

Policy 4218 Dismissal/Suspension/Disciplinary Action

Status: ADOPTED

Original Adopted Date: 06/26/2024

Last Revised Date: 06/26/2024

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. 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 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 (*Unless Otherwise Bargained*)

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 review process. 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)

A classified employee who timely requests a hearing 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 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.

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 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)

06/26/2024

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

CA Constitution Article 1, Section 1
Ed. Code 35161
Ed. Code 44009
Ed. Code 44010
Ed. Code 44011
Ed. Code 44940
Ed. Code 44940.5

Ed. Code 45101
Ed. Code 45109
Ed. Code 45113
Ed. Code 45123

Ed. Code 45302
Ed. Code 45303

Ed. Code 45304
Veh. Code 1808.8

Federal

42 USC 12101-12213
U.S. Constitution

Management Resources

Court Decision
Court Decision

Description

Inalienable rights
Board delegation of any powers or duties
Conviction of specified crimes
Sex offense; definitions
Controlled substance offense
Compulsory leave of absence for certificated persons
Procedures when employees are placed on compulsory leave of absence
Definitions; disciplinary action and cause
Fixing of duties
Notification of charges; classified employees
Employment after conviction of controlled substance offense
Demotion and removal from permanent classified service
Additional cause for suspension or dismissal of employee charge with mandatory or optional leave of absence offense
Compulsory leave of absence for classified persons
School bus drivers; dismissal for safety-related cause

Description

Americans with Disabilities Act
Amendment 1; Free exercise, free speech, and establishment clauses

Description

Kennedy v. Bremerton (2022) 142 S.Ct. 2407
California School Employees v. Livingston Union School

Court Decision	District (2007) 149 Cal. App. 4th 391 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
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	CSBA

Cross References

Code

Description

1114	District-Sponsored Social Media
1114	District-Sponsored Social Media
1312.1	Complaints Concerning District Employees
1312.1	Complaints Concerning District Employees
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
1312.3-E(1)	Uniform Complaint Procedures
1312.3-E(2)	Uniform Complaint Procedures
3230	Federal Grant Funds
3230	Federal Grant Funds
3512	Equipment
3512-E(1)	Equipment
3513.3	Tobacco-Free Schools
3513.3	Tobacco-Free Schools
3513.4	Drug And Alcohol Free Schools
3515.2	Disruptions
3515.2	Disruptions
3515.21	Unmanned Aircraft Systems (Drones)
3515.3	District Police/Security Department
3515.3	District Police/Security Department
3516.2	Bomb Threats
3542	School Bus Drivers
4000	Concepts And Roles
4020	Drug And Alcohol-Free Workplace
4030	Nondiscrimination In Employment
4030	Nondiscrimination In Employment
4040	Employee Use Of Technology
4040-E(1)	Employee Use Of Technology
4112.42	Drug And Alcohol Testing For School Bus Drivers
4112.42	Drug And Alcohol Testing For School Bus Drivers
4112.5	Criminal Record Check
4112.5-E(1)	Criminal Record Check
4112.6	Personnel Files
4113.5	Working Remotely
4119.1	Civil And Legal Rights
4119.12	Title IX Sexual Harassment Complaint Procedures
4119.12-E(1)	Title IX Sexual Harassment Complaint Procedures
4119.21	Professional Standards
4119.21-E(1)	Professional Standards
4119.22	Dress And Grooming

4119.23	<u>Unauthorized Release Of Confidential/Privileged Information</u>
4119.24	<u>Maintaining Appropriate Adult-Student Interactions</u>
4119.25	<u>Political Activities Of Employees</u>
4119.25	<u>Political Activities Of Employees</u>
4127	<u>Temporary Athletic Team Coaches</u>
4127	<u>Temporary Athletic Team Coaches</u>
4136	<u>Nonschool Employment</u>
4141.6	<u>Concerted Action/Work Stoppage</u>
4141.6	<u>Concerted Action/Work Stoppage</u>
4154	<u>Health And Welfare Benefits</u>
4154	<u>Health And Welfare Benefits</u>
4157	<u>Employee Safety</u>
4157	<u>Employee Safety</u>
4158	<u>Employee Security</u>
4158	<u>Employee Security</u>
4159	<u>Employee Assistance Programs</u>
4161	<u>Leaves</u>
4161	<u>Leaves</u>
4161.11	<u>Industrial Accident/Illness Leave</u>
4200	<u>Classified Personnel</u>
4200	<u>Classified Personnel</u>
4212	<u>Appointment And Conditions Of Employment</u>
4212.42	<u>Drug And Alcohol Testing For School Bus Drivers</u>
4212.42	<u>Drug And Alcohol Testing For School Bus Drivers</u>
4212.5	<u>Criminal Record Check</u>
4212.5-E(1)	<u>Criminal Record Check</u>
4212.6	<u>Personnel Files</u>
4213.5	<u>Working Remotely</u>
4216	<u>Probationary/Permanent Status</u>
4219.1	<u>Civil And Legal Rights</u>
4219.12	<u>Title IX Sexual Harassment Complaint Procedures</u>
4219.12-E(1)	<u>Title IX Sexual Harassment Complaint Procedures</u>
4219.21	<u>Professional Standards</u>
4219.21-E(1)	<u>Professional Standards</u>
4219.22	<u>Dress And Grooming</u>
4219.23	<u>Unauthorized Release Of Confidential/Privileged Information</u>
4219.24	<u>Maintaining Appropriate Adult-Student Interactions</u>
4219.25	<u>Political Activities Of Employees</u>
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4227	<u>Temporary Athletic Team Coaches</u>
4227	<u>Temporary Athletic Team Coaches</u>
4236	<u>Nonschool Employment</u>
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4254	<u>Health And Welfare Benefits</u>
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4257	<u>Employee Safety</u>
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4258	<u>Employee Security</u>
4259	<u>Employee Assistance Programs</u>
4261	<u>Leaves</u>
4261	<u>Leaves</u>

4261.11	<u>Industrial Accident/Illness Leave</u>
4312.42	<u>Drug And Alcohol Testing For School Bus Drivers</u>
4312.42	<u>Drug And Alcohol Testing For School Bus Drivers</u>
4312.5	<u>Criminal Record Check</u>
4312.5-E(1)	<u>Criminal Record Check</u>
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4327	<u>Temporary Athletic Team Coaches</u>
4336	<u>Nonschool Employment</u>
4354	<u>Health And Welfare Benefits</u>
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4357	<u>Employee Safety</u>
4357	<u>Employee Safety</u>
4358	<u>Employee Security</u>
4358	<u>Employee Security</u>
4359	<u>Employee Assistance Programs</u>
4361	<u>Leaves</u>
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4361.11	<u>Industrial Accident/Illness Leave</u>
5145.3	<u>Nondiscrimination/Harassment</u>
5145.3	<u>Nondiscrimination/Harassment</u>
5145.7	<u>Sexual Harassment</u>
5145.7	<u>Sexual Harassment</u>
5145.71	<u>Title IX Sexual Harassment Complaint Procedures</u>
5145.71-E(1)	<u>Title IX Sexual Harassment Complaint Procedures</u>
5145.9	<u>Hate-Motivated Behavior</u>
6145.2	<u>Athletic Competition</u>
6145.2	<u>Athletic Competition</u>
6162.54	<u>Test Integrity/Test Preparation</u>
9000	<u>Role Of The Board</u>
9321	<u>Closed Session</u>
9321-E(1)	<u>Closed Session</u>
9321-E(2)	<u>Closed Session</u>