

Policy 4118: Dismissal/Suspension/Disciplinary Action

Status: DRAFT

Original Adopted Date: 11/01/2022

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/or administrative regulation.

Disciplinary action shall be based on the particular facts and circumstances involved and the severity of the 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 appropriately documented and 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, reassignment, suspension, freezing or reduction of wages, compulsory leave ~~without pay~~, 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 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. (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 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 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 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 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, 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 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. **(Education Code 44944).**

Compulsory Leave of Absence

Upon being informed that a certificated 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)

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

State References	Description
5 CCR 80303	Reports of change in employment status; alleged misconduct
5 CCR 80304	Notice of sexual misconduct
CA Constitution Article 1, Section 1	Inalienable rights
Ed. Code 44008	Effect of termination of probation
Ed. Code 44009	Conviction of specified crimes
Ed. Code 44010	Sex offense; definitions
Ed. Code 44011	Controlled substance offense
Ed. Code 44242.5	Reports and review of alleged misconduct
Ed. Code 44425	Conviction of a sex or narcotic offense
Ed. Code 44660-44665	Evaluation and assessment of performance of certificated employees
Ed. Code 44830.1	Criminal record summary; certificated employees
Ed. Code 44929.21	Notice of reelection decision; districts with 250 ADA or more
Ed. Code 44929.23	Districts with less than 250 ADA
Ed. Code 44930-44988	Resignations, dismissals and leaves of absence
Ed. Code 45055	Drawing of warrants for teachers
Ed. Code 48907	Exercise of free expression; time, place and manner rules and regulations
Ed. Code 48950	Speech and other communication
Ed. Code 51530	Advocacy or teaching of communism
Gov. Code 1028	Advocacy of communism
Gov. Code 11505-11506	Hearing

Gov. Code 12954	Employment discrimination; cannabis use
Gov. Code 3543.2	Scope of representation
H&S Code 11054	Schedule I; substances included
H&S Code 11055	Schedule II; substances included
H&S Code 11056	Schedule III; substances included
H&S Code 11357-11361	Marijuana
H&S Code 11363	Peyote
H&S Code 11364	Opium
H&S Code 11370.1	Possession of controlled substances with a firearm
Pen. Code 11165.2-11165.6	Child abuse or neglect; definitions
Pen. Code 1192.7	Plea bargaining limitation
Pen. Code 187	Murder
Pen. Code 291	School employees arrest for sex offense
Pen. Code 667.5	Prior prison terms; enhancement of prison terms

Federal References

U.S. Constitution, First Amendment

Description

[Free exercise, free speech, and establishment clauses](#)

Management Resources References

Commission on Teacher Credentialing Publication

Description

[California's Laws and Rules Pertaining to the Discipline of Professional Certificated Personnel, 2007](#)

Court Decision

[Visalia Unified School District v. Public Employment Relations Board \(2024\) 98 Cal.App.5th 844](#)

Court Decision

[Kennedy v. Bremerton \(2022\) 142 S.Ct. 2407](#)

Court Decision

[Crowl v. Commission on Professional Competence \(1990\) 225 Cal. App. 3d 334](#)

Court Decision

[Morrison v. State Board of Education \(1969\) 1 Cal.3d 214](#)

U.S. Department of Education Publication

[Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools, May 2023](#)

Website

[Office of the Attorney General](#)

Website

[Office of Administrative Hearings](#)

Website

[Department of General Services, About Teacher Dismissal Case Type](#)

Website

[CSBA District and County Office of Education Legal Services](#)

Website

[Commission on Teacher Credentialing](#)

Website

[CSBA](#)

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[U.S. Department of Education](#)

Cross References

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[District-Sponsored Social Media](#)

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[District-Sponsored Social Media](#)

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[Complaints Concerning District Employees](#)

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[Complaints Concerning District Employees](#)

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[Complaints Concerning District Employees](#)

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[Uniform Complaint Procedures](#)

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3513.3	Tobacco-Free Schools
3513.4	Drug And Alcohol Free Schools
3515.2	Disruptions
3515.2	Disruptions
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4000	Concepts And Roles
4020	Drug And Alcohol-Free Workplace
4030	Nondiscrimination In Employment
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4040	Employee Use Of Technology
4040-E PDF(1)	Employee Use Of Technology
4112	Appointment And Conditions Of Employment
4112.1	Contracts
4112.4	Health Examinations
4112.42	Drug And Alcohol Testing For School Bus Drivers
4112.42	Drug And Alcohol Testing For School Bus Drivers
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4119.21	Professional Standards
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4154	Health And Welfare Benefits
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4212.4	Health Examinations
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4212.42	Drug And Alcohol Testing For School Bus Drivers
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4212.5-E(1)	Criminal Record Check
4212.6	Personnel Files
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4219.1	Civil And Legal Rights
4219.11	Sexual Harassment
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4219.12	Title IX Sexual Harassment Complaint Procedures
4219.12-E(1)	Title IX Sexual Harassment Complaint Procedures
4219.21	Professional Standards
4219.21-E PDF(1)	Professional Standards - Code Of Ethics Classified Employees
4219.22	Dress And Grooming
4219.23	Unauthorized Release Of Confidential/Privileged Information
4219.25	Political Activities Of Employees
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