

**NOTICE OF DISCIPLINARY ACTION / RIGHT OF APPEAL****PERMANENT EMPLOYEES**

On the filing of written charges, duly signed and verified by the person filing them, with the Governing Board, or upon a written statement of charges formulated by the Governing Board, charging that there exists cause for the dismissal of a permanent employee of the District, the Board may, by a majority vote, give notice of its intention to dismiss the employee at the end of 30 days from the date of service of the notice unless the employee demands a hearing on the charges.

**1. NOTICE OF CHARGES OF UNPROFESSIONAL CONDUCT**

Any written charges of unprofessional conduct shall state the statutes and rules the certificated employee is alleged to have violated and the facts relevant to each occasion of alleged unprofessional conduct. The Governing Board shall not act on those charges unless at least 45 days before the filing of the charge, the Board or its authorized representatives has given the employee written notice of the unprofessional conduct, specifying the nature of the charges and giving specific instances of behavior and particulars as well as enable the employee to correct his/her faults and overcome the grounds for the charge. The notice must include the evaluation made as required under Calif. Educ. Code Section 44660.

**2. NOTICE OF CHARGES OF INCOMPETENCY**

A. Any charges of incompetency shall likewise state the statutes and rules the certificated employee is alleged to have violated and the facts relevant to the charge. The Governing Board must give notice in accordance with the following:

- (1) The Governing Board, or its authorized representative shall give written notice of the incompetency at least 90 days prior to the date of the filing, listing specific instances of behavior and with such particularity as to provide the employee the opportunity to correct his/her faults and overcome the grounds for the charge. The notice must include the evaluation made as required under Calif. Educ. Code Section 44660.
- (2) The Governing Board may act during the last one-fourth of the school days it has scheduled for purposes of computing apportionments in any fiscal year, if, prior to the beginning of that period, the board or its authorized representative has given the employee written notice of the incompetency, and listing specific instances of behavior with particularity, as noted in Section A above, including the evaluation.

B. The notice of intention to dismiss or suspend the employee shall not be given between May 15 and September 15 in any year. It shall be in writing and be served on the employee personally or by registered mail addressed to the employee's last known address. A copy of the charges filed containing the information required by Government Code Section 11503 and the provisions of Article 3, Chapter 5 of the Calif. Educ. Code, commencing with Section 44930, shall be attached to the notice.

### 3. RIGHT OF APPEAL

When an employee who has been served with notice of the Governing Board's intention to suspend or dismiss him/her demands a hearing, the Board may either rescind its action or schedule a hearing on the matter.

### PROBATIONARY EMPLOYEES

#### 1. CURRENT PROBATIONARY EMPLOYEES

*(Hired prior to FY 1983-84)*

The District shall comply with notice requirements in accordance with the following:

##### A. Written Notice by Superintendent to Governing Board

- (1) No later than March 15, the Superintendent or his designee (or in the case where there is no superintendent, the clerk or secretary of the Governing Board) shall give written notice to the Governing Board and the employee that the employee's services will not be required for the ensuing year, for reasons other than those specified in Calif. Educ. Code Section 44955.
- (2) The notice shall include:
  - (a) The Superintendent or his designee's recommendation that the employee's services are not required.
  - (b) A statement of the reasons therefore.
  - (c) A notice of the employee's opportunity to an appeal hearing on or before a specified date, which shall be no less than seven days after the date of service of the notice.
  - (d) A statement that failure by the employee to request a hearing shall constitute a waiver of such rights.
- (3) Such notice may be deferred until the 45<sup>th</sup> day of employment (and all time periods co-extended), if the probationary employee has been in the employ of the District for less than 45 days on March 15.
- (4) Until the employee has requested a hearing or waived his right to a hearing, the notice shall be confidential and shall not be disclosed by anyone except as may be necessary in the performance of duties.

##### B. Written Notice to Probationary Employee

- (1) A copy of the hearing officer's proposed decision shall be submitted to the Governing Board and to the employee on or before May 7. Notice to the employee that his/her services will not be required for the ensuing year shall be given no later than May 15.
- (2) Upon notice to the employee that his services will not be required for the coming year, the Governing Board shall, within 10 days of the employee's written request, provide the employee with a statement of reasons for not re-

employing him/her for the next school year.

- (a) Notice is sufficient if delivered in person to the employee to whom it is directed, or when sent by registered mail to the last known address of the employee.
  - (b) If the Governing Board does not give notice as provided above on or by May 15, the employee shall be deemed re-employed for the ensuing school year.
- (3) Notice that an employee will be terminated for cause may be given at any time after expiration of 30 days from the date of service of notice of dismissal/suspension.

## 2. NEW PROBATIONARY EMPLOYEES

*(Hired During FY 1983-84 and thereafter)*

A. In the event of dismissal for cause (listed in Calif. Educ. Code Section 44932) or unsatisfactory performance, the Superintendent or his designee shall give 30 days prior written notice of dismissal to the employee, not later than March 15, in the case of second-year probationary employee. The notice may be given at any time during the school year for first year probationary employees.

B. The notice shall include:

- (1) A statement of reasons for the dismissal and
- (2) A notice of opportunity to appeal

A copy of the evaluation shall accompany the written notice, in the event of dismissal for unsatisfactory performance.

C. The Governing Board may suspend a probationary employee without pay as an alternative to dismissal.

## LEGAL REFERENCES

### EDUCATION CODE

44934	Charges and Notice of Intention to Dismiss
44936	Service of Notice and Attachments
44938	Unprofessional Conduct or Incompetency; Notice of Charges
44941	Notice of Suspension and Intention to Dismiss; Service
44948.3	Notice of Intention to Dismiss; New Probationary Employees
44948.5	Probationary Employees Whose Probation Began Prior to Fiscal Year 1983/84 in District with Less Than 250 ADA
44943	Action of Governing Board After Demand for Hearing