

RIGHTS OF PROBATIONARY TEACHERS

NON-RENEWAL

Probationary teachers may be given notice of non-renewal effective at the end of the school year or at any time prior to March 15 of the second school year without any required statement of cause or hearing. *Grimsley v. Muroc. JT. Unified School District* (1978) 189 Cal App. 3d 1440, 235 Cal. Rptr. 85. (Ed Code 44929.21)

Negotiation of cause for non-renewal is **NOT** within the scope of bargaining. *Fontana Unified School District* (1988) 297 Cal. Rptr. 761, 201 Cal. App. 3d 1517.

It is possible to challenge probationary teacher non-renewals as unlawful discrimination in retaliation for union activity where the teacher is a known union activist, or on the basis of discrimination on other prohibited grounds, such as age, race, sex or physical handicap.

MID-YEAR DISMISSAL

First and second-year probationary employees may be dismissed during the school year for unsatisfactory performance determined by evaluation or for cause pursuant to Ed Code 44932 (grounds for dismissal of permanent employees).

Second-year probationary employees shall receive 30 days written notice, not later than March 15, containing a statement of reasons and notice of the right to appeal. In a dismissal for unsatisfactory performance, a copy of the evaluation shall be included.

The employee has 15 days to request a hearing. An administrative law judge may conduct the hearing and make a recommended decision, but the board makes the final decision. (Ed Code 44948.3)

REEMPLOYMENT RIGHTS

A probationary teacher laid-off because of a decrease in student attendance or the reduction of a particular kind of service has for 24 months, a preferred right to reappointment if the number of employees is increased or the discontinued service is reestablished, and a right to substitute or temporary service, subject to the prior right to reappointment of permanent employees.

However, the employee must pass a subject matter competency test prior to reappointment to a position not previously taught and outside the employee's credential or major. Reappointment is in order of seniority unless the district demonstrates a specific need for specific courses to be taught or for racial balance.