

# Determining Cause in Discipline and Discharge Cases: Questions to Guide your Investigation

## SkillBrief

1. Due process
  - a. Was there a fair and objective investigation?
2. Did the investigation turn up substantial evidence of wrongdoing? Can the state of California meet its burden of proof?
  - a. Clear and convincing evidence
  - b. Preponderance of evidence
  - c. Evidence sufficient to convince a reasonable mind
  - d. Evidence beyond a reasonable doubt
3. Did the state have evidence prior to issue the discipline?
4. Did the punishment fit the crime? How serious was the offense and was this a first violation?
5. Did the state use progressive discipline?
6. Did the employee understand the consequences of his/her actions? Was s/he warned in advance?
7. Are management's rules reasonable? Are they clearly related to the efficiency or safety of operations?
8. Were the rules posted, communicated, and understandable?
9. Were the rules applied consistently and fairly?
10. Are there extenuating circumstances?
  - a. Length of service
  - b. Previous work record
  - c. Unfair treatment
  - d. Lax enforcement
  - e. Reasonable explanations
  - f. Provoked or uncontrollable situation