

## DPR Adverse Action

**A. This is a real adverse action case.** The names have been changed. Before reading the details of the case, note the outline of the document. Adverse actions are legal documents and are most always outlined in this manner:

- I Nature of Adverse Action
- II Effective Date of Adverse Action
- III Statement of Causes (details of your position and the list of causes from the government code)
- IV Statement of Facts (chronological information from the department's investigation)
- V Other Matters (sometimes referred to as background information, includes any prior actions and/or corrective steps).
- VI Appeal Rights (Skelly is not referenced by name, includes appeal information)

**B. Read the case.** Decide how you will answer the questions with your group (each person take one question, everyone works together on each question, etc.) Select a recorder.

The member comes to you, their Steward, when they *first* receive the Adverse Action Notice.

1. What information will you provide to the Union Resource Center – when?
2. After looking over the information provided in the case, list the questions you will ask this member.
3. What will you investigate and where will you get the information?
4. With whom will you share the outcome of your investigation?

**C. Select a reporter** to answer for your group.

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Adverse Actions

**NOTICE OF ADVERSE ACTION**

**Guide I**

**Department of Parks and Recreation**

**Capital District**

**Work Address: State Capital, State Capital Museum**  
**1300 8<sup>th</sup> Street, Sacramento, CA 95814**

**Home Address: 1111 River Park Lane**  
**Sacramento, CA 95833**

**TO: Marty Anne Wilson**

**Pursuant to Government Code section 19574, you are hereby notified that adverse action is being taken against you as follows:**

**I**

**NATURE OF ADVERSE ACTION**

**You are hereby suspended without pay for a period of four (4) weeks in your position as Guide I**

**II**

**EFFECTIVE DATE OF THE ADVERSE ACTION**

**This suspension shall be effective at the start of business on August 21, 2006 and shall end at the close of business on September 15, 2006, for a total of four (4) weeks.**

**III**

**STATEMENT OF CAUSES**

**A**

At all times mentioned herein, you have been a civil service employee of the State of California, holding and occupying the position of Guide I. You officially became a civil service employee of the State of California on February 15, 1999 and have worked full-time in the Guide I position during this time. You currently occupy this position as a full-time civil service employee of the State of California.

The Department of Parks and Recreation is your appointing power.

**B**

This adverse action is being taken against you for causes set forth in the following subsections of Government Code section 19572:

(c) Inefficiency

(d) Inexcusable neglect of duty

(e) Insubordination

(j) Inexcusable absence without leave

(o) Willful disobedience

(t) Other failure of good behavior either during or outside of duty hours which is of such a nature that it causes discredit to the appointing authority or the person's employment.

(w) Unlawful discrimination including harassment, on any basis listed in subdivision (a) of Section 12940, as those bases are defined in Sections 12940, against public or other employees while acting in the capacity of a state employee.

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**IV**

**STATEMENT OF FACTS**

1. On or about June 5, 2006, while on duty and in uniform, you slapped the buttocks of co-worker Chris Simpson with a brochure / wad of paper. Mr. Simpson indicated to his supervisor that this conduct was offensive and unwelcome.
2. On or about June 20, 2006, while on duty and in uniform, you gave Mr. Simpson a birthday card that contained sexual innuendos referring to Mr. Simpson as being a homosexual, including addressing the card to "G-boy" and placing a "Rainbow" sticker on the envelope, and placing stickers of frankfurters on the envelope.
3. On or about, July 5, 2006, you wrote "G-boy" next to Mr. Simpson's name on the Daily Tour Schedule dated May 3, 2006 and wrote "G-boy" on Mr. Simpson's name tag which identifies his storage space in the communal break room.
4. On or about July 6, 2006, two male co-workers told management that your behavior in the communal break room was offensive to them.
5. On or about July 19, 2006 you were contacted by State Capital Museum Supervisors Craig Adams and Jeffrey Dowd, who told you that you were being sent home on administrative leave for the remainder of the day due to allegations of inappropriate behavior, and to schedule a meeting with the Museum Director for the following day. During this meeting you became insubordinate, raising your voice angrily at the supervisors, referring to the complaint as "bull." Furthermore, you aggressively pointed your finger at the supervisors and refused to discuss with them the setting up of a later meeting.
6. On or about the dates between August 5, 2005 and June 27, 2006, you failed to report to work as scheduled 39 times. These absences included a combination of reporting to work late, calling in sick, and leaving work early.

On those dates you reported to work late, you were more than 30 minutes tardy.

Late to Work – Called In

Sick – Called In

August 5, 2005

August 10, 2005

August 12, 2005

August 11, 2005

August 23, 2005

September 22, 2005

August 30, 2005

November 21, 2005

September 2, 2005

January 2, 2006

September 5, 2005

March 13, 2006

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September 6, 2005

September 26, 2005

October 12, 2005

October 28, 2005

Left Work Early

November 2, 2005

August 5, 2005

November 3, 2005

September 3, 2005

December 14, 2005

September 6, 2005

January 9, 2006

September 26, 2005

January 16, 2006

October 13, 2005

January 30, 2006

November 4, 2005

February 3, 2006

February 17, 206

February 16, 2006

March 20, 2006

February 20, 2006

April 28, 2006

March 13, 2006

May 12, 2006

March 22, 2006

June 16, 2006

March 27, 2006

V

**OTHER MATTERS**

1. On or about October 1, 2005, your supervisor, Janet Wickett, Guide Supervisor II, held a Corrective Interview with you to discuss your job performance. Discussed was your attendance, specifically sick leave abuse and your failure to report to work on time. Also discussed was your job performance while conducting tours of the State Capitol Museum. Specifically, you seemed lethargic and had to interrupt tours on several occasions to use the restroom. This is evidenced by a complaint received by e-mail from an offended member of the public. You were informed that your actions were unacceptable and would not be tolerated. You were told that any reoccurrence of that type of behavior could result in disciplinary action.

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2. On or about February 20, 2006 you were given a formal counseling by your supervisor, Janet Wickett, Guide Supervisor II, in regard to your repetitive failure to report to work on time as scheduled. You were advised that any further violations will result in disciplinary action.
  
3. On or about November 3, 2005, you were served a Notice of Adverse Action resulting in a salary reduction of five (5) percent for one pay period. The action was taken against you for causes set forth in the following subsections of Government Code 19572:
  - (d) Inexcusable neglect of duty
  - (e) Insubordination
  - (o) Willful disobedience
  - (t) Other failure of good behavior either during or outside of duty hours which is of such a nature that it causes discredit to the appointing authority or the person's employment

This notice of Adverse Action was a result of you violating Museum Guidelines by repeatedly leaving your exhibit room assignments, thereby compromising priceless and non-replaceable artifacts, and by you bringing consumable liquids into this space and compromising artifact safety.

4. On or about May 5, 2003, the Department's Sexual Harassment and Sexual Orientation policies were explained to you by supervisor Max Harrington in a training session. On or about May, 1999, you attended Human Rights/EEO training during the Department's Introduction to California State Parks (Group 20) training session.

**VI**

**APPEAL RIGHTS**

**A. Right to Respond to Appointing Power.**

As an employee with permanent civil service status, and in accordance with State Personnel Board Rule 52.3, you are entitled to a minimum of five (5) working days within which to respond to this notice. You may respond orally or in writing prior to August 15, 2006, which is the effective date of this action. If you wish to respond, you may do so to:

Northern Field Division Chief

1108 O Street, 5<sup>th</sup> floor, Sacramento, CA 95814

(916) 222-2222

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You are entitled to a reasonable amount of State time to prepare your response to the charges. You are entitled to a formal hearing with examination of witnesses at this stage of the proceedings. However, you may be represented by another in presenting your response. The appointing power may amend, modify, or revoke any or all of the foregoing charges, including the adverse action.

**B. Right to Appeal to the State Personnel Board**

Regardless of whether you respond to these charges to the appointing power, you are advised that you have the right to file a written answer to this notice with the State Personnel Board, 801 Capital Mall, Sacramento, California 95814, not later than thirty (30) calendar days after the effective date of this action. An answer shall be deemed to be a request for a hearing or investigation as provided in Section 19575 of the Government Code. If you answer as provided, the Board or its authorized representative shall, within a reasonable time, hold a hearing and shall notify the parties of the time and place thereof. If you fail to answer within the time specified, the adverse action taken by the appointing power shall be final.

**You are responsible for notifying the State Personnel Board and the Department of Parks and Recreation of any changes in your address that occurs after the effective date of this adverse action.**

**C. Right to Inspect Documents**

Copies of any documents or other materials giving rise to this adverse action are available for your inspection.

Date:

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Donald L. Perrson, Capital District Superintendent

cc: Headquarters, Personnel Office

District Personnel File