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| BRYAN AREBALO<br>v.<br>CALIFORNIA DEPARTMENT OF STATE HOSPITALS<br><br>Appeal from Dismissal | Case No. 25-1030<br><br>**BOARD RESOLUTION AND ORDER DESIGNATING ADOPTED DECISION AS A PRECEDENTIAL DECISION** |

**BEFORE**: Kathy Baldree, President; Kimiko Burton, Vice President; Dr. Gail Willis, Ana Matosantos, and Shawnda Westly, Members[1]

On March 9, 2026, the State Personnel Board (Board) adopted the Proposed Decision filed by the Administrative Law Judge in the appeal by Bryan Arebalo (Appellant), from dismissal imposed by California Department of State Hospitals.

The Proposed Decision provided a thoughtful and well-reasoned analysis of the requirement that employers formally grant transactional immunity to firefighters who face interrogation on conduct that may result in self-incrimination under the Firefighters Procedural Bill of Rights Act (FBOR), Government Code section 3253, subdivision (e). There are no other precedential decisions providing a thorough discussion of transactional immunity and the impact of failure to properly grant it under the FBOR.

The Board finds it appropriate to designate the adopted Proposed Decision issued on March 9, 2026, as precedential under Government Code section 19582.5.

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[1] Member Westly was not in attendance and did not participate in this matter.

**IT IS RESOLVED AND ORDERED THAT:**

1. The Board designates the attached adopted Proposed Decision as a precedential decision under Government Code section 19582.5;

3. The precedential decision shall be designated as SPB Dec. No. 26-01 in the Board's precedential decision numbering system; and

4. The precedential decision shall be uploaded and maintained in the Board's records, website, and other legal online publications as may be available or applicable.

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**STATE PERSONNEL BOARD**

The foregoing Board Resolution and Order was made and adopted by the State Personnel Board during its meeting on March 9, 2026, as reflected in the record of the meeting and Board minutes.

Suzanne M. Ambrose

SUZANNE M. AMBROSE
Executive Officer

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| BRYAN AREBALO<br>v.<br>CALIFORNIA DEPARTMENT OF STATE HOSPITALS<br><br>Appeal from Dismissal | Case No. 25-1030<br><br>Proposed Decision |

## STATEMENT OF THE CASE

This matter came on regularly for hearing before Administrative Law Judge (ALJ) Douglas A. Purdy, State Personnel Board (SPB or Board), on January 12-14, 2026, via Webex videoconference. The matter was submitted after oral closing arguments on January 14, 2026.

Appellant Bryan Arebalo (Appellant) was present and represented by Ovidio Oviedo, Jr., Oviedo Law Group, Inc.

Respondent California Department of Corrections State Hospitals (Respondent or DSH) was present and represented by Niloofar Rezvanpoor, Attorney III, DSH.

Respondent dismissed Appellant, a Fire Chief, effective August 11, 2025. In the Notice of Adverse Action (NOAA), Respondent alleged: on February 6, 2025, as several Fire Fighters were entering the fire station kitchen area, Appellant told them to get out, forcefully pushed one Fire Fighter away, and slapped another Fire Fighter; and, on March 4, 2025, when a Fire Fighter told Appellant that he had contacted a vendor about a purchase order, Appellant used profanity toward the Fire Fighter and threatened to slap him if he did it again.[1]

[1] The NOAA also originally contained several allegations pertaining to witness interviews. Prior to hearing, however, Appellant filed a motion to dismiss the NOAA for failure to provide adequate notice of the charges against him. In an order dated December 1, 2025, the SPB denied Appellant's motion to dismiss the NOAA

Appellant denied the allegations. In addition, Appellant asserted as an affirmative defense that Respondent violated his rights under Government Code section 3253, subdivisions (c) and (e) of the Firefighters Procedural Bill of Rights Act (FPBRA).

## ISSUES

The issues to be resolved are:

1. Did Appellant establish, as an affirmative defense, that Respondent violated his rights under Government Code section 3253, subdivisions (c) and (e), of the FPBRA, and, if so, what is the remedy?
2. Did Respondent prove by a preponderance of the evidence that Appellant committed conduct constituting cause for discipline under one or more of the following subdivisions of Government Code section 19572: (m) discourteous treatment, or (t) other failure of good behavior?
3. If Appellant's conduct constitutes cause for discipline under Government Code section 19572, what is the appropriate penalty?

## FINDINGS OF FACT

A preponderance of the evidence proves the following facts:

1. In July 1999, Appellant began his state civil service career as a Fire Fighter I with the California Department of Forestry and Fire Protection. Over the years, Appellant held Fire Fighter II and Firefighter/Security Officer positions with various agencies.

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in its entirety but granted Appellant's motion to dismiss the allegations pertaining to witness interviews for failure to provide adequate notice.

2. In September 2013, Appellant transferred to DSH's Atascadero State Hospital (Atascadero) and began working there as a Fire Fighter. In February 2019, Appellant promoted to Fire Chief at Atascadero.

3. Appellant has no prior adverse actions.

DSH Policies

4. DSH's Administrative Directive No. 103 (AD 103) prohibited horseplay, required employees to be courteous, and prohibited employees from engaging in verbal or physical aggression toward other employees.

5. Atascadero Fire Department Procedure 1023 (Procedure 1023) prohibited employees from engaging in violent behavior or making direct or implied threats of violence in the workplace. Procedure 1023 also required supervisors and managers to gather information about reports of workplace violence, notify law enforcement, and take appropriate disciplinary action.

6. DSH's Injury and Illness Prevention Program prohibited employees from hitting, shoving, or threatening other employees. The Injury and Illness Prevention Program also required supervisors and managers to model appropriate safe behavior, correct safety issues, and take appropriate disciplinary actions when employees commit unsafe practices.

7. At all relevant times, Appellant was aware of the policies discussed above.

Prior Counseling

8. At all relevant times, Appellant's supervisor was Atascadero Police Chief Ramon Cervantes (Chief Cervantes).

9. In December 2023, Chief Cervantes issued Appellant a written counseling which alleged that Appellant made discourteous statements to his subordinate staff and directed Appellant to be courteous and refrain from verbal or physical aggression. The written counseling cited AD 103.

Appellant's Duties

10. Appellant's duties included directing firefighting services, supervising Fire Fighters, overseeing testing and inspection of fire alarm and sprinkler equipment at Atascadero, responding to emergency calls, and maintaining and updating policies.

Atascadero Fire Station Staff

11. Appellant supervised Fire Fighters Andrew Neely (Neely), Andrew Cabrera (Cabrera), Augustine Chavez (Chavez), Dimitri Cullors (Cullors), Gustavo Avalos (Avalos), and Hamilton (Hamilton)[2]. Usually, two Fire Fighters were on duty at a time.

12. Neely began working as a full-time Atascadero Fire Fighter in September 2016, Cabrera began in 2019, Avalos began in 2019, Chavez began in 2024, and Cullors began in 2024.

13. Neely considered Appellant to be a mentor when Neely first began working as a Fire Fighter and he believed that Appellant pushed him to be a better Fire Fighter. However, Neely also believed that Appellant could be rough and

[2] Fire Fighter Hamilton was not a witness at hearing and the record did not establish his first name.

abrasive at times, and that Appellant was sometimes in a good mood and sometimes in a bad mood when at work.

14. Neely and Appellant occasionally socialized outside of work. Appellant helped Neely move into a new residence on one occasion. Appellant and Neely texted each other about their mutual interests in cooking and in maintaining their personal pickup trucks, in addition to work-related matters. Neely continued to participate in these text exchanges after February 6, 2025.

15. Cabrera thought that Appellant was sometimes in a good mood and sometimes in a bad mood when at work. Cabrera's first shift partner was Neely, and the two occasionally socialized and texted each other outside of work. In 2024 and 2025, however, Cabrera's regular shift partner was Hamilton.

16. Chavez and Cullors usually worked together as shift partners. Chavez believed that he had a good working relationship with Appellant. Cullors believed that he had a good relationship with Appellant and that Appellant generally looked out for him, but their relationship "had its ups and downs."

17. Atascadero Fire Fighters worked closely together, often were on duty for 48 hours at a time, and lived together at the Fire Station when on duty.

Fire Station Layout

18. The Atascadero Fire Station had two engine bays, sleeping quarters, a kitchen, a living room, and a radio room. The radio room and kitchen shared a common wall, and each connected to the living room. If facing the radio room and kitchen from the living room, the door to the radio room was ahead to the left and the kitchen was ahead to the right. One could pass through the radio room

to a door that led to an engine bay. The kitchen had a counter that ran along part of the wall that separated the radio room from the kitchen. If facing the radio room and kitchen from the living room, a doorway to the right led to the sleeping quarters, restroom, and another entrance to the same engine bay that connected to the radio room. The door between the living room and radio room was often propped open.

19. In addition to the counter, the kitchen had a stove, refrigerator, sink, and cabinets. The Fire Fighters regularly used the kitchen to prepare food to eat at the Fire Station.

20. A dining room table with four wooden chairs was in the area separating the living room from the kitchen and radio room. The radio room had two rolling office chairs which the Fire Fighters moved to the dining room table if needed for additional seating.

21. The living room had a couch and two recliners.

February 6, 2025, Incident

22. Atascadero was required to regularly inspect and service the fire extinguishers on the hospital grounds. Appellant scheduled the project for February 6, 2025, and authorized some overtime Fire Fighter positions for that purpose. The work included retrieving fire extinguishers from various locations throughout the hospital grounds, temporarily replacing them, and bringing the extinguishers to the Fire Station to be inspected and serviced.

23. Neely, Cabrera, Chavez, and Cullors worked on February 6, 2025, and assisted with the fire extinguishers project.

24. Approximately once a month, Appellant treated his staff to lunch by either purchasing food or preparing food in the kitchen. On occasion, to surprise his employees, Appellant did not announce ahead of time that he was doing so.

25. Appellant decided to prepare lunch for his staff on February 6, 2025, and decided to serve chili dogs and chips, but did not announce to his staff that he intended to do so. That morning, Appellant drove to the grocery store to purchase the necessary items and returned to the Fire Station. At some point after returning to the Fire Station, Appellant began preparing the lunch.

26. At some point that morning before the lunch was prepared, Neely, Cabrera, Chavez, and Cullors returned to the Fire Station from the hospital grounds to exchange the fire extinguishers and get some water.

27. Neely entered the area near the kitchen counter and dining table from the door that leads to the restroom and sleeping quarters. At approximately the same time, Cabrera, Chavez, and Cullors entered the radio room from the engine bay in order to enter the living room and kitchen area. Cabrera, Chavez, and Cullors walked roughly single file, with Cabrera in the front, Chavez a couple of feet behind Cabrera, and Cullors a couple of feet behind Chavez. Appellant was standing near the edge of the kitchen counter closest to the dining table and the door that led from the living room into the radio room.

28. Appellant was facing the radio room at an angle from the area between the radio room and kitchen as Cabrera walked through the propped open door from the radio room to the living room. When Cabrera was an arms-length away from Appellant, Appellant used his hands to forcefully shove Cabrera backward

and yelled, "Get out, get out, get the fuck out." As Appellant shoved Cabrera, his right arm was retracted and his left arm was extended.

29. As a result of the shove, Cabrera stumbled backward and bumped into Chavez behind him. Likewise, the force of Cabrera bumping into Chavez caused Chavez to stumble backwards and collide with Cullors.

30. After shoving Cabrera, Appellant turned and slapped Neely's face with an open hand.

31. Neely, Cabrera, Chavez, and Cullors left the area.

32. Later, Neely, Cabrera, Chavez, and Cullors returned to the Fire Station to eat the lunch prepared by Appellant. Appellant and the four Fire Fighters ate at the dining table. After eating, Cullors and Chavez assisted with cleaning up and Appellant, Neely, and Cabrera sat in the living room area. During the lunch, no one discussed the shoving and slapping incidents.

Neely's Discussion with Avalos

33. A few days after February 6, 2025, Neely and Avalos were both at the Fire Station, and Neely told Avalos that he wanted to discuss an incident. Neely told Avalos that Appellant had slapped him a few days earlier, but he felt reluctant to report it. Avalos told Neely that he (Avalos) would need to report the incident if Neely did not.

34. Several days later, Avalos reported Neely's statement to Chief Cervantes. Chief Cervantes contacted various DSH law enforcement personnel and asked a police chief from another DSH location to investigate the matter.

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35. DSH Investigator Morgan[3] conducted a criminal investigation into Appellant's conduct as a potential assault or battery. Investigator Morgan held interviews with several witnesses, including Neely, Chavez, Cabrera, and Cullors. Investigator Morgan's interview with Neely was on March 4, 2025.

March 4, 2025, Incident with Neely

36. At some point before March 4, 2025, the Atascadero Fire Station was having difficulty trying to procure golf carts. On March 4, 2025, Neely had a discussion with a golf cart vendor and was able to resolve the procurement issue.

37. Later that day, Neely went to Appellant's office to tell him that the golf cart procurement issue was resolved. Appellant told Neely, "If you ever go around me again I will slap you in the face."

DSH Investigation

38. In April 2025, Investigator Morgan contacted Appellant on at least two occasions and asked if he could talk to Appellant. Appellant asked Investigator Morgan what he wanted to talk about but Investigator Morgan did not say. Appellant said that he wanted his attorney present. Appellant ultimately declined to be interviewed as part of the criminal investigation and was not ordered to do so.[4]

39. DSH subsequently assigned Investigator Laura Cook (Investigator Cook) to conduct an administrative investigation into the shoving and slapping

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[3] The record did not establish Investigator Morgan's first name.
[4] The ALJ draws no adverse inference against Appellant for declining to be interviewed by Investigator Morgan.

allegations. Investigator Cook scheduled an investigatory interview with Appellant to be held on May 6, 2025.

40. Prior to May 6, 2025, Investigator Cook issued Appellant written notice that he was required to appear for the interview. The notice stated that the interview would concern "Mistreatment of subordinate staff," but provided no other details about the allegations or the scope of the interview.

41. Appellant and his attorney arrived on May 6, 2025, for the scheduled interview. Investigator Cook gave Appellant another written notice concerning the interview. The May 6, 2025, notice again described the scope of the interview as "Mistreatment of subordinate staff."

42. In pertinent part, the May 6, 2025, notice stated:

> You are hereby directed to answer all questions honestly and completely. Your refusal to answer … or lack of cooperation on your part, could constitute insubordination and/or inexcusable neglect of duty, and result in disciplinary action up to an including dismissal. Neither your statement nor any information or evidence which is gained by reason of such statement can be used against you in any criminal proceedings. No promise or reward will be made as an inducement for the answer to any question.

43. Before the interview commenced, Appellant's attorney stated that the scope of the interview in the notice was not clear and asked for more specificity. Investigator Cook told Appellant and his attorney that the investigation pertained to allegations that Appellant was physically aggressive with staff on February 6, 2025.

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44. Appellant and his attorney then took a short break to confer before the interrogation started. After the break, Investigator Cook asked Appellant questions about the February 6, 2025, incident.

Neely's Formal Complaints

45. On June 2, 2025, Neely submitted a DSH Employee Threat Report in which he described Appellant's March 4, 2025, statement.

46. On June 3, 2025, Neely submitted a DSH Workplace Incident Report in which he described the events of February 6, 2025.

Neely's Promotion

47. Appellant was dismissed effective August 11, 2025. At some point, Neely applied for the vacant Atascadero Fire Chief position and was appointed to it.

## CREDIBILITY DETERMINATION

Appellant testified that he did not shove Cabrera or slap Neely on February 6, 2025, and that he did not threaten to slap Neely on March 4, 2025. Appellant's testimony conflicted with other witnesses' testimony. Resolving the conflicting testimony requires a credibility determination, using the criteria set forth in Evidence Code section 780. When determining credibility, the trier of fact may consider "any matter that has any tendency in reason to prove or disprove the truthfulness of [the witness's] testimony," including witness demeanor; character of testimony; extent of the witness's ability to perceive, recollect or communicate any matter about which she or he testifies; the existence or nonexistence of bias, interest, or other motive; prior consistent or inconsistent statements; the existence or nonexistence of any fact testified to by the witness; and the witness's attitude toward the action or testimony. (Evid. Code, § 780, subds. (a)–(d), (f)–(j).) When

a witness testifies falsely as to some matters, some or all of his other testimony may be disregarded, whether contradicted or not. (*Halagan v. Ohanesian* (1967) 257 Cal.App.2d 14, 21.)

Neely testified to Appellant shoving Cabera and slapping him on February 6, 2025, and making the threatening statement to him on March 4, 2025. Some factors called Neely's credibility into question. He testified that the February 6, 2025, incident occurred at approximately 10:00 a.m., while other witnesses placed the event at approximately noon. Neely's continued personal texting exchange with Appellant after the February 6, 2025, incident, and his delay in reporting the matter, raise questions about why he would continue to maintain a social relationship with a supervisor who slapped him, and why he would wait so long to report serious incidents. Yet, Neely's reaction could also be explained as an employee who had mixed feelings and disbelief about a supervisor whom he previously regarded as a mentor. Furthermore, the facts that Neely thought Appellant could be abrasive at times and that Neely promoted to the vacant Fire Chief position are insufficient to raise the inference that Neely had a motive to fabricate or exaggerate his testimony.

Other factors weighed more strongly in favor of Neely's credibility. He testified in a clear, consistent, calm, and direct manner, and demonstrated a good recollection of the essential events. Other than the two-hour discrepancy as to when the February 6, 2025, incident occurred, Appellant's testimony was consistent in the essential details with the accounts of Cabrera, Chavez, and Cullors. Neely's testimony did not seem exaggerated. In addition, Neely's testimony about the February 6, 2025, incident was consistent with his statement to Avalos a few days after the incident. Also, it is plausible that Appellant

could have been irritated or angry with Neely on March 4, 2025, the day Neely was interviewed by Investigator Morgan, and that this contributed to Appellant's outburst against Neely.

Cabrera testified that on February 6, 2025, Appellant shoved him and told him to "get out of here, get the fuck out of here;" that he heard a slap; and that he saw Neely's face move as if just slapped. Cabrera testified in a clear, consistent, calm, and direct manner, and demonstrated a good recollection of the essential events. Cabrera testified that Appellant had good days and bad days, but Cabrera's testimony did not indicate that he strongly disliked Appellant, or would fabricate or exaggerate his testimony in a manner unfavorable to Appellant.

Chavez testified that on February 6, 2025, he was in the radio room walking behind Cabrera toward the living room when Appellant pushed Cabrera, causing Cabrera to bump into Chavez, and Appellant yelled, "get out." Chavez also testified that he heard a slap or clap but did not see it. He also testified that he later saw that Neely's face appeared to be red, but he explained that it was not unusual for Neely's face to be flushed red. Chavez testified in a clear, consistent, calm, even-handed, and direct manner, and demonstrated a good recollection of the essential events. The evidence did not demonstrate that Chavez harbored any bias against Appellant – to the contrary, Chavez testified to having a good relationship with Appellant. Chavez had no apparent interest in the outcome of the matter.

Cullors testified that on February 6, 2025, as he was walking through the radio room, he heard someone say, "get out," and Chavez stumbled backward into him. Cullors acknowledged that he did not know who said, "get out," and that he was texting his wife

while walking. Cullors also testified in a clear, consistent, calm, unexaggerated, and direct manner, and demonstrated a good recollection of the essential events. His testimony did not indicate that he harbored any bias against Appellant or had any interest in the outcome of the matter.

The testimonies of Neely, Cabrera, Chavez, and Cullors differed somewhat in minor details, such as who, if anyone, performed what tasks to assist with the preparation of the lunch, or the precise position of Chavez in relation to the radio room door when Appellant shoved him. However, those minor differences about inconsequential details did not impair their credibility. In a Fire Station where preparing food in the kitchen was a common occurrence, it is not surprising that witnesses might not recall the specific details of food preparation on February 6, 2025. Also, although the witnesses had slightly different estimates as to Chavez's position when Appellant shoved him, they consistently placed him near the radio room door into the living room. On the whole, the testimonies of Neely, Cabrera, Chavez, and Cullors were consistent with each other, and did not appear to be the result of witnesses colluding in their testimonies.

Appellant mostly testified in a clear, calm, and consistent manner. However, he also offered what appeared to be vague, conclusory, and speculative testimony that the adverse action somehow resulted because a prior Fire Fighter, Eugene Chambers (Chambers) spearheaded an effort to get the Atascadero Fire Fighters "riled up." Appellant also testified to his belief that Avalos hosting a barbecue at the Fire Station without notifying or inviting him demonstrated that Avalos was somehow conspiring with the other Fire Fighters against him. Yet Appellant acknowledged that he was on a medical leave of absence at the time of the barbecue. Appellant's testimony on this point

appeared to overlook the obvious and logical explanation that he was not invited because he was absent from the Fire Station.

Finally, Appellant testified that in February 2025 he was very overweight and not agile enough to shove Cabrera and then quickly slap Neely. Appellant was not working under any physical restrictions at the time. Also, the radio room door was almost immediately adjacent to the kitchen counter. Although the shove and slap were close in time, the evidence did not demonstrate that the slap happened so quickly after the shove that only someone with extreme agility could do both. Appellant's testimony on this point seemed exaggerated and improbable.

For the reasons discussed above, the testimonies of Neely, Cabrera, Chavez, and Cullors are credited, and Appellant's testimony is not.

## PRINCIPLES OF LAW AND ANALYSIS

In a disciplinary appeal, the appointing power bears the burden to prove by a preponderance of the evidence that the employee committed the charged conduct and that the conduct constitutes a cause of discipline under the applicable subdivisions of Government Code section 19572. (*California Correctional Peace Officers Assn. v. State Personnel Bd.* (1995) 10 Cal.4th 1133, 1153; Evid. Code, § 115; see also *Lyle Q. Guidry* (1995) SPB Dec. No. 95-09.) However, the party asserting an affirmative defense has the burden of proving the elements of that affirmative defense. (*Ladd v. Warner Bros. Entertainment, Inc.* (2010) 184 Cal.App.4th 1298, 1310.) A preponderance of the evidence is "evidence that has more convincing force than that opposed to it." (*Glage v. Hawes Firearms Co.* (1990) 226 Cal.App.3d 314, 324.)

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In determining whether there is a preponderance of evidence, the trier of fact may consider direct and circumstantial evidence, and consider reasonable inferences drawn from that evidence. (*Leslie G. v. Perry & Associates* (1996) 43 Cal.App.4th 472, 483.) An inference is a "deduction of fact that may logically and reasonably be drawn from another fact or group of facts found or otherwise established" at hearing. (Evid. Code, § 600, subd. (b).) An inference must logically flow from other facts established in the proceeding. (See, e.g., *Contreras v. Dowling* (2016) 5 Cal.4th 394, 417.) A trier of fact cannot draw an inference based merely on suspicion, guesswork, or conjecture. (*People v. Davis* (2013) 57 Cal.4th 353, 360.)

Appellant's Affirmative Defense

At hearing Appellant's counsel articulated a defense that Respondent did not provide Appellant with a grant of immunity prior to his administrative interrogation in violation of Government Code section 3253, subdivision (e), and failed to provide sufficient notice of the nature of the investigation prior to the interrogation in violation of Government Code section 3253, subdivision (c). Appellant also presented evidence relevant to those defenses. Although Appellant's counsel did not specifically address those defenses in closing argument, Appellant sufficiently asserted the defenses during hearing.

The FPBRA defines "firefighter" to mean any firefighter employed by a public agency, regardless of rank. (Gov. Code, § 3251, subd. (a)(1).) Appellant was employed as a Fire Chief for DSH, and was therefore a "firefighter" within the meaning of the FPBRA. Accordingly, Appellant was entitled to the protections provided by the FPBRA.

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*Grant of Immunity Requirement*

In cases where a firefighter is being interrogated over matters that could lead to criminal charges, Government Code section 3253, subdivision (e)(1) imposes an immunity requirement. In pertinent part, subdivision (e)(1) states the following:

> The employer shall provide to, and obtain from, an employee a formal grant of immunity from criminal prosecution, in writing, before the employee may be compelled to respond to incriminating questions in an interrogation. Subject to that grant of immunity, a firefighter refusing to respond to questions or submit to interrogations shall be informed that the failure to answer questions directly related to the investigation or interrogation may result in punitive action.

The law generally recognizes two types of immunity: transactional immunity and use immunity. "Use immunity protects a witness only against the actual use of his compelled testimony and evidence derived directly or indirectly therefrom, while transactional immunity protects the person against all later prosecutions relating to matters about which he testifies." (*People v. Sutter* (1982) 134 Cal.App.3d 806, 813.) Government Code section 3253, subdivision (e)(1) does not state that the employee's statements, and evidence derived therefrom, cannot be used in criminal prosecution. Rather, Government Code section 3253, subdivision (e)(1) states that the employers shall provide "a formal grant of immunity from criminal prosecution."

The grant of immunity provided by Government Code section 3253, subdivision (e)(1) is distinguishable from the rights provided to peace officers under the analogous Public Safety Officers Procedural Bill of Rights Act (PSOPBRA), Government Code sections 3300 et seq., during interrogations. Government Code section 3303 does not mention immunity. In *Lybarger v. City of Los Angeles* (1985) 40 Cal.3d 822, the California Supreme Court reconciled a peace officer's duty to answer questions when interrogated

with the officer's right not to incriminate himself or herself during an interrogation. Specifically, the Court found that when questioning a peace officer about a matter that could lead to criminal charges against him or her, the employer must advise the peace officer that she or he is compelled to answer the questions, but the peace officer's answers cannot be used against him or her in a criminal prosecution. (*Lybarger v. City of Los Angeles*, *supra*, 40 Cal.3d at pp. 829-830.) The rights under *Lybarger* are characterized as use or derivative use immunity. (See, e.g., *People v. Singleton* (2010) 182 Cal.App.4th 1, 12.)

On the other hand, the FPBRA's Government Code section 3253, subdivision (e)(1) does not state that the employer must grant immunity only against using the employee's statements or evidence arising from those statements. Rather, Government Code section 3253, subdivision (e)(1) requires "a formal grant of immunity." In determining that no statute required a county employer to provide a deputy public defender with formal immunity before questioning him about matters that could lead to criminal charges, the California Supreme Court in *Spielbauer v. County of Santa Clara* (2009) 45 Cal.App.4th 704, cited Government Code section 3253, subdivision (e)(1) as an example of a statute that provided transactional immunity. (*Spielbauer v. County of Santa Clara, supra,* 45 Cal.App.4th at pp. 704, 717.) Accordingly, Government Code section 3253, subdivision (e)(1) requires the employer to provide transactional immunity when questioning a firefighter when the answers could incriminate that firefighter.

Here, Respondent first conducted a criminal investigation into potential assault or battery charges based on allegations that Appellant shoved and struck employees. Investigator Cook later interrogated Appellant about the same incident that gave rise to

the criminal investigation. Investigator Cook gave Appellant a written advisement that essentially constituted a *Lybarger* warning, i.e., compelling Appellant to answer but providing that his statements and evidence gained by such statements could not be used against him in criminal proceedings. Respondent offered Appellant use and derivative use immunity but not transactional immunity, and therefore did not comply with the requirements of Government Code section 3253, subdivision (e)(1).

The courts have recognized that the appropriate remedy for a violation of a peace officer's rights under the analogous PSOPBRA during an interrogation could include exclusion of any statement or other evidence arising from the interrogation. (*City of Los Angeles v. Superior Court (Labio)* (1997) 57 Cal.App.4th 1506, 1517; *Williams v. City of Los Angeles* (1988) 47 Cal.3d 195, 203, fn. 4.) Given the similar natures and similar aims of the FPBRA and PSOPBRA, evidence exclusion is an appropriate remedy for violation of a firefighter's FPBRA rights during an interrogation.

Accordingly, evidence of statements Appellant made to Investigator Cook are hereby excluded from consideration in this Proposed Decision. The findings contained in this Proposed Decision are made without regard to Investigator Cook's testimony about Appellant's statements to her during the interrogation.

*Notice of Nature of Investigation Requirement*

Government Code section 3253, subdivision (c) states, "[t]he firefighter under investigation shall be informed of the nature of any investigation prior to any interrogation."

Here, Respondent issued Appellant written notice before the investigation that the scope of the investigation was "mistreatment of subordinate staff." On the day of the

interrogation, Investigator Cook gave Appellant a document that identically described the scope of the investigation. Those notices gave no indication as to the type of mistreatment, which staff were mistreated, any approximate dates, or any other information. However, before the interrogation began, Investigator Cook told Appellant and his attorney that the investigation concerned allegations that Appellant was physically aggressive toward two employees on February 6, 2025, and Appellant and his attorney took a short break to confer before the interrogation began.

There apparently is no case law specifically interpreting how specific the notice must be regarding the "nature of any investigation" under Government Code section 3253, subdivision (c). Assuming for the sake of analysis that Respondent violated Appellant's rights under Government Code section 3253, subdivision (c), the appropriate remedy would be to exclude evidence of any statement or other evidence arising from the interrogation. Because that evidence is already excluded, however, it is unnecessary to determine whether Respondent violated Appellant's rights under Government Code section 3253, subdivision (c), and that affirmative defense is dismissed as moot.

Discourteous Treatment

Discourteous treatment generally includes conduct such as displaying hostility toward others, speaking in an abrasive tone, and having a brusque demeanor. (*Walker v. State Personnel Bd.* (1971) 16 Cal.App.3d 550.) Discourteous treatment also includes rude, demeaning, or condescending comments. (*Bill A. Balvanz* (1996) SPB Dec. 96-16; *Michael Prudell* (1993) SPB Dec. No. 93-30.) Striking another employee in the absence of self-defense or some other justification obviously constitutes discourtesy. (See, e.g., *Gary Sharp and Frankie J. Johnson* (1995) SPB Dec. No. 95-14.)

Appellant shoved Cabrera with enough force that he stumbled into Chavez, in turn causing Chavez to stumble into Cullors. As he shoved Cabrera, Appellant also yelled, "get out, get out, get the fuck out." In addition, Appellant slapped Neely and, on another occasion, threatened to slap him if he did not include Appellant in a decision. This conduct was extremely rude, hostile, and demeaning.

Accordingly, Appellant's conduct constitutes cause for discipline under Government Code section 19572, subdivision (m), and the charge of discourteous treatment is sustained.

Other Failure of Good Behavior

Other failure of good behavior is misconduct that can easily impair or disrupt the public service, or discredit the appointing authority or appellant's employment, so long as there is a rational relationship between the misconduct and the appellant's employment. *(D.M.* (1995) SPB Dec. No. 95-10.) An appointing power need not prove the conduct is known to the public to prove the conduct discredits the appointing authority or the appellant's employment. (*Orlandi v. State Personnel Bd.* (1968) 263 Cal.App.2d 32, 36 – 37.)

Appellant shoved Cabrera, used profanity toward Cabrera, slapped Neely, and later threatened to slap Neely again if Neely did something to displease him. The shove was hard enough to cause Cabrera and Chavez to stumble, and could have caused them injury. Appellant's slap to Neely also could have caused injury. Appellant's aggressive behavior easily could have impaired the Fire Station operations and caused the Fire Fighters to fear and distrust him. Appellant's conduct discredited his employment as a Fire Chief and DSH.

Appellant's conduct constitutes cause for discipline under Government Code section 19572, subdivision (t), and the charge of other failure of good behavior is sustained.

Penalty

The SPB has a constitutional responsibility to review disciplinary actions and render a decision that is "just and proper." (Cal. Const., art. VII, § 3 subd. (a); Gov. Code, § 19582, subd. (a).) In determining the appropriate penalty, the SPB considers the extent to which the employee's conduct resulted in, or if repeated is likely to result in, harm to the public service; the circumstances surrounding the offense; and the likelihood of recurrence of the employee's conduct. (*Skelly v. State Personnel Bd.* (1975) 15 Cal.3d 194.) The harm or potential harm to the public service is the overriding consideration. (*Ibid.*)

Harm to the public service occurs when an employee ignores or refuses to obey a clear departmental policy. (*W.M.* (1994) SPB Dec. No. 94-26, p. 11.) Appellant intentionally violated clear DSH policies prohibiting employees from hitting, shoving, or threatening other employees, prohibitions which are obvious in any workplace. Serious harm could have resulted from Appellant's conduct. His shoving and slapping could have caused injury to his employees, resulted in claims for any such injuries, and greatly undermined workplace morale. Dismissal is often the appropriate penalty for striking a coworker. (See, e.g., *Gary Sharp and Frankie J. Johnson, supra,* SPB Dec. No. 95-14; *Shapria F. Chapman* (1995) SPB Dec. No. 95-07.)

The circumstances surrounding Appellant's conduct weigh in favor of a stern penalty. As a supervisor, Appellant should have set an example for appropriate behavior

and ensured that employees complied with DSH policies prohibiting workplace violence. Instead, he violated those policies. Appellant treated his subordinate employees in a hostile manner. Discourtesy by a supervisor towards a subordinate employee warrants harsher punishment because the subordinate employee reasonably may feel too intimidated to respond. (*Walker*, *supra*, 16 Cal.App.3d at p. 553.)

There is a high likelihood that Appellant will engage in similar misconduct in the future. Although Appellant has no prior adverse actions, he received a written counseling in December 2023 that directed him to comply with AD 103, which required employees to be courteous, and prohibited employees from engaging in verbal or physical aggression toward other employees. Appellant should have taken care to conform his behavior to that requirement. Instead, a little more than a year later, Appellant cursed at, shoved, and slapped employees. Furthermore, at hearing, Appellant denied the conduct and testified to his belief that his firing somehow was the result of Chambers organizing the Fire Station employees against him. Appellant's lack of remorse or appreciation for the seriousness of his actions weighs in favor of a harsh penalty. (*Robert R. Watson* (1994) SPB Dec. No. 94-10.)

For the reasons discussed above, the serious harm to the public service, the circumstances surrounding his conduct, and the high likelihood of recurrence support dismissal as the appropriate penalty for Appellant's conduct.

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## CONCLUSIONS OF LAW

1. Appellant established an affirmative defense based on violation of his rights under Government Code section 3253, subdivision (e)(1), and evidence of his statements to Investigator Cook is excluded. Appellant's affirmative defense based on violation of his rights under Government Code section 3253, subdivision (c) is rejected as moot.
2. Respondent proved that Appellant's conduct constitutes cause for discipline under Government Code section 19572, subdivisions (m) discourteous treatment, and (t) other failure of good behavior.
3. Dismissal is a just and proper penalty for Appellant's conduct.

## ORDER

The dismissal taken against Bryan Arebalo is **SUSTAINED.**

DATED: January 26, 2026

Douglas A. Purdy
Administrative Law Judge
State Personnel Board

# PROOF OF SERVICE BY FIRST CLASS MAIL

Bryan Arebalo
[redacted]

**Re: Bryan Arebalo**
**SPB Case No.: 25-1030**
**Appeal from Dismissal**

I, Natalie Bradburn, declare:

I am over the age of 18 years and not a party to this action. I declare that I am employed by the California State Personnel Board, 801 Capitol Mall, Sacramento, California 95814.

- **BOARD RESOLUTION AND ORDER DESIGNATING ADOPTED DECISION AS A PRECEDENITAL DECISION/PROPOSED DECISION**

On March 25, 2026, I served the above documents on the addressee by placing the same for collection and mailing following our ordinary business practices. I am readily familiar with the State Personnel Board's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business, in the United States Postal Service in a sealed envelope with postage fully prepaid.

| | |
|---|---|
| **Appellant:**<br>Bryan Arebalo<br>[redacted] | **Respondent:**<br>State Hospitals<br>Human Resources<br>Attn: Personnel Officer<br>1215 O Street, MS-17<br>Sacramento, CA 95814 |
| **Appellant's Representative:**<br>Oviedo Law Group, Inc.<br>Attn: Ovidio Oviedo, Jr.<br>401 Clovis Avenue, Suite 208<br>Clovis, CA 93612-1182 | **Respondent's Representative:**<br>State Hospitals - Legal<br>Attn: Niloofar Rezvanpoor<br>1215 O Street MS-5<br>Sacramento, CA 95814 |

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on March 25, 2026, at Sacramento, California.

Natalie Bradburn
Appeals Resolution Team

## PROOF OF SERVICE BY FIRST CLASS MAIL

Oviedo Law Group, Inc.
Attn: Ovidio Oviedo, Jr.
401 Clovis Avenue, Suite 208
Clovis, CA 93612-1182

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