

Personnel

DISCIPLINARY/DISMISSAL/RELEASE

AR 4318

Causes for Disciplinary Action

A permanent classified employee may be subject to suspension, demotion, involuntary reassignment, or dismissal for one or more of the following causes:

1. Immoral conduct, including, but not limited to, egregious misconduct that is the basis for a sex offense as defined in Education Code [44010](#), a controlled substance offense as defined in Education Code [44011](#), or child abuse and neglect as described in Penal Code [11165.2-11165.6](#) .
2. Conduct that constitutes a violent or serious felony as defined in Penal Code [667.5\(c\)](#) or 1192.7(c).
3. Unlawful discrimination, including harassment, against any student or other employee.
4. Violation of or refusal to obey state or federal law or regulation, County Superintendent policy, or county office or school procedure.
5. Falsification of any information supplied to the county office, including, but not limited to, information supplied on application forms, employment records, or any other county office records.
6. Unsatisfactory performance.
7. Unprofessional conduct.
8. Dishonesty.
9. Neglect of duty or absence without leave.
10. Insubordination.
11. Use of alcohol or a controlled substance while on duty or in such close time proximity thereto as to affect the employee's performance.
12. Destruction or misuse of county office property.
13. Failure to fulfill any ongoing condition of employment including, but not limited to, maintenance of any license, certificate, or other similar requirement specified in the employee's class specification or otherwise necessary for the employee to perform the duties of the position.
14. A physical or mental condition which precludes the employee from the proper performance of duties and responsibilities as determined by competent medical authority, except as otherwise provided by a contract or by law.

15. Retaliation against any person who, in good faith, reports, discloses, divulges, or otherwise brings to the attention of any appropriate authority any information relative to an actual or suspected violation of state or federal law occurring on or directly related to the job.
16. Engaging in political activity during assigned hours of employment.
17. Conviction of any crime involving moral turpitude.
18. Willful or persistent violation of the Education Code, Superintendent Policies of the County Office, Administrative Regulations of the County Office, or procedures of the County Office.
19. Discourteous, abusive, offensive or immoral conduct or language toward other employees, students, or the public.
20. Repeated unexcused absences or tardiness.
21. Abuse of leave privileges.
22. Absence without notification.
23. Offering anything of value, or offering any service in exchange for special treatment in connection with the employee's job, or the accepting of anything of value or any service in exchange for granting any special treatment to another employee or to any member of the public.
24. Persistent violation or refusal to comply with safety rules or other procedures established by the County Office, or by any governmental agency with jurisdiction.
25. Abandonment of position.
26. Violation of Education Code [45303](#) or Government Code 1028 (advocacy of communism).
27. Any other misconduct which is of such nature that it causes discredit or injury to the county office or the employee's position.

An employee shall not be suspended, disciplined, reassigned, transferred, dismissed, or otherwise retaliated against solely for acting to protect a student, or for refusing to infringe on a student's protected conduct, when that student is exercising free speech or press rights pursuant to Education Code [48907](#) or [48950](#). (Education Code [48907](#), [48950](#))

No disciplinary action shall be taken for any cause which arose before the employee became permanent, nor for any cause which arose more than two years before the date of the filing of the notice of cause unless this cause was concealed or not disclosed by the employee when it could be reasonably assumed that the employee would have disclosed the facts to the county office. (Education Code [45113](#))

Initiation and Notification of Charges

The County Superintendent or designee shall provide notice to the employee of a recommendation for discipline, which includes the charges and materials upon which the recommendation is based. The notification shall identify an impartial county office official ("Skelly Officer") with whom the employee

may meet at a specified time and place or to whom the employee may provide a written response to the recommendation of discipline. After meeting with the employee or considering any response from the employee, the Skelly officer shall recommend to the County Superintendent or designee whether to proceed with the recommendation for discipline.

The County Superintendent's designee shall file any final recommendation for a disciplinary action in writing with the County Superintendent. A copy of the recommendation shall be served upon the employee either personally (which during business closures may include video conferencing) or by registered or certified mail, return receipt requested, at the employee's last known address.

The notice shall, in ordinary and concise language, inform the employee of the specific charge(s) or cause(s) for the disciplinary action, the specific acts and omissions upon which the action is based, and, if applicable, the county office rule or regulation that the employee has allegedly violated. In addition, the notice shall include the employee's right to a hearing on those charges, the time within which the hearing may be requested which shall be not less than five days after service of the notice to the employee, and a card or paper which the employee may sign and file to deny the charges and request a hearing. (Education Code [45113](#), [45116](#))

Request for County Superintendent Hearing

Within the time specified in the notice of the recommendation of disciplinary action, the employee may request a hearing on the charges by signing and filing the card or paper included with the notice. (Education Code [45113](#))

Any other written document signed and appropriately filed within the specified time limit by the employee shall constitute a sufficient notice of the request for a hearing. The request shall be delivered to the office of the County Superintendent or designee during normal work hours of that office. If mailed to the office of the County Superintendent or designee, it must be received or postmarked no later than the time limit specified by the county office. In cases where an order of suspension without pay has been issued in conjunction with a recommendation of dismissal, any request for a hearing on the dismissal shall also constitute a request to hear the suspension order, and the necessity of the suspension order shall be an issue in the hearing.

Employment Status Pending a Hearing

A classified employee against whom a recommendation of disciplinary action has been issued shall remain on active duty status pending any hearing on the charges, unless the County Superintendent or designee determines that the employee's continuance in active duty would present an unreasonable risk of harm to students, staff, or property. The County Superintendent or designee may, in writing, order the employee immediately suspended from duty without pay and shall state the reasons that the suspension is deemed necessary. The suspension order shall be served upon the employee either personally or by registered or certified mail, return receipt requested, immediately after issuance.

Compulsory Leave of Absence

Upon being informed by law enforcement that a classified employee has been charged with a "mandatory leave of absence offense," the County Superintendent or designee shall immediately place the employee on a leave of absence. A mandatory leave of absence offense includes:

1. Any sex offense as defined in Education Code [44010](#)

2. Violation or attempted violation of Penal Code [187](#) (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 County Superintendent or designee may place on an immediate compulsory leave of absence a classified 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 tetrahydrocannabinols.

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 County Superintendent 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 the employee demands a hearing on the dismissal.

MENDOCINO COUNTY OFFICE OF EDUCATION

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