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AB-917 County offices of education: school districts: average daily attendance of less than 250 pupils: permanent status. (2025-2026)

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CALIFORNIA LEGISLATURE— 2025–2026 REGULAR SESSION

ASSEMBLY BILL

NO. 917

Introduced by Assembly Member Ávila Farías

February 19, 2025

An act to amend Sections 1296, 44500, 44501, 44897, 44901, 44929.20, 44929.21, 44932, 44933, 44934, 44934.1, and 44948.3 of, to amend, repeal, and add Section 44910 of, and to repeal Sections 44903, 44929.23, 44948, 44948.2, and 44948.5 of, the Education Code, relating to school employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 917, as introduced, Ávila Farías. County offices of education: school districts: average daily attendance of less than 250 pupils: permanent status.

(1) Existing law requires a certificated employee of a school district of any type or class or a county superintendent of schools, with an average daily attendance of 250 or more, who completes 2 consecutive years and is reelected for the next succeeding school year to a position requiring certification, to become and be classified as a permanent employee of the school district or county superintendent. Existing law authorizes the governing board of a school district of any type or class having an average daily attendance of less than 250 pupils to classify as a permanent employee of the district any employee who, after having been employed by the school district for 3 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. If that classification is not made, existing law prohibits the employee from attaining permanent status and instead authorizes the employee to be reelected from year to year thereafter without becoming a permanent employee until a change in classification is made. Existing law further provides for the calculation of permanent status upon the unionization, unification, uniting, or consolidation of one or more school districts having different average daily attendances, as specified.

This bill instead would require that a certificated employee of a school district of any type or class or of a county superintendent of schools, regardless of the average daily attendance of the school district or county superintendent of schools, who completes 2 consecutive years and is reelected to become and be classified as a permanent employee. The bill would delete the provisions specifying the calculation of permanent status upon the unionization, unification, uniting, or consolidation of one or more school districts having different average daily attendances.

(2) Existing law requires a certificated employee who has served in 2 or more districts, each having an average daily attendance of 250 or more pupils and governed by identical personnel, as specified, for a total of 2 complete consecutive school years, or who has served upon being elected for the 3rd consecutive school year in either district, to, at the commencement of that year, be classified as a permanent employee of the last district in which they were employed prior to election for the 3rd year. Existing law also requires that a certificated employee who has served in a school district having an average daily attendance of 250 or more pupils for 2 complete consecutive school years, upon being elected for a 3rd consecutive school year in a school district having an average daily attendance of 250 or more pupils and governed by a board of identical personnel as the first district, as specified, to, at the commencement of that 3rd year, be classified as a permanent employee of the last district in which they were employed prior to election for the 3rd year.

This bill would delete the requirement that both school districts have an average daily attendance of 250 or more pupils, thereby applying these provisions to the certificated employees of all school districts, regardless of their average daily attendance.

(3) Existing law requires that a person employed in an administrative or supervisory position requiring certification qualifications in a school district having an average daily attendance of 250 or more pupils, who completes the probationary period, including any time served as a classroom teacher, in the same district to be classified as and become a permanent employee as a classroom teacher. In a school district having an average daily attendance of less than 250 pupils, existing law authorizes that classification.

This bill would require a person employed in an administrative or supervisory position requiring certification qualifications who completes the probationary period, including any time served as a classroom teacher, in the same district, regardless of the average daily attendance of the school district, to be classified as and become a permanent employee as a classroom teacher.

(4) Existing law authorizes a certificated employee of a school district of any type or class having an average daily attendance of less than 250 pupils to be offered a continuing contract to cover a period longer than one year but not to exceed 4 years.

This bill would repeal this provision.

(5) Existing law authorizes the establishment of regional occupational centers or programs to provide career technical education and technical training to students. Existing law requires instruction in those centers or programs to only be given by a qualified teacher holding a certificate, as provided, but prohibits service by a person as an instructor in classes conducted at regional occupational centers or programs from being included in computing the service required as a prerequisite to attainment of, or eligibility to, classification as a permanent employee of a school district, except, commencing July 1, 2025, service by a person as an instructor in classes conducted at a regional occupational center or program operated by a single school district, as provided.

This bill, commencing July 1, 2026, would instead require service by a person as an instructor in classes conducted at any regional occupational centers or programs to be included in computing the service required as a prerequisite to attainment of, or eligibility to, classification as a permanent employee of a school district.

(6) Existing law authorizes a first- or 2nd-year probationary employee of a school district to be dismissed during the school year for unsatisfactory performance or for cause, pursuant to specified procedures. Existing law specifies that those provisions do not apply to a probationary employee in a school district having an average daily attendance of less than 250 pupils and instead authorizes their suspension or dismissal for cause, including for egregious misconduct, pursuant to separate procedures that are applicable to permanent employees of a school district and prohibits their dismissal during the school year for unsatisfactory performance, except as alternatively provided.

This bill would revise and recast the suspension and dismissal provisions for probationary employees to eliminate distinctions between the procedures for the suspension or dismissal of a probationary employee, depending upon the average daily attendance of the school district. The bill would instead apply the procedures specific to the dismissal of a probationary employee of a school district with an average daily attendance of 250 or more to all probationary employees of all school districts, regardless of the average daily attendance of the school district.

(7) 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 review program that meets local conditions and conforms to specified principles, including, among others, that a teacher participant is required to be a permanent employee in a school district with 250 or greater units of average daily attendance, or a permanent or probationary employee in a school district with fewer than 250 units of average daily attendance. Existing law requires that the consulting teacher be a permanent employee, or in a school district with an average daily attendance of less than 250 pupils, a credentialed classroom teacher who has completed at least 3 consecutive school years as an employee of the school district in a position requiring certification qualifications.

This bill would instead require participant teachers and consulting teachers to be permanent employees only, regardless of the average daily attendance of the school district.

(8) This bill also would delete obsolete provisions, update references, and make conforming and nonsubstantive changes.
Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

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

SECTION 1. Section 1296 of the Education Code is amended to read:

~~1296.(a)If the average daily attendance of the schools and classes maintained by a county superintendent of schools is 250 or more, each person who, after being employed for three complete consecutive school years by the superintendent 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, shall be classified as and become a permanent employee of the county superintendent of schools.~~

~~Such an employee shall have the same rights and duties as employees of school districts to which Section 44882 applies. Sections 44841, 44842, 44882, 44948.3, and 44948.5 are applicable to these employees.~~

~~This subdivision shall apply only to probationary employees whose probationary period commenced prior to the 1983-84 fiscal year.~~

~~(b)If the average daily attendance of the schools and classes maintained by a county superintendent of schools is 250 or more, each~~

1296. (a) Each person who, after being employed for two complete consecutive school years by ~~the~~ a 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, shall be classified as and become a permanent employee of the county superintendent of schools.

~~The~~

(b) 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 county superintendent of schools 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~~ If the county superintendent of schools 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 employee shall have the same rights and duties as employees of school districts to which Section ~~44882~~ 44929.21 applies. Sections ~~44841, 44842, 44882, 44948.3, and 44948.5~~ 44842, 44929.21, and 44948.3 are applicable to these employees.

~~This subdivision shall apply only to probationary employees whose probationary period commenced during the 1983-84 fiscal year or any fiscal year thereafter.~~

(c) As used in this section, "teaching position" means any 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.

SEC. 2. Section 44500 of the Education Code is amended to read:

44500. (a) There is hereby established the California Peer Assistance and Review Program for Teachers. The governing board of a school district and the exclusive representative of the certificated employees in the school district may develop and implement a program authorized by this article that meets local conditions and conforms with the principles set forth in subdivision (b).

(b) The following principles, at a minimum, shall be included in a locally developed program authorized by this article:

(1) A teacher participant shall be a permanent employee in a school district ~~with 250 or greater units of average daily attendance or a permanent or probationary employee in a school district with fewer than 250 units of average daily attendance~~ and volunteer to participate in the program or be referred for participation in the program as a result of an evaluation performed pursuant to subdivision (c) of Section 44664. In addition, teachers receiving assistance may be referred pursuant to a collectively bargained agreement.

(2) Performance goals for an individual teacher shall be in writing, clearly stated, aligned with pupil learning, and consistent with Section 44662.

(3) Assistance and review shall include multiple observations of a teacher during periods of classroom instruction.

(4) The program shall expect and strongly encourage a cooperative relationship between the consulting teacher and the principal with respect to the process of peer assistance and review.

(5) The school district shall provide sufficient staff development activities to assist a teacher to improve ~~his or her~~ *their* teaching skills and knowledge.

(6) The program shall have a monitoring component with a written record.

(7) The final evaluation of a teacher's participation in the program shall be made available for placement in the personnel file of the teacher receiving assistance.

SEC. 3. Section 44501 of the Education Code is amended to read:

44501. A consulting teacher participating in a program operated pursuant to this article shall meet locally determined criteria and each of the following qualifications:

(a) The consulting teacher shall be a credentialed classroom teacher with permanent ~~status or, in a school district with an average daily attendance of less than 250 pupils, a credentialed classroom teacher who has completed at least three consecutive school years as an employee of the school district in a position requiring certification qualifications:~~ *status.*

(b) The consulting teacher shall have substantial recent experience in classroom instruction.

(c) The consulting teacher shall have demonstrated exemplary teaching ability, as indicated by, among other things, effective communication skills, subject matter knowledge, and mastery of a range of teaching strategies necessary to meet the needs of pupils in different contexts.

SEC. 4. Section 44897 of the Education Code is amended to read:

44897. (a) A person employed in an administrative or supervisory position requiring certification qualifications upon completing a probationary period, including any time served as a classroom teacher, in the same *school* district, ~~shall, in a district having an average daily attendance of 250 or more pupils, shall~~ be classified as and become a permanent employee as a classroom teacher. ~~In a district having an average daily attendance of less than 250 pupils, he or she may be so classified.~~

(b) Persons classified pursuant to this section are subject to the limitations contained in Section 44956.5.

SEC. 5. Section 44901 of the Education Code is amended to read:

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

~~Where there are two or more districts, each having an average daily attendance of 250 or more and governed by governing boards of identical personnel, a certificated employee who has served in one of the districts for three complete consecutive school years, upon being elected for the fourth consecutive school year to a position or positions requiring certification qualifications in any of the districts, shall at the commencement of the fourth consecutive school year be classified as and become a permanent employee of the last district in which he or she was employed prior to his or her election for the fourth consecutive school year.~~

~~This subdivision shall apply only to probationary employees whose probationary period commenced prior to the 1983-84 fiscal year.~~

~~(b)~~

44901. (a) A certificated employee who has served in a position or positions requiring certification qualifications in two or more *school* districts, each ~~having an average daily attendance of 250 or more and~~ governed by governing boards of identical personnel, for a total of two complete consecutive school years, upon being elected for the third consecutive school year to a position or positions requiring certification qualifications in any of the *school* districts, shall at the commencement of the third consecutive school year be classified as a permanent employee of the last *school* district in which ~~he or she was~~ *they were* employed prior to ~~his or her~~ *their* election for the third consecutive school year.

~~Where~~

(b) Where there are two or more *school* districts, each ~~having an average daily attendance of 250 or more and~~ governed by governing boards of identical personnel, a certificated employee who has served in one of the *school* districts for two complete consecutive school years, upon being elected for the third consecutive school year to a position or positions requiring certification qualifications in any of the *school* districts, shall at the commencement of the third consecutive school year be classified as and become a permanent employee of the last *school* district in which ~~he or she was~~ *they were* employed prior to ~~his or her~~ *their* election for the third consecutive school year.

~~The~~

(c) The governing board *of the school district* shall notify the employee, on or before March 15 of the employee's second complete consecutive school year of employment by the *school* districts in a position or positions requiring certification qualifications, of the decision to reelect or not reelect the employee for the next succeeding school year to such a position. In the event that 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 subdivision shall apply only to probationary employees whose probationary period commenced during the 1983-84 fiscal year or any fiscal year thereafter.~~

SEC. 6. Section 44903 of the Education Code is repealed.

~~44903. On the unionization, unification, uniting, or consolidation of one or more school districts in which the average daily attendance for the preceding school year was less than 250 pupils, with a district or districts in which the average daily attendance was or, as a result of the unionization, uniting, consolidation, or unification, becomes 250 or more pupils, the regular three-year probationary period required of certificated employees for permanent status by Section 44882 shall be deemed to have commenced at the beginning of the employee's first complete year of consecutive employment by the school district having an average daily attendance of less than 250 pupils. Every certificated employee who has been employed for three or more complete consecutive school years by a district having an average daily attendance of less than 250 pupils shall, immediately upon his employment in a certificated position following such unionization, unification, uniting, or consolidation, be a permanent employee. The amendments to this section enacted by the Legislature at the 1977-78 Regular Session shall apply only to the unionization, unification, uniting, or consolidation of school districts which becomes effective for all purposes on or after January 1, 1979.~~

SEC. 7. Section 44910 of the Education Code is amended to read:

44910. (a) (1) Service by a person as an instructor in classes conducted at regional occupational centers or programs, as authorized pursuant to Section 52301, shall not be included in computing the service required as a prerequisite to attainment of, or eligibility for, classification as a permanent employee of a school district.

(2) This subdivision shall not be construed to apply to any regularly credentialed teacher who has been employed to teach in the regular educational programs of the school district and subsequently assigned as an instructor in regional occupational centers or programs, nor shall it affect the status of regional occupational center teachers classified as permanent or probationary at the time this section becomes effective.

(b) Notwithstanding the prohibition prescribed in subdivision (a), commencing July 1, 2025, service by a person as an instructor in classes conducted at a regional occupational center or program operated by a single school district, as authorized pursuant to Section 52301, shall be included in computing the service required as a prerequisite to attainment of, or eligibility for, classification as a permanent employee of a single school district.

(c) This section shall become inoperative on July 1, 2026, and, as of January 1, 2027, is repealed.

SEC. 8. Section 44910 is added to the Education Code, to read:

44910. (a) Service by a person as an instructor in classes conducted at a regional occupational center or program, as authorized pursuant to Section 52301, shall be included in computing the service required as a prerequisite to attainment of, or eligibility for, classification as a permanent employee of a school district.

(b) This section shall become operative on July 1, 2026.

SEC. 9. Section 44929.20 of the Education Code is amended to read:

~~44929.20. Every certificated employee of a school district of any type or class having an average daily attendance of less than 250, and every~~ certificated employee of any school district in a position requiring a supervision or administration credential, may be offered a continuing contract to cover a period longer than one year but not to exceed four years.

SEC. 10. Section 44929.21 of the Education Code is amended to read:

~~44929.21. (a) 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 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 district.~~

~~This subdivision shall apply only to probationary employees whose probationary period commenced prior to the 1983-84 fiscal year.~~

~~(b) Every~~

44929.21. (a) 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 district for two 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.

~~The~~

(b) The governing board **of the school district** shall notify the employee, on or before March 15 of the employee's second complete consecutive school year of employment by the **school** district in a position or positions requiring certification qualifications, of the decision to reelect or not reelect the employee for the next succeeding school year to the position. In the event that 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 subdivision shall apply only to probationary employees whose probationary period commenced during the 1983-84 fiscal year or any fiscal year thereafter.~~

SEC. 11. Section 44929.23 of the Education Code is repealed.

~~44929.23. (a) The governing board of a school district of any type or class having an average daily attendance of less than 250 pupils may classify as a permanent employee of the district any employee 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. If that classification is not made, the employee shall not attain permanent status and may be reelected from year to year thereafter without becoming a permanent employee until a change in classification is made.~~

~~(b) Notwithstanding subdivision (a), Section 44929.21 shall apply to certificated employees employed by a school district, if the governing board of the school district elects to dismiss probationary employees pursuant to Section 44948.2. If that election is made, the governing board thereafter shall classify as a permanent employee of the district any probationary employee who, after being employed for two 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 as required by Section 44929.21. Any probationary employee who has been employed by the district for two or more consecutive years on the date of that election in a position or positions requiring certification qualifications shall be classified as a permanent employee of the district.~~

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

SEC. 12. Section 44932 of the Education Code is amended to read:

44932. (a) A permanent employee shall not be dismissed except for one or more of the following causes:

(1) Immoral conduct, including, but not limited to, egregious misconduct. For purposes of this chapter, "egregious misconduct" is defined exclusively as immoral conduct that is the basis for an offense described in Section 44010 or 44011 of this code, or in Sections 11165.2 to 11165.6, inclusive, of the Penal Code.

(2) Unprofessional conduct.

(3) Commission, aiding, or advocating the commission of acts of criminal syndicalism, as prohibited by Chapter 188 of the Statutes of 1919, or in any amendment to that chapter.

(4) Dishonesty.

(5) Unsatisfactory performance.

(6) Evident unfitness for service.

(7) Physical or mental condition unfitting ~~him or her~~ *them* to instruct or associate with children.

(8) Persistent violation of or refusal to obey the school laws of the state or reasonable regulations prescribed for the government of the public schools by the state board or by the governing board of the school district employing ~~him or her~~ *them*.

(9) Conviction of a felony or of any crime involving moral turpitude.

(10) Violation of Section 51530 or conduct specified in Section 1028 of the Government Code, added by Chapter 1418 of the Statutes of 1947.

(11) Alcoholism or other drug abuse that makes the employee unfit to instruct or associate with children.

(b) The governing board of a school district may suspend without pay for a specific period of time on grounds of unprofessional conduct a permanent certificated employee ~~or, in a school district with an average daily attendance of less than 250 pupils, a probationary employee~~, pursuant to the procedures specified in Sections 44933, 44934, 44934.1, 44935, 44936, 44937, 44943, and 44944. This authorization does not apply to a school district that has adopted a collective bargaining agreement pursuant to subdivision (b) of Section 3543.2 of the Government Code.

SEC. 13. Section 44933 of the Education Code is amended to read:

44933. A permanent employee may be dismissed or suspended on grounds of unprofessional conduct consisting of acts or omissions other than those specified in Section 44932, but any such charge shall specify instances of behavior deemed to constitute unprofessional conduct. ~~This section shall also apply to the suspension of probationary employees in a school district with an average daily attendance of less than 250 pupils.~~

SEC. 14. Section 44934 of the Education Code is amended to read:

44934. (a) This section shall apply to dismissal or suspension proceedings based on charges as specified in Section 44932 or 44933, including proceedings based on charges of egregious misconduct in combination with other charges. Section 44934.1 shall apply to dismissal or suspension proceedings based solely on charges of egregious misconduct described in paragraph (1) of subdivision (a) of Section 44932.

(b) Upon the filing of written charges, duly signed and verified by the person filing them, with the governing board of the school district, or upon a written statement of charges formulated by the governing board of the school district, charging that there exists cause, as specified in Section 44932 or 44933, for the dismissal or suspension of a permanent employee of the school district, the governing board of the school district may, upon majority vote, except as provided in this article if it deems the action necessary, give notice to the permanent employee of its intention to dismiss or suspend ~~him or her~~ *the employee* at the expiration of 30 days from the date of service of the notice, unless the employee demands a hearing as provided in this article. Suspension proceedings may be initiated pursuant to this section only if the governing board of the school district has not adopted a collective bargaining agreement pursuant to subdivision (b) of Section 3543.2 of the Government Code.

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

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

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

~~(f) This section shall also apply to the suspension of probationary employees in a school district with an average daily attendance of less than 250 pupils that has not adopted a collective bargaining agreement pursuant to subdivision (b) of Section 3542.2 of the Government Code.~~

SEC. 15. Section 44934.1 of the Education Code is amended to read:

44934.1. (a) This section shall apply only to dismissal or suspension proceedings based solely on charges of egregious misconduct, as described in paragraph (1) of subdivision (a) of Section 44932.

(b) Upon the filing of written charges, duly signed and verified by the person filing them, with the governing board of a school district, or upon a written statement of charges formulated by the governing board of a school district charging that there exists cause, as specified in paragraph (1) of subdivision (a) of Section 44932, for the dismissal or suspension of a permanent employee of the school district, the governing board of the school district may, upon majority vote, except as provided in this article if it deems the action necessary, give notice to the permanent employee of its intention to dismiss or suspend ~~him or her~~ *the employee* at the expiration of 30 days from the date of service of the notice, unless the employee demands a hearing as provided in this article.

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

~~(d) This section shall also apply to the suspension of probationary employees in a school district with an average daily attendance of less than 250 pupils that has not adopted a collective bargaining agreement pursuant to subdivision (b) of Section 3542.2 of the Government Code.~~

SEC. 16. Section 44948 of the Education Code is repealed.

~~44948.(a) Governing boards of school districts shall dismiss probationary employees during the school year for cause only, as in the case of permanent employees.~~

~~This subdivision shall apply only to probationary employees whose probationary period commenced prior to the 1983-84 fiscal year or who are employed in a school district having an average daily attendance of less than 250 pupils.~~

~~(b) The governing board may suspend a probationary employee for a specified period of time without pay as an alternative to dismissal pursuant to this section. This subdivision shall apply only to probationary employees whose probationary period commenced prior to the 1983-84 fiscal year.~~

SEC. 17. Section 44948.2 of the Education Code is repealed.

~~44948.2. Notwithstanding subdivision (a) of Section 44948 and subdivision (c) of Section 44948.3, the governing board of any school district having an average daily attendance of less than 250 may elect to dismiss probationary employees during the school year pursuant to the provisions of Section 44948.3. Once a district has made an election pursuant to this section, it shall only dismiss probationary certificated employees during the school year pursuant to this section.~~

SEC. 18. Section 44948.3 of the Education Code is amended to read:

44948.3. (a) First and second year probationary employees may be dismissed during the school year for unsatisfactory performance determined pursuant to Article 11 (commencing with Section 44660) of Chapter 3, or for cause pursuant to Section 44932. Any dismissal pursuant to this section shall be in accordance with all of the following procedures:

(1) The superintendent of the school district or the superintendent's designee shall give 30 days' prior written notice of dismissal, not later than March 15 in the case of second year probationary employees. The notice shall include a statement of the reasons for the dismissal and notice of the opportunity to appeal. In the event of a dismissal for unsatisfactory performance, a copy of the evaluation conducted pursuant to Section 44664 shall accompany the written notice.

(2) The *probationary* employee shall have 15 days from receipt of the notice of dismissal to submit to the governing board *of the school district* a written request for a hearing. The governing board *of the school district* may establish procedures for the appointment of an administrative law judge to conduct the hearing and submit a recommended decision to the board. The failure of ~~an a~~ *a probationary* employee to request a hearing within 15 days from receipt of a dismissal notice shall constitute a waiver of the right to a hearing.

(b) The governing ~~board;~~ *board of the school district*, pursuant to this section, may suspend a probationary employee for a specified period of time without pay as an alternative to dismissal.

~~(c) This section applies only to probationary employees whose probationary period commenced during the 1983-84 fiscal year or any fiscal year thereafter, and does not apply to probationary employees in a school district having an average daily attendance~~

of less than 250 pupils.

SEC. 19. Section 44948.5 of the Education Code is repealed.

~~44948.5.(a)This section applies only to (1) probationary employees of a school district with an average daily attendance of less than 250 pupils, or (2) those persons currently employed as probationary employees whose probationary period commenced prior to the 1983-84 fiscal year.~~

~~(b)No later than March 15 and before a probationary employee is given notice by the governing board that his or her services will not be required for the ensuing year for reasons other than those specified in Section 44955, the governing board and the employee shall be given written notice by the superintendent of the district or his or her designee, or, in the case of a district which has no superintendent, by the clerk or secretary of the governing board, that it has been recommended that the notice be given to the employee, and stating the reasons therefor.~~

~~If the probationary employee has been in the employ of the district for less than 45 days on March 15, the giving of the notice may be deferred until the 45th day of employment and all time period and deadline dates prescribed by this subdivision shall be coextensively extended.~~

~~Until the employee has requested a hearing as provided in subdivision (c) or has waived his or her right to a hearing, the notice and the reasons therefor shall be confidential and shall not be divulged by any person, except as may be necessary in the performance of duties. However, the violation of this requirement of confidentiality, in and of itself, shall not in any manner be construed as affecting the validity of any hearing conducted pursuant to this section.~~

~~(c)The employee may request a hearing to determine if there is cause for not reemploying him or her for the ensuing year. A request for a hearing shall be in writing and shall be delivered to the person who sent the notice pursuant to subdivision (b), on or before a date specified in that subdivision, which shall not be less than seven days after the date on which the notice is served upon the employee. If an employee fails to request a hearing on or before the date specified, his or her failure to do so shall constitute a waiver of his or her right to a hearing. The notice provided for in subdivision (b) shall advise the employee of the provisions of this subdivision.~~

~~(d)In the event a hearing is requested by the employee, the proceeding shall be conducted and a decision made in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code and the governing board shall have all the power granted to an agency therein, except that all of the following shall apply:~~

~~(1)The respondent shall file his or her notice of defense, if any, within five days after service upon him or her of the accusation and he or she shall be notified of this five-day period for filing in the accusation.~~

~~(2)The discovery authorized by Section 11507.6 of the Government Code shall be available only if request is made therefor within 15 days after service of the accusation, and the notice required by Section 11505 of the Government Code shall so indicate.~~

~~(3)The hearing shall be conducted by an administrative law judge who shall prepare a proposed decision, containing findings of fact and a determination as to whether the charges sustained by the evidence are related to the welfare of the schools and the pupils thereof. The proposed decision shall be prepared for the governing board and shall contain a determination as to the sufficiency of the cause and a recommendation as to disposition. However, the governing board shall make the final determination as to the sufficiency of the cause and disposition. None of the findings, recommendations, or determinations contained in the proposed decision prepared by the administrative law judge shall be binding on the governing board. Nonsubstantive procedural errors committed by the school district or governing board of the school district shall not constitute cause for dismissing the charges unless the errors are prejudicial errors. Copies of the proposed decision shall be submitted to the governing board and to the employee on or before May 7 of the year in which the proceeding is commenced. All expenses of the hearing, including the cost of the administrative law judge, shall be paid by the governing board from the district funds.~~

~~The board may adopt from time to time such rules and procedures not inconsistent with provisions of this section as may be necessary to effectuate this section.~~

~~(e)The governing board's determination not to reemploy a probationary employee for the ensuing school year shall be for cause only. The determination of the governing board as to the sufficiency of the cause pursuant to this section shall be conclusive, but the cause shall relate solely to the welfare of the schools and the pupils thereof. The decision made after the hearing shall be effective on May 15 of the year the proceeding is commenced.~~

~~(f)Notice to the probationary employee by the governing board that his or her service will not be required for the ensuing year, shall be given no later than May 15.~~

~~(g) If a governing board notifies a probationary employee that his or her services will not be required for the ensuing year, the board shall, within 10 days after delivery to it of the employee's written request, provide the employee with a statement of its reasons for not reemploying him or her for the ensuing school year.~~

~~(h) Any notice or request shall be deemed sufficient when it is delivered in person to the employee to whom it is directed, or when it is deposited in the United States registered mail, postage prepaid and addressed to the last known address of the employee.~~

~~(i) In the event that the governing board does not give notice provided for in subdivision (e) on or before May 15, the employee shall be deemed reemployed for the ensuing school year.~~

~~(j) If after request for hearing pursuant to subdivision (c) any continuance is granted pursuant to Section 11524 of the Government Code, the dates prescribed in subdivisions (d), (e), (f), and (i) which occur on or after the date of granting the continuance shall be extended for a period of time equal to the continuance.~~