

Assembly Bill No. 230

Passed the Assembly July 14, 2001

Chief Clerk of the Assembly

Passed the Senate July 12, 2001

Secretary of the Senate

This bill was received by the Governor this _____ day of
_____, 2001, at _____ o'clock __M.

Private Secretary of the Governor



CHAPTER _____

An act to amend Sections 45113 and 88013 of the Education Code, relating to classified school employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 230, Goldberg. Classified employees.

Existing law requires the governing board of any school district or community college district that has not adopted the merit system for its classified employees to prescribe rules and regulations governing the personnel management of the classified service.

Existing law requires that any employee designated as a permanent employee be subject to disciplinary action only for cause as prescribed by rule or regulation of the governing board and provides that the governing board's determination of the sufficiency of the cause for disciplinary action is conclusive. The Court of Appeal (*United Steelworkers of America v. Board of Education* (1984) 162 Cal. App. 3d 823) has concluded that this provision precludes a governing board from subjecting the board's disciplinary conclusions regarding these employees to binding arbitration.

This bill, instead, would provide that the governing board's determination of the sufficiency of the cause for disciplinary action is final. The bill would provide that nothing in these provisions is to be construed to prohibit the governing board, pursuant to the terms of an agreement with an employee organization reached pursuant to specified provisions of current law governing school employer-employee relations, from delegating its authority to determine whether there is sufficient cause for disciplinary action against classified employees, except peace officers, as defined, to binding or nonbinding arbitration.

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

SECTION 1. Section 45113 of the Education Code is amended to read:

45113. The governing board of a school district shall prescribe written rules and regulations, governing the personnel management of the classified service, which shall be printed and



made available to employees in the classified service, the public, and those concerned with the administration of this section, whereby those employees are designated as permanent employees of the district after serving a prescribed period of probation which shall not exceed one year.

Any employee designated as a permanent employee shall be subject to disciplinary action only for cause as prescribed by rule or regulation of the governing board, but the governing board's determination of the sufficiency of the cause for disciplinary action shall be final.

Nothing in this section shall be construed to prohibit the governing board, pursuant to the terms of an agreement with an employee organization under Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, from delegating its authority to determine whether sufficient cause exists for disciplinary action against classified employees, except peace officers as defined in Section 830.32 of the Penal Code, to binding or nonbinding arbitration.

The governing board shall adopt rules of procedure for disciplinary proceedings which shall contain a provision for informing the employee by written notice of the specific charges against him or her, a statement of his or her right to a hearing on the charges, and the time within which the hearing may be requested which shall be not less than five days after service of the notice to the employee, and a card or paper, the signing and filing of which shall constitute a demand for hearing, and a denial of all charges. The burden of proof shall remain with the governing board, and any rule or regulation to the contrary shall be void.

No disciplinary action shall be taken for any cause that arose prior to the employee's becoming permanent, nor for any cause that arose more than two years preceding the date of the filing of the notice of cause unless that cause was concealed or not disclosed by the employee when it could be reasonably assumed that the employee should have disclosed the facts to the employing district.

This section shall apply only to districts not incorporating the merit system as outlined in Article 6 (commencing with Section 45240).

SEC. 2. Section 88013 of the Education Code is amended to read:



88013. (a) The governing board of a community college district shall prescribe written rules and regulations, governing the personnel management of the classified service, which shall be printed and made available to employees in the classified service, the public, and those concerned with the administration of this section, whereby these employees are, except as provided in Section 72411, designated as permanent employees of the district after serving a prescribed period of probation which shall not exceed one year.

(b) Any employee designated as a permanent employee shall be subject to disciplinary action only for cause as prescribed by rule or regulation of the governing board, but the governing board's determination of the sufficiency of the cause for disciplinary action shall be final.

(c) Nothing in this section shall be construed to prohibit the governing board, pursuant to the terms of an agreement with an employee organization under Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, from delegating its authority to determine whether sufficient cause exists for disciplinary action against classified employees, except peace officers as defined in Section 830.32 of the Penal Code, to binding or nonbinding arbitration.

(d) The governing board shall adopt rules of procedure for disciplinary proceedings which shall contain a provision for informing the employee by written notice of the specific charges against him or her, a statement of the employee's right to a hearing on those charges, and the time within which the hearing may be requested which shall be not less than five days after service of the notice to the employee, and a card or paper, the signing and filing of which shall constitute a demand for hearing, and a denial of all charges. The burden of proof shall remain with the governing board, and any rule or regulation to the contrary shall be void.

(e) No disciplinary action shall be taken for any cause that arose prior to the employee's becoming permanent, or for any cause that arose more than two years preceding the date of the filing of the notice of cause, unless the cause was concealed or not disclosed by the employee when it could be reasonably assumed that the employee should have disclosed the facts to the employing district.



(f) This section shall apply only to districts not incorporating the merit system as outlined in Article 3 (commencing with Section 88060).



Approved _____, 2001

Governor

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