

DISMISSAL/SUSPENSION/DISCIPLINARY ACTION

The Governing Board expects all employees to perform their jobs satisfactorily, exhibit professional and appropriate conduct, and serve as positive role models both at school and in the community. A certificated employee may be disciplined for conduct or performance in accordance with law, the applicable collective bargaining agreement, Board policy, and administrative regulation.

Disciplinary action shall be based on the particular facts and circumstances involved and the severity of the conduct or performance. Disciplinary actions may include, but are not limited to, verbal warnings, written warnings, reassignment, suspension, freezing or reduction of wages, compulsory leave, or dismissal.

The Superintendent or designee shall ensure that disciplinary actions are taken in a consistent, nondiscriminatory manner and are appropriately documented.

SUSPENSION/DISMISSAL PROCEDURES

The Superintendent shall notify the Board whenever he/she believes that there is cause to suspend or dismiss an employee pursuant to Education Code 44932 or 44933.

When the Board finds that there is cause to suspend or dismiss an employee pursuant to Education Code 44932 or 44933, it may formulate a written statement of charges specifying instances of behavior and the acts or omissions constituting the charge, the statutes and rules that the employee is alleged to have violated when applicable, and the facts relevant to each charge. The Board shall also review any duly signed and verified written statement of charges filed by any other person.

Based on the written statement of charges, the Board may, upon majority vote, give notice to the employee of its intention to suspend or dismiss him/her at the expiration of 30 days from the date the notice is served.

Prior to serving a suspension or dismissal notice that includes a charge of unsatisfactory performance, the district shall give the employee written notice of the unsatisfactory performance that specifies the nature of the unsatisfactory performance with such specific instances of behavior and with such particularity as to furnish the employee an opportunity to correct his/her faults and overcome the grounds for any unsatisfactory performance charges and, if applicable, that includes the evaluation made pursuant to Education Code 44660-44665. The written notice of the unsatisfactory performance shall be provided at least 90 days prior to the filing of the suspension or dismissal notice or prior to the last one-fourth of the school days in the year.

Prior to serving a suspension or dismissal notice that includes a charge of unprofessional conduct, the district shall give the employee written notice that describes the nature of the unprofessional conduct with such specific instances of behavior and with such particularity as to furnish the employee an opportunity to correct his/her faults and overcome the grounds for any unprofessional conduct charges

and, if applicable, that includes the evaluation made pursuant to Education Code 44660-44665. The written notice of the unprofessional conduct shall be provided at least 45 days prior to the filing of the suspension or dismissal notice.

Except for notices that only include charges of unsatisfactory performance, the written suspension or dismissal notice may be served at any time of year. Such notice shall be served upon the employee personally if given outside of the instructional year or, if given during the instructional year, may be served personally or by registered mail to the employee's last known address. Notices with a charge of unsatisfactory performance shall be given only during the instructional year of the school site where the employee is physically employed, and may be served personally or by registered mail to the employee's last known address.

If an employee has been served notice and demands a hearing pursuant to Government Code 11505 and 11506, the Board shall either rescind its action or schedule a hearing on the matter.

Pending suspension or dismissal proceedings for an employee who is charged with egregious misconduct, immoral conduct, conviction of a felony or of any crime involving moral turpitude, incompetency due to mental disability, or willful refusal to perform regular assignments without reasonable cause as prescribed by district rules and regulations, the Board may, if it deems it necessary, immediately suspend the employee from his/her duties. If the employee files a motion with the Office of Administrative Hearings for immediate reversal of the suspension based on a cause other than egregious misconduct, the Board may file a written response before or at the time of the hearing.

When a suspension or dismissal hearing is to be conducted by a Commission on Professional Competence, the Board shall, no later than 45 days before the date set for the hearing, select one person with a currently valid credential to serve on the Commission. The appointee shall not be an employee of the district and shall have at least three years' experience within the past 10 years at the same grade span or assignment as the employee, as defined in Education Code 44944.

LEGAL REFERENCE

EDUCATION CODE

- 44008 Effect of termination of probation
- 44009 Conviction of specified crimes
- 44010 Sex offense; definitions
- 44011 Controlled substance offense; definitions
- 44242.5 Reports and review of alleged misconduct
- 44425 Conviction of a sex or narcotic offense
- 44660-44665 Evaluation and assessment of performance of certificated employees
- 44830.1 Criminal record summary certificated employees
- 44929.21 Notice of reelection decision; districts with 250 ADA or more
- 44929.23 Reelection and dismissal of probationary employees; districts with ADA less than 250
- 44930-44988 Resignations, dismissal, and leave of absence
- 45055 Drawing of warrants for teachers
- 48907 Exercise of free speech, expression

48950 Speech and other communication
51530 Advocacy or teaching of communism

GOVERNMENT CODE

1028 Advocacy of communism
3543.2 Scope of representation
11505-11506 Hearing

HEALTH AND SAFETY CODE

11054 Schedule I; substances included
11055 Schedule II, substances included
11056 Schedule III, substances included
11357-11361 Marijuana
11363 Peyote
11364 Opium
11370.1 Possession of controlled substances with a firearm

PENAL CODE

187 Murder
291 School employees arrest for sex offense
667.5 Prior prison terms, enhancement of prison terms
1192.7 Plea bargaining limitation
11165.2-11165.6 Child abuse or neglect; definitions

CODE OF REGULATIONS, TITLE 5

80303 Reports of change in employment status
80304 Notice of sexual misconduct

COURT DECISIONS

Vergara v. California (Los Angeles Super.Ct.) BC484642
Crowl v. Commission on Professional Competence, (1990) 225 Cal. App. 3d 334
Morrison v. State Board of Education (1969) 1 Cal. 3d 214

MANAGEMENT RESOURCES**COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS**

California's Laws and Rules Pertaining to the Discipline of Professional Certificated Personnel, 2007

WEB SITES

CSBA: <http://www.csba.org>
Commission on Teacher Credentialing: <http://www.ctc.ca.gov>