

LOS ANGELES UNIFIED SCHOOL DISTRICT  
PERSONNEL COMMISSION

901

LAWS AND RULES

January 7, 2009

901 DISCIPLINARY TERMS AND ACTIONS

Education Code 44940.5

Any certificated employee placed on compulsory leave of absence pursuant to Section 44940 and any classified employee placed on compulsory leave of absence pursuant to Section 45304 shall be subject to the following procedures.

(a) The governing board of the school district may extend the compulsory leave of absence of the employee beyond the initial period specified in Section 44940 or 45304, whichever is applicable, by giving notice to the employee within 10 days after the entry of judgement in the proceedings that the employee will be dismissed at the expiration of 30 days from the date of service of the notice, unless the employee demands a hearing as provided in this article.

(b) Any employee placed upon compulsory leave of absence pursuant to this section shall continue to be paid his or her regular salary during the period of his or her compulsory leave of absence if and during that time he or she furnishes to the school district a suitable bond, or other security acceptable to the governing board, as a guarantee that the employee will repay to the school district the amount of salary so paid to him or her during the period of the compulsory leave of absence in the case the employee is convicted of the charges, or fails or refuses to return to service following an acquittal of the offense or dismissal of the charges. If the employee is acquitted of the offense, or the charges against the employee are dismissed, the school district shall reimburse the employee for the cost of the bond upon his or her return to service in the school district.

(c) If the employee does not elect to furnish bond, or other security acceptable to the governing board of the district, and if the employee is acquitted of the offense, or the charges against him or her are dismissed, the school district shall pay the employee his or her full compensation for the period of the compulsory leave of absence upon his or her return to service in the school district. If the charges against the employee are dismissed as a result of the employee's successful completion of a drug diversion program, upon the employee's return to service in the school district, the school district, at the employee's election, shall pay to the employee any accrued leave, and differential pay pursuant to Sections 44977, 45195, and 45196, for up to the length of the employee's compulsory leave of absence.

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Education Code 45116

A notice of disciplinary action shall contain a statement in ordinary and concise language of the specific acts and omissions upon which the disciplinary action is based, a statement of the cause for the action taken and, if it is claimed that an employee has violated a rule or regulation of the public school employer, such rule or regulation shall be set forth in said notice.

CHANGE:

To allow employees who plead guilty and enter a court-ordered drug diversion program are no longer eligible to back pay. It will also allow employees who return to work, be eligible to apply accrued leave balances such as illness or vacation leave and differential pay balances, if any to the absence.

Remove: April 28, 1993, page 1 of 7. Add: January 7, 2009, page 1 of 5.

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April 28, 1993

A notice of disciplinary action stating one or more causes or grounds for disciplinary action established by any rule, regulation or statute in the language of the rule, regulation, or statute, is insufficient for any purpose.

A proceeding may be brought by, or on behalf of, the employee to restrain any further proceedings under any notice of disciplinary action violative of this provision.

The section shall apply to proceedings conducted under the provisions of Article 6 (commencing with Section 45240) of this chapter.

Education Code 45123

(a) No person shall be employed or retained in employment by a school district who has been convicted of any sex offense as defined in Section 44010. A plea or verdict of guilty, a finding of guilt by a court in a trial without jury, or a conviction following a plea of nolo contendere shall be deemed to be a conviction within the meaning of this subdivision.

(b) No person shall be employed or retained in employment by a school district, who has been convicted of a controlled substance offense as defined in Section 44011.

(c) If, however, a conviction is reversed and the person is acquitted of the offense in a new trial or the charges against him or her are dismissed, this section does not prohibit his or her employment thereafter.

(d) The governing board of a school district may employ a person convicted of a controlled substance offense if the governing board of the school district determines from the evidence presented, that the person has been rehabilitated for at least five years.

The governing board shall determine the type and manner of presentation of the evidence, and the determination of the governing board as to whether or not the person has been rehabilitated is final.

Education Code 45124

No person shall be employed or retained in employment by a school district who has been determined to be a sexual psychopath under the provisions of Article I (commencing with Section 6300), Chapter 2, Part 2, Division 6 of the Welfare and Institutions Code or under similar provisions of law of any other state. If, however, such determination is reversed and the person is determined not be a sexual psychopath in a new proceeding or the proceeding to determine whether he is a sexual psychopath is dismissed, this section does not prohibit his employment thereafter.

CHANGE:

Amendment of Education Codes 45123 and 45303.

Remove: August 15, 1977, page 2 of 7. Add: April 28, 1993, page 2 of 5.

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January 1, 2001

Education Code 45303

In addition to any causes for suspension or dismissal which are designated by rule of the commission, employees in the classified service shall be suspended and dismissed in the manner provided by law for any one or more of the following causes:

- (a) Knowing membership by the employee in the Communist Party.
- (b) Conduct specified in Section 1028 of the Government Code.

Education Code 45304

(a) For reasonable causes, an employee may be suspended without pay for not more than 30 days, except as provided in this section, or may be demoted or dismissed. In this case, the school district shall, within 10 days of the suspension, demotion, or dismissal, file written charges with the commission. The personnel director shall give to the employee or deposit in the United States registered mail with postage prepaid, addressed to the employee at his or her last known place of address, a copy of charges and inform the employee of his or her appeal rights

(b) Whenever an employee of a school district or county office of education is charged with a mandatory leave of absence offense, as defined in subdivision (a) of Section 44940, the governing board of the school district shall immediately place the employee upon a compulsory leave of absence for a period to time extending for not more than 10 days after the date of entry of the judgment in the proceedings. Once the employee is placed on leave of absence, he or she is subject to the provisions of Section 44940.5.

(c) Whenever an employee of a school district or county office of education is charged with an optional leave of absence offense, as defined in subdivision (b) of Section 44940, the governing board of the school district may immediately place the employee upon compulsory leave of absence in accordance with the provisions of Section 44940.5.

Education Code 45305

Any employee in the permanent classified service who has been suspended, demoted, or dismissed may appeal to the commission within 14 days after receipt of a copy of the written charges by filing a written answer to the charges. Such an appeal is not available to an employee who is not in the permanent classified service except as provided by rules of the commission. An employee in the permanent classified service who has not served the time designated by the commission as probationary for the class may be demoted to the class from which promoted without recourse to an appeal or hearing by the commission, except as otherwise provided by rules of the commission; and provided, that such demotion does not result in the separation of the employee from the permanent classified service. Nothing in this section shall operate to alter the protections guaranteed under Section 45309.

CHANGE:

To reflect changes in the law.

Remove: April 28, 1993, page 3 of 7. Add: January 1, 2001, page 3 of 5.

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August 15, 1977

Education Code 45306

The commission shall investigate the matter on appeal and may require further evidence from either party, and may, and upon request of an accused employee shall, order a hearing. The accused employee shall have the rights to appear in person or with counsel and to be heard in his own defense. The decision shall not be subject to review by the governing board.

Education Code 45307

If the commission sustains the employee, it may order paid all or part of his full compensation from the time of suspension, demotion, or dismissal, and it shall order his reinstatement upon such terms and conditions as it may determine appropriate. The commission may modify the disciplinary action, but may not make the action more stringent than that approved by the board. In addition, the commission may direct such other action as it may find necessary to effect a just settlement of the appeal, including, but not limited to, compensation for all or part of the legitimate expenses incurred in pursuit of the appeal, seniority credit for off-duty time pending reinstatement, transfer or change of location of the employee, and expunction from the employee's personnel record of disciplinary actions, cause, and charges which were not sustained by the commission. Upon receipt of the commission's written decision the board shall forthwith comply with the provisions thereof. When the board has fully complied with the commission's decision it shall so notify the commission in writing.

Education Code 45311

The commission may conduct hearings, subpoena witnesses, require the production of records or information pertinent to investigation, and may administer oaths. It may, at will, inspect any records of the governing board that may be necessary to satisfy itself that the procedures prescribed by the commission have been complied with. Hearings may be held by the commission on any subject to which its authority may extend as described in this article.

Education Code 45312

The commission may authorize a hearing officer or other representative to conduct any hearing or investigation which the commission itself is authorized by this article to conduct. Any such authorized person conducting such hearing or investigation may administer oaths, subpoena and require the attendance of witnesses and the production of books or papers, and cause the depositions of witnesses to be taken in the manner prescribed by law for like depositions in civil cases in the superior court of this state. The commission may instruct such authorized representative to present findings or recommendations. The commission may accept, reject or amend any of the findings or recommendations of the said authorized representative. Any rejection or amendment of findings or recommendations shall be based either on a review of the transcript of the hearing or investigation or upon the results of such supplementary hearing or investigation as the commission may order.

CHANGE:

Renumbering of Education Code Sections.

Remove: February 18, 1974, page 4 of 7. Add: August 15, 1977, page 4 of 5.

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August 3, 1987

The commission may employ by contract or as professional experts or otherwise any such hearing officers or other representatives and may adopt and amend such rules and procedures as may be necessary to effectuate this section.

DEFINITIONS

1. DAYS - For the purpose of Rules 903 and 904, calendar days, unless otherwise designated.
2. DISCHARGE OR DISMISSAL - Separation from service for cause.
3. DISCIPLINARY ACTION - Suspension, involuntary demotion, or dismissal of an employee for cause.
4. INVOLUNTARY DEMOTION - Reduction of an employee from a higher class to a lower class or salary increment for cause as disciplinary measure. The determination of higher or lower class shall be based on comparison of maximum regular salary rates. For a class with both confidential and represented positions, regular salary rates are those of the range negotiated in collective bargaining.
5. NOTICE OF UNSATISFACTORY SERVICE - A form used as a written reprimand. It has the following uses:
  - a. To notify the employee of unsatisfactory service when a written reprimand is needed. Such use is optional at supervisory discretion.
  - b. To notify the employee of the causes and charges for impending disciplinary actions when they are based on unsatisfactory service. Use is mandatory prior to imposition of such actions for those causes referenced in Rule 903B.
6. PHYSICAL HANDICAP - Includes impairment of sight, hearing, or speech, or impairment of physical ability because of amputation or loss of function or coordination, or any other health impairment which requires special education or related services.
7. RECEIPT - When service is by mail, receipt shall be interpreted to mean the acceptance of the registered or certified document by or on behalf of the addressee, as evidenced by a signature on the return receipt. Notification by the United States Postal Service to the effect that delivery cannot be made at the home of record shall be deemed to meet the require of "receipt" as used in these rules.
8. SUSPENSION - Temporary removal of an employee from a position for cause without pay, or indefinite removal preliminary to investigation of charges pursuant to the provisions of the second paragraph of Section 45304 of the Education Code.
9. UNSATISFACTORY SERVICE - The performance of assigned duties in a manner that is detrimental to the good of the service, or the failure to perform them, or the performance of actions while on duty that are detrimental to the good of the service.

CHANGE:

Definition 4 amended to reflect salary variations due to the designation of some classes as confidential.

Remove: March 4, 1987, 5, 6 and 7 of 7. Add: August 3, 1987, page 5 of 5.