

**Dismissal and Resignation Guidelines**

Purpose: To establish guidelines for the dismissal or resignation of substitute, temporary, and probationary certificated employees.

District procedures are as follows:

**A. Substitute Certificated Employees**

1. The Board may dismiss substitute certificated employees at any time at the pleasure of the Board. (Ed.Code, § 44953)
2. The Board delegates this authority to the Superintendent or designee. The Superintendent or his/her designee may therefore dismiss any substitute certificated employee any time at the Superintendent or designee's pleasure.
3. Any dismissal made pursuant to this section is final, and may not be appealed or contested in any manner, unless otherwise provided by law.

**B. Temporary Certificated Employees**

1. If a temporary certificated employee has served during one school year no more than 75 percent of the number of days the regular schools of the District are maintained, the Board may dismiss the employee at any time. (Ed. Code, § 44954 subd. (a)).
2. If a temporary certificated employee has served during one school year more than 75 percent of the number of days the regular schools of the District are maintained, the Board may dismiss the employee by notifying him or her before the end of the current school year of the District's decision not to reelect the employee for the next school year. (Ed. Code, § 44954 subd. (b)). Such a dismissal shall be effective upon the close of the school year in which notice was given. The Board may decide not to reelect an employee for any reason permitted by law.
3. The Board delegates its authority to dismiss or non-reelect temporary certificated employees to the Superintendent or designee. The decision of the Superintendent or designee is final.
4. Any dismissal made pursuant to this section may not be appealed or contested in any manner, unless otherwise provided by law.

**C. Probationary Certificated Employees**

1. Non-Reelection. The District may notify any probationary certificated employee on or before March 15 of the employee's second complete, consecutive school year of employment that the District has decided not to reelect the employee for the next school year. (Ed. Code, § 44929.21) The employment of any employee so notified shall terminate upon the close of the school year in which notice is given. The District may decide not to reelect an employee for any reason permitted by law, and such decision may not be appealed or contested in any way, except as otherwise provided by law.
2. Layoff. Probationary employees can be terminated at the end of a school year in accordance with the certificated layoff procedures specified in Education Code sections 44949 and 44955.
3. Grounds for mid-year dismissal of probationary employees whose probationary period commenced during the 1983-84 fiscal year or any fiscal year thereafter. First and second year probationary employees may be dismissed during the school year for unsatisfactory performance or for cause in

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may Accordance with established procedures as defined by law and this Policy. The Board suspend a probationary employee for a specified period of time without pay as an alternative to dismissal pursuant to this section.

For purposes of this Policy, unsatisfactory performance means any of the performance deficiencies specified below which the Board deems to relate solely to the welfare of the schools of the District and the pupils thereof. When proven, such conduct is sufficient cause for dismissal of probationary teachers. This list, however, is not intended to be exhaustive. The Board reserves the right to dismiss probationary teachers for any conduct or situation which the Board finds to adversely affect the schools of the District and the pupils thereof.

- a. Lack of proper knowledge of the subject matter or school work that the teacher is attempting to do.
- b. Lack of proper organization of work.
- c. Lack of proper presentation to pupils of subject matter or school work.
- d. Lack of proper self-control in the discipline of pupils or in the presence of pupils.
- e. Inability to control classes and maintain reasonable order and discipline.
- f. Lack of courtesy in contact with pupils, co-workers, or community.
- g. Lack of interest in and understanding of pupils.
- h. Indifference to pupil welfare.
- i. Poor judgment in handling pupil problems.
- j. Tardiness in arriving at school and/or in attending classes.
- k. Failure to comply with rules and regulations of the District.
- l. Failure to complete and submit reports and records as required by the principal for proper functioning of the school.
- m. Insubordination.
- n. Failure to accept suggestions when suggestions are consistent with accepted educational practices, and failure to cooperate with the principal, the supervisor, the Superintendent, or co-workers.
- o. Evident dislike for teaching or children.
- p. Lack of personal cleanliness; poor grooming.
- q. Failure to maintain a clean and orderly classroom.
- r. Manifestation or development of habits or social practices which are not in conformity with reasonable professional standards or which may become detrimental to the school.

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- s. Lack of good physical or mental health which precludes the employee from performing the essential functions of the position and cannot be reasonably accommodated.
- t. Conduct generally unbecoming of a professional person.

Probationary employees are also subject to mid-year dismissal for any other cause specified in Education Code section 44932.

- 4. Procedures for mid-year dismissal of probationary employees pursuant to Education Code section 44948.3. Education Code section 44948.3 authorizes the Governing Board to establish procedures for the appointment of an administrative law judge to conduct hearings into charges of dismissal of probationary certificated employees and to submit a recommended decision to the Governing Board. The following procedures to dismiss probationary employees for cause have been adopted by the Governing Board.
  - a. The Superintendent or authorized designee must serve an unsigned copy of a Notice of Dismissal and a Statement of Charges with written documentation in support thereof on the probationary certificated employee with the right of the employee to a Skelly pre-termination meeting to rebut the Statement of Charges before action thereon.
  - b. The Superintendent or authorized designee, after the opportunity for a Skelly pre-termination meeting, shall sign and serve the Notice of Dismissal and the Statement of Charges on the employee.
  - c. These procedures are to be followed where such an employee has filed a written demand appealing the determination of the Superintendent or authorized designee.
  - d. The Governing Board hereby establishes procedures for the appointment of an administrative hearing officer to act as an administrative law judge to conduct said hearing and to submit proposed findings and a proposed decision to the Board.
  - e. When Notice of Dismissal and a Statement of Charges have been served on a probationary certificated employee under Education Code section 44948.3, the Board hereby delegates to the Superintendent or authorized designee the duty to appoint an administrative hearing officer to act as an administrative law judge (hereafter "hearing officer") to hear any appeal of the dismissal action.
  - f. The hearing officer shall not be employed by the Corcoran Unified School District. The hearing officer may, but shall not be required to, have experience in public education and may, but shall not be required to, have legal training.
  - g. All expenses of the hearing (which shall not include legal fees and costs of the employee), including the cost of the hearing officer and rental, if charged, of the facility for the hearing shall be paid from District funds. If requested by the hearing officer, a legal advisor shall be retained to advise the hearing officer at the expense of the District.
  - h. The following procedures shall apply to a hearing conducted pursuant to Education Code section 44948.3.
    - 1. Notice of the dismissal hearing shall be given ten (10) days in advance of the hearing on the Statement of Charges.

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2. A record of the hearing shall be made. The record may be maintained by any means, including electronic recording, so long as a reasonably accurate and complete written transcription of the proceedings can be made.
3. Technical rules of evidence shall not apply. Rather, Government Code section 11513 and the body of case law interpreting that section will control at the hearing.
4. The District shall have the burden of proof. The parties will give opening statements. The District will put on its evidence first, followed by the employee. The District will then be provided an opportunity to rebut the employee's evidence. The hearing officer at any time may also inquire of the witnesses. The parties will then proceed to closing arguments.
5. If the probationary certificated employee, or a representative of the probationary certificated employee, fails to object at the hearing that the above procedures are not being properly followed, the objections shall be deemed waived.
6. Following the hearing, the hearing officer shall make a proposed decision together with proposed findings. If the hearing officer recommends termination of the probationary certificated employee, the findings in support of the hearing officer's recommendation shall be based on the evidence adduced at the hearing.
7. The Board shall review the hearing officer's recommendation and make one of the following determinations:
  - (a.) Accept the recommendation of the hearing officer;
  - (b.) Reject the recommendation of the hearing officer;
  - (c.) Modify and accept the recommendation of the hearing officer based on the administrative record; or
  - (d.) Order a rehearing before the same hearing officer or order another hearing before a new hearing officer.
8. The Board hereby acknowledges that the procedures set forth under the Administrative Procedure Act (Gov. Code, §§ 11500, et seq.), except as the Government Code section 11513, do not apply to dismissal hearings brought under Education Code section 44948.3. There shall be no discovery rights by either party under the Administrative Procedure Act or any other discovery procedure.
9. Notwithstanding the foregoing, any non-privileged documents in support of the District's Statement of Charges shall be served with the Notice of Dismissal. Any other non-privileged documents in support of the Charges not served at the time of the Notice of Dismissal shall be served by the District no later than the Notice of Dismissal Hearing. The employee may, but shall not be obligated to, disclose any documents refuting the Charges.

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10. The process for dismissal of a probationary certificated employee under Education Code section 44948.3 does not preclude the District from serving on the employee a Notice of Nonreemployment under Education Code sections 44929.21 et seq. In addition to serving a probationary certificated employee with Statement of Charges under Education Code section 44948.3 and the holding of the dismissal hearing, the Board may also elect to nonreemploy a probationary certificated employee under Education Code section 44929.21.
11. The Superintendent or authorized designee is further authorized to take any other action necessary to carry out the provisions of these procedures.

**D. Permanent Certificated Employees**

Permanent certificated employees may be dismissed only in accordance with established procedures as defined by law. The general causes for which dismissal may be initiated and the appropriate procedure to utilize are stated in Education Code sections 44932, et seq. and Education Code sections 44949 and 44955.

**E. Other Authorized Disciplinary Measures**

Notwithstanding any other provision of this Policy, the Board may suspend, terminate or otherwise discipline any certificated employee as provided and permitted by law and the Collective Bargaining Agreement.

**F. Resignation**

The Board shall accept the resignation of any certificated employee and may mutually agree with the employee the date when the resignation takes effect, which shall not be later than two years after the resignation is received by the Board, or as otherwise provided by law. The resignation shall be effective for all purposes upon receipt by the Superintendent or designee.