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**AB-2413 Classified school and community college employees: disciplinary hearings: compensation.**  
(2021-2022)

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**Assembly Bill No. 2413**

**CHAPTER 913**

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

[ Approved by Governor September 30, 2022. Filed with Secretary of State September 30, 2022. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 2413, Carrillo. Classified school and community college employees: disciplinary hearings: compensation.

Existing law requires the governing board of a school district to employ persons for positions not requiring certification qualifications and the governing board of a community college district to employ persons for positions that are not academic positions. Existing law requires the governing board of a school district or community college district to classify those employees and positions and requires that they be known as the classified service. Existing law requires the governing board of a school district or community college district to prescribe written rules and regulations governing the personnel management of the classified service whereby classified employees are designated as permanent employees after serving a prescribed period of probation. Existing law subjects a permanent classified employee to disciplinary action only for cause, as prescribed by rule or regulation of the governing board of the school district or community college district.

Existing law authorizes the governing board of a school district or community college district to enter into a collective bargaining agreement with an employee organization, as specified. Existing law authorizes the governing board of a school district or community college district to delegate its authority to determine whether sufficient cause exists for disciplinary action against a classified employee to an impartial third-party hearing officer, pursuant to the terms of the collective bargaining agreement, as provided.

This bill would prohibit the suspension without pay, suspension or demotion with a reduction in pay, or dismissal of a permanent employee of a school district or community college district who timely requests a hearing on charges against the employee before a decision is rendered after the hearing, unless the governing board or impartial third-party hearing officer finds that at the time discipline was imposed at the conclusion of the initial review process, the employer demonstrated by a preponderance of the evidence that the employee engaged in criminal misconduct, misconduct that presents a risk of harm to pupils or students, staff, or property, or committed habitual violations of the district's policies or regulations. If a hearing on the charges will be conducted by an impartial third-party hearing officer pursuant to a collective bargaining agreement, the bill would authorize a school district or a community college district to stop paying a permanent employee before a decision is rendered after 30 calendar days from the date the hearing is requested. The bill would specify that, to the extent it conflicts with a collective bargaining agreement entered into before January 1, 2023, its terms would not apply to the school district or community college district that is subject to that agreement until the expiration or renewal of the agreement.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

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

**45113.** (a) The governing board of a school district shall prescribe written rules and regulations governing the personnel management of the classified service. These written rules and regulations 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 designated as permanent employees of the school district after serving a prescribed period of probation that shall not exceed six months or 130 days of paid service, whichever is longer. However, a full-time peace officer or public safety dispatcher employed by a school district operating a dispatch center certified by the Commission on Peace Officer Standards and Training, to be designated as a permanent employee of the school district, shall serve a probationary period of not less than one year of paid service from their date of appointment to that full-time position. A permanent employee who accepts a promotion and fails to complete the probationary period for that promotional position, shall be employed in the classification from which the employee was promoted.

(b) An 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 of the school district, but the governing board's determination of the sufficiency of the cause for disciplinary action shall be conclusive.

(c) The governing board of a school district shall adopt rules of procedure for disciplinary proceedings that shall contain a provision for informing the employee by written notice of the specific charges against the employee, a statement of the employee's right to a hearing on those charges, and the time within which the hearing may be requested that 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 of the school district, and any rule or regulation to the contrary is void.

(d) Disciplinary action shall not be taken for any cause that arose before 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 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 school district.

(e) This section shall not be construed to prohibit the governing board of a school district, 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, excluding peace officers as defined in Section 830.32 of the Penal Code, to an impartial third-party hearing officer. However, the governing board of the school district shall retain authority to review the determination under the standards set forth in Section 1286.2 of the Code of Civil Procedure.

(f) (1) Except as specified in paragraph (2), a permanent employee who timely requests a hearing on charges against the employee shall not be suspended without pay, suspended with a reduction in pay, demoted with a reduction in pay, or dismissed before a decision is rendered after the hearing, unless the governing board, or an impartial third-party hearing officer provided 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, finds that at the time discipline was imposed at the conclusion of the review process specified in *Skelly v. State Personnel Bd.* (1975) 15 Cal.3d 194, the employer demonstrated by a preponderance of the evidence that the employee engaged in criminal misconduct, misconduct that presents a risk of harm to pupils, staff, or property, or committed habitual violations of the district's policies or regulations.

(2) If a hearing on the charges will be conducted by an impartial third-party hearing officer or the governing board pursuant to subdivision (e), the school district may stop paying a permanent employee before a decision is rendered after 30 calendar days from the date the hearing is requested.

(3) To the extent that this subdivision conflicts with a provision of a collective bargaining agreement entered into by a public school employer and an exclusive bargaining representative before January 1, 2023, pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, this subdivision shall not apply to the school district until the expiration or renewal of that collective bargaining agreement.

(g) (1) A governing board of a school district shall delegate its authority to a judge, as defined in Section 44990, to determine whether sufficient cause exists for disciplinary action against a classified employee involving allegations of egregious misconduct, as defined in Section 44932, and involving a minor, as defined in Section 44990. The judge's ruling shall be binding upon all parties.

(2) A judge authorized under this subdivision to conduct a hearing involving allegations as described in Section 44010 or 44011, or as described in Sections 11165.2 to 11165.6, inclusive, of the Penal Code, shall conduct that hearing in accordance with Article 3.3 (commencing with Section 44990) of Chapter 4 and Section 49077.

(3) The term "representative of the respondent," within the meaning of Article 3.3 (commencing with Section 44990) of Chapter 4, shall include, but not necessarily be limited to, an exclusive labor representative.

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

(i) To the extent that this section, as amended by Chapter 542 of the Statutes of 2019, conflicts with a provision of a collective bargaining agreement entered into by a public school employer and an exclusive bargaining representative before January 1, 2020, 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 Chapter 542 of the Statutes of 2019 shall not apply to the school district until expiration or renewal of that collective bargaining agreement.

**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. These written rules and regulations 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 that shall not exceed six months or 130 days of paid service, whichever is longer. However, for a full-time peace officer or public safety dispatcher employed by a district operating a dispatch center certified by the Commission on Peace Officer Standards and Training to be designated as a permanent employee of the district, they shall serve a probationary period of not less than one year of paid service from their date of appointment to that full-time position. A permanent employee who accepts a promotion and fails to complete the probationary period for that promotional classification, shall be employed in the position from which the employee was promoted.

(b) An 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 conclusive.

(c) The governing board shall adopt rules of procedure for disciplinary proceedings that shall contain a provision for informing the employee by written notice of the specific charges against the employee, 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.

(d) Disciplinary action shall not be taken for any cause that arose before the employee became 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.

(e) This section shall not 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, excluding peace officers as defined in Section 830.32 of the Penal Code, to an impartial third-party hearing officer. However, the governing board shall retain authority to review the determination under the standards set forth in Section 1286.2 of the Code of Civil Procedure.

(f) (1) Except as specified in paragraph (2), a permanent employee who timely requests a hearing on charges against the employee shall not be suspended without pay, suspended with a reduction in pay, demoted with a reduction in pay, or dismissed before a decision is rendered after the hearing unless the governing board, or an impartial third-party hearing officer provided 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, finds that at the time discipline was imposed at the conclusion of the review process specified in *Skelly v. State Personnel Bd.* (1975) 15 Cal.3d 194, the employer demonstrated by a preponderance of the evidence that the employee engaged in criminal misconduct, misconduct that presents a risk of harm to students, staff, or property, or committed habitual violations of the district's policies or regulations.

(2) If a hearing on the charges will be conducted by an impartial third-party hearing officer or the governing board pursuant to subdivision (e), the community college district may stop paying a permanent employee before a decision is rendered after 30 calendar days from the date the hearing is requested.

(3) To the extent that this subdivision conflicts with a provision of a collective bargaining agreement entered into by a public school employer and an exclusive bargaining representative before January 1, 2023, pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, this subdivision shall not apply to the community college district until the expiration or renewal of that collective bargaining agreement.

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

(h) To the extent that this section, as amended by Assembly Bill 275 of the 2021–22 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, 2022, 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 275 of the 2021–22 Regular Session shall not apply to the community college district until expiration or renewal of that collective bargaining agreement.