Personnel

SUSPENSION/DISCIPLINARY ACTION

The Governing Board expects all employees to perform their jobs satisfactorily, exhibit professional and appropriate conduct and serve as positive role models at school and in the community. An employee may be suspended or disciplined including dismissal, for unprofessional or inappropriate conduct with law, the district’s collective bargaining agreement, Board policy and administrative regulations.

(cf. 4000 – Concepts and Roles)
(cf. 4112.5/4312.5 – Criminal Record
(cf. 4119.21/4219.21/4319.21 – Professional Standards)

The Superintendent or designee may take disciplinary action as he/she deems appropriate in light of the particular facts and circumstances involved and based on the severity of the misconduct. Disciplinary actions may include, but not limited to, verbal warnings, written warnings, reassignment, suspension, freezing or reduction of wages, compulsory leave, or dismissal.

(cf. 4114 – Transfers)

The Superintendent or designee shall ensure that, consistent with law, disciplinary actions are taken in a consistent, nondiscriminatory manner and are appropriately documented.

(cf. 4141/4243 – Collective Bargaining Agreement)
(cf. 1312.1 – Complaints Concerning District Employees)
(cf. 4030 - Nondiscrimination in Employment
(cf. 4032 – Complaints Concerning Discrimination in Employment
(cf. 4112.6/4212.6/4312.6 - Personnel Files)
(cf. 4119.1/4219.4319.1 - Civil and Legal Rights)
(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

In accordance with law, the Superintendent or designee shall notify the Commission on Teacher Credentialing when the status of a credentialed employee has been changed as a result of alleged misconduct.

(cf. 4117.7 - Employment Status Reports)

Legal Reference:

EDUCATION CODE
44008 Effect of termination of probation
44009 Conviction of specified crimes
SUSPENSION/DISCIPLINARY ACTION (continued)

Legal Reference: (continued)
44010 Sex offense – definitions
44011 Controlled substance offense – definitions
44242.5 Reports and review of alleged misconduct
44425 Conviction of a sex or narcotic offense
44660-44665 Evaluation and assessment of performance of certificated employees
44830.1 Criminal record summary certificated employees
44930-44988 Resignations, dismissal, and leave of absence
45055 Drawing of warrants for teachers
48907 Exercise of free speech, expression
48950 Speech and other communication
51530 Advocacy or teaching of communism

GOVERNMENT CODE
1028 Advocacy of communism
3543.2 Scope of representation
11505-11506 Hearing

HEALTH AND SAFETY CODE
11054 Schedule I; substances included
11055 Schedule II, substances included
11056 Schedule III, substances included
11357-11361 Marijuana
11363 Peyote
11364 Opium
11370.1 Possession of controlled substances with a firearm

PENAL CODE
187 Murder
291 School employees arrest for sex offense
667.5 Prior prison terms, enhancement of prison terms
1192.7 Plea bargaining limitation
11165.2-11165.6 Child abuse or neglect; definitions

CODE OF REGULATIONS, TITLE 5
80303 Reports of change in employment status
80304 Notice of sexual misconduct

COURT DECISIONS
Vergara v. California (Los Angeles Super.Ct.) BC484642
Morrison v. State Board of Education (1969) 1 Cal.3d 214
SUSPENSION/DISCIPLINARY ACTION (continued)

Management Resources:
COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS
California's Laws and Rules Pertaining to the Discipline of Professional Certificated Personnel, 2007

WEB SITES
CSBA:  http://www.csba.org
Commission on Teacher Credentialing: http://www.ctc.ca.gov
Personnel

SUSPENSION/DISCIPLINARY ACTION

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 (cf. 4112.4/4212.4/4312.4 – Health Examinations)

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 or Government Code 1028 (advocacy of communism)

11. Alcoholism or other drug abuse that makes the employee unfit to instruct or associate with children (cf. 4115 Evaluation/Supervision)

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/DISCIPLINARY ACTION

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 or 48950. (Education Code 48907, 48950)

(cf. 4119.1/4219.1/4319.1-Civil and Legal Rights)
(cf. 5145.2-Freedom of Speech/Expression)

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 (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

(cf. 4117.7-Employee Status Report)

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)

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

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 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)

(cf. 4112.5/4312.5-Criminal Record Check)