

Regulation 4118 Dismissal/Suspension/Disciplinary Action

Status: ADOPTED

Original Adopted Date: 09/1991

Last Revised Date: 06/26/2024

Causes for Suspension or Dismissal

A certificated employee with permanent status may be suspended without pay or dismissed only for one or more of the following causes: (Education Code 44932)

1. Immoral conduct including, but not limited to, egregious misconduct that is the basis for a sex offense or controlled substance offense described in Education Code 44010 or 44011 or child abuse and neglect as described in Penal Code 11165.2-11165.6
2. Unprofessional conduct
3. Commission, aiding, or advocating the commission of acts of criminal syndicalism
4. Dishonesty
5. Unsatisfactory performance
6. Evident unfitness for service
7. Physical or mental condition unfitting the employee to instruct or associate with children
8. Persistent violation of or refusal to obey the school laws or reasonable regulations of the state or district
9. Conviction of a felony or of any crime involving moral turpitude
10. Violation of Education Code 51530 or Government Code 1028 prohibiting the advocacy or teaching of communism
11. Alcoholism or other drug abuse that makes the employee unfit to instruct or associate with children

An employee may be suspended or dismissed on grounds of unprofessional conduct consisting of acts or omissions not listed above if the charge specifies instances of behavior deemed to constitute unprofessional conduct. (Education Code 44933)

Suspension/Dismissal of Permanent Employees

When a permanent certificated employee is charged with one or more of the offenses specified in the section "Causes for Suspension or Dismissal" above, the following procedures shall apply:

1. The person preparing a written statement of charges that there is cause to suspend or dismiss an employee shall submit the signed statement to the Governing Board, or a written statement of charges shall be formulated by the Board that cause to suspend or dismiss the permanent employee exists (Education Code 44934, 44934.1)
2. The employee, upon receiving notice of the Board's intent to suspend or dismiss, may request a hearing on the matter. The hearing shall be conducted by the Commission on Professional Competence, except that any case involving only egregious misconduct shall be heard instead by an administrative law judge and, in any other case, the hearing may be conducted by an administrative law judge when both the district and the employee so stipulate. (Education Code 44943, 44944, 44944.05, 44944.1, 44944.3)
3. Except when the employee is charged solely with egregious misconduct, the district may amend the charges less than 90 days before the hearing only upon showing of good cause and upon approval of the administrative law judge. (Education Code 44934)
4. The employee shall be suspended or dismissed when the Commission on Professional Competence or administrative law judge has issued its decision supporting suspension or dismissal or, if the employee did not request a hearing, at the expiration of 30 days after service of the notice of intent to suspend or dismiss. (Education Code 44941, 44943, 44944)

The Superintendent or designee shall notify the Commission on Teacher Credentialing when the employment status of a certificated employee has been changed as a result of alleged misconduct or while an allegation of misconduct is pending. (Education Code 44030.5, 44242.5, 44940; 5 CCR 80303)

Suspension/Dismissal of Probationary Employees

The district may choose not to rehire probationary employees for the following school year without giving a statement of reasons, if proper notice is provided by March 15. (Education Code 44929.21, 44929.23)

During the school year, a probationary employee who is in the first or second year of service may be dismissed only for one or more of the causes listed in Items #1-11 in the section "Causes for Suspension or Dismissal" above or for unsatisfactory performance determined pursuant to Education Code 44660-44665. (Education Code 44948.2, 44948.3)

Whenever a first- or second-year probationary employee is so charged, the following procedures shall apply for dismissing the employee during the school year: (Education Code 44948.3)

1. The Superintendent or designee shall give 30 days' prior written notice of dismissal, not later than March 15 in the case of second-year probationary employees. The notice shall include a statement of the reasons for the dismissal, notice of the opportunity to appeal, and, if the cause is unsatisfactory performance, a copy of the evaluation conducted pursuant to Education Code 44664.
2. Upon receipt of the notice of dismissal, the employee may be dismissed if no request for a hearing is submitted to the Board within 15 days.
3. If a hearing is requested, the district may arrange for the appointment of an administrative law judge to conduct the hearing and to recommend a decision to the Board.

A probationary employee may be suspended without pay for a specified period of time as an alternative to dismissal. (Education Code 44948.3)

Compulsory Leave of Absence

Upon being informed by law enforcement 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 leave of absence. A mandatory leave of absence offense includes: (Education Code 44830.1, 44940)

1. Any sex offense as defined in Education Code 44010
2. Violation or attempted violation of Penal Code 187 prohibiting murder
3. Any offense involving the unlawful sale, use, or exchange to minors of controlled substances as listed in Health and Safety Code 11054, 11055, and 11056

The Superintendent or designee may place on an immediate compulsory leave of absence a certificated employee who is charged with an "optional leave of absence offense," defined as a controlled substance offense specified in Education Code 44011 and Health and Safety Code 11357-11361, 11363, 11364, and 11370.1, except as it relates to marijuana, mescaline, peyote, or tetrahydrocannabinols. (Education Code 44940)

If an employee is charged with an offense that falls into both the mandatory and optional leave of absence definitions, the offense shall be treated as a mandatory leave of absence offense. (Education Code 44940)

An employee's compulsory leave for a mandatory or optional leave of absence offense may extend for not more than 10 days after the entry of judgment in the criminal proceedings. However, the compulsory leave may be extended if the Board gives notice, within 10 days after the entry of judgment in the proceedings, that the employee will be dismissed within 30 days from the date of service of the notice unless the employee demands a hearing (Education Code 44940, 44940.5)

During the period of compulsory leave, the employee shall be compensated in accordance with Education Code 44940.5.

Upon receipt of telephone or electronic notification from the Department of Justice that a current temporary, substitute, or probationary employee serving before March 15 of the second probationary year has been convicted of a violent or serious felony, the Superintendent or designee shall immediately place the employee on leave without pay. Upon receipt of electronic notification of the conviction from the Department of Justice, such employee shall be automatically terminated and without regard to any other termination procedure. (Education Code 44830.1)

09/91
 10/93
 05/13/92
 02/09/94
 07/00
 12/19/01
 11/08
 03/11/09
 05/15/15
 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 | 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
Gov. Code 1028
Gov. Code 11505-11506
Gov. Code 3543.2
H&S Code 11054
H&S Code 11055
H&S Code 11056
H&S Code 11357-11361
H&S Code 11363
H&S Code 11364
H&S Code 11370.1
Pen. Code 11165.2-11165.6
Pen. Code 1192.7
Pen. Code 187
Pen. Code 291
Pen. Code 667.5

Federal

U.S. Constitution

Management Resources

Commission on Teacher Credentialing
Publication
Court Decision
Court Decision

Court Decision

Website
Website
Website

Website

Website
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Cross References

Code

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[Possession of controlled substances with a firearm](#)
[Child abuse or neglect; definitions](#)
[Plea bargaining limitation](#)
[Murder](#)
[School employees arrest for sex offense](#)
[Prior prison terms; enhancement of prison terms](#)

Description

[Amendment 1; Free exercise, free speech, and establishment clauses](#)

Description

California's Laws and Rules Pertaining to the Discipline of Professional Certificated Personnel, 2007
Kennedy v. Bremerton (2022) 142 S.Ct. 2407
Crowl v. Commission on Professional Competence (1990) 225 Cal. App. 3d 334
Morrison v. State Board of Education (1969) 1 Cal.3d 214
[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](#)
[Commission on Teacher Credentialing](#)
[CSBA](#)

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[Complaints Concerning District Employees](#)
[Uniform Complaint Procedures](#)
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[Federal Grant Funds](#)
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| 4112.4 | Health Examinations |
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| 4112.42 | Drug And Alcohol Testing For School Bus Drivers |
| 4112.5 | Criminal Record Check |
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| 5145.71 | Title IX Sexual Harassment Complaint Procedures |
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