

AMENDED IN SENATE MARCH 31, 2016

AMENDED IN SENATE JULY 2, 2015

AMENDED IN ASSEMBLY APRIL 20, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 934**

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**Introduced by Assembly Member Bonilla**

February 26, 2015

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An act to amend Sections 44664, 44670, 44671, 44885.5, 44929.21, 44934, 44937, 44938, 44943, 44944.05, 44945, and 44955 of, to amend the heading of Article 13 (commencing with Section 44670) of Chapter 3 of Part 25 of Division 3 of Title 2 of, to add Section 11801 to Sections 44934.2 and 44944.2 to, and to add Articles 4.6 (commencing with Section 44520) and 4.7 (commencing with Section 44550) to Chapter 3 of Part 25 of Division 3 of Title 2 of, the Education Code, relating to ~~education technology~~: *certificated school employees*.

LEGISLATIVE COUNSEL'S DIGEST

AB 934, as amended, Bonilla. ~~Education technology: K-12 High-Speed Network: professional development~~. *Certificated school employees*.

(1) Existing law establishes the California Peer Assistance and Review Program for Teachers, which authorizes the governing board of a school district and the exclusive representative of the certificated employees in the school district to develop and implement a peer review program that meets local conditions and conforms to specified principles.

This bill would require each school district to create a 2-year teacher support program that would allow a highly effective certificated

*employee to support a certificated employee demonstrating unsatisfactory performance to become proficient in the California Standards for the Teaching Profession. By imposing additional duties on school districts, the bill would impose a state-mandated local program. The bill would also encourage each school district to create a one-year principal or vice principal support program that would allow a highly effective school administrator to support a principal or vice principal demonstrating unsatisfactory performance to become proficient in the California Professional Standards for Educational Leaders.*

*(2) Existing law requires school districts to evaluate each certificated employee on a continuous basis, as specified. Existing law also authorizes an employing authority to require a certificated employee who receives an evaluation including an unsatisfactory rating of an employee's performance in the area of teaching methods or instruction to participate in a program designed to improve appropriate areas of the employee's performance and to further pupil achievement and the instructional objectives of the employing authority. Existing law also requires a school district, if it participates in the California Peer Assistance and Review Program for Teachers, to require any certificated employee who receives an unsatisfactory rating on an evaluation to participate in that program.*

*This bill would, instead, require a certificated employee who receives an annual evaluation that contains an unsatisfactory rating of the employee's performance in the area of teaching methods or instruction to participate in either the California Peer Assistance and Review Program for Teachers or the district-designed teacher support program discussed above. By imposing additional duties on school districts, the bill would impose a state-mandated local program.*

*(3) Existing law authorizes the governing board of a school district to evaluate a school principal, as provided. Existing law also authorizes the governing board of a school district to use the California Professional Standards for Educational Leaders as the criteria for evaluating a school principal.*

*This bill would also authorize the governing board of a school district to evaluate a school vice principal. The bill would require the superintendent of a school district to annually provide reports on the evaluation or nonevaluation of principals and vice principals to the governing board of the school district, thereby imposing a state-mandated local program. The bill would also require the governing*

*board of a school district to use the California Professional Standards for Educational Leaders as the criteria for evaluating a school principal or vice principal. The bill would express the intent of the Legislature that every school principal and vice principal be evaluated as frequently as necessary to ensure, in the view of the governing board of the school district, that they are satisfactorily proficient in the California Professional Standards for Educational Leaders.*

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

*This bill would authorize proceedings based solely on charges of unsatisfactory performance to be initiated via an alternative process, which this bill would establish.*

*(5) Existing law establishes the process for dismissal or suspension hearing proceedings for certificated employees.*

*This bill would, instead, provide for a binding arbitration process for charges based solely on unsatisfactory performance, which this bill would establish.*

*(6) Existing law prohibits the governing board of a school district from acting upon any charges of unsatisfactory performance unless at least 90 calendar days before the date of the filing or before the beginning of the time period composed of the last  $\frac{1}{4}$  of the schooldays, the governing board of the school district provides the employee written notice of the unsatisfactory performance, specifying the nature thereof with such specific instances of behavior and with such particularity as to furnish the employee an opportunity to correct his or her faults and overcome the grounds for the charge.*

*This bill would, instead, prohibit the governing board of a school district from acting upon any charges of unsatisfactory performance against a permanent employee unless the employee against whom the charge is filed has completed at least one year of the California Peer Assistance and Review Program for Teachers or a district-designed teacher or administrator support program.*

*(7) Existing law authorizes a decision reached in a dismissal or suspension proceeding concerning a certificated employee to be reviewed by a court of competent jurisdiction.*

*This bill would make this statutory procedure inapplicable to a decision based solely on unsatisfactory performance reached in a dismissal or suspension proceeding concerning a certificated employee.*

*(8) Existing law requires a certificated employee who has completed 2 years of service to the district as an intern or probationary employee and who is further reelected and employed during the succeeding school year to be classified as a permanent employee.*

*This bill would authorize the governing board of a school district to continue to classify a certificated employee who has completed 2 years of service to the district and who is further reelected and employed during the succeeding school year as a probationary employee for a 3rd or 4th year, as provided, and to require that employee to participate in the California Peer Assistance and Review Program for Teachers or a district-designed teacher support program.*

*(9) Existing law authorizes the governing board of a school district to decrease the number of permanent employees of a school district, based on seniority, when a reduction in workforce is required due to specific circumstances, as provided. Existing law prohibits, except as otherwise provided, the services of a permanent employee from being terminated in these situations while any probationary employee, or any other employee with less seniority, is retained to render a service which the permanent employee is certificated and competent to render.*

*This bill would instead require each school district to develop a metric that gives equal weight to seniority and teacher effectiveness, as provided, to use when determining which permanent school employees to retain and which to dismiss when a reduction in workforce is required due to specific circumstances, as provided. The bill would also provide the order in which a school district would terminate certificated employees when a reduction in workforce is required.*

*(10) This bill would also make conforming changes and nonsubstantive changes.*

*(11) 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.*

~~Existing law establishes the K–12 High-Speed Network (K–12 HSN) for the purpose of enriching pupil educational experiences and improving pupil academic performance by providing high-speed, high-bandwidth Internet connectivity to the public schools. Existing law requires the Superintendent of Public Instruction to establish a K–12 HSN advisory board composed of various members.~~

~~This bill would require the K–12 HSN advisory board to, with funds appropriated pursuant to a certain appropriation, create a program, and offer to enter into an interagency agreement with the Office of the Chancellor of the California Community Colleges, to develop a sustainable training model that provides ongoing professional development to local educational agency staff on all elements of technical support, as provided.~~

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

State-mandated local program: ~~no~~-yes.

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

1     *SECTION 1. Article 4.6 (commencing with Section 44520) is*  
2     *added to Chapter 3 of Part 25 of Division 3 of Title 2 of the*  
3     *Education Code, to read:*

4

5             *Article 4.6. District-Designed Teacher Support Programs*

6

7             44520. (a) *Each school district shall create a two-year teacher*  
8             *support program allowing a highly effective certificated employee*  
9             *to support a certificated employee demonstrating unsatisfactory*  
10            *performance to become proficient in the California Standards for*  
11            *the Teaching Profession in order to become a highly effective*  
12            *certificated employee.*

13            (b) *For purposes of this section, the following terms have the*  
14            *following meanings:*

15            (1) *A “highly effective certificated employee” means a*  
16            *certificated employee who, in the view of the governing board of*  
17            *the school district, demonstrates proficiency with the California*  
18            *Standards for the Teaching Profession as demonstrated by an*  
19            *evaluation designating the certificated employee in the highest*  
20            *category the school district has established pursuant to subdivision*  
21            (i) *of Section 44664.*

1 (2) An “employee demonstrating unsatisfactory performance”  
 2 means a certificated employee who, in the view of the governing  
 3 board of the school district, does not demonstrate proficiency with  
 4 the California Standards for the Teaching Profession as  
 5 demonstrated by an evaluation designating the certificated  
 6 employee in a category below the satisfactory levels that the school  
 7 district has established pursuant to subdivision (c) of Section  
 8 44664.

9 SEC. 2. Article 4.7 (commencing with Section 44550) is added  
 10 to Chapter 3 of Part 25 of Division 3 of Title 2 of the Education  
 11 Code, to read:

12  
 13 Article 4.7. District-Designed Administrator Support Programs

14  
 15 44550. Each school district is encouraged to create a one-year  
 16 principal or vice principal support program allowing a highly  
 17 effective school administrator, as determined by the school district,  
 18 to support a principal or vice principal demonstrating  
 19 unsatisfactory performance, as determined by the school district,  
 20 to become proficient in the California Professional Standards for  
 21 Educational Leaders.

22 SEC. 3. Section 44664 of the Education Code is amended to  
 23 read:

24 44664. (a) Evaluation and assessment of the performance of  
 25 each certificated employee shall be made on a continuing basis as  
 26 follows:

- 27 (1) At least once each school year for probationary personnel.
- 28 (2) At least every other year for personnel with permanent status.
- 29 (3) At least every five years for personnel with permanent status  
 30 who have been employed at least 10 years with the school district,  
 31 are highly qualified, if those personnel occupy positions that are  
 32 required to be filled by a highly qualified professional by the  
 33 federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. ~~6301~~,  
 34 6301 et seq.), as defined in 20 U.S.C. Sec. 7801, and whose  
 35 previous evaluation rated the employee as meeting or exceeding  
 36 standards, if the evaluator and certificated employee being  
 37 evaluated agree. The certificated employee or the evaluator may  
 38 withdraw consent at any time.
- 39 (b) The evaluation shall include recommendations, if necessary,  
 40 as to areas of improvement in the performance of the *certificated*

1 employee. If ~~an~~ *a certificated* employee is not performing his or  
2 her duties in a satisfactory manner according to the standards  
3 prescribed by the governing ~~board,~~ *board of the school district,*  
4 the employing authority shall notify the *certificated* employee in  
5 writing of that fact and describe the unsatisfactory performance.  
6 The employing authority shall thereafter confer with the *certificated*  
7 employee making specific recommendations as to areas of  
8 improvement in the *certificated* employee's performance and  
9 endeavor to assist the employee in his or her performance. If any  
10 permanent certificated employee has received an unsatisfactory  
11 evaluation, the employing authority shall annually evaluate the  
12 employee until the employee achieves a positive evaluation or is  
13 separated from the *school* district.

14 ~~(e) Any evaluation performed pursuant to this article which~~  
15 ~~contains an unsatisfactory rating of an employee's performance~~  
16 ~~in the area of teaching methods or instruction may include the~~  
17 ~~requirement that the certificated employee shall, as determined~~  
18 ~~necessary by the employing authority, participate in a program~~  
19 ~~designed to improve appropriate areas of the employee's~~  
20 ~~performance and to further pupil achievement and the instructional~~  
21 ~~objectives of the employing authority. If~~

22 *(c) A school district shall establish at least four categories of*  
23 *performance for certificated employees. At least two of these*  
24 *categories shall designate performance at a satisfactory level or*  
25 *greater. At least two of these categories shall designate*  
26 *performance below a satisfactory level.*

27 *(d) (1) A certificated employee who receives an evaluation*  
28 *performed pursuant to this article below a satisfactory level in the*  
29 *area of teaching methods or instruction shall participate in a*  
30 *program designed to improve appropriate areas of the employee's*  
31 *performance and to further pupil achievement and the instructional*  
32 *objectives of the employing authority.*

33 *(2) If a school district participates in the California Peer*  
34 *Assistance and Review Program for Teachers established pursuant*  
35 *to Article 4.5 (commencing with Section 44500), any a certificated*  
36 *employee who receives ~~an unsatisfactory rating~~ a rating below a*  
37 *satisfactory level on an evaluation performed pursuant to this*  
38 *section shall participate in the California Peer Assistance and*  
39 *Review Program for Teachers.*

1 (3) If a school district does not participate in the California  
 2 Peer Assistance and Review Program for Teachers established  
 3 pursuant to Article 4.5 (commencing with Section 44500), a  
 4 certificated employee who receives a rating below a satisfactory  
 5 level on an evaluation performed pursuant to this section shall  
 6 participate in a district-designed teacher support program  
 7 established pursuant to Article 4.6 (commencing with Section  
 8 44520).

9 ~~(d)~~

10 (e) Hourly and temporary hourly certificated employees, other  
 11 than those employed in adult education classes who are excluded  
 12 by the provisions of Section 44660, and substitute teachers may  
 13 be excluded from the provisions of this section at the discretion  
 14 of the governing ~~board~~: board of the school district.

15 (f) To the extent that this section as amended by Assembly Bill  
 16 934 of the 2015–16 Regular Session conflicts with a provision of  
 17 a collective bargaining agreement entered into by a public school  
 18 employer and an exclusive bargaining representative before  
 19 January 1, 2017, pursuant to Chapter 10.7 (commencing with  
 20 Section 3540) of Division 4 of Title 1 of the Government Code, the  
 21 changes made to this section by Assembly Bill 934 of the 2015–16  
 22 Regular Session shall not apply until expiration or renewal of that  
 23 collective bargaining agreement.

24 SEC. 4. The heading of Article 13 (commencing with Section  
 25 44670) of Chapter 3 of Part 25 of Division 3 of Title 2 of the  
 26 Education Code is amended to read:

27

28 Article 13. Principal and Vice Principal Evaluation System

29

30 SEC. 5. Section 44670 of the Education Code is amended to  
 31 read:

32 44670. (a) The governing board of a school district may  
 33 identify who will conduct the evaluation of each school ~~principal~~.  
 34 principal and vice principal.

35 (b) ~~Every~~ school principal and vice principal may be evaluated  
 36 annually for the first and second year of employment as a new  
 37 principal or vice principal in a school district. The governing board  
 38 of the school district may determine the frequency at regular  
 39 intervals of evaluations after this period.



1 (c) Additional evaluations that occur outside of the regular  
2 intervals determined by the governing board of the school district  
3 may be agreed upon between the evaluator and the ~~principal~~  
4 *principal or vice principal*.

5 (d) Evaluators and principals *or vice principals* may review  
6 school success and progress throughout the year. This review  
7 should include goals that are defined by the school district.

8 (e) *The superintendent of a school district shall annually provide*  
9 *reports on the evaluation of principals and vice principals or of*  
10 *the school district superintendent's decision not to evaluate*  
11 *principals and vice principals to the governing board of the school*  
12 *district.*

13 (f) *It is the intent of the Legislature that every school principal*  
14 *and vice principal shall be evaluated as frequently as necessary*  
15 *to ensure, in the view of the governing board of the school district,*  
16 *that they are satisfactorily proficient in the California Professional*  
17 *Standards for Educational Leaders.*

18 SEC. 6. *Section 44671 of the Education Code is amended to*  
19 *read:*

20 44671. (a) Criteria for effective school principal *or vice*  
21 *principal* evaluations ~~may~~ *shall* be based upon the California  
22 Professional Standards for Educational Leaders. These standards  
23 identify a school administrator as being an educational leader who  
24 promotes the success of all pupils through leadership that fosters  
25 all of the following:

- 26 (1) A shared vision.
- 27 (2) Effective teaching and learning.
- 28 (3) Management and safety.
- 29 (4) Parent, family, and community involvement.
- 30 (5) Professional and ethical leadership.
- 31 (6) Contextual awareness.

32 (b) A school principal *or vice principal* evaluation may include,  
33 but not be limited to, evidence of all of the following:

- 34 (1) Academic growth of pupils based on multiple measures that  
35 may include pupil work as well as pupil and school longitudinal  
36 data that demonstrates pupil academic growth over time.  
37 Assessments used for this purpose ~~must~~ *shall* be valid and reliable  
38 and used for the purposes intended and for the appropriate pupil  
39 populations. Local and state academic assessments include, but  
40 are not limited to, state standardized assessments, formative,

1 summative, benchmark, end of chapter, end of course, advanced  
2 placement, international baccalaureate, college entrance, and  
3 performance assessments. For career and technical education,  
4 authentic performance assessment is a strong indicator of effective  
5 teaching and learning.

6 (2) Effective and comprehensive teacher evaluations, including,  
7 but not limited to, curricular and management leadership, ongoing  
8 professional development, teacher-principal teamwork, and  
9 professional learning communities.

10 (3) Culturally responsive instructional strategies to address and  
11 eliminate the achievement gap.

12 (4) The ability to analyze quality instructional strategies and  
13 provide effective feedback that leads to instructional improvement.

14 (5) High expectations for all pupils and leadership to ensure  
15 active pupil engagement and learning.

16 (6) Collaborative professional practices for improving  
17 instructional strategies.

18 (7) Effective school management, including personnel and  
19 resource management, organizational leadership, sound fiscal  
20 practices, a safe campus environment, and appropriate pupil  
21 behavior.

22 (8) Meaningful self-assessment to improve as a professional  
23 educator. Self-assessment may include, but not be limited to, a  
24 self-assessment on state professional standards for educational  
25 leaders and the identification of areas of strengths and areas for  
26 professional growth to engage in activities to foster professional  
27 growth.

28 (9) Consistent and effective relationships with pupils, parents,  
29 teachers, staff, and other administrators.

30 *SEC. 7. Section 44885.5 of the Education Code is amended to*  
31 *read:*

32 44885.5. (a) ~~Any~~ (1) A school district shall classify ~~as a~~  
33 ~~probationary employee of the district any~~ a person who is employed  
34 as a district intern pursuant to Section 44830.3 and ~~any~~ a person  
35 who has completed service in the *school* district as a district intern  
36 pursuant to subdivision (b) of Section 44325 and Section 44830.3  
37 and is reelected for the next succeeding school year to a position  
38 requiring certification ~~— qualifications. qualifications as a~~  
39 *probationary employee of the school district.*

40 The

1 (2) *The governing board of a school district may dismiss or*  
2 *suspend employees classified as probationary employees pursuant*  
3 *to this subdivision in accordance with the procedures specified in*  
4 *Section 44948 or ~~44948.3~~ 44948.3, as applicable.*

5 (b) ~~Every certificated employee,~~ *A highly effective certificated*  
6 *employee who has completed service as a district intern pursuant*  
7 *to subdivision (b) of Section 44325 and pursuant to Section*  
8 *44830.3 and who is further reelected and employed during the*  
9 *succeeding school year as described in subdivision (a) ~~shall,~~ may,*  
10 *upon reelection for the next succeeding school year, to a position*  
11 *requiring certification qualifications, be classified as and become*  
12 *a permanent employee of the school district.*

13 (c) (1) *Notwithstanding subdivision (b), the governing board*  
14 *of a school district may require a certificated employee who has*  
15 *completed service as a district intern pursuant to subdivision (b)*  
16 *of Section 44325 and pursuant to Section 44830.3 and who is*  
17 *further reelected and employed during the succeeding school year*  
18 *as described in subdivision (a) to continue to be classified as a*  
19 *probationary employee for a third or fourth year.*

20 (2) *A certificated employee who is reelected as a probationary*  
21 *employee pursuant to this subdivision shall participate in either*  
22 *the California Peer Assistance and Review Program for Teachers*  
23 *established pursuant to Article 4.5 (commencing with Section*  
24 *44500) or a district-designed teacher support program established*  
25 *pursuant to Article 4.6 (commencing with Section 44520).*

26 (3) *Notwithstanding paragraph (2) of subdivision (a), a third-*  
27 *or fourth-year probationary employee has the due process and*  
28 *appeal rights of a permanent employee pursuant to Sections 44934*  
29 *to 44934.2, inclusive, and Sections 44944 to 44944.2, inclusive.*

30 (4) *During the third and fourth year as a probationary employee,*  
31 *the employee shall be observed by multiple administrators and*  
32 *teacher peers. Administrators and teacher peers observing the*  
33 *third-year probationary employee shall provide feedback to the*  
34 *governing board of the school district regarding the probationary*  
35 *employee's proficiency with the California Standards for the*  
36 *Teaching Profession, adopted by the Commission on Teacher*  
37 *Credentialing.*

38 (5) *A third-year probationary employee may be dismissed or*  
39 *retained for a fourth year as a probationary employee after one*  
40 *year of the support program at the discretion of the school district.*

1 (d) (1) Notwithstanding subdivision (c), a certificated employee  
2 who had previously been granted permanent status in another  
3 school district who has completed service as a district intern  
4 pursuant to subdivision (b) of Section 44325 and pursuant to  
5 Section 44830.3, and who is further reelected and employed during  
6 the succeeding school year as described in subdivision (a) shall,  
7 upon reelection for the next succeeding school year to a position  
8 requiring certification qualifications, be classified as and become  
9 a permanent employee of the school district.

10 (2) Nothing in this subdivision shall be interpreted to authorize  
11 a certificated employee who has not previously been granted  
12 permanent status in another school district to gain permanent  
13 status without meeting the requirements of subdivision (b) or (c).

14 ~~The~~

15 (e) The governing board of a school district shall notify the  
16 certificated employee, on or before March 15 of the certificated  
17 employee's ~~last complete consecutive~~ second, third, and fourth  
18 school year of probationary employment in a position requiring  
19 certification qualification as described in ~~this subdivision;~~  
20 subdivision (b), of the decision to reelect as a permanent employee,  
21 reelect as a probationary employee, or not reelect the certificated  
22 employee for the next succeeding school year to this type of a  
23 position. In the event the governing board of a school district does  
24 not give notice pursuant to this section on or before March 15, ~~the~~  
25 a certificated employee shall be deemed reelected as a permanent  
26 employee for the next succeeding school year.

27 (f) For purposes of this section, a "highly effective certificated  
28 employee" means a certificated employee who, in the view of the  
29 governing board of the school district, demonstrates proficiency  
30 with the California Standards for the Teaching Profession as  
31 demonstrated by an evaluation designating the certificated  
32 employee in the highest category the school district has established  
33 pursuant to subdivision (c) of Section 44664.

34 (g) To the extent that this section as amended by Assembly Bill  
35 934 of the 2015–16 Regular Session conflicts with a provision of  
36 a collective bargaining agreement entered into by a public school  
37 employer and an exclusive bargaining representative before  
38 January 1, 2017, pursuant to Chapter 10.7 (commencing with  
39 Section 3540) of Division 4 of Title 1 of the Government Code, the  
40 changes made to this section by Assembly Bill 934 of the 2015–16

1 *Regular Session shall not apply until expiration or renewal of that*  
2 *collective bargaining agreement.*

3 *SEC. 8. Section 44929.21 of the Education Code is amended*  
4 *to read:*

5 44929.21. (a) (1) Every employee of a school district of any  
6 type or class having an average daily attendance of 250 or more  
7 who, after having been employed by the *school* district for three  
8 complete consecutive school years in a position or positions  
9 requiring certification qualifications, is reelected for the next  
10 succeeding school year to a position requiring certification  
11 qualifications shall, at the commencement of the succeeding school  
12 year be classified as and become a permanent employee of the  
13 *school* district.

14 **This**

15 (2) *This* subdivision shall apply only to probationary employees  
16 whose probationary period commenced ~~prior to~~ *before* the 1983–84  
17 fiscal year.

18 (b) ~~Every~~ *A highly effective certificated* employee of a school  
19 district of any type or class having an average daily attendance of  
20 250 or more who, after having been employed by the *school* district  
21 for two complete consecutive school ~~years in a position or positions~~  
22 ~~requiring certification qualifications, years,~~ is reelected for the  
23 next succeeding school year to a position requiring certification  
24 qualifications shall, at the commencement of the succeeding school  
25 year be classified as and become a permanent employee of the  
26 *school* district.

27 ~~The governing board shall notify the employee, on or before~~  
28 ~~March 15 of the employee's second complete consecutive school~~  
29 ~~year of employment by the district in a position or positions~~  
30 ~~requiring certification qualifications, of the decision to reelect or~~  
31 ~~not reelect the employee for the next succeeding school year to~~  
32 ~~the position. In the event that the governing board does not give~~  
33 ~~notice pursuant to this section on or before March 15, the employee~~  
34 ~~shall be deemed reelected for the next succeeding school year.~~

35 (c) (1) *Notwithstanding subdivision (b), the governing board*  
36 *of a school district may require a certificated employee who, after*  
37 *having been employed by the school district for two complete*  
38 *consecutive school years and who is further reelected and*  
39 *employed during the succeeding school year to continue to be*  
40 *classified as a probationary employee for a third or fourth year.*

1 (2) A certificated employee who is reelected as a probationary  
2 employee pursuant to this subdivision shall participate in either  
3 the California Peer Assistance and Review Program for Teachers  
4 established pursuant to Article 4.5 (commencing with Section  
5 44500) or a district-designed teacher support program established  
6 pursuant to Article 4.6 (commencing with Section 44520).

7 (3) A third- or fourth-year probationary employee has the due  
8 process and appeal rights of a permanent employee pursuant to  
9 Sections 44934 to 44934.2, inclusive, and Sections 44944 to  
10 44944.2, inclusive.

11 (4) During the third and fourth year as a probationary employee,  
12 the employee shall be observed by multiple administrators and  
13 teacher peers. Administrators and teacher peers observing the  
14 third-year probationary employee shall provide feedback to the  
15 governing board of the school district regarding the probationary  
16 employee's proficiency with the California Standards for the  
17 Teaching Profession, adopted by the Commission on Teacher  
18 Credentialing.

19 (5) A third-year probationary employee may be dismissed or  
20 retained for a fourth year as a probationary employee after one  
21 year of the support program at the discretion of the school district.

22 (d) (1) Notwithstanding subdivision (c), a certificated employee  
23 who had previously been granted permanent status in another  
24 school district and who is further reelected and employed during  
25 the succeeding school year as described in subdivision (b) shall,  
26 upon reelection for the next succeeding school year to a position  
27 requiring certification qualifications, be classified as and become  
28 a permanent employee of the school district.

29 (2) Nothing in this subdivision shall be interpreted to authorize  
30 a certificated employee who has not previously been granted  
31 permanent status in another school district to gain permanent  
32 status without meeting the requirements of subdivision (b) or (c).

33 (e) The governing board of a school district shall notify a  
34 certificated employee, on or before March 15 of the certificated  
35 employee's second, third, and fourth school year of probationary  
36 employment in a position requiring certification qualification, of  
37 the decision to reelect as a permanent employee, reelect as a  
38 probationary employee, or not reelect the certificated employee  
39 for the next succeeding school year to this type of a position. In  
40 the event the governing board of a school district does not give

1 notice pursuant to this section on or before March 15, a certificated  
2 employee shall be deemed reelected as a permanent employee for  
3 the next succeeding school year.

4 (f) For purposes of this section, a “highly effective certificated  
5 employee” means a certificated employee who, in the view of the  
6 governing board of the school district, demonstrates proficiency  
7 with the California Standards for the Teaching Profession as  
8 demonstrated by an evaluation designating the certificated  
9 employee in the highest category the school district has established  
10 pursuant to subdivision (c) of Section 44664.

11 (g) To the extent that this section as amended by Assembly Bill  
12 934 of the 2015–16 Regular Session conflicts with a provision of  
13 a collective bargaining agreement entered into by a public school  
14 employer and an exclusive bargaining representative before  
15 January 1, 2017, pursuant to Chapter 10.7 (commencing with  
16 Section 3540) of Division 4 of Title 1 of the Government Code, the  
17 changes made to this section by Assembly Bill 934 of the 2015–16  
18 Regular Session shall not apply until expiration or renewal of that  
19 collective bargaining agreement.

20 ~~This subdivision~~

21 (h) Subdivisions (b) to (g), inclusive, shall apply only to  
22 probationary employees whose probationary period commenced  
23 during the 1983–84 fiscal year or any fiscal year thereafter.

24 SEC. 9. Section 44934 of the Education Code is amended to  
25 read:

26 44934. (a) This section shall apply to dismissal or suspension  
27 proceedings based on charges as specified in Section 44932 or  
28 44933, including proceedings based on charges of egregious  
29 misconduct in combination with other ~~charges~~; charges, except  
30 this section shall not apply to dismissal or suspension proceedings  
31 based on charges of unsatisfactory performance described in  
32 paragraph (5) of subdivision (a) of Section 44932. Section 44934.1  
33 shall apply to dismissal or suspension proceedings based solely  
34 on charges of egregious misconduct described in paragraph (1) of  
35 subdivision (a) of Section 44932. Section 44934.2 shall apply to  
36 dismissal or suspension proceedings based on charges of  
37 unsatisfactory performance described in paragraph (5) of  
38 subdivision (a) of Section 44932.

39 (b) Upon the filing of written charges, duly signed and verified  
40 by the person filing them, with the governing board of the school

1 district, or upon a written statement of charges formulated by the  
 2 governing board of the school district, charging that there exists  
 3 cause, as specified in Section 44932 or 44933, for the dismissal  
 4 or suspension of a permanent employee of the school district, the  
 5 governing board of the school district may, upon majority vote,  
 6 except as provided in this article if it deems the action necessary,  
 7 give notice to the permanent employee of its intention to dismiss  
 8 or suspend him or her at the expiration of 30 days from the date  
 9 of service of the notice, unless the employee demands a hearing  
 10 as provided in this article. Suspension proceedings may be initiated  
 11 pursuant to this section only if the governing board of the school  
 12 district has not adopted a collective bargaining agreement pursuant  
 13 to subdivision (b) of Section 3543.2 of the Government Code.

14 (c) Any written statement of charges shall specify instances of  
 15 behavior and the acts or omissions constituting the charge so that  
 16 the employee will be able to prepare his or her defense. It shall,  
 17 where applicable, state the statutes and rules that the employee is  
 18 alleged to have violated, and it shall also set forth the facts relevant  
 19 to each charge.

20 (d) If the governing board of the school district has given notice  
 21 to a certificated employee of its intention to dismiss or suspend  
 22 him or her, based upon written charges filed or formulated pursuant  
 23 to this section, the charges may be amended less than 90 days  
 24 before the hearing on the charges only upon a showing of good  
 25 cause. If a motion to amend charges is granted by the administrative  
 26 law judge, the employee shall be given a meaningful opportunity  
 27 to respond to the amended charges.

28 (e) A notice of the governing board of the school district to an  
 29 employee of its intention to dismiss or suspend him or her, together  
 30 with written charges filed or formulated pursuant to this section,  
 31 shall be sufficient to initiate a hearing under Section 11503 of the  
 32 Government Code, and the governing board of the school district  
 33 shall not be required to file or serve a separate accusation.

34 (f) This section shall also apply to the suspension of probationary  
 35 employees in a school district with an average daily attendance of  
 36 less than 250 pupils that has not adopted a collective bargaining  
 37 agreement pursuant to subdivision (b) of Section 3542.2 of the  
 38 Government Code. *Code except that Section 44934.2, and not this*  
 39 *section, shall apply to dismissal or suspension proceedings based*



1 on charges of unsatisfactory performance described in paragraph  
2 (5) of subdivision (a) of Section 44932.

3 SEC. 10. Section 44934.2 is added to the Education Code, to  
4 read:

5 44934.2. (a) This section shall apply only to dismissal or  
6 suspension proceedings based solely on charges of unsatisfactory  
7 performance, as described in paragraph (5) of subdivision (a) of  
8 Section 44932.

9 (b) Upon the filing of written charges, duly signed and verified  
10 by the person filing them, with the governing board of a school  
11 district, or upon a written statement of charges formulated by the  
12 governing board of a school district charging that there exists  
13 cause, as specified in paragraph (5) of subdivision (a) of Section  
14 44932, for the dismissal or suspension of a permanent employee  
15 of the school district, the governing board of the school district  
16 may, upon majority vote, except as provided in this article if it  
17 deems the action necessary, give notice to the permanent employee  
18 of its intention to dismiss or suspend him or her at the expiration  
19 of 30 days from the date of service of the notice, unless the  
20 employee demands an arbitration hearing pursuant to Section  
21 44944.2.

22 (c) Any written statement of charges of unsatisfactory  
23 performance shall specify instances of behavior and the acts or  
24 omissions constituting the charge so that the employee will be able  
25 to prepare his or her defense. The written statement of charges  
26 shall, where applicable, state the statutes and rules that the  
27 employee is alleged to have violated, and it shall also set forth the  
28 facts relevant to each occasion of alleged unsatisfactory  
29 performance.

30 (d) This section shall also apply to the suspension of  
31 probationary employees based solely on charges of unsatisfactory  
32 performance, as described in paragraph (5) of subdivision (a) of  
33 Section 44932 in a school district with an average daily attendance  
34 of less than 250 pupils that has not adopted a collective bargaining  
35 agreement pursuant to subdivision (b) of Section 3543.2 of the  
36 Government Code.

37 SEC. 11. Section 44937 of the Education Code is amended to  
38 read:

39 44937. In a dismissal or suspension proceeding initiated  
40 pursuant to Section ~~44934 or 44934.1~~, 44934, 44934.1, or 44934.2,

1 if the *certificated* employee does not demand a hearing by filing  
 2 a written request for hearing with the governing ~~board~~, *board of*  
 3 *the school district*, he or she may be dismissed or suspended  
 4 without pay for a specific period of time at the expiration of the  
 5 30-day period.

6 *SEC. 12. Section 44938 of the Education Code is amended to*  
 7 *read:*

8 44938. (a) The governing board of any school district shall  
 9 not act upon any charges of unprofessional conduct unless at least  
 10 45 calendar days ~~prior to~~ *before* the date of the filing, the *governing*  
 11 *board of the school district* or its authorized representative has  
 12 given the employee against whom the charge is ~~filed~~, *filed* written  
 13 notice of the unprofessional conduct, specifying the nature thereof  
 14 with such specific instances of behavior and with such particularity  
 15 as to furnish the employee an opportunity to correct his or her  
 16 faults and overcome the grounds for the charge. The written notice  
 17 shall include the evaluation made pursuant to Article 11  
 18 (commencing with Section 44660) of Chapter 3, if applicable to  
 19 the employee.

20 (b) The governing board of any school district shall not act upon  
 21 any charges of unsatisfactory performance unless ~~it acts in~~  
 22 ~~accordance with the provisions of paragraph (1) or (2):~~ *the*  
 23 *employee against whom the charge is filed has completed at least*  
 24 *one year of the California Peer Assistance and Review Program*  
 25 *for Teachers established pursuant to Article 4.5 (commencing with*  
 26 *Section 44500) or a district-designed teacher support program*  
 27 *established pursuant to Article 4.6 (commencing with Section*  
 28 *44520) during the previous two years or a district-designed*  
 29 *administrator support program established pursuant to Article 4.7*  
 30 *(commencing with Section 44550) during the previous year.*

31 ~~(1) At least 90 calendar days prior to the date of the filing, the~~  
 32 ~~board or its authorized representative has given the employee~~  
 33 ~~against whom the charge is filed, written notice of the~~  
 34 ~~unsatisfactory performance, specifying the nature thereof with~~  
 35 ~~such specific instances of behavior and with such particularity as~~  
 36 ~~to furnish the employee an opportunity to correct his or her faults~~  
 37 ~~and overcome the grounds for the charge. The written notice shall~~  
 38 ~~include the evaluation made pursuant to Article 11 (commencing~~  
 39 ~~with Section 44660) of Chapter 3, if applicable to the employee.~~

1     ~~(2) The governing board may act during the time period~~  
 2 ~~composed of the last one-fourth of the schooldays it has scheduled~~  
 3 ~~for purposes of computing apportionments in any fiscal year if,~~  
 4 ~~prior to the beginning of that time period, the board or its~~  
 5 ~~authorized representative has given the employee against whom~~  
 6 ~~the charge is filed, written notice of the unsatisfactory performance,~~  
 7 ~~specifying the nature thereof with such specific instances of~~  
 8 ~~behavior and with such particularity as to furnish the employee an~~  
 9 ~~opportunity to correct his or her faults and overcome the grounds~~  
 10 ~~for the charge. The written notice shall include the evaluation made~~  
 11 ~~pursuant to Article 11 (commencing with Section 44660) of~~  
 12 ~~Chapter 3, if applicable to the employee.~~

13     (c) (1) “Unsatisfactory performance” as used in this section  
 14 means, and refers only to, the unsatisfactory performance  
 15 particularly specified as a cause for dismissal in Section 44932  
 16 and does not include any other cause for dismissal specified in  
 17 Section 44932.

18     ~~“Unprofessional~~

19     (2) “*Unprofessional conduct*” as used in this section means,  
 20 and refers to, the unprofessional conduct particularly specified as  
 21 a cause for dismissal or suspension in Sections 44932 and 44933  
 22 and does not include any other cause for dismissal specified in  
 23 Section 44932.

24     *SEC. 13. Section 44943 of the Education Code is amended to*  
 25 *read:*

26     44943. When any employee who has been served with notice  
 27 pursuant to Section ~~44934 or 44934.1~~ 44934, 44934.1, or 44934.2  
 28 of the governing board’s *board of the school district’s* intention  
 29 to dismiss or suspend him or her demands a hearing, the governing  
 30 board *of the school district* shall have the option either (a) to  
 31 rescind its action, or (b) schedule a hearing on the matter.

32     *SEC. 14. Section 44944.05 of the Education Code is amended*  
 33 *to read:*

34     44944.05. (a) In a dismissal or suspension proceeding initiated  
 35 pursuant to Section 44934, in lieu of written discovery required  
 36 pursuant to Section 11507.6 of the Government Code, the parties  
 37 shall make disclosures as described in this section. This section  
 38 does not apply to dismissal or suspension proceedings initiated  
 39 pursuant to Section ~~44934.1.~~ 44934.1 or 44934.2.

1 (b) (1) An initial disclosure shall comply with the following  
2 requirements:

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

5 (i) The name and, if known, the address and telephone number  
6 of each individual likely to have discoverable information, along  
7 with the subjects of information relating to the allegations made  
8 in the charges and the parties' claims and defenses, unless the use  
9 would be solely for impeachment purposes.

10 (ii) A copy of all documents, electronically stored information,  
11 and tangible items that the disclosing party has in its possession,  
12 custody, or control relating to the allegations made in the charges  
13 and the parties' claims or defenses, unless the use would be solely  
14 for impeachment.

15 (B) The school district and the employee shall make their initial  
16 disclosures within 45 days of the date of the employee's demand  
17 for a hearing.

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

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

35 (2) The disclosure of expert testimony shall comply with the  
36 following requirements:

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

39 (B) The disclosure specified in subparagraph (A) shall be  
40 accompanied by a summary of the witness' expected testimony,

1 including a description of the facts and data considered by the  
2 witness; a description of the witness' qualifications, including a  
3 list of all publications authored in the previous 10 years; a list of  
4 all other cases in which, during the previous four years, the witness  
5 testified as an expert at a hearing or by deposition; and a statement  
6 of the compensation to be paid to the expert witness.

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

12 (3) Prehearing disclosures shall comply with the following  
13 requirements:

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

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

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

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

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

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

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

1 the parties to conduct additional depositions only upon a showing  
 2 of good cause. If a motion to conduct additional depositions is  
 3 granted by the administrative law judge, the employee shall be  
 4 given a meaningful opportunity to respond to new evidence  
 5 introduced as a result of the additional depositions. An order  
 6 granting a motion for additional depositions shall not constitute  
 7 an extraordinary circumstance or good cause for purposes of  
 8 extending the deadlines set forth in paragraph (1) of subdivision  
 9 (b) of Section 44944.

10 (d) If the right to disclosures or oral depositions is denied by  
 11 either the employee or the governing ~~board~~, *board of a school*  
 12 *district*, the exclusive right of a party seeking an order compelling  
 13 production of discovery shall be pursuant to Section 11507.7 of  
 14 the Government Code. If a party seeks protection from  
 15 unreasonable or oppressive discovery demands, the exclusive right  
 16 of a party seeking an order for protection shall be pursuant to  
 17 Section 11450.30 of the Government Code.

18 *SEC. 15. Section 44944.2 is added to the Education Code, to*  
 19 *read:*

20 *44944.2. (a) This section shall apply only to dismissal or*  
 21 *suspension proceedings initiated pursuant to Section 44934.2.*

22 *(b) Any permanent certificated employee who has received*  
 23 *notice of a school district's intention to suspend or dismiss the*  
 24 *certificated employee based on charges of unsatisfactory*  
 25 *performance described in paragraph (5) of subdivision (a) of*  
 26 *Section 44932 may file a written request for arbitration to the*  
 27 *school district within 14 days after receipt of a copy of the written*  
 28 *charges by filing a written answer to the charges.*

29 *(c) (1) Within 14 days of receipt of the request for arbitration,*  
 30 *the school district shall schedule a meeting with the certificated*  
 31 *employee to identify an arbitrator and set an arbitration date.*

32 *(2) The meeting shall occur, at a location and time mutually*  
 33 *convenient for the certificated employee and the school district.*  
 34 *The certificated employee shall have the right to appear with a*  
 35 *representative of the certificated employee's collective bargaining*  
 36 *unit, counsel, or both.*

37 *(3) At the meeting, the certificated employee and the school*  
 38 *district shall agree upon an arbitrator, selected from the list of*  
 39 *arbitrators maintained by the American Arbitration Association,*  
 40 *and a time and place for an arbitration hearing. The hearing shall*

1 *be scheduled for no fewer than 14 days and no more than 30 days*  
2 *after the scheduling meeting.*

3 *(d) (1) At the arbitration hearing, the certificated employee*  
4 *shall have the right to appear with a representative of the*  
5 *certificated employee's collective bargaining unit, counsel, or*  
6 *both.*

7 *(2) The scope of the arbitration hearing shall be limited to both*  
8 *of the following:*

9 *(A) The process the school district used in evaluating the*  
10 *certificated employee.*

11 *(B) The certificated employee's proficiency with the California*  
12 *Standards for the Teaching Profession.*

13 *(e) The arbitrator shall issue a decision as to whether or not*  
14 *the certificated employee should be dismissed or suspended within*  
15 *60 days of the arbitration hearing. The decision of the arbitrator*  
16 *shall be binding.*

17 *(f) (1) If the arbitrator determines that the certificated employee*  
18 *should be dismissed or suspended, the governing board of the*  
19 *school district and the state shall share equally the expenses of*  
20 *the arbitration. The state shall pay the reasonable expenses of the*  
21 *arbitrator, including, but not limited to, payments or obligations*  
22 *incurred for travel, meals, and lodging. The Controller shall pay*  
23 *all claims submitted pursuant to this paragraph from the General*  
24 *Fund, and may prescribe reasonable rules, regulations, and forms*  
25 *for the submission of the claims. The certificated employee and*  
26 *the governing board of the school district shall pay their own*  
27 *attorney's fees.*

28 *(2) If the arbitrator determines that the certificated employee*  
29 *should not be dismissed or suspended, the governing board of the*  
30 *school district shall pay the expenses of the hearing, including the*  
31 *reasonable expenses of the arbitrator, including, but not limited*  
32 *to, payments or obligations incurred for travel, meals, and lodging*  
33 *and reasonable attorney's fees incurred by the certificated*  
34 *employee.*

35 *SEC. 16. Section 44945 of the Education Code is amended to*  
36 *read:*

37 *44945. (a) The decision reached in a dismissal or suspension*  
38 *proceeding initiated pursuant to Section 44934 or 44934.1 may,*  
39 *on petition of either the governing board of the school district or*  
40 *the employee, be reviewed by a court of competent jurisdiction in*

1 the same manner as a decision made by a hearing officer under  
 2 Chapter 5 (commencing with Section 11500) of Part 1 of Division  
 3 3 of Title 2 of the Government Code. The court, on review, shall  
 4 exercise its independent judgment on the evidence. The proceeding  
 5 shall be set for hearing at the earliest possible date and shall take  
 6 precedence over all other cases, except older matters of the same  
 7 character and matters to which special precedence is given by law.

8 *(b) This section shall not apply to a decision reached in a*  
 9 *dismissal or suspension proceeding initiated pursuant to Section*  
 10 *44934.2.*

11 *SEC. 17. Section 44955 of the Education Code is amended to*  
 12 *read:*

13 44955. (a) ~~No~~A permanent employee shall *not* be deprived  
 14 of his or her position for causes other than those specified in  
 15 Sections 44907 and 44923, and Sections 44932 to 44947, inclusive,  
 16 and ~~no~~ a probationary employee shall *not* be deprived of his or  
 17 her position for cause other than as specified in Sections 44948 to  
 18 44949, inclusive.

19 ~~Whenever in any~~*(1) If in a school year the average daily*  
 20 *attendance in all of the schools of a school district for the first six*  
 21 *months in which that school is in session shall have declined below*  
 22 *the corresponding period of either of the previous two school years,*  
 23 ~~whenever if~~ *the governing board of the school district determines*  
 24 *that attendance in a school district will decline in the following*  
 25 *year as a result of the termination of an interdistrict tuition*  
 26 *agreement as defined described in Section 46304, whenever if a*  
 27 *particular kind of service is to be reduced or discontinued not later*  
 28 *than the beginning of the following school year, or whenever if*  
 29 *the amendment of state law requires the modification of curriculum,*  
 30 ~~and when in the opinion of~~ *if the governing board of the school*  
 31 *district determines it shall have become necessary by reason of*  
 32 *any of these conditions to decrease the number of permanent*  
 33 *employees in the school district, the governing board of the school*  
 34 *district may terminate the services of not more than a*  
 35 *corresponding percentage of the certificated employees of the*  
 36 *school district, permanent as well as probationary, at the close of*  
 37 *the school year. Except as otherwise provided by statute, the*  
 38 *services of no permanent employee may be terminated under the*  
 39 *provisions of this section while any probationary employee, or any*  
 40 *other employee with less seniority, is retained to render a service*



1 ~~which said permanent employee is certificated and competent to~~  
2 ~~render.~~

3 ~~In computing a decline in average daily attendance for purposes~~  
4 ~~of this section for a newly formed or reorganized school district,~~  
5 ~~each school of the district shall be deemed to have been a school~~  
6 ~~of the newly formed or reorganized district for both of the two~~  
7 ~~previous school years.~~

8 *(2) In computing a decline in average daily attendance for*  
9 *purposes of this section for a newly formed or reorganized school*  
10 *district, each school of the school district shall be deemed to have*  
11 *been a school of the newly formed or reorganized school district*  
12 *for both of the two previous school years.*

13 *(3) Each school district shall develop a metric that gives equal*  
14 *weight to seniority and teacher effectiveness, as measured by the*  
15 *school district using the California Standards for the Teaching*  
16 *Profession adopted by the Commission on Teacher Credentialing,*  
17 *to use when determining which permanent school employees to*  
18 *retain. A school district shall not use teacher salary as a factor in*  
19 *this metric.*

20 *(4) The governing board of a school district shall terminate*  
21 *certificated employees in the following order:*

22 *(A) Probationary employees who have received an evaluation*  
23 *of performance below the satisfactory level as established pursuant*  
24 *to subdivision (c) of Section 44664 in the inverse order of the*  
25 *metric established pursuant to paragraph (3).*

26 *(B) Permanent employees who have received two consecutive*  
27 *evaluations of performance below the satisfactory level as*  
28 *established pursuant to subdivision (c) of Section 44664 in the*  
29 *inverse order of the metric established pursuant to paragraph (3).*

30 *(C) Probationary employees who have not received an*  
31 *evaluation of performance below the satisfactory level as*  
32 *established pursuant to subdivision (c) of Section 44664 in the*  
33 *inverse order of the metric established pursuant to paragraph (3).*

34 *(D) Permanent employees who have not received two*  
35 *consecutive evaluations of performance below the satisfactory*  
36 *level as established pursuant to subdivision (c) of Section 44664*  
37 *in the inverse order of the metric established pursuant to paragraph*  
38 *(3).*

39 **As**

1 (E) As between employees in the same designation pursuant to  
 2 paragraphs (1) to (4), inclusive, who first rendered paid service  
 3 to the school district on the same ~~date, date, and demonstrate~~  
 4 equivalent teacher effectiveness, the governing board of the school  
 5 district shall determine the order of termination solely on the basis  
 6 of needs of the school district and the ~~students thereof, pupils of~~  
 7 the school district. Upon the request of ~~any~~ an employee whose  
 8 order of termination is so determined, the governing board of the  
 9 school district shall furnish in ~~writing~~ writing, no later than five  
 10 days ~~prior to~~ before the commencement of the hearing held in  
 11 accordance with Section 44949, a statement of the specific criteria  
 12 used in determining the order of termination and the application  
 13 of the criteria in ranking each employee relative to the other  
 14 employees in the group. ~~This~~ The requirement that the governing  
 15 board of a school district provide, on request, a written statement  
 16 of reasons for determining the order of termination shall not be  
 17 interpreted to give affected employees any legal right or interest  
 18 that would not exist without ~~such a~~ the requirement.

19 (c) (1) Notice of ~~such the~~ termination of services shall be given  
 20 before the 15th of May in the manner prescribed in Section ~~44949,~~  
 21 and services of such employees shall be terminated in the inverse  
 22 of the order in which they were employed, as determined by the  
 23 board in accordance with the provisions of Sections ~~44844 and~~  
 24 ~~44845. In the event that~~ 44949. If a permanent or probationary  
 25 employee is not given the notices and a right to a hearing as  
 26 provided for in Section 44949, he or she shall be deemed  
 27 reemployed for the ensuing school year.

28 The  
 29 (2) The governing board of a school district shall make  
 30 assignments and reassignments in ~~such~~ a manner that employees  
 31 shall be retained to render any service ~~which their seniority and~~  
 32 ~~qualifications~~ seniority, qualifications, and effectiveness entitle  
 33 them to render. However, ~~prior to~~ before assigning or reassigning  
 34 any a certificated employee to teach a subject ~~which that~~ he or she  
 35 has not previously taught, and for which he or she does not have  
 36 a teaching credential or ~~which that~~ is not within the employee's  
 37 major area of postsecondary study or the equivalent thereof, the  
 38 governing board of the school district shall require the employee  
 39 to pass a subject matter competency test in the appropriate subject.

1 (d) Notwithstanding ~~subdivision (b)~~, *subdivisions (b) and (c)*,  
2 a school district may deviate from terminating a certificated  
3 employee in order of ~~seniority~~ *described in subdivision (b)* for  
4 either of the following reasons:

5 (1) The *school* district demonstrates a specific need for personnel  
6 to teach a specific course or course of study, or to provide services  
7 authorized by a services credential with a specialization in either  
8 pupil personnel services or health for a school nurse, and that the  
9 certificated employee has special training and experience necessary  
10 to teach that course or course of study or to provide those services,  
11 ~~which that~~ others with ~~more seniority~~ *a higher ranking on the*  
12 *metric developed pursuant to paragraph (3) of subdivision (b)* do  
13 not possess.

14 (2) For purposes of maintaining or achieving compliance with  
15 constitutional requirements related to equal protection of the laws.

16 (e) *To the extent that this section as amended by Assembly Bill*  
17 *934 of the 2015–16 Regular Session conflicts with a provision of*  
18 *a collective bargaining agreement entered into by a public school*  
19 *employer and an exclusive bargaining representative before*  
20 *January 1, 2017, pursuant to Chapter 10.7 (commencing with*  
21 *Section 3540) of Division 4 of Title 1 of the Government Code, the*  
22 *changes made to this section by Assembly Bill 934 of the 2015–16*  
23 *Regular Session shall not apply until expiration or renewal of that*  
24 *collective bargaining agreement.*

25 *SEC. 18. If the Commission on State Mandates determines that*  
26 *this act contains costs mandated by the state, reimbursement to*  
27 *local agencies and school districts for those costs shall be made*  
28 *pursuant to Part 7 (commencing with Section 17500) of Division*  
29 *4 of Title 2 of the Government Code.*

30 ~~SECTION 1. Section 11801 is added to the Education Code,~~  
31 ~~to read:~~

32 ~~11801. With funds appropriated pursuant to subdivision (e) of~~  
33 ~~Section 58 of Assembly Bill 104 of the 2015–16 Regular Session,~~  
34 ~~the K–12 HSN advisory board shall create a program, and offer~~  
35 ~~to enter into an interagency agreement with the Office of the~~  
36 ~~Chancellor of the California Community Colleges, to develop a~~  
37 ~~sustainable training model that provides ongoing professional~~  
38 ~~development to local educational agency staff on all elements of~~  
39 ~~technical support to implement network infrastructure within~~

- 1 ~~schools and provide school districts with utilization information~~
- 2 ~~for optimal decisions.~~

O