

SENATE THIRD READING

SB 494 (Cortese)

As Amended July 10, 2025

Majority vote

SUMMARY

Amends existing law by authorizing permanent classified employees of non-merit K-12 school districts (district) and community college districts (CCDs), respectively, to appeal certain disciplinary actions to an impartial party – an administrative law judge (ALJ), among other provisions.

Major Provisions

1) Relating to non-merit districts:

- a) Authorize an employee, excluding a Penal Code Section 830.2 peace officer, who is disciplined, as prescribed, to appeal the disciplinary action to an ALJ – jointly selected by the district and the employee or their employee organization and paid for by the district, unless the district and employee organization have entered into a memorandum of understanding (MOU) providing for an alternative method of appealing disciplinary action.
- b) Require an employee exercising this appeal right to provide written notification to the governing board within 30 days of receiving the initial disciplinary decision.
- c) Provide that if an appeal is requested by the employee: (i) the hearing must be conducted and decision made in accordance with existing law that grants the governing board power; or, (ii) If the district and employee organization have agreed upon an alternative method of appealing the disciplinary action, those procedures must apply, and any decision must be judicially reviewable.
- d) Apply the above-described provisions to classified employees employed by any entity, including a regional occupational center or program, or created or established by one or more districts exercising joint power or otherwise conferred by law upon districts.
- e) Define "administrative law judge," as provided, and "disciplinary action" to mean dismissals and suspensions of classified employees and demotions of nonsupervisory classified employees, but does not include reprimands or warnings whether verbal or written.

2) Relating to non-merit CCDs:

- a) Provide that if an employee, excluding a Penal Code Section 830.2 peace officer, requests a hearing regarding a disciplinary matter: (i) an ALJ – jointly selected by the school district and the employee or their employee organization, and paid for by the CCD – must preside over the hearing and provide a determination as to the outcome of the disciplinary action; or, (ii) if the employee organization and CCD have entered into a MOU providing for an alternative method for the hearing and determination as to the outcome of the disciplinary action, the hearing and determination must be conducted pursuant to procedures agreed to, and any decision must be judicially reviewable.

- b) Applies the above-described provisions to classified employees employed by any entity established by one or more CCDs exercising any joint power, or as conferred by law upon CCDs.
 - c) Define "administrative law judge," and describe "disciplinary action" as to not include verbal or written reprimands or warnings.
- 3) Defer the effectuation of the above-described provisions until the expiration or renewal of a collective bargaining agreement, if these provisions conflict with those in a MOU before January 1, 2026.
 - 4) Require reimbursement to local agencies and school districts for costs, if the Commission on State Mandates determines that this measure contains state-mandated costs.

COMMENTS

Due Process Rights of Public Employees

Generally, due process is a constitutional construction that consists of substantive, i.e., legal, and procedural, i.e., fairness (notice, hearing/opportunity to be heard), rights afforded to individuals (and businesses).¹ In sum, due process provides rights to make legal claims and to be heard in a court of law or other competent adjudicative forum regarding those claims.

Procedural due process also applies to permanent public employees to protect their employment rights, including those relating to discipline. Here, public employees have a right to a notice of disciplinary action, a copy of the materials on which the action is based, and an opportunity for the employee to respond to those charges to an impartial reviewer prior to discipline or termination being imposed. This pre-disciplinary hearing process for public employees is commonly referred to as a "Skelly Hearing" following a seminal judicial decision that involved a public employee surnamed *Skelly* in which the court held that permanent public employee status is a constitutionally protected property interest and because the employee has a protected property right to their job, they cannot be deprived of it without due process. (*Skelly v. State Personnel Bd.* (1975) 15 Cal.3d 194.) Thus, a preliminary hearing must take place prior to the imposition of discipline upon, or termination of, the employee.

Merit vs. Non-merit Systems in California Public Schools

Merit systems derive from the late 19th and early 20th century civil service movement that sought to curtail the "spoils" resulting from political patronage in the system whereby elected political candidates rewarded their supporters with government positions. These systems arose out of a particularly egregious school board decision to discharge over 700 classified employees in the 1930s upon the new board's election.

"Merit systems," also commonly referred to as district "civil service systems" relating to public education in California, are independent of the school or community college district's governing board where the independent and objective personnel commission of a merit system district is responsible for administering the hiring, retention, and discipline of classified school employees

¹ Fifth Amendment (Due Process) and Fourteenth Amendment (Equal Protection), respectively, U.S. Const.

through a statutory framework pursuant to the Education Code. In some K-12 school districts and CCDs, the personnel commission staff are the human resources staff of either the district or campus within the district; whereas, in others, personnel commission staff are independent positions separate from the district. If classified employees elect to have a merit system, the personnel commission is established to oversee and enforce the merit system. In California, there approximately 100 of these systems that currently exist.

This history strongly suggests that the Legislature intended the merit system framework as a means to protect classified employees from local political mistreatment at a time prior to public sector collective bargaining, and in which such systems continue to presently exist. Generally, in the public education employment arena, districts that have not formally adopted the merit system are referred to as “non-merit” districts, and for such districts, employee disciplinary and termination matters are not addressed by an independent and objective personnel commission or disinterested governing body.

This Bill

This bill proposes to provide comparably equitable circumstances regarding disciplinary matters for classified employees in non-merit districts and CCDs compared to those in merit districts.

Please see the respective policy committee analyses for a full discussion of this bill.

According to the Author

"Classified employees are the lifeblood of a school — these employees drive our school buses, prepare and serve meals to children, and carry out essential office functions. They deserve the same due process rights as teachers. [This bill] promotes a more fair and equitable discipline system. Having [ALJs] arbitrate over disciplinary actions will protect the rights and liberties of classified school staff."

Arguments in Support

The California School Employees Association, AFL-CIO states, among other things, that this bill would provide parity because classified employees should not be denied fair appeal rights granted to teachers and most other public employees. This bill would still allow unions and districts to negotiate alternative appeal hearings in their collective bargaining agreements.

In part, the California Federation of Teachers, a union of educators and classified professionals, AFT, AFL-CIO, states that, this bill is necessary because current law requires a neutral third party to settle discipline appeal hearings involving most public sector employees, but classified school employees are not among this group. With this reform, this bill would still allow unions and districts to negotiate alternative appeal hearings in their collective bargaining agreements, but classified employees would finally win fair appeal rights granted to teachers and most other public sector workers.

Arguments in Opposition

A coalition of local education agencies (LEAs) contend that this bill will exacerbate the costs of LEAs throughout the state as the state faces financial uncertainty along with threatened financial reductions from the federal government. Among other things, the coalition contends that the costs and selection process of an ALJ turn the local process "upside down" as an ALJ is determined by the LEA's collective bargaining agreement negotiated at the local level, and this

bill will further add to the delay in timely resolving sensitive personnel matters, including and especially for small and rural LEAs.

In part, the Community College League of California (CCLC) asserts that this bill would lead to significant increases in appeals being filed, multiplying a college's existing costs, regardless of the merits of the case, and express concerns regarding costs to CCDs. The CCLC also states that this bill is contrary to the spirit of local control and removes a layer of authority from locally elected officials and delegates that authority to an unelected entity.

FISCAL COMMENTS

According to the Assembly Committee on Appropriations, this bill would result in ongoing Proposition 98 General Fund costs of an unknown but likely significant amount, potentially in the hundreds of thousands to millions of dollars annually, for non-merit school districts and CCDs (districts) collectively statewide. Annual costs would fluctuate depending upon the number of proceedings required in any given year, however, such hearings typically average in the low tens of thousands of dollars each, with more complex cases ranging significantly higher, up to approximately \$100,000 on an annual basis, and the bill requires districts pay for appeal hearings. These costs also do not include the cost of employee and union attorneys, which districts must pay if they lose. Of the 73 CCDs, all but five are non-merit districts, and of the over 1,000 school districts and county offices of education, all but 88 are non-merit districts.

VOTES

SENATE FLOOR: 27-10-3

YES: Archuleta, Arreguin, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Cortese, Durazo, Gonzalez, Grayson, Laird, Limón, McGuire, McNerney, Menjivar, Padilla, Pérez, Richardson, Rubio, Smallwood-Cuevas, Stern, Umberg, Wahab, Weber Pierson, Wiener

NO: Alvarado-Gil, Choi, Dahle, Grove, Jones, Niello, Ochoa Bogh, Seyarto, Strickland, Valladares

ABS, ABST OR NV: Allen, Hurtado, Reyes

ASM PUBLIC EMPLOYMENT AND RETIREMENT: 5-0-2

YES: McKinnor, Boerner, Elhawary, Garcia, Nguyen

ABS, ABST OR NV: Lackey, Alanis

ASM HIGHER EDUCATION: 6-3-1

YES: Fong, Boerner, Jackson, Muratsuchi, Celeste Rodriguez, Sharp-Collins

NO: DeMaio, Jeff Gonzalez, Tangipa

ABS, ABST OR NV: Patel

ASM APPROPRIATIONS: 11-3-1

YES: Wicks, Arambula, Calderon, Caloza, Elhawary, Fong, Mark González, Ahrens, Pacheco, Pellerin, Solache

NO: Sanchez, Dixon, Tangipa

ABS, ABST OR NV: Ta

UPDATED

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