

AMENDED IN SENATE MAY 3, 2016

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 *1296*, 44664, 44670, 44671, *44830.1*, 44885.5, *44901*, 44929.21, *44929.23*, 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 Sections 44934.2 and 44944.2 to, and to add ~~Articles~~ *Article* 4.6 (commencing with Section 44520) and *Article* 4.7 (commencing with Section 44550) to Chapter 3 of Part 25 of Division 3 of Title 2 of, the Education Code, relating to certificated school employees.

### LEGISLATIVE COUNSEL'S DIGEST

AB 934, as amended, Bonilla. 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,~~ *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,~~ *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,~~ *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 *school* 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~~ *instead require a certificated employee who has completed 3 years of service to the school 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, unless the governing board of a the school district chooses to continue to classify a the 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 provided. The bill would require that each 3rd- and 4th-year probationary employee of a school district to participate in the California Peer Assistance and Review Program for Teachers or a district-designed teacher support program.*

*Existing law requires each person who, after being employed for 2 complete consecutive school years by a county superintendent of schools in a teaching position, as specified, is reelected for the next succeeding school year to such a position to be classified as a permanent employee of the county superintendent of schools.*

*This bill would instead require each certificated employee who, after being employed for 3 complete consecutive school years by a county superintendent of schools in a teaching position, as specified, is reelected for the next succeeding school year to such a position to be classified as a permanent employee of the county superintendent of schools, unless the county superintendent of schools chooses to continue to classify the certificated employee as a probationary employee for a 4th year, as provided. The bill would require each 3rd- and 4th-year probationary employee of a county superintendent of schools, if the county superintendent of schools participates in the California Peer Assistance and Review Program for Teachers, to participate in the program.*

*This bill would provide that, notwithstanding any other law, a 3rd- or 4th-year probationary employee has the due process and appeal rights of a permanent employee.*

(9) *Existing law provides that a certificated employee who has served in 2 or more school districts governed by governing boards of identical personnel, as specified, for a total of 2 complete consecutive school years, upon being elected for the 3rd consecutive school year in either school district, shall, at the commencement of that year, be classified as a permanent employee of the last school district in which he or she was employed prior to election for the 3rd year.*

*This bill would instead provide that a certificated employee who has served in 2 or more school districts governed by governing boards of identical personnel, for a total of 3 complete consecutive school years, upon being elected for the 4th consecutive school year in either school district, shall, at the commencement of that 4th year, be classified as a permanent employee of the last school district in which he or she was employed before election for the 4th year.*

*Existing law also provides that, where there are 2 or more school districts governed by governing boards of identical personnel, as specified, a certificated employee who has served in one of the school districts for 2 complete consecutive school years, upon being elected for a 3rd consecutive school year in any of the school districts, shall, at the commencement of that 3rd year, be classified as a permanent employee of the last school district in which he or she was employed prior to election for the 3rd year.*

*This bill would instead provide that, where there are 2 or more school districts governed by governing boards of identical personnel, as specified, a certificated employee who has served in one of the school districts for 3 complete consecutive school years, upon being elected for a 4th consecutive school year in any of the school districts, shall, at the commencement of that 4th year, be classified as a permanent employee of the last school district in which he or she was employed before election for the 4th year.*

~~(9)~~

(10) 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 the governing board of a 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 district, when a reduction in workforce is required, to terminate certificated employees when a reduction in workforce is required. in a specified order based on both seniority and evaluations of performance.~~

(10)

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

(11)

(12) 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. Section 1296 of the Education Code is amended  
2     to read:  
3     1296. (a) (1) If the average daily attendance of the schools  
4     and classes maintained by a county superintendent of schools is  
5     250 pupils or more, each person who, after being employed for  
6     three complete consecutive school years by the county  
7     superintendent of schools in a teaching position in those schools  
8     or classes requiring certification qualifications and whose salary  
9     is paid from the county school service fund, is reelected for the  
10    next succeeding school year to such a position in those schools or  
11    ~~classes;~~ classes shall be classified as and become a permanent  
12    employee of the county superintendent of schools.  
13    ~~Such an employee~~  
14    (2) An employee described in paragraph (1) shall have the same  
15    rights and duties as employees of school districts to which Section

44882 44929.21 applies. Sections ~~44841, 44842, 44882, 44929.21,~~  
44948.3, and 44948.5 ~~are applicable~~ *apply* to these employees.

~~This~~

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

(b) (1) If the average daily attendance of the schools and classes maintained by a county superintendent of schools is 250 *pupils* or more, ~~each person a highly effective certificated employee~~ who, after being employed for ~~two~~ *three* complete consecutive school years by the *county* superintendent of schools in a teaching position in those schools or classes requiring certification qualifications and whose salary is paid from the county school service fund, is reelected for the next succeeding school year to such a position in those schools or ~~classes~~, *classes* shall be classified as and become a permanent employee of the county superintendent of schools.

~~The county superintendent of schools shall notify the employee, on or before March 15 of the employee's second complete consecutive year of employment by the superintendent in a teaching position in schools or classes maintained by the superintendent requiring certification qualifications, of the decision to reelect or not reelect the employee for the next succeeding school year to such a position in those schools. In the event that the county superintendent does not give notice pursuant to this section on or before March 15, the employee shall be deemed reelected for the next succeeding school year.~~

~~Such an~~

(2) *An employee described in paragraph (1)* shall have the same rights and duties as employees of school districts to which Section 44882 44929.21 applies. Sections ~~44841, 44842, 44882, 44929.21,~~ 44948.3, and 44948.5 ~~are applicable~~ *apply* to these employees.

(c) (1) *Notwithstanding subdivision (b), the county superintendent of schools may require a certificated employee, who after having been employed by the county superintendent of schools for three complete consecutive school years and who is further reelected and employed during the succeeding school year, to continue to be classified as a probationary employee for a fourth year.*

(2) *A certificated employee who is reelected as a probationary employee pursuant to this subdivision or to a third complete*

1 consecutive school year as described in subdivision (b) shall, if  
2 the county office of education participates in the California Peer  
3 Assistance and Review Program for Teachers established pursuant  
4 to Article 4.5 (commencing with Section 44500) of Chapter 3 of  
5 Part 25 of Division 3 of Title 2, participate in the program.

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

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

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

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

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

35 (e) The county superintendent of schools shall notify a  
36 certificated employee, on or before March 15 of the certificated  
37 employee's third and fourth school year of probationary  
38 employment in a position requiring certification qualifications, of  
39 the decision to reelect as a permanent employee, reelect as a  
40 probationary employee, or not reelect the certificated employee



for the next succeeding school year to this type of position. If the county superintendent of schools does not give notice pursuant to this section on or before March 15, a certificated employee shall be deemed reelected as a permanent employee for the next succeeding school year.

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

~~This subdivision~~

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

~~(e)~~

(h) As used in this section, ~~“teaching~~ the following definitions shall apply:

(1) “Highly effective certificated employee” means a certificated employee who, in the view of the county superintendent of schools, demonstrates proficiency with the California Standards for the Teaching Profession.

(2) “Teaching position” means ~~any~~ a certificated position designated as of January 1, 1983, by the county board of education or the county superintendent of schools as a teaching position for the purpose of granting probationary or permanent status.

~~SECTION 1.~~

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

#### Article 4.6. District-Designed Teacher Support Programs

44520. (a) Each school district shall create a two-year teacher support program allowing a highly effective certificated employee to support a certificated employee demonstrating unsatisfactory performance to become proficient in the California Standards for

1 the Teaching Profession in order to become a highly effective  
2 certificated employee.

3 (b) For purposes of this section, the following terms have the  
4 following meanings:

5 (1) A “highly effective certificated employee” means a  
6 certificated employee who, in the view of the governing board of  
7 the school district, demonstrates proficiency with the California  
8 Standards for the Teaching Profession as demonstrated by an  
9 evaluation *that conforms with Article 11 (commencing with Section*  
10 *44660)* designating the certificated employee in the highest  
11 category the school district has established pursuant to subdivision  
12 (c) of Section 44664.

13 (2) An “employee demonstrating unsatisfactory performance”  
14 means a certificated employee who, in the view of the governing  
15 board of the school district, does not demonstrate proficiency with  
16 the California Standards for the Teaching Profession as  
17 demonstrated by an evaluation *that conforms with Article 11*  
18 *(commencing with Section 44660)* designating the certificated  
19 employee in a category below the satisfactory levels that the school  
20 district has established pursuant to subdivision (c) of Section  
21 44664.

22 ~~SEC. 2.~~

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

26  
27 Article 4.7. District-Designed Administrator Support Programs

28  
29 44550. Each school district is encouraged to create a one-year  
30 principal or vice principal support program allowing a highly  
31 effective school administrator, as determined by the school district,  
32 to support a principal or vice principal demonstrating unsatisfactory  
33 performance, as determined by the school district, to become  
34 proficient in the California Professional Standards for Educational  
35 Leaders.

36 ~~SEC. 3.~~

37 SEC. 4. Section 44664 of the Education Code is amended to  
38 read:

1     44664. (a) Evaluation and assessment of the performance of  
2 each certificated employee shall be made on a continuing basis as  
3 follows:

4     (1) At least once each school year for probationary personnel.

5     (2) At least every other year for personnel with permanent status.

6     (3) At least every five years for personnel with permanent status

7 who have been employed at least 10 years with the school district,

8 are highly qualified, if those personnel occupy positions that are

9 required to be filled by a highly qualified professional by the

10 federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301

11 et seq.), as defined in 20 U.S.C. Sec. 7801, and whose previous

12 evaluation rated the employee as meeting or exceeding standards,

13 if the evaluator and certificated employee being evaluated agree.

14 The certificated employee or the evaluator may withdraw consent

15 at any time.

16     (b) The evaluation shall include recommendations, if necessary,

17 as to areas of improvement in the performance of the certificated

18 employee. If a certificated employee is not performing his or her

19 duties in a satisfactory manner according to the standards

20 prescribed by the governing board of the school district, the

21 employing authority shall notify the certificated employee in

22 writing of that fact and describe the unsatisfactory performance.

23 The employing authority shall thereafter confer with the certificated

24 employee making specific recommendations as to areas of

25 improvement in the certificated employee's performance and

26 endeavor to assist the employee in his or her performance. If any

27 permanent certificated employee has received an unsatisfactory

28 evaluation, the employing authority shall annually evaluate the

29 employee until the employee achieves a positive evaluation or is

30 separated from the school district.

31     (c) A school district shall establish at least four categories of

32 performance for certificated employees. At least two of these

33 categories shall designate performance at a satisfactory level or

34 greater. At least two of these categories shall designate performance

35 below a satisfactory level.

36     (d) (1) A certificated employee who receives an evaluation

37 performed pursuant to this article below a satisfactory level in the

38 area of teaching methods or instruction shall participate in a

39 program designed to improve appropriate areas of the employee's

1 performance and to further pupil achievement and the instructional  
2 objectives of the employing authority.

3 (2) If a school district participates in the California Peer  
4 Assistance and Review Program for Teachers established pursuant  
5 to Article 4.5 (commencing with Section 44500), a certificated  
6 employee who receives a rating below a satisfactory level on an  
7 evaluation performed pursuant to this section shall participate in  
8 the California Peer Assistance and Review Program for Teachers.

9 (3) If a school district does not participate in the California Peer  
10 Assistance and Review Program for Teachers established pursuant  
11 to Article 4.5 (commencing with Section 44500), a certificated  
12 employee who receives a rating below a satisfactory level on an  
13 evaluation performed pursuant to this section shall participate in  
14 a district-designed teacher support program established pursuant  
15 to Article 4.6 (commencing with Section 44520).

16 (e) Hourly and temporary hourly certificated employees, other  
17 than those employed in adult education classes who are excluded  
18 by the provisions of Section 44660, and substitute teachers may  
19 be excluded from the provisions of this section at the discretion  
20 of the governing board of the school district.

21 (f) To the extent that this section as amended by Assembly Bill  
22 934 of the 2015–16 Regular Session conflicts with a provision of  
23 a collective bargaining agreement entered into by a public school  
24 employer and an exclusive bargaining representative before January  
25 1, 2017, pursuant to Chapter 10.7 (commencing with Section 3540)  
26 of Division 4 of Title 1 of the Government Code, the changes made  
27 to this section by Assembly Bill 934 of the 2015–16 Regular  
28 Session shall not apply until expiration or renewal of that collective  
29 bargaining agreement.

30 ~~SEC. 4.~~

31 *SEC. 5.* The heading of Article 13 (commencing with Section  
32 44670) of Chapter 3 of Part 25 of Division 3 of Title 2 of the  
33 Education Code is amended to read:

34

35 Article 13. Principal and Vice Principal Evaluation System

36

37 ~~SEC. 5.~~

38 *SEC. 6.* Section 44670 of the Education Code is amended to  
39 read:

1 44670. (a) The governing board of a school district may  
2 identify who will conduct the evaluation of each school principal  
3 and vice principal.

4 (b) Every school principal and vice principal may be evaluated  
5 annually for the first and second year of employment as a new  
6 principal or vice principal in a school district. The governing board  
7 of the school district may determine the frequency at regular  
8 intervals of evaluations after this period.

9 (c) Additional evaluations that occur outside of the regular  
10 intervals determined by the governing board of the school district  
11 may be agreed upon between the evaluator and the principal or  
12 vice principal.

13 (d) Evaluators and principals or vice principals may review  
14 school success and progress throughout the year. This review  
15 should include goals that are defined by the school district.

16 (e) The superintendent of a school district shall annually provide  
17 reports on the evaluation of principals and vice principals or of  
18 the school district superintendent's decision not to evaluate  
19 principals and vice principals to the governing board of the school  
20 district.

21 (f) It is the intent of the Legislature that every school principal  
22 and vice principal shall be evaluated as frequently as necessary to  
23 ensure, in the view of the governing board of the school district,  
24 that they are satisfactorily proficient in the California Professional  
25 Standards for Educational Leaders.

26 ~~SEC. 6:~~

27 *SEC. 7.* Section 44671 of the Education Code is amended to  
28 read:

29 44671. (a) Criteria for effective school principal or vice  
30 principal evaluations shall be based upon the California  
31 Professional Standards for Educational Leaders. These standards  
32 identify a school administrator as being an educational leader who  
33 promotes the success of all pupils through leadership that fosters  
34 all of the following:

- 35 (1) A shared vision.
- 36 (2) Effective teaching and learning.
- 37 (3) Management and safety.
- 38 (4) Parent, family, and community involvement.
- 39 (5) Professional and ethical leadership.
- 40 (6) Contextual awareness.

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

(1) Academic growth of pupils based on multiple measures that may include pupil work as well as pupil and school longitudinal data that demonstrates pupil academic growth over time. Assessments used for this purpose shall be valid and reliable and used for the purposes intended and for the appropriate pupil populations. Local and state academic assessments include, but are not limited to, state standardized assessments, formative, summative, benchmark, end of chapter, end of course, advanced placement, international baccalaureate, college entrance, and performance assessments. For career and technical education, authentic performance assessment is a strong indicator of effective teaching and learning.

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

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

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

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

(6) Collaborative professional practices for improving instructional strategies.

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

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

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

*SEC. 8. Section 44830.1 of the Education Code is amended to read:*

1 44830.1. (a) In addition to any other prohibition or provision,  
2 ~~no~~ a person who has been convicted of a violent or serious felony  
3 shall *not* be hired by a school district in a position requiring  
4 certification qualifications or supervising positions requiring  
5 certification qualifications. A school district shall not retain in  
6 employment a current certificated employee who has been  
7 convicted of a violent or serious ~~felony~~; *felony* and who is a  
8 temporary employee, a substitute employee, or a probationary  
9 employee serving before March 15 of the employee's ~~second~~ *third*  
10 probationary year. If any conviction is reversed and the formerly  
11 convicted person is acquitted of the offense in a new trial, or the  
12 charges are dismissed, this section does not prohibit his or her  
13 employment thereafter.

14 (b) This section applies to any violent or serious offense ~~which,~~  
15 *that*, if committed in this state, would have been punishable as a  
16 violent or serious felony.

17 (c) (1) For purposes of this section, a violent felony is any  
18 felony listed in subdivision (c) of Section 667.5 of the Penal Code  
19 and a serious felony is any felony listed in subdivision (c) of  
20 Section 1192.7 of the Penal Code.

21 (2) For purposes of this section, a plea of nolo contendere to a  
22 serious or violent felony constitutes a conviction.

23 (3) For purposes of this section, the term "school district" has  
24 the same meaning as defined in Section 41302.5.

25 (d) When the governing board of ~~any~~ a school district requests  
26 a criminal record summary of a temporary, substitute, or  
27 probationary certificated employee, two fingerprint cards, bearing  
28 the legible rolled and flat impressions of the person's fingerprints  
29 together with a personal description and the fee, shall be submitted,  
30 by any means authorized by the Department of Justice, to the  
31 Department of Justice.

32 (e) When the Department of Justice ascertains that an individual  
33 who is an applicant for employment by a school district has been  
34 convicted of a violent or serious felony, or for purposes of  
35 implementing the prohibitions set forth in Section 44836, any sex  
36 offense, as defined in Section 44010, or any controlled substance  
37 offense, as defined in Section 44011, the department shall notify  
38 the school district of the criminal information pertaining to the  
39 applicant. The notification shall be delivered by telephone or  
40 electronic mail to the school district. The notification to the school

1 district shall cease to be made once the statewide electronic  
2 fingerprinting network is returning responses within three working  
3 days. The Department of Justice shall send by first-class mail or  
4 electronic mail a copy of the criminal information to the  
5 Commission on Teacher Credentialing. The Department of Justice  
6 may charge a reasonable fee to cover the costs associated with  
7 processing, reviewing, and supplying the criminal record summary  
8 required by this section. In no event shall the fee exceed the actual  
9 costs incurred by the ~~department~~. *Department of Justice*.

10 (f) Notwithstanding subdivision (a), a person shall not be denied  
11 employment or terminated from employment solely on the basis  
12 that the person has been convicted of a violent or serious felony  
13 if the person has obtained a certificate of rehabilitation and pardon  
14 pursuant to Chapter 3.5 (commencing with Section 4852.01) of  
15 Title 6 of Part 3 of the Penal Code.

16 (g) Notwithstanding subdivision (f), a person shall not be denied  
17 employment or terminated from employment solely on the basis  
18 that the person has been convicted of a serious felony that is not  
19 also a violent felony if that person can prove to the sentencing  
20 court of the offense in question, by clear and convincing evidence,  
21 that he or she has been rehabilitated for the purposes of school  
22 employment for at least one year. If the offense in question  
23 occurred outside this state, then the person may seek a finding of  
24 rehabilitation from the court in the school district in which he or  
25 she is a resident.

26 (h) Notwithstanding any other ~~provision of~~ law, when the  
27 Department of Justice notifies a school district by telephone or  
28 electronic mail that a current temporary employee, substitute  
29 employee, or probationary employee serving before March 15 of  
30 the employee's ~~second~~ *third* probationary ~~year~~, *year* has been  
31 convicted of a violent or serious felony, that employee shall  
32 immediately be placed on leave without pay. When the school  
33 district receives written electronic notification of the fact of  
34 conviction from the Department of Justice, the employee shall be  
35 terminated automatically and without regard to any other procedure  
36 for termination specified in this code or school district procedures  
37 unless the employee challenges the record of the Department of  
38 Justice and the Department of Justice withdraws in writing its  
39 notification to the school district. Upon receipt of written  
40 withdrawal of notification from the Department of Justice, the



1 employee shall immediately be reinstated with full restoration of  
2 salary and benefits for the period of time from the suspension  
3 without pay to the reinstatement.

4 (i) An employer shall request subsequent arrest service from  
5 the Department of Justice as provided under Section 11105.2 of  
6 the Penal Code.

7 (j) Notwithstanding Section 47610, this section applies to a  
8 charter school.

9 (k) This section shall not apply to a certificated employee who  
10 applies to renew his or her credential when both of the following  
11 conditions have been met:

12 (1) The employee's original application for credential was  
13 accompanied by that person's fingerprints.

14 (2) The employee has either been continuously employed in  
15 one or more public school districts since the issuance or last  
16 renewal of his or her credential or his or her credential has not  
17 expired between renewals.

18 (l) Nothing in this section shall prohibit a county superintendent  
19 of schools from issuing a temporary certificate to any person  
20 described in paragraph (1) or (2) of subdivision (k).

21 (m) This section shall not prohibit a school district from hiring  
22 a certificated employee who became a permanent employee of  
23 another school district as of October 1, 1997.

24 (n) All information obtained from the Department of Justice is  
25 confidential. Every agency handling Department of Justice  
26 information shall ensure *all of* the following:

27 (1) ~~No~~ A recipient ~~may~~ *shall not* disclose its contents or provide  
28 copies of information.

29 (2) Information received shall be stored in a locked file separate  
30 from other ~~files~~, *files* and shall only be accessible to the custodian  
31 of records.

32 (3) Information received shall be destroyed upon the hiring  
33 determination in accordance with subdivision (a) of Section 708  
34 of Title 11 of the California Code of Regulations.

35 (4) Compliance with destruction, storage, dissemination,  
36 auditing, backgrounding, and training requirements as set forth in  
37 Sections 700 ~~through 708~~ to 708, inclusive, of Title 11 of the  
38 California Code of Regulations and Section 11077 of the Penal  
39 Code governing the use and security of criminal offender record

1 information is the responsibility of the entity receiving the  
2 information from the Department of Justice.

3 ~~SEC. 7.~~

4 *SEC. 9.* Section 44885.5 of the Education Code is amended to  
5 read:

6 44885.5. (a) (1) A school district shall classify a person who  
7 is employed as a district intern pursuant to Section 44830.3 and a  
8 person who has completed service in the school district as a district  
9 intern pursuant to subdivision (b) of Section 44325 and Section  
10 44830.3 and is reelected for the next *two* succeeding school-year  
11 years to a position requiring certification qualifications as a  
12 probationary employee of the school district.

13 (2) The governing board of a school district may dismiss or  
14 suspend employees classified as probationary employees pursuant  
15 to this subdivision in accordance with the procedures specified in  
16 Section 44948 or 44948.3, as applicable.

17 (b) A highly effective certificated employee who has completed  
18 service as a district intern pursuant to subdivision (b) of Section  
19 44325 and pursuant to Section 44830.3 and who is further reelected  
20 and employed ~~during the succeeding school year~~ as described in  
21 subdivision (a) ~~may~~, *shall*, upon reelection for the next succeeding  
22 school year, to a position requiring certification qualifications, be  
23 classified as and become a permanent employee of the school  
24 district.

25 (c) (1) Notwithstanding subdivision (b), the governing board  
26 of a school district may require a certificated employee who has  
27 completed service as a district intern pursuant to subdivision (b)  
28 of Section 44325 and pursuant to Section 44830.3 and who is  
29 further reelected and employed ~~during the succeeding school year~~  
30 as described in subdivision (a) to continue to be classified as a  
31 probationary employee for a ~~third or~~ fourth year.

32 (2) A certificated employee who is reelected as a probationary  
33 employee pursuant to this subdivision *or to a second succeeding*  
34 *school year as described in subdivision (a)* shall participate in  
35 either the California Peer Assistance and Review Program for  
36 Teachers established pursuant to Article 4.5 (commencing with  
37 Section 44500) *of Chapter 3* or a district-designed teacher support  
38 program established pursuant to Article 4.6 (commencing with  
39 ~~Section 44520).~~ *44520) of Chapter 3.*

1 (3) Notwithstanding ~~paragraph (2) of subdivision (a); any other~~  
2 *law*, a third- or fourth-year probationary employee has the due  
3 process and appeal rights of a permanent employee pursuant to  
4 Sections 44934 to 44934.2, inclusive, and Sections 44944 to  
5 44944.2, inclusive.

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

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

17 (d) (1) Notwithstanding subdivision (c), a certificated employee  
18 who had previously been granted permanent status in another  
19 school district who has completed service as a district intern  
20 pursuant to subdivision (b) of Section 44325 and pursuant to  
21 Section 44830.3, and who is further reelected and employed ~~during~~  
22 ~~the succeeding school year~~ as described in subdivision (a) shall,  
23 upon reelection for the next succeeding school year to a position  
24 requiring certification qualifications, be classified as and become  
25 a permanent employee of the school district.

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

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

1 employee shall be deemed reelected as a permanent employee for  
2 the next succeeding school year.

3 (f) For purposes of this section, a “highly effective certificated  
4 employee” means a certificated employee who, in the view of the  
5 governing board of the school district, demonstrates proficiency  
6 with the California Standards for the Teaching Profession as  
7 demonstrated by an evaluation *that conforms with Article 11*  
8 *(commencing with Section 44660) of Chapter 3* designating the  
9 certificated employee in the highest category the school district  
10 has established 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 January  
15 1, 2017, pursuant to Chapter 10.7 (commencing with Section 3540)  
16 of Division 4 of Title 1 of the Government Code, the changes made  
17 to this section by Assembly Bill 934 of the 2015–16 Regular  
18 Session shall not apply until expiration or renewal of that collective  
19 bargaining agreement.

20 *SEC. 10. Section 44901 of the Education Code is amended to*  
21 *read:*

22 44901. (a) (1) A certificated employee who has served in a  
23 position or positions requiring certification qualifications in two  
24 or more *school* districts, each having an average daily attendance  
25 of 250 *pupils* or more and governed by governing boards of  
26 identical personnel, for a total of three complete consecutive school  
27 years, upon being elected for the fourth consecutive school year  
28 to a position or positions requiring certification qualifications in  
29 any of the *school* districts, shall at the commencement of the fourth  
30 consecutive school year be classified as a permanent employee of  
31 the last *school* district in which he or she was employed ~~prior to~~  
32 *before* his or her election for the fourth consecutive school year.

33 ~~Where~~

34 (2) *Where* there are two or more *school* districts, each having  
35 an average daily attendance of 250 *pupils* or more and governed  
36 by governing boards of identical personnel, a certificated employee  
37 who has served in one of the *school* districts for three complete  
38 consecutive school years, upon being elected for the fourth  
39 consecutive school year to a position or positions requiring  
40 certification qualifications in any of the *school* districts, shall at

1 the commencement of the fourth consecutive school year be  
2 classified as and become a permanent employee of the last *school*  
3 district in which he or she was employed ~~prior to~~ *before* his or her  
4 election for the fourth consecutive school year.

5 ~~This~~

6 (3) *This* subdivision shall apply only to probationary employees  
7 whose probationary period commenced ~~prior to~~ *before* the 1983–84  
8 fiscal year.

9 (b) (1) A certificated employee who has served in a position  
10 or positions requiring certification qualifications in two or more  
11 *school* districts, each having an average daily attendance of 250  
12 *pupils* or more and governed by governing boards of identical  
13 personnel, for a total of ~~two~~ *three* complete consecutive school  
14 years, upon being elected for the ~~third~~ *fourth* consecutive school  
15 year to a position or positions requiring certification qualifications  
16 in any of the *school* districts, shall at the commencement of the  
17 ~~third~~ *fourth* consecutive school year be classified as a permanent  
18 employee of the last *school* district in which he or she was  
19 employed ~~prior to~~ *before* his or her election for the ~~third~~ *fourth*  
20 consecutive school year.

21 ~~Where~~

22 (2) *Where* there are two or more *school* districts, each having  
23 an average daily attendance of 250 *pupils* or more and governed  
24 by governing boards of identical personnel, a certificated employee  
25 who has served in one of the *school* districts for ~~two~~ *three* complete  
26 consecutive school years, upon being elected for the ~~third~~ *fourth*  
27 consecutive school year to a position or positions requiring  
28 certification qualifications in any of the *school* districts, shall at  
29 the commencement of the ~~third~~ *fourth* consecutive school year be  
30 classified as and become a permanent employee of the last *school*  
31 district in which he or she was employed ~~prior to~~ *before* his or her  
32 election for the ~~third~~ *fourth* consecutive school year.

33 ~~The~~

34 (3) *The* governing board of *the school district* shall notify the  
35 employee, on or before March 15 of the employee's ~~second~~ *third*  
36 complete consecutive school year of employment by the *school*  
37 districts in a position or positions requiring certification  
38 qualifications, of the decision to reelect or not reelect the employee  
39 for the next succeeding school year to such a position. ~~In the event~~  
40 ~~that~~ *If* the governing board of *the school district* does not give

notice pursuant to this section on or before March 15, the employee shall be deemed reelected for the next succeeding school year.

~~This~~

(4) *This* subdivision shall apply only to probationary employees whose probationary period commenced during the 1983–84 fiscal year or any fiscal year thereafter.

~~SEC. 8.~~

*SEC. 11.* Section 44929.21 of the Education Code is amended to read:

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

(2) This subdivision shall apply only to probationary employees whose probationary period commenced before the 1983–84 fiscal year.

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

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

(2) A certificated employee who is reelected as a probationary employee pursuant to this subdivision *or to a third complete consecutive school year as described in subdivision (b)* shall participate in either the California Peer Assistance and Review Program for Teachers established pursuant to Article 4.5

(commencing with Section 44500) of Chapter 3 or a district-designed teacher support program established pursuant to Article 4.6 (commencing with Section ~~44520~~: 44520) of Chapter 3.

(3) ~~A~~ *Notwithstanding any other law, a third- or fourth-year probationary employee has the due process and appeal rights of a permanent employee pursuant to Sections 44934 to 44934.2, inclusive, and Sections 44944 to 44944.2, inclusive.*

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

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

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

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

(e) The governing board of a school district shall notify a certificated employee, on or before March 15 of the certificated employee's ~~second, third, third~~ and fourth school year of probationary employment in a position requiring certification ~~qualification~~, *qualifications*, of the decision to reelect as a permanent employee, reelect as a probationary employee, or not reelect the certificated employee for the next succeeding school year to this type of a position. ~~In the event~~ *If* the governing board of a school district does not give notice pursuant to this section on or before March 15, a certificated employee shall be deemed

1 reelected as a permanent employee for the next succeeding school  
2 year.

3 (f) For purposes of this section, a “highly effective certificated  
4 employee” means a certificated employee who, in the view of the  
5 governing board of the school district, demonstrates proficiency  
6 with the California Standards for the Teaching Profession as  
7 demonstrated by an evaluation *that conforms with Article 11*  
8 *(commencing with Section 44660) of Chapter 3* designating the  
9 certificated employee in the highest category the school district  
10 has established 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 January  
15 1, 2017, pursuant to Chapter 10.7 (commencing with Section 3540)  
16 of Division 4 of Title 1 of the Government Code, the changes made  
17 to this section by Assembly Bill 934 of the 2015–16 Regular  
18 Session shall not apply until expiration or renewal of that collective  
19 bargaining agreement.

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

23 *SEC. 12. Section 44929.23 of the Education Code is amended*  
24 *to read:*

25 44929.23. (a) The governing board of a school district of any  
26 type or class having an average daily attendance of ~~less~~ *fewer* than  
27 250 pupils may classify as a permanent employee of the *school*  
28 ~~district any~~ *an* employee who, after having been employed by the  
29 school district for three complete consecutive school years in a  
30 position or positions requiring certification qualifications, is  
31 reelected for the next succeeding school year to a position requiring  
32 certification qualifications. If that classification is not made, the  
33 employee shall not attain permanent status and may be reelected  
34 from year to year thereafter without becoming a permanent  
35 employee until a change in classification is made.

36 (b) Notwithstanding subdivision (a), Section 44929.21 shall  
37 apply to certificated employees employed by a school district, if  
38 the governing board of the school district elects to dismiss  
39 probationary employees pursuant to Section 44948.2. If that  
40 election is made, the governing board *of the school district*



1 thereafter shall classify as a permanent employee of the *school*  
2 district ~~any~~ a probationary employee who, after being employed  
3 for ~~two~~ *three* complete consecutive school years in a position or  
4 positions requiring certification qualifications, is reelected for the  
5 next succeeding school year to a position requiring certification  
6 ~~qualifications as required by~~ *qualifications, unless the governing*  
7 *board of the school district requires the employee to continue to*  
8 *be classified as a probationary employee for a fourth year pursuant*  
9 *to Section 44929.21.* ~~Any~~ A probationary employee who has been  
10 employed by the *school* district for ~~two~~ *three* or more consecutive  
11 years on the date of that election in a position or positions requiring  
12 certification qualifications shall be classified as a permanent  
13 employee of the *school* district.

14 (c) If the classification is not made pursuant to subdivision (a)  
15 or (b), the employee shall not attain permanent status and may be  
16 reelected from year to year thereafter without becoming a  
17 permanent employee until the classification is made.

18 ~~SEC. 9.~~

19 *SEC. 13.* Section 44934 of the Education Code is amended to  
20 read:

21 44934. (a) This section shall apply to dismissal or suspension  
22 proceedings based on charges as specified in Section 44932 or  
23 44933, including proceedings based on charges of egregious  
24 misconduct in combination with other charges, except this section  
25 shall not apply to dismissal or suspension proceedings based on  
26 charges of unsatisfactory performance described in paragraph (5)  
27 of subdivision (a) of Section 44932. Section 44934.1 shall apply  
28 to dismissal or suspension proceedings based solely on charges of  
29 egregious misconduct described in paragraph (1) of subdivision  
30 (a) of Section 44932. Section 44934.2 shall apply to dismissal or  
31 suspension proceedings based on charges of unsatisfactory  
32 performance described in paragraph (5) of subdivision (a) of  
33 Section 44932.

34 (b) Upon the filing of written charges, duly signed and verified  
35 by the person filing them, with the governing board of the school  
36 district, or upon a written statement of charges formulated by the  
37 governing board of the school district, charging that there exists  
38 cause, as specified in Section 44932 or 44933, for the dismissal  
39 or suspension of a permanent employee of the school district, the  
40 governing board of the school district may, upon majority vote,

1 except as provided in this article if it deems the action necessary,  
2 give notice to the permanent employee of its intention to dismiss  
3 or suspend him or her at the expiration of 30 days from the date  
4 of service of the notice, unless the employee demands a hearing  
5 as provided in this article. Suspension proceedings may be initiated  
6 pursuant to this section only if the governing board of the school  
7 district has not adopted a collective bargaining agreement pursuant  
8 to subdivision (b) of Section 3543.2 of the Government Code.

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

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

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

29 (f) This section shall also apply to the suspension of probationary  
30 employees in a school district with an average daily attendance of  
31 less *fewer* 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 except that Section 44934.2, and not this  
34 section, shall apply to dismissal or suspension proceedings based  
35 on charges of unsatisfactory performance described in paragraph  
36 (5) of subdivision (a) of Section 44932.

37 ~~SEC. 10.~~

38 *SEC. 14.* Section 44934.2 is added to the Education Code, to  
39 read:

1 44934.2. (a) This section shall apply only to dismissal or  
2 suspension proceedings based solely on charges of unsatisfactory  
3 performance, as described in paragraph (5) of subdivision (a) of  
4 Section 44932.

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

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

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

33 ~~SEC. 11.~~

34 *SEC. 15.* Section 44937 of the Education Code is amended to  
35 read:

36 44937. In a dismissal or suspension proceeding initiated  
37 pursuant to Section 44934, 44934.1, or 44934.2, if the certificated  
38 employee does not demand a hearing by filing a written request  
39 for hearing with the governing board of the school district, he or

1 she may be dismissed or suspended without pay for a specific  
2 period of time at the expiration of the 30-day period.

3 ~~SEC. 12.~~

4 *SEC. 16.* Section 44938 of the Education Code is amended to  
5 read:

6 44938. (a) The governing board of ~~any~~ a school district shall  
7 not act upon any charges of unprofessional conduct unless at least  
8 45 calendar days before the date of the filing, the governing board  
9 of the school district or its authorized representative has given the  
10 employee against whom the charge is filed written notice of the  
11 unprofessional conduct, specifying the nature thereof with such  
12 specific instances of behavior and with such particularity as to  
13 furnish the employee an opportunity to correct his or her faults  
14 and overcome the grounds for the charge. The written notice shall  
15 include the evaluation made pursuant to Article 11 (commencing  
16 with Section 44660) of Chapter 3, if applicable to the employee.

17 (b) The governing board of ~~any~~ a school district shall not act  
18 upon any charges of unsatisfactory performance unless the  
19 employee against whom the charge is filed has completed at least  
20 one year of the California Peer Assistance and Review Program  
21 for Teachers established pursuant to Article 4.5 (commencing with  
22 Section 44500) of Chapter 3 or a district-designed teacher support  
23 program established pursuant to Article 4.6 (commencing with  
24 Section 44520) of Chapter 3 during the previous two years or a  
25 district-designed administrator support program established  
26 pursuant to Article 4.7 (commencing with Section 44550) of  
27 Chapter 3 during the previous year.

28 (c) (1) “Unsatisfactory performance” as used in this section  
29 means, and refers only to, the unsatisfactory performance  
30 particularly specified as a cause for dismissal in Section 44932  
31 and does not include any other cause for dismissal specified in  
32 Section 44932.

33 (2) “Unprofessional conduct” as used in this section means, and  
34 refers to, the unprofessional conduct particularly specified as a  
35 cause for dismissal or suspension in Sections 44932 and 44933  
36 and does not include any other cause for dismissal specified in  
37 Section 44932.

38 ~~SEC. 13.~~

39 *SEC. 17.* Section 44943 of the Education Code is amended to  
40 read:

1     44943. When any employee who has been served with notice  
2 pursuant to Section 44934, 44934.1, or 44934.2 of the governing  
3 board of the school district's intention to dismiss or suspend him  
4 or her demands a hearing, the governing board of the school district  
5 shall have the option either (a) to rescind its action, or (b) schedule  
6 a hearing on the matter.

7     ~~SEC. 14.~~

8     *SEC. 18.* Section 44944.05 of the Education Code is amended  
9 to read:

10     44944.05. (a) In a dismissal or suspension proceeding initiated  
11 pursuant to Section 44934, in lieu of written discovery required  
12 pursuant to Section 11507.6 of the Government Code, the parties  
13 shall make disclosures as described in this section. This section  
14 does not apply to dismissal or suspension proceedings initiated  
15 pursuant to Section 44934.1 or 44934.2.

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

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

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

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

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

33     (C) A party shall make its initial disclosures based on the  
34 information then reasonably available to it. A party is not excused  
35 from making its disclosures because it has not fully investigated  
36 the case or because it challenges the sufficiency of another party's  
37 disclosures. A party's failure to make initial disclosures within the  
38 deadlines set forth in this section shall preclude the party from  
39 introducing witnesses or evidence not disclosed at the hearing,  
40 unless the party shows good cause for its failure to timely disclose.

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

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

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

(B) The disclosure specified in subparagraph (A) shall be accompanied by a summary of the witness' expected testimony, including a description of the facts and data considered by the witness; a description of the witness' qualifications, including a list of all publications authored in the previous 10 years; a list of all other cases in which, during the previous four years, the witness testified as an expert at a hearing or by deposition; and a statement of the compensation to be paid to the expert witness.

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

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

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

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

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

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

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

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

9 (c) In addition to the disclosures required by subdivision (a),  
10 the parties may obtain discovery by oral deposition in California,  
11 in accordance with Sections 2025.010 to 2025.620, inclusive, of  
12 the Code of Civil Procedure, except as described in this article.  
13 The school district may take the depositions of the employee and  
14 no more than four other witnesses, and the employee may take  
15 depositions of no more than five witnesses. Each witness deposition  
16 is limited to seven hours. An administrative law judge may allow  
17 the parties to conduct additional depositions only upon a showing  
18 of good cause. If a motion to conduct additional depositions is  
19 granted by the administrative law judge, the employee shall be  
20 given a meaningful opportunity to respond to new evidence  
21 introduced as a result of the additional depositions. An order  
22 granting a motion for additional depositions shall not constitute  
23 an extraordinary circumstance or good cause for purposes of  
24 extending the deadlines set forth in paragraph (1) of subdivision  
25 (b) of Section 44944.

26 (d) If the right to disclosures or oral depositions is denied by  
27 either the employee or the governing board of a school district,  
28 the exclusive right of a party seeking an order compelling  
29 production of discovery shall be pursuant to Section 11507.7 of  
30 the Government Code. If a party seeks protection from  
31 unreasonable or oppressive discovery demands, the exclusive right  
32 of a party seeking an order for protection shall be pursuant to  
33 Section 11450.30 of the Government Code.

34 ~~SEC. 15.~~

35 *SEC. 19.* Section 44944.2 is added to the Education Code, to  
36 read:

37 44944.2. (a) This section shall apply only to dismissal or  
38 suspension proceedings initiated pursuant to Section 44934.2.

39 (b) Any permanent certificated employee who has received  
40 notice of a school district's intention to suspend or dismiss the

1 certificated employee based on charges of unsatisfactory  
2 performance described in paragraph (5) of subdivision (a) of  
3 Section 44932 may file a written request for arbitration to the  
4 school district within 14 days after receipt of a copy of the written  
5 charges by filing a written answer to the charges.

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

9 (2) The meeting shall ~~occur~~; *occur* at a location and time  
10 mutually convenient for the certificated employee and the school  
11 district. The certificated employee shall have the right to appear  
12 with a representative of the certificated employee's collective  
13 bargaining unit, counsel, or both.

14 (3) At the meeting, the certificated employee and the school  
15 district shall agree upon an arbitrator, selected from the list of  
16 arbitrators maintained by the American Arbitration Association,  
17 and a time and place for an arbitration hearing. The hearing shall  
18 be scheduled for no fewer than 14 days and no more than 30 days  
19 after the scheduling meeting.

20 (d) (1) At the arbitration hearing, the certificated employee  
21 shall have the right to appear with a representative of the  
22 certificated employee's collective bargaining unit, counsel, or both.

23 (2) The scope of the arbitration hearing shall be limited to both  
24 of the following:

25 (A) The process the school district used in evaluating the  
26 ~~certificated employee~~; *employee, including, but not limited to,*  
27 *whether the school district's evaluation conformed with Article*  
28 *11 (commencing with Section 44660) of Chapter 3.*

29 (B) The certificated employee's proficiency with the California  
30 Standards for the Teaching Profession.

31 (e) The arbitrator shall issue a decision as to whether or not the  
32 certificated employee should be dismissed or suspended within 60  
33 days of the arbitration hearing. The decision of the arbitrator shall  
34 be binding.

35 (f) (1) If the arbitrator determines that the certificated employee  
36 should be dismissed or suspended, the governing board of the  
37 school district and the state shall share equally the expenses of the  
38 arbitration. The state shall pay the reasonable expenses of the  
39 arbitrator, including, but not limited to, payments or obligations  
40 incurred for travel, meals, and lodging. The Controller shall pay



1 all claims submitted pursuant to this paragraph from the General  
2 Fund, and may prescribe reasonable rules, regulations, and forms  
3 for the submission of the claims. The certificated employee and  
4 the governing board of the school district shall pay their own  
5 attorney's fees.

6 (2) If the arbitrator determines that the certificated employee  
7 should not be dismissed or suspended, the governing board of the  
8 school district shall pay the expenses of the hearing, including the  
9 reasonable expenses of the arbitrator, including, but not limited  
10 to, payments or obligations incurred for travel, meals, and lodging  
11 and reasonable attorney's fees incurred by the certificated  
12 employee.

13 ~~SEC. 16.~~

14 *SEC. 20.* Section 44945 of the Education Code is amended to  
15 read:

16 44945. (a) The decision reached in a dismissal or suspension  
17 proceeding initiated pursuant to Section 44934 or 44934.1 may,  
18 on petition of either the governing board of the school district or  
19 the employee, be reviewed by a court of competent jurisdiction in  
20 the same manner as a decision made by a hearing officer under  
21 Chapter 5 (commencing with Section 11500) of Part 1 of Division  
22 3 of Title 2 of the Government Code. The court, on review, shall  
23 exercise its independent judgment on the evidence. The proceeding  
24 shall be set for hearing at the earliest possible date and shall take  
25 precedence over all other cases, except older matters of the same  
26 character and matters to which special precedence is given by law.

27 (b) This section shall not apply to a decision reached in a  
28 dismissal or suspension proceeding initiated pursuant to Section  
29 44934.2.

30 ~~SEC. 17.~~

31 *SEC. 21.* Section 44955 of the Education Code is amended to  
32 read:

33 44955. (a) A permanent employee shall not be deprived of his  
34 or her position for causes other than those specified in Sections  
35 44907 and 44923, and Sections 44932 to 44947, inclusive, and a  
36 probationary employee shall not be deprived of his or her position  
37 for cause other than as specified in Sections 44948 to 44949,  
38 inclusive.

39 (b) (1) If in a school year the average daily attendance in all of  
40 the schools of a school district for the first six months that school

1 is in session shall have declined below the corresponding period  
2 of either of the previous two school years, if the governing board  
3 of the school district determines that attendance in a school district  
4 will decline in the following year as a result of the termination of  
5 an interdistrict tuition agreement as described in Section 46304,  
6 if a particular kind of service is to be reduced or discontinued not  
7 later than the beginning of the following school year, or if the  
8 amendment of state law requires the modification of curriculum,  
9 and if the governing board of the school district determines it  
10 necessary by reason of any of these conditions to decrease the  
11 number of permanent employees in the school district, the  
12 governing board of the school district may terminate the services  
13 of not more than a corresponding percentage of the certificated  
14 employees of the school district, permanent as well as probationary,  
15 at the close of the school year.

16 (2) In computing a decline in average daily attendance for  
17 purposes of this section for a newly formed or reorganized school  
18 district, each school of the school district shall be deemed to have  
19 been a school of the newly formed or reorganized school district  
20 for both of the two previous school years.

21 ~~(3) Each school district shall develop a metric that gives equal~~  
22 ~~weight to seniority and teacher effectiveness, as measured by the~~  
23 ~~school district using the California Standards for the Teaching~~  
24 ~~Profession adopted by the Commission on Teacher Credentialing,~~  
25 ~~to use when determining which permanent school employees to~~  
26 ~~retain. A school district shall not use teacher salary as a factor in~~  
27 ~~this metric: determining who is terminated.~~

28 (4) The governing board of a school district shall terminate  
29 certificated employees in the following order:

30 (A) Probationary employees who have received an evaluation  
31 of performance below the satisfactory level as established pursuant  
32 to subdivision (c) of Section ~~44664 in the inverse order of the~~  
33 ~~metric established pursuant to paragraph (3): 44664.~~

34 (B) Permanent employees who have received two consecutive  
35 evaluations of performance below the satisfactory level as  
36 established pursuant to subdivision (c) of Section ~~44664 in the~~  
37 ~~inverse order of the metric established pursuant to paragraph (3):~~  
38 ~~44664.~~

39 (C) Probationary employees who have not received an evaluation  
40 of performance below the satisfactory level as established pursuant

1 to subdivision (c) of Section ~~44664 in the inverse order of the~~  
2 ~~metric established pursuant to paragraph (3): 44664.~~

3 (D) Permanent employees who have not received two  
4 consecutive evaluations of performance below the satisfactory  
5 level as established pursuant to subdivision (c) of Section ~~44664~~  
6 ~~in the inverse order of the metric established pursuant to paragraph~~  
7 ~~(3): 44664.~~

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

25 (c) (1) Notice of the termination of services shall be given  
26 before the 15th of May in the manner prescribed in Section 44949.  
27 If a permanent or probationary employee is not given ~~the notices~~  
28 *notice* and a right to a hearing as provided for in Section 44949,  
29 he or she shall be deemed reemployed for the ensuing school year.

30 (2) The governing board of a school district shall make  
31 assignments and reassignments in a manner that employees shall  
32 be retained to render any service their seniority, qualifications,  
33 and effectiveness entitle them to render. However, before assigning  
34 or reassigning a certificated employee to teach a subject that he or  
35 she has not previously taught, and for which he or she does not  
36 have a teaching credential or 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.

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

(1) The school district demonstrates a specific need for personnel to teach a specific course or course of study, or to provide services authorized by a services credential with a specialization in either pupil personnel services or health for a school nurse, and that the certificated employee has special training and experience necessary to teach that course or course of study or to provide those services, that others with a higher ranking on the ~~metric-developed order~~ *established* pursuant to paragraph ~~(3)~~ (4) of subdivision (b) do not possess.

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

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

~~SEC. 18.~~

SEC. 22. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.