

### **124-3-04 Laches.**

(A) Employees shall not be disciplined for acts which have been known or should have been known to the appointing authority more than two years prior to the issuance of a "section 124.34 order."

(1) Whether an appointing authority knew or should have known of the occurrence of events giving rise to disciplinary action is a question of fact to be determined by the board.

(2) The length of time between the occurrence of the action, the appointing authority's knowledge of the incident, and the imposition of discipline will be factors in the board's determination of the appropriateness of the disciplinary action.

(B) This rule does not bar discipline based upon a criminal conviction, less than two years old, although the incidents giving rise to such conviction occurred more than two years prior to the imposition of discipline.

### **124-3-05 Merger and bar.**

(A) All incidents which occurred prior to the incident for which a non-oral disciplinary action is being imposed, of which an appointing authority has knowledge and for which an employee could be disciplined, are merged into the non-oral discipline imposed by the appointing authority. Incidents occurring after the incident for which a non-oral disciplinary action is being imposed, but prior to the issuance of the non-oral disciplinary order, are not merged and may form the basis for subsequent discipline.

(1) For purposes of this rule, knowledge of an appointing authority will include knowledge of those persons with authority to impose non-oral discipline for the appointing authority.

(2) For purposes of this rule, non-oral discipline includes written reprimands and suspension orders. It does not include a written memorandum of oral counseling or written warnings.

(B) Except as provided in rules 124-3-01 and 124-9-04 of the Administrative Code, once discipline is imposed for a particular incident, that incident shall not be used as the basis for subsequent discipline.

(C) Upon written notice to the employee, an appointing authority may rescind non-oral discipline. Rescission of non-oral discipline under this rule shall not be a bar to issuing another non-oral discipline based upon the same allegations.