

CURRENT LAW VS. AB 215

ISSUE	CURRENT LAW	AB 215
Grounds for dismissal	Sets forth 11 grounds for dismissal, including immoral conduct and unprofessional conduct (as a single ground) and unsatisfactory performance.	<ul style="list-style-type: none"> -Separates immoral and unprofessional conduct into two separate grounds. -Defines egregious misconduct as immoral conduct that is an offense described in EC 44010 (sexual abuse/crimes), EC 44011 (controlled substance crimes) or PC 11165.2-11165.6 (child abuse) -Removes membership in the Communist Party as a ground for dismissal
Appeal process: bifurcation	<ul style="list-style-type: none"> -District required to convene a Commission on Professional Competence (CPC) to hear all types of dismissal appeals -Administrative Law Judge (ALJ) from the Office of Administrative Hearings leads the panel -Each party appoints a member of the CPC 	<ul style="list-style-type: none"> -For egregious misconduct cases, a district may file charges under an expedited process. -Cases of egregious misconduct heard by an ALJ sitting alone -Non-egregious cases heard by a CPC, but qualifications for CPC are changed (see below) and a limited challenge process is codified to ensure timely appointment of panel members
When can an employee be charged?	Summer Moratorium: No dismissal charges may be filed between May 15 and September 15, except for offenses listed in Education Code section 44939 (immoral conduct).	All charges, with the exception of unsatisfactory performance, may be filed at any time during the calendar year. A case that exclusively alleges unsatisfactory performance may be filed at any time during the regular school year of the employee.
Initial filings	Duplicative filings: A school district must file a Statement of Charges and an accusation. An employee must file both a Request for Hearing and a Notice of Defense.	The school district may file a single document listing the charges; the employee may file a single document in response that both requests a hearing and lists the defenses.
When must the hearing begin?	Hearing must commence 60 days after date of request. This deadline is unreasonable and routinely waived by the parties or by OAH because there is no deadline for completion of the hearing.	<ul style="list-style-type: none"> -For egregious misconduct cases, hearing must commence 60 days after date of request; continuances may only extend the date for an additional 30 days total -For non-egregious cases, hearing must commence within 6 months from the date of request. May only be extended upon showing of extraordinary circumstances.
When must the hearing end?	No deadline for completion of hearing. Proceedings can extend for 12, 18 and even 24 months in some cases.	For non-egregious cases, hearing must be completed within 7 months. However, when significant progress has been made at hearing, the judge has the option to grant a continuance upon a showing of good cause and establish a timetable for completion of the hearing.
Discovery rules	Unlimited discovery. Any dispute about discovery may be taken to a Superior Court judge for resolution.	<ul style="list-style-type: none"> -For egregious misconduct cases, no limits on discovery but discovery disputes to be heard by the administrative law judge. -For non-egregious cases, limited discovery process, allowing for a reasonable number of depositions and discovery disputes to be heard by the administrative law judge.

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Contesting unpaid status	Employee may file a writ in Superior Court to object to an unpaid suspension.	-For egregious misconduct cases, the employee may file a writ in Superior Court to object to an unpaid suspension. -For non-egregious cases, AB 215 establishes a limited administrative process to contest the unpaid element of the suspension. The judge determines whether the charges, which are assumed to be true, rise to the level of a suspension without pay. Regardless of the judge's determination regarding unpaid status, the school district retains the right to keep an employee out of the classroom during dismissal proceedings.
Mandatory leave of absence	If a teacher has been criminally charged with homicide, a school district <i>may</i> place that teacher on leave.	If a teacher has been criminally charged with homicide, a school district <i>must</i> place that teacher on leave.
Rules of evidence	Stale evidence prohibited: no evidence that is more than four years old may be submitted or relied upon at hearing. The <i>Atwater</i> case carved out a narrow exception to this rule for situations in which evidence was purposefully hidden; however, this exception is rarely used.	-For egregious misconduct cases, evidence of egregious misconduct that is more than four years old may be admitted and relied upon at hearing. -For non-egregious cases, evidence consisting of charges of child and sexual abuse that are more than four years old may be admitted and relied upon at hearing.
CPC: when convened	A Commission on Professional Competence (CPC) must be convened in all cases.	For non-egregious cases, if both parties agree, they can waive their right to a CPC and proceed with an administrative law judge only.
CPC: qualifications of members	Members of the CPC must have five of the last ten years of experience in the discipline of the employee subject to dismissal.	Members of the CPC must only have three of the last ten years of experience in the discipline of the employee subject to dismissal. "Discipline" is defined as: (A) For K-6, "discipline" means a teaching assignment in any of grades K-6. (B) For an employee with an education specialist or a services credential "discipline" means an assignment that requires an education specialist or a services credential, respectively. (C) For an employee teaching grades 7-12, "discipline" means a teaching assignment in any of grades 7-12, in the same area of study, as that term is used in Section 51220.
CPC: payment for service	Members of the CPC who are retired from teaching receive no compensation for their service on the CPC.	Retired CPC members receive the daily substitute rate of the district party to the litigation for their service.