

Proposition 74

LEGISLATIVE ANALYST'S OFFICE

Presented To:
Assembly Education Committee and
Senate Education Committee





Major Proposition 74 Provisions

- Probationary Period Lengthened.*** The proposition extends the probationary period for new certificated school district employees from two to five years.

- Dismissal Process Modified.*** If a permanent certificated employee receives two consecutive unsatisfactory performance evaluations, the proposition allows a school board to dismiss the employee without having to:
 - Provide the 90-day period currently allotted to employees to allow them to improve their performance.
 - Provide as much initial documentation identifying specific instances of unsatisfactory performance (beyond that included in the evaluations themselves).



Putting Proposition 74 in Context

- ☑ For most of the twentieth century (from 1927 through 1982), California had a three-year probationary period. During this period, probationary employees had greater legal rights than currently to challenge dismissal decisions.

- ☑ In 1983, the state's probationary period was shortened from three to two years. In addition, certain legal protections then afforded to probationary employees were removed. These policies remain in effect today. (The table on the following page compares California's current probationary period with that of other states.)

- ☑ Since 1976, school districts have been required to evaluate probationary employees at least once every year and permanent employees at least once every two years. Permanent employees who receive an unsatisfactory evaluation must be evaluated every year until they receive a positive evaluation or are dismissed.



Putting Proposition 74 in Context *(Continued)*

Length of States' Probationary Period for K-12 Teachers						
One Year	Two Years	Three Years			Four Years	Five Years
Connecticut North Dakota South Carolina	California Illinois Maine Maryland Mississippi Nevada New Hampshire Vermont Washington	Alaska Alabama Arizona Arkansas Colorado Delaware Florida Georgia Hawaii Idaho Iowa	Kansas Louisiana Massachusetts Minnesota Montana Nebraska New Jersey New Mexico New York Ohio Oklahoma	Oregon Pennsylvania Rhode Island South Dakota Tennessee Texas Utah Virginia West Virginia Wisconsin Wyoming	Kentucky Michigan North Carolina	Indiana Missouri



Net Effect of Proposition 74

- Although how school districts would respond to the proposition's provisions is unknown, the longer probationary period and modified dismissal process could:
 - Reduce turnover among beginning teachers by allowing more time for school districts to assess them.
 - Increase turnover among veteran teachers by dismissing ones whom school districts deem unsatisfactory.
 - Increase both beginning and veteran teachers' job insecurity.
 - Place greater focus on and increase the stakes of the evaluation process.
- The net effect on school districts' costs for teacher compensation, teacher recruitment and training, performance evaluations, and administrative and legal activities is unknown.
- The impact could vary significantly across school districts depending largely on their future personnel and evaluation decisions.



Examining the Likely Effects of Proposed Changes to Probationary Period

- School districts would have more time to assess beginning teachers before deciding whether to grant them permanent status. This could:
 - Allow initially struggling teachers more time to receive additional on-the-job training and demonstrate their potential for improvement and subsequent success. Under current law, school districts have an incentive to dismiss these types of beginning teachers before the end of their second year.
 - Allow school districts time to shift beginning teachers from one school site to another if they seem merely to have a personality conflict with a principal. Under current law, school districts typically do not have time to reassign teachers to and evaluate them at a new school site.
 - Increase job insecurity in teachers' first five years.
- From a fiscal perspective, school districts could:
 - Incur higher salary costs by retaining initially struggling teachers for up to five years rather than replacing them after their first or second year with new entry-level teachers.
 - Incur higher assessment costs as a result of conducting up to two additional performance evaluations.
 - Experience greater compensation costs if teacher supply constricted due to perceptions of greater job insecurity.



Examining the Likely Effects of Proposed Changes to Dismissal Process

- If teachers received two consecutive unsatisfactory performance evaluations, school districts that wanted to dismiss them would have two procedural requirements waived. This could:
 - Make the evaluation process more rigorous and higher stakes.
 - Result in school districts initiating more dismissals of permanent teachers.
 - Increase job insecurity of veteran teachers.
- From a fiscal perspective, the impact of a modified dismissal process is unknown. School districts could:
 - Incur higher assessment costs if the evaluation process becomes more elaborate as well as higher collective bargaining costs (to establish evaluation standards/procedures, define unsatisfactory performance, and address grievances of evaluation findings).
 - Achieve salary savings by replacing higher salaried veteran teachers with lower salaried, less experienced teachers.
 - Incur additional training costs to the extent teacher turnover increased.
 - Experience greater compensation costs if teacher supply constricted due to perceptions of greater job insecurity.
 - Undergo some change in their administrative and legal costs. Costs associated with compiling required documentation might decrease but hearing and appeal costs might increase.



Appendix—Dismissal Process for Permanent Certificated School Employees

1. In cases in which unsatisfactory performance is cited as the cause of dismissal, a school district must give teachers written notice and provide them 90 calendar days to correct their faults.
2. School district formulates and files written dismissal charges, and local governing board determines by majority vote if dismissal is appropriate. If it proceeds, board then adopts the official charges and a resolution of its intent to dismiss employee.
3. Local governing board provides employee with written notice, accompanied with any official charges, that he/she will be dismissed in 30 days unless a hearing is requested. Notice may not be given between May 15 and September 15.
4. If employee requests hearing within this 30-day period, governing board must reconvene to decide whether to proceed. If it proceeds, it must serve the employee with an accusation as set forth in the Administrative Procedure Act (APA).
5. If employee makes a second demand for a hearing, the hearing is scheduled with the Office of Administrative Hearings. The hearing is to commence within 60 days.
6. Hearing is held before a Commission on Professional Competence comprised of: (a) an administrative law judge, (b) a member selected by the board, and (c) a member selected by the employee.
7. The district and/or employee can initiate and undertake a legal discovery process, and the review panel conducts a full evidentiary hearing in accordance with the APA.
8. The commission issues a written decision by majority vote. (In cases of unsatisfactory performance, the decision is limited to dismissal or reinstatement.) Either party may appeal the decision.
9. If appealed, the case is heard by the Superior Court. Either party may appeal this decision.
10. If further appealed, the case is heard by the Court of Appeal.