

SB 874 (Cortese)

Merit System Promotion Probation Parity

PURPOSE

To provide classified employees of merit K-12 and California Community College (CCC) districts the same clarity that is provided to classified employees in nonmerit districts regarding their right to return to their prior classification if they are promoted and fail to complete probation for the new position.

BACKGROUND

There are 90 K-12 and CCC districts under the merit system in California. The merit system is a civil-service system intended to ensure fairness in the hiring, retention, and promotion of school employees.

All classified employees, whether they are employed by a merit or nonmerit district, are considered permanent after completing an initial probation period. The rights of permanent employees include disciplinary due process and just cause for any adverse action. Probationary employees, however, can be released at any time without cause.

If a permanent employee changes positions, they may be required to complete an additional probationary period, especially if the change is considered promotional. The nonmerit statutes make clear that if an employee does not pass probation for a promotional position, the employee has the right to return to their previous classification. However, the corresponding sections for merit districts are silent on promotional probation procedures.

Although many merit districts assume that promoted classified employees retain due process rights, some employers believe they are permitted to terminate promoted employees during probation and do so.

THIS BILL

SB 874 would clarify that if a classified employee of a merit district is promoted but does not pass probation for that position, they return to their previous classification. This bill would provide parity for merit district employees by adding existing language from the nonmerit statutes.

NEED FOR THE BILL

Despite consistency among all Education Code sections defining permanent status of classified employees, some managers in merit districts believe the absence of promotional probation procedures in the code allows them to terminate permanent employees without cause.

As a result, without the clarity provided in the nonmerit statutes, qualified employees in merit districts may not seek promotions out of fear of losing their jobs.

Schools are experiencing severe staffing shortages, and qualified employees should be encouraged to promote, which opens entry-level positions. SB 874 would encourage classified employees in merit districts to seek promotions by clarifying that the promotional probationary period will not cost them their livelihoods.

SUPPORT

- California School Employees Association (sponsor)
- California Labor Federation
- Service Employees International Union (SEIU) State Council
- American Federation of State, County and Municipal Employees, AFL-CIO
- Generation Up, Inc.

KEY CONTACTS

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