

AMENDED IN ASSEMBLY APRIL 15, 2013

AMENDED IN ASSEMBLY MARCH 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 375

Introduced by Assembly Member Buchanan

(Principal coauthor: Senator Padilla)

(Coauthor: Assembly Member Muratsuchi)

February 14, 2013

An act to amend Sections 44932, 44934, 44936, 44939, 44940, 44941, and 44944 of, and to add Section 44944.2 to, the Education Code, relating to school employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 375, as amended, Buchanan. School employees: dismissal or suspension.

(1) Existing law prohibits a permanent employee from being dismissed except for one or more of specified causes, including, among other causes, immoral or unprofessional conduct. Existing law requires the governing board of a school district to give notice to a permanent employee of its intention to dismiss or suspend the employee, together with a written statement of charges, for unprofessional conduct or unsatisfactory performance, at the expiration of 30 days from the date of service of the notice, unless the employee demands a hearing.

This bill would ~~specify~~ *require* that a governing board's notice to an employee of its intention to dismiss or suspend the employee, together with written charges filed or formulated pursuant to those procedures, ~~shall~~ be sufficient to initiate a hearing, as prescribed, and would ~~specify~~ *that prohibit* the governing board ~~shall not be from being~~ required to

file or serve a separate accusation. The bill would revise various procedures; for providing notice of dismissal or suspension ~~pursuant to those provisions, and would require that the~~ *and would authorize a notice of dismissal or suspension to be given at any time of year, except a notice for a proceeding involving only charges of unsatisfactory performance, which would only be given during the instructional year of the schoolsite where the employee is physically employed, or during the summer session, if the employee is employed for that purpose.* The bill would require that, once a demand has been made for a hearing, the school district immediately notify the Office of Administrative Hearings. The bill would impose various requirements for the filing of a demand for a hearing and the conduct of hearings by the Office of Administrative Law Hearings. The bill would delete obsolete provisions relating to the suspension of a permanent employee based on knowing membership by the employee in the Communist Party.

~~Existing~~

(2) *Existing* law provides that upon being charged, as specified, with certain sex or controlled substance offenses, a certificated employee be placed on either a compulsory leave of absence or an optional leave of absence for certain enumerated violations.

This bill would revise the definitions of “charged with a mandatory leave of absence offense” and “charged with an optional leave of absence offense” for purposes of those provisions governing when a certificated employee is required to be placed on either a compulsory leave of absence or an optional leave of absence. Because these revisions would increase the number of employees subject to immediate placement on compulsory leave of absence, thereby increasing the duties of school districts, the bill would impose a state-mandated local program.

~~Existing~~

(3) *Existing* law requires in a dismissal or suspension proceeding against a permanent employee for unprofessional conduct or unsatisfactory performance, if a hearing is requested by the employee, that the hearing be commenced within 60 days from the date of the employee’s demand for a hearing.

This bill would require that the hearing be commenced within 6 months from the date of the employee’s demand for a hearing, and be completed within 7 months from the date of the employee’s demand for a hearing. The bill would revise various procedures for the conduct of those hearings, as prescribed. The bill would require that, in a dismissal or suspension proceeding carried out under the above

provisions, the parties make specified disclosures in lieu of certain written discovery, as prescribed, and would authorize the parties to obtain discovery by oral deposition. *The bill would require the governing board of the school district and the state to share equally the expenses of the hearing if the Commission on Professional Competence determines that the employee should be dismissed or suspended.*

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

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~~(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares the following:

2 (a) Pupils, educators, administrators, school boards, school
3 district employees, and judges need a teacher dismissal process
4 that is both fair and efficient.

5 (b) This act is intended to revise existing statutes in a manner
6 that will continue current practices, but reduce the time necessary
7 to complete the teacher dismissal process.

8 SEC. 2. Section 44932 of the Education Code is amended to
9 read:

10 44932. (a) A permanent employee shall not be dismissed
11 except for one or more of the following causes:

12 (1) Immoral conduct.

13 (2) Unprofessional conduct.

1 (3) Commission, aiding, or advocating the commission of acts
2 of criminal syndicalism, as prohibited by Chapter 188 of the
3 Statutes of 1919, or in any amendment thereof.

4 (4) Dishonesty.

5 (5) Unsatisfactory performance.

6 (6) Evident unfitness for service.

7 (7) Physical or mental condition unfitting him or her to instruct
8 or associate with children.

9 (8) Persistent violation of or refusal to obey the school laws of
10 the state or reasonable regulations prescribed for the government
11 of the public schools by the state board or by the governing board
12 of the school district employing him or her.

13 (9) Conviction of a felony or of any crime involving moral
14 turpitude.

15 (10) Violation of Section 51530 or conduct specified in Section
16 1028 of the Government Code, added by Chapter 1418 of the
17 Statutes of 1947.

18 (11) Alcoholism or other drug abuse that makes the employee
19 unfit to instruct or associate with children.

20 (b) The governing board of a school district may suspend
21 without pay for a specific period of time on grounds of
22 unprofessional conduct a permanent certificated employee or, in
23 a school district with an average daily attendance of less than 250
24 pupils, a probationary employee, pursuant to the procedures
25 specified in Sections 44933, 44934, 44935, 44936, 44937, 44943,
26 and 44944. This authorization shall not apply to a school district
27 that has adopted a collective bargaining agreement pursuant to
28 subdivision (b) of Section 3543.2 of the Government Code.

29 SEC. 3. Section 44934 of the Education Code is amended to
30 read:

31 44934. (a) Upon the filing of written charges, duly signed and
32 verified by the person filing them, with the governing board of the
33 school district, or upon a written statement of charges formulated
34 by the governing board, charging that there exists cause, as
35 specified in Section 44932 or 44933, for the dismissal or
36 suspension of a permanent employee of the district, the governing
37 board may, upon majority vote, except as provided in this article
38 if it deems the action necessary, give notice to the permanent
39 employee of its intention to dismiss or suspend him or her at the
40 expiration of 30 days from the date of service of the notice, unless

1 the employee demands a hearing as provided in this article.
2 Suspension proceedings may be initiated pursuant to this section
3 only if the governing board has not adopted a collective bargaining
4 agreement pursuant to subdivision (b) of Section 3543.2 of the
5 Government Code.

6 (b) Any written statement of charges of unprofessional conduct
7 or unsatisfactory performance shall specify instances of behavior
8 and the acts or omissions constituting the charge so that the teacher
9 will be able to prepare his or her defense. It shall, where applicable,
10 state the statutes and rules that the teacher is alleged to have
11 violated, but it shall also set forth the facts relevant to each
12 occasion of alleged unprofessional conduct or unsatisfactory
13 performance.

14 (c) If the governing board has given notice to a permanent
15 employee of its intention to dismiss or suspend him or her, based
16 upon written charges filed or formulated pursuant to this section,
17 the charges may be amended only upon motion before an
18 administrative law judge of the Office of Administrative Hearings.
19 The amendment of charges shall be substantially related to the
20 original charge and shall not result in any prejudice to the
21 responding party. ~~A~~ *No* motion to amend shall be granted ~~at least~~
22 *less than* 90 days before the hearing on the charges.

23 (d) A governing board's notice to an employee of its intention
24 to dismiss or suspend him or her, together with written charges
25 filed or formulated pursuant to this section, shall be sufficient to
26 initiate a hearing under Section 11503 of the Government Code,
27 and the governing board shall not be required to file or serve a
28 separate accusation.

29 (e) This section shall also apply to the suspension of
30 probationary employees in a school district with an average daily
31 attendance of less than 250 pupils that has not adopted a collective
32 bargaining agreement pursuant to subdivision (b) of Section 3542.2
33 of the Government Code.

34 SEC. 4. Section 44936 of the Education Code is amended to
35 read:

36 44936. (a) The notice of dismissal or suspension in a
37 proceeding initiated pursuant to Section 44934 ~~shall~~ *may be given*
38 *at any time of year.*

39 (b) *Notwithstanding subdivision (a), the notice of dismissal or*
40 *suspension in a proceeding involving only charges of unsatisfactory*

1 *performance initiated pursuant to Section 44934 shall only be*
2 *given during either of the following:*

3 ~~(1) The *the* instructional year of the schoolsite where the~~
4 ~~employee is physically employed.~~

5 ~~(2) The summer session, if the employee is employed for that~~
6 ~~purpose.~~

7 ~~(b)~~

8 (c) The notice of dismissal or suspension shall be in writing and
9 be served upon the employee personally ~~or by United States~~
10 ~~registered mail addressed to him or her~~ at his or her last known
11 address. A copy of the charges filed, containing the information
12 required by Section 11503 of the Government Code, together with
13 a copy of the provisions of this article, shall be attached to the
14 notice.

15 SEC. 5. Section 44939 of the Education Code is amended to
16 read:

17 44939. (a) Upon the filing of written charges, duly signed and
18 verified by the person filing them with the governing board of a
19 school district, or upon a written statement of charges formulated
20 by the governing board, charging a permanent employee of the
21 district with immoral conduct, conviction of a felony or of any
22 crime involving moral turpitude, with incompetency due to mental
23 disability, or with willful refusal to perform regular assignments
24 without reasonable cause, as prescribed by reasonable rules and
25 regulations of the employing school district, the governing board
26 may, if it deems that action necessary, immediately suspend the
27 employee from his or her duties and give notice to him or her of
28 his or her suspension, and that 30 days after service of the notice,
29 he or she will be dismissed, unless he or she demands a hearing.

30 (b) (1) An employee who has been placed on suspension
31 pursuant to this section may serve and file with the Office of
32 Administrative Hearings a motion for immediate reversal of
33 suspension. Review of a motion filed pursuant to this section shall
34 be limited to a determination as to whether the facts as alleged in
35 the statement of charges, if true, are sufficient to constitute a basis
36 for immediate suspension under this section. The motion shall
37 include a memorandum of points and authorities setting forth law
38 and argument supporting the employee's contention that the
39 statement of charges does not set forth a sufficient basis for
40 immediate suspension.

1 (2) The motion shall be served upon the governing board and
2 filed within 30 days after service upon the employee of the initial
3 pleading in the matter. The governing board shall have the right
4 to serve and file a written response to the motion before or at the
5 time of hearing.

6 (3) The hearing on the motion for immediate reversal of
7 suspension shall be held no later than 30 days after the motion is
8 filed with the Office of Administrative Hearings.

9 (4) The administrative law judge shall, no later than 15 days
10 after the hearing, issue an order denying or granting the motion.
11 The order shall be in writing, and a copy of the order shall be
12 served by the Office of Administrative Hearings upon the parties.
13 The grant or denial of the motion shall be without prejudice to
14 consideration by the Commission on Professional Competence,
15 based upon the full evidentiary record before it, of the validity of
16 the grounds for dismissal.

17 (5) An order granting a motion for immediate reversal of
18 suspension shall become effective within five days of service of
19 the order. The school district shall make the employee whole for
20 any lost wages, benefits, and compensation within 14 days of
21 service of an order granting the motion.

22 (6) A motion made pursuant to the this section shall be the
23 exclusive means of obtaining interlocutory review of suspension
24 pending dismissal. ~~The grant or denial of the motion shall be~~
25 ~~without prejudice to consideration by the Commission on~~
26 ~~Professional Competence, based upon the full evidentiary record~~
27 ~~before it, of the validity of the grounds for suspension or dismissal.~~

28 SEC. 6. Section 44940 of the Education Code is amended to
29 read:

30 44940. (a) For purposes of this section, “charged with a
31 mandatory leave of absence offense” is defined to mean charged
32 by complaint, information, or indictment filed in a court of
33 competent jurisdiction with the commission of any sex offense as
34 defined in Section 44010, with a violation or attempted violation
35 of Section 187 of the Penal Code, or with the commission of any
36 offense involving aiding or abetting the unlawful sale, use, or
37 exchange to minors of controlled substances listed in Schedule I,
38 II, or III, as contained in Sections 11054, 11055, and 11056 of the
39 Health and Safety Code.

1 (b) For purposes of this section, “charged with an optional leave
2 of absence offense” is defined to mean a charge by complaint,
3 information, or indictment filed in a court of competent jurisdiction
4 with the commission of any controlled substance offense as defined
5 in Section 44011 or 87011, Sections 11357 to 11361, inclusive,
6 or Section 11363, 11364, or 11370.1 of the Health and Safety
7 Code, insofar as these sections relate to any controlled substances.

8 (c) For purposes of this section and Section 44940.5, the term
9 “school district” includes county offices of education.

10 (d) (1) If a certificated employee of a school district is charged
11 with a mandatory leave of absence offense, as defined in
12 subdivision (a), upon being informed that a charge has been filed,
13 the governing board of the school district shall immediately place
14 the employee on compulsory leave of absence. The duration of
15 the leave of absence shall be until a time not more than 10 days
16 after the date of entry of the judgment in the proceedings. No later
17 than 10 days after receipt of the complaint, information, or
18 indictment described by subdivision (a), the school district shall
19 forward a copy to the Commission on Teacher Credentialing.

20 (2) Upon receiving a copy of a complaint, information, or
21 indictment described in subdivision (a) and forwarded by a school
22 district, the Commission on Teacher Credentialing shall
23 automatically suspend the employee’s teaching or service
24 credential. The duration of the suspension shall be until a time not
25 more than 10 days after the date of entry of the judgment in the
26 proceedings.

27 (e) (1) If a certificated employee of a school district is charged
28 with an optional leave of absence offense as defined in subdivision
29 (b), the governing board of the school district may immediately
30 place the employee upon compulsory leave in accordance with the
31 procedure in this section and Section 44940.5. If any certificated
32 employee is charged with an offense deemed to fall into both the
33 mandatory and the optional leave of absence categories, as defined
34 in subdivisions (a) and (b), that offense shall be treated as a
35 mandatory leave of absence offense for purposes of this section.
36 No later than 10 days after receipt of the complaint, information,
37 or indictment described by subdivision (a), the school district shall
38 forward a copy to the Commission on Teacher Credentialing.

39 (2) Upon receiving a copy of a complaint, information, or
40 indictment described in subdivision (a) and forwarded by a school

1 district, the Commission on Teacher Credentialing shall
2 automatically suspend the employee's teaching or service
3 credential. The duration of the suspension shall be until a time not
4 more than 10 days after the date of entry of the judgment in the
5 proceedings.

6 SEC. 7. Section 44941 of the Education Code is amended to
7 read:

8 44941. (a) The notice of suspension and intention to dismiss,
9 shall be in writing and be served upon the employee personally or
10 by United States registered mail addressed to the employee at his
11 or her last known address. A copy of the charges filed, containing
12 the information required by Section 11503 of the Government
13 Code, together with a copy of the provisions of this article, shall
14 be attached to the notice. If the employee does not demand a
15 hearing within the 30-day period, he or she may be dismissed upon
16 the expiration of 30 days after service of the notice.

17 (b) An employee who has demanded a hearing pursuant to this
18 section shall be deemed to have fulfilled the conditions for
19 requesting a hearing under this article and under Sections 11505
20 and 11506 of the Government Code, and shall not have waived
21 any right for failure to file any other or subsequent notice of
22 defense or request for hearing.

23 SEC. 8. Section 44944 of the Education Code is amended to
24 read:

25 44944. (a) (1) In a dismissal or suspension proceeding initiated
26 pursuant to Section 44934, if a hearing is requested by the
27 employee, the hearing shall be commenced within six months from
28 the date of the employee's demand for a hearing, and the hearing
29 shall be completed within seven months from the date of the
30 employee's demand for a hearing. The hearing date shall be
31 established after consultation with the employee and the governing
32 board, or their representatives. The hearing date may be continued
33 in accordance with Sections 11505 and 11524 of the Government
34 Code, except that no continuance shall extend the date for
35 completion of the hearing more than seven months from the date
36 of the employees request for a hearing, except for good cause, as
37 determined by the ~~Office of Administrative Hearings~~ *administrative*
38 *law judge*. The hearing shall be initiated and conducted, and a
39 decision made, in accordance with Chapter 5 (commencing with
40 Section 11500) of Part 1 of Division 3 of Title 2 of the Government

1 Code, and the Commission of Professional Competence shall have
2 all of the power granted to an agency pursuant to that chapter,
3 except as described in this article.

4 (2) (A) No witness shall be permitted to testify at the hearing
5 except upon oath or affirmation. No testimony shall be given or
6 evidence introduced relating to matters that occurred more than
7 four years before the date of the filing of the notice, except as
8 provided in subparagraph (B). Evidence of records regularly kept
9 by the governing board concerning the employee may be
10 introduced, but no decision relating to the dismissal or suspension
11 of any employee shall be made based on charges or evidence of
12 any nature relating to matters occurring more than four years before
13 the filing of the notice, except as provided in subparagraph (B).

14 (B) Testimony and evidence relating to matters that occurred
15 more than four years before the date of the filing of the notice
16 pursuant to Section 44934 may not be considered, received as
17 evidence, or relied upon, except as deemed relevant by the ~~Office~~
18 ~~of Administrative Hearings~~ *administrative law judge* to charges
19 that involve any act as described in Section 44010 of this code,
20 and Sections 11165.2 to 11165.6, inclusive, of the Penal Code.

21 (b) (1) The hearing provided for in this section shall be
22 conducted by a Commission on Professional Competence, unless
23 the parties submit a statement in writing to the Office of
24 Administrative Hearings, indicating that both parties waive the
25 right to convene a Commission on Professional Competence and
26 stipulate to having the hearing conducted by a single
27 ~~Administrative Law Judge~~ *administrative law judge*.

28 (2) If the parties elect not to waive a hearing before a
29 Commission on Professional Competence, one member of the
30 commission shall be selected by the employee, one member shall
31 be selected by the governing board, and one member shall be an
32 administrative law judge of the Office of Administrative Hearings
33 who shall be chairperson and a voting member of the commission
34 and shall be responsible for assuring that the legal rights of the
35 parties are protected at the hearing.

36 (3) The governing board and the employee shall select
37 commission members no later than 45 days before the date set for
38 hearing, and shall serve notice of their selection upon all other
39 parties and upon the Office of Administrative Hearings. Failure
40 to meet this deadline shall constitute a waiver of the right to

1 selection, and the county board of education or its specific designee
2 shall immediately make the selection. If the county board of
3 education is also the governing board of the school district or has
4 by statute been granted the powers of a governing board, the
5 selection shall be made by the Superintendent, who shall be
6 reimbursed by the school district for all costs incident to the
7 selection.

8 (4) Any party who believes that a selected commission member
9 is not qualified may file an objection, including a statement
10 describing the basis for the objection, with the Office of
11 Administrative Hearings, and serve the objection and statement
12 upon all other parties, within 10 days of the date that the notice of
13 selection is filed. Within seven days after the filing of any
14 objection, the ~~Administrative Law Judge~~ *administrative law judge*
15 assigned to the matter shall rule on the objection, or convene a
16 teleconference with the parties for argument.

17 (5) The member selected by the governing board and the
18 member selected by the employee shall not be related to the
19 employee and shall not be employees of the district initiating the
20 dismissal or suspension. Each member shall hold a currently valid
21 credential and have at least three years' experience within the past
22 10 years in the discipline of the employee.

23 (c) (1) The decision of the Commission on Professional
24 Competence shall be made by a majority vote, and the commission
25 shall prepare a written decision containing findings of fact,
26 determinations of issues, and a disposition that shall be, solely,
27 one of the following:

28 (A) That the employee should be dismissed.

29 (B) That the employee should be suspended for a specific period
30 of time without pay.

31 (C) That the employee should not be dismissed or suspended.

32 (2) The decision of the Commission on Professional Competence
33 that the employee should not be dismissed or suspended shall not
34 be based on nonsubstantive procedural errors committed by the
35 school district or governing board unless the errors are prejudicial
36 errors.

37 (3) The commission shall not have the power to dispose of the
38 charge of dismissal by imposing probation or other alternative
39 sanctions. The imposition of suspension pursuant to subparagraph
40 (B) of paragraph (1) shall be available only in a suspension

1 proceeding authorized pursuant to subdivision (b) of Section 44932
2 or Section 44933.

3 (4) The decision of the Commission on Professional Competence
4 shall be deemed to be the final decision of the governing board.

5 (5) The governing board may adopt from time to time rules and
6 procedures not inconsistent with this section as may be necessary
7 to effectuate this section.

8 (6) The governing board and the employee shall have the right
9 to be represented by counsel.

10 (d) (1) If the member selected by the governing board or the
11 member selected by the employee is employed by any school
12 district in this state, the member shall, during any service on a
13 Commission on Professional Competence, continue to receive
14 salary, fringe benefits, accumulated sick leave, and other leaves
15 and benefits from the district in which the member is employed,
16 but shall receive no additional compensation or honorariums for
17 service on the commission.

18 (2) If service on a Commission on Professional Competence
19 occurs during summer recess or vacation periods, the member shall
20 receive compensation proportionate to that received during the
21 current or immediately preceding contract period from the
22 member's employing district, whichever amount is greater.

23 (e) (1) If the Commission on Professional Competence
24 determines that the employee should be dismissed or suspended,
25 the governing board and the ~~employee~~ *state* shall share equally
26 the expenses of the hearing, including the cost of the administrative
27 law judge. The state shall pay any costs incurred under paragraph
28 (2) of subdivision (d), the reasonable expenses, as determined by
29 the administrative law judge, of the member selected by the
30 governing board and the member selected by the employee,
31 including, but not limited to, payments or obligations incurred for
32 travel, meals, and lodging, and the cost of the substitute or
33 substitutes, if any, for the member selected by the governing board
34 and the member selected by the employee. The Controller shall
35 pay all claims submitted pursuant to this paragraph from the
36 General Fund, and may prescribe reasonable rules, regulations,
37 and forms for the submission of the claims. The employee and the
38 governing board shall pay their own attorney's fees.

39 (2) If the Commission on Professional Competence determines
40 that the employee should not be dismissed or suspended, the

1 governing board shall pay the expenses of the hearing, including
2 the cost of the administrative law judge, any costs incurred under
3 paragraph (2) of subdivision (d), the reasonable expenses, as
4 determined by the administrative law judge, of the member selected
5 by the governing board and the member selected by the employee,
6 including, but not limited to, payments or obligations incurred for
7 travel, meals, and lodging, the cost of the substitute or substitutes,
8 if any, for the member selected by the governing board and the
9 member selected by the employee, and reasonable attorney's fees
10 incurred by the employee.

11 (3) As used in this section, "reasonable expenses" shall not be
12 deemed "compensation" within the meaning of subdivision (d).

13 (4) If either the governing board or the employee petitions a
14 court of competent jurisdiction for review of the decision of the
15 commission, the payment of expenses to members of the
16 commission required by this subdivision shall not be stayed.

17 (5) If the decision of the commission is finally reversed or
18 vacated by a court of competent jurisdiction, either the state, having
19 paid the commission members' expenses, shall be entitled to
20 reimbursement from the governing board for those expenses, or
21 the governing board, having paid the expenses, shall be entitled
22 to reimbursement from the state.

23 (f) The hearing provided for in this section shall be conducted
24 in a place selected by agreement among the members of the
25 commission. In the absence of agreement, the place shall be
26 selected by the administrative law judge.

27 SEC. 9. Section 44944.2 is added to the Education Code, to
28 read:

29 44944.2. (a) In a dismissal or suspension proceeding under
30 Section 44944, in lieu of written discovery required pursuant to
31 Section 11507.6 of the Government Code, the parties shall make
32 disclosures as described in this section.

33 (1) An initial disclosure shall comply with the following
34 requirements:

35 (A) A party shall, without awaiting a discovery request, provide
36 to the other parties both of the following:

37 (i) The name and, if known, the address and telephone number
38 of each individual likely to have discoverable information, along
39 with the subjects of that information, that the disclosing party may

1 use to support its claims or defenses, unless the use would be solely
2 for impeachment purposes.

3 (ii) A copy of all documents, electronically stored information,
4 and tangible items that the disclosing party has in its possession,
5 custody, or control and may use to support its claims or defenses,
6 unless the use would be solely for impeachment.

7 (B) The school district shall make its initial disclosures within
8 30 days of the date of service of the notice of intention to dismiss
9 or suspend. The employee shall make his or her initial disclosures
10 within 30 days of the date of service of the school district’s initial
11 disclosures.

12 (C) A party shall make its initial disclosures based on the
13 information then reasonably available to it. A party is not excused
14 from making its disclosures because it has not fully investigated
15 the case or because it challenges the sufficiency of another party’s
16 disclosures. A party’s failure to make initial disclosures within the
17 deadlines set forth in this section shall preclude the party from
18 introducing witnesses or evidence not disclosed at the hearing,
19 unless the party shows good cause for its failure to timely disclose.

20 (D) A party has an obligation to promptly supplement its initial
21 disclosures as new information or evidence becomes known or
22 available. Supplemental disclosures shall be made as soon as
23 possible, and no later than 60 days before the date of
24 commencement of the hearing. A party’s failure to make
25 supplemental disclosures promptly upon discovery or availability
26 of new information or evidence shall preclude the party from
27 introducing witnesses or evidence not disclosed at the hearing,
28 unless the party shows good cause for its failure to timely disclose.

29 (2) The disclosure of expert testimony shall comply with the
30 following requirements:

31 (A) A party shall also disclose to the other parties the identities
32 of any expert witnesses whose testimony it may use at the hearing.

33 (B) The disclosure specified in subparagraph (A) shall be
34 accompanied by a summary of the ~~witness’s~~ *witness*’ expected
35 testimony, including a description of the facts and data considered
36 by the witness; a description of the witness’s qualifications,
37 including a list of all publications authored in the previous 10
38 years; a list of all other cases in which, during the previous four
39 years, the witness testified as an expert at a hearing or by

1 deposition; and a statement of the compensation to be paid to the
2 expert witness.

3 (C) Expert witness disclosures shall be made no later than 60
4 days before the date of commencement of hearing. A party's failure
5 to make full and timely expert witness disclosures shall preclude
6 the party's use of the expert witness' testimony or evidence at the
7 hearing.

8 (3) Prehearing disclosures shall comply with the following
9 requirements:

10 (A) In addition to the disclosures required in paragraphs (1) and
11 (2), a party shall provide to the other parties the following
12 information about the evidence that it may present at the hearing:

13 (i) The name, and if not previously provided, the address and
14 telephone number of each witness, separately identifying those
15 the party expects to present and those it may call if the need arises.

16 (ii) An identification of each exhibit, separately identifying
17 those items the party expects to offer and those it may offer if the
18 need arises.

19 (B) Prehearing disclosures shall be made at least 30 days before
20 the hearing.

21 (i) Within 14 days after prehearing disclosures are made, a party
22 shall file and serve any objections, along with the grounds for each
23 objection, to the admissibility of evidence.

24 (ii) These objections shall be decided on the first day of hearing,
25 or at a prehearing conference conducted pursuant to Section
26 11511.5 of the Government Code. Documents and individuals not
27 timely disclosed without good cause shall be precluded from
28 admission at the hearing.

29 (b) In addition to the disclosures required by subdivision (a),
30 the parties may obtain discovery by oral deposition in California,
31 in accordance with Sections 2025.010 to 2025.620, inclusive, of
32 the Code of Civil Procedure, except as described in this article.
33 The school district may take the depositions of the employee and
34 no more than four other witnesses, and the employee may take
35 depositions of no more than five witnesses. Each witness deposition
36 is limited to seven hours.

37 (c) If the right to disclosures or oral depositions is denied by
38 either the employee or the governing board, the exclusive right of
39 a party seeking an order compelling production of discovery shall
40 be pursuant to Section 11507.7 of the Government Code. If a party

1 seeks protection from unreasonable or oppressive discovery
2 demands, the exclusive right of a party seeking an order for
3 protection shall be pursuant to Section 11450.30 of the Government
4 Code.

5 SEC. 10. If the Commission on State Mandates determines
6 that this act contains costs mandated by the state, reimbursement
7 to local agencies and school districts for those costs shall be made
8 pursuant to Part 7 (commencing with Section 17500) of Division
9 4 of Title 2 of the Government Code.

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