Dismissal/Suspension/Disciplinary Action (Merit System)

The Governing Board expects all employees to perform their jobs satisfactorily and exhibit professional and appropriate conduct. A classified employee may be disciplined for unprofessional conduct or unsatisfactory performance in accordance with law, any applicable collective bargaining agreement, and the rules of the personnel commission.

(cf. 1312.1 - Complaints Concerning District Employees)
(cf. 4000 - Concepts and Roles)
(cf. 4112.5/4212.5/4312.5 - Criminal Record Check)
(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)
(cf. 4119.21/4219.21/4319.21 - Professional Standards)
(cf. 4119.24/4219.24/4319.24 - Maintaining Appropriate Adult-Student Interactions)
(cf. 4141/4241 - Collective Bargaining Agreement)
(cf. 4200 - Classified Personnel)

Disciplinary actions shall be based on the particular facts and circumstances involved and the severity of the employee's conduct or performance. Disciplinary actions may include, but are not limited to, verbal and written warnings, involuntary reassignment, demotion, suspension without pay, reduction of pay step in class, compulsory leave, and dismissal.

The Superintendent or designee shall ensure that disciplinary actions are taken in a consistent, nondiscriminatory manner and are appropriately documented.

(cf. 4030 - Nondiscrimination in Employment)
(cf. 4112.6/4212.6/4312.6 - Personnel Files)
(cf. 4119.1/4219.1/4319.1 - Civil and Legal Rights)

A probationary classified employee may be dismissed without cause at any time prior to the expiration of the probationary period.

(cf. 4216 - Probationary/Permanent Status)

A permanent classified employee shall be subject to suspension, demotion, or dismissal only for one or more of the causes designated by rule of the personnel commission. (Education Code 45302, 45304)

When such serious disciplinary action is being contemplated against an employee, the district shall adhere to disciplinary procedures developed by the personnel commission. Due process shall be afforded to the employee, including proper notice, an opportunity for the employee to meet with a designated district official ("Skelly officer") or to respond in writing to the charges, and an opportunity to appeal the district's decision with the personnel commission in accordance with Education Code 45305-45307. If the matter is addressed in a hearing before the personnel commission, the decision of the personnel commission shall be final.

However, if the matter involves an allegation of egregious misconduct as defined in Education Code 44932 and involves a minor, the matter shall be referred to an administrative law judge to determine whether sufficient cause exists for disciplinary action against the employee. The ruling of the administrative law judge shall be binding on the district and the employee. (Education Code 45312)
Legal Reference:

EDUCATION CODE
35161  Delegation of powers and duties
44009  Conviction of specified crimes
44010  Sex offense
44011  "Controlled substance offense" defined
44031  Personnel file
44940  Leave of absence; employee charged with mandatory or optional leave of absence offense
44940.5  Compulsory leave of absence
44990-44994  Testimony of minor witnesses at dismissal or suspension hearings
45101  Definitions (including "disciplinary action," "cause")
45109  Fixing of duties
45123  Employment after conviction of sex or narcotics offense
45124  Dismissal of sexual psychopath
45202  Transfer of accumulated sick leave and other benefits following dismissal
45240-45320  Merit system, classified employees, especially:
45302-45307  Suspension, dismissal, or other disciplinary action; classified employees

CODE OF CIVIL PROCEDURE
1286.2  Grounds for vacating decision of arbitrator

GOVERNMENT CODE
11500-11529  Administrative adjudication
12900-12996  Fair Employment and Housing Act
54957  Brown Act open meeting laws; closed session

HEALTH AND SAFETY CODE
11054  Schedule I; substances included
11055  Schedule II, substances included
11056  Schedule III, substances included
11357-11361  Marijuana
11363  Peyote
11364  Opium
11370.1  Possession of controlled substances with a firearm

PENAL CODE
187  Murder
667.5  Sex offenders
830.32  Peace officers employed by district
1192.7  Violent or serious felony
11165.2-11165.6  Child abuse or neglect, definitions

VEHICLE CODE
1808.8  School bus drivers; dismissal for safety-related cause

UNITED STATES CODE, TITLE 42
12101-12213  Americans with Disabilities Act

COURT DECISIONS
CSEA v. Foothill Community College District (1975) 52 Cal. App. 3rd 150, 155-156
Skelly v. State Personnel Board (1975) 15 Cal. 3d 194
California School Employees Association v. Personnel Commission (1970) 3 Cal.3d 139

Management Resources:
CALIFORNIA SCHOOL PERSONNEL COMMISSIONERS ASSOCIATION PUBLICATIONS
WEB SITES
California School Personnel Commissioners Association: http://meritsystem.org

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