

AMENDED IN ASSEMBLY APRIL 27, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 712**

**Introduced by Assembly Member Firebaugh**

February 24, 1999

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An act to amend Sections ~~89538~~ 89535, 89538, and 89539 of the Education Code, relating to the California State University.

LEGISLATIVE COUNSEL'S DIGEST

AB 712, as amended, Firebaugh. California State University: disciplinary actions against employees.

Existing law establishes the California State University and authorizes the operation of its various campuses under the administration of the Trustees of the California State University. Existing law sets forth a procedure for employee discipline that contemplates, under specified conditions, the dismissal, demotion, suspension, or reassignment of an employee. Under that procedure, *a permanent or probationary employee may be dismissed, demoted, or suspended for any of several prescribed causes, including the conviction of a felony or the conviction of any misdemeanor involving moral turpitude. Under that procedure, an employee may answer a notice of reassignment, or may appeal a dismissal, suspension, or demotion, within 20 days.*

This bill would *specify that a plea or verdict of guilty, or a conviction following a plea of nolo contendere, to a charge of a felony or to a charge of any misdemeanor involving moral*

*turpitude is deemed to be a conviction within the existing employee discipline procedure. The bill also would extend the period allowed for an answer or appeal to 30 days.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. *Section 89535 of the Education Code is*  
2 *amended to read:*

3 89535. Any permanent or probationary employee  
4 may be dismissed, demoted, or suspended for the  
5 following causes:

- 6 (a) Immoral conduct.
- 7 (b) Unprofessional conduct.
- 8 (c) Dishonesty.
- 9 (d) Incompetency.
- 10 (e) Addiction to the use of controlled substances.
- 11 (f) Failure or refusal to perform the normal and  
12 reasonable duties of the position.
- 13 (g) Conviction of a felony or conviction of any  
14 misdemeanor involving moral turpitude. *A plea or*  
15 *verdict of guilty, or a conviction following a plea of nolo*  
16 *contendere, to a charge of a felony or to a charge of any*  
17 *misdemeanor involving moral turpitude is deemed to be*  
18 *a conviction within the meaning of this subdivision.*
- 19 (h) Fraud in securing appointment.
- 20 (i) Drunkenness on duty.

21 SEC. 2. Section 89538 of the Education Code is  
22 amended to read:

23 89538. (a) Notice of dismissal, demotion, or  
24 suspension for cause of an employee shall be in writing,  
25 signed by the chancellor or his or her designee and be  
26 served on the employee. The notice shall set forth a  
27 statement of causes, the events or transactions upon  
28 which the causes are based, the nature of the penalty and  
29 the effective date, and a statement of the employee's  
30 right to answer within 30 days and request a hearing  
31 before the State Personnel Board.



1 (b) Notice of the reassignment of an administrative  
2 employee pursuant to Section 66609 shall be in writing,  
3 and shall be served on the employee. The notice shall set  
4 forth a statement of the employee's right to answer within  
5 30 days and request a hearing before the trustees. This  
6 hearing shall be only on the question of whether the  
7 position to which the employee is reassigned is  
8 commensurate with his or her qualifications.

9 ~~SEC. 2.—~~

10 *SEC. 3.* Section 89539 of the Education Code is  
11 amended to read:

12 89539. (a) (1) Any employee dismissed, suspended,  
13 or demoted for cause may request a hearing by the State  
14 Personnel Board by filing a request, in writing, with the  
15 board within 30 days of being served with the notice.

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

18 (A) The required procedure was not followed.

19 (B) There is no ground for dismissal, suspension, or  
20 demotion.

21 (C) The penalty is excessive, unreasonable, or  
22 discriminatory.

23 (D) The employee did not do the acts or omissions  
24 alleged as the events or transactions upon which the  
25 causes are based.

26 (E) The acts or omissions alleged as the events or  
27 transactions upon which the causes are based were  
28 justified.

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

35 (c) An administrative employee reassigned pursuant  
36 to Section 66609 may request a hearing by the trustees by  
37 filing a request for a hearing, in writing, with the trustees  
38 within 30 days of being served with the notice. The  
39 request may be on the grounds that the required  
40 procedure was not followed or that the position to which



1 the employee is reassigned is not commensurate with his  
2 or her qualifications. The trustees shall hold a hearing,  
3 and shall render a decision affirming, modifying, or  
4 revoking the action taken.

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

