

SPB rule § 52.7; Request to File Charges Against State Employees

(a) Any request to file charges pursuant to Government Code section 19583.5, shall be filed by the requesting party with the Appeals Division of the SPB. The requesting party shall also serve the appropriate number of conforming copies on the appointing authority for each employee against whom disciplinary action is sought.

(b) Each request shall be in writing.

(c) Each request must clearly state the facts constituting the cause or causes for adverse action in such detail as is reasonably necessary to enable the accused employee to prepare a defense thereto. The accused employee has a right to provide an answer within 30 days of service of the request to file charges pursuant to Government Code section 19583.5.

(d) Each request must clearly state the legal cause(s) for discipline as set forth in Government Code section 19572. (e) Each request shall include a sworn statement, signed under penalty of perjury, that the contents of the request are true and correct.

(f) Each request shall be limited to a maximum of 15 pages of double-spaced typed or printed text, not including exhibits. Additional pages may be allowed upon a showing of good cause. The requesting party shall submit a separate document with the request to file charges stating the reasons for good cause for the additional pages.

(g) Where it does not appear that the material facts alleged are within the personal knowledge of the requesting party, the Appeals Division may require the requesting party to present supporting affidavits from persons having actual knowledge of the facts before acting upon the request.

(h) Only after compliance with subdivisions (a) through (g) will the Appeals Division conduct an investigative review to determine whether the Board will give its consent to file charges.

(i) If the Board approves the request after an Investigative review, the parties will be notified that the request has been approved and that the matter will be scheduled for an evidentiary hearing before an ALJ. The Appeals Division will notify the parties of the time and location of the hearing.

(1) The hearing shall be conducted in accordance with those regulations related to the adverse action hearing process pursuant to Sub-Article 6, beginning with section 56. 1. During the hearing, the requesting party shall bear the burden of proving the allegations contained in the request by a preponderance of the evidence.

(2) No disciplinary action shall be imposed on the employee until after the completion of the hearing, and only upon a finding by the Board that disciplinary action is warranted against the employee.

(3) In those instances where the Board finds that disciplinary action is warranted against the employee, the Board shall notify the employee's appointing authority of the disciplinary action to be imposed on the employee. The appointing authority shall thereafter cause the disciplinary action mandated by the Board to be implemented against the employee within a reasonable period of time, not to exceed two weeks. The employee shall not be entitled to a right to respond pursuant to section 52.6. Within 30 days after a copy of the Board's decision is served upon the parties, either party may petition the Board for rehearing of the decision, pursuant to Government Code section 19586.