

Measure W430

INSTRUCTIONS:

Please carefully read the following description of a ballot measure that was written by a disinterested expert. Feel free to take notes or outline passages as you read.

This should take you approximately 5 minutes.

BALLOT MEASURE W430

BACKGROUND

Current law designates school district employees as either "certificated" or "classified". Certificated employees are teachers, counselors, administrators, and certain types of teacher aides. Classified employees include janitors, cafeteria workers, clerical employees, and most teacher aides. Both certificated and classified school employees may be dismissed for reasons set forth in state law.

Certificated employees may be dismissed for incompetency, insubordination, unfitness of service, immoral or unprofessional conduct, and conviction of a felony. The law does not specifically list homosexual behavior as a reason for dismissal. However, existing law provides for dismissal in cases where such behavior has led to (1) a felony conviction for crimes such as solicitation, sodomy or perversion, or (2) proven immoral conduct which results in a reduction of the employee's ability to perform effectively.

The law provides that a certificated employee charged with immoral conduct may be dismissed by a majority vote of the district school board following 30 days' notice. If the employee requests a hearing within this period a special commission called the Commission on Professional Competence is directed to hear the dismissal charges. This commission consists of (a) a person appointed by the employee, (b) a person appointed by the district school board, and (c) a state administrative hearing officer. The commission may uphold either the school board or the employee by a majority vote.

PROPOSAL

This proposition applies to all "certificated" employees and teacher aides, and would revise existing law as follows:

1. A district school board would be required to dismiss, or refuse to hire, any person who has engaged in homosexual activity or conduct if the board believes such activity renders the person unfit for service.

The proposition defines homosexual activity as the public or indiscreet commission of an act of sodomy or perversion (Penal Code Sections 286, 299a).

Homosexual conduct is defined as the "advocating, soliciting, imposing, encouraging or promoting private or public homosexual activity directed at, or likely to come to the attention of school children' and/or other employees." It is not clear how far the proposition's definition of homosexual conduct would extend current law. This would depend on how broadly or narrowly the "advocacy" or "promotion" of homosexual behavior is interpreted by school boards and the courts.

2. The district school board, rather than the Commission on Professional Competence, would hear the charges and could dismiss the employee by a majority vote of its members. Any judgment by the school board could be appealed to the courts.



STOP!

Please go to the online survey, enter the 4-character code for this ballot measure (printed at the top and bottom of this page) and answer the survey questions.