

Policy 4218: Dismissal/Suspension/Disciplinary Action

Status: DRAFT

Original Adopted Date: 04/19/2022 | Last Reviewed Date: 04/19/2022

The Governing Board expects all employees to perform their jobs satisfactorily and to exhibit professional and appropriate conduct. A classified employee may be disciplined for unprofessional conduct or unsatisfactory performance in accordance with law or any applicable collective bargaining agreement, Board policy, or administrative regulation.

Disciplinary actions shall be based on the particular facts and circumstances involved and the severity of the employee's conduct or performance. The Superintendent or designee shall ensure that disciplinary actions are taken in a consistent, nondiscriminatory manner and are appropriately documented.

An employee's private exercise of personal beliefs and activities, including religious, political, cultural, social, or other beliefs or activities, or lack thereof, shall not be grounds for disciplinary action against the employee, provided that the beliefs or activities do not involve coercion of students or any other violation of law, Board policy, or administrative regulation.

In addition, an employee shall not be suspended, disciplined, reassigned, transferred, dismissed, or otherwise retaliated against solely for acting to protect a student engaged in exercising any free speech or press right authorized by, or for refusing to infringe upon a student's conduct protected pursuant to, Education Code 48907 or 48950.

Disciplinary actions may include, but are not limited to, verbal and written warnings, involuntary reassignment, demotion, suspension without pay, reduction of pay step in class, compulsory leave, and dismissal.

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

A probationary classified employee may be dismissed by the Superintendent or designee **without cause** at any time prior to the expiration of the probationary period.

Permanent classified employees shall be subject to disciplinary action only for cause as specified in the accompanying administrative regulation.—(Education Code 45113)

Procedures for Serious Disciplinary Proceedings

The Superintendent or designee shall develop disciplinary procedures for use when dismissal, suspension, demotion, involuntary reassignment, or other serious disciplinary action is contemplated against an employee. The procedures for such discipline shall include an opportunity for an employee for whom any such disciplinary action is recommended to meet with, or respond in writing to, a designated district official ("Skelly officer") who will determine whether the recommended discipline should proceed further or be modified or withdrawn.

After meeting with the employee or considering the employee's written response, if the Skelly officer determines that the recommended discipline should proceed, the Superintendent or designee shall send the employee a notice of the recommended disciplinary action, a statement of charges, and the results of the Skelly hearing. The notice shall include a statement advising the employee of the right to request a Board hearing on the matter.

If the employee fails to request a hearing within the time specified in the notice, the employee is deemed to have waived the right to do so, and the Board may order the recommended disciplinary action into effect immediately.

If a timely request is submitted, a hearing shall be conducted by the Board.—(Education Code 45113, 45312)

The hearing shall be held at the earliest convenient date, taking into consideration the established schedule of the Board and the availability of legal counsel and witnesses. The employee shall be notified of the time and place of the hearing.

The hearing shall be held in closed session, unless the employee requests that the matter be heard in an open session meeting.—(Government Code 54957)

The employee shall be entitled to appear personally, produce evidence, and be represented by legal counsel.

The Board may use the services of its legal counsel in ruling upon procedural questions, objections to evidence, and issues of law.—The Board may review and consider the records of any prior personnel action proceedings against the employee in which a disciplinary action was ultimately sustained and any records contained in the employee's personnel files and introduced into evidence at the hearing. The Board shall not be bound by rules of evidence used in California courts. Informality in any such hearing shall not invalidate any order or decision made by the Board.

At any time before a matter is submitted to the Board for decision, the Superintendent or designee may, with the consent of the Board, serve on the employee and file with the Board an amended or supplemental recommendation of disciplinary action. If the amended or supplemental recommendation includes new causes or allegations, the employee shall be afforded a reasonable opportunity to prepare a defense. Any new causes or allegations shall be deemed controverted and any objections to the amended or supplemental causes or allegations may be made orally at the hearing and shall be noted on the record.

Following the hearing or, if the employee has not requested a hearing, after reviewing the Superintendent or designee's recommendation for disciplinary action, the Board shall affirm, modify, or reject the recommended disciplinary action. The decision of the Board shall be in writing and shall contain findings of fact and the disciplinary action approved, if any. The decision of the Board shall be final.

Within 10 working days of the Board's final decision, a copy of the decision shall be delivered to the employee and/or designated representative personally or by registered mail.

~~In lieu of holding a Board hearing on the sufficiency of the causes for disciplinary action~~ **Except for an allegation of holding egregious misconduct in which a minor is involved**, the Board may delegate its ~~the~~ authority to **determine whether sufficient cause exists for disciplinary action to** an impartial third-party hearing officer. ~~When the~~ matter is heard by a third-party hearing officer, the Board ~~retains the authority to~~ **shall** review the determination and ~~to~~ adopt or reject the recommended decision. (Education Code 45113)

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When any matter involves an allegation of egregious misconduct as defined in Education Code 44932 and involves a **witness who is a** minor, the matter shall be referred to an administrative law judge to determine whether sufficient cause exists for disciplinary action against the employee. In such cases, the ruling of the administrative law judge shall be binding on the district and the employee. (Education Code 45113)

Policy Reference Disclaimer: These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State References

Description

CA Constitution Article 1, Section 1	Inalienable rights
Ed. Code 35161	Board delegation of any powers or duties
Ed. Code 44009	Conviction of specified crimes
Ed. Code 44010	Sex offense; definitions
Ed. Code 44011	Controlled substance offense
Ed. Code 44940	Compulsory leave of absence for certificated persons
Ed. Code 44940.5	Procedures when employees are placed on compulsory leave of absence
Ed. Code 45101	Definitions; disciplinary action and cause
Ed. Code 45109	Fixing of duties
Ed. Code 45113	Notification of charges; classified employees
Ed. Code 45123	Employment after conviction of controlled substance offense
Ed. Code 45302	Demotion and removal from permanent classified service

Ed. Code 45303	Additional cause for suspension or dismissal of employee charge with mandatory or optional leave of absence offense
Ed. Code 45304	Compulsory leave of absence for classified persons
Veh. Code 1808.8	School bus drivers; dismissal for safety-related cause

Federal References

42 USC 12101-12213	Americans with Disabilities Act
U.S. Constitution	Amendment 1, Free exercise, free speech, and establishment clauses

Management Resources References

	Description
Court Decision	Kennedy v. Bremerton (2022) 142 S.Ct. 2407
Court Decision	California School Employees v. Livingston Union School District (2007) 149 Cal. App. 4th 391
Court Decision	CSEA v. Foothill Community College District (1975) 52 Cal. App. 3rd 150
Court Decision	Skelly v. California Personnel Board (1975) 15 Cal.3d 194
Website	Office of the Attorney General - https://simbli.eboardsolutions.com/SU/kYMplusPKVwKTngiVfOT4AD8Q==
Website	Office of Administrative Hearings - https://simbli.eboardsolutions.com/SU/hkXUvTmkSbRSTIh3V79tXg==
Website	Department of General Services, About Teacher Dismissal Case Type - https://simbli.eboardsolutions.com/SU/9nslshuTpTNHO70H14lJrLeA==
Website	CSBA District and County Office of Education Legal Services - https://simbli.eboardsolutions.com/SU/UdykszdmPETuDslshXk6R5akQ==

Cross References

	Description
1114	District-Sponsored Social Media - https://simbli.eboardsolutions.com/SU/JfCojzMhplusqvFyCOP9Cgiw==
1114	District-Sponsored Social Media - https://simbli.eboardsolutions.com/SU/LnhNVipgsss47FWyv0docA==
1312.1	Complaints Concerning District Employees - https://simbli.eboardsolutions.com/SU/UeCd2AJlxfBU7E37o1kmUg==
1312.1	Complaints Concerning District Employees - https://simbli.eboardsolutions.com/SU/3x1plusj0z5ZLMqRsshsEIT6Q==
1312.1-E PDF(1)	Complaints Concerning District Employees - https://simbli.eboardsolutions.com/SU/eAlz50x7oMx0vq3x9PjTplusg==
1312.3	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/CfApluscpxRIZplusOj2lmuhfqBA==
1312.3	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/NaAoUplustL0gdMDg4YyrqkSQ==
1312.3-E PDF(1)	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/CGtJ1bS0fJ2qqnQzzY5qbQ==
1312.3-E PDF(2)	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/hYsgaF9LHjplus4tInFVHZyg==
3230	Federal Grant Funds - https://simbli.eboardsolutions.com/SU/U7QTeU9Soli935xKxaXdplusQ==
3230	Federal Grant Funds - https://simbli.eboardsolutions.com/SU/Oh3eMwsYd7zIFD5OxF2rsg==
3512	Equipment - https://simbli.eboardsolutions.com/SU/r1rNkRaXyrj10VEAVGfslsh9g==

3512-E PDF(1)	Equipment - https://simbli.eboardsolutions.com/SU/6RcqwFE4ATq4nsbPZZJg==
3513.3	Tobacco-Free Schools - https://simbli.eboardsolutions.com/SU/LVtbcNpnXgQ4l3S1uk4oVg==
3513.3	Tobacco-Free Schools - https://simbli.eboardsolutions.com/SU/r2bqvQEbcwEp8g54nBYYuQ==
3513.4	Drug And Alcohol Free Schools - https://simbli.eboardsolutions.com/SU/EglaLA3lnXkKgpulshjxrQ9g==
3515.2	Disruptions - https://simbli.eboardsolutions.com/SU/3zz1tiOX4ZIN7VAPLICn2w==
3515.2	Disruptions - https://simbli.eboardsolutions.com/SU/AuZ7CmtLr9yBgGvfKslshy3fw==
3516.2	Bomb Threats - https://simbli.eboardsolutions.com/SU/qz0d6tsfAHzXebzeQw1MJg==
3542	School Bus Drivers - https://simbli.eboardsolutions.com/SU/N6yKlmWbH6z96q33J3HiuQ==
4000	Concepts And Roles - https://simbli.eboardsolutions.com/SU/OD2npGAZCiRik4Mzfor9zA==
4020	Drug And Alcohol-Free Workplace - https://simbli.eboardsolutions.com/SU/WOMcSVOOgRfTXFRMNB8rZA==
4030	Nondiscrimination In Employment - https://simbli.eboardsolutions.com/SU/japluspF1fDZLwk4z1txs8TVw==
4030	Nondiscrimination In Employment - https://simbli.eboardsolutions.com/SU/1hR1nwwQdqhZCpluskI91M7LA==
4040	Employee Use Of Technology - https://simbli.eboardsolutions.com/SU/pCyVFWWhxjPMeQ9hSFguPfw==
4040-E PDF(1)	Employee Use Of Technology - https://simbli.eboardsolutions.com/SU/SHiUEWDyslshNbm0aZ0gplusTpfw==
4112.42	Drug And Alcohol Testing For School Bus Drivers - https://simbli.eboardsolutions.com/SU/x8sXygV8J5UslshmpimkS4osA==
4112.42	Drug And Alcohol Testing For School Bus Drivers - https://simbli.eboardsolutions.com/SU/vNtVvfMZsbLOfaouJ74H0g==
4112.5	Criminal Record Check - https://simbli.eboardsolutions.com/SU/k3JxZLYs4Qu9bUOSH7p5dg==
4112.6	Personnel Files - https://simbli.eboardsolutions.com/SU/ZbKyC91DY3CsgslshTWWChauQ==
4119.1	Civil And Legal Rights - https://simbli.eboardsolutions.com/SU/24DUL3dM9A2IUAAoqbi3Og==
4119.21	Professional Standards - https://simbli.eboardsolutions.com/SU/UTGFaZorslshLeTKDloySlofQ==
4119.21-E PDF(1)	Professional Standards - https://simbli.eboardsolutions.com/SU/mGplusvfwZSZeWEomplumBplusTJTg==
4119.25	Political Activities Of Employees - https://simbli.eboardsolutions.com/SU/UslshRGVnhjBEeEDNrko7psQg==
4154	Health And Welfare Benefits - https://simbli.eboardsolutions.com/SU/6R1sBlgslshYgDslshAd2SuZj7eA==
4154	Health And Welfare Benefits - https://simbli.eboardsolutions.com/SU/WNoCah873JGR0slshZyGCtZtQ==
4158	Employee Security - https://simbli.eboardsolutions.com/SU/NKJ0gbceQH90dq6lFUplus5tQ==

4158 Employee Security - <https://simbli.eboardsolutions.com/SU/jvIXyG8eRmdszhOgitD39Q==>

4161 Leaves - <https://simbli.eboardsolutions.com/SU/L0sa8HPNFz43P87NscBIA==>

4161.11 Industrial Accident/Illness Leave - <https://simbli.eboardsolutions.com/SU/Z0plusudejslshsmM4HPD2Djivlg==>

4200 Classified Personnel - <https://simbli.eboardsolutions.com/SU/C90JPJ3boOQpjmslshG7vAdEQ==>

4200 Classified Personnel - <https://simbli.eboardsolutions.com/SU/CqrCbB5TOJA30vio8CB6gQ==>

4212 Appointment And Conditions Of Employment - <https://simbli.eboardsolutions.com/SU/2FhNDxwOQ6LaGbmeDKmSXA==>

4212.42 Drug And Alcohol Testing For School Bus Drivers - <https://simbli.eboardsolutions.com/SU/JwrEm3toQqx4wVyDcBm6Bw==>

4212.42 Drug And Alcohol Testing For School Bus Drivers - <https://simbli.eboardsolutions.com/SU/w6JNlrrt2PSYipX7plus9i1UQ==>

4212.5 Criminal Record Check - <https://simbli.eboardsolutions.com/SU/AeBTETgslshWKpwzQnauieUqQ==>

4212.6 Personnel Files - <https://simbli.eboardsolutions.com/SU/6Sms9Cslshckj3AxFvjilVLwg==>

4216 Probationary/Permanent Status - <https://simbli.eboardsolutions.com/SU/PHbK5iFvayn8i5TWAiBbqQ==>

4219.1 Civil And Legal Rights - <https://simbli.eboardsolutions.com/SU/NNHd7ATUG21WUZfMslshC2esw==>

4219.21 Professional Standards - <https://simbli.eboardsolutions.com/SU/cRQObj7EJcTiplushojXxDrw==>

4219.21-E PDF(1) Professional Standards - Code Of Ethics Classified Employees - <https://simbli.eboardsolutions.com/SU/Yn4FDSgBUNsbsWF3lvpkIQ==>

4219.25 Political Activities Of Employees - <https://simbli.eboardsolutions.com/SU/seiEdh3poDGMpbcllNJXOQ==>

4254 Health And Welfare Benefits - <https://simbli.eboardsolutions.com/SU/IOQxocnnc7t0zO4gNslshEig==>

4254 Health And Welfare Benefits - <https://simbli.eboardsolutions.com/SU/baiguAHICDz2MiTzMIQl0A==>

4258 Employee Security - <https://simbli.eboardsolutions.com/SU/l328lb63xslshLEHOplusHgt9TA==>

4258 Employee Security - <https://simbli.eboardsolutions.com/SU/0UbvzplusKzjWxh2CPHFpSlsh8A==>

4261 Leaves - <https://simbli.eboardsolutions.com/SU/4qNFHJIV4UumHJslshBCRwvIQ==>

4261.11 Industrial Accident/Illness Leave - <https://simbli.eboardsolutions.com/SU/4V3v5daPNAoVUMjjGN825w==>

4312.42 Drug And Alcohol Testing For School Bus Drivers - <https://simbli.eboardsolutions.com/SU/bjHLFe6dTslshJctTxXirH31Q==>

4312.42 Drug And Alcohol Testing For School Bus Drivers - <https://simbli.eboardsolutions.com/SU/np6PFoVoqPCIBtzi2ZLlG==>

4312.6 Personnel Files - <https://simbli.eboardsolutions.com/SU/c66XSPesGJAEqplus435ncEpw==>

4319.1 Civil And Legal Rights - <https://simbli.eboardsolutions.com/SU/S3pluswdN4h3ZfGQBHYZ4pWXg==>

4319.21 Professional Standards - <https://simbli.eboardsolutions.com/SU/aVzvR2gnF6PxyE8OYijAPA==>

4319.21-E PDF(1) Professional Standards -
<https://simbli.eboardsolutions.com/SU/sVVtgfkApxmtRMQLIsMRyQ==>

4319.25 Political Activities Of Employees -
<https://simbli.eboardsolutions.com/SU/HslshFplusldczqDEuoellia0ZiA==>

4354 Health And Welfare Benefits -
<https://simbli.eboardsolutions.com/SU/AUcC2pRXWApZWZErGJyJUg==>

4354 Health And Welfare Benefits -
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4358 Employee Security -
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4358 Employee Security -
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4361 Leaves -
<https://simbli.eboardsolutions.com/SU/aEjmtRLplusieVJXslshzbK5PtXg==>

4361.11 Industrial Accident/Illness Leave -
<https://simbli.eboardsolutions.com/SU/3cLqPb0ZXIImnwJFplussftdg==>

5145.3 Nondiscrimination/Harassment -
<https://simbli.eboardsolutions.com/SU/Xtm3uqHMol1KAP4CIBOS3g==>

5145.3 Nondiscrimination/Harassment -
<https://simbli.eboardsolutions.com/SU/Rx7eYWCQJQxyhVGfnTMQBQ==>

5145.7 Sexual Harassment -
<https://simbli.eboardsolutions.com/SU/Etnsl0vfjVFwtsfy7FGqYA==>

5145.7 Sexual Harassment -
<https://simbli.eboardsolutions.com/SU/bVa5mPNAi4zf7b1zOFIT1Q==>

5145.71 Title IX Sexual Harassment Complaint Procedures -
<https://simbli.eboardsolutions.com/SU/O9zo4plgytGao63PqBwRqQ==>

5145.9 Hate-Motivated Behavior -
<https://simbli.eboardsolutions.com/SU/Ak4bbXFt2GC0Nslshe6zOQilw==>

6145.2 Athletic Competition -
<https://simbli.eboardsolutions.com/SU/mjzVr4hwth0plusJplusU0vFgStw==>

6145.2 Athletic Competition -
<https://simbli.eboardsolutions.com/SU/li7fyXj9QEE0CqwFCiOzbQ==>

6162.54 Test Integrity/Test Preparation -
<https://simbli.eboardsolutions.com/SU/ybi0FO4ySxf8h42GwRfDLw==>

9000 Role Of The Board -
<https://simbli.eboardsolutions.com/SU/yCFHllFLUDCtfgppluseQHTjg==>

9321-E PDF(1) Closed Session -
<https://simbli.eboardsolutions.com/SU/JouF3slshhdp1t8S6jR9jTrVg==>

9321-E PDF(2) Closed Session -
<https://simbli.eboardsolutions.com/SU/R7DIbSlsh4Z8zkiT8c3evrPAg==>

9321 Closed Session -
<https://simbli.eboardsolutions.com/SU/eQxvTE4sunzJru8wB8gc1g==>