

Policy 4218: Dismissal/Suspension/Disciplinary Action

Status: DRAFT

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

Disciplinary ~~action~~ **actions** shall be based on the particular facts and circumstances involved and the severity of the ~~employee's~~ conduct or performance. 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.

The Superintendent or designee shall ensure that disciplinary actions are taken in a consistent, nondiscriminatory manner. In addition, an employee shall not be suspended, disciplined, reassigned, transferred, dismissed, or otherwise retaliated against solely for **engaging in protected activities, or 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 warnings, ~~and~~ written warnings, **involuntary** reassignment, **demotion**, suspension, freezing or **leave without pay**, 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 there is **A probationary classified employee may be dismissed without** cause to suspend or dismiss an employee pursuant to **anytime before the probationary period expires.**

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

Procedures for Serious Disciplinary Proceedings

The Superintendent or designee shall develop disciplinary procedures for use 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. (Education Code 44934, 44934.1)

Based on the written statement of charges, the Board may, upon majority vote, give notice to the employee of the Board's intention to suspend or dismiss the employee at the expiration of 30 days from the date the notice is served. (Education Code 44934, 44934.1)

Prior to serving a **dismissal**, 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 **, demotion, involuntary reassignment, or other serious disciplinary action is contemplated against an employee. The procedures for** such specific instances of behavior and with such particularity as to furnish the employee **discipline shall include** an opportunity to correct the 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. (Education Code 44938)

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 the 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. (Education Code 44938)

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 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 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. (Education Code 44936)

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 **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 review process. The notice shall include a statement advising the employee of the right to request a Board hearing** on the matter. (Education Code 44941, 44941.1, 44943, 44944)

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. (Education Code 45113, 45116)

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 suspend the employee from assigned 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. (Education Code 44939, 44939.1, 44940)

When a suspension or dismissal hearing is to be **a timely request is submitted, a hearing shall be** conducted by a Commission on Professional Competence, the Board shall, no later than 45 days before the date set for the **the Board or by a third-party hearing officer, in accordance with law.** (Education Code 45113, 45312)

A classified employee who timely requests a hearing, select one person with a currently valid credential to serve on the Commission. **may only be suspended, demoted, or dismissed pending the outcome of the hearing in accordance with Education Code 45113 and as specified in the accompanying administrative regulation.**

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 appointee **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 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 be an employee of the district and 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 have at least three years' experience within the past ~~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 years at the same grade span or assignment as the employee,~~ 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.

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

~~When any matter involves an allegation of egregious misconduct as defined in Education Code 44944. (Education Code 44944)~~ 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)

Compulsory Leave of Absence

Upon being informed that a classified employee has been charged with a mandatory leave of absence offense, the Superintendent or designee shall immediately place the employee on a compulsory leave of absence. (Education Code 44940, 44940.5, 45304)

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 45116	Notice of disciplinary action
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 charged with mandatory or optional leave of absence offense
Ed. Code 45304	Compulsory leave of absence for classified persons

Gov. Code 12954
Veh. Code 1808.8

[Employment discrimination; cannabis use](#)
[School bus drivers; dismissal for safety-related cause](#)

Federal References

42 USC 12101-12213
U.S. Constitution, First Amendment

Description

[Americans with Disabilities Act](#)
[Free exercise, free speech, and establishment clauses](#)

Management Resources References

Court Decision
Court Decision
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U.S. Department of Education Publication
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[Visalia Unified School District v. Public Employment Relations Board \(2024\) 98 Cal.App.5th 844](#)
[Kennedy v. Bremerton \(2022\) 142 S.Ct. 2407](#)
[California School Employees v. Livingston Union School District \(2007\) 149 Cal. App. 4th 391](#)
[CSEA v. Foothill Community College District \(1975\) 52 Cal. App. 3rd 150](#)
[Skelly v. California Personnel Board \(1975\) 15 Cal.3d 194](#)
[Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools, May 2023](#)
[Office of the Attorney General](#)
[Office of Administrative Hearings](#)
[Department of General Services, About Teacher Dismissal Case Type](#)
[CSBA District and County Office of Education Legal Services](#)
[U.S. Department of Education](#)
[CSBA](#)

Cross References

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4040-E PDF(1)	Employee Use Of Technology
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