

LOS ANGELES CITY SCHOOLS

TO: New Employees
FROM: Personnel Division
SUBJECT: DILWORTH ACT, COMMENCING WITH SECTION 12951 OF CALIFORNIA EDUCATION CODE,
RELATING TO COMMUNIST PARTY MEMBERSHIP

In conformance with our policy of supplying every employee with direct information concerning matters affecting employment in the school system, attention is called to the following California Statute, relating to School District employees and forbidding their membership in the Communist Party.

THE DILWORTH ACT
Chapter 1632 -- Statutes 1953
as amended by Chapter 1610, Statutes 1955
as amended by Chapter 2, Statutes 1959
and contained in 1959 Education Code

DIVISION 10, CHAPTER 1, ARTICLE 2 OF THE EDUCATION CODE. PROHIBITION OF COMMUNIST PARTY MEMBERSHIP

12951. The Legislature of the State of California finds that:

(a) There exists a world-wide revolutionary movement to establish a totalitarian dictatorship based upon force and power rather than upon law.

(b) This world-wide revolutionary movement is predicated upon and it is designed and intended to carry into execution the basic precepts of communism as expounded by Marx, Lenin, and Stalin.

(c) Pursuant to the objectives of the world communism movement, in numerous foreign countries the legally constituted governments have been overthrown and totalitarian dictatorships established therein against the will of the people, and the establishment of similar dictatorships in other countries is imminently threatening. The successful establishment of totalitarian dictatorships has consistently been aided, accompanied, or accomplished by repeated acts of treachery, deceit, teaching of false doctrines, teaching untruth, together with organized confusion, insubordination, and disloyalty, fostered, directed, instigated, or employed by communist organizations and their members in such countries.

(d) Within the boundaries of the State of California there are active disciplined communist organizations presently functioning for the primary purpose of advancing the objectives of the world communism movement, which organizations promulgate, advocate, and adhere to the precepts and the principles and doctrines of the world communism movement. These communist organizations are characterized by identification of their programs, policies, and objectives with those of the world communism movement, and they regularly and consistently cooperate with and endeavor to carry into execution programs, policies, and objectives substantially identical to programs, policies, and objectives of such world communism movement.

(e) One of the objectives of the world communism movement is to place its members in local government positions and in the Public School System. If this objective is successful, propaganda can be disseminated by the members of these organizations among public school pupils by those members who would have the opportunity to teach them and to whom, as teachers, they would look for guidance, authority, and leadership. The members of such groups would use their positions to advocate and teach their doctrines and teach the prescribed Communist Party line group dogma or doctrine without regard to truth or free inquiry. This type of propaganda is sufficiently subtle to escape detection in the classroom

There is a clear and present danger, which the Legislature of the State of California finds is great and imminent, that in order to advance the program, policies and objectives of the

world communism movement, communist organizations in the State of California and their members will engage in concerted effort to hamper, restrict, interfere with, impede, or nullify the efforts of the governing boards of school districts to comply with and enforce Section 8455 of the Education Code of the State of California which prohibits the advocacy or teaching of communism with the intent to indoctrinate any pupil with or inculcate a preference in the mind of any pupil for communism for the purpose of undermining the patriotism for and the belief in the Government of the United States and of the State of California in the minds of the pupils of the Public School System.

The Legislature specifically finds that the requirement that all persons (certificated or noncertificated) now employed by the school districts of this State, or hereafter making application for employment by any of such districts, shall declare under oath that they are not knowingly members of the Communist Party, is a reasonable measure to meet the clear and present danger hereinabove found.

The Legislature further specifically finds that an indirect or evasive answer to a question relating to any of the matters specified in Section 12955 or 12956, or an answer which neither affirms nor denies shall, for the purpose of this act and chapter, be considered as a failure and refusal to answer, regardless of the ground or explanation given for any such answer.

12952. No person who is knowingly a member of the Communist Party shall after September 9, 1953, be employed by, or, except as provided in Section 12953, retained in the employment of, any school district. Prior to the first day of service as an employee of any school district, the applicant shall state under oath whether or not he is knowingly a member of the Communist Party. If the applicant states that he is knowingly a member of the Communist Party, he shall not become an employee of any school district.

12953. Any employee of any school district who on September 9, 1953, is or since October 3, 1945, was knowingly a member of the Communist Party, and who has not previously filed the statement required by this section, shall within ninety (90) days of the effective date of the amendment of this section made at the 1955 Regular Session of the Legislature, filed with the governing board of the school district employing him a verified statement that he is no longer a member of the Communist Party and that such membership has been terminated in good faith. Any such employee who fails to file such a statement within the time specified shall be guilty of insubordination and guilty of violating this section and shall be suspended and dismissed from his employment in the manner provided by law.

12954. Any employee of any school district who after September 9, 1953, knowingly becomes a member of the Communist Party shall be guilty of insubordination and guilty of violating this section and shall be suspended and dismissed from his employment in the manner provided by law.

12955. It shall be the duty of any employee of any school district who may be subpoenaed by the United States Congressional Un-American Activities Committee or a subcommittee thereof or a California Legislative Un-American Activities Committee or a subcommittee thereof or any other committee or subcommittee of the United States Congress or the California Legislature or of either house of either thereof to appear before said committee or subcommittee and specifically to answer

under oath a question or questions propounded by any member or counsel of the committee or subcommittee relating to:

(a) Present personal advocacy by the employee of the forceful or violent overthrow of the Government of the United States or of any state or political subdivision.

(b) Present knowing membership in any organization which, to the knowledge of such employee, advocates the forceful or violent overthrow of the Government of the United States or of any state or political subdivision.

(c) Past knowing membership at any time since October 3, 1945, in any organization which, to the knowledge of such employee, during the time of the employee's membership advocated the forceful or violent overthrow of the Government of the United States or of any state or political subdivision.

(d) Past knowing membership of such employee in the Communist Party at any time since October 3, 1945.

(e) Present knowing membership of such employee in the Communist Party.

(f) Present personal advocacy by the employee of the support of a foreign government against the United States in the event of hostilities.

Any employee who fails or refuses to answer under oath on any ground whatsoever any such question propounded by any member or counsel of any such committee or subcommittee shall be guilty of insubordination and guilty of violating this section and shall be suspended and dismissed from his employment in the manner provided by law.

12956. It shall be the duty of any employee of any school district who is ordered to appear before the governing board of the employing school district to appear and specifically to answer under oath a question or questions propounded by a member or counsel of the governing board or by the superintendent of schools relating to any of the matters specified in Section 12955.

Any employee who fails or refuses to appear or to answer under oath on any ground whatsoever any such question propounded by a member or counsel of the governing board or by the superintendent of schools shall be guilty of insubordination and guilty of violating this section and shall be suspended and dismissed from his employment in the manner provided by law.

12957. It shall be sufficient cause for the suspension and dismissal, in the manner provided by law, of any employee of a school district when such employee is knowingly a member of the Communist Party.

12958. Any certificated employee of a school district who violates any of the provisions of Sections 12952 to 12957, inclusive, of this code shall be guilty of unprofessional conduct and shall be suspended and dismissed in the manner provided by law.

1959 EDUCATION CODE SECTIONS 13403, 13408 13741 AS CONTAINED IN CHAPTER 2, STATUTES 1959

13403. No permanent employee shall be dismissed except for one or more of the following causes:

(a) Immoral or unprofessional conduct.

(b) Commission, aiding, or advocating the commission of acts of criminal syndicalism, as prohibited by Chapter 188, Statutes of 1919, or in any amendment thereof.

(c) Dishonesty.

(d) Incompetency.

(e) Evident unfitness for service.

(f) Physical or mental condition unfitting him to instruct or associate with children.

(g) Persistent violation of or refusal to obey the school laws of the State or reasonable regulations prescribed for the government of the public schools by the State Board of Education or by the governing board of the school district employing him.

(h) Conviction of a felony or of any crime involving moral turpitude.

(i) Violation of Section 8455 of this code or conduct specified in Section 1028 of the Government Code, added by Chapter 1418 of the Statutes of 1947.

(j) Violation of any provision in Section 12952 to 12958, inclusive, of this code.

(k) Knowing membership by the employee in the Communist Party.

13408. Upon the filing of written charges, duly signed and verified by the person filing them with the governing board of a school district, or upon a written statement of charges formulated by the governing board, charging a permanent employee of the district with immoral conduct, conviction of a felony or of any crime involving moral turpitude, with incompetency due to mental disability, with violation of Section 8455 of this code, with knowing membership by the employee in the Communist Party or with violation of any provision in Sections 12952 to 12958, inclusive, of this code, the governing board may, if it deems such action necessary, immediately suspend the employee from his duties and give notice to him of his suspension, and that 30 days after service of the notice, he will be dismissed, unless he demands a hearing.

If the permanent employee is suspended upon charges of knowing membership by the employee in the Communist Party or for any violation of Section 8455, 12952, 12953, 12954, 12957 or 12958 of this code, he may within 10 days after service upon him of notice of such suspension file with the governing board a verified denial, in writing, of the charges. In such event the permanent employee who demands a hearing within the 30-day period shall continue to be paid his regular salary during the period of suspension and until the entry of the superior court judgment, if and during such time as he furnishes to the school district a suitable bond, or other security acceptable to the governing board, as a guarantee that the employee will repay to the school district the amount of salary so paid to him during the period of suspension in case the superior court judgment is that he may be dismissed. If the judgment determines that the employee may not be dismissed, the school district shall reimburse the employee for the cost of the bond.

13741. In addition to any causes for suspension or dismissal which are designated by rule of the commission, employees in the classified service shall be suspended and dismissed in the manner provided by law for any one or more of the following causes:

(a) Knowing membership by the employee in the Communist Party.

(b) Violation of any provision in Sections 12952 to 12957, inclusive, of this code.

(c) Conduct specified in Section 1028 of the Government Code, added by Chapter 1418 of the Statutes of 1947.

PURPOSE OF ACT

The purpose of this act is to declare a state policy and provide a uniform procedure applicable to all school districts whereby members of school district governing boards shall suspend and dismiss or refuse to employ persons who are knowingly members of the Communist Party and shall suspend and dismiss employees who fail or refuse to answer the pertinent questions specified in this act. Nothing in this act is intended or shall be construed to limit or restrict the rule-making power of governing boards of school districts. Any rule, regulation or order heretofore adopted on this subject by any such governing board is hereby validated and declared to be fully and completely effective to the extent it is consistent with this act and any such rule, regulation or order shall only be superseded by this act to the extent inconsistent with this act.

EFFECT OF INVALID PROVISION

If any provision of this act, or the application thereof to any person or circumstance, is held invalid, the remainder of this act, or the application of such provision to other persons or circumstances, shall not be affected thereby.