

AMENDED IN SENATE MAY 17, 2016

AMENDED IN SENATE MAY 3, 2016

AMENDED IN SENATE MARCH 31, 2016

AMENDED IN SENATE JULY 2, 2015

AMENDED IN ASSEMBLY APRIL 20, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 934

Introduced by Assembly Member Bonilla

February 26, 2015

An act to amend Sections 1296, 44270, 44270.1, 44664, 44670, 44671, 44830.1, 44885.5, 44901, 44929.21, 44929.23, 44934, 44937, 44938, 44943, 44944.05, 44945, and 44955 of, to amend the heading of Article 13 (commencing with Section 44670) of Chapter 3 of Part 25 of Division 3 of Title 2 of, to add Sections 44934.2 and 44944.2 to, and to add Article 4.6 (commencing with Section 44520) and Article 4.7 (commencing with Section 44550) to Chapter 3 of Part 25 of Division 3 of Title 2 of, the Education Code, *and to amend Section 3543.2 of the Government Code*, relating to certificated school employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 934, as amended, Bonilla. Certificated school employees.

(1) 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 peer review program ~~that meets local conditions and conforms to specified principles.~~

This bill would require each school district to create a 2-year teacher support ~~program~~ *program, through collective bargaining, if requested by the school district or the exclusive representative*, that would allow a highly effective certificated employee to support a certificated employee demonstrating unsatisfactory performance to become proficient in the California Standards for the Teaching Profession. *The bill would require each school district to create a multiple-day principal and vice principal training program on how to evaluate teachers and would require specified administrators demonstrating unsatisfactory performance to participate in the program.* By imposing additional duties on school districts, the bill would impose a state-mandated local program. The bill would also encourage each school district to create a one-year principal or vice principal support program that would allow a highly effective school ~~administrator~~ *administrators* to support ~~a principal~~ *specified principals* or vice ~~principal~~ *principals* demonstrating unsatisfactory performance to become proficient in the California Professional Standards for Educational Leaders.

(2) Existing law requires school districts to evaluate each certificated employee on a continuous basis, as specified. Existing law also authorizes an employing authority to require a certificated employee who receives an evaluation including an unsatisfactory rating of an employee's performance in the area of teaching methods or instruction to participate in a program designed to improve appropriate areas of the employee's performance and to further pupil achievement and the instructional objectives of the employing authority. Existing law also requires a school district, if it participates in the California Peer Assistance and Review Program for Teachers, to require any certificated employee who receives an unsatisfactory rating on an evaluation to participate in that program.

This bill would instead require a certificated employee who receives an annual evaluation ~~that contains an unsatisfactory rating of the employee's performance in the lowest category of performance~~ in the area of teaching methods or instruction to participate in either the California Peer Assistance and Review Program for Teachers or the district-designed teacher support program discussed above. By imposing additional duties on school districts, the bill would impose a state-mandated local program.

(3) Existing law authorizes the governing board of a school district to evaluate a school principal, as provided. Existing law also authorizes the governing board of a school district to use the California Professional Standards for Educational Leaders as the criteria for evaluating a school principal.

This bill would ~~also authorize~~ *require* the governing board of a school district to *annually* evaluate a school *principal and vice-principal*. ~~principal for the first and 2nd year of employment.~~ The bill would require the superintendent of a school district to annually provide reports on the evaluation or nonevaluation of principals and vice principals to the governing board of the school ~~district, thereby imposing a state-mandated local program.~~ *district.* The bill would also require the governing board of a school district to use the California Professional Standards for Educational Leaders as the criteria for evaluating a school principal or vice principal. *By imposing additional duties on school districts, the bill would impose a state-mandated local program.* The bill would express the intent of the Legislature that every school principal and vice principal be evaluated as frequently as necessary to ensure, in the view of the governing board of the school district, that they are satisfactorily proficient in the California Professional Standards for Educational ~~Leaders.~~ *Leaders and are performing effective evaluations of teachers.*

(4) Existing law prohibits a permanent school employee from being dismissed, except for one or more of certain enumerated causes, including unsatisfactory performance. Existing law requires the governing board of a school district to give notice, together with a written statement of charges, to a permanent employee of its intention to dismiss or suspend the employee at the expiration of 30 days from the date of service of the notice, unless the employee demands a hearing.

This bill would authorize proceedings based solely on charges of unsatisfactory performance to be initiated via an alternative process, which this bill would establish.

(5) Existing law establishes the process for dismissal or suspension hearing proceedings for certificated employees.

This bill would instead provide for a binding arbitration process for charges based solely on unsatisfactory performance, which this bill would establish.

(6) Existing law prohibits the governing board of a school district from acting upon any charges of unsatisfactory performance ~~unless~~ *unless*, at least 90 calendar days before the date of the filing or before

the beginning of the time period composed of the last $\frac{1}{4}$ of the schooldays, the governing board of the school district provides the employee written notice of the unsatisfactory performance, specifying the nature thereof with such specific instances of behavior and with such particularity as to furnish the employee an opportunity to correct his or her faults and overcome the grounds for the charge.

This bill would instead prohibit the governing board of a school district from acting upon any charges of unsatisfactory performance against a permanent employee unless the employee against whom the charge is filed has completed at least one year of the California Peer Assistance and Review Program for Teachers or a district-designed teacher or administrator support program.

(7) Existing law authorizes a decision reached in a dismissal or suspension proceeding concerning a certificated employee to be reviewed by a court of competent jurisdiction.

This bill would make this statutory procedure inapplicable to a decision based solely on unsatisfactory performance reached in a dismissal or suspension proceeding concerning a certificated employee.

(8) Existing law requires a certificated employee who has completed 2 years of service to the school district as an intern or probationary employee and who is further reelected and employed during the succeeding school year to be classified as a permanent employee.

This bill would instead require a certificated employee who has completed 3 years of service to the school district as an intern or probationary employee and who is further reelected and employed during the succeeding school year to be classified as a permanent employee, unless the governing board of the school district chooses to continue to classify the certificated employee as a probationary employee for a 4th year, as provided. The bill would require each 3rd- and 4th-year probationary employee of a school district to participate in the California Peer Assistance and Review Program for Teachers or a district-designed teacher support program.

Existing law requires each person who, after being employed for 2 complete consecutive school years by a county superintendent of schools in a teaching position, as specified, is reelected for the next succeeding school year to such a position to be classified as a permanent employee of the county superintendent of schools.

This bill would instead require each certificated employee who, after being employed for 3 complete consecutive school years by a county superintendent of schools in a teaching position, as specified, is reelected

for the next succeeding school year to such a position to be classified as a permanent employee of the county superintendent of schools, unless the county superintendent of schools chooses to continue to classify the certificated employee as a probationary employee for a 4th year, as provided. The bill would require each 3rd- and 4th-year probationary employee of a county superintendent of schools, if the county superintendent of schools participates in the California Peer Assistance and Review Program for Teachers, to participate in the program.

This bill would provide that, notwithstanding any other law, a 3rd- or 4th-year probationary employee ~~has the due process and appeal rights of a permanent employee~~: *shall not be released or dismissed without cause and may appeal release or dismissal*.

(9) Existing law provides that a certificated employee who has served in 2 or more school districts governed by governing boards of identical personnel, as specified, for a total of 2 complete consecutive school years, upon being elected for the 3rd consecutive school year in either school district, shall, at the commencement of that year, be classified as a permanent employee of the last school district in which he or she was employed prior to election for the 3rd year.

This bill would instead provide that a certificated employee who has served in 2 or more school districts governed by governing boards of identical ~~personnel~~, *personnel* for a total of 3 complete consecutive school years, upon being elected for the 4th consecutive school year in either school district, shall, at the commencement of that 4th year, be classified as a permanent employee of the last school district in which he or she was employed before election for the 4th year.

Existing law also provides that, where there are 2 or more school districts governed by governing boards of identical personnel, as specified, a certificated employee who has served in one of the school districts for 2 complete consecutive school years, upon being elected for a 3rd consecutive school year in any of the school districts, shall, at the commencement of that 3rd year, be classified as a permanent employee of the last school district in which he or she was employed prior to election for the 3rd year.

This bill would instead provide that, where there are 2 or more school districts governed by governing boards of identical personnel, as specified, a certificated employee who has served in one of the school districts for 3 complete consecutive school years, upon being elected for a 4th consecutive school year in any of the school districts, shall, at the commencement of that 4th year, be classified as a permanent

employee of the last school district in which he or she was employed before election for the 4th year.

(10) Existing law authorizes the governing board of a school district to decrease the number of permanent employees of a school district, based on seniority, when a reduction in workforce is required due to specific circumstances, as provided. Existing law prohibits, except as otherwise provided, the services of a permanent employee from being terminated in these situations while any probationary employee, or any other employee with less seniority, is retained to render a service which the permanent employee is certificated and competent to render.

This bill would instead require the governing board of a school district, when a reduction in workforce is required, to terminate certificated employees in a specified order based on both seniority and evaluations of performance.

(11) Under existing law, the minimum requirements for a preliminary services credential with a specialization in administrative services include completion of a minimum of 3 years of successful, full-time classroom teaching experience or 3 years of experience in the field of pupil personnel, health, clinical or rehabilitative, or librarian services.

This bill would instead provide that the minimum requirements for a preliminary services credential with a specialization in administrative services include completion of 5 years of successful, full-time classroom teaching experience or 5 years of experience in the field of pupil personnel, health, clinical or rehabilitative, or librarian services, or a combination of those experiences equal to 5 years.

Under existing law, the minimum requirements for a professional services credential with a specialization in administrative services include the completion of an individualized program of professional development activities and 2 years of successful experience in a full-time administrative position.

This bill would require a credential candidate to complete the individualized program during the first 2 years of experience in a full-time administrative position and would require the individualized program to include training on how to properly and effectively evaluate certificated employees.

~~(11)~~

(12) This bill would also make conforming changes and nonsubstantive changes.

~~(12)~~

(13) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 *SECTION 1. It is the intent of the Legislature that this act shall*
2 *not affect any existing requirements imposed pursuant to Article*
3 *11 (commencing with Section 44660) of Chapter 3 of Part 25 of*
4 *Division 3 of Title 2 of the Education Code.*

5 ~~SECTION 1.~~

6 *SEC. 2.* Section 1296 of the Education Code is amended to
7 read:

8 1296. (a) (1) If the average daily attendance of the schools
9 and classes maintained by a county superintendent of schools is
10 250 pupils or more, each person who, after being employed for
11 three complete consecutive school years by the county
12 superintendent of schools in a teaching position in those schools
13 or classes requiring certification qualifications and whose salary
14 is paid from the county school service fund, is reelected for the
15 next succeeding school year to such a position in those schools or
16 classes shall be classified as and become a permanent employee
17 of the county superintendent of schools.

18 (2) An employee described in paragraph (1) shall have the same
19 rights and duties as employees of school districts to which Section
20 44929.21 applies. Sections 44842, 44929.21, 44948.3, and 44948.5
21 apply to these employees.

22 (3) This subdivision shall apply only to probationary employees
23 whose probationary period commenced before the 1983–84 fiscal
24 year.

25 (b) (1) If the average daily attendance of the schools and classes
26 maintained by a county superintendent of schools is 250 pupils or
27 more, a highly effective certificated employee who, after being
28 employed for three complete consecutive school years by the

1 county superintendent of schools in a teaching position in those
2 schools or classes requiring certification qualifications and whose
3 salary is paid from the county school service fund, is reelected for
4 the next succeeding school year to such a position in those schools
5 or classes shall be classified as and become a permanent employee
6 of the county superintendent of schools.

7 (2) An employee described in paragraph (1) shall have the same
8 rights and duties as employees of school districts to which Section
9 44929.21 applies. Sections 44842, 44929.21, 44948.3, and 44948.5
10 apply to these employees.

11 (c) (1) Notwithstanding subdivision (b), the county
12 superintendent of schools may require a certificated employee,
13 who after having been employed by the county superintendent of
14 schools for three complete consecutive school years and who is
15 further reelected and employed during the succeeding school year,
16 to continue to be classified as a probationary employee for a fourth
17 year.

18 (2) A certificated employee who is reelected as a probationary
19 employee pursuant to this subdivision or to a third complete
20 consecutive school year as described in subdivision (b) shall, if
21 the county office of education participates in the California Peer
22 Assistance and Review Program for Teachers established pursuant
23 to Article 4.5 (commencing with Section 44500) of Chapter 3 of
24 Part 25 of Division 3 of Title 2, participate in the program.

25 (3) Notwithstanding any other law, a third- or fourth-year
26 probationary employee ~~has the due process and appeal rights of a~~
27 ~~permanent employee pursuant to Sections 44934 to 44934.2,~~
28 ~~inclusive, and Sections 44944 to 44944.2, inclusive. shall not be~~
29 *released or dismissed without cause and may appeal release or*
30 *dismissal to the county board of education.*

31 (4) During the third and fourth year as a probationary employee,
32 the employee shall be observed by multiple ~~administrators~~
33 *administrators, including an administrator from a schoolsite other*
34 *than the schoolsite at which the employee is on probation,* and
35 teacher peers. Administrators and teacher peers observing the
36 third-year probationary employee shall provide feedback to the
37 county superintendent of schools regarding the probationary
38 employee's proficiency with the California Standards for the
39 Teaching Profession, adopted by the Commission on Teacher
40 Credentialing.

1 (5) A third-year probationary employee may be dismissed *for*
2 *cause* or *shall be* retained for a fourth year as a probationary
3 employee after one year of the support program at the discretion
4 of the county superintendent of schools. *program.*

5 (d) (1) Notwithstanding subdivision (c), a certificated employee
6 who had previously been granted permanent status by another
7 county superintendent of schools and who is further reelected and
8 employed during the succeeding school year as described in
9 subdivision (b) shall, upon reelection for the next succeeding school
10 year to a position requiring certification qualifications, be classified
11 as and become a permanent employee by the county superintendent
12 of schools.

13 (2) Nothing in this subdivision shall be interpreted to authorize
14 a certificated employee who has not previously been granted
15 permanent status by another county superintendent of schools to
16 gain permanent status without meeting the requirements of
17 subdivision (b) or (c).

18 (e) The county superintendent of schools shall notify a
19 certificated employee, on or before March 15 of the certificated
20 employee's third ~~and fourth~~ school year of probationary
21 employment in a position requiring certification qualifications, of
22 the decision to reelect as a permanent employee, reelect as a
23 probationary employee, or not reelect the certificated employee
24 for the next succeeding school year to this type of position. *The*
25 *county superintendent of schools shall notify a certificated*
26 *employee, on or before March 15 of the certificated employee's*
27 *fourth school year of probationary employment in a position*
28 *requiring certification qualifications, of the decision to reelect as*
29 *a permanent employee or not reelect the certificated employee for*
30 *the next succeeding school year to this type of position.* If the
31 county superintendent of schools does not give notice pursuant to
32 this section on or before March 15, a certificated employee shall
33 be deemed reelected as a permanent employee for the next
34 succeeding school year.

35 (f) To the extent that this section as amended by Assembly Bill
36 934 of the 2015–16 Regular Session conflicts with a provision of
37 a collective bargaining agreement entered into by a public school
38 employer and an exclusive bargaining representative before January
39 1, 2017, pursuant to Chapter 10.7 (commencing with Section 3540)
40 of Division 4 of Title 1 of the Government Code, the changes made

1 to this section by Assembly Bill 934 of the 2015–16 Regular
2 Session shall not apply until expiration or renewal of that collective
3 bargaining agreement.

4 (g) Subdivisions (b) to (f), inclusive, shall apply only to
5 probationary employees whose probationary period commenced
6 during the 1983–84 fiscal year or any fiscal year thereafter.

7 (h) As used in this section, the following definitions shall apply:

8 (1) “Highly effective certificated employee” means a certificated
9 employee who, in the view of the county superintendent of schools,
10 demonstrates proficiency with the California Standards for the
11 Teaching Profession.

12 (2) “Teaching position” means a certificated position designated
13 as of January 1, 1983, by the county board of education or the
14 county superintendent of schools as a teaching position for the
15 purpose of granting probationary or permanent status.

16 *SEC. 3. Section 44270 of the Education Code is amended to*
17 *read:*

18 44270. (a) The minimum requirements for the preliminary
19 services credential with a specialization in administrative services
20 ~~are~~ *shall include* all of the following:

21 (1) Possession of one of the following:

22 (A) A valid teaching credential requiring the possession of a
23 baccalaureate degree and a professional preparation program
24 including student teaching.

25 (B) A valid designated subjects career technical education, adult
26 education, or special subjects teaching credential, as specified in
27 Section 44260, 44260.1, 44260.2, 44260.3, or 44260.4, provided
28 the candidate also possesses a baccalaureate degree.

29 (C) A valid services credential with a specialization in pupil
30 personnel, health, or clinical or rehabilitative services, as specified
31 in Section 44266, 44267, 44267.5, or 44268, or a valid services
32 credential authorizing service as a teacher librarian, as specified
33 in Section 44269.

34 (D) A valid credential issued under the laws, rules, and
35 regulations in effect on or before December 31, 1971, which
36 authorizes the same areas as in subparagraphs (B) and (C).

37 (2) Completion of ~~a minimum of three~~ *any of the following*:

38 (A) *Five* years of successful, full-time classroom teaching
39 experience in the public schools, including, but not limited to,

1 service in state- or county-operated schools, or in private schools
2 of equivalent ~~status or three~~ status.

3 (B) Five years of experience in the fields of pupil personnel,
4 health, clinical or rehabilitative, or librarian services.

5 (C) A combination of the types of experience described in
6 subparagraphs (A) and (B) equal to five years, counting concurrent
7 experiences only once.

8 (3) Completion of an entry-level program of specialized and
9 professional preparation in administrative services approved by
10 the commission or a one-year internship in a program of supervised
11 training in administrative services, approved by the commission
12 as satisfying the requirements for the preliminary services
13 credential with a specialization in administrative services.

14 (4) Current employment in an administrative position after
15 completion of professional preparation as ~~defined~~ described in
16 paragraph (3), whether full or part time, in a public school or
17 private school of equivalent status. The commission shall
18 encourage school districts to consider the recency of preparation
19 or professional growth in school administration as one of the
20 criteria for employment.

21 (b) The preliminary administrative services credential shall be
22 valid for a period of five years from the date of initial employment
23 in an administrative position, whether full or part time, and shall
24 not be renewable.

25 (c) A candidate who completed, by September 30, 1984, the
26 requirements for the administrative services credential in effect
27 on June 30, 1982, is eligible for the credential authorized under
28 those requirements. All other candidates shall satisfy the
29 requirements set forth in this section.

30 SEC. 4. Section 44270.1 of the Education Code is amended to
31 read:

32 44270.1. (a) The minimum requirements for the professional
33 services credential with a specialization in administrative services
34 ~~are~~ shall include all of the following:

35 (1) Possession of a valid preliminary administrative services
36 credential, as specified in Section 44270.

37 (2) A minimum of two years of successful experience in a
38 full-time administrative position in a public school or private school
39 of equivalent status, while holding the preliminary administrative
40 services credential, as attested by the employing school district or

1 agency, including, but not limited to, the department, in the case
2 of state school administrators, and county offices of education, in
3 the case of county school administrators.

4 (3) (A) Completion of a commission-approved program of
5 advanced preparation. Each candidate, in consultation with
6 employing school district personnel and university personnel, shall
7 develop an individualized program of professional development
8 activities for this advanced preparation program based upon
9 individual needs. Each individualized program ~~will~~ *shall* include
10 university coursework and may include, nonuniversity activities
11 or advanced administrative field experiences. The commission
12 shall adopt standards and criteria for the university programs of
13 advanced preparation and nonuniversity activities.

14 (B) *Each individualized program shall include training on how*
15 *to properly and effectively evaluate certificated employees.*

16 (4) *A credential candidate shall complete the individualized*
17 *program pursuant to paragraph (3) during the first two years of*
18 *experience in a full-time administrative position.*

19 (b) The commission may, at the request of a credential candidate,
20 grant a waiver, pursuant to subdivision (m) of Section 44225, of
21 the requirement of university coursework upon its finding that the
22 candidate, in consultation with personnel of the employing school
23 district and personnel of the university, is not able to develop an
24 individualized program of professional development for the
25 advanced preparation program that meets the individual needs of
26 the candidates.

27 ~~SEC. 2.~~

28 SEC. 5. Article 4.6 (commencing with Section 44520) is added
29 to Chapter 3 of Part 25 of Division 3 of Title 2 of the Education
30 Code, to read:

31
32 Article 4.6. District-Designed Teacher Support Programs
33

34 44520. (a) Each school district shall ~~create~~ *create, in*
35 *accordance with subdivision (f) of Section 3543.2 of the*
36 *Government Code, if applicable,* a two-year teacher support
37 program allowing a highly effective certificated employee to
38 support a certificated employee demonstrating unsatisfactory
39 performance to become proficient in the California Standards for

1 the Teaching Profession in order to become a highly effective
2 certificated employee.

3 (b) For purposes of this section, the following terms have the
4 following meanings:

5 (1) A “highly effective certificated employee” means a
6 certificated employee who, in the view of the governing board of
7 the school district, demonstrates proficiency with the California
8 Standards for the Teaching Profession—*as or district-developed*
9 *standards that align with the California Standards for the Teaching*
10 *Profession. Proficiency shall be demonstrated by an evaluation*
11 *that conforms with Article 11 (commencing with Section 44660)*
12 *designating the certificated employee in the highest category the*
13 *school district has established pursuant to subdivision (c) of Section*
14 *44664.*

15 (2) An “employee demonstrating unsatisfactory performance”
16 means a certificated employee who, in the view of the governing
17 board of the school district, does not demonstrate proficiency with
18 the California Standards for the Teaching Profession—*as or*
19 *district-developed standards that align with the California*
20 *Standards for the Teaching Profession. This lack of proficiency*
21 *shall be demonstrated by an evaluation that conforms with Article*
22 *11 (commencing with Section 44660) designating the certificated*
23 *employee in a the lowest category below the satisfactory levels*
24 *that the school district has established pursuant to subdivision (c)*
25 *of Section 44664.*

26 ~~SEC. 3.~~

27 SEC. 6. Article 4.7 (commencing with Section 44550) is added
28 to Chapter 3 of Part 25 of Division 3 of Title 2 of the Education
29 Code, to read:

30
31 Article 4.7. District-Designed Administrator Support Programs

32
33 44550. Each school district is encouraged to create a one-year
34 principal or vice principal support program allowing a highly
35 effective school administrator, as determined by the school district,
36 to support a principal or vice principal *who has completed the*
37 *individualized program for a professional services credential with*
38 *a specialization in administrative services pursuant to subdivision*
39 *(a) of Section 44270.1 and who is demonstrating unsatisfactory*
40 *performance, as determined by the school district, to become*

1 proficient in the California Professional Standards for Educational
2 Leaders.

3 *44551. (a) Each school district shall create a multiple-day*
4 *principal and vice principal training program on how to evaluate*
5 *teachers.*

6 *(b) An administrator who has received the professional services*
7 *credential with a specialization in administrative services and who*
8 *is demonstrating unsatisfactory performance, as determined by*
9 *the school district, shall participate in the multiple-day principal*
10 *and vice principal training program.*

11 ~~SEC. 4.~~

12 *SEC. 7.* Section 44664 of the Education Code is amended to
13 read:

14 44664. (a) Evaluation and assessment of the performance of
15 each certificated employee shall be made on a continuing basis as
16 follows:

17 (1) At least once each school year for probationary personnel.

18 (2) At least every other year for personnel with permanent status.

19 (3) At least every five years for personnel with permanent status
20 who have been employed at least 10 years with the school district,
21 are highly qualified, if those personnel occupy positions that are
22 required to be filled by a highly qualified professional by the
23 federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301
24 et seq.), as defined in 20 U.S.C. Sec. 7801, and whose previous
25 evaluation rated the employee as meeting or exceeding standards,
26 if the evaluator and certificated employee being evaluated agree.
27 The certificated employee or the evaluator may withdraw consent
28 at any time.

29 (b) The evaluation shall include recommendations, if necessary,
30 as to areas of improvement in the performance of the certificated
31 employee. If a certificated employee is not performing his or her
32 duties in a satisfactory manner according to the standards
33 prescribed by the governing board of the school district, the
34 employing authority shall notify the certificated employee in
35 writing of that fact and describe the unsatisfactory performance.
36 The employing authority shall thereafter confer with the certificated
37 employee making specific recommendations as to areas of
38 improvement in the certificated employee's performance and
39 endeavor to assist the employee in his or her performance. If any
40 permanent certificated employee has received an unsatisfactory

1 evaluation, the employing authority shall annually evaluate the
2 employee *while the employee is in the California Peer Assistance*
3 *and Review Program for Teachers established pursuant to Article*
4 *4.5 (commencing with Section 44500) or a district-designed, and*
5 *collectively bargained for, if applicable, teacher support program*
6 *established pursuant to Article 4.6 (commencing with Section*
7 *44520) until the employee achieves a positive evaluation or is*
8 *separated from the school district. Evaluation performed pursuant*
9 *to this article during the California Peer Assistance and Review*
10 *Program for Teachers established pursuant to Article 4.5*
11 *(commencing with Section 44500) shall include the participation*
12 *of an administrator from a school district other than the school*
13 *district employing the certificated employee.*

14 (c) A school district shall establish at least four categories of
15 performance for certificated employees. At least two of these
16 categories shall designate performance at a satisfactory level or
17 greater. At least two of these categories shall designate performance
18 below a satisfactory level.

19 (d) (1) A certificated employee who receives an evaluation
20 performed pursuant to this article ~~below a satisfactory level in the~~
21 *lowest category of performance* in the area of teaching methods
22 or instruction shall participate in a program designed to improve
23 appropriate areas of the employee's performance and to further
24 pupil achievement and the instructional objectives of the employing
25 authority.

26 (2) If a school district participates in the California Peer
27 Assistance and Review Program for Teachers established pursuant
28 to Article 4.5 (commencing with Section 44500), a certificated
29 employee who receives a rating ~~below a satisfactory level in the~~
30 *lowest category of performance* on an evaluation performed
31 pursuant to this section shall participate in the California Peer
32 Assistance and Review Program for Teachers.

33 (3) If a school district does not participate in the California Peer
34 Assistance and Review Program for Teachers established pursuant
35 to Article 4.5 (commencing with Section 44500), a certificated
36 employee who receives a rating ~~below a satisfactory level in the~~
37 *lowest category of performance* on an evaluation performed
38 pursuant to this section shall participate in a ~~district-designed~~
39 *district-designed, and collectively bargained for, if applicable,*

1 teacher support program established pursuant to Article 4.6
2 (commencing with Section 44520).

3 (e) Hourly and temporary hourly certificated employees, other
4 than those employed in adult education classes who are excluded
5 by the provisions of Section 44660, and substitute teachers may
6 be excluded from the provisions of this section at the discretion
7 of the governing board of the school district.

8 (f) To the extent that this section as amended by Assembly Bill
9 934 of the 2015–16 Regular Session conflicts with a provision of
10 a collective bargaining agreement entered into by a public school
11 employer and an exclusive bargaining representative before January
12 1, 2017, pursuant to Chapter 10.7 (commencing with Section 3540)
13 of Division 4 of Title 1 of the Government Code, the changes made
14 to this section by Assembly Bill 934 of the 2015–16 Regular
15 Session shall not apply until expiration or renewal of that collective
16 bargaining agreement.

17 ~~SEC. 5.~~

18 SEC. 8. The heading of Article 13 (commencing with Section
19 44670) of Chapter 3 of Part 25 of Division 3 of Title 2 of the
20 Education Code is amended to read:

21
22 Article 13. Principal and Vice Principal Evaluation System
23

24 ~~SEC. 6.~~

25 SEC. 9. Section 44670 of the Education Code is amended to
26 read:

27 44670. (a) The governing board of a school district may
28 identify who will conduct the evaluation of each school principal
29 and vice principal.

30 (b) Every school principal and vice principal ~~may~~ *shall* be
31 evaluated annually for the first and second year of employment as
32 a new principal or vice principal in a school district. The governing
33 board of the school district may determine the frequency ~~at regular~~
34 ~~intervals~~ of evaluations after this ~~period~~. *period, which shall*
35 *include evaluations at regular intervals.*

36 (c) Additional evaluations that occur outside of the regular
37 intervals determined by the governing board of the school district
38 may be agreed upon between the evaluator and the principal or
39 vice principal.

(d) Evaluators and principals or vice principals may review school success and progress throughout the year. This review should include goals that are defined by the school district.

(e) The superintendent of a school district shall annually provide reports on the evaluation of principals and vice principals or of the school district superintendent's decision not to evaluate principals and vice principals to the governing board of the school district.

(f) It is the intent of the Legislature that every school principal and vice principal shall be evaluated as frequently as necessary to ensure, in the view of the governing board of the school district, that they are satisfactorily proficient in the California Professional Standards for Educational Leaders. *Leaders and are performing effective evaluations of teachers.*

~~SEC. 7.~~

SEC. 10. Section 44671 of the Education Code is amended to read:

44671. (a) Criteria for effective school principal or vice principal evaluations shall be based upon the California Professional Standards for Educational Leaders. These standards identify a school administrator as being an educational leader who promotes the success of all pupils through leadership that fosters all of the following:

- (1) A shared vision.
- (2) Effective teaching and learning.
- (3) Management and safety.
- (4) Parent, family, and community involvement.
- (5) Professional and ethical leadership.
- (6) Contextual awareness.

(b) A school principal or vice principal evaluation may include, but not be limited to, evidence of all of the following:

- (1) Academic growth of pupils based on multiple measures that may include pupil work as well as pupil and school longitudinal data that demonstrates pupil academic growth over time. Assessments used for this purpose shall be valid and reliable and used for the purposes intended and for the appropriate pupil populations. Local and state academic assessments include, but are not limited to, state standardized assessments, formative, summative, benchmark, end of chapter, end of course, advanced placement, international baccalaureate, college entrance, and

1 performance assessments. For career and technical education,
2 authentic performance assessment is a strong indicator of effective
3 teaching and learning.

4 (2) Effective and comprehensive teacher evaluations, including,
5 but not limited to, curricular and management leadership, ongoing
6 professional development, teacher-principal teamwork, and
7 professional learning communities.

8 (3) Culturally responsive instructional strategies to address and
9 eliminate the achievement gap.

10 (4) The ability to analyze quality instructional strategies and
11 provide effective feedback that leads to instructional improvement.

12 (5) High expectations for all pupils and leadership to ensure
13 active pupil engagement and learning.

14 (6) Collaborative professional practices for improving
15 instructional strategies.

16 (7) Effective school management, including personnel and
17 resource management, organizational leadership, sound fiscal
18 practices, a safe campus environment, and appropriate pupil
19 behavior.

20 (8) Meaningful self-assessment to improve as a professional
21 educator. Self-assessment may include, but not be limited to, a
22 self-assessment on state professional standards for educational
23 leaders and the identification of areas of strengths and areas for
24 professional growth to engage in activities to foster professional
25 growth.

26 (9) Consistent and effective relationships with pupils, parents,
27 teachers, staff, and other administrators.

28 ~~SEC. 8.~~

29 *SEC. 11.* Section 44830.1 of the Education Code is amended
30 to read:

31 44830.1. (a) In addition to any other prohibition or provision,
32 a person who has been convicted of a violent or serious felony
33 shall not be hired by a school district in a position requiring
34 certification qualifications or supervising positions requiring
35 certification qualifications. A school district shall not retain in
36 employment a current certificated employee who has been
37 convicted of a violent or serious felony and who is a temporary
38 employee, a substitute employee, or a probationary employee
39 serving before March 15 of the employee's third probationary
40 year. If any conviction is reversed and the formerly convicted

1 person is acquitted of the offense in a new trial, or the charges are
2 dismissed, this section does not prohibit his or her employment
3 thereafter.

4 (b) This section applies to any violent or serious offense that,
5 if committed in this state, would have been punishable as a violent
6 or serious felony.

7 (c) (1) For purposes of this section, a violent felony is any
8 felony listed in subdivision (c) of Section 667.5 of the Penal Code
9 and a serious felony is any felony listed in subdivision (c) of
10 Section 1192.7 of the Penal Code.

11 (2) For purposes of this section, a plea of nolo contendere to a
12 serious or violent felony constitutes a conviction.

13 (3) For purposes of this section, the term “school district” has
14 the same meaning as defined in Section 41302.5.

15 (d) When the governing board of a school district requests a
16 criminal record summary of a temporary, substitute, or probationary
17 certificated employee, two fingerprint cards, bearing the legible
18 rolled and flat impressions of the person’s fingerprints together
19 with a personal description and the fee, shall be submitted, by any
20 means authorized by the Department of Justice, to the Department
21 of Justice.

22 (e) When the Department of Justice ascertains that an individual
23 who is an applicant for employment by a school district has been
24 convicted of a violent or serious felony, or for purposes of
25 implementing the prohibitions set forth in Section 44836, any sex
26 offense, as defined in Section 44010, or any controlled substance
27 offense, as defined in Section 44011, the department shall notify
28 the school district of the criminal information pertaining to the
29 applicant. The notification shall be delivered by telephone or
30 electronic mail to the school district. The notification to the school
31 district shall cease to be made once the statewide electronic
32 fingerprinting network is returning responses within three working
33 days. The Department of Justice shall send by first-class mail or
34 electronic mail a copy of the criminal information to the
35 Commission on Teacher Credentialing. The Department of Justice
36 may charge a reasonable fee to cover the costs associated with
37 processing, reviewing, and supplying the criminal record summary
38 required by this section. In no event shall the fee exceed the actual
39 costs incurred by the Department of Justice.

1 (f) Notwithstanding subdivision (a), a person shall not be denied
2 employment or terminated from employment solely on the basis
3 that the person has been convicted of a violent or serious felony
4 if the person has obtained a certificate of rehabilitation and pardon
5 pursuant to Chapter 3.5 (commencing with Section 4852.01) of
6 Title 6 of Part 3 of the Penal Code.

7 (g) Notwithstanding subdivision (f), a person shall not be denied
8 employment or terminated from employment solely on the basis
9 that the person has been convicted of a serious felony that is not
10 also a violent felony if that person can prove to the sentencing
11 court of the offense in question, by clear and convincing evidence,
12 that he or she has been rehabilitated for the purposes of school
13 employment for at least one year. If the offense in question
14 occurred outside this state, then the person may seek a finding of
15 rehabilitation from the court in the school district in which he or
16 she is a resident.

17 (h) Notwithstanding any other law, when the Department of
18 Justice notifies a school district by telephone or electronic mail
19 that a current temporary employee, substitute employee, or
20 probationary employee serving before March 15 of the employee's
21 third probationary year has been convicted of a violent or serious
22 felony, that employee shall immediately be placed on leave without
23 pay. When the school district receives written electronic
24 notification of the fact of conviction from the Department of
25 Justice, the employee shall be terminated automatically and without
26 regard to any other procedure for termination specified in this code
27 or school district procedures unless the employee challenges the
28 record of the Department of Justice and the Department of Justice
29 withdraws in writing its notification to the school district. Upon
30 receipt of written withdrawal of notification from the Department
31 of Justice, the employee shall immediately be reinstated with full
32 restoration of salary and benefits for the period of time from the
33 suspension without pay to the reinstatement.

34 (i) An employer shall request subsequent arrest service from
35 the Department of Justice as provided under Section 11105.2 of
36 the Penal Code.

37 (j) Notwithstanding Section 47610, this section applies to a
38 charter school.

1 (k) This section shall not apply to a certificated employee who
2 applies to renew his or her credential when both of the following
3 conditions have been met:

4 (1) The employee's original application for credential was
5 accompanied by that person's fingerprints.

6 (2) The employee has either been continuously employed in
7 one or more public school districts since the issuance or last
8 renewal of his or her credential or his or her credential has not
9 expired between renewals.

10 (l) Nothing in this section shall prohibit a county superintendent
11 of schools from issuing a temporary certificate to any person
12 described in paragraph (1) or (2) of subdivision (k).

13 (m) This section shall not prohibit a school district from hiring
14 a certificated employee who became a permanent employee of
15 another school district as of October 1, 1997.

16 (n) All information obtained from the Department of Justice is
17 confidential. Every agency handling Department of Justice
18 information shall ensure all of the following:

19 (1) A recipient shall not disclose its contents or provide copies
20 of information.

21 (2) Information received shall be stored in a locked file separate
22 from other files and shall only be accessible to the custodian of
23 records.

24 (3) Information received shall be destroyed upon the hiring
25 determination in accordance with subdivision (a) of Section 708
26 of Title 11 of the California Code of Regulations.

27 (4) Compliance with destruction, storage, dissemination,
28 auditing, backgrounding, and training requirements as set forth in
29 Sections 700 to 708, inclusive, of Title 11 of the California Code
30 of Regulations and Section 11077 of the Penal Code governing
31 the use and security of criminal offender record information is the
32 responsibility of the entity receiving the information from the
33 Department of Justice.

34 ~~SEC. 9.~~

35 *SEC. 12.* Section 44885.5 of the Education Code is amended
36 to read:

37 44885.5. (a) (1) A school district shall classify a person who
38 is employed as a district intern pursuant to Section 44830.3 and a
39 person who has completed service in the school district as a district
40 intern pursuant to subdivision (b) of Section 44325 and Section

1 44830.3 and is reelected for the next two succeeding school years
2 to a position requiring certification qualifications as a probationary
3 employee of the school district.

4 (2) The governing board of a school district may dismiss or
5 suspend employees classified as probationary employees pursuant
6 to this subdivision in accordance with the procedures specified in
7 Section 44948 or 44948.3, as applicable.

8 (b) A highly effective certificated employee who has completed
9 service as a district intern pursuant to subdivision (b) of Section
10 44325 and pursuant to Section 44830.3 and who is further reelected
11 and employed as described in subdivision (a) shall, upon reelection
12 for the next succeeding school year, to a position requiring
13 certification qualifications, be classified as and become a permanent
14 employee of the school district.

15 (c) (1) Notwithstanding subdivision (b), the governing board
16 of a school district may require a certificated employee who has
17 completed service as a district intern pursuant to subdivision (b)
18 of Section 44325 and pursuant to Section 44830.3 and who is
19 further reelected and employed as described in subdivision (a) to
20 continue to be classified as a probationary employee for a fourth
21 year.

22 (2) A certificated employee who is reelected as a probationary
23 employee pursuant to this subdivision or to a second succeeding
24 school year as described in subdivision (a) shall participate in
25 either the California Peer Assistance and Review Program for
26 Teachers established pursuant to Article 4.5 (commencing with
27 Section 44500) of Chapter 3 or a ~~district-designed~~ *district-designed,*
28 *and collectively bargained for, if applicable,* teacher support
29 program established pursuant to Article 4.6 (commencing with
30 Section 44520) of Chapter 3.

31 (3) Notwithstanding any other law, a third- or fourth-year
32 probationary employee ~~has the due process and appeal rights of a~~
33 ~~permanent employee pursuant to Sections 44934 to 44934.2,~~
34 ~~inclusive, and Sections 44944 to 44944.2, inclusive. shall not be~~
35 ~~released or dismissed without cause and may appeal release or~~
36 ~~dismissal to the governing board of the school district.~~

37 (4) During the third and fourth year as a probationary employee,
38 the employee shall be observed by multiple ~~administrators~~
39 *administrators, including an administrator from a schoolsite other*
40 *than the schoolsite at which the employee is on probation, and*

1 teacher peers. Administrators and teacher peers observing the
2 third-year probationary employee shall provide feedback to the
3 governing board of the school district regarding the probationary
4 employee's proficiency with the California Standards for the
5 Teaching Profession, adopted by the Commission on Teacher
6 Credentialing.

7 (5) A third-year probationary employee may be dismissed *for*
8 *cause* or *shall be* retained for a fourth year as a probationary
9 employee after one year of the support program at the discretion
10 of the school district. *program.*

11 (d) (1) Notwithstanding subdivision (c), a certificated employee
12 who had previously been granted permanent status in another
13 school district who has completed service as a district intern
14 pursuant to subdivision (b) of Section 44325 and pursuant to
15 Section 44830.3, and who is further reelected and employed as
16 described in subdivision (a) shall, upon reelection for the next
17 succeeding school year to a position requiring certification
18 qualifications, be classified as and become a permanent employee
19 of the school district.

20 (2) Nothing in this subdivision shall be interpreted to authorize
21 a certificated employee who has not previously been granted
22 permanent status in another school district to gain permanent status
23 without meeting the requirements of subdivision (b) or (c).

24 (e) The governing board of a school district shall notify the
25 certificated employee, on or before March 15 of the certificated
26 employee's third ~~and fourth~~ school year of probationary
27 employment in a position requiring certification qualifications as
28 described in subdivision (b), of the decision to reelect as a
29 permanent employee, reelect as a probationary employee, or not
30 reelect the certificated employee for the next succeeding school
31 year to this type of position. *The governing board of a school*
32 *district shall notify the certificated employee, on or before March*
33 *15 of the certificated employee's fourth school year of probationary*
34 *employment in a position requiring certification qualifications as*
35 *described in subdivision (b), of the decision to reelect as a*
36 *permanent employee or not reelect the certificated employee for*
37 *the next succeeding school year to this type of position.* If the
38 governing board of a school district does not give notice pursuant
39 to this section on or before March 15, a certificated employee shall

1 be deemed reelected as a permanent employee for the next
2 succeeding school year.

3 (f) For purposes of this section, a “highly effective certificated
4 employee” means a certificated employee who, in the view of the
5 governing board of the school district, demonstrates proficiency
6 with the California Standards for the Teaching Profession ~~as or~~
7 *district-developed standards that align with the California*
8 *Standards for the Teaching Profession. Proficiency shall be*
9 demonstrated by an evaluation that conforms with Article 11
10 (commencing with Section 44660) of Chapter 3 designating the
11 certificated employee in the highest category the school district
12 has established pursuant to subdivision (c) of Section 44664.

13 (g) To the extent that this section as amended by Assembly Bill
14 934 of the 2015–16 Regular Session conflicts with a provision of
15 a collective bargaining agreement entered into by a public school
16 employer and an exclusive bargaining representative before January
17 1, 2017, pursuant to Chapter 10.7 (commencing with Section 3540)
18 of Division 4 of Title 1 of the Government Code, the changes made
19 to this section by Assembly Bill 934 of the 2015–16 Regular
20 Session shall not apply until expiration or renewal of that collective
21 bargaining agreement.

22 ~~SEC. 10.~~

23 *SEC. 13.* Section 44901 of the Education Code is amended to
24 read:

25 44901. (a) (1) A certificated employee who has served in a
26 position or positions requiring certification qualifications in two
27 or more school districts, each having an average daily attendance
28 of 250 pupils or more and governed by governing boards of
29 identical personnel, for a total of three complete consecutive school
30 years, upon being elected for the fourth consecutive school year
31 to a position or positions requiring certification qualifications in
32 any of the school districts, shall at the commencement of the fourth
33 consecutive school year be classified as a permanent employee of
34 the last school district in which he or she was employed before his
35 or her election for the fourth consecutive school year.

36 (2) Where there are two or more school districts, each having
37 an average daily attendance of 250 pupils or more and governed
38 by governing boards of identical personnel, a certificated employee
39 who has served in one of the school districts for three complete
40 consecutive school years, upon being elected for the fourth

1 consecutive school year to a position or positions requiring
2 certification qualifications in any of the school districts, shall at
3 the commencement of the fourth consecutive school year be
4 classified as and become a permanent employee of the last school
5 district in which he or she was employed before his or her election
6 for the fourth consecutive school year.

7 (3) This subdivision shall apply only to probationary employees
8 whose probationary period commenced before the 1983–84 fiscal
9 year.

10 (b) (1) A certificated employee who has served in a position
11 or positions requiring certification qualifications in two or more
12 school districts, each having an average daily attendance of 250
13 pupils or more and governed by governing boards of identical
14 personnel, for a total of three complete consecutive school years,
15 upon being elected for the fourth consecutive school year to a
16 position or positions requiring certification qualifications in any
17 of the school districts, shall at the commencement of the fourth
18 consecutive school year be classified as a permanent employee of
19 the last school district in which he or she was employed before his
20 or her election for the fourth consecutive school year.

21 (2) Where there are two or more school districts, each having
22 an average daily attendance of 250 pupils or more and governed
23 by governing boards of identical personnel, a certificated employee
24 who has served in one of the school districts for three complete
25 consecutive school years, upon being elected for the fourth
26 consecutive school year to a position or positions requiring
27 certification qualifications in any of the school districts, shall at
28 the commencement of the fourth consecutive school year be
29 classified as and become a permanent employee of the last school
30 district in which he or she was employed before his or her election
31 for the fourth consecutive school year.

32 (3) The governing board of the school district shall notify the
33 employee, on or before March 15 of the employee's third complete
34 consecutive school year of employment by the school districts in
35 a position or positions requiring certification qualifications, of the
36 decision to reelect or not reelect the employee for the next
37 succeeding school year to such a position. If the governing board
38 of the school district does not give notice pursuant to this section
39 on or before March 15, the employee shall be deemed reelected
40 for the next succeeding school year.

(4) 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.~~

SEC. 14. Section 44929.21 of the Education Code is amended to read:

44929.21. (a) (1) 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 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 shall, at the commencement of the succeeding school year, be classified as and become a permanent employee of the school district.

(2) This subdivision shall apply only to probationary employees whose probationary period commenced before the 1983–84 fiscal year.

(b) A highly effective certificated 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 school district for three complete consecutive school years, 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.

(c) (1) Notwithstanding subdivision (b), the governing board of a school district may require a certificated employee who, after having been employed by the school district for three complete consecutive school years and who is further reelected and employed during the succeeding school year, to continue to be classified as a probationary employee for a fourth year.

(2) A certificated employee who is reelected as a probationary employee pursuant to this subdivision or to a third complete consecutive school year as described in subdivision (b) shall participate in either the California Peer Assistance and Review Program for Teachers established pursuant to Article 4.5 (commencing with Section 44500) of Chapter 3 or a ~~district-designed~~ *district-designed, and collectively bargained for,*

1 *if applicable*, teacher support program established pursuant to
2 Article 4.6 (commencing with Section 44520) of Chapter 3.

3 (3) Notwithstanding any other law, a third- or fourth-year
4 probationary employee ~~has the due process and appeal rights of a~~
5 ~~permanent employee pursuant to Sections 44934 to 44934.2,~~
6 ~~inclusive, and Sections 44944 to 44944.2, inclusive. shall not be~~
7 *released or dismissed without cause and may appeal release or*
8 *dismissal to the governing board of the school district.*

9 (4) During the third and fourth year as a probationary employee,
10 the employee shall be observed by multiple ~~administrators~~
11 *administrators, including an administrator from a school site other*
12 *than the school site at which the employee is on probation*, and
13 teacher peers. Administrators and teacher peers observing the
14 third-year probationary employee shall provide feedback to the
15 governing board of the school district regarding the probationary
16 employee's proficiency with the California Standards for the
17 Teaching Profession, adopted by the Commission on Teacher
18 Credentialing.

19 (5) A third-year probationary employee may be dismissed *for*
20 *cause* or *shall be* retained for a fourth year as a probationary
21 employee after one year of the support program ~~at the discretion~~
22 ~~of the school district. program.~~

23 (d) (1) Notwithstanding subdivision (c), a certificated employee
24 who had previously been granted permanent status in another
25 school district and who is further reelected and employed during
26 the succeeding school year as described in subdivision (b) shall,
27 upon reelection for the next succeeding school year to a position
28 requiring certification qualifications, be classified as and become
29 a permanent employee of the school district.

30 (2) Nothing in this subdivision shall be interpreted to authorize
31 a certificated employee who has not previously been granted
32 permanent status in another school district to gain permanent status
33 without meeting the requirements of subdivision (b) or (c).

34 (e) The governing board of a school district shall notify a
35 certificated employee, on or before March 15 of the certificated
36 employee's third ~~and fourth~~ school year of probationary
37 employment in a position requiring certification qualifications, of
38 the decision to reelect as a permanent employee, reelect as a
39 probationary employee, or not reelect the certificated employee
40 for the next succeeding school year to this type of position. *The*

governing board of a school district shall notify a certificated employee, on or before March 15 of the certificated employee's fourth school year of probationary employment in a position requiring certification qualifications, of the decision to reelect as a permanent employee or not reelect the certificated employee for the next succeeding school year to this type of position. If the governing board of a school district does not give notice pursuant to this section on or before March 15, a certificated employee shall be deemed reelected as a permanent employee for the next succeeding school year.

(f) For purposes of this section, a "highly effective certificated employee" means a certificated employee who, in the view of the governing board of the school district, demonstrates proficiency with the California Standards for the Teaching Profession ~~as or district-developed standards that align with the California Standards for the Teaching Profession~~. Proficiency shall be demonstrated by an evaluation that conforms with Article 11 (commencing with Section 44660) of Chapter 3 designating the certificated employee in the highest category the school district has established pursuant to subdivision (c) of Section 44664.

(g) To the extent that this section as amended by Assembly Bill 934 of the 2015–16 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, 2017, 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 934 of the 2015–16 Regular Session shall not apply until expiration or renewal of that collective bargaining agreement.

(h) Subdivisions (b) to (g), inclusive, shall apply only to probationary employees whose probationary period commenced during the 1983–84 fiscal year or any fiscal year thereafter.

~~SEC. 12.~~

SEC. 15. Section 44929.23 of the Education Code is amended to read:

44929.23. (a) The governing board of a school district of any type or class having an average daily attendance of fewer than 250 pupils may classify as a permanent employee of the school district an employee who, after having been employed by the school district for three complete consecutive school years in a position

1 or positions requiring certification qualifications, is reelected for
2 the next succeeding school year to a position requiring certification
3 qualifications. If that classification is not made, the employee shall
4 not attain permanent status and may be reelected from year to year
5 thereafter without becoming a permanent employee until a change
6 in classification is made.

7 (b) Notwithstanding subdivision (a), Section 44929.21 shall
8 apply to certificated employees employed by a school district, if
9 the governing board of the school district elects to dismiss
10 probationary employees pursuant to Section 44948.2. If that
11 election is made, the governing board of the school district
12 thereafter shall classify as a permanent employee of the school
13 district a probationary employee who, after being employed for
14 three complete consecutive school years in a position or positions
15 requiring certification qualifications, is reelected for the next
16 succeeding school year to a position requiring certification
17 qualifications, unless the governing board of the school district
18 requires the employee to continue to be classified as a probationary
19 employee for a fourth year pursuant to Section 44929.21. A
20 probationary employee who has been employed by the school
21 district for three or more consecutive years on the date of that
22 election in a position or positions requiring certification
23 qualifications shall be classified as a permanent employee of the
24 school district.

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

29 ~~SEC. 13.~~

30 *SEC. 16.* Section 44934 of the Education Code is amended to
31 read:

32 44934. (a) This section shall apply to dismissal or suspension
33 proceedings based on charges as specified in Section 44932 or
34 44933, including proceedings based on charges of egregious
35 misconduct in combination with other charges, except this section
36 shall not apply to dismissal or suspension proceedings based on
37 charges of unsatisfactory performance described in paragraph (5)
38 of subdivision (a) of Section 44932. Section 44934.1 shall apply
39 to dismissal or suspension proceedings based solely on charges of
40 egregious misconduct described in paragraph (1) of subdivision

1 (a) of Section 44932. Section 44934.2 shall apply to dismissal or
2 suspension proceedings based on charges of unsatisfactory
3 performance described in paragraph (5) of subdivision (a) of
4 Section 44932.

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

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

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

34 (e) A notice of the governing board of the school district to an
35 employee of its intention to dismiss or suspend him or her, together
36 with written charges filed or formulated pursuant to this section,
37 shall be sufficient to initiate a hearing under Section 11503 of the
38 Government Code, and the governing board of the school district
39 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 fewer than 250 pupils that has not adopted a collective bargaining agreement pursuant to subdivision (b) of Section 3542.2 of the Government Code except that Section 44934.2, and not this section, shall apply to dismissal or suspension proceedings based on charges of unsatisfactory performance described in paragraph (5) of subdivision (a) of Section 44932.

~~SEC. 14.~~

SEC. 17. Section 44934.2 is added to the Education Code, to read:

44934.2. (a) This section shall apply only to dismissal or suspension proceedings based solely on charges of unsatisfactory performance, as described in paragraph (5) 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 (5) 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 at the expiration of 30 days from the date of service of the notice, unless the employee demands an arbitration hearing pursuant to Section 44944.2.

(c) Any written statement of charges of unsatisfactory performance 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 defense. The written statement of charges 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 unsatisfactory performance.

(d) This section shall also apply to the suspension of probationary employees based solely on charges of unsatisfactory performance, as described in paragraph (5) of subdivision (a) of Section 44932 in a school district with an average daily attendance

1 of fewer than 250 pupils that has not adopted a collective
2 bargaining agreement pursuant to subdivision (b) of Section 3543.2
3 of the Government Code.

4 ~~SEC. 15.~~

5 *SEC. 18.* Section 44937 of the Education Code is amended to
6 read:

7 44937. In a dismissal or suspension proceeding initiated
8 pursuant to Section 44934, 44934.1, or 44934.2, if the certificated
9 employee does not demand a hearing by filing a written request
10 for hearing with the governing board of the school district, he or
11 she may be dismissed or suspended without pay for a specific
12 period of time at the expiration of the 30-day period.

13 ~~SEC. 16.~~

14 *SEC. 19.* Section 44938 of the Education Code is amended to
15 read:

16 44938. (a) The governing board of a school district shall not
17 act upon any charges of unprofessional conduct unless at least 45
18 calendar days before the date of the filing, the governing board of
19 the school district or its authorized representative has given the
20 employee against whom the charge is filed written notice of the
21 unprofessional conduct, specifying the nature thereof with such
22 specific instances of behavior and with such particularity as to
23 furnish the employee an opportunity to correct his or her faults
24 and overcome the grounds for the charge. The written notice shall
25 include the evaluation made pursuant to Article 11 (commencing
26 with Section 44660) of Chapter 3, if applicable to the employee.

27 (b) The governing board of a school district shall not act upon
28 any charges of unsatisfactory performance unless the employee
29 against whom the charge is filed has completed at least one year
30 of the California Peer Assistance and Review Program for Teachers
31 established pursuant to Article 4.5 (commencing with Section
32 44500) of Chapter 3 or a ~~district-designed~~ *district-designed, and*
33 *collectively bargained for, if applicable,* teacher support program
34 established pursuant to Article 4.6 (commencing with Section
35 44520) of Chapter 3 during the previous two years ~~or or, if the~~
36 *school district has established such a program, a one-year*
37 *district-designed administrator support program established*
38 *pursuant to Article 4.7 (commencing with Section 44550) of*
39 *Chapter 3 during the previous year.*

1 (c) (1) “Unsatisfactory performance” as used in this section
2 means, and refers only to, the unsatisfactory performance
3 particularly specified as a cause for dismissal in Section 44932
4 and does not include any other cause for dismissal specified in
5 Section 44932.

6 (2) “Unprofessional conduct” as used in this section means, and
7 refers to, the unprofessional conduct particularly specified as a
8 cause for dismissal or suspension in Sections 44932 and 44933
9 and does not include any other cause for dismissal specified in
10 Section 44932.

11 ~~SEC. 17.~~

12 *SEC. 20.* Section 44943 of the Education Code is amended to
13 read:

14 44943. When any employee who has been served with notice
15 pursuant to Section 44934, 44934.1, or 44934.2 of the governing
16 board of the school district’s intention to dismiss or suspend him
17 or her demands a hearing, the governing board of the school district
18 shall have the option either (a) to rescind its action, or (b) schedule
19 a hearing on the matter.

20 ~~SEC. 18.~~

21 *SEC. 21.* Section 44944.05 of the Education Code is amended
22 to read:

23 44944.05. (a) In a dismissal or suspension proceeding initiated
24 pursuant to Section 44934, in lieu of written discovery required
25 pursuant to Section 11507.6 of the Government Code, the parties
26 shall make disclosures as described in this section. This section
27 does not apply to dismissal or suspension proceedings initiated
28 pursuant to Section 44934.1 or 44934.2.

29 (b) (1) An initial disclosure shall comply with the following
30 requirements:

31 (A) A party shall, without awaiting a discovery request, provide
32 to the other parties both of the following:

33 (i) The name and, if known, the address and telephone number
34 of each individual likely to have discoverable information, along
35 with the subjects of information relating to the allegations made
36 in the charges and the parties’ claims and defenses, unless the use
37 would be solely for impeachment purposes.

38 (ii) A copy of all documents, electronically stored information,
39 and tangible items that the disclosing party has in its possession,
40 custody, or control relating to the allegations made in the charges

1 and the parties' claims or defenses, unless the use would be solely
2 for impeachment.

3 (B) The school district and the employee shall make their initial
4 disclosures within 45 days of the date of the employee's demand
5 for a hearing.

6 (C) A party shall make its initial disclosures based on the
7 information then reasonably available to it. A party is not excused
8 from making its disclosures because it has not fully investigated
9 the case or because it challenges the sufficiency of another party's
10 disclosures. A party's failure to make initial disclosures within the
11 deadlines set forth in this section shall preclude the party from
12 introducing witnesses or evidence not disclosed at the hearing,
13 unless the party shows good cause for its failure to timely disclose.

14 (D) A party has an obligation to promptly supplement its initial
15 disclosures as new information or evidence becomes known or
16 available. Supplemental disclosures shall be made as soon as
17 possible, and no later than 60 days before the date of
18 commencement of the hearing. A party's failure to make
19 supplemental disclosures promptly upon discovery or availability
20 of new information or evidence shall preclude the party from
21 introducing witnesses or evidence not disclosed at the hearing,
22 unless the party shows good cause for its failure to timely disclose.

23 (2) The disclosure of expert testimony shall comply with the
24 following requirements:

25 (A) A party shall also disclose to the other parties the identities
26 of any expert witnesses whose testimony it may use at the hearing.

27 (B) The disclosure specified in subparagraph (A) shall be
28 accompanied by a summary of the witness' expected testimony,
29 including a description of the facts and data considered by the
30 witness; a description of the witness' qualifications, including a
31 list of all publications authored in the previous 10 years; a list of
32 all other cases in which, during the previous four years, the witness
33 testified as an expert at a hearing or by deposition; and a statement
34 of the compensation to be paid to the expert witness.

35 (C) Expert witness disclosures shall be made no later than 60
36 days before the date of commencement of the hearing. A party's
37 failure to make full and timely expert witness disclosures shall
38 preclude the party's use of the expert witness' testimony or
39 evidence at the hearing.

1 (3) Prehearing disclosures shall comply with the following
2 requirements:

3 (A) In addition to the disclosures required in paragraphs (1) and
4 (2), a party shall provide to the other parties the following
5 information about the evidence that it may present at the hearing:

6 (i) The name, and, if not previously provided, the address and
7 telephone number of each witness, separately identifying those
8 the party expects to present and those it may call if the need arises.

9 (ii) An identification of each exhibit, separately identifying
10 those items the party expects to offer and those it may offer if the
11 need arises.

12 (B) Prehearing disclosures shall be made at least 30 days before
13 the hearing.

14 (i) Within 14 days after prehearing disclosures are made, a party
15 shall file and serve any objections, along with the grounds for each
16 objection, to the admissibility of evidence.

17 (ii) These objections shall be decided on the first day of the
18 hearing, or at a prehearing conference conducted pursuant to
19 Section 11511.5 of the Government Code. Documents and
20 individuals not timely disclosed without good cause shall be
21 precluded from admission at the hearing.

22 (c) In addition to the disclosures required by subdivision (a),
23 the parties may obtain discovery by oral deposition in California,
24 in accordance with Sections 2025.010 to 2025.620, inclusive, of
25 the Code of Civil Procedure, except as described in this article.
26 The school district may take the depositions of the employee and
27 no more than four other witnesses, and the employee may take
28 depositions of no more than five witnesses. Each witness deposition
29 is limited to seven hours. An administrative law judge may allow
30 the parties to conduct additional depositions only upon a showing
31 of good cause. If a motion to conduct additional depositions is
32 granted by the administrative law judge, the employee shall be
33 given a meaningful opportunity to respond to new evidence
34 introduced as a result of the additional depositions. An order
35 granting a motion for additional depositions shall not constitute
36 an extraordinary circumstance or good cause for purposes of
37 extending the deadlines set forth in paragraph (1) of subdivision
38 (b) of Section 44944.

39 (d) If the right to disclosures or oral depositions is denied by
40 either the employee or the governing board of a school district,

1 the exclusive right of a party seeking an order compelling
2 production of discovery shall be pursuant to Section 11507.7 of
3 the Government Code. If a party seeks protection from
4 unreasonable or oppressive discovery demands, the exclusive right
5 of a party seeking an order for protection shall be pursuant to
6 Section 11450.30 of the Government Code.

7 ~~SEC. 19.~~

8 *SEC. 22.* Section 44944.2 is added to the Education Code, to
9 read:

10 44944.2. (a) This section shall apply only to dismissal or
11 suspension proceedings initiated pursuant to Section 44934.2.

12 (b) Any permanent certificated employee who has received
13 notice of a school district's intention to suspend or dismiss the
14 certificated employee based on charges of unsatisfactory
15 performance described in paragraph (5) of subdivision (a) of
16 Section 44932 may file a written request for arbitration to the
17 school district within 14 days after receipt of a copy of the written
18 charges by filing a written answer to the charges.

19 (c) (1) Within 14 days of receipt of the request for arbitration,
20 the school district shall schedule a meeting with the certificated
21 employee to identify an arbitrator and set an arbitration date.

22 (2) The meeting shall occur at a location and time mutually
23 convenient for the certificated employee and the school district.
24 The certificated employee shall have the right to appear with a
25 representative of the certificated employee's collective bargaining
26 unit, counsel, or both.

27 (3) At the meeting, the certificated employee and the school
28 district shall agree upon an arbitrator, selected from the list of
29 arbitrators maintained by the American Arbitration Association,
30 and a time and place for an arbitration hearing. The hearing shall
31 be scheduled for no fewer than ~~14~~ 21 days and no more than ~~30~~
32 37 days after the scheduling meeting.

33 (4) *A party shall, without awaiting a discovery request, provide*
34 *to the other parties both of the following:*

35 (A) *The name and, if known, the address and telephone number*
36 *of each individual likely to have discoverable information, along*
37 *with the subjects of information relating to the allegations made*
38 *in the charges and the parties' claims and defenses, unless the use*
39 *would be solely for impeachment purposes.*

1 (B) A copy of all documents, electronically stored information,
2 and tangible items that the disclosing party has in its possession,
3 custody, or control relating to the allegations made in the charges
4 and the parties' claims or defenses, unless the use would be solely
5 for impeachment.

6 (5) The school district and the certificated employee shall make
7 their initial disclosures within 14 days of the date of the scheduled
8 meeting.

9 (6) A party shall make its initial disclosures based on the
10 information then reasonably available to it. A party is not excused
11 from making its disclosures because it has not fully investigated
12 the case or because it challenges the sufficiency of another party's
13 disclosures. A party's failure to make initial disclosures within
14 the deadlines set forth in this section shall preclude the party from
15 introducing witnesses or evidence not disclosed at the hearing,
16 unless the party shows good cause for its failure to timely disclose.

17 (d) (1) At the arbitration hearing, the certificated employee
18 shall have the right to appear with a representative of the
19 certificated employee's collective bargaining unit, counsel, or both.

20 (2) The scope of the arbitration hearing shall be limited to both
21 of the following:

22 (A) The process the school district used in evaluating the
23 certificated employee, including, but not limited to, whether the
24 school district's evaluation conformed with Article 11
25 (commencing with Section 44660) of Chapter 3.

26 ~~(B) The certificated employee's proficiency with the California~~
27 ~~Standards for the Teaching Profession.~~

28 (B) *The charges brought against the certificated employee.*

29 (e) The arbitrator shall issue a decision as to whether or not the
30 certificated employee should be dismissed or suspended within 60
31 days of the arbitration hearing. The decision of the arbitrator shall
32 be ~~binding~~ *binding and not appealable*.

33 (f) (1) If the arbitrator determines that the certificated employee
34 should be dismissed or suspended, the governing board of the
35 school district and the state shall share equally the expenses of the
36 arbitration. The state shall pay the reasonable expenses of the
37 arbitrator, including, but not limited to, payments or obligations
38 incurred for travel, meals, and lodging. The Controller shall pay
39 all claims submitted pursuant to this paragraph from the General
40 Fund, and may prescribe reasonable rules, regulations, and forms

1 for the submission of the claims. The certificated employee and
2 the governing board of the school district shall pay their own
3 attorney's fees.

4 (2) If the arbitrator determines that the certificated employee
5 should not be dismissed or suspended, the governing board of the
6 school district shall pay the expenses of the hearing, including the
7 reasonable expenses of the arbitrator, including, but not limited
8 to, payments or obligations incurred for travel, meals, and lodging
9 and reasonable attorney's fees incurred by the certificated
10 employee.

11 ~~SEC. 20.~~

12 *SEC. 23.* Section 44945 of the Education Code is amended to
13 read:

14 44945. (a) The decision reached in a dismissal or suspension
15 proceeding initiated pursuant to Section 44934 or 44934.1 may,
16 on petition of either the governing board of the school district or
17 the employee, be reviewed by a court of competent jurisdiction in
18 the same manner as a decision made by a hearing officer under
19 Chapter 5 (commencing with Section 11500) of Part 1 of Division
20 3 of Title 2 of the Government Code. The court, on review, shall
21 exercise its independent judgment on the evidence. The proceeding
22 shall be set for hearing at the earliest possible date and shall take
23 precedence over all other cases, except older matters of the same
24 character and matters to which special precedence is given by law.

25 (b) This section shall not apply to a decision reached in a
26 dismissal or suspension proceeding initiated pursuant to Section
27 44934.2.

28 ~~SEC. 21.~~

29 *SEC. 24.* Section 44955 of the Education Code is amended to
30 read:

31 44955. (a) A permanent employee shall not be deprived of his
32 or her position for causes other than those specified in Sections
33 44907 and 44923, and Sections 44932 to 44947, inclusive, and a
34 probationary employee shall not be deprived of his or her position
35 for cause other than as specified in Sections 44948 to 44949,
36 inclusive.

37 (b) (1) If in a school year the average daily attendance in all of
38 the schools of a school district for the first six months that school
39 is in session shall have declined below the corresponding period
40 of either of the previous two school years, if the governing board

1 of the school district determines that attendance in a school district
2 will decline in the following year as a result of the termination of
3 an interdistrict tuition agreement as described in Section 46304,
4 if a particular kind of service is to be reduced or discontinued not
5 later than the beginning of the following school year, or if the
6 amendment of state law requires the modification of curriculum,
7 and if the governing board of the school district determines it
8 necessary by reason of any of these conditions to decrease the
9 number of permanent employees in the school district, the
10 governing board of the school district may terminate the services
11 of not more than a corresponding percentage of the certificated
12 employees of the school district, permanent as well as probationary,
13 at the close of the school year.

14 (2) In computing a decline in average daily attendance for
15 purposes of this section for a newly formed or reorganized school
16 district, each school of the school district shall be deemed to have
17 been a school of the newly formed or reorganized school district
18 for both of the two previous school years.

19 (3) A school district shall not use teacher salary as a factor in
20 determining who is terminated.

21 (4) The governing board of a school district shall terminate
22 certificated employees in the following order:

23 (A) Probationary employees who have received an evaluation
24 of performance ~~below the satisfactory level in the lowest category,~~
25 as established pursuant to subdivision (c) of Section ~~44664. 44664~~
26 *on at least one of the two most recent evaluations.*

27 (B) Permanent employees who have received two consecutive
28 evaluations of performance ~~below the satisfactory level in the~~
29 *lowest category,* as established pursuant to subdivision (c) of
30 Section ~~44664. 44664~~ *on the two most recent evaluations.*

31 (C) Probationary employees who have not received an evaluation
32 of performance ~~below the satisfactory level in the lowest category,~~
33 as established pursuant to subdivision (c) of Section ~~44664. 44664~~
34 *on either of the two most recent evaluations.*

35 (D) Permanent employees who have not received two
36 consecutive evaluations of performance ~~below the satisfactory~~
37 ~~level in the lowest category on the two most recent evaluations,~~
38 *beginning with permanent employees in the lowest category and*
39 *proceeding to permanent employees in the highest category, as*
40 *determined by each permanent employee's highest evaluated*

1 *category on either of the two most recent evaluations, as*
2 *established pursuant to subdivision (c) of Section 44664.*

3 *(E) As between employees in the same designation pursuant to*
4 *subparagraphs (A) to (C), inclusive, or subdesignation pursuant*
5 *to subparagraph (D), the governing board of the school district*
6 *shall determine the order of termination solely on the basis of who*
7 *first rendered paid service to the school district, with the least*
8 *senior employee being dismissed first. As between employees in*
9 *the same designation pursuant to paragraphs (1) to (4), inclusive,*
10 *subparagraphs (A) to (C), inclusive, or subdesignation pursuant*
11 *to subparagraph (D), who first rendered paid service to the school*
12 *district on the same date, and demonstrate equivalent teacher*
13 *effectiveness, the governing board of the school district shall*
14 *determine the order of termination solely on the basis of needs of*
15 *the school district and the pupils of the school district. Upon the*
16 *request of an employee whose order of termination is so*
17 *determined, the governing board of the school district shall furnish*
18 *in writing, no later than five days before the commencement of*
19 *the hearing held in accordance with Section 44949, a statement of*
20 *the specific criteria used in determining the order of termination*
21 *and the application of the criteria in ranking each employee relative*
22 *to the other employees in the group. The requirement that the*
23 *governing board of a school district provide, on request, a written*
24 *statement of reasons for determining the order of termination shall*
25 *not be interpreted to give affected employees any legal right or*
26 *interest that would not exist without the requirement.*

27 *(c) (1) Notice of the termination of services shall be given*
28 *before the 15th of May in the manner prescribed in Section 44949.*
29 *If a permanent or probationary employee is not given notice and*
30 *a right to a hearing as provided for in Section 44949, he or she*
31 *shall be deemed reemployed for the ensuing school year.*

32 *(2) The governing board of a school district shall make*
33 *assignments and reassignments in a manner that employees shall*
34 *be retained to render any service their seniority, qualifications,*
35 *and effectiveness entitle them to render. However, before assigning*
36 *or reassigning a certificated employee to teach a subject that he or*
37 *she has not previously taught, and for which he or she does not*
38 *have a teaching credential or that is not within the employee's*
39 *major area of postsecondary study or the equivalent thereof, the*

governing board of the school district shall require the employee to pass a subject matter competency test in the appropriate subject.

(d) Notwithstanding subdivisions (b) and (c), a school district may deviate from terminating a certificated employee in order described in subdivision (b) for either of the following reasons:

(1) The school district demonstrates a specific need for personnel to teach a specific course or course of study, or to provide services authorized by a services credential with a specialization in either pupil personnel services or health for a school nurse, and that the certificated employee has special training and experience necessary to teach that course or course of study or to provide those services, that others with a higher ranking on the order established pursuant to paragraph (4) of subdivision (b) do not possess.

(2) For purposes of maintaining or achieving compliance with constitutional requirements related to equal protection of the laws.

(e) To the extent that this section as amended by Assembly Bill 934 of the 2015–16 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, 2017, 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 934 of the 2015–16 Regular Session shall not apply until expiration or renewal of that collective bargaining agreement.

SEC. 25. Section 3543.2 of the Government Code is amended to read:

3543.2. (a) (1) The scope of representation shall be limited to matters relating to wages, hours of employment, and other terms and conditions of employment. “Terms and conditions of employment” mean health and welfare benefits as defined by Section 53200, leave, transfer and reassignment policies, safety conditions of employment, class size, procedures to be used for the evaluation of employees, organizational security pursuant to Section 3546, procedures for processing grievances pursuant to Sections 3548.5, 3548.6, 3548.7, and 3548.8, the layoff of probationary certificated school district employees, pursuant to Section 44959.5 of the Education Code, and alternative compensation or benefits for employees adversely affected by pension limitations pursuant to former Section 22316 of the Education Code, as that section read on December 31, 1999, to

1 the extent deemed reasonable and without violating the intent and
2 purposes of Section 415 of the Internal Revenue Code.

3 (2) A public school employer shall give reasonable written
4 notice to the exclusive representative of the public school
5 employer's intent to make any change to matters within the scope
6 of representation of the employees represented by the exclusive
7 representative for purposes of providing the exclusive
8 representative a reasonable amount of time to negotiate with the
9 public school employer regarding the proposed changes.

10 (3) The exclusive representative of certificated personnel has
11 the right to consult on the definition of educational objectives, the
12 determination of the content of courses and curriculum, and the
13 selection of textbooks to the extent those matters are within the
14 discretion of the public school employer under the law.

15 (4) All matters not specifically enumerated are reserved to the
16 public school employer and may not be a subject of meeting and
17 negotiating, except that this section does not limit the right of the
18 public school employer to consult with any employees or employee
19 organization on any matter outside the scope of representation.

20 (b) Notwithstanding Section 44944 of the Education Code, the
21 public school employer and the exclusive representative shall,
22 upon request of either party, meet and negotiate regarding causes
23 and procedures for disciplinary action, other than dismissal,
24 including a suspension of pay for up to 15 days, affecting
25 certificated employees. If the public school employer and the
26 exclusive representative do not reach mutual agreement, Section
27 44944 of the Education Code shall apply.

28 (c) Notwithstanding Section 44955 of the Education Code, the
29 public school employer and the exclusive representative shall,
30 upon request of either party, meet and negotiate regarding
31 procedures and criteria for the layoff of certificated employees for
32 lack of funds. If the public school employer and the exclusive
33 representative do not reach mutual agreement, Section 44955 of
34 the Education Code shall apply.

35 (d) Notwithstanding Section 45028 of the Education Code, the
36 public school employer and the exclusive representative shall,
37 upon request of either party, meet and negotiate regarding the
38 payment of additional compensation based upon criteria other than
39 years of training and years of experience. If the public school

1 employer and the exclusive representative do not reach mutual
2 agreement, Section 45028 of the Education Code shall apply.

3 (e) Pursuant to Section 45028 of the Education Code, the public
4 school employer and the exclusive representative shall, upon the
5 request of either party, meet and negotiate a salary schedule based
6 on criteria other than a uniform allowance for years of training
7 and years of experience. If the public school employer and the
8 exclusive representative do not reach mutual agreement, the
9 provisions of Section 45028 of the Education Code requiring a
10 salary schedule based upon a uniform allowance for years of
11 training and years of experience shall apply. A salary schedule
12 established pursuant to this subdivision shall not result in the
13 reduction of the salary of a teacher.

14 (f) *Notwithstanding Article 4.6 (commencing with Section 44520)*
15 *of Chapter 3 of Part 25 of Division 3 of Title 2 of the Education*
16 *Code, the public school employer and the exclusive representative*
17 *shall, upon request of either party, meet and negotiate regarding*
18 *the creation of a two-year teacher support program. If the public*
19 *school employer and the exclusive representative do not reach*
20 *mutual agreement, Article 4.6 (commencing with Section 44520)*
21 *of Chapter 3 of Part 25 of Division 3 of Title 2 of the Education*
22 *Code shall apply.*

23 ~~SEC. 22.~~

24 SEC. 26. If the Commission on State Mandates determines that
25 this act contains costs mandated by the state, reimbursement to
26 local agencies and school districts for those costs shall be made
27 pursuant to Part 7 (commencing with Section 17500) of Division
28 4 of Title 2 of the Government Code.