

Regulation 4118:
Dismissal/Suspension/Disciplinary Action

Status: ADOPTED

Original Adopted Date: 07/01/2000 | **Last Revised Date:**
03/01/2024 | **Last Reviewed Date:** 03/01/2024

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)

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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
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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 upholding 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)
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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 of the employee's second, complete, consecutive year of employment. (Education Code 44929.21, 44929.23)

During the school year, probationary employees 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)

Whenever a probationary employee is so charged, dismissal procedures shall be those set forth in Education Code 44934 and 44934.1 as described in the section "Suspension/Dismissal of Permanent Employees" above.

Compulsory Leave of Absence

Upon being informed 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 or attempted 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
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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 tetrahydrocannabinol. (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 a hearing is demanded. (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)

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	<u>Inalienable rights</u>
Ed. Code 44008	<u>Effect of termination of probation</u>
Ed. Code 44009	<u>Conviction of specified crimes</u>
Ed. Code 44010	<u>Sex offense; definitions</u>
Ed. Code 44011	<u>Controlled substance offense</u>
Ed. Code 44242.5	<u>Reports and review of alleged misconduct</u>
Ed. Code 44425	<u>Conviction of a sex or narcotic offense</u>
Ed. Code 44660-44665	<u>Evaluation and assessment of performance of certificated employees</u>
Ed. Code 44830.1	<u>Criminal record summary; certificated employees</u>
Ed. Code 44929.21	<u>Notice of reelection decision; districts with 250 ADA or more</u>
Ed. Code 44929.23	<u>Districts with less than 250 ADA</u>
Ed. Code 44930-44988	<u>Resignations, dismissals and leaves of absence</u>
Ed. Code 45055	<u>Drawing of warrants for teachers</u>

Ed. Code 48907	<u>Exercise of free expression; time, place, and manner rules and regulations</u>
Ed. Code 48950	<u>Speech and other communication</u>
Ed. Code 51530	<u>Advocacy or teaching of communism</u>
Gov. Code 1028	<u>Advocacy of communism</u>
Gov. Code 11505-11506	<u>Hearing</u>
Gov. Code 12954	<u>Employment discrimination; cannabis use</u>
Gov. Code 3543.2	<u>Scope of representation</u>
H&S Code 11054	<u>Schedule I; substances included</u>
H&S Code 11055	<u>Schedule II; substances included</u>
H&S Code 11056	<u>Schedule III; substances included</u>
H&S Code 11357-11361	<u>Marijuana</u>
H&S Code 11363	<u>Peyote</u>
H&S Code 11364	<u>Opium</u>
H&S Code 11370.1	<u>Possession of controlled substances with a firearm</u>
Pen. Code 11165.2-11165.6	<u>Child abuse or neglect; definitions</u>
Pen. Code 1192.7	<u>Plea bargaining limitation</u>
Pen. Code 187	<u>Murder</u>
Pen. Code 291	<u>School employees arrest for sex offense</u>
Pen. Code 667.5	<u>Prior prison terms; enhancement of prison terms</u>
Federal	Description
U.S. Constitution, First Amendment	<u>Free exercise, free speech, and establishment clauses</u>
Management Resources	Description
Commission on Teacher Credentialing Publication	California's Laws and Rules Pertaining to the Discipline of Professional Certificated Personnel, 2007
Court Decision	Visalia Unified School District v. Public Employment Relations Board (2024) 98 Cal.App.5th 844
Court Decision	Kennedy v. Bremerton (2022) 142 S.Ct. 2407
Court Decision	Crowl v. Commission on Professional Competence (1990) 225 Cal. App. 3d 334
Court Decision	Morrison v. State Board of Education (1969) 1 Cal.3d 214
U.S. Department of Education Publication	<u>Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools, May 2023</u>
Website	<u>Office of the Attorney General</u>
Website	<u>Office of Administrative Hearings</u>
Website	<u>Department of General Services, About Teacher Dismissal Case Type</u>
Website	<u>CSBA District and County Office of Education Legal Services</u>
Website	<u>Commission on Teacher Credentialing</u>
Website	<u>CSBA</u>
Website	<u>U.S. Department of Education</u>
Code	Description
1114	<u>District-Sponsored Social Media</u>
1114	<u>District-Sponsored Social Media</u>
1312.1	<u>Complaints Concerning District Employees</u>
1312.1	<u>Complaints Concerning District Employees</u>
1312.3	<u>Uniform Complaint Procedures</u>
1312.3	<u>Uniform Complaint Procedures</u>
1312.3-E(1)	<u>Uniform Complaint Procedures</u>
1312.3-E(2)	<u>Uniform Complaint Procedures</u>
3230	<u>Federal Grant Funds</u>
3230	<u>Federal Grant Funds</u>
3512	<u>Equipment</u>
3512-E(1)	<u>Equipment</u>
3513.3	<u>Tobacco-Free Schools</u>
3513.3	<u>Tobacco-Free Schools</u>
3513.4	<u>Drug And Alcohol Free Schools</u>
3515.2	<u>Disruptions</u>
3515.2	<u>Disruptions</u>

3515.21	<u>Unmanned Aircraft Systems (Drones)</u>
3516.2	<u>Bomb Threats</u>
4000	<u>Concepts And Roles</u>
4020	<u>Drug And Alcohol-Free Workplace</u>
4030	<u>Nondiscrimination In Employment</u>
4030	<u>Nondiscrimination In Employment</u>
4040	<u>Employee Use Of Technology</u>
4040-E(1)	<u>Employee Use Of Technology</u>
4112	<u>Appointment And Conditions Of Employment</u>
4112.1	<u>Contracts</u>
4112.4	<u>Health Examinations</u>
4112.42	<u>Drug And Alcohol Testing For School Bus Drivers</u>
4112.42	<u>Drug And Alcohol Testing For School Bus Drivers</u>
4112.5	<u>Criminal Record Check</u>
4112.5-E(1)	<u>Criminal Record Check</u>
4112.6	<u>Personnel Files</u>
4112.9	<u>Employee Notifications</u>
4112.9-E(1)	<u>Employee Notifications</u>
4113.5	<u>Working Remotely</u>
4114	<u>Transfers</u>
4115	<u>Evaluation/Supervision</u>
4115	<u>Evaluation/Supervision</u>
4117.7	<u>Employment Status Reports</u>
4119.1	<u>Civil And Legal Rights</u>
4119.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4119.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4119.12	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4119.12-E(1)	<u>Procedures</u>
4119.21	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4119.21-E(1)	<u>Procedures</u>
4119.22	<u>Professional Standards</u>
4119.22	<u>Professional Standards</u>
4119.23	<u>Dress And Grooming</u>
4119.25	<u>Unauthorized Release Of Confidential/Privileged Information</u>
4119.25	<u>Political Activities Of Employees</u>
4127	<u>Political Activities Of Employees</u>
4127	<u>Temporary Athletic Team Coaches</u>
4131.1	<u>Temporary Athletic Team Coaches</u>
4131.1	<u>Teacher Support And Guidance</u>
4136	<u>Teacher Support And Guidance</u>
4141	<u>Nonschool Employment</u>
4141.6	<u>Collective Bargaining Agreement</u>
4141.6	<u>Concerted Action/Work Stoppage</u>
4154	<u>Concerted Action/Work Stoppage</u>
4154	<u>Health And Welfare Benefits</u>
4157	<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>
4212.4	<u>Health Examinations</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>
4212.9	<u>Employee Notifications</u>
4212.9-E(1)	<u>Employee Notifications</u>

4213.5	<u>Working Remotely</u>
4219.1	<u>Civil And Legal Rights</u>
4219.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4219.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4219.12	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u>
4219.12-E(1)	<u>Title IX Sex Discrimination and Sex-Based 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>
4219.25	<u>Political Activities Of Employees</u>
4219.25	<u>Political Activities Of Employees</u>
4227	<u>Temporary Athletic Team Coaches</u>
4227	<u>Temporary Athletic Team Coaches</u>
4236	<u>Nonschool Employment</u>
4241	<u>Collective Bargaining Agreement</u>
4241.6	<u>Concerted Action/Work Stoppage</u>
4241.6	<u>Concerted Action/Work Stoppage</u>
4254	<u>Health And Welfare Benefits</u>
4254	<u>Health And Welfare Benefits</u>
4257	<u>Employee Safety</u>
4257	<u>Employee Safety</u>
4258	<u>Employee Security</u>
4258	<u>Employee Security</u>
4259	<u>Employee Assistance Programs</u>
4261	<u>Leaves</u>
4261	<u>Leaves</u>
4312.4	<u>Health Examinations</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>
4312.6	<u>Personnel Files</u>
4312.9	<u>Employee Notifications</u>
4312.9-E(1)	<u>Employee Notifications</u>
4313.5	<u>Working Remotely</u>
4317.7	<u>Employment Status Reports</u>
4319.1	<u>Civil And Legal Rights</u>
4319.11	<u>Sex Discrimination and Sex-Based Harassment</u>
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4319.21	<u>Professional Standards</u>
4319.21-E(1)	<u>Professional Standards</u>
4319.22	<u>Dress And Grooming</u>
4319.23	<u>Unauthorized Release Of Confidential/Privileged Information</u>
4319.25	<u>Political Activities Of Employees</u>
4319.25	<u>Political Activities Of Employees</u>
4327	<u>Temporary Athletic Team Coaches</u>
4327	<u>Temporary Athletic Team Coaches</u>
4336	<u>Nonschool Employment</u>
4354	<u>Health And Welfare Benefits</u>
4354	<u>Health And Welfare Benefits</u>
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>
4361	<u>Leaves</u>
5144.2	<u>Suspension And Expulsion/Due Process (Students With Disabilities)</u>
5145.2	<u>Freedom Of Speech/Expression</u>
5145.2	<u>Freedom Of Speech/Expression</u>
5145.3	<u>Nondiscrimination/Harassment</u>
5145.3	<u>Nondiscrimination/Harassment</u>
5145.7	<u>Sex Discrimination and Sex-Based Harassment</u>
5145.7	<u>Sex Discrimination and Sex-Based Harassment</u>
5145.71	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u>
5145.71-E(1)	<u>Title IX Sex Discrimination and Sex-Based 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>