

Action: **Nonpunitive Termination/Demotion Transfer
(License Revocation/Restriction)**

Authority: Government Code sections 18670 - 18683 and 19585; California Code of Regulations, title 2, sections 51.1 - 52.10 and 446

Filing Deadline: 30 Days after Receipt

A department may nonpunitive terminate, demote or transfer an employee who fails to meet a requirement for continuing employment, for example, when an employee's driver's or occupational license, certificate, registration, or other professional qualification is revoked or restricted and that license, certificate, registration or qualification is a minimum qualification for the job. A nonpunitive action is not considered to be discipline or an adverse action.

The department must provide written notice to the employee at least five days before the non-punitive termination, demotion, or transfer. Within 30 days after receipt of the notice, the employee may file an appeal with the SPB Appeals Division. The employee's appeal will be heard by an ALJ at an evidentiary hearing. During the evidentiary hearing, the department will have the burden of proving that the employee failed to meet a requirement for continuing employment, and the employee will have the burden of proving that the nonpunitive termination was improper.

After reviewing all the evidence presented during the evidentiary hearing, the ALJ will prepared a proposed decision, which will be reviewed by the Board at one of its regularly scheduled bi-monthly Board meetings.

If the Board sustains a nonpunitive termination, when the employee again meets the requirements for employment, the employee may apply for reinstatement with the department. Reinstatement by the department is permissive, and not mandatory.