

Date of Hearing: April 8, 2021

ASSEMBLY COMMITTEE ON HIGHER EDUCATION  
Jose Medina, Chair  
AB 1383 (Carrillo and Santiago) – As Amended March 25, 2021

**SUBJECT:** Community colleges: academic employees: involuntary administrative leave.

**SUMMARY:** Specifies the timeframe in which a community college (employer) must complete its investigation and initiate disciplinary proceedings against, or reinstate the academic employee accused of misconduct. Specifically, **this bill:**

- 1) Specifies that within 90 working days of placing a community college academic employee on involuntary paid administrative leave, the employer should complete its investigation of the accused misconduct and initiate disciplinary proceedings against, or reinstate, the employee unless the period of paid administrative leave is extended by agreement of the employee and employer.
- 2) Specifies the extension of the agreement, as enumerated in (1) above, may not exceed 30 calendar days.
- 3) Defines, for purposes of this subdivision, “working days” to mean Monday through Friday and does not include weekends and state holidays.
- 4) Makes clarifying and technical changes to existing law.

**EXISTING LAW:**

- 1) Defines "academic employee" as a person employed by a community college district in an academic position for which minimum qualifications have been established by the California Community Colleges (CCC) Board of Governors (Education Code (EC) Section 87001).
- 2) Requires at least two business days before an academic employee of the CCC is placed on involuntary paid administrative leave, the employee to be notified in writing of the general nature of the allegation or allegations of misconduct upon which the decision to place the employee on involuntary paid administrative leave is based. Specifies that within 90 days of placing an academic employee on involuntary paid administrative leave, the employer should complete its investigation of the accused misconduct and initiate disciplinary proceedings against, or reinstate the employee. For purposes of this section, defines “paid administrative leave” as a temporary leave from a job assignment, with pay and benefits intact (EC Section 87623).
- 3) Itemizes, via Article 4 Section 87660, et seq. of the EC, the various rules and governance that community college districts must adhere to when evaluating and disciplining faculty; including, but not limited to:
  - a) Specifies that during the school year, all contract and regular employees are subject to dismissal and the imposition of penalties on the grounds and pursuant to the procedures established (EC Section 87666);

- b) Stipulates that a contract or regular employee may be dismissed or penalized for one or more of the grounds established in Section 87732 of the EC (EC Section 87667);
- c) Specifies that a governing board may impose one of the following penalties: a) Suspension for up to one year; and, b) Suspension for up to one year and a reduction or loss of compensation during the period of suspension (EC Section 87668);
- d) Requires that the governing board shall determine whether a contract or regular employee is to be dismissed or penalized. If the employee is to be penalized, the governing board shall determine the nature of those penalties. If the employee is to be dismissed or penalized, the governing board shall determine whether the decision shall be imposed immediately or postponed in accordance with Section 87672 of the EC (EC Section 87669);
- e) Specifies that a contract or regular employee may be dismissed or penalized if one or more of the grounds set forth in Section 87732 are present and the following are satisfied: a) The employee has been evaluated in accordance with standards and procedures established in accordance with the provisions of this article; b) The district governing board has received all statements of evaluation which considered the events for which dismissal or penalties may be imposed; c) The district governing board has received recommendations of the superintendent of the district and, if the employee is working for a community college, the recommendations of the president of that community college; and, d) The district governing board has considered the statements of evaluation and the recommendations in a lawful meeting of the board (EC Section 87671);
- f) Requires that if a governing board decides it intends to dismiss or penalize a contract or regular employee, it shall deliver a written statement, duly signed and verified, to the employee setting forth the complete and precise decision of the governing board and the reasons therefor. The written statement shall be delivered by serving it personally to the employee or by mailing it by United States registered mail to the employee at his or her address last known to the district. A governing board may postpone the operative date of a decision to dismiss or impose penalties for a period not to exceed one year, subject to the employee's satisfying his or her legal responsibilities as determined by statute and rules and regulations of the district. At the end of this period of probation, the decision shall be made operative or permanently set aside by the governing board (EC Section 87672); and,
- g) Stipulates that no regular employee or academic employee shall be dismissed except for one or more of the following causes: a) Immoral or unprofessional conduct; b) Dishonesty; c) Unsatisfactory performance; d) Evident unfitness for service; e) Physical or mental condition that makes him or her unfit to instruct or associate with students; f) Persistent violation of, or refusal to obey, the school laws of the state or reasonable regulations prescribed for the government of the community colleges by the board of governors or by the governing board of the community college district employing him or her; g) Conviction of a felony or of any crime involving moral turpitude; and, h) Conduct as specified in Section 1028 of the Government Code (EC Section 87732).

*Existing law case:* In *Skelly v. State Personnel Board* (1975) 15 Cal. 3d 194, the California Supreme Court ruled that, as part of constitutionally guaranteed due process, public employees are entitled to certain procedural safeguards before discipline which is sufficiently severe to constitute a deprivation of a liberty or property right is imposed on them. The due process rights of Skelly are not required when an employee is placed on involuntary paid administrative leave.

**FISCAL EFFECT:** Unknown. This bill is keyed non-fiscal by the Legislative Counsel.

**COMMENTS:** *Purpose of the measure.* Existing law specifies that an employer should complete its investigation of the accused misconduct and initiate disciplinary proceedings against, or reinstate the CCC academic employee within 90 days of placing the employee on involuntary paid administrative leave. The author contends that due to the COVID-19 pandemic and with most employees teleworking/working remotely, it has been challenging for CCC districts to comply with the 90 day provisions. Further, existing law does not define what constitutes 90 days.

The author states, “In the wake of COVID-19 and given that a vast majority of employees are working remotely the complexity of gathering information, conducting interviews, and compiling information has been a challenge. AB 1383 provides much needed relief during these difficult times and enables employers to complete a thorough investigation that is fair to both the accuser and the accused.”

This measure specifies that the 90 days employers have in order to conduct an investigation should be “working days.” Additionally, this measure provides more time to conduct personnel investigations if both parties agree to extend the investigation period. The extended time may not exceed 30 calendar days.

*Prior legislation.* AB 2931 (Santiago) of 2020, which died for a lack of a hearing in this Committee, due to the Legislative Calendar disruptions due to the COVID-19 pandemic, was virtually identical to this measure.

AB 1651 (Reyes), Chapter 765, Statutes of 2017, which, in part, required academic employees of the CCC to be provided with information on all relevant complaints or allegations against them before being placed on administrative leave.

AB 2559 (Eggman) of 2014, which died in this Committee for lack of a hearing, in part, proposed that existing statutory procedures and processes in place for a CCC faculty member who is suspended would also apply to involuntary leave, whether or not paid.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

Los Angeles Community College District (Sponsor)

### **Opposition**

None on file.

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