FAQs Regarding Education Sector Labor & Employment Law

Presentation by Melissa H. Brown
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I. AT WHAT POINT IN THE PROBATIONARY PERIOD CAN AN EMPLOYEE BE TERMINATED? CAN THE PROBATIONARY PERIOD BE EXTENDED?

Permanent employees working for public local education agencies enjoy a constitutional property interest in their continued employment. To dismiss a permanent public employee, an employer must have just cause. Probationary employees are distinguished from permanent employees in that they have not attained permanency and can be non-reelected or dismissed without cause.

A. Certificated Employees

To dismiss a probationary certificated employee without cause at the end of the school year, an employer may non-reelect the employee. The non-reelection process is designed for districts over 250 ADA and is found at Education Code section 44929.21(b). In a district or county office with an ADA of 250 or more, a probationary teacher may be "non-reelected" with no stated reason.[1] However, Schools Legal Service recommends documentation be included in the employee's personnel file to support the employer's legitimate business reason for the non-reelection in order to defend against a claim of illegal reasons (*e.g.,* discrimination, retaliation, etc.). There is no evidentiary hearing regarding the decision to non-reelect an employee.

Certificated employees eligible for permanency must be notified of the Board's decision to non-reelect the employee by March 15 of the second complete consecutive probationary year of service.[2] The non-reelection then takes effect June 30. Importantly, the March 15 deadline does not apply in the first year of probationary employment. The courts have noted that first year notices of non-reelection can be served after March 15, but before June 30.[3] The two-year probationary service requirement cannot be shortened or extended by mistake, mutual

[1] *Bd. of Ed. Round Valley Unif. Sch. Dist. v. Round Valley Teachers Assn.* (1996) 13 Cal.4th 269, 277.

[2] An intervening one-year leave of absence does not "reset" the consecutive two-year clock. Upon return in year #3, the certificated employee is treated for non-reelection purposes as a second year probationary employee. (Ed. Code §44975 and *Griego v. Los Angeles Unif. Sch. Dist.* (1994) 28 Cal.App.4th 515.) However, a leave of absence will not count towards the requirement that an employee work two complete years before becoming permanent. (Ed. Code §44975 and *Cox v. Los Angeles Unif. Sch. Dist.* (2013) 218 Cal.App.4th 1441.)

[3] *Grimsley v. Bd. of Trustees Muroc Jt. Unif. Sch. Dist.* (1987) 189 Cal.App.3d 1440.

agreement, a collective bargaining agreement, or otherwise.[4] March 15 of the second complete consecutive year is a firm deadline! (Schools Legal Service's template non-reelection notification letter is attached.)

B. Classified Employees

Education Code section 45113 requires each employer to prescribe written rules and regulations governing the personnel management of the classified service whereby employees are designated as permanent employees of the school district or county office of education after serving a specified probationary period which "shall not exceed one year" in the position for which they were hired. Most education employers impose a one year probationary period for their classified staff, but many may instead have a shortened period of six or nine months. The designated probationary period sets forth the maximum amount of time an employee can be probationary prior to becoming permanent. A probationary employee may be dismissed without cause, and indeed without a stated reason, at **any time** up to that maximum period. The maximum period is again a firm deadline. There is no ability to shorten or extend the probationary period by mistake, mutual agreement, a collective bargaining agreement, or otherwise.

As with certificated employees discussed above, Schools Legal Service recommends documentation be included in the employee's personnel file to support the employer's legitimate business reason for the non-reelection in order to defend against a claim of illegal reasons (*e.g.,* discrimination, retaliation, etc.). There is no evidentiary hearing regarding the decision to non-reelect an employee. Notification to the employee regarding his/her dismissal should be sent in writing and either be Board approved prior to its issuance or ratified by the Board at its next meeting. (Schools Legal Service's template letter for this purpose is attached.)

For more information on this and related topics, please refer to the Schools Legal Service publication *March 15: Certificated Layoffs and Staffing Decisions* (2016).

II. WHEN CAN AN EMPLOYER PLACE AN EMPLOYEE ON PAID ADMINISTRATIVE LEAVE?

Schools Legal Service is often asked when it is permissible to place an employee on paid administrative leave. This question is usually not answered in the law, collective bargaining agreements, or employer policies. Instead, each circumstance must be evaluated on a case-by-case basis.

Paid administrative leave is not disciplinary in nature. It allows an employer the time to review allegations regarding an employee, receive the results of a required medical examination, or to allow a law enforcement or criminal court process to conclude. Most often, paid administrative leave is warranted when there is a need to investigate a complaint, allow a criminal court action to progress, protect students, other employees, parents/community members, and/or

[4] *Fleice v. Chualar Union Elem. Sch. Dist.* (1988) 206 Cal.App.3d 886; *Fontana Teachers Assn v. Fontana Unif. Sch. Dist.* (1988) 201 Cal.App.3d 1517.

district property from a specific employee due to his/her actions or suspected actions, or pending the results of a fitness for duty examination. When considering whether to place an employee on paid administrative leave, the potential length of the leave and the basis for the leave should be contemplated. It is advisable to notify the employee of the need for paid administrative leave in writing. (Schools Legal Service's template letter for this purpose is attached.)

III. I WANT TO DISCUSS AN EMPLOYMENT SITUATION IN CLOSED SESSION. CAN I DO THAT?

The Brown Act, found in the Government Code starting at section 54950, requires legislative bodies of all California local agencies (governing boards and certain committees and commissions created by them) to hold their meetings in public, except under specified, limited circumstances where closed sessions are authorized. There are also special provisions for governing board meetings found in the Education Code. The Brown Act, like all other statutes, is subject to interpretation. Board members and administrators are encouraged to refer questions to their legal counsel, who can apply the text of the law, court decisions and opinions of the Attorney General to the facts of individual cases.

The presumption under the Brown Act is that meetings will be open and public. There must be specific statutory authority to meet behind closed doors. Additionally, detailed agenda descriptions are required for closed sessions. For closed sessions regarding personnel actions, a board may meet in closed session to consider and take action on the appointment, employment, evaluation of performance, or dismissal of a public employee. Dismissal includes lesser forms of discipline, including demotion or potential reduction of compensation.

Closed sessions are also authorized to hear complaints or charges against a public employee by any person including another employee. However, if the employee requests a public hearing, the session must be held in public. Before the board may hear specific complaints or charges in closed session, it must give the employee at least 24 hours' written notice. Failure to give notice invalidates any disciplinary or other action taken against the employee. This remedy is so severe that caution should be taken to give the notice before entering into any closed session that may result in some adverse action against an employee based on specific complaints or charges. (Schools Legal Service's template 24-hour notice is attached.)

With that caveat, it should be noted that a 24-hour written notice to the employee is **not** required before a closed session unless specific complaints or charges will be heard. The courts are still grappling with the concept of when a board is considered to be "hearing" complaints or charges. It is recommended that legal counsel be consulted when this may be an issue.[5]

[5] Although the non-reelection of a probationary certificated employee and dismissal of a permanent certificated teacher may include specific complaints or charges against the employee, case law advises that a Brown Act 24-hour notice is not required when a Board is considering whether to non-reelect a certificated employee or to adopt charges against a permanent certificated employee. Consult counsel with any questions. (See *Fischer v. Los Angeles Unif. Sch. Dist.* (1999) 70 Cal.App.4th 87; *Kotler v. Commission on Professional Competence* (2009) 170 Cal.App.4th 1346.)

If counsel determines a district may be on the brink of litigation involving an employee, the matter may be suitable for consideration in closed session under a conference with legal counsel regarding pending litigation. In that instance, the Brown Act authorizes a board to meet, on advice of legal counsel, to confer with or receive advice from counsel regarding pending litigation when public discussion would prejudice the agency's legal position. This is the exclusive authorized use of closed session under the attorney-client privilege. The Attorney General has opined that the statute requires the physical presence of an attorney in a pending litigation situation.[6] Litigation is "pending" if there is existing litigation involving the district as a party, there is anticipated litigation (meaning there is significant exposure to litigation), or the district will or has initiated litigation.

The right to enter into closed session in the personnel area is limited. Closed sessions are authorized to encourage full and candid discussion of individuals whose employment status is being considered. The Attorney General has determined that the option to hold closed sessions to discuss the "employment" of personnel covers all personnel matters and not simply matters relating to initial employment or discharge.[7] ***However, closed sessions should not be used for general discussion concerning all employees or to consider items such as layoffs or general reorganizations of staff.***

In closed session, the board is prohibited from discussing or acting on the proposed compensation of individual employees, including superintendents, except for reductions of compensation that result from the imposition of discipline.[8] Under recent amendments, salary and compensation for "local agency executives" can only be addressed at a ***regular*** board meeting.[9]

The Brown Act provides a format for describing closed session items. Boards and elected officials will not be in violation of the requirements for describing closed session items if they substantially comply with the descriptions below, irrespective of the format used. The safest practice is to use the statutory format and indicate "closed session" on the agenda.[10]

The following are closed session agenda items for personnel matters:

PUBLIC EMPLOYEE APPOINTMENT
Title: *[Specify description of position to be filled.]*

PUBLIC EMPLOYMENT
Title: *[Specify description of position to be filled.]*

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[6] 71 Ops.Cal.App.Gen. 96.

[7] 59 Ops.Cal.Atty.Gen at 535.

[8] Government Code section 54957.

[9] Government Code section 54956(b).

[10] Government Code section 54954.5.

PUBLIC EMPLOYEE PERFORMANCE EVALUATION
Title: *[Specify position title of employee being reviewed.]*

PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE
[No additional information is required in connection with a closed session to consider discipline, dismissal, or release of a public employee. Discipline includes potential reduction of compensation.]

CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION
(Paragraph (1) of subdivision (d) of Government Code section 54956.9)

Name of case: *[Specify whether disclosure would jeopardize service of process or existing settlement negotiations.]*

-OR-

Case name unspecified: *[Specify whether disclosure would jeopardize service of process or existing settlement negotiations.]*

CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to paragraph (2) or (3) of subdivision (d) of Government Code section 54956.9: *[Specify number of potential cases.]*

[In addition to the information noticed above, the agency may be required to provide additional information on the agenda or in an oral statement prior to the closed session pursuant to paragraphs (2) to (5), inclusive, of subdivision (e) of Government Code section 54956.9.]

Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Government Code section 54956.9: *[Specify number of potential cases.]*

For more information on this and related topics, please refer to the Schools Legal Service publication entitled *The Brown Act: Voting at Governing Board Meetings* (2015).

IV. WHAT IS ENOUGH DOCUMENTATION IN THE PERSONNEL FILE TO TERMINATE AN EMPLOYEE?

Schools Legal Service is often asked this question. As with many personnel related matters, the answer to this question is case specific. All of the facts will matter. It will also matter whether the case involves incidents of misconduct, poor performance, or both. In general, a board, hearing officer, arbitrator, commission on professional competence, or judge will look at some common items in all cases. The decision-maker in a termination case will likely consider the following: (1) How long has the employee been employed with the district? Is the employee a long-time employee of 10 or more years? (2) Has the employee consistently struggled in performance or acts of misconduct or is this a recent circumstance, causing the employee to argue the new

administrator is actually the source of the issues? (3) Has the employee been consistently provided concrete and helpful tools and assistance to attempt to succeed? (4) Is the matter at issue purely performance-based or is misconduct present as well? (5) How likely is the employee to continue in the behavior or conduct at issue? (6) Are there any mitigating factors? (7) How has the employer treated other similarly situated employees? (8) Does the CBA/Board Policy/Education Code provide any guidance for the employee issue that is at issue?

After months or even years of attempting to follow the steps of progressive discipline and document incidents of misconduct or poor performance, an employer should work with their legal counsel to determine the strength of any proposed termination action. Better yet, as soon as an employer recognizes concerns with an employee, legal counsel should be contacted so a strategy to hopefully improve performance can be developed. If that improvement is not seen, then the strategy to terminate can be developed and employed. Employers are highly encouraged to provide training in documentation and evaluation of employees to all managers and administrators. Schools Legal Service is available to provided GRADE training for this purpose.

V. WHEN CAN I REQUIRE A FITNESS FOR DUTY EXAMINATION?

A fitness for duty examination ("FFDE") is a medically tailored examination required of an employee with the employer's designated physician to determine whether the employee is physically or mentally able to perform his/her job. An employer may require a FFDE when the employer has a "reasonable belief, based on objective evidence" that: (1) the employee's ability to perform essential job functions will be impaired by a medical condition; or (2) the employee will pose a direct threat to his/her own safety or health or the safety and health of others due to a medical condition or impairment. A "reasonable belief based on objective evidence" may include: direct observations, credible third party reports, statements directly from the employee of a physical or psychological impairment or disability, a change in attendance history due to injury/ illness, and/or inappropriate behaviors, threats, or outbursts. It does not include assumptions based on hearsay or speculation or biased observations or reports.

The Americans with Disabilities Act ("ADA") and amendments thereto and the Fair Employment and Housing Act ("FEHA") permit FFDEs when the employer can demonstrate that the FFDE is (1) job related and (2) consistent with business necessity (*i.e.,* vital to the business). The ADA and the FEHA prohibit pre-employment FFDEs until after a bona fide job offer is made, and (1) the FFDE is applied uniformly to all entering employees in the same job classification; (2) a disqualified applicant or employee may submit independent medical opinions for consideration before a final hiring/employment decision is made; and (3) the results of the FFDE are kept confidential in compliance with the law.

An employer may not require an employee to undergo a FFDE as a condition of an employee's return from a CFRA/FMLA leave of absence. But, an employer may require the employee to present a fitness for duty certification from the employee's own health care provider before a

return to work from CFRA/FMLA leave. After an employee returns from CFRA/FMLA leave, any FFDE must be job-related and consistent with business necessity.

Schools Legal Service can provide template forms to be used to implement an FFDE.

VI. WHEN CAN I DISCIPLINE AN EMPLOYEE FOR THEIR USE OF SOCIAL MEDIA?

Several inquiries must be considered when determining whether a public employee may be disciplined for his/her speech that is posted, tweeted, pinned, etc., on their personal social media. The First Amendment to the United States Constitution guarantees all citizens the right to free speech. The First Amendment applies to state and local governments, like school districts, through the Fourteenth Amendment's due process clause. Accordingly, a school district as a governmental entity must act cautiously when seeking to limit the speech of its employees. However, as an employer, the school district does have the right to impose "those speech restrictions that are necessary for [the agency] to operate efficiently and effectively."[11] Courts will look to "whether the statement [at issue] impairs discipline by superiors or harmony among co-workers, has a detrimental impact on close working relationships for which personal loyalty and confidence are necessary, or impedes the performance of the speaker's duties or interferes with the regular operation of the enterprise."[12]

When an employee is disciplined as a result of their speech, the most frequent argument is that he or she was retaliated against for exercising their constitutional right to free speech. When faced with this claim, the court will analyze the issue by first determining if the employee was speaking as a citizen on a matter of public concern. If not, there is no First Amendment claim. If so, there might be a claim. In the latter circumstance, the court will look at whether the governmental entity's interest in promoting the efficiency of public services outweighs the employee's interest in the speech (the *Pickering* Balancing Test). Each of these considerations requires a review of current court decisions. Consultation with legal counsel prior to disciplining the employee is critical.

VII. I MADE AN OFFER OF EMPLOYMENT, BUT WOULD LIKE TO RESCIND THAT OFFER. CAN I DO THAT?

Schools Legal Service is often asked this question, especially during the late spring and early summer hiring season. The answer will depend on what point in the hiring process the offer has been made and accepted and whether the offer of employment was contingent.

Once an offer of employment is made and accepted by a candidate for hire, arguably a binding contract exists. This is true even if the offer and acceptance are verbal. However, the board must approve the hiring first to make the contract fully binding on the district. An offer of

[11] *Garcetti* (2006) 547 U.S. 410, 418.

[12] *Rankin v. McPherson* (1987) 483 U.S. 378, 388.

employment should be contingent on multiple items, including board approval, successful completion of a DOJ/FBI fingerprint clearance and background check, reference check, review of educational and credentialing requirements, and a post-offer, pre-employment physical, if any is required. This contingent offer should be provided in writing to the candidate after being verbally offered. It should include the relevant particulars about the employment and specifically state the contingencies at issue. If any of the contingencies fail, then the offer of employment can and should be rescinded. Again, it is best if this is communicated both verbally and in writing.

VIII. WHAT ARE THE NEW RULES AROUND MATERNITY AND PATERNITY LEAVE?

Assembly Bill 375 became law in 2015 and added new Education Code section 44977.5 as of January 1, 2016. This new law extends the differential pay (or sub-dock) benefit provided to certificated employees on extended illness leave for their own illness or injury to certificated employees on normally unpaid maternity or paternity leave. This law only currently applies to certificated employees. Assembly Bill 2393 currently moving through the state legislature is one to watch for future changes and possible application to classified employees.

When a certificated employee presents a medical note indicating she is unable to work due to pregnancy or a pregnancy-related condition, several leave of absence entitlements may be applicable. The employee is entitled to (1) unpaid pregnancy disability leave under California's Pregnancy Disability Law for up to five school months,[13] (2) sick leave, including accumulated sick leave, at full pay, and (3) extended sick leave at differential pay for up to five school months. If eligible, the employee may also be entitled to up to 12 workweeks of unpaid leave for her own serious health condition (pregnancy) under the federal Family and Medical Leave Act (FMLA).[14] Once the employee is released back to work by her medical provider, usually six to eight weeks postpartum, if eligible, she is entitled to an additional 12 workweeks of child bonding leave under the California Family Rights Act (CFRA). This leave is normally an unpaid leave with health and welfare benefits.

Education Code section 44977.5 extends the differential pay benefit under Education Code section 44977 for extended sick leave to a certificated employee on otherwise unpaid FMLA/CFRA child bonding leave after the birth of the employee's baby or the placement of a child with the employee for adoption or foster care. The new law provides that after a certificated employee has exhausted all available sick leave, including all accumulated sick leave, and continues to be absent on maternity or paternity leave for a period of up to 12 school weeks, the absent employee will

[13] Normally, an employee in California is entitled to a maximum of four calendar months or 17 1/3 weeks of leave per pregnancy for pregnancy disability. However, if an employer has a more generous leave policy for other temporarily disabled employees, the employer must provide that leave entitlement to employees temporarily disabled by pregnancy. (2 C.C.R. § 11042(b).) Since certificated employees are normally entitled to up to five school months of leave for temporary disabilities, a pregnant employee would also be entitled to that length of leave if needed for pregnancy or a pregnancy related condition.

[14] Each of these leaves of absence entitlements are exhausted concurrently (meaning at the same time), except that sick leave, accumulated sick leave, and extended sick leave are exhausted consecutively to each other.

receive salary in the amount of the difference between his or her regular salary and that of a substitute hired to replace him or her during the period of absence. The amount deducted from the absent employee's salary for the purpose of the substitute must be less than the absent employee's regular salary. If a substitute is not hired, the absent employee will be deducted the amount that would have been paid to the substitute had he or she been employed. An employee cannot be provided more than one 12-week period per maternity or paternity leave. If a school year ends before the 12-week period is exhausted, the employee may take the balance of the 12 weeks in a subsequent school year.

AB 375 took effect on January 1, 2016. However, if a school district's collective bargaining agreement with its certificated unit was entered into before January 1, 2016 and AB375 conflicted with any provision of the agreement, the new law will not apply until the expiration or renewal of the collective bargaining agreement. Schools Legal Service has developed collective bargaining language to address this new law and districts should consult their labor lawyers to discuss appropriate language.

Education Code section 44977.5 does not grant a new leave of absence to certificated school employees. It does, however, ensure that the 12-week period of child bonding leave under CFRA for certificated mothers and fathers will no longer be an unpaid leave with health and welfare benefits.[15]

For more information on this topic and related topics, please refer to the Schools Legal Service publication *The Leave Law Handbook: A Guide to Statutory Leaves of Absence* (2014).

IX. HOW DO I MAKE SENSE OF THE ALPHABET SOUP THAT IS PROVISIONALLY CREDENTIALED TEACHERS?

The Education Code requires that certificated employees be classified in one of four ways: permanent, probationary, temporary, or substitute.[16] Proper classification is critical due to certificated employees' statutory retention and promotion rights and the level of procedural safeguards in place in the event of dismissal or non-reelection for the next school year. Education Code section 44916 requires districts to classify their employees into one of the four statutory classifications at the time of the employment. The district must give each new employee a written statement indicating the appropriate classification no later than the first day of paid service.

Human Resources and Personnel administrators should always be mindful that employee classification and employee certification operate independently of each other. Certificated employees with less than a regular preliminary or clear credential who do not meet the statutory

[15] AB 375 did not address the limitation in the regulations implementing CFRA for mothers and fathers who work for the same employer. (*See* 2 C.C.R. § 11088(c).) It is unclear whether this limitation still applies to school employees so as to limit mothers and fathers who work for the same employer to a **total** of up to 12 workweeks for child bonding leave.

[16] Ed. Code section 44916; *McIntyre v. Sonoma Valley Unif. Sch. Dist. (McIntyre)* 2012 2016 Cal.App.4th 170.

temporary classifications (generally those who are employed in short-term temporary assignments and those who are employed for up to one year to replace other certificated employees who are absent on leave), must be classified as probationary employees. As probationary employees with less than a regular credential, those with an intern document, short-term staff permit, provisional internship permit, Board waiver, etc., are entitled to the procedural protections for dismissal and layoffs. Seniority is determined as of the day the employee "first rendered paid service in a probationary position," meaning their first date of employment. Salary is determined according to the bargained and adopted certificated salary schedule. They are not, however, entitled to accrue credit toward permanent status.[17] Except, of course, interns who are entitled to use the last year of their internship, if hired subsequently into a probationary position, as their first year of service towards permanency.[18] To avoid any argument that provisionally credentialed teachers become more senior than later-hired regularly credentialed teachers, Schools Legal Service recommends that each district send annual non-renewal/non-reelection notices to all provisionally credentialed teachers.

X. WHAT ARE *WEINGARTEN* RIGHTS AND WHEN DO THEY APPLY?

District administrators and managers regularly meet with employees concerning a myriad of employment matters. The meetings can take the form of training, work direction, investigations into employee misconduct, or disciplinary matters. In certain situations, an employee is entitled to have a union representative present at such a meeting.

The right to have a union representative available is the result of a 1975 U.S. Supreme Court decision (*NLRB v. Weingarten, Inc.*). The Supreme Court ruled that an employee's insistence upon union representation at an employer-initiated investigatory interview, where the employee "reasonably" believes disciplinary action may result, constitutes protected concerted activity. Today, the right to a union representative is referred to as "*Weingarten* Rights." *Weingarten* Rights are recognized under the Educational Employment Relations Act ("EERA") and are applicable to union represented employees of school districts.

Weingarten Rights guarantee an employee the right to union representation during an investigatory interview. These rights have also recently been expanded by the Public Employment Relations Board ("PERB") and now employees are entitled to union representation at an interactive process meeting regarding an employee's potential disability and reasonable accommodations related to that disability.[19] The *Weingarten* Right must be raised by the employee, unless otherwise specified in the collective bargaining agreement. A supervisor is not obligated to inform an employee that they are entitled to union representation.

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[17] *Bakersfield Elementary Teachers Assoc. v. Bakersfield City Sch. Dist.* (2007) 145 Cal.App.4th 1260; Ed. Code § 44911.

[18] Education Code section 44466.

[19] *SEIV Local 1021 v. Sonoma County Superior Court* (2015 PERB Decision No. 2409-C).

An investigatory interview generally involves the questioning of an employee by a supervisor where the information sought could be used as a basis for discipline. If an employee has a reasonable belief that discipline or discharge may result from what is said, the employee has the right to request and be afforded union representation. Once an employee makes a clear request for union representation before or during an investigatory interview, the employee cannot be discriminated against or otherwise disciplined for making the request. If an administrator continues the investigatory interview after a request for *Weingarten* Rights representation, the administrator has committed an unfair labor practice.

An employee does not have the right to the presence of a union representative where:

1. The meeting is merely for the purpose of conveying work instructions, training, or communicating needed corrections in the employee's work techniques.

2. The employee is assured by the employer prior to the interview that no discipline or employment consequences can result from the interview.

3. The employer has reached a final decision to impose certain discipline on the employee prior to the meeting, and the purpose of the meeting is to inform the employee of the discipline or to impose it.

4. Any conversation or discussion about the previously determined discipline is initiated by the employee and without employer encouragement or instigation after the employee is informed of the action.

Even in the foregoing circumstances, an employee can still ask for representation. Permitting a representative to attend even when not required is discretionary. Schools Legal Service recommends that a representative be permitted to attend where one is reasonably available.

[DRAFT—TO BE FINALIZED ON DISTRICT LETTERHEAD]

[Date]

[Via Hand Delivery &Certified Mail,
Return Receipt Requested]

[Employee Name
[Employee Address]

Re: Notice of Non-reelection
(Education Code section 44929.21)

Dear _____:

As you know, I have recommended to the District's Governing Board that you not be reelected as a certificated employee of the District for the _____ school year or subsequent school years. At its meeting on _____, the District's Governing Board accepted my recommendation and directed me to give you this letter as formal notice of your non-reelection. Accordingly, your employment with the District will terminate June 30, 20___.

Sincerely,

District Superintendent

cc: Personnel File

[SAMPLE LETTER—TO BE FINALIZED ON DISTRICT LETTERHEAD]
(PROBATIONARY CLASSIFIED EMPLOYEE DISMISSAL)

[Date]

[Employee Name]
[Employee Address]

Dear _____:

At the time of hire, your employment was subject to a one year **(or other applicable period; 6 months)** probationary period. This will confirm that you have not satisfactorily completed your probationary period. Consequently, you will be released from employment with the District. Your last date of work will be **(date)** at **(time)**.

Please return all keys, identification cards, **[whatever else applies]** to **[identify District contact]**.

Sincerely,

District Superintendent

cc: Personnel File

[DRAFT—TO BE FINALIZED ON DISTRICT LETTERHEAD]

[Date]

[Via Hand Delivery and Certified US Mail]

[Employee Name]
[Employee's Home Address]

Re: Notice of Paid Administrative Leave

Dear _____:

Effective _____, I am placing you on paid administrative leave pending an investigation of allegations of misconduct. District employees will be told simply that you are on a leave of absence. You will remain on paid administrative leave until further notice.

At this time, to protect the District's interests and yours, I am directing you as follows:

1. You are directed to immediately surrender to me:

    a. all keys to District property issued to you;
    b. all District credit cards issued to you;
    c. all District cell phones in your possession; and
    d. any other District property in your possession including, but not limited to, vehicles, electronic files, documents, computers, electronic devices and related peripherals.

2. You are directed to stay away from District property, including all campuses, and school sponsored events unless you have my prior, express written consent to enter/participate. I will make arrangements with you for a mutually agreeable time and place for you to pick up any personal possessions that may be on District property.

3. Except for telephone contact you may need to make with me (only) or your union representatives, you are directed not to telephone, text, e-mail or otherwise contact employees, students, and/or parents of the District.

4. While on paid administrative leave, you are directed to remain available by telephone, during your normal duty hours, so that you can be contacted if the need arises. You are further directed to be available to report for duty during your normal duty hours if instructed to do so by me.

5. You are directed to provide me with your telephone number at the time you receive this letter.

Your failure to comply with the above directives may be considered as insubordination, which could lead to discipline, up to and including dismissal. Please contact me with any questions you may have.

Very truly yours,

District Superintendent

cc: [Association]

[DRAFT—TO BE FINALIZED ON DISTRICT LETTERHEAD]

[Date]

[Employee Name]
[Employee Address]

Re: 24-Hour Notice Pursuant to Government Code Section 54957

Dear _____:

This is to inform you that at its meeting on _____at _____ p.m. in the _____, the Board of Trustees of the _____ School District will discuss in closed session information in the nature of complaints or charges brought against you by another person or employee.

While it is not clear whether the Board's discussion will constitute "hearing" the complaints or charges within the meaning of Government Code section 54957, in an abundance of caution, you are hereby notified that you have the right to have the portion of the discussion relating to the complaints or charges held in open session. Please notify me in writing no later than 12:00 p.m. on_____, if you wish to have the discussion in open session.

Sincerely,

[DISTRICT ADMINISTRATOR OR BOARD MEMBER]