

OAK PARK UNIFIED SCHOOL DISTRICT

ADMINISTRATIVE REGULATION

Series 4000

Personnel

AR 4118/4218 (1)

Dismissal/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
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

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: 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)

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1. 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)
2. 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)
3. 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)

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, a probationary employee who is in the first or second year of service 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 or for unsatisfactory performance determined pursuant to Education Code 44660-44665. (Education Code 44948.2, 44948.3)

Whenever a first- or second-year probationary employee is so charged, the following procedures shall apply for dismissing the employee during the school year: (Education Code 44948.3)

1. The Superintendent or designee shall give 30 days' prior written notice of dismissal, not later than March 15 in the case of second-year probationary employees. The notice shall include a statement of the reasons for the dismissal, notice of the opportunity to appeal, and, if the cause is unsatisfactory performance, a copy of the evaluation conducted pursuant to Education Code 44664.
2. Upon receipt of the notice of dismissal, the employee may be dismissed if no request for a hearing is submitted to the Board within 15 days.

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3. If a hearing is requested, the district may arrange for the appointment of an administrative law judge to conduct the hearing and to recommend a decision to the Board.

A probationary employee may be suspended without pay for a specified period of time as an alternative to dismissal. (Education Code 44948.3)

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

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)

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Adopted: 7-23-85

Amended: 1-21-92, 2-25-92, 9-17-02, 11-08, 4-21-15 , 4-16-24

Policy Reference:

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>

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Gov. Code 12954	Employment discrimination; cannabis use
Gov. Code 3543.2	Scope of representation
H&S Code 11054	Schedule I; substances included
H&S Code 11055	Schedule II; substances included
H&S Code 11056	Schedule III; substances included
H&S Code 11357-11361	Marijuana
H&S Code 11363	Peyote
H&S Code 11364	Opium
H&S Code 11370.1	Possession of controlled substances with a firearm
Pen. Code 11165.2-11165.6	Child abuse or neglect; definitions
Pen. Code 1192.7	Plea bargaining limitation
Pen. Code 187	Murder
Pen. Code 291	School employees arrest for sex offense
Pen. Code 667.5	Prior prison terms; enhancement of prison terms
Federal	Description
U.S. Constitution, First Amendment	Free exercise, free speech, and establishment clauses
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	Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools, May 2023

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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>