

Personnel

DISMISSAL/SUSPENSION/DISCIPLINARY ACTION

SP 4318

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

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.

A probationary classified employee may be dismissed by the County Superintendent or designee 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

The County 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 county office official ("Skelly Officer") who will determine whether the recommended discipline should proceed further or be modified or withdrawn. Because the County Superintendent will conduct the hearing, if the employee requests a hearing, s/he should not act as a Skelly Officer.

After meeting with the employee or considering the employee's written response, if the Skelly officer determines that the recommended discipline should proceed, the County Superintendent or designee shall send the employee a notice of the recommended disciplinary action, a statement of charges, and the results of the Skelly hearing. The notice shall include a statement advising the employee of the right to request a County Superintendent 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 County Superintendent may order the recommended disciplinary action into effect immediately.

If a timely request is submitted, a hearing shall be conducted by the County Superintendent. (Education Code [45113](#), [45312](#))

The hearing shall be held at the earliest convenient date, taking into consideration the established schedule of the County Superintendent 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 County Superintendent may use the services of its legal counsel in ruling upon procedural questions, objections to evidence, and issues of law. The County Superintendent 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 County Superintendent 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 County Superintendent.

At any time before a matter is submitted to the County Superintendent for decision, the County Superintendent's designee may, with the consent of the County Superintendent, serve on the employee 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 County Superintendent's designee's recommendation for disciplinary action, the County Superintendent shall affirm, modify, or reject the recommended disciplinary action. The decision of the County Superintendent shall be in writing and shall contain findings of fact and the disciplinary action approved, if any. The decision of the County Superintendent shall be final.

Within 10 working days of the County Superintendent's final decision, a copy of the decision shall be delivered to the employee and/or designated representative personally or by registered mail.

In lieu of holding a County Superintendent hearing on the sufficiency of the causes for disciplinary action, the County Superintendent may delegate its authority to an impartial third-party hearing officer. When the matter is heard by a third-party hearing officer, the County Superintendent retains the authority to review the determination and to adopt or reject the recommended decision. (Education Code [45113](#))

If the matter involves an allegation of egregious misconduct as defined in Education Code [44932](#) and involves 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 county office and the employee. (Education Code [45113](#)) The administrative law judge authorized by this policy to conduct a hearing involving allegations as described in Section 44010 or 44011 of this code, or as described in Sections 11165.2 to 11165.6, inclusive, of the Penal Code, shall conduct that hearing in accordance with Article 3.3 (commencing with Section 44990) of Chapter 4 and Section 49077 of the Education Code.

Legal Reference:

EDUCATION CODE

35161 Delegation of powers and duties
44009 Conviction of specified crimes
44010 Sex offense
44011 "Controlled substance offense" defined
44031 Personnel file
44940 Leave of absence; employee charged with mandatory or optional leave of absence offense
44940.5 Compulsory leave of absence; procedures; extension; compensation; bond or security
44990-44994 Testimony of minor witnesses at dismissal or suspension hearings
45101 Definitions (including "disciplinary action," "cause")
45109 Fixing of duties
45113 Rules and regulations for classified service in districts not incorporating the merit system
45123 Employment after conviction of sex or narcotics offense
45124 Dismissal of sexual psychopath
45202 Transfer of accumulated sick leave and other benefits following dismissal
45240-45320 Merit system, classified employees

CODE OF CIVIL PROCEDURE

1286.2 Grounds for vacating decision of arbitrator

GOVERNMENT CODE

11500-11529 Administrative adjudication
12900-12996 Fair Employment and Housing Act
54957 Brown Act open meeting laws; closed session

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
667.5 Sex offenders
830.32 Peace officers employed by district
1192.7 Violent or serious felony
11165.2-11165.6 Child abuse or neglect, definitions

VEHICLE CODE

1808.8 School bus drivers; dismissal for safety-related cause

UNITED STATES CODE, TITLE 42
12101-12213 Americans with Disabilities Act
COURT DECISIONS

California School Employees Association v. Bonita Unified School District (2008) No. B200141

California School Employees v. Livingston Union School District (2007) 149 Cal.App 4th 391

CSEA v. Foothill Community College District (1975) 52 Cal.App. 3rd 150, 155-156, 124 Cal. Rptr 830

Skelly v. State Personnel Board (1975) 15 Cal. 3d 194

Superintendent Policy SONOMA COUNTY OFFICE OF EDUCATION

MENDOCINO COUNTY OFFICE OF EDUCATION

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