# ARTICLE XX

# PROCEDURES TO IMPLEMENT EDUCATION CODE SECTION 44948.3

**MOVE TO ARTICLE VII DISCIPLINE**

With respect to probationary employees ~~whose probationary period commenced during the 1983-84 fiscal year or any fiscal year thereafter,~~ the following provisions shall apply:

A. The parties acknowledge that such probationary employees may be dismissed ~~or suspended~~ during the school year without pay for a specified period of time under Education Code Section 44948.3. The reason that is sufficient to dismiss or suspend during the school year without pay such probationary employees is:

1) Unsatisfactory performance determined pursuant to the Stull Act (Education Code Sections 44660, et seq.).

2) Cause as defined in Education Code Section 44932.

B. ~~The Superintendent or designee shall give thirty (30) days’ prior written notice of dismissal or suspension without pay not later than March 15 in the case of dismissal of second-year probationary employees. The notice shall include a statement of the reasons for the dismissal or suspension and notice of the opportunity to appeal request a hearing. In the event of a dismissal or suspension for unsatisfactory performance, a copy of the evaluation conducted pursuant to Education Code Section 44664 shall accompany the written notice.~~

~~C. If the notice of dismissal or suspension is given, the employee shall have fifteen (15) days from receipt of the notice of dismissal or suspension to submit to the Board of Education governing board a written request for a hearing. the District shall pay medical benefits for the employee pursuant to current practice for one year beyond the last date of employment or until the employee is employed by an employer granting similar medical benefits, whichever is a shorter period of time, or at the employee's option, a sum equivalent to twelve (12) months of medical benefits in a severance pay stipend.~~

~~D. Within fifteen (15) days of receipt of the request for hearing, the Superintendent or designee shall governing board may establish procedures for the appointment of an select a neutral administrative law judge who shall to conduct the hearing and submit a recommended decision to the board. Board of Education. The neutral administrative law judge may not be an employee of the District. The failure of an employee to request a hearing within 15 days from receipt of a dismissal notice shall constitute a waiver of the right to a hearing. If an employee does not request a hearing within fifteen (15) days and signs a settlement agreement with the District the employee shall not seek any legal remedy against the District. If the employee, or the Association if it represents the employee, objects to the neutral administrative law judge selected by the Superintendent or designee, such objection must be communicated in writing to the Superintendent or designee within three (3) days of receipt by the employee of the identity of the selected neutral administrative law judge. If the employee timely objects to the neutral administrative law judge selected by the Superintendent, a neutral administrative law judge shall be selected by the parties from the American Arbitration Association pursuant to its Voluntary Labor Arbitration Rules. The recommendation of the neutral administrative law judge shall be advisory only.~~

~~E. At the hearing, the employee shall have the right to cross-examine District witnesses, to present relevant written and oral evidence and argument on his or her behalf, and to be represented by the Association or other representative. The neutral administrative law judge shall have authority to rule on questions of evidence and procedure, consistent with this provision. The employee shall be given at least ten days written notice of the date, time and location of the hearing.~~

~~F. The cost of the administrative law judge shall be paid for by the District~~