

AR 4118 Dismissal/Suspension/Disciplinary Action

Cause for Suspension or Dismissal

A certificated employee with permanent status may be 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 regulations of the state or district
9. Conviction of a felony or of any crime involving moral turpitude
10. Violation of Education Code 51530 (teaching communism) or Government Code 1028 (advocacy of the overthrow of the government)
11. Alcoholism or other drug abuse that makes the employee unfit to instruct or associate with children
12. Any other cause for which dismissal or a certificated employee is authorized by law.

An employee may be suspended on grounds of unprofessional conduct pursuant to the procedures specified in the Education Code. (Education Code 44932)

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)

An employee shall not be suspended, disciplined, reassigned, transferred, dismissed, or otherwise retaliated against solely for acting to protect a student, or for refusing to infringe on a student's protected conduct, when that student is exercising his/her free speech or press rights pursuant to Education Code 48907. (Education Code 48907)

In the case of any inconsistency between this regulation and the applicable statutes, the terms of the statutes shall prevail.

Suspension/Dismissal of Permanent Employees

When a permanent certificated employee is charged with one or more of the offenses specified in "Causes for Suspension or Dismissal" above, the Board will follow the procedures specified in the Education Code and Government Code.

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The district may choose not to rehire probationary employees for the following school year without giving a statement of reasons by providing notice as required by law. (Education Code 44929.21)

During the school year, probationary employees in their 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. (Education Code 44948.3)

Dismissal of a first- or second-year probationary employee during the school year is subject to the procedures required by law. (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 44940)

1. Any sex offense as defined in Education Code 44010
2. Violation or attempted violation of Penal Code 187 (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
4. Any other offense so designated under the Education Code

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 he/she demands a hearing. (Education Code 44940, 44940.5)

No later than 10 days after receiving notice that an employee has been charged with a mandatory or optional leave of absence offense, the district shall forward a copy of the complaint, information, or indictment to the California Commission on Teacher Credentialing. (Education Code 44949)

The period of compulsory leave shall be unpaid unless the employee furnishes a bond as specified in 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 his/her second

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probationary year has been convicted of a violent or serious felony, the Superintendent or designee shall immediately place the employee on leave without pay. (Education Code 44830.1)

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)

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