

# **CVUSD**

## **Administrative Regulation**

AR 4118

### **Personnel**

#### Suspension/Disciplinary Action

##### Suspension Without Pay

When a permanent certificated employee's unprofessional conduct is not considered serious enough to warrant dismissal, he/she may be suspended without pay on grounds of unprofessional conduct, following procedures designated in Education Code 44932(b).

A probationary certificated employee may be suspended without pay for a specified period during the school year as an alternative to dismissal following procedures designated in Education Code 44948.3.

Prior to any action on charges leading to suspension without pay on the grounds of unprofessional conduct, the Superintendent or designee shall give the employee written notice. This written notice shall: (Education Code 44938)

1. Indicate the nature of the employee's unprofessional conduct
2. Cite specific instances of unprofessional behavior
3. Give the employee a 45-day opportunity to correct the misconduct and overcome the grounds for the charge
4. Include the evaluation made pursuant to Education Code 44660-44665, if applicable.

(cf. 4115 - Evaluation/Supervision)

##### Compulsory Leave

\*\*\*Note: Whenever a certificated employee is charged with a mandatory leave of absence offense as defined in Education Code 44940, the district is required to place him/her on a compulsory leave of absence. AB 457 (Ch. 281, Statutes of 1999) amended Education Code 44010 to expand the definitions of "sex offense" for which school districts are required to place employees on compulsory leave of absence. In addition, Penal Code 291 requires police authorities to notify the superintendent when a school employee has been arrested for a sex offense. \*\*\*

The Superintendent or designee shall immediately place on compulsory leave of absence any certificated employee who is charged with committing: (Education Code 44830.1, 44940)

1. Any sex offense as defined in Education Code 44010
2. 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, with the exception of marijuana, mescaline, peyote, or tetrahydrocannabinols

\*\*\*Note: Pursuant to Education Code 44830.1, a district is prohibited from retaining in employment any current temporary, substitute or probationary employee, serving before March 15 of the employee's second probationary year, who has been convicted of a violent or serious felony as defined in Penal Code 667.5 and 1192.7, unless the individual has obtained a certificate of rehabilitation and pardon. See AR 4112.5/4312.5 - Criminal Record Check. \*\*\*

Upon receipt of notification from the Department of Justice by telephone that a current temporary employee, substitute employee, or probationary employee serving before March 15 of the employee's second probationary year has been convicted of a violent or serious felony, that employee shall be immediately placed on leave without pay. (Education Code 44830.1)

(cf. 4112.5/4312.5 - Criminal Record Check)

Upon receipt of written electronic notification of the conviction from the Department of Justice the employee, as specified above, shall be terminated automatically, and without regard to any other termination procedure. (Education Code 44830.1)

\*\*\*Note: Education Code 44940 permits the Board to require compulsory leaves for certain "optional leave of absence offenses." These offenses include murder as defined in Penal Code 187 and other controlled substance offenses as specified in Education Code 44011 and Health and Safety Code 11357-11361, 11363, 11364, 11370.1 as these sections relate to any controlled substance except marijuana, mescaline, peyote, or tetrahydrocannabinols. \*\*\*

The Board also may require an immediate compulsory leave of absence when a certificated employee is charged with "an optional leave of absence offense" as specified in law. (Education Code 44940)

The compulsory leave may extend for not more than 10 days after the entry of judgment in the proceedings. However, the Board may extend a certificated employee's compulsory leave by giving notice, within 10 days after the entry of judgment in the proceedings, that the employee will be dismissed in 30 days unless he/she demands a hearing. (Education Code (Education Code 44940, 44940.5)

(cf. 4117.4 - Dismissal)

The Board shall report to the Commission on Teacher Credentialing (formerly the Commission for Teacher Preparation and Licensing) any action it takes in connection with extending a compulsory leave beyond 10 days. (Education Code 44940.5)

\*\*\*Note: Pursuant to Education Code 44940.5, while on compulsory leave, the employee may receive his/her salary if he/she provides a suitable bond or other acceptable security as a guarantee that he/she will repay the leave-period salary if convicted of the charges or if he/she fails to return to district service. If the employee is acquitted or charges are dismissed, the district must reimburse him/her for the cost of the bond upon return to service in the district. If an employee who does not furnish a bond or other security is acquitted or the charges dismissed, the district must pay his/her salary for the time spent on leave upon return to district service. \*\*\*

Employee compensation during the period of compulsory leave shall be made in accordance with Education Code 44940.5.

\*\*\*Note: Pursuant to Education Code 44940.5, when charged with a mandatory leave of absence offense, the employee's teaching or service credential is automatically suspended for the time of the compulsory leave. \*\*\*

CSBA: (9/91 10/93) 7/00

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