

BOARD POLICY UPDATE

BP/AR 4116 - Probationary/Permanent Status

(BP revised/AR added)

Policy updated to reflect court decisions clarifying the distinction between probationary employees and temporary employees. Policy also adds material regarding the notification of nonreelection of a probationary employee. Regulation added to include material regarding the computation of the length of service required for classification as a permanent employee, including types of service excluded from that computation.

PROBATIONARY/PERMANENT STATUS

Probationary Status

The Board of Trustees desires to employ and retain highly qualified certificated personnel to implement the district's educational program. Newly hired certificated personnel shall serve a probationary period during which the Board shall determine their suitability for long-term district employment.

Certificated employees who satisfactorily complete the probationary period shall be granted permanent status.

A probationary ~~teacher~~ employee who has been employed by the district in position(s) requiring certification for two complete consecutive school years and is then rehired/re-elected for the next succeeding school year shall become a permanent employee at the beginning of the third year. (Education Code 44929.21, 44929.23)

~~Probationary~~ During the probationary period, employees shall receive training, professional development and evaluations consistent with their needs as new teachers and shall be given the opportunity to increase their competency as teachers through the district's staff development program. Such training and assistance which may consist of inservice training and/or meetings with the employee's evaluator to discuss areas of excellence/strength and areas requiring improvement. Inservice training may be provided during school hours as part of a comprehensive staff training development program.

(cf. 4131 - Staff Development)

The performance of each probationary employee shall be evaluated and assessed at least once every school year.

(cf. 4115 - Evaluation/Supervision)

Dismissal/Nonreelection of Probationary Employees

During the school year, a probationary employee may be suspended or dismissed only for cause and in accordance with district procedures. (Education Code 44948.3)

(cf. 4118 - Dismissal/Suspension/Disciplinary Action)

With proper notice, the Board may, without cause, elect not to reemploy a probationary employee for the subsequent year. (Education Code 44929.21, 44929.23)

(cf. 4117.3 - Personnel Reduction)

The Superintendent or designee shall annually provide the Board with recommendations regarding the reelection or nonreelection of probationary certificated personnel for the ensuing school year.

PROBATIONARY/PERMANENT STATUS (continued)

At any time during a probationary employee's first year of employment in the district, the Board may give written notice to the employee of the Board's decision not to reelect the employee for a second school year. If the Board does not give written notice, the employee shall be deemed reelected for the next succeeding school year.

During the final year of the probationary period, the Board may decide not to reelect the employee for the following year, and shall so notify the employee in writing on or before March 15. If the Board does not give written notice on or before March 15, the employee shall be deemed reelected for the next succeeding school year. (Education Code 44929.21, 44948.5)

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

Such notices shall be delivered through personal service upon the employee, certified mail with return receipt, email, or another method which documents actual receipt of the notice by the employee.

~~Upon assignment to a school, a probationary certificated employee shall receive assurance that his/her potential need for training, assistance and evaluation is recognized. (Education Code 35160.5)~~

~~The performance of each probationary employee shall be evaluated and assessed on a continuing basis, at least once every school year. Evaluations will recognize potential special needs of probationary employees.~~

~~The Governing Board shall review this policy annually.~~

~~*(cf. 4115 - Evaluation)*~~

~~*(cf. 4131 - Staff Development)*~~

Legal Reference: (see next page)

PROBATIONARY/PERMANENT STATUS (continued)

Legal Reference:

EDUCATION CODE

44466 *Status of university interns*

44850.1 *No tenure in administrative or supervisory position*

44885.5 *Status of district interns*

44908 *Complete year for probationary employees*

44909 *Classification of certificated employees in categorically funded projects*

44910-44913 *Service not computed in eligibility for permanent status*

44915 *Classification of probationary employees*

44917-44921 *Status of substitute or temporary employees*

44929.20 *Continuing contracts (not to exceed four years - ADA under 250)*

44929.21 *Districts of 250 ADA or more*

44929.23 *Districts with less than 250 ADA*

44929.28 *Employment by another district*

44930-44988 *Resignations, dismissals and leaves of absence, especially:*

44948.2 *Election to use provisions of Section 44948.3*

44948.3 *Dismissal of probationary employees*

44948.5 *Nonreelection procedures, districts under 250 ADA*

44949 *Cause, notice and right to hearing required for dismissal of probationary employee*

44955 *Reduction in number of permanent employees*

COURT DECISIONS

Grace v. Beaumont Unified School District (2013) 216 Cal. App. 4th 1325

Stockton Teachers Association CTA/NEA v. Stockton Unified School District (2012) 203 Cal. App. 4th 1552

Sullivan v. Centinela Valley Union High School District (2011) 194 Cal. App. 4th 69

California Teachers Assn. v. Vallejo City Unified School District (2007) 149 Cal. App. 4th 135, 146

Hoschler v. Sacramento City Unified School District (2007) 149 Cal. App. 4th 258

Bakersfield Elementary Teachers Assn. v. Bakersfield City School District (2006) 145 Cal. App. 4th 1260, 1280

Fischer v. Los Angeles Unified School District (1999) 70 Cal.App.4th 87

Bellflower Education Assn. v. Bellflower Unified School District (1991) 228 Cal.App.3d 805

Fontana Teachers Assn. v. Fontana Unified School District (1988) 201 Cal.App.3d 1517

Grimsley v. Board of Trustees (1987) 189 Cal.App.3d 1440

PROBATIONARY/PERMANENT STATUS

Eligibility for Permanent Status

A probationary employee who, in any one school year, has served for at least 75 percent of the number of days maintained by regular district schools shall be deemed to have served a complete school year. (Education Code 44908)

The following shall not be included for purposes of computing the service required as a prerequisite to classification as a permanent employee:

1. Service as an instructor in classes conducted at regional occupational centers or programs (Education Code 44910)
2. Service under a provisional credential other than a one-year emergency credential (Education Code 44911)
3. Service only as a teacher of basic military drill in high school cadet companies (Education Code 44912)
4. Employment in summer school (Education Code 44913)

Permanency Achieved in Other Districts

A person who has achieved permanent status as a certificated employee in another school district may be employed by the Board of Trustees as a permanent certificated employee. (Education Code 44929.28)

Interns

A person employed as a district or university intern shall be classified as a probationary employee. Following completion of the internship, if reelected by the district to serve in a position requiring certification qualifications for the next succeeding school year, the employee shall continue to be classified as a probationary employee during that year. (Education Code 44466, 44885.5)

(cf. 4112.21 - Interns)

PROBATIONARY/PERMANENT STATUS (continued)

Interns

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(cf. 4112.21 - Interns)

An employee who has completed an internship and at least one complete school year in a position requiring certification qualifications within the district shall be granted permanent status when the employee is reelected for the next succeeding school year to a position requiring certification qualifications. (Education Code 44466, 44885.5)