deemed to be the holiday in lieu of the day observed. If November 11th falls upon a Saturday, the preceding Friday shall be deemed to be the holiday in lieu of the day observed. Any employee who may be required to work on any of the holidays herein mentioned, and who does work on any of said holidays, shall be entitled to be paid compensation or given compensating time off for such work within the meaning of this article. For the purpose of computing the number of hours worked, time during which an employee is excused from work because of holidays, sick leave, vacation, or compensating time off, shall be considered as time worked by the employee.

Penal Code Section:

626.4 (a) The chief administrative officer of a campus or other facility of a community college, state college, state university, or school, or an officer or employee designated by him to maintain order on such campus or facility, may notify a person that consent to remain on the campus or other facility under the control of the chief administrative officer has been withdrawn whenever there is reasonable cause to believe that such person has willfully disrupted the orderly operation of such campus or facility.
(b) Whenever consent is withdrawn by any authorized officer or employee other than the chief administrative officer, such officer or employee shall as soon as is reasonably possible submit a written report to the chief administrative officer. Such report shall contain all of the following:

1. The description of the person from whom consent was withdrawn, including, if available, the person's name, address, and phone number.

2. A statement of the facts giving rise to the withdrawal of consent.

If the chief administrative officer or, in his absence, a person designated by him for this purpose, upon reviewing the report, finds that there was reasonable cause to believe that such person has willfully disrupted the orderly operation of the campus or facility, he may enter written confirmation upon the report of the action taken by the officer or employee. If the chief administrative officer or, in his absence, the person designated by him, does not confirm the action of the officer or employee within 24 hours after the time that consent was withdrawn, the action of the officer or employee shall be deemed void and of no force or effect, except that any arrest made during such period shall not for this reason be deemed not to have been made for probable cause.

(c) Consent shall be reinstated by the chief administrative officer whenever he has reason to believe that the presence of the person from whom consent was withdrawn will not constitute a substantial and material threat to the orderly operation of the campus or facility. In no case shall consent be withdrawn for longer than 14 days from the date upon which consent was initially withdrawn. The person from whom consent has been withdrawn may submit a written request for a hearing on the withdrawal within the two-week period. Such written request shall state the address to which notice of hearing is to be sent. The chief administrative officer shall grant such a hearing not later than seven days from the date of receipt of such request and shall immediately mail a written notice of the time, place, and date of such hearing to such person.

(d) Any person who has been notified by the chief administrative officer of a campus or other facility of a community college, state college, state university, or school, or by an officer or employee designated by the chief administrative officer to maintain order on such campus or facility, that consent to remain on the campus or facility has been withdrawn pursuant to subdivision (a); who has not had such consent reinstated; and who willfully and knowingly enters or remains upon such campus or facility during the period for which consent has been withdrawn is guilty of a misdemeanor. This subdivision does not apply to any person who enters or remains on such campus or facility for the sole purpose of applying to the chief administrative officer for the reinstatement of consent or for the sole purpose of attending a hearing on the withdrawal.
(e) This section shall not affect the power of the duly constituted authorities of a community college, state college, state university, or school, to suspend, dismiss, or expel any student or employee at such university, college, or school.

(f) Any person convicted under this section shall be punished as follows:

(1) Upon a first conviction, by a fine of not exceeding five hundred dollars ($500), by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment.

(2) If the defendant has been previously convicted once of a violation of any offense defined in this chapter or Section 415.5, by imprisonment in the county jail for a period of not less than 10 days or more than six months, or by both such imprisonment and a fine of not exceeding five hundred dollars ($500), and he shall not be released on probation, parole, or any other basis until he has served not less than 10 days.

(3) If the defendant has been previously convicted two or more times of a violation of any offense defined in this chapter or Section 415.5, by imprisonment in the county jail for a period of not less than 90 days or more than six months, or by both such imprisonment and a fine of not exceeding five hundred dollars ($500), and he shall not be released on probation, parole, or any other basis until he has served not less than 90 days.

(g) This section shall not affect the rights of representatives of employee organizations to enter, or remain upon, school grounds while actually engaged in activities related to representation, as provided for in Article 5 (commencing with Section 13080) of Chapter 1, Division 10, Part 2, of the Education Code.