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CONCEPTS AND ROLES

The Governing Board recognizes that the success of district students and programs hinges on effective personnel. The Governing Board desires to establish safe and supportive working conditions that will attract and retain staff members who are highly qualified and dedicated to the education and welfare of students. The district's personnel policies and related regulations shall be designed to ensure a supportive, positive climate and shall be consistent with collective bargaining agreements and in conformance with state and federal law and regulations.

As the legal representative of the district in negotiations with employee representatives, the Governing Board shall set goals and guidelines for collective bargaining, select the bargaining team, maintain communications during the bargaining process, and adopt the negotiated contract. Terms and conditions of employment which have been negotiated and stated in employee contracts shall have the force of policy. The Governing Board shall hear employee complaints and appeals when such hearings are in accordance with Governing Board policy or negotiated agreements. The Governing Board shall also adopt wage and salary schedules and shall commit budget funds for staff development so that staff members may continue developing their skills.

(cf. 4131 - Staff Development)
(cf. 4141/4241 - Collective Bargaining Agreement)
(cf. 4143/4243 - Negotiations/Consultation)
(cf. 4144/4244/4344 - Complaints)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)
(cf. 9000 - Role of the Board)

The Superintendent has primary responsibility for overseeing the district's personnel system, which includes the merit system for classified personnel. To support this effort, the Governing Board shall approve a framework for sound hiring practices. The Superintendent shall nominate all personnel for employment, and the Governing Board shall approve only those persons so recommended. Individuals who approach Governing Board members regarding prospective employment shall be referred to the Superintendent or designee. The Governing Board embraces the principle of the merit system which is designed to ensure that employees are selected, promoted and retained without favoritism or prejudice, on the basis of merit and fitness.

(cf. 4030 - Nondiscrimination in Employment)
(cf. 4111 - Recruitment and Selection)
(cf. 4211 - Recruitment and Selection)
(cf. 4311 - Recruitment and Selection)

The Superintendent or designee shall assign and supervise the work of all employees and shall evaluate their work in accordance with effective accountability systems approved by the Governing Board. The Superintendent or designee also shall recommend disciplinary action which the Governing Board may take against employees when warranted pursuant to Governing Board policy, administrative regulations and/or state or federal law.

CONCEPTS AND ROLES (continued)

(cf. 4115 - Evaluation/Supervision)

(cf. 4118 - Suspension/Disciplinary Action)

(cf. 4215 - Evaluation/Supervision)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

(cf. 4315 - Evaluation/Supervision)

The Governing Board recognizes that every employee has a stake in the district's successful operation. The Governing Board encourages all district employees to express their ideas, concerns and proposals related to the improvement of working conditions and the total educational program. The Superintendent or designee shall establish procedures whereby he/she will receive and consider employee suggestions and submit them, when appropriate, for consideration by the Governing Board.

Legal Reference:

EDUCATION CODE

35020 Duties of employees fixed by governing board

35035 Powers and duties of superintendent

35160 Powers of governing board

GOVERNMENT CODE

3540-3549.3 Public education employer-employee relations

DRUG AND ALCOHOL-FREE WORKPLACE

The Governing Board believes that the maintenance of drug- and alcohol-free workplaces is essential to staff and student safety and to help ensure a productive and safe work and learning environment.

No employee shall unlawfully manufacture, distribute, dispense, possess, use or be under the influence of any alcoholic beverage, drug or controlled substance as defined in 21 USC 81 at any school district workplace. These prohibitions apply before, during and after school hours. A school district workplace is any place where school district work is performed, any school-owned or school-approved vehicle used to transport students to and from school or school activities; any off-school sites when accommodating a school-sponsored or school-approved activity or function where students are under district jurisdiction; or during any period of time when an employee is supervising students on behalf of the district or otherwise engaged in district business. Under the influence means that the employee's capabilities are adversely or negatively affected, impaired, or diminished to an extent that impacts the employee's ability to safely and effectively perform his/her job.

(cf. 4112.41/4212.41/4312.41 - Employee Drug Testing)

(cf. 4112.42/4212.42/4312.42 - Drug and Alcohol Testing for School Bus Drivers)

The Superintendent or designee shall notify employees of the district's prohibition against drug use and the actions that will be taken for violation of such prohibition. (Government Code 8355; 41 USC 701)

An employee shall abide by the terms of this policy and notify the district, within five days, of any criminal drug or alcohol statute conviction which he/she receives for a violation occurring in the workplace. (41 USC 702)

The Superintendent or designee shall notify the appropriate federal granting or contracting agencies within 10 days after receiving notification, from an employee or otherwise, of any conviction for a violation occurring in the workplace. (41 USC 701)

The Governing Board may not employ or retain in employment persons convicted of a controlled substance offense as defined in Education Code 44011. If any such conviction is reversed and the person acquitted in a new trial or the charges dismissed, his/her employment is no longer prohibited. A plea or verdict of guilty, a finding of guilt by a court in a trial without a jury, or a conviction following a plea of nolo contendere shall be deemed to be a conviction. (Education Code 44836, 45123)

(cf. 4112 - Appointment and Conditions of Employment)

(cf. 4212 - Appointment and Conditions of Employment)

DRUG AND ALCOHOL-FREE WORKPLACE (continued)

In accordance with law and the district's collective bargaining agreements, the Superintendent or designee shall take appropriate disciplinary action, up to and including termination, against an employee for violating the terms of this policy and/or shall require the employee to satisfactorily participate in and complete a drug assistance or rehabilitation program approved by a federal, state, or local public health or law enforcement agency or other appropriate agency.

(cf. 4117.4 - Dismissal)

(cf. 4118 - Suspension/Disciplinary Action)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

The Superintendent or designee shall establish a drug- and alcohol-free awareness program to inform employees about: (Government Code 8355)

1. The dangers of drug and alcohol abuse in the workplace
2. The district policy of maintaining drug- and alcohol-free workplaces
3. Any available drug and alcohol counseling, rehabilitation, and employee assistance programs

(cf. 4159/4259/4359 - Employee Assistance Programs)

4. The penalties that may be imposed on employees for drug and alcohol abuse violations occurring in the workplace

Legal Reference: (see next page)

DRUG AND ALCOHOL-FREE WORKPLACE (continued)

Legal Reference:

EDUCATION CODE

44011 Controlled substance offense

44425 Conviction of controlled substance offenses as grounds for revocation of credential

44836 Employment of certificated persons convicted of controlled substance offenses

44940 Compulsory leave of absence for certificated persons

44940.5 Procedures when employees are placed on compulsory leave of absence

45123 Employment after conviction of controlled substance offense

45304 Compulsory leave of absence for classified persons

GOVERNMENT CODE

8350-8357 Drug-free workplace

UNITED STATES CODE, TITLE 20

7111-7117 Safe and Drug-Free Schools and Communities Act

UNITED STATES CODE, TITLE 21

812 Schedule of controlled substances

UNITED STATES CODE, TITLE 41

701-707 Drug-Free Workplace Act

CODE OF FEDERAL REGULATIONS, TITLE 21

1308.01-1308.49 Schedule of controlled substances

COURT DECISIONS

Cahoon v. Governing Board of Ventura USD, (2009) 171 Cal.App.4th 381

Ross v. Raging Wire Telecommunications, Inc., (2008) 42 Cal.4th 920

Management Resources:

WEB SITES

California Department of Alcohol and Drug Programs: <http://www.adp.ca.gov>

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Labor: <http://www.dol.gov>

(7/02 7/10) 11/10

Adopted: May 18, 2011

NON-DISCRIMINATION IN EMPLOYMENT

The Governing Board prohibits discrimination against and/or harassment of district employees and job applicants on the basis of actual or perceived race, color, national origin, ancestry, religion, age, marital status, pregnancy, physical or mental disability, medical condition, genetic information, veteran status, gender, gender identity, gender expression, sex, or sexual orientation.

(cf. 0410 – Non-discrimination in District Programs and Activities)
(cf. 4031 - Complaints Concerning Discrimination in Employment)
(cf. 4032 - Reasonable Accommodation)
(cf. 4033 – Lactation Accommodation)
(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)
(cf. 4119.41/4219.41/4319.41 - Employees with Infectious Disease)
(cf. 4154/4254/4354 – Health and Welfare Benefits)
(cf. 5145.7 – Sexual Harassment)

Prohibited discrimination consists of any adverse employment action, including termination or denial of promotion, job assignment, or training, based on any of the prohibited categories of discrimination listed above. Harassment consists of any unwelcome verbal, physical, or visual conduct that is based on any of the prohibited categories of discrimination listed above and that is so severe and pervasive that it adversely affects an individual's employment opportunities, has the purpose or effect of unreasonably interfering with the individual's work performance, or creates an intimidating, hostile, or offensive work environment.

The Governing Board also prohibits retaliation against any district employee or job applicant, who complains, testifies, assists, or in any way participates in the district's complaint procedures instituted pursuant to this policy.

Any district employee who engages or participates in prohibited discrimination or harassment, or who aids, abets, incites, compels or coerces another to discriminate, is in violation of this policy and is subject to disciplinary action, up to and including dismissal.

(cf. 4117.4 - Dismissal)
(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

Any employee or job applicant who believes that he/she has been or is being discriminated against or harassed in violation of district policy or regulation should immediately contact his/her supervisor, the Coordinator, or the Superintendent who shall advise the employee or applicant about the district's procedures for filing, investigating, and resolving any such complaints.

Complaints regarding employment discrimination or harassment shall immediately be investigated in accordance with AR 4031 – Complaints Concerning Discrimination in Employment.

NON-DISCRIMINATION IN EMPLOYMENT (continued)

Any supervisory or management employee who observes or has knowledge of an incident of unlawful discrimination or harassment shall report the incident to the Principal, District Administrator or Superintendent as soon as practical after the incident. All other employees are encouraged to report such incidents to their supervisor immediately. Failure of a district employee to report discrimination or harassment may result in disciplinary action.

The Superintendent or designee shall provide training to employees about how to recognize harassment and discrimination, how to respond appropriately, and components of the district's policies and regulations regarding discrimination.

(cf. 4131/4231/4331 – Staff Development)

The Superintendent or designee shall regularly publicize, within the district and in the community, the district's non-discrimination policy and the availability of complaint procedures. Such publication shall be included in each announcement, bulletin, or application form that is used in employee recruitment. (34 CFR 100.6, 106.9)

The district's policy and administrative regulation shall be posted in all schools and offices including staff lounges and student government meeting rooms. (5 CCR 4960)

The Governing Board designates the following position(s) as Coordinator(s) for Non-discrimination in Employment:

Assistant Superintendent, Human Resources and
Director, Human Resources
880 South Lemon Avenue, Walnut, California 91789
909/595-1261

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination

CIVIL CODE

51.7 Freedom from violence or intimidation

GOVERNMENT CODE

11135 Unlawful discrimination

12900-12996 Fair Employment and Housing Act

PENAL CODE

422.56 Definitions, hate crimes

CODE OF REGULATIONS, TITLE 2

7287.6 Terms, conditions and privileges of employment

CODE OF REGULATIONS, TITLE 5

4900-4965 Non-discrimination in elementary and secondary education programs

NON-DISCRIMINATION IN EMPLOYMENT (continued)

Legal Reference: (continued)

UNITED STATES CODE, TITLE 20

1681-1688 *Discrimination based on sex or blindness, Title IX*

UNITED STATES CODE, TITLE 29

621-634 *Age Discrimination in Employment Act*

794 *Section 504 of the Rehabilitation Act of 1973*

UNITED STATES CODE, TITLE 42

2000d-2000d-7 *Title VI, Civil Rights Act of 1964, as amended*

2000e-2000e-17 *Title VII, Civil Rights Act of 1964 as amended*

2000ff-2000ff-11 *Genetic Information Non-discrimination Act of 2008*

2000h-2-2000h-6 *Title IX, 1972 Education Act Amendments*

6101-6107 *Age discrimination in federally assisted programs*

12101-12213 *Americans With Disabilities Act*

CODE OF FEDERAL REGULATIONS, TITLE 28

35.101-35.190 *American with Disabilities Act*

CODE OF FEDERAL REGULATIONS, TITLE 34

100.6 *Compliance information*

104.7 *Designation of responsible employee for Section 504*

104.8 *Notice*

106.8 *Designation of responsible employee and adoption of grievance procedures*

106.9 *Dissemination of policy*

110.1-110.39 *Nondiscrimination on the basis of age*

COURT DECISIONS

Thompson v. North American Stainless LP, (2011) 131 S. Ct. 863

Shephard v. Loyola Marymount, (2002) 102 Cal App.4th 837

Management Resources:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONS

Questions and Answers: Religious Discrimination in the Workplace, 2008

Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors, June 1999

Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act, October 2002

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Notice of Non-Discrimination, August, 2010

WEB SITES

California Department of Fair Employment and Housing: <http://www.dfeh.ca.gov>

U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/about/offices/list/ocr>

U.S. Equal Employment Opportunity Commission: <http://www.eeoc.gov>

Adopted: September 19, 2012

NONDISCRIMINATION IN EMPLOYMENT

Unlawful discrimination or harassment of an individual includes:

1. Slurs, epithets, threats or verbal abuse
2. Derogatory or degrading comments, descriptions, drawings, pictures or gestures
3. Unwelcome jokes, stories, teasing or taunting
4. Any other verbal, written, visual or physical conduct against the individual which:
 - a. Adversely affects his/her employment opportunities, or
 - b. Has the purpose or effect of unreasonably interfering with his/her work performance or creating an intimidating, hostile or offensive work environment

Any employee or job applicant who feels that he/she has been or is being unlawfully discriminated against or harassed should immediately contact his/her supervisor, the nondiscrimination coordinator or the Superintendent in order to obtain procedures for reporting a complaint. Such complaints shall be filed in accordance with AR 4031 - Complaints Concerning Discrimination in Employment. An employee may bypass his/her supervisor when the supervisor is the alleged offender.

(cf. 4031 - Complaints Concerning Discrimination in Employment)
(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

Any supervisor who receives a discrimination/harassment complaint shall immediately notify the nondiscrimination coordinator or the Superintendent, who shall ensure that the complaint is appropriately investigated in accordance with district policy and regulations.

The Superintendent or designee shall ensure that annual training is provided to all employees regarding the issues of discrimination.

COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT

The following procedures shall be used when a district employee or job applicant has a complaint alleging that a specific action, policy, procedure or practice discriminates against him/her on any basis specified in the district's nondiscrimination policies.

(cf. 0410 - Nondiscrimination in District Programs and Activities)

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4032 - Reasonable Accommodation)

(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

1. Notice and Receipt of Complaint:

Any employee or job applicant (the "complainant") who believes he/she has been subjected to prohibited discrimination or harassment shall promptly inform his/her supervisor, the district's Coordinator for Nondiscrimination in Employment, or the Superintendent.

The complainant may file a written complaint in accordance with this procedure, or if he/she is an employee, may first attempt to resolve the situation informally with his/her supervisor.

A supervisor or manager who has received information about an incident of discrimination or harassment, or has observed such an incident, shall report it to the Coordinator, whether or not the complainant files a written complaint.

The written complaint should contain the complainant's name, the name of the individual who allegedly committed the act, a description of the incident, the date and location where the incident occurred, any witnesses who may have relevant information, other evidence of the discrimination or harassment, and any other pertinent information which may assist in investigating and resolving the complaint.

(cf. 0410 – Nondiscrimination in District Programs and Activities)

(cf. 4030 – Nondiscrimination in Employment)

(cf. 4032 – Reasonable Accommodation)

(cf. 4119.11/4219.11/4319.11 – Sexual Harassment)

2. Investigation Process:

The Coordinator shall initiate an impartial investigation of an allegation of discrimination or harassment within five school days of receiving notice of the behavior, regardless of whether a written complaint has been filed or whether the written complaint is complete.

COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT (continued)

The Coordinator shall meet with the complainant to describe the district's complaint procedure and discuss the actions being sought by the complainant in response to the allegation. The Coordinator shall inform the complainant that the allegations will be kept confidential to the extent possible, but that some information may be revealed as necessary to conduct an effective investigation.

(cf. 3580 – District Records)

(cf. 4112.6/4212.6/4312.6 – Personnel Files)

(cf. 4119.23/4219.23/4319.23 – Unauthorized Release of Confidential/Privileged Information)

If the Coordinator determines that a detailed fact-finding investigation is necessary, he/she shall begin the investigation immediately. As part of this investigation, the Coordinator should interview the complainant, the person accused, and other persons who could be expected to have relevant information.

When necessary to carry out his/her investigation or to protect employee or student safety, the Coordinator may discuss the complaint with the Superintendent or designee, district legal counsel, or the district's risk manager.

The Coordinator also shall determine whether interim measures, such as scheduling changes, transfers, or leaves, need to be taken before the investigation is completed to ensure that further incidents do not occur. The Coordinator shall ensure that such interim measures do not constitute retaliation.

3. Written Report of Findings and Corrective Action:

No more than 30 days after receiving the complaint, the Coordinator shall conclude the investigation and prepare a written report of his/her findings. This timeline may be extended for good cause. If an extension is needed, the Coordinator shall notify the complainant and explain the reasons for the extension.

The report shall include the decision and the reasons for the decision and shall summarize the steps taken during the investigation. If a determination has been made that discrimination or harassment occurred, the report also shall include any corrective action(s) that have been or will be taken to address the behavior, correct the effect on the complainant, and ensure that retaliation or further discrimination or harassment does not occur. The report shall be presented to the complainant, the person accused, and the Superintendent or designee.

COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT (continued)

4. Appeal to the Governing Board: The complainant or the person accused may appeal any findings to the Board within 10 working days of receiving the written report of the Coordinator's findings. The Superintendent or designee shall provide the Board with all information presented during the investigation. Upon receiving an appeal, the Board shall schedule a hearing as soon as practicable. Any complaint against a district employee shall be addressed in closed session in accordance with law. The Board shall render its decision with 10 working days.

(cf. 1312.1 – Complaints Concerning District Employees)

(cf. 9321 – Closed Session Purposes and Agendas)

Other Remedies

In addition to filing a discrimination or harassment complaint with the district, a person may also file a complaint with either the California Department of Fair Employment and Housing (DFEH) or the Equal Employment Opportunity Commission (EEOC). The time limits for filing such complaints are as follows:

1. To file a valid complaint with DFEH, within one year of the alleged discriminatory act(s), unless an exception exists pursuant to Government Code 12960 (Government Code 12960)
2. To file a valid complaint directly with EEOC, within 180 days of the alleged discriminatory act(s) (42 USC 2000e-5)
3. To file a valid complaint with EEOC after first filing a complaint with DFEH, within 300 days of the alleged discriminatory act(s) or within 30 days after the termination of proceedings by DFEH, whichever is earlier (42 USC 2000e-5)

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination

GOVERNMENT CODE

12920-12921 Nondiscrimination

12940-12948 Discrimination prohibited; unlawful practices, generally

UNITED STATES CODE, TITLE 20

1681-1688 – Title IX of the Education Amendments of 1972

UNITED STATES CODE, TITLE 29

621-634 Age Discrimination in Employment Act

794 Section 504 of the Rehabilitation Act of 1973

COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT (continued)

Legal Reference (continued):

UNITED STATES CODE, TITLE 42

2001d-2001d-7 Title VI, Civil Rights Act of 1964

2001e-2001e-17 Title VII, Civil Rights Act of 1964 as amended

2000ff-2000ff-11 – Genetic Information Nondiscrimination Act of 2008

2001h-2-2001h-6 Title IX, 1972 Education Act Amendments

12101-12213 Americans with Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 28

35.101-35.190 Americans with Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 34

106.8 – Designation of responsible employee for Title IX

Management Resources:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONS

Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act, October 2002

Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors, June 1999

WEB SITES

California Department of Fair Employment and Housing: <http://www.dfeh.ca.gov>

U.S. Equal Employment Opportunity Commission: <http://www.eeoc.gov>

Revised: June 21, 2011

REASONABLE ACCOMMODATION

Definitions

Disability, with respect to an individual, is defined as any of the following: (Government Code 12926; 29 CFR 1630.2)

1. A physical or mental impairment that limits one or more of the major life activities
2. A record of such an impairment
3. Being regarded as having such an impairment

Limits shall be determined without regard to mitigating measures such as medications, assistive devices, prosthetics or reasonable accommodations, unless the mitigating measure itself limits a major life activity. (Government Code 12926)

Essential functions are the fundamental job duties of the position the individual with a disability holds or desires. The term does not include the marginal functions of the position. (29 CFR 1630.2)

Reasonable accommodations that an employer may need to provide in connection with modifications to the work environment or adjustments in how and when a job is performed that enable an individual with a disability to enjoy equal employment opportunities include, but are not limited to: (29 CFR 1630.2)

1. Making existing facilities accessible and usable
2. Restructuring the job duties
3. Offering part-time or modified work schedules
4. Acquiring or modifying equipment or devices
5. Changing tests, training materials or policies
6. Providing qualified readers or interpreters
7. Reassigning the employee to a vacant position

Qualified individual with a disability means an individual with a disability who satisfies the requisite skill, experience, education and other job-related requirements of the employment position and who, with or without reasonable accommodation, can perform the essential functions of such position. (29 CFR 1630.2)

REASONABLE ACCOMMODATION (continued)

Undue hardship is a determination based on an individualized assessment of current circumstances that shows that a specific reasonable accommodation would cause significant difficulty or expense. A determination of undue hardship should be based on several factors, including: (29 CFR 1630.2)

1. The nature and cost of the accommodation needed
2. The overall financial resources of the facility making the reasonable accommodation, the number of persons employed at this facility, the effect on expenses and resources of the facility, or the impact on the operations of the facility
3. The overall financial resources, size, number of employees, and the number, type and location of facilities of the district
4. The type of operation of the employer, including the structure and functions of the workforce, the geographic separateness, and the administrative or fiscal relationship of the facility involved in making the accommodation
5. The impact of the accommodation on the operation of the facility

Requests for Reasonable Accommodation

The district designates the position specified in BP 4030 - Nondiscrimination in Employment to coordinate its efforts to comply with the Americans with Disabilities Act (ADA) and to investigate complaints.

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4031 - Complaints Concerning Discrimination in Employment)

When requesting reasonable accommodation, the employee or employee's representative shall inform the employee's supervisor that he/she needs a change at work for a reason related to a medical condition.

When requesting reasonable accommodation during the hiring process, a job applicant shall inform the district's coordinator for nondiscrimination in employment (the coordinator) that he/she will need a reasonable accommodation for the process.

Employees' requests for reasonable accommodation may first be considered informally by the site administrator. The site administrator shall consult with the coordinator before any decision as to accommodation is made.

REASONABLE ACCOMMODATION (continued)

When the disability and/or the need for accommodation is not obvious, the coordinator may ask the employee to supply reasonable documentation about his/her disability. In requesting this documentation, the coordinator shall specify the types of information that are being sought about the employee's condition, the employee's functional limitations and the need for reasonable accommodation. The employee may be asked to sign a limited release allowing the district to submit a list of specific questions to the health care or vocational professional.

If the documentation submitted by the employee does not specify the existence of a qualifying disability and explain the need for reasonable accommodation, the district may require the employee to submit to an examination by a health care professional selected and paid for by the district.

Upon receiving a request to reasonably accommodate a qualified employee with a disability, the coordinator shall:

1. Determine the essential functions of the job
2. Engage in an informal, interactive process with the employee to review the request for accommodation, identify the precise limitations resulting from the disability, identify potential means for providing accommodation, and assess their effectiveness
3. Develop a plan for reasonable accommodation without imposing undue hardship on the district

To qualify for a job, an individual shall not pose a significant risk of substantial harm to himself/herself or others in the workplace which cannot be eliminated or reduced by reasonable accommodation.

The determination of whether an individual poses a significant risk of substantial harm to himself/herself or others shall be made on a case-by-case basis and shall be based on objective, factual evidence, taking into consideration the duration of the risks, the nature and severity of the potential harm, the likelihood that the potential harm will occur and the imminence of potential harm. (29 CFR 1630.2)

The coordinator may confer with the site administrator, the district medical advisor and/or other district staff before making a final decision as to the accommodation.

Reasonable Accommodation Committee

The coordinator may appoint a Reasonable Accommodation Committee to review or assist in the development of appropriate plans to reasonably accommodate an employee or qualified job applicant who has requested an adjustment in work duties or environment because of

REASONABLE ACCOMMODATION (continued)

known physical or mental disabilities. The membership of this committee may change on a case-by-case basis. The committee may include:

1. A district administrator
2. A site administrator
3. A medical advisor or rehabilitation specialist
4. A certificated employee
5. A classified employee

Committee members shall be selected on the basis of their knowledge of the issues at hand, including:

1. The specific functions and duties required in the position
2. The physical work environment
3. Available accommodations

At the coordinator's discretion, the employee or applicant requesting accommodation may participate in or be excluded from committee meetings. If the employee or applicant is excluded from committee meetings, the coordinator shall communicate with him/her so that he/she has the opportunity to interact and contribute to planning the reasonable accommodation.

The coordinator shall take steps to ensure the confidentiality of information related to medical conditions.

Appeal Process

If the employee or applicant is not satisfied with the decision of the coordinator, he/she may appeal in writing to the Superintendent or designee. This appeal shall be made within 10 days of receiving the decision and shall include:

1. A clear, concise statement of the reasons for the appeal
2. A statement of the specific remedy sought

REASONABLE ACCOMMODATION (continued)

The Superintendent or designee shall consult with the coordinator and review the appeal, together with any available supporting documents. The Superintendent or designee shall give the employee or applicant his/her decision within 15 working days of receiving the appeal.

Any further appeal for reasonable accommodation shall be considered a complaint concerning discrimination in employment and may be taken to the Governing Board in accordance with the district's procedure for such complaints.

Legal Reference:

CIVIL CODE

51 Unruh Civil Rights Act

GOVERNMENT CODE

12900-12996 Fair Employment and Housing Act

UNITED STATES CODE, TITLE 29

701-794e Vocational Rehabilitation Act

UNITED STATES CODE, TITLE 42

12101-12213 Americans with Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 28

35.101-35.190 Americans with Disabilities Act, especially:

35.107 Designation of employee

36.101-36.608 Nondiscrimination on the basis of disability by public facilities

CODE OF FEDERAL REGULATIONS, TITLE 29

1630.2 Direct threat

COURT DECISIONS

Echazabal v. Chevron USA, (9th Circuit, 2000) 226 F.3d 1063

Management Resources:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act, March, 1999

WEB SITES

EEOC: <http://www.eeoc.gov>

Department of Fair Employment and Housing: <http://www.dfeh.ca.gov/>

LACTATION ACCOMMODATION

The Governing Board recognizes the immediate and long-term health advantages of breastfeeding for infants and mothers and desires to provide a supportive environment for any district employee to express milk for her infant child upon her return to work following the birth of the child. The Board prohibits discrimination, harassment, and/or retaliation against any district employee who chooses to express breast milk for her infant child while at work.

(cf. [4030](#) - *Nondiscrimination in Employment*)

(cf. [4031](#) - *Complaints Concerning Discrimination in Employment*)

The district shall provide a reasonable amount of break time to accommodate an employee each time she has a need to express breast milk for her infant child. (Labor Code [1030](#))

To the extent possible, such break time shall run concurrently with the break time already provided to the employee. Any additional break time used by a non-exempt employee for this purpose shall be unpaid. (Labor Code [1030](#); 29 USC [207](#))

The employee shall be provided a private location, other than a restroom, which is in close proximity to her work area and meets the requirements of Labor Code [1031](#) and 29 USC [207](#), as applicable.

Employees are encouraged to notify their supervisor or other appropriate personnel in advance of their intent to make use of the accommodations offered for employees who are nursing mothers. As needed, the supervisor shall work with the employee to address arrangements and scheduling in order to ensure that the employees' essential job duties are covered during the break time.

Lactation accommodations may be denied only in limited circumstances in accordance with law. (Labor Code [1032](#); 29 USC [207](#))

Before an employee's supervisor makes a determination to deny lactation accommodations, he/she shall consult the Superintendent or designee. In any case in which lactation accommodations are denied, the Superintendent or designee shall document the options that were considered and the reasons for denying the accommodations.

Legal Reference:

EDUCATION CODE

[200-262.4](#) *Prohibition of discrimination on the basis of sex*

CIVIL CODE

[43.3](#) *Right of mothers to breastfeed in any public or private location*

GOVERNMENT CODE

[12940](#) *Discriminatory employment practices*

[12945](#) *Discrimination based on pregnancy, childbirth, or related medical conditions*

LACTATION ACCOMMODATION (Continued)

Legal Reference: (Continued)

LABOR CODE

1030-1033 Lactation accommodation

CODE OF REGULATIONS, TITLE 2

7291.2-7291.16 Sex discrimination; pregnancy and related medical conditions

UNITED STATES CODE, TITLE 29

207 Fair Labor Standards Act; lactation accommodation

FAIR EMPLOYMENT AND HOUSING COMMISSION DECISIONS

Department of Fair Employment and Housing v. Acosta Tacos (Chavez), FEHC Precedential Decision 09-03P, 2009

Management Resources:

CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS PUBLICATIONS

Rest Periods/Lactation Accommodation, Frequently Asked Questions

CALIFORNIA DEPARTMENT OF PUBLIC HEALTH PUBLICATIONS

Minimum Requirements of the California Lactation Accommodation Law

CENTERS FOR DISEASE CONTROL AND PREVENTION PUBLICATIONS

Lactation Support Program Toolkit

FEDERAL REGISTER

Reasonable Break Time for Nursing Mothers, December 21, 2010, Vol. 75, No. 244, pages 80073-80079

OFFICE OF THE SURGEON GENERAL PUBLICATIONS

The Surgeon General's Call to Action to Support Breastfeeding, 2011

HEALTH RESOURCES AND SERVICES ADMINISTRATION PUBLICATIONS

The Business Case for Breastfeeding: Steps for Creating a Breastfeeding Friendly Worksite, Toolkit, 2008

U.S. DEPARTMENT OF LABOR, WAGE AND HOUR DIVISION, PUBLICATIONS

Fact Sheet #3: Break Time for Nursing Mothers under the FLSA, rev. December 2010

WEB SITES

California Department of Industrial Relations, Division of Labor and Standards Enforcement:

<http://www.dir.ca.gov/dlse>

California Department of Public Health: <http://www.cdph.ca.gov>

California Women, Infants and Children: <http://www.wicworks.ca.gov>

Centers for Disease Control and Prevention: <http://www.cdc.gov>

Health Resources and Services Administration: <http://www.hrsa.gov>

Office of the Surgeon General: <http://www.surgeongeneral.gov>

U.S. Department of Labor, Wage and Hour Division, Break Time for Nursing Mothers:

<http://www.dol.gov/whd/nursingmothers>

Adopted: _____ October 19, 2011 _____

EMPLOYEE USE OF TECHNOLOGY

The Governing Board recognizes that technological resources can enhance employee performance by improving access to and exchange of information, offering effective tools to assist in providing a quality instructional program, and facilitating district and school operations. The Governing Board expects all employees to learn to use the available technological resources that will assist them in the performance of their job responsibilities. As needed, employees shall receive training in the appropriate use of these resources.

(cf. 0440 - District Technology Plan)
(cf. 1113 - District and School Web Sites)
(cf. 4032 - Reasonable Accommodation)
(cf. 4131 - Staff Development)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)
(cf. 6162.7 - Use of Technology in Instruction)
(cf. 6163.4 - Student Use of Technology)

Employees shall be responsible for the appropriate use of technology and shall use the district's technological resources only for purposes related to their employment. Such use is a privilege which may be revoked at any time.

(cf. 4119.25/4219.25/4319.25 - Political Activities of Employees)

Employees should be aware that computer files and communications over electronic networks, including e-mail and voice mail, are not private. These technologies shall not be used to transmit confidential information about students, employees or district operations without authority.

EMPLOYEE USE OF TECHNOLOGY (continued)

The Superintendent or designee shall ensure that all district computers with Internet access have a technology protection measure that prevents access to visual depictions that are obscene or child pornography, and that the operation of such measures is enforced. The Superintendent or designee may disable the technology protection measure during use by an adult to enable access for bona fide research or other lawful purpose. (P.L. 107-110, Section 2441; 47 USC 254)

To ensure proper use of the system, the Superintendent or designee may monitor the district's technological resources, including e-mail and voice mail systems, at any time without advance notice or consent. If passwords are used, they must be known to the Superintendent or designee so that he/she may have system access.

The Superintendent or designee shall establish administrative regulations which outline employee obligations and responsibilities related to the use of district technology. He/she also may establish guidelines and limits on the use of technological resources. Inappropriate use shall result in a cancellation of the employee's user privileges, disciplinary action and/or legal action in accordance with law, Governing Board policy and administrative regulations.

(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

The Superintendent or designee shall provide copies of related policies, regulations and guidelines to all employees who use the district's technological resources. Employees shall be asked to acknowledge in writing that they have read and understood these policies, regulations and guidelines.

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

In the event that the use of an electronic resource affects the working conditions of one or more employees, the Superintendent or designee shall notify the employees' exclusive representative.

(cf. 4143/4243 - Negotiations/Consultation)

Legal Reference: (see next page)

EMPLOYEE USE OF TECHNOLOGY (continued)

Legal Reference:

EDUCATION CODE

51870-51874 Education technology

GOVERNMENT CODE

3543.1 Rights of employee organizations

PENAL CODE

502 Computer crimes, remedies

632 Eavesdropping on or recording confidential communications

UNITED STATES CODE, TITLE 47

254 Universal service discounts (E-rate)

CODE OF FEDERAL REGULATIONS, TITLE 47

54.520 Internet safety policy and technology protection measures, E-rate discounts

PUBLIC LAW 107-110

2401-2441 Enhancing Education Through Technology Act, No Child Left Behind Act, Title II, Part D

2441 Internet Safety

Management Resources:

CDE PUBLICATIONS

K-12 Network Technology Planning Guide: Building the Future, 1994

CDE PROGRAM ADVISORIES

1223.94 Acceptable Use of Electronic Information Resources

WEB SITES

CDE: <http://www.cde.ca.gov>

CSBA: <http://www.csba.org>

Federal Communications Commission: <http://www.fcc.gov>

U.S. Department of Education: <http://www.ed.gov>

American Library Association: <http://www.ala.org>

EMPLOYEE USE OF TECHNOLOGY

On-Line/Internet Services: User Obligations and Responsibilities

Employees are authorized to use district equipment to access the Internet or on-line services in accordance with Governing Board policy and the user obligations and responsibilities specified below.

1. The employee in whose name an on-line services account is issued is responsible for its proper use at all times. Employees shall keep account information, home addresses and telephone numbers private. They shall use the system only under their own account number.

2. Employees shall use the system responsibly and primarily for work-related purposes.

(cf. 6162.7 - Use of Technology in Instruction)

3. Employees shall not access, post, submit, publish or display harmful or inappropriate matter that is threatening, obscene, disruptive or sexually explicit, or that could be construed as harassment or disparagement of others based on their race/ethnicity, national origin, gender, sexual orientation, age, disability, religion or political beliefs.

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4031 - Complaints Concerning Discrimination in Employment)

(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

4. Employees shall not use the system to promote unethical practices or any activity prohibited by law, Governing Board policy or administrative regulations.

5. Copyrighted material shall not be placed on the system without the author's permission. Employees may download copyrighted material only in accordance with applicable copyright laws.

(cf. 6162.6 - Use of Copyrighted Materials)

6. Employees shall not intentionally upload, download or create computer viruses and/or maliciously attempt to harm or destroy district equipment or materials or the data of any other user, including so-called "hacking."

7. Employees shall not read other users' electronic mail or files. They shall not attempt to interfere with other users' ability to send or receive electronic mail, nor shall they attempt to read, delete, copy, modify or forge other users' mail.

8. Users shall report any security problem or misuse of the services to the Superintendent or designee.

(cf. 6163.4 - Student Use of Technology)

CERTIFICATED PERSONNEL

The Governing Board recognizes that teachers and other certificated personnel work closely with students in carrying out the district's educational goals. The Superintendent or designee shall ensure that the duties, responsibilities, and district's expectations for certificated positions are clearly defined and made known to each member of the certificated staff.

(cf. 4119.3/4219.3/4319.3 - Duties of Personnel)

Each certificated staff member shall be held accountable for duties assigned to him/her and shall undergo regular performance evaluations in accordance with law and negotiated agreements.

(cf. 4115 - Evaluation/Supervision)

(cf. 4141/4241 - Collective Bargaining Agreement)

The Governing Board strongly encourages certificated staff to continually improve their skills and pursue excellence within their profession.

(cf. 4131 - Staff Development)

Policies, rules and regulations related to certificated personnel shall be available to all concerned and shall be administered in a fair and equitable manner.

Legal Reference:

EDUCATION CODE

90 *Definition, certificated and certified*

44006 *Certificated person*

44490-44497 *Mentor teacher program*

GOVERNMENT CODE

3543.2 *Scope of representation*

RECRUITMENT AND SELECTION

Because an important factor in student achievement is the quality of the teaching staff, the Governing Board desires to employ the most highly qualified and appropriate person available for each open position.

The Superintendent or designee shall recruit candidates for open positions based on an assessment of the district's needs for specific skills, knowledge and abilities. He/she shall develop job descriptions that accurately describe all essential and marginal functions and duties of each position, and shall disseminate job announcements to ensure a wide range of candidates.

(cf. 4119.3/4219.3/4319.3 - Duties of Personnel)

SB 1666 also added Education Code 44751 to establish six regional teacher recruitment centers across the state. With a focus on recruiting teachers to low-performing schools, the centers will, among other duties, provide information and counseling to prospective teachers, screen and distribute applications of prospective teachers to participating schools, and schedule interviews between candidates and school administrators.

The Superintendent or designee may provide incentives to recruit credentialed teachers to teach in any district school ranked in the bottom half of the state Academic Performance Index. Such incentives may include, but are not limited to, signing bonuses, improved work conditions, teacher compensation or housing subsidies.

(cf. 4112.2 - Certification)

The Superintendent or designee shall develop selection procedures that identify the best possible candidate for each position based on screening processes, interviews, observations, and recommendations from previous employers.

No inquiry shall be made with regard to the age, gender, race, ethnicity, religion, national origin, medical condition, disability or sexual orientation of a person seeking employment. During job interviews, applicants may be asked to describe or demonstrate how they will be able to perform the duties of the job.

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4032 - Reasonable Accommodation)

District employment practices shall not discriminate against legal noncitizen residents. Inquiries to assure employment eligibility shall be made in accordance with law, Governing Board policy and administrative regulation.

(cf. 4111.2/4211.2/4311.2 - Legal Status Requirement)

RECRUITMENT AND SELECTION (continued)

For each position, the Superintendent or designee shall present to the Governing Board one candidate who meets all qualifications established by law and the Governing Board for the position. No person shall be employed by the Governing Board without the recommendation or endorsement of the Superintendent or designee.

Legal Reference:

EDUCATION CODE

200-262.4 *Prohibition of discrimination on the basis of sex*
44066 *Limitations on certification requirement*
44259 *Teaching credential; exception; designated subjects; minimum requirements*
44735 *Incentive grants for recruiting teachers for low-performing schools*
44750-44754.5 *Regional teacher recruitment centers*
44830-44831 *Employment of certificated persons*
44858 *Age or marital status in certificated positions*
44859 *Prohibition against certain rules and regulations re residency*
52051 *Academic Performance Index*

GOVERNMENT CODE

12900 *Unlawful employment practices*
12940-12956 *Discrimination prohibited; unlawful practices*

UNITED STATES CODE, TITLE 8

1324(a)(b) *Immigration and Nationality Act*

UNITED STATES CODE, TITLE 42

2000d-2000d-7 *Title VI, Civil Rights Act of 1964*
2000e-2000e-17 *Title VII, Civil Rights Act of 1964 as amended*
2000h-2-2000h-6 *Title IX, 1972 Education Act Amendments*
12101-12213 *Americans With Disabilities*

All Personnel

BP 4111.2

4211.2

LEGAL STATUS REQUIREMENT

4311.2

The district shall hire only citizens and aliens who are lawfully authorized to work in the United States. The Superintendent or designee shall ensure that district employment practices do not unlawfully discriminate on the basis of citizenship status or national origin, including but not limited to, discrimination against any refugees, grantees of asylum, or persons qualified for permanent or temporary residency.

(cf. 0410 - Nondiscrimination in District Programs and Activities)

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4111 - Recruitment and Selection)

(cf. 4211 - Recruitment and Selection)

(cf. 4311 - Recruitment and Selection)

All new employees shall show appropriate documents which certify that they are legally eligible to work in the United States, as required by law and in accordance with administrative regulation.

Legal Reference:

UNITED STATES CODE, TITLE 8

1324(a)(b) Immigration and Nationality Act, as amended by Immigration Reform and Control Act of 1986 and Immigration Act of 1990

CODE OF FEDERAL REGULATIONS, TITLE 8

274a.1-a.14 Control of Employment of Aliens

Management Resources:

WEB SITES

Immigration and Naturalization Service: <http://www.ins.usdoj.gov>

All Personnel

AR 4111.2

4211.2

LEGAL STATUS REQUIREMENT

4311.2

Within three business days of hire, the Superintendent or designee shall physically examine the documentation presented by the employee establishing his/her identity and employment eligibility as set forth in INS Form I-9. The Superintendent or designee shall (1) ensure that the documents presented appear to be genuine and relate to the individual and (2) complete the "Employer Review and Verification" section of the Form I-9. (8 CFR 274a.2)

Persons employed for three days or less must provide such documentation on their first day. (8 CFR 274a.2)

If unable to provide satisfactory documentation because the document was lost, stolen, or damaged, the employee shall furnish a receipt indicating that a replacement document has been requested. This receipt must be presented within three days of the hire, and the replacement document must be provided within 90 days of the hire. (8 CFR 274a.2)

If an individual's employment authorization expires, the Superintendent or designee must reverify the I-9 form, by noting the document's identification number and expiration date on the form, no later than the date the work authorization expires. The employee shall present a document that either shows continuing employment eligibility or a new grant of work authorization. (8 CFR 274a.2)

After examining the documents presented, the Superintendent or designee shall copy them. Such copies shall be retained with the individual's I-9 form. The documents shall be kept confidential and used only as needed to help justify the district's past decision to accept the documents as valid.

(cf. 4112.6/4212.6/4312.6 - Personnel Files)

The district shall retain the I-9 forms for three years after the date of the hire or for one year after the date the individual's employment is terminated, whichever is later. (8 CFR 274a.2)

APPOINTMENT AND CONDITIONS OF EMPLOYMENT

Upon recommendation from the Superintendent or designee, the Governing Board shall approve the appointment of all certificated employees. The position and the salary classification shall be reported to the Governing Board at a regular meeting.

(cf. 4111 - Recruitment and Selection)
(cf. 4121 - Temporary/Substitute Personnel)

Individuals appointed to the certificated staff shall, at a minimum:

1. Possess the appropriate certification qualifications and register the certification document in accordance with law and Governing Board policy (Education Code 44250-44279, 44330)

(cf. 4112.2 - Certification)
(cf. 4112.21. - District Interns)

2. Demonstrate proficiency in basic skills as required by law (Education Code 44252.5, 44830)
3. Submit to fingerprinting as required by law (Education Code 44830.1)
4. Not have been convicted of a violent or serious felony as defined in Penal Code 667.5 and 1192.7, unless the individual has received a certificate of rehabilitation and pardon (Education Code 44830.1)

(cf. 4112.5/4312.5 - Criminal Record Check)
(cf. 4118 - Suspension/Disciplinary Action)

5. Not have been convicted of any sex offense as defined in Education Code 44010 (Education Code 44836)
6. Not be required to register as a sex offender pursuant to Penal Code 290 because of a conviction for a crime where the victim was a minor under the age of 16 (Penal Code 290.95)

(cf. 3515.5 - Sex Offender Notification)

7. Not have been determined to be a sexual psychopath pursuant to Welfare and Institutions Code 6300-6332 (Education Code 44837)
8. Not have been convicted of any controlled substance offense as defined in Education Code 44011 (Education Code 44836)

APPOINTMENT AND CONDITIONS OF EMPLOYMENT (continued)

9. Submit to a physical examination, tuberculosis testing and/or provide a medical certificate as required by law and Governing Board policy (Education Code 44839, 49406)

(cf. 4112.4/4212.4/4312.4 - Health Examinations)

10. Submit to drug and alcohol testing as required by Governing Board policy

(cf. 4112.41/4212.41/4312.41 - Employee Drug Testing)

11. Furnish a statement of military service and, if any was rendered, a copy of the discharge or release from service or, if no such document is available, other suitable evidence of the termination of service (Education Code 44838)

12. File the oath or affirmation of allegiance required by Government Code 3100-3109

(cf. 4112.3/4212.3/4312.3 - Oath or Affirmation)

13. Fulfill any other requirements as specified by law, collective bargaining agreement, Governing Board policy or administrative regulation

(cf. 4112.8/4212.8/4312.8 - Employment of Relatives)

Legal Reference: (see next page)

APPOINTMENT AND CONDITIONS OF EMPLOYMENT (continued)

Legal Reference:

EDUCATION CODE

35161 Powers and duties

44008 Effect of termination of probation

44009 Conviction of specified crimes; definitions

44010 Sex offense

44011 Controlled substance offense

44066 Limitation on certification requirements

44250-44279 Credential types

44330 Effect of registration of certification document

44836 Employment of person convicted of sex offenses or controlled substance offenses

44837 Employment of sexual sociopath

44838 Statement of military service

44839 Medical certificate

44839.5 Medical certificate for retirant

49406 Examination for tuberculosis

GOVERNMENT CODE

3100-3109 Oaths or affirmations of allegiance for disaster service workers and public employees

12940-12950 Unlawful employment practices

PENAL CODE

290 Registration of sex offenders

290.95 Disclosure by persons required to register as sex offenders

667.5 Prior prison terms, enhancement of prison terms

1192.7 Plea bargaining limitation

WELFARE AND INSTITUTIONS CODE

6300-6332 Sexual psychopaths

CONTRACTS

When initially employed, certificated employees shall receive a written statement of their employment status and salary. In the case of temporary employees, this statement shall clearly indicate the temporary nature of the employment and the length of time for which the person is being employed. (Education Code 44916)

(cf. 4121 - Temporary/Substitute Personnel)

Reemployment Notices

By May 30 of each year, the clerk or secretary of the Governing Board may give, or mail by certified mail with return receipt requested, written notices to probationary and permanent certificated employees requesting that they notify the district of their intent to remain in district service for the next school year. This notice shall include a copy of Education Code 44842. If an employee, without good cause, fails to notify the district before July 1 that he/she will remain in district service, the employee may be deemed to have declined reemployment and the employee's services may be terminated on June 30 of that year. (Education Code 44842)

(cf. 4113 - Assignment)

(cf. 4117.2/4217.2/4317.2 - Resignation)

(cf. 4117.4 - Dismissal)

(cf. 9122 - Secretary)

Year Round Schooling

By April 30 of each year, the clerk or secretary of the Governing Board may give, or mail by certified mail with return receipt requested, written notices to certificated employees of a year-round school who are serving in a track that starts within 14 days of July 1 requesting that they notify the district of their intent to remain in district service for the next school year. This notice shall include a copy of Education Code 44842. If an employee, without good cause, fails to notify the district before June 1 that he/she will remain in district service, the employee may be deemed to have declined reemployment and the employee's services may be terminated on June 30 of that year. An employee who gives notice of resignation after May 31 but before June 30 shall be released from his/her contract within 30 days of the employee's notice, or as soon as a replacement employee is obtained, whichever occurs first. (Education Code 44842)

Employee Notification

By May 15 of each year, each classroom teacher shall notify the Superintendent or designee of his/her intent to return to a teaching position for the next school year. (Education Code 44832)

CONTRACTS (continued)

An employee on leave of absence shall notify the district of his/her intent to remain in service the following year in accordance with law, Governing Board policy and administrative regulation.

(cf. 4161/4261 - Leaves)

Legal Reference:

EDUCATION CODE

44832 Teachers; notice of intent to return

44842 Failure to provide notice or to report to work

44843 Notice of employment (to county superintendent)

44916 Time of classification; statement of employment status

44929.20 Continuing contract-districts w/less than 250 ADA

44955 Reduction in number of employees

CERTIFICATION

The Superintendent or designee shall ensure that persons employed in positions requiring certification qualifications have the appropriate credential or permit authorizing their employment in such positions.

(cf. 4111 - Recruitment and Selection)
(cf. 4112.21 - District Interns)
(cf. 4112.22 - Staff Teaching Students of Limited English Proficiency)
(cf. 4113 - Assignment)
(cf. 4116 - Probationary/Permanent Status)
(cf. 4121 - Temporary/Substitute Personnel)
(cf. 5148 - Child Care and Development)

When fully credentialed individuals are not available, the district may employ persons with emergency permits, intern permits, pre-intern certificates or credential waivers in accordance with law.

The Superintendent or designee shall develop a plan to facilitate and support the professional development of persons with emergency permits so that they may become fully qualified teachers.

(cf. 4131- Staff Development)
(cf. 4131.5 - Professional Growth)
(cf. 4131.6/4231.6/4331.6 - Professional Development Program)

National Board for Professional Teaching Standards Certification Incentive Program

The Governing Board encourages district teachers to voluntarily seek additional certification from the National Board for Professional Teaching Standards which demonstrates advanced knowledge and teaching skills.

The Superintendent or designee shall ensure that district teachers and teachers working in charter schools affiliated with the district are informed about the program and can acquire the necessary application and information materials. (Education Code 44395)

(cf. 0420.4 - Charter Schools)

The Superintendent or designee shall provide adequate release time and support to teachers participating in the program.

Legal Reference: (see next page)

CERTIFICATION (continued)

Legal Reference:

EDUCATION CODE

- 8360-8370 *Qualifications of child care personnel*
- 32340-32341 *Unlawful issuance of a credential*
- 44066 *Limitations on certification requirements*
- 44200-44405 *Teacher credentialing, especially:*
 - 44225.6 *CTC annual report on credentials, internships and emergency permits*
 - 44225.7 *Priorities for recruitment when fully prepared teacher not available*
 - 44251 *Period of credentials*
 - 44252 *Standards and procedures for issuance; proficiency testing of basic skills*
 - 44252.5 *State basic skills assessment required for certificated personnel*
 - 44259 *Minimum requirements for teaching credential*
 - 44259.5 *Standards for teachers of all students, including English language learners*
 - 44259.8 *Alternative means of entering teaching profession*
 - 44270.3-44270.4 *Out-of-state credentials, administrative services*
 - 44274-44274.5 *Out-of-state credentials*
 - 44275.3 *Employment of teachers with out-of-state credentials*
 - 44277 *Requirements for maintaining valid credentials*
 - 44278 *Credential appeal*
 - 44300-44301 *Emergency permits*
 - 44302 *CTC notification re district options when fully qualified teacher not available*
 - 44305-44308 *Pre-internship teaching certificates*
 - 44325-44328 *District interns*
 - 44330-44355 *Certificates and credentials*
 - 44395-44399 *National Board for Professional Teaching Standards*
 - 44400-44405 *California Mathematics Initiative for Teaching*
 - 44735 *Teaching as a priority block grant*
 - 44751 *Recruitment centers*
 - 44830-44929 *Employment of certificated persons; requirement of proficiency in basic skills*
- 56060-56063 *Substitute teachers in special education*
- 90530 *Recruitment Centers*

CODE OF REGULATIONS, TITLE 5

- 80001-80690.1 *Commission on Teacher Credentialing*

COURT DECISIONS

- Association of Mexican-American Educators, et. al. v. State of California and the Commission on Teacher Credentialing, (1993) 836 F.Supp. 1534*

Management Resources:

CTC ADVISORIES

- 1227.99 *CTC Memo #99-9931 Amendments pertaining to emergency permits*
- CTC memo #94-9414, August 15, 1994

WEB SITES

- CDE: <http://www.cde.ca.gov>
- CTC: <http://www.ctc.ca.gov>

CERTIFICATION

Registration

Each person employed by the district for a position requiring certification qualifications shall, within 60 days after beginning employment, register with the county office of education a valid credential authorizing the person to work in that position. Certificated employees also shall register renewed credentials within 60 days after the renewal. (Education Code 44330, 44857)

Basic Skills Proficiency Test

Prior to being hired by the Governing Board, all certificated persons, whether hired on a permanent, temporary or substitute basis, shall demonstrate basic skills proficiency in reading, writing and mathematics, unless specifically exempted from this requirement by Education Code 44830. (Education Code 44830)

Certificated persons who have not held a position requiring certification within 39 months of employment and who have not taken the state basic skills proficiency test may be hired as temporary employees, provided they pass a basic skills proficiency test developed and administered by the district. Such employees shall subsequently take the state test within one year of employment. (Education Code 44830)

(cf. 4121 - Temporary/Substitute Personnel)

Persons holding a designated subjects special subjects credential or vocational designated subject credential shall not be required to take the state basic skills proficiency test unless their specific credential requires the possession of a baccalaureate degree. Instead, these persons shall be assessed with district proficiency criteria established by the Governing Board for these credentials, which shall be at least equivalent to the district test required for graduation from high school. (Education Code 44252, 44830)

Persons holding a designated subjects special subjects credential or a vocational designated subject credential shall be charged a fee to take the district proficiency test.

Out-of-State Credentials

The district may employ an out-of-state applicant who has met the requirements of Education Code 44274.2, 44275.3 or 44275.4 and obtained a preliminary or professional clear credential from the Commission on Teacher Credentialing.

(cf. 4112.5/4312.5 - Criminal Record Check)

CERTIFICATION (continued)

A teacher prepared out of the state or country who has been issued a five-year California preliminary credential shall pass the state basic skills proficiency test described above within one year of the issuance date of the credential in order to be eligible to continue teaching. To be eligible for a professional clear credential, he/she must also meet legal requirements for subject matter competence, course completion, and either a fifth-year postsecondary program or an induction program for beginning teachers. (Education Code 44274.2, 44275.3, 44275.4)

Alternative Means for Preliminary Credential

The Governing Board may recommend that the Commission on Teacher Credentialing issue a preliminary credential to any person who displays knowledge and expertise in a subject area as demonstrated by all of the following: (Education Code 44259.8)

1. Possession of a postbaccalaureate or graduate degree in a subject specified in Education Code 44257 from a regionally accredited institution of higher education
2. Five or more full-time equivalent years of practice in the field for which the postbaccalaureate or graduate degree was awarded
3. Basic skills proficiency as measured by the state's basic skills proficiency test

If the Governing Board elects to recommend a person for a preliminary credential, it shall: (Education Code 44259.8)

1. Enroll candidates in a preservice training program for a minimum of 40 hours of pedagogical training which is aligned with the California Standards for the Teaching Profession and which includes preparation in classroom management and organization; grade-level curriculum content and instructional models and strategies; student assessment practices; literacy development in the subject to be authorized on the credential; equity, access and diversity training; and appropriate instructional strategies for English language learners and students with special needs
2. Develop an individual program of professional preparation consisting of at least 150 hours of study for each candidate to pursue professional development in all areas specified in #1 above
3. Require each credential recipient to complete the preservice training program and preparation program specified in #1 and #2 above

(cf. 4131- Staff Development)

(cf. 4131.5 - Professional Growth)

(cf. 4131.6/4231.6/4331.6 - Professional Development Program)

CERTIFICATION (continued)

Emergency Substitute Teaching Permits

The district may employ persons with an emergency 30-day substitute permit for 30 days or less for any one teacher during the school year. Persons with an emergency substitute permit may be employed for 20 days or less in special education positions requiring certification, unless an extension has been approved by the Superintendent of Public Instruction. (Education Code 56061; 5 CCR 80025, 80025.4)

Before employing such persons, the Superintendent or designee shall prepare and keep on file a signed statement of need. The statement of need shall describe the situation or circumstances that necessitate the use of a 30-day substitute permit holder and state either that a credentialed person is not available or that the available credentialed person(s) do not meet the district's specified employment criteria. (5 CCR 80025)

Emergency Teaching or Specialist Permits

Before employing persons with emergency teaching or specialist permits for more than 20 days in special education positions or for more than 30 days in other positions, the Governing Board shall document that it has made a diligent search for, but has been unable to recruit, a sufficient number of certificated teachers, including teacher candidates pursuing full certification through internships or other alternative programs. (Education Code 44300; 5 CCR 80026)

The district's diligent search shall include, but is not limited to, distributing job announcements, contacting college and university placement centers, advertising in local newspapers, exploring the incentives included in the Teaching as a Priority block grant pursuant to Education Code 44735, participating in the state and regional recruitment centers established pursuant to Education Code 44751 and 90530, and participating in job fairs in the state. (Education Code 44300)

(cf. 4111 - Recruitment and Selection)

The Governing Board shall certify by an annual resolution that it has made reasonable efforts to recruit a fully prepared teacher for the assignment. (Education Code 44225.7)

For any assignment for which a suitable fully prepared teacher is not available, the district shall make reasonable efforts to recruit an individual in the following priority order: (Education Code 44225.7)

1. A candidate who is scheduled to complete initial preparation requirements within six months

CERTIFICATION (continued)

2. A candidate who is qualified to participate in an approved internship program in the region of the district

If a suitable person who meets these priorities is not available, the district may, as a last resort, request that the Commission on Teacher Credentialing approve the assignment of a person who does not meet the above criteria. (Education Code 44225.7)

The district shall submit to the Commission on Teacher Credentialing a declaration of need for fully qualified educators which shall be adopted by the Governing Board as a separate agenda item, not a consent item, during a regularly scheduled public Governing Board meeting. (Education Code 44300; 5 CCR 80026)

The Governing Board's adopted declaration of need for fully qualified educators shall include: (5 CCR 80026)

1. The title(s) and number of each type of emergency permit that the district estimates it will need during the year based on previous year actual needs and enrollment projections, including each subject to be listed on emergency single subject teaching permits and the target language on emergency multiple subject or single subject teaching permits with bilingual crosscultural emphasis

The Governing Board shall revise the declaration of need whenever the number of emergency permits and limited assignment permits exceed the estimate by 10 percent.

2. A brief description of efforts the district has made to locate and recruit individuals who hold the needed credentials
3. A description of efforts the district has made to establish alternative training options, including:
 - a. The names of institutions of higher education cosponsoring internships or other certification programs with the district or a brief explanation of why there are no such programs
 - b. An estimate of the number of pre-internship or internship programs, if any, that the district expects to employ during the year
 - c. A statement of whether the district has considered developing a plan to develop fully qualified educators in cooperation with other education agencies in the region pursuant to 5 CCR 80026.4, or a brief explanation of why the district has not considered such a plan

CERTIFICATION (continued)

4. Certification that there is an insufficient number of certificated persons who meet the district's specified employment criteria to fill necessary positions

(cf. 0510 - School Accountability Report Card)

The Superintendent or designee shall provide an orientation for employees who are obtaining emergency teaching or specialist permits for the first time. This orientation shall include at least an overview of the curriculum that the teacher is expected to teach and effective techniques of classroom instruction and management at the teacher's assigned level. (Education Code 44300; 5 CCR 80026.5)

Whenever possible, the orientation shall occur before the teacher begins his/her teaching assignment. The Superintendent or designee shall also assign an experienced educator to guide and assist the teacher. This person shall be a certificated district employee or a certificated retiree of a California school district or county office of education and must have completed at least three full years of full-time classroom teaching experience or the equivalent. (Education Code 44300; 5 CCR 80026.5)

The Superintendent or designee shall inform applicants for emergency teaching or specialist permits that the district will provide the above orientation, guidance and assistance. Applicants shall be given the name or position of the person responsible for providing this guidance and assistance. They shall also be informed that in order for their permits to be renewed, they must complete a minimum of six semester or nine quarter units of course work for the related credential. For the first reissuance, applicants must be participating in a professional development program, and must complete the equivalent of the district's plan to develop fully qualified educators, if available. (5 CCR 80026.1)

Plan to Develop Fully Qualified Educators

The district's plan to develop fully qualified educators shall describe the district's efforts to: (5 CCR 80026.4)

1. Recommend to the Commission on Teacher Credentialing the certification of personnel who, by virtue of education, training or experience, have been judged by district certificated staff as competent to serve in an assignment but who are not yet certified to do so
2. Support and assist persons who have training and experience in teaching, but neither training nor experience in the area to which they will be assigned
3. Provide development activities for persons who have neither training nor experience in teaching

CERTIFICATION (continued)

For persons granted an emergency permit for the first time who are in the first year of development, the plan may propose alternatives to enrollment in a preparation program accredited by the Commission on Teacher Credentialing. Such alternatives shall be designed to provide 90 hours of professional development equivalent to at least six units of course work offered for such individuals by a college or university with a preparation program approved by the Commission on Teacher Credentialing. The plan shall also describe how the performance of applicants will be evaluated for the renewal of their emergency permit. (5 CCR 80026.4)

DISTRICT INTERNS

The Governing Board supports the use of interns in the district to fulfill the district's need for additional instructional resources and to enable future teachers to fulfill state credentialing requirements and link teaching theory with practice.

The Superintendent or designee may enter into agreements with accredited colleges and universities to jointly provide supervised teaching experiences within the district as part of a teacher preparation program. He/she shall collaborate with the college or university in the selection, placement, support and performance assessment of interns.

Interns shall be provided with ongoing feedback regarding their performance in order to enhance their skills and shall be formally evaluated at least once every year.

(cf. 4115 - Evaluation/Supervision)

Interns shall be classified as probationary employees and shall achieve permanent status with the district only as provided by law and administrative regulations. (Education Code 44466, 44885.5)

(cf. 4116 - Probationary/Permanent Status)

In designing internship programs, the Superintendent or designee shall coordinate with services offered to beginning teachers in the district in order to provide continuity of preparation, support and assessment.

Pre-Internship Teaching Program

To provide pre-interns with early, focused preparation in the subject matter they are assigned to teach and to assist them in progressing into a teacher internship program, the district shall provide a program of intensive preparation, support and assistance to individuals with pre-internship certificates issued by the Commission on Teacher Credentialing.

Legal Reference: (see next page)

DISTRICT INTERNS (continued)

Legal Reference:

EDUCATION CODE

300-340 *English Language Education for Immigrant Children*

44279.1-44279.7 *Beginning Teacher Support and Assessment System*

44305-44308 *Pre-Internship Teaching Program*

44314 *Diversified or liberal arts program*

44321 *CTC approval of internship programs*

44325-44328 *District interns*

44450-44467 *Teacher Education Internship Act of 1967 (university interns)*

44520-44534 *New Careers Program*

44830.3 *Employing district interns*

44885.5 *District interns classified as probationary employees*

CODE OF REGULATIONS, TITLE 5

13000-13017 *New Careers Program*

80055 *Internship credential*

Management Resources:

CTC PUBLICATIONS

CTC Credential Handbook, revised 1997

California's Future: Highly Qualified Teachers for All Students, November 1997 (contains California Standards for the Teaching Profession)

Standards of Program Quality and Effectiveness for District Intern Programs, revised 1996

WEB SITES

<http://www.ctc.ca.gov>

DISTRICT INTERNS

District Internship Program

The Governing Board may, in consultation with an accredited college or university offering an approved program of teacher preparation, employ individuals with appropriate certification from the Commission on Teacher Credentialing to teach as district interns in grades K through 12 or in bilingual education classes. (Education Code 44830.3)

(cf. 4112.2 - Certification)

Interns holding certificates to teach in grades 9 through 12, in grades 6 through 8 of a departmentalized program, or in departmentalized bilingual classes shall teach only in subject areas in which they have completed an undergraduate academic major or minor. (Education Code 44326)

Interns holding certificates to teach in grades kindergarten through 8 in a self-contained program or self-contained bilingual classes, and who have completed an academic major or minor or a diversified or liberal arts degree that includes the subject-matter coursework prescribed in Education Code 44314, are authorized to teach in those grades or classes. (Education Code 44326)

(cf. 4112.22 - Staff Teaching Students of Limited English Proficiency)

Each intern shall be assisted and guided by one or more of the following: (Education Code 44326, 44830.3)

1. A mentor teacher
2. Personnel employed by the college or university to supervise student teachers
3. A certificated employee selected through a competitive process adopted by the Governing Board after consultation with the exclusive teacher representative unit

Mentor teachers or other certificated employees described above shall possess valid certification at the same level or of the same type of credential as the district interns they serve. (Education Code 44326)

(cf. 4138 - Mentor Teachers)

The Superintendent or designee shall develop and implement a professional development plan for each district intern, in consultation with the college or university, which shall include: (Education Code 44830.3)

1. Provisions for an annual evaluation of the district intern

DISTRICT INTERNS (continued)

2. If necessary, a description of the courses to be completed by the intern and a plan for the completion of preservice or other clinical training, including student teaching
3. Mandatory preservice training tailored to the grade level or class to be taught, through either of the following options:
 - a. Under the direct supervision of an experienced permanent teacher, 120 clock hours of training and orientation in child development and methods of teaching the subject(s) to which the intern will be assigned, after which the teacher shall inform the district regarding the area that should be emphasized in future training of the intern
 - b. Successful completion of six semester units of coursework from a regionally accredited college or university, designed in cooperation with the district to cover child development and methods of teaching the subject(s) to be taught
4. Instruction in child development and teaching methods during the first semester of service in grades kindergarten through 6, including bilingual classes at those levels

For interns teaching in bilingual classes, the professional development plan also shall include: (Education Code 44830.3)

1. During the first year of service, instruction in the culture and methods of teaching bilingual children
2. 120 clock hours of training and orientation which includes instruction related to bilingual-crosscultural language and academic development

The professional development plan shall be submitted to the Commission on Teacher Credentialing prior to requesting a district intern certificate.

The Superintendent or designee shall ensure that appropriate records are maintained, showing the credit earned by each intern. (Education Code 44327)

When a district intern's certificate expires, the Superintendent or designee may recommend to the Commission on Teacher Credentialing that the certificate be extended for one year. (Education Code 44325)

After an intern has successfully completed his/her internship, the Governing Board may recommend to the Commission on Teacher Credentialing that the intern be awarded a professional clear credential. (Education Code 44328, 44830.3)

DISTRICT INTERNS (continued)

University Internship Program

The Governing Board may employ persons with appropriate internship certification from the Commission on Teacher Credentialing to provide the same service at the same levels as the regular credential authorizes. (Education Code 44454)

The Superintendent or designee shall seek the assistance of the college or university in coordinating the intern's program. (Education Code 44465)

The Superintendent or designee also may enter into agreements to employ competent and qualified college and university staff members to supervise and guide interns as they pursue their district responsibilities. (Education Code 44461)

Salary payments for supervision of interns may be made out of district funds and may be met by reducing proportionately the salaries paid interns in the manner provided by law. (Education Code 44462)

Prior to enrollment in any college or university program to renew the internship credential, the Superintendent or designee shall counsel with the intern and jointly plan a total program for the first and subsequent renewals. The program shall meet the instructional or service needs of the district with the primary objective being to increase the effectiveness of the intern in the district. (Education Code 44457, 44458)

The district shall seek the cooperation of public and private colleges and universities, especially those within the geographic service area of the district, for the establishment of courses and classes necessary for renewal. (Education Code 44459)

New Careers Program

The Superintendent or designee and the participating college or university shall jointly select interns to assist in teaching at elementary schools with high concentrations of low-income families. Such persons shall have completed at least 60 units of coursework in a community college or four-year institution of higher education. (Education Code 44524, 44526)

The Superintendent or designee and the participating college or university also shall jointly select team leaders who shall each be responsible for directing, aiding, coordinating and supervising six to ten interns. The team leader shall be an experienced teacher with demonstrated capability in teaching educationally disadvantaged students. (Education Code 44526, 44527)

Interns shall participate in a teacher education program provided under the guidance of the team leader in cooperation with the participating college or university. (Education Code 44529)

DISTRICT INTERNS (continued)

Pre-Internship Teaching Program

The Superintendent or designee shall ensure that experienced teachers and other appropriate district personnel are involved in the delivery of preparation and support to pre-intern teachers. He/she also shall collaborate with college or university personnel to ensure the availability of courses needed by pre-interns.

Preparation for pre-interns shall begin before or during the first semester of the pre-internship and shall include, but not be limited to, lesson planning, classroom management and organization.

No later than the second year of employment, the program for each pre-intern shall reflect the California Standards for the Teaching Profession jointly developed by the Commission on Teacher Credentialing and the California Department of Education.

The Superintendent or designee may exempt an individual from participation in the pre-internship program if that individual holds an emergency substitute teaching permit, has completed most of the requirements for a preliminary teaching credential and/or holds a limited assignment emergency permit as a result of consenting to teach temporarily outside his/her field of certification. (Education Code 44307.5)

STAFF TEACHING STUDENTS OF LIMITED ENGLISH PROFICIENCY

The Superintendent or designee shall ensure compliance with state staffing requirements for serving English language learners by:

(cf. 6174 - Education for English Language Learners)
(cf. 6162.5 - Student Assessment)

Instruction by Credentialed Teachers (CDE Option 2)

Appropriately credentialed teachers providing English language development and/or primary language instruction.

(cf. 4112.2 - Certification)

A teacher shall be considered qualified to provide specially designed content instruction delivered in English if he/she meets both of the following conditions: (Education Code 44253.10)

1. The teacher, as of January 1, 1999, is a permanent employee of the district or was previously a permanent employee and then was employed in any California public school district within 39 months of the previous permanent status.

(cf. 4116 - Probationary/Permanent Status)

2. The teacher completes, prior to January 1, 2005, 45 hours of staff development in methods of specially designed content instruction delivered in English.

A teacher who has completed the above training may provide specially designed content instruction delivered in English and English language development in any departmentalized teaching assignment consistent with the teacher's basic credential. The teacher may provide instruction for English language development in a self-contained classroom if he/she has accomplished one or both of the following: (Education Code 44253.10)

1. Has taught for at least nine years in California public schools, certified that he/she has had experience or training in teaching LEP students, and authorized verification by the entity that issued a certificate of completion for the staff development
2. Has completed, within three years of completing the staff development described above, an additional 45 hours of staff development, including specially designed content instruction delivered in English and English language development training

During the period when the teacher is pursuing training in instruction for English language development or specially designed content instruction delivered in English, he/she may be provisionally assigned to provide that instruction. (Education Code 44253.10)

STAFF TEACHING STUDENTS OF LIMITED ENGLISH PROFICIENCY

(continued)

Plan to Remedy the Shortage of Qualified Teachers (CDE Option 4)

The Superintendent or designee developing a plan to remedy the district's shortage of qualified teachers in accordance with law and with California Department of Education approval.

This plan shall include an appropriate staff development program designed to provide training in English language development teaching methodology, bilingual cross-cultural teaching methodology, and the acquisition of the primary languages of LEP students. As part of this plan, appropriately qualified bilingual paraprofessionals may be teamed with regular teachers. The plan shall specify the number of teachers to be trained and the number expected to meet certification or local designation standards each year. The training program also shall address the needs of teachers who instruct LEP students on an interim basis.

(cf. 4112.21 - District Interns)

(cf. 4222 - Teacher Aides/Paraprofessionals)

General Waiver Authority (CDE Option 5)

When the district is unable, after good faith efforts, to obtain the human and material resources necessary to provide instructional and support services for LEP students, the district requesting a waiver from the State Governing Board under the General Waiver Authority. (Education Code 33050)

(cf. 1431 - Waivers)

Legal Reference: (see next page)

STAFF TEACHING STUDENTS OF LIMITED ENGLISH PROFICIENCY
(continued)

Legal Reference:

EDUCATION CODE

10600-10610 California Education Information System

33050 Request for waiver of code provisions

44225 Duties of the Commission on Teacher Credentialing

44253.1-44253.10 Certification for bilingual-crosscultural competence

44259.5 Standards for teachers of all students, including English language learners

44380-44386 Alternative certification

44760-44763 Teacher supply and demand reporting

52160-52178 Bilingual-Bicultural Act of 1976

52180-52186 Bilingual teacher training assistance program

62001-62005.5 Evaluation and sunseting of programs

CODE OF REGULATIONS, TITLE 5

80680-80690.1 Staff development programs for teachers of English learners

UNITED STATES CODE, TITLE 20

1701-1704 Equal Educational Opportunities

COURT DECISIONS

Teresa P. et al v. Berkeley Unified School District et al, (1989) 724 F.Supp. 698

Management Resources:

CDE PROGRAM ADVISORIES

0300.97 Programs for English Learners

0210.89 Changes Regarding Limited-English Proficient Program

0520.88 State Program for Students of Limited English Proficiency, CCP: 87/8-14

CDE PUBLICATIONS

Remedying the Shortage of Teachers for LEP Students, 1991

Option 1 Alternatives: Technical Standards and Recommended Practices for Development of Outcome-Based Assessment of District Services to LEP Students, 1991

Local Designation of Qualified Teachers, LEP Staffing Option 3, 1989

A Resource Guide, Plan to Remedy the Shortage of Qualified Teachers (Option 4), 1991

SPECIAL EDUCATION STAFF

Resource Specialists

The Governing Board shall employ certificated resource specialists to provide services, where required by law, for students who have exceptional needs, their parents/guardians, and school staff.

The resource specialist program shall be directed by a resource specialist fully qualified in accordance with law.

- (cf. 0430 - Comprehensive Local Plan for Special Education)*
- (cf. 1312.3 - Uniform Complaint Procedures)*
- (cf. 3541.2 - Transportation for Students with Disabilities)*
- (cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))*
- (cf. 6146.4 - Differential Graduation and Competency Standards for Students with Disabilities)*
- (cf. 6159 - Individualized Education Program (IEP))*
- (cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)*
- (cf. 6159.2 - Nonpublic Nonsectarian School and Agency Services for Special Education)*
- (cf. 6159.3 - Appointment of Surrogate Parent for Special Education)*
- (cf. 6164.4 - Identification of Individuals for Special Education)*

Legal Reference:

EDUCATION CODE

56195.8 Adoption of policies

56361 Program options

56362 Resource specialist program, contents, direction; resource specialists, case-loads, assignments, instructional aide; pupil enrollment

56362.1 Caseload

56362.5 Resource specialist certificate of competence

56362.7 Bilingual-crosscultural certificate of assessment competence

56363.3 Average caseload limits

56441.7 Maximum caseload (programs for individuals with exceptional needs between the ages of three and five inclusive)

56728.6 Instructional personnel funding

56728.8 Instructional personnel funding; services to infants

CODE OF REGULATIONS, TITLE 5

3051.1 Language, speech and hearing development and remediation; appropriate credential

All Personnel

AR 4112.3

4212.3

OATH OR AFFIRMATION

4312.3

All public employees are disaster service workers. As such, before beginning employment with the district, employees must take the oath or affirmation required by law. In the event of natural, manmade or war-caused emergencies which result in conditions of disaster or extreme peril to life, property and resources, all district employees are subject to disaster service activities as assigned to them by their supervisors. (Government Code 3100-3102)

(cf. 3516 - Emergencies and Disaster Preparedness Plan)

The Superintendent or designee shall administer the above oath when district employees are hired.

Legally employed noncitizens shall be exempt from taking this oath. (Government Code 3101)

At the advice of legal counsel, the Superintendent or designee may exempt a prospective employee from taking the above oath if he/she raises a valid religious objection.

Legal Reference:

EDUCATION CODE

60 Persons authorized to administer and certify oaths

44334 Oath or affirmation

44354 Administration of oath

GOVERNMENT CODE

3100-3109 Oath or affirmation of allegiance

CALIFORNIA CONSTITUTION

Article 20, Section 3 Oath of office

COURT DECISIONS

Chilton v. Contra Costa Community College District 55 Cal. App. 3d 544 (1976)

Vogel v. County of Los Angeles (1967) 68 Cal. 2d 18, 22

All Personnel

E 4112.3

4212.3

OATH OR AFFIRMATION

4312.3

"I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

(Signature)

Certified by:

(Person who administers the oath)

All Personnel

BP 4112.4

4212.4

HEALTH EXAMINATIONS

4312.4

New Employees

The Superintendent or designee shall ensure that new district employees comply with all the health examination requirements of California law.

In addition, the Superintendent or designee may require applicants for employment in classified positions to undergo a preemployment physical examination to show that they are physically able to perform the duties of specific jobs. (Education Code 45122)

Continuing Employees

Continuing employees shall undergo periodic tuberculosis tests once every four years in accordance with law. (Education Code 49406)

The Governing Board is concerned about the prevalence of tuberculosis in our community and may require continuing employees to undergo tuberculosis tests when warranted upon the recommendation of the local health officer.

Employees may be required to pass a physical and/or psychological examination any time such an examination appears necessary to preserve the health and welfare of district students and employees or to furnish medical proof of physical or mental ability to perform satisfactorily the assigned duties of an individual's position. (Education Code 44839, 45122)

(cf. 4119.41/4219.41/4319.41 - Employees with Infectious Disease)

Legal Reference:

EDUCATION CODE

44839 Medical certificate; periodic medical examination

44839.5 Requirements for employment of retirant

44932 Grounds for dismissal of permanent employee

44942 Suspension or transfer of certificated employee on ground of mental illness, psychiatric examination; mandatory sick leave

45122 Physical examinations

49406 Examination for tuberculosis

CODE OF REGULATIONS, TITLE 5

5502-5503 Physical examination for retirants employed as substitute teacher, etc.

5504 Medical certification procedures

HEALTH EXAMINATIONS

Tuberculosis Tests

New Employees

1. No applicant shall be initially employed in a classified or certificated position unless, within the past 60 days, he/she has submitted to an intradermal tuberculin skin test or other approved tuberculin test and, if that test was positive, has subsequently obtained an x-ray of the lungs. The applicant shall submit to the district a certificate signed by an authorized health care provider indicating that he/she is free of active tuberculosis. (Education Code 49406; 5 CCR 5503)

An applicant who was previously employed in another California school district or private or parochial school may fulfill tuberculosis examination requirements in either of the following ways: (Education Code 49406)

- a. By producing a certificate showing that the employee was examined within the last four years and found free of active tuberculosis, or
- b. By having the last employing school verify that it has on file a current certificate which contains that showing.

The cost of pre-employment examinations shall be borne by the applicant. (Education Code 44839, 45122, 49406)

If an employee's religious belief prevents him/her from undergoing a tuberculosis examination, the employee shall file an affidavit stating that he/she adheres to the faith or teachings of a well-recognized religious sect, denomination, or organization and, in accordance with its creed, tenets, or principles, depends for healing upon prayer in the practice of religion and that, to the best of his/her knowledge or belief, he/she is free from active tuberculosis. In order to exempt the individual, the Board shall determine by resolution, after a hearing, that the health of students would not be jeopardized. (Education Code 49406)

Continuing Employees

Every district employee who tests negative shall undergo a tuberculosis examination at least once every four years, or more often if so directed by the Governing Board upon recommendation of the county health officer, for as long as the employee's test remains negative. An employee with a documented positive test for tuberculosis infection shall no longer be required to submit to the examination but shall be referred to the county health officer within 30 days of the examination to determine the need for follow-up care. (Education Code 49406)

All Personnel

AR 4112.4(b)
4212.4
4312.4

HEALTH EXAMINATIONS (continued)

Tuberculosis tests for employees shall be provided by the district or at district expense. (Education Code 44839, 45122, 49406)

The Superintendent or designee may exempt from the tuberculosis testing requirement classified employees who are employed for less than a school year if their functions do not require frequent or prolonged contact with students. (Education Code 49406)

The Superintendent or designee may exempt a pregnant employee from the requirement that a positive tuberculin skin test be followed by an x-ray of the lungs, for a period not to exceed 60 days following termination of the pregnancy. (Education Code 49406)

Medical Certification for Communicable Diseases for Certificated Employees

The Board shall not fill a position requiring certification with an applicant who has not previously been employed in a certificated position in California or a retirant who has not been employed as a retirant, unless the district has on file a medical certification completed and submitted directly to the district by an authorized health care provider. (Education Code 44839, 44839.5)

(cf. 4117.14/4217.14 – Post-retirement Employment)

The medical certification shall certify that the applicant or retirant is free from any disabling disease which would render him/her unfit to instruct or associate with children. He medical examination referred to in the certificate must have been conducted within six months of the date that the certificate is filed. (Education Code 44839, 44839.5; 5 CCR 5503)

(cf. 4119.41/4219.41/4319.41 – Employees with Infectious Disease)

Applicants and retirants shall pay for the cost of obtaining the medical certification. (Education Code 44849, 44839.5)

The Board may require certificated employees and/or retirants to undergo, at district expense, a periodic medical examination pursuant to Education Code 44839 or 4839.5 to determine that they are free from any communicable disease making them unfit to instruct or associate with children. (Education Code 44839, 44839.5)

HEALTH EXAMINATIONS (continued)

Mental Examination for Certificated Employees

A certificated employee may be suspended or transferred to other duties if the Board has reasonable cause to believe that the employee is suffering from mental illness of such a degree as to render him/her incompetent to perform his/her duties. In such a case, the district shall follow the process specified in Education Code 44942 and the district's collective bargaining agreement, including the opportunity for the employee to be examined by a panel of psychiatrists or psychologists.

(cf. 4032 – Reasonable Accommodation)
(cf. 4118 – Suspension/Disciplinary Action)

Food Service Workers

All food service workers who cook, serve or handle food are required to obtain a health certificate before being assigned to work in any district cafeteria or kitchen. If a disease is suspected, a blood test or periodic health examinations may be required.

Legal Reference:

EDUCATION CODE

44839 Medical certificate; periodic medical examination

448395 Requirements for employment of retirant

44932 Grounds for dismissal of permanent employee

44942 Suspension or transfer of certificated employee on ground of mental illness

45122 Physical examinations

49406 Examination for tuberculosis

BUSINESS AND PROFESSIONS CODE

2700-2838 Nurses

3500-3546 Physician assistants

HEALTH AND SAFETY CODE

121525 Private and parochial school employees, examination for tuberculosis

CODE OF REGULATIONS, TITLE 5

5502 Filing of notice of physical examination for employment of retired persons

5503 Physical examination for employment of retired persons

5504 Medical certification procedures

COURT DECISIONS

Doe v. Lincoln Unified School District, (2010) 188 Cal.App.4th 758

Leonel v. American Airlines, Inc., (2005) 400 F.3d. 702

Raven v. Oakland Unified School District, (1989) 213 Cal.App.3d 1347

All Personnel

AR 4112.4(d)
4212.4
4312.4

HEALTH EXAMINATIONS (continued)

Management Resources:

WEB SITES

California Department of Public Health: <http://www.cdph.ca.gov>

Centers for Disease Control and Prevention: <http://www.cdc.gov>

Public Health Institute: <http://www.phi.org>

U.S. Food and Drug Administration: <http://www.fda.gov>

Revised: May 24, 2011

All Personnel

BP 4112.41

4212.41

EMPLOYEE DRUG TESTING

4312.41

The Governing Board maintains a drug and alcohol-free workplace. In accordance with law, all employees shall render service without using, possessing, being impaired by or being under the influence of alcohol or drugs.

(cf. 4020 - Drug and Alcohol-Free Workplace)

(cf. 4112.42/4212.42/4312.42 - Drug and Alcohol Testing for School Bus Drivers)

Pre-Employment Drug/Alcohol Testing

Once a conditional offer of employment has been made, prospective employees shall undergo a pre-employment drug and alcohol screening for any substance which could impair their ability to safely and effectively perform their job functions. This screening shall be part of the employee's pre-employment physical examination.

All medical examinations shall be conducted in accordance with state and federal law, and in accordance with Governing Board policy and administrative regulation.

(cf. 4112.4 /4212.4/4312.4 - Health Examinations)

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)

Legal Reference:

EDUCATION CODE

44839 Medical certificate; periodic medical examination

45122 Physical examinations

GOVERNMENT CODE

8350-8357 Drug-free workplace

12940 Unlawful employment practices

CODE OF REGULATIONS, TITLE 5

5504 Medical certification procedures

UNITED STATES CODE, TITLE 41

701-707 Drug-Free Workplace Act

COURT DECISIONS

Loder v. City of Glendale, (1997) 14 Cal. 4th 846

Vernonia School District 47J v. Acton, (1995) 115 S.Ct. 2386

International Brotherhood of Teamsters v. Department of Transportation, (1991) 932 F.2d 1292

Skinner v. Railway Labor Executives' Assn., (1989) 489 U.S. 602

National Treasury Employees Union v. Von Raab, (1989) 109 S.Ct. 1384

PUBLIC LAW 107-110

4001-4304 Safe and Drug-Free Schools and Communities Act

All Personnel

AR 4112.41

4212.41

EMPLOYEE DRUG TESTING

4312.41

Pre-Employment Drug/Alcohol Screening

Final selection of a job applicant for a position shall not be made until the applicant has successfully completed a drug and alcohol screening required as part of the pre-employment physical examination.

Applicants shall sign a form consenting to the drug and alcohol testing. The consent form shall authorize release of the test results to the district.

To ensure the privacy of the drug and alcohol screening of job applicants, the district will not use test results for any purpose other than those stated in Governing Board policy and administrative regulation. The district shall maintain the confidentiality of screening records and shall not disclose these records unless the applicant has consented to the disclosure or the Superintendent or designee is presented with a court order requiring the disclosure.

All initial screening tests shall be conducted at the district's expense. If an applicant's initial test is positive, a second test shall be administered as soon as possible to confirm the results. This test also shall be conducted at the district's expense.

Upon obtaining a second positive result, the applicant may seek an independent drug and alcohol screening from a recognized medical laboratory at his/her own expense. Any applicant who fails to provide the district with a negative drug and alcohol screening report within five working days of a confirmed positive result shall be determined to have failed the screening and shall not be employed.

Failure to submit to the process or to complete the process shall preclude the applicant from being hired into the position. Disqualified applicants shall not be prohibited from applying for another job within the district.

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS

The Governing Board desires to take all possible steps to ensure transportation safety for District students, staff, and the public. The Superintendent or designee shall establish a drug and alcohol testing program for all school bus drivers, employees who operate District vehicles as part of their job duties, and any other employees who hold a commercial driver's license which is necessary to perform duties related to their employment with the District. This program shall be designed to fulfill the requirements of state and federal laws and regulations.

(cf. 3542- School Bus Drivers)

(cf. 3540 - Transportation)

(cf. 3543 – Transportation Safety and Emergencies)

(cf. 4020 - Drug and Alcohol-Free Workplace)

(cf. 14.5 - Classified Employees Contract)

(cf. 3541.1 - Transportation - School Related Trips)

The District's testing program shall include pre-employment drug testing and reasonable suspicion, random, post-accident, return-to-duty, and follow-up drug and alcohol testing of drivers. (49 USC 31306)

The Superintendent or designee shall contract for testing services and shall ensure that testing contractors and procedures are certified by the U.S. Department of Health and Human Services to conduct drug specimen analysis and to conform to the requirements of federal law.

No driver may operate a District vehicle when his/her blood alcohol content is found to be .01 percent or greater. A driver shall not consume alcohol while on duty or for four hours prior to on-duty time and up to eight hours following an accident or until he/she undergoes a post-accident test, whichever occurs first. A driver shall not report for duty or remain on duty that requires performing safety-sensitive functions when the driver uses a controlled substance, unless so instructed by a physician. (49 CFR 382.205, 382.207, 382.209; Vehicle Code 34520.3; 13 CCR 1213.1)

Drivers who test positive for alcohol or drugs or who refuse to submit to a test shall be removed from safety-sensitive functions and shall be subject to disciplinary action up to and including dismissal in accordance with law, administrative regulations, and the District's collective bargaining agreement.

The Superintendent or designee shall ensure that each driver receives an explanation of the federal regulations and the District's policy and procedure in accordance with law. In addition, each driver shall sign a statement certifying that he/she has received a copy of the above materials. Representatives of employee organizations shall be notified of the availability of this information. (49 CFR 382.601)

All Personnel

BP 4112.42(b)
4212.42
4312.42

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

(cf. 4112.9 - Employee Notifications)
(cf. 4117.4 - Dismissal)
(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

Legal Reference:

EDUCATION CODE

35160 Authority of Governing Boards

VEHICLE CODE

34500-34520.5 Safety Regulations

CODE OF REGULATIONS, TITLE 13

1200-1293 Motor Carrier Safety, especially:
1213.1 Placing Drivers Out-of-Service

UNITED STATES CODE, TITLE 49

31306 Alcohol and controlled substances testing
41501-41507 Transportation Employee Testing Act

CODE OF FEDERAL REGULATIONS, TITLE 49

40.1-40.413 Part 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs
382.101-382.605 Controlled Substance and Alcohol Use and Testing; especially:
382.205 On-Duty Use
382.207 Pre-Duty Use
382.209 Use Following an Accident

Management Resources:

WEB SITES

California Highway Patrol: <http://www.chp.ca.gov>
U.S. Department of Transportation, Office of Drug and Alcohol Policy and Compliance: <http://www.dot.gov/ost/dapc>

Adopted: January 17, 2007

All Personnel

AR 4112.42(a)

4212.42

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS

4312.42

The district's drug and alcohol testing program shall apply to all employees who operate a commercial motor vehicle, including any vehicle designed to transport 16 or more passengers. This includes casual, intermittent or occasional drivers as well as full-time, regularly employed drivers. (49 CFR 382.107)

The Superintendent or designee shall contract for collection and testing services and shall ensure that testing procedures and facilities used for the tests conform with the requirements of the Code of Federal Regulations, Title 49, Part 40.

Drivers shall inform their supervisors if at any time they are using a controlled substance which their physician has prescribed for therapeutic purposes. Drivers using such a substance may continue to perform safety-sensitive functions only if the physician has advised the driver that the substance will not adversely affect his/her ability to safely operate a commercial motor vehicle. (49 CFR 382.213)

Pre-Employment Tests

A pre-employment drug test shall be required of an applicant only after he/she has been offered the position.

Drug tests shall be conducted before the first time a driver performs any safety-sensitive function for the district. (49 CFR 382.301)

Safety-sensitive functions include all on-duty functions performed from the time a driver begins work or is required to be ready to work until he/she is relieved from work and all responsibility for performing work. It includes driving; waiting to be dispatched; inspecting and servicing equipment; supervising, performing or assisting in loading and unloading; repairing or obtaining and waiting for help with a disabled vehicle; performing driver requirements related to accidents; and performing any other work for the district or paid work for any other entity. (49 CFR 382.107, 395.2)

Exceptions may be made for drivers who have participated in the drug testing program required by law within the previous 30 days, provided that the district has been able to make all verifications required by law. (49 CFR 382.301)

Pre-employment testing shall also be required of employees returning to work after a layoff period if the employee was removed from the random testing pool. If the employee remains in the random testing pool, additional testing shall not be necessary. (49 CFR 382.301)

(cf. 4112.41/4212.41/4312.41 - Employee Drug Testing)

Post-Accident Tests

Alcohol and controlled substance tests shall be conducted as soon after an accident as practicable on any driver:

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

1. Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved loss of human life (49 CFR 382.303)
2. Who receives a citation under state or local law for a moving traffic violation arising from the accident (49 CFR 382.303)
3. Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved a serious medical injury
4. Whose performance cannot be excluded as a contributing factor based on information available at the time of the accident

Drivers shall make themselves readily available for testing, absent the need for immediate medical attention. (49 CFR 382.303)

No such driver shall use alcohol for eight hours after the accident, or until after he/she undergoes a post-accident alcohol test, whichever occurs first. (49 CFR 382.209)

If an alcohol test is not administered within two hours of the accident or if a drug test is not administered within 32 hours, the district shall prepare and maintain records explaining why the test was not conducted. Tests shall not be given if not administered within eight hours after the accident for alcohol or within 32 hours for drugs. (49 CFR 382.303)

Tests conducted by authorized federal, state or local officials shall fulfill post-accident testing requirements provided they conform to applicable legal requirements and are obtained by the district. Breath tests will validate only the alcohol test and cannot be used to fulfill controlled substance testing obligations. (49 CFR 382.303)

Random Tests

Alcohol and drug tests shall be conducted on a random basis at unannounced times throughout the year. The number of random alcohol and drug tests shall be at least equal to those required by federal regulations. Drivers shall be selected by a scientifically valid random process, and each driver shall have an equal chance of being tested each time selections are made. Tests for alcohol shall be conducted just before, during or just after the performance of safety-sensitive functions. (49 CFR 382.305)

Employees off work due to leaves, vacation and layoffs shall be informed that they remain subject to random testing. Employees drawn for such testing shall be notified and tested as soon as practicable after they return to duty.

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

Reasonable Suspicion Tests

An alcohol or drug test shall be conducted if a supervisor or district official trained in accordance with law has reasonable suspicion that a driver has violated the district's alcohol or drug prohibitions. This reasonable suspicion must be based on specific, contemporaneous, articulable observations concerning the driver's appearance, behavior, speech or body odors. The observations may include indications of the chronic and withdrawal effects of controlled substances. (49 CFR 382.307)

Alcohol tests are authorized for reasonable suspicion only if the required observations are made during, just before or just after the period of the work day when the driver must comply with alcohol prohibitions. An alcohol test may not be conducted by the person who determines that reasonable suspicion exists to conduct such a test. If an alcohol test is not administered within two hours of a determination of reasonable suspicion, the district shall prepare and maintain a record explaining why this was not done. Attempts to conduct alcohol tests shall terminate after eight hours. (49 CFR 382.307)

A supervisor or district official who makes observations leading to a controlled substance reasonable suspicion test shall make a written record of his/her observations within 24 hours of the observed behavior or before the results of the drug test are released, whichever is earlier. (49 CFR 382.307)

The Superintendent or designee shall ensure that an employee under reasonable suspicion is transported to the designated collection or testing site.

Enforcement

Any driver who refuses to submit to a post-accident, random or reasonable suspicion test, or to a follow-up test as described below, shall not perform or continue to perform safety-sensitive functions. (49 CFR 382.211) Therefore, any driver who so refuses shall be immediately suspended and subject to disciplinary action, up to and including dismissal.

(cf. 4117.4 - Dismissal)

(cf. 4118 - Suspension/Disciplinary Action)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

A driver who is tested and found to have an alcohol concentration of .02 or greater but less than .04 may not perform or continue to perform safety-sensitive functions including driving a commercial motor vehicle until the start of the driver's next regularly scheduled duty period, but not less than 24 hours after the test was administered. (49 CFR 382.505)

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

A driver who tests positive for drugs or is found to have an alcohol concentration of .04 or greater shall be subject to disciplinary action up to and including dismissal.

A driver who violates district prohibitions related to drugs and alcohol shall receive from the district the names, addresses and telephone numbers of substance abuse professionals and counseling and treatment programs available to evaluate and resolve drug and alcohol-related problems. The employee shall be evaluated by a substance abuse professional who shall determine what help, if any, the driver needs in resolving such a problem. Any substance abuse professional who determines that a driver needs assistance shall not refer the driver to a private practice, person or organization in which he/she has a financial interest, except under circumstances allowed by law. (49 CFR 382.605)

An employee identified as needing help in resolving a drug or alcohol problem shall be evaluated by a substance abuse professional to determine that he/she has properly followed the prescribed rehabilitation program. (49 CFR 382.605)

Return-to-Duty Tests

If a driver who has violated the district's drug or alcohol prohibition is returned to performing safety-sensitive duties, a drug or alcohol test shall be conducted. (49 CFR 382.309)

Employees whose conduct involved drugs shall not return to duty in a safety-sensitive function until the return-to-duty drug test produces a verified negative result. Employees whose conduct involved alcohol shall not return to duty in a safety-sensitive function until the return-to-duty alcohol test indicates an alcohol concentration of less than .02. (49 CFR 382.605)

Follow-up Tests

A driver who violates the district's drug or alcohol prohibition and is subsequently identified by a substance abuse professional as needing assistance in resolving a drug or alcohol problem shall be subject to unannounced follow-up testing as directed by the substance abuse professional in accordance with law. Follow-up alcohol testing shall be conducted just before, during or just after the time when the driver is performing safety-sensitive functions. (49 CFR 382.311)

Follow-up testing shall consist of at least six tests in the first 12 months following the driver's return to duty. The substance abuse professional may terminate the follow-up testing at any time after the first six tests if he/she determines that testing is no longer needed. Testing shall not occur beyond 60 months from the date of the driver's return to duty. (49 CFR 382.605)

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

Maintenance of Records

Employee drug and alcohol test results and records shall be maintained under strict confidentiality and released only in accordance with law. Upon written request, a driver shall receive copies of any records pertaining to his/her use of drugs or alcohol, including any records pertaining to his/her drug or alcohol tests. Records shall be made available to a subsequent employer or other identified persons only as expressly requested in writing by the driver. (49 CFR 382.405)

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)

Notifications

Each driver shall receive educational materials that explain the requirements of the Code of Federal Regulations, Title 49, Part 382, together with a copy of the district's policy and regulations for meeting these requirements. Representatives of employee organizations shall be notified of the availability of this information. The information shall identify all of the following: (49 CFR 382.601)

1. The person designated by the district to answer drivers' questions about the materials
2. The categories of drivers who are subject to the Code of Federal Regulations, Title 49, Part 382
3. Sufficient information about the safety-sensitive functions performed by drivers to make clear what period of the work day the driver is required to comply with Part 382
4. Specific information concerning driver conduct that is prohibited by Part 382
5. The circumstances under which a driver will be tested for drugs and/or alcohol under Part 382
6. The procedures that will be used to test for the presence of drugs and alcohol, protect the driver and the integrity of the testing processes, safeguard the validity of test results and ensure that test results are attributed to the correct driver
7. The requirement that a driver submit to drug and alcohol tests administered in accordance with Part 382
8. An explanation of what constitutes a refusal to submit to a drug or alcohol test and the attendant consequences

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

9. The consequences for drivers found to have violated the drug and alcohol prohibitions of Part 382, including the requirement that the driver be removed immediately from safety-sensitive functions and the procedures for referral, evaluation and treatment
10. The consequences for drivers found to have an alcohol concentration of .02 or greater but less than .04
11. The effects of drugs and alcohol on an individual's health, work and personal life; signs and symptoms of a drug or alcohol problem (the driver's or a coworker's); and available methods of intervening when a drug or alcohol problem is suspected, including confrontation, referral to an employee assistance program and/or referral to management

(cf. 4159/4259/4359 - Employee Assistance Programs)

12. Other legal requirements, district policies and disciplinary consequences related to the use of alcohol and drugs.

(cf. 4020 - Drug and Alcohol-Free Workplace)

Each driver shall sign a statement certifying that he/she has received a copy of the above materials. (49 CFR 382.601)

(cf. 4112.9 - Employee Notifications)

Before any driver operates a commercial motor vehicle, the district shall provide him/her with post-accident procedures that will make it possible to comply with post-accident testing requirements. (49 CFR 382.303)

Before drug and alcohol tests are performed pursuant 49 CFR 382, the district shall inform drivers that the tests are required by these regulations. (49 CFR 382.113)

The district shall notify a driver of the results of a pre-employment drug test if the driver requests such results within 60 calendar days of being notified of the disposition of his/her employment application. (49 CFR 382.411)

The district shall notify a driver of the results of random, reasonable suspicion and post-accident drug tests if the test results are verified positive. The district shall also tell the driver which controlled substance(s) were verified as positive. (49 CFR 382.411)

Certificated Personnel

AR 4112.5(a)
4312.5

CRIMINAL RECORD CHECK

Applicants for Employment

The Superintendent or designee shall ensure that each person to be employed submits fingerprints, either electronically through the Live Scan system or on fingerprint identification cards, for processing by the Department of Justice. If the district is using the Live Scan system, the Superintendent or designee shall also provide the applicant with a Live Scan request form and a list of nearby Live Scan locations.

The Superintendent or designee shall ensure that no person is hired in a position requiring certification qualifications or supervising positions requiring certification qualifications who has been convicted of a violent or serious felony as listed in Penal Code 667.5(c) or 1192.7(c), unless that person has obtained a certificate of rehabilitation and a pardon. (Education Code 44830.1)

(cf. 4112 - Appointment and Conditions of Employment)
(cf. 4112.2 - Certification)

However, a certificated employee may be hired by the district, without obtaining a criminal record summary, if that employee became a permanent employee of another school district as of October 1, 1997. (Education Code 44830.1)

(cf. 4121 - Temporary/Substitute Personnel)

Temporary Certificate of Clearance

Before issuing a temporary certificate of clearance to an applicant whose credential is being processed, the Superintendent or designee shall obtain a criminal record summary from the Department of Justice. The Superintendent or designee shall not issue a temporary certificate of clearance if the applicant has been convicted of a violent or serious felony, unless the applicant has obtained a certificate of rehabilitation and pardon. (Education Code 44332, 44332.5, 44332.6)

The Superintendent or designee may issue a temporary certificate of clearance without obtaining a criminal record summary to an employee currently and continuously employed by a district within the county who is serving under a valid credential and has applied for a renewal of that credential or for an additional credential. (Education Code 44332.6)

The Superintendent or designee may issue a temporary certificate of clearance to a person who has been convicted of a serious felony that is not also a violent felony, if that person can prove to the sentencing court of the offense in question, by clear and convincing evidence, that he/she has been rehabilitated for the purposes of school employment for at least one year. (Education Code 44332.6)

CRIMINAL RECORD CHECK (continued)

Subsequent Arrest Notification

The Superintendent or designee shall request subsequent arrest notification from the Department of Justice as provided under Penal Code 11105.2. (Education Code 44830.1)

(cf. 4112.6/4212.6/4312.6 - Personnel Files)

(cf. 4112.62/4212.62/4312.62 - Maintenance of Criminal Offender Records)

Current Employees

The Superintendent or designee shall not retain in employment any current certificated employee who is a temporary employee, substitute employee or probationary employee serving before March 15 of the employee's second probationary year if he/she has been convicted of a violent or serious felony. (Education Code 44830.1)

Upon notification by the Department of Justice of such conviction, the Superintendent or designee shall immediately place that employee on leave without pay. (Education Code 44830.1)

When the district receives written electronic notification of the fact of conviction from the Department of Justice, the Superintendent or designee shall terminate that employee without regard to any other procedure for termination specified in the Education Code or district procedures, unless that employee has received a certificate of rehabilitation and a pardon. (Education Code 44830.1)

If the employee challenges the Department of Justice record and the Department of Justice withdraws in writing its notification, the Superintendent or designee shall immediately reinstate that employee with full restoration of salary and benefits for the period of time from the suspension without pay to the reinstatement. (Education Code 44830.1)

Legal Reference: (see next page)

CRIMINAL RECORD CHECK (continued)

Legal Reference:

EDUCATION CODE

44010 Sex offense

44332 Temporary certificate

44332.5 Registering certificates by certain districts

44332.6 Criminal record check, county Governing Board

44346.1 Applicants for credential, conviction of a violent or serious felony

44830.1 Certificated employees, conviction of a violent or serious felony

44830.2 Certificated employees; interagency agreement

44836 Conviction of a sex offense

45122.1 Classified employees, conviction of a violent or serious felony

45125 Use of personal identification cards to ascertain conviction of crime

45125.01 Classified employees; interagency agreements

45125.5 Automated records check

45126 Duty of Department of Justice to furnish information

PENAL CODE

667.5 Prior prison terms, enhancement of prison terms

1192.7 Plea bargaining limitation

11105.2 Subsequent arrest notification

CODE OF REGULATIONS, TITLE 11

703 Release of criminal offender record information

708 Destruction of criminal offender record information

Management Resources:

WEB SITES

Department of Justice/Attorney General's Office: <http://www.caag.state.ca.us/app>

CSBA: <http://www.csba.org>

All Personnel

AR 4112.6(a)
4212.6
4312.6

PERSONNEL FILES

The Superintendent or designee shall maintain personnel files for all current employees. All personnel files are confidential and shall be available only to the employee, persons authorized by the employee and those authorized by the Superintendent or designee. Official employee files shall be maintained at the district's central office. The Superintendent or designee shall determine the types of information to be included and shall process all material to be placed in a personnel file.

(cf. 4141/4241 - Collective Bargaining Agreement)

The contents of all personnel files shall be kept in strict confidence by any authorized reviewer.

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)
(cf. 9011 - Disclosure of Confidential/Privileged Information)
(cf. 9321 - Closed Session Purposes and Agendas)
(cf. 9321.1 - Closed Session Actions and Reports)

Personnel files shall be reviewed and replaced within the shortest time possible. In no case shall a personnel file be left unattended or left unfiled overnight.

Files for District Police/Security Officers

Personnel files for district police or security officers shall be maintained and accessed in accordance with Governing Board policy and Government Code 3305-3306.

(cf. 3515.3 - District Police/Security Department)

Placement of Material in Personnel Files

Any person who places written material or drafts written material for placement in an employee's file shall sign the material and signify the date of placement.

When an employee is asked to sign any material that is to be placed in his/her file, it is with the understanding that his/her signature signifies only that he/she has read the material and does not necessarily indicate agreement with its contents.

Any request by an employee to include materials in his/her personnel file must be approved by the Superintendent or designee.

A certificated employee may initiate a written reaction or response to his/her performance evaluation and that response shall become a permanent attachment to the employee's personnel file. (Education Code 44663)

(cf. 4115 - Evaluation/Supervision)

PERSONNEL FILES (continued)

Derogatory Information

Information of a derogatory nature shall not be entered into an employee's personnel file unless and until the employee is given notice and an opportunity to review and comment on that information. Such a review shall take place during normal business hours. The employee shall be released from duty for this purpose without a salary reduction. The employee may enter his/her own comments and have them attached to the derogatory statement. (Education Code 44031)

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 4117.4 - Dismissal)

(cf. 4118 - Suspension/Disciplinary Action)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

(cf. 5141.4 - Child Abuse Reporting Procedures)

File Review by Employee

The contents of personnel records relating to the employee's performance or to any grievance concerning the employee shall be made available to the employee at reasonable intervals and at reasonable times. The Superintendent or designee shall not be required to make such records available at a time when the employee is required to render services to the district, unless the employee is required to view the file where it is stored. (Labor Code 1198.5; Education Code 44031)

The Superintendent or designee shall do one of the following: (Labor Code 1198.5)

1. Keep a copy of each employee's personnel records at the place where the employee reports to work
2. Make the employee's personnel records available at the place where the employee reports to work within a reasonable period of time following an employee's request
3. Permit the employee to inspect the personnel records at the location where the district stores the personnel records, with no loss of compensation to the employee

Any employee wishing to inspect his/her personnel record shall contact the Superintendent or designee.

With the exceptions noted below, all personnel records related to the employee's performance or to any grievance concerning the employee shall be made available for inspection by the employee. Noncredentialed employees shall have access to any numerical scores obtained as result of written examinations. (Education Code 44031)

PERSONNEL FILES (continued)

The Superintendent or designee shall not be required to make available to the employee:
(Labor Code 1198.5, Education Code 44031)

1. Records relating to the investigation of a possible criminal offense
2. Letters of reference
3. Ratings, reports or records that were obtained prior to the employee's employment, prepared by identifiable examination committee members, or obtained in connection with a promotional examination

(cf. 4112.41/4212.41/4312.41 - Employee Drug Testing)

(cf. 4112.62/4212.62/4312.62 - Maintenance of Criminal Offender Records)

The employee may be accompanied by a representative of the employee's choice while reviewing the record.

Inspection shall take place in the presence of the Superintendent or designee. All reviews of personnel records shall be recorded, including the date and time the file was reviewed and the name and title of the person(s) present during the review.

In no instance shall any material be removed from the records. Requests for copies of material in a personnel record must be made in writing.

File Review by Management and Governing Board

Management personnel or district legal counsel with a valid "right to know" or "need to know" may, with the Superintendent or designee's authorization, review an employee's personnel file.

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)

Governing Board members are not individually allowed to request and access personnel files but the Governing Board may request pertinent information from an employee's file in cases of personnel action.

Legal Reference: (see next page)

AR 4112.6(d)
4212.6
4312.6

PERSONNEL FILES (continued)

Legal Reference:

EDUCATION CODE

35253 Regulations to destroy records

44031 Personnel file contents and inspection

44663 Performance appraisals and related materials

GOVERNMENT CODE

3305-3306 District police officers; personnel files

6254.3 Disclosure of home address and phone number

LABOR CODE

1198.5 Inspection of personnel files

PENAL CODE

11165.14 Report of investigation of child abuse complaint

CODE OF REGULATIONS, TITLE 5

16020-16022 Records, general provisions

16023-16027 Retention of records

ATTORNEY GENERAL OPINIONS

Cal. Atty. Gen., Indexed Letter, no. IL 75-73 (June 6, 1975)

All Personnel

BP 4112.61

4212.61

EMPLOYMENT REFERENCES

4312.61

The Superintendent or designee shall process all requests for references, letters of recommendation, or information about the *reasons* for separation regarding all district employees other than himself/herself. The reason(s) for separation shall be explained to those seeking a reference as required by law. All letters of recommendation to be issued on behalf of the district by administrators for current or former employees shall provide a careful, truthful and complete account of the employee's job performance and qualifications.

At his/her discretion, the Superintendent or designee, or any other administrator, may refuse to give a recommendation. Any recommendation he/she gives shall provide a careful, truthful and complete account of the employee's job performance and qualifications.

(cf. 4112.6/4212.6/4312.6 - Personnel Files)

(cf. 4117.5/4217.5/4317.5 - Termination Agreements)

Legal Reference:

LABOR CODE

1050-1054 Reemployment privileges

CIVIL CODE

47 Privileged communication

CODE OF CIVIL PROCEDURE

527.3 Labor disputes

CODE OF REGULATIONS, TITLE 5

80332 Professional candor and honesty in letters or memoranda of employment recommendation

COURT DECISIONS

Randi W. v. Muroc Joint Unified School District et al., (1997) 14 Cal. 4th 1066

All Personnel

AR 4112.61

4212.61

EMPLOYMENT REFERENCES

4312.61

No certificated employee shall write or sign any letter or memorandum which intentionally omits significant facts, or which states as facts matters which the writer does not know of his/her own knowledge to be true, relating to the professional qualifications or personal fitness to perform certificated services of any person who the writer knows will use the letter or memorandum to obtain professional employment. (Code of Regulations, Title 5, Section 80332)

No certificated employee shall agree to provide a positive letter of recommendation which misrepresents facts as a condition of another employee's resigning or withdrawing action against the district. (Title 5, Section 80332)

All Personnel

AR 4112.62(a)

4212.62

MAINTENANCE OF CRIMINAL OFFENDER RECORDS

4312.62

Maintenance of Criminal Offender Records

All information received from the Department of Justice is confidential. (Education Code 44830.1, 45125)

The Superintendent shall designate an employee as record custodian of all confidential fingerprint and criminal record history who shall be responsible for the administration of the information. Any questions regarding Criminal Offender Record Information shall be resolved by the record custodian.

(cf. 1240 - Volunteer Assistance)

(cf. 3515.6 - Criminal Background Checks for Contractors)

(cf. 4112.5/4312.5 - Criminal Record Check)

(cf. 4112.6/4212.6/4312.6 - Personnel Files)

(cf. 4212.5 - Criminal Record Check)

Criminal Offender Record Information shall be accessible only to the record custodian and shall be kept in a locked file separate from other files. The contents of these records shall not be disclosed and shall not be reproduced. (Education Code 44830.1, 45125)

The record custodian shall be fingerprinted and processed through the California Department of Justice. He/she shall sign an Employee Statement Form, acknowledging an understanding of the laws regarding Criminal Offender Record Information.

These records shall be used only for the purpose for which they were requested.

Upon a hiring determination, the records shall be destroyed to the extent that the identity of the individual can no longer be reasonably ascertained. (Education Code 44830.1, 45125; 11 CCR 708)

Violation of this administrative regulation may result in suspension, dismissal and/or criminal or civil prosecution.

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)

(cf. 9011 - Disclosure of Confidential/Privileged Information)

The record custodian shall ensure that the district complies with destruction, storage, dissemination, auditing, backgrounding and training requirements as set forth in 11 CCR 700-708 and the rules regarding use and security of these records as set forth in Penal Code 11077. (Education Code 44830.1, 45125)

MAINTENANCE OF CRIMINAL OFFENDER RECORDS (continued)

Interagency Agreements

Upon receipt from the Department of Justice of a criminal history record or report of subsequent arrest for any person on a common list of persons eligible for employment, the designated district shall give notice to the Superintendent or any participating district, or the person designated in writing by that Superintendent, that the report is available for inspection on a confidential basis by the Superintendent or the written designee. The report shall be made available at the office of the designated district for 30 days following the receipt of the notice. (Education Code 44830.2, 45125.01)

The designated district shall not release a copy of that information to any participating district or any other person. In addition, the designated district shall retain or dispose of the information in the manner specified in law and in this administrative regulation after all participating districts have had an opportunity to inspect it in accordance with law. (Education Code 44830.2, 45125.01)

The designated district shall maintain a record of all persons to whom the information has been shown. This record shall be available to the Department of Justice. (Education Code 44830.2, 45125.01)

The designated district shall submit an interagency agreement to the Department of Justice to establish authorization to submit and receive this information. (Education Code 44830.2, 45125.01)

Legal Reference: (see next page)

AR 4112.62(c)
4212.62
4312.62

MAINTENANCE OF CRIMINAL OFFENDER RECORDS (continued)

Legal Reference:

EDUCATION CODE

44332 Temporary certificate

44332.6 Criminal record check, county Governing Board

44346.1 Applicants for credential, conviction of a violent or serious felony

44830.1 Certificated employees, conviction of a violent or serious felony

44830.2 Interagency agreements

45122.1 Classified employees, conviction of a violent or serious felony

45125 Use of personal identification cards to ascertain conviction of crime

45125.01 Interagency agreements

45125.5 Automated records check

45126 Duty of Department of Justice to furnish information

PENAL CODE

667.5 Prior prison terms, enhancement of prison terms

1192.7 Plea bargaining limitation

11075-11081 Criminal record dissemination

11105 State criminal history information; furnishing to authorized persons

11105.3 Record of conviction involving sex crimes, drug crimes or crimes of violence; availability to employer for applicants for positions with supervisory or disciplinary power over minors

11140-11144 Furnishing of state criminal history information

13300-13305 Local summary criminal history information

CODE OF REGULATIONS, TITLE 11

700-708 Criminal offender record information

All Personnel

E 4112.62

4212.62

MAINTENANCE OF CRIMINAL OFFENDER RECORDS

4312.62

**SAMPLE EMPLOYEE STATEMENT FORM
USE OF CRIMINAL JUSTICE INFORMATION**

As an employee of _____ School District, you may have access to confidential criminal record information which is controlled by statute. Misuse of such information may adversely affect the individual's civil rights and violates the law. Penal Code 502 prescribes the penalties related to computer crimes. Penal Code 11105 and 13300 identify who has access to criminal history information and under what circumstances it may be released. Penal Code 11140-11144 and 13301-13305 prescribe penalties for misuse of criminal history information. Government Code 6200 prescribes the felony penalties for misuse of public record and CLETS (California Law Enforcement Telecommunication System) information. Penal Code 11142 and 13303 state:

Any person authorized by law to receive a record or information obtained from a record who knowingly furnishes the record or information to a person not authorized by law to receive the record or information is guilty of a misdemeanor.

Any employee who is responsible for such misuse may be subject to immediate dismissal. Violations of this law may also result in criminal and/or civil action.

I HAVE READ THE ABOVE AND UNDERSTAND THE POLICY REGARDING MISUSE OF CRIMINAL RECORD INFORMATION.

Signature: _____

Date: _____

All Personnel

BP 4112.8

4212.8

EMPLOYMENT OF RELATIVES

4312.8

In order to preclude situations which could bring about a conflict of interest for members of the administrative staff, an employee shall not be appointed to a position where a member of his/her immediate family maintains supervisory or evaluation responsibilities for the position.

Immediate family members may be employed at the same department or work location with the approval of the Superintendent or designee.

(cf. 9270 - Conflict of Interest)

Legal Reference:

GOVERNMENT CODE

12940 Unlawful employment practices, exceptions

All Personnel

AR 4112.9(a)

4212.9

EMPLOYEE NOTIFICATIONS

4312.9

The district shall provide employees with the following notifications and shall obtain signed acknowledgments that the notifications were received when so required by law or by district policy or regulations.

Acknowledgments Required by Law

1. Legal obligation to report known or suspected instances of child abuse

(cf. 5141.4 - Child Abuse Reporting Procedures)

2. Oath or affirmation of allegiance required of public employees

(cf. 4112.3/4212.3/4312.3 - Oath or Affirmation)

3. Hepatitis B vaccine declination

(cf. 4119.42/4219.42/4319.42 - Exposure Control Plan for Bloodborne Pathogens)

4. The district's school bus driver drug and alcohol testing policy, regulations and related information

(cf. 4112.42/4212.42/4312.42 - Drug and Alcohol Testing for School Bus Drivers)

5. Notice of release from position requiring an administrative or supervisory credential

(cf. 4313.2 - Promotion/Demotion/Reassignment)

6. The classified employee's class specification, salary data, assignment or work location, duty hours and prescribed workweek

(cf. 4212 - Appointment and Conditions of Employment)

7. Information about certificated employee membership in the State Teachers' Retirement System

Acknowledgments Not Required by Law

1. The district's drug- and alcohol-free workplace

(cf. 4020 - Drug and Alcohol-Free Workplace)

2. The district's nonsmoking policy

(cf. 3513.3 - Tobacco-Free Schools)

EMPLOYEE NOTIFICATIONS (continued)

3. Prohibition of sexual harassment

(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

4. The certificated employee's employment status and salary

(cf. 4112.1 - Contracts)

5. State disability insurance rights and benefits

(cf. 4154/4254/4354 - Health and Welfare Benefits)

6. Certificated employee evaluations

(cf. 4115 - Evaluation/Supervision)

(cf. 4315 - Evaluation/Supervision)

7. Requirements and information pertinent to emergency teaching or specialist permit applicants

(cf. 4112.2 - Certification)

8. Notice of layoff

(cf. 4117.3 - Personnel Reduction)

(cf. 4217.3 - Layoff/Rehire)

(cf. 4317.3 - Personnel Reduction)

9. Derogatory information to be placed in personnel file

(cf. 4112.6/4212.6/4312.6 - Personnel Files)

10. Exhaustion of classified employee's paid leave

(cf. 4261.1 - Personal Illness/Injury Leave)

(cf. 4261.11 - Industrial Accident/Illness Leave)

11. Notice of charges related to disciplinary action

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

12. Notice of intention to dismiss

(cf. 4118 - Suspension/Disciplinary Action)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

EMPLOYEE NOTIFICATIONS (continued)

13. Students whose actions could constitute grounds for suspension or expulsion, except for possession or use of tobacco

(cf. 4158/4258/4358 - *Employee Security*)

Legal Reference:

EDUCATION CODE

231.5 *Sexual harassment policy*
22455.5 *STRS information to potential members*
22515 *Irrevocable election to join STRS*
44031 *Personnel file contents, inspection*
44663 *Evaluation and assessment; copy to certificated employee*
44916 *Written statement of employment status*
44940.5-44941 *Notification of suspension and intent to dismiss*
44949 *Cause, notice and right to hearing*
44951 *Continuation in position unless notified*
44955 *Reduction in number of employees*
45113 *Notification of charges*
45117 *Notice of layoff*
45169 *Employee salary data*
45192 *Industrial and accident leave*
45195 *Additional leave*
49079 *Notification to teacher*

GOVERNMENT CODE

3100-3109 *Oath or affirmation of allegiance*
8355 *Certification of drug-free workplace, including notification*

PENAL CODE

11166.5 *Employment; statement of knowledge of duty to report*

UNEMPLOYMENT INSURANCE CODE

2613 *Notice of rights and benefits*

CODE OF REGULATIONS, TITLE 5

80026.1 *Information to applicants*

CODE OF REGULATIONS, TITLE 8

5193 *California bloodborne pathogens standard*

CODE OF FEDERAL REGULATIONS, TITLE 49

382.601 *Controlled substance and alcohol use and testing notifications*

ASSIGNMENT

In order to serve the best interests of students and the educational program, the Superintendent or designee shall assign certificated personnel to positions for which their preparation, certification, experience and aptitude qualify them.

(cf. 4112.2 - Certification)

(cf. 4112.8/4212.8/4312.8 - Employment of Relatives)

Teachers may be assigned to any school within the district in accordance with the collective bargaining agreement.

(cf. 4114 - Transfers)

(cf. 4141/4241- Collective Bargaining Agreement)

The Governing Board encourages the assignment of experienced and fully credentialed teachers, including those who have attained National Board for Professional Teaching Standards certification, to schools with the greatest need to improve student achievement.

Teachers may be assigned outside the scope of their certificates or fields of study only as allowed by law and when so required in order to meet the needs of the educational program.

The Superintendent or designee may assign holders of a credential other than an emergency permit, with their consent, to teach subjects outside their credential authorization in departmentalized classes, pursuant to Education Code 44258.3. The Superintendent or designee shall develop procedures to verify the subject matter knowledge of the teacher before any such assignment is made. These procedures shall be developed with the assistance of subject matter specialists and shall be submitted to the Governing Board for approval.

(cf. 4117.3 - Personnel Reduction)

The Superintendent or designee shall periodically report to the Governing Board on any teacher misassignments.

Committee on Assignments

The Superintendent or designee shall establish a committee on assignments which may grant approval for the voluntary assignment of full-time teachers to teach one or more elective courses outside their credential authorization in an area for which they have special skills or preparation.

Legal Reference: (see next page)

ASSIGNMENT (continued)

Legal Reference:

EDUCATION CODE

35035 *Additional powers and duties of superintendent*

37616 *Assignment of teachers to year-round schools*

44250-44279 *Credentials and assignments of teachers*

44395-44398 *Incentives for assigning NBPTS-certified teachers to low-performing schools*

44824 *Assignment of teachers to weekend classes*

44955 *Reduction in number of employees*

GOVERNMENT CODE

3543.2 *Scope of representation*

Management Resources:

WEB SITES

Commission on Teacher Credentialing: www.ctc.ca.gov

ASSIGNMENT

Procedures for Verifying Subject Matter Knowledge

With the involvement of appropriate subject matter specialists, the Superintendent or designee shall develop and employ procedures for verifying the subject matter knowledge of teachers assigned to teach in departmentalized classes outside their credential authorization pursuant to Education Code 44258.3. For the purposes of these procedures, subject matter specialists are mentor teachers, curriculum specialists, resource teachers, classroom teachers certified to teach a subject, staff to regional subject matter projects or curriculum institutes, or college faculty. (Education Code 44258.3)

Procedures to be used for this purpose shall specify: (Education Code 44258.3)

1. One or more of the following ways in which subject matter competence shall be assessed:
 - a. Observation by subject matter specialists
 - b. Oral interviews
 - c. Demonstration lessons
 - d. Presentation of curricular portfolios
 - e. Written examinations
2. Specific criteria and standards for verifying subject matter knowledge by any of the above methods. These criteria shall include, but need not be limited to, evidence of the individual's knowledge of the subject matter to be taught, including demonstrated knowledge of the appropriate curriculum framework and the specific content of the district's course of study for the subject at the grade level to be taught.

Whenever a teacher is assigned to teach departmentalized classes pursuant to Education Code 44258.3, the Superintendent or designee shall notify the exclusive representative of the district's certificated employees. (Education Code 44258.3)

(cf. 4140/4240 - Bargaining Units)

Committee on Assignments

When establishing a committee to consider possible assignments of teachers to elective courses outside their credential authorizations, the Superintendent or designee shall submit to the County Superintendent of Schools a plan which shall include at least all of the following: (Education Code 44258.7)

1. Statements signed by the Superintendent or designee and the Governing Board president, approving the establishment of the committee on assignments

ASSIGNMENT (continued)

2. Procedures for selection of committee membership
3. Terms of office for committee members
4. Criteria for determining teachers' qualifications for assignments

The committee on assignments shall include an equal number of teachers, selected by teachers, and school administrators, selected by school administrators. (Education Code 44258.7)

The committee on assignments may approve the assignment of any teacher to an elective course outside his/her credential authorization for a maximum of one school year and may subsequently extend the assignment when the teacher and principal apply for extension. Elective courses are courses other than English, mathematics, science or social studies. All assignments and extensions require approval before the beginning of the semester in which they occur. (Education Code 44258.7)

Assignment to Special Schedules

The Superintendent or designee shall make every reasonable effort to accommodate the preferences of certificated staff when assigning staff to schools with year-round or regular schedules. (Education Code 37616)

(cf. 6117 - Year-Round Schedules)

Full-time probationary or permanent classroom teachers employed by the district prior to implementation of weekend classes shall not, without their written consent, be required to teach under such a program for more than 180 full days during a school year or for more than the number of full days during the preceding school year, whichever is greater. No teacher shall be assigned to work on a Saturday or Sunday if he/she objects in writing that such assignment would conflict with his/her religious beliefs or practices. (Education Code 44824)

(cf. 6176 - Weekend/Saturday Classes)

The Governing Board recognizes that when employees suffer work-related injuries, modified or light-duty assignments minimize lost time and may serve to facilitate the transition back to the employee's regular duties or full-time work. Whenever possible, the Superintendent or designee shall offer such employees this kind of temporary assignment.

(cf. 4157.1/4257.1/4357.1 - Work-Related Injuries)

Modified or light-duty assignments shall be designed to accommodate medical restrictions specified by the employee's physician. They may include work in the same job classification or a different job classification at the employee's regular salary rate.

All Personnel

BP 4113.4

4213.4

TEMPORARY MODIFIED/LIGHT-DUTY ASSIGNMENT

4313.4

Modified or light-duty assignments are intended to address short-term medical restrictions and will normally extend for less than eight weeks' duration. These assignments shall not be used as a means to establish new assignments or displace other employees.

Legal Reference:

EDUCATION CODE

44984 Required rules for industrial accident and illness leave

45192 Industrial accident and illness leave for classified employees

All Personnel

AR 4113.4

4213.4

TEMPORARY MODIFIED/LIGHT DUTY ASSIGNMENT

4313.4

Any employee who suffers a work-related injury shall provide the district with medical verification of his/her physical condition. Unless the treating physician provides a full release from work, the employee may be considered eligible for a temporary modified or light-duty assignment. If the treating physician does not specify work restrictions, the Superintendent or designee may contact the physician to see if modified or light-duty work might be appropriate.

(cf. 4157.1/4257.1/4357.1 - Work-Related Injuries)

The Superintendent or designee shall meet with the employee and his/her supervisor to determine whether the employee can return to his/her regular job with the medical restrictions specified by the physician.

If the employee is not able to return to his/her regular job with restrictions, the Superintendent or designee shall seek a temporary modified or light-duty assignment for the employee. Employees who are given such assignments shall receive written notification of the assignment.

If no temporary modified or light-duty assignment can be found, the employee will be placed on temporary disability, sick leave, or other available leave to the extent available until an appropriate position within the medical restrictions is found, or until the medical restrictions are lifted. The Superintendent or designee shall also monitor the status of any employee for whom the physician provided a full release from work to see if the employee could return to a temporary modified or light-duty assignment at a later date.

(cf. 4161.11/4361.11 - Industrial Accident/Illness Leave)

(cf. 4261.11 - Industrial Accident/Illness Leave)

If an employee rejects a temporary modified or light-duty assignment, this refusal may provide a basis for terminating temporary disability benefits.

The Superintendent or designee shall monitor all modified and light-duty assignments and may contact the physician for assistance in determining when the employee is ready to resume his/her regular duties.

TRANSFERS

Transfers of certificated personnel shall be made in accordance with transfer provisions of the collective bargaining agreement and shall serve the best interests of the overall educational program.

Transfers shall be approved by the Governing Board.

Teachers may request a transfer by following procedures specified in administrative regulations.

Involuntary transfers may become necessary when programs are reduced or canceled, when schools are closed or when transfers are otherwise required in order to accommodate each school's teacher needs. Such transfers also may be made in order to contribute to an employee's professional growth and/or give supervisory staff an opportunity to evaluate the employee in a different setting.

Legal Reference:

EDUCATION CODE

35035 Powers and duties of superintendent

44955 Reduction in number of permanent employees

EVALUATION/SUPERVISION

The Governing Board believes that regular and comprehensive evaluations can help instructional staff improve their teaching skills and raise students' levels of achievement. Evaluations also serve to hold staff accountable for their performance. The Superintendent or designee shall evaluate the performance of certificated staff members in accordance with law, negotiated employee contracts and Governing Board-adopted evaluation standards.

(cf. 4141/4241 - Collective Bargaining Agreement)
(cf. 4140/4240 - Bargaining Units)
(cf. 4315.1 - Staff Evaluating Teachers)

The Superintendent or designee shall ensure that evaluation ratings have uniform meaning throughout the district.

Evaluations shall be used to recognize the exemplary skills and accomplishments of staff and to identify areas needing improvement. When areas needing improvement are identified, the Governing Board expects employees to accept responsibility for improving their performance. The Superintendent or designee shall endeavor to assist employees to improve their performance and may require participation in appropriate programs. Staff members are encouraged to take initiative to request assistance as necessary to promote effective teaching.

(cf. 4131 - Staff Development)
(cf. 4139 - Peer Assistance and Review)

Legal Reference:

EDUCATION CODE

33039 *State guidelines for teacher evaluation procedures*
35171 *Availability of rules and regulations for evaluation of performance*
44500-44508 *Peer assistance and review program for teachers*
44660-44665 *Evaluation and assessment of performance of certificated employees (the Stull Act)*

GOVERNMENT CODE

3543.2 *Scope of representation*

Management Resources:

CTC PUBLICATIONS

Standards for the Quality and Effectiveness for Beginning Teacher Support and Assessment Programs, 1997, Commission on Teacher Credentialing and State Superintendent of Public Instruction
California Standards for the Teaching Profession, 1997, Commission on Teacher Credentialing

WEB SITES

CSBA: <http://www.csba.org>
CDE: <http://www.cde.ca.gov>
California Commission on Teacher Credentialing: <http://www.ctc.ca.gov>
National Board for Professional Teaching Standards: <http://www.nbpts.org>

EVALUATION/SUPERVISION

The Superintendent or designee shall print and make available to certificated employees written regulations related to the evaluation of their performance in their assigned duties. (Education Code 35171)

(cf. 4100 - Certificated Personnel)
(cf. 4119.3/4219.3/4319.3 - Duties of Personnel)

Certificated staff shall receive information regarding the district's evaluation criteria and procedures upon employment with the district and whenever the negotiated contract is revised.

(cf. 4141/4241 - Collective Bargaining Agreement)

Certificated employee performance shall be evaluated and assessed on a continuing basis, at least once a year for probationary staff and at least every other year for permanent staff. Permanent employees who receive an unsatisfactory evaluation shall be assessed annually until they receive a satisfactory evaluation or are separated from the district. (Education Code 44664)

(cf. 4116 - Probationary/Permanent Status)
(cf. 4117.4 - Dismissal)
(cf. 4315.1 - Staff Evaluating Teachers)

Probationary teachers shall be formally observed and given constructive feedback at least once each semester and more often when necessary, as part of the evaluation process. Within five school days of each formal observation, a conference shall be held between the evaluator and the probationary teacher.

The Superintendent or designee shall assess the performance of certificated instructional staff as it reasonably relates to the following criteria: (Education Code 44662)

1. Students' progress toward district standards of expected achievement for their grade level in each area of study and, if applicable, towards the state-adopted content standards as measured by state-adopted criterion-referenced assessments

(cf. 6011 - Academic Standards)

2. The instructional techniques and strategies used by the employee
3. The employee's adherence to curricular objectives

(cf. 6010 - Goals and Objectives)

4. The establishment and maintenance of a suitable learning environment within the scope of the employee's responsibilities

EVALUATION/SUPERVISION (continued)

The evaluation of certificated employee performance shall not include the use of publishers' norms established by standardized tests. (Education Code 44662)

Noninstructional certificated employees shall be evaluated on their performance in fulfilling their defined job responsibilities. (Education Code 44662)

Evaluations shall include recommendations, if necessary, as to areas in need of improvement in the employee's performance. If an employee is not performing satisfactorily according to teacher standards approved by the Governing Board pursuant to Education Code 44662, the Superintendent or designee shall so notify the employee in writing and describe the unsatisfactory performance. The Superintendent or designee shall confer with the employee, make specific recommendations as to areas needing improvement and endeavor to provide assistance to the employee in his/her performance. (Education Code 44664)

The Superintendent or designee may require any instructional employee who receives an unsatisfactory rating in the area of teaching methods or instruction to participate in a program designed to improve appropriate areas of performance and to further student achievement and the district's instructional objectives. (Education Code 44664)

(cf. 4131 - Staff Development)

Any employee who receives an unsatisfactory rating in the area of teaching methods or instruction shall participate in the district's peer assistance and review program. (Education Code 44664)

(cf. 4139 - Peer Assistance and Review)

Results of an employee's participation in the peer assistance and review program shall be made available as part of the employee's evaluation. (Education Code 44662)

Certificated instructional employees shall receive a written copy of their evaluation no later than 30 days before the last day of the school year in which the evaluation takes place. Before the last day of the school year, the employee and the evaluator shall meet to discuss the evaluation. (Education Code 44663)

Noninstructional certificated staff members employed on a 12-month basis shall receive a copy of their evaluation no later than June 30 of the year in which the evaluation takes place. Before July 30, the employee and the evaluator shall meet to discuss the evaluation. (Education Code 44663)

EVALUATION/SUPERVISION (continued)

Instructional and noninstructional certificated employees shall have the right to respond in writing to their evaluation. This response shall become a permanent attachment to the employee's personnel file. (Education Code 44663)

(cf. 4112.6/4212.6/4312.6 - Personnel Files)

PROBATIONARY/PERMANENT STATUS

Probationary Status

Probationary employees shall receive training, assistance and evaluations consistent with their needs as new teachers. Such training and assistance may consist of inservice training and/or meetings with the employee's evaluator to discuss areas of strength and areas requiring improvement. Inservice training may be provided during school hours as part of a comprehensive staff development program.

The performance of each probationary employee shall be evaluated and assessed at least once every school year.

(cf. 4115 - Evaluation/Supervision)

(cf. 4131 - Staff Development)

Permanent Status

Granting of permanent status shall be based on completion of the probationary period in accordance with applicable law. Employees granted permanent status acquire specific rights under the Education Code, including those relating to discipline and dismissal. (Education Code 44932-44988)

(cf. 4117.4 - Dismissal)

(cf. 4117.6 - Decision Not to Rehire)

Legal Reference:

EDUCATION CODE

44466 Status of university interns

44850.1 No tenure in administrative or supervisory position

44885.5 Status of district interns

44908 Complete year for probationary employees

44911-44913 Service not computed in eligibility for permanent status

44915 Classification of probationary employees

44917-44921 Status of substitute or temporary employees

44929.20 Continuing contracts (not to exceed four years - ADA under 250)

44929.21 Districts of 250 ADA or more

44929.23 Districts with less than 250 ADA

44929.28 Employment by another district

44930-44988 Resignations, dismissals and leaves of absence, especially:

44948.2 Election to use provisions of Section 44948.3

44948.3 Dismissal of probationary employees

PROBATIONARY/PERMANENT STATUS

Permanent Status (Districts of 250 ADA or More)

A probationary teacher who has been employed by the district in a position or positions requiring certification for two complete consecutive school years and is then rehired for the next succeeding school year shall become a permanent employee at the beginning of the third year. (Education Code 44929.21)

Permanent Status (Districts with Less than 250 ADA)

A probationary teacher who has been employed by the district in a position or positions requiring certification for two complete consecutive school years and is then rehired for the next succeeding school year shall become a permanent employee at the beginning of the third year. (Education Code 44929.23)

(cf. 4115 - Evaluation/Supervision)

(cf. 4117.4 - Dismissal)

(cf. 4117.6 - Decision Not to Rehire)

(cf. 4121 - Temporary/Substitute Personnel)

Interns

A person employed as a district or university intern shall be classified as a probationary employee. Following completion of the internship, if he/she is reelected by the district to serve in a position requiring certification qualifications for the next succeeding school year, he/she shall continue to be classified as a probationary employee during that year. (Education Code 44466, 44885.5)

(cf. 4112.21 - District Interns)

A person who has completed an internship and at least one complete school year in a position requiring certification qualifications within the district shall be granted permanent status when he/she is reelected for the next succeeding school year to a position requiring certification qualifications. (Education Code 44466, 44885.5)

PRERETIREMENT PART-TIME EMPLOYMENT

The Governing Board may allow certificated employees the opportunity to work on a part-time basis before retirement without jeopardizing full retirement credit.

The Superintendent or designee may establish regulations which allow certificated employees who are members of the State Teachers Retirement System (STRS) or Public Employee Retirement System (PERS) to reduce their workload from full to part time, receive service credit and maintain the retirement benefits the employee would have received if the employee had been employed on a full-time basis.

Legal Reference:

EDUCATION CODE

22713 Part-time employment; reduction of workload from full-time; credit

44922 Regulations; reduction to part-time employment

GOVERNMENT CODE

20815 Part-time employee; retirement with benefits based upon salary on full-time basis

53201 Health and welfare benefits: election by officers and employees; deduction of premiums or charges from salaries

PRE-RETIREMENT PART-TIME EMPLOYMENT

On a case-by-case basis, the Superintendent or designee may allow a certificated employee who is a member of the defined benefit program of the California State Teachers' Retirement System (STRS) to reduce his/her workload from full-time to part-time when doing so does not disrupt the educational program and is in the best interest of the district.

Any such certificated employee who reduces his/her workload to part-time may maintain the retirement and health and welfare benefits that he/she would have received if employed on a full-time basis under the following conditions: (Education Code 22713, 44922)

1. The option to reduce the employee's workload shall be exercised at the request of the employee and the agreement to reduce the workload shall be in effect at the beginning of the school year.
2. The employee shall have been employed full-time to perform creditable service for at least 10 years including five years immediately preceding the reduction in workload.
3. The employee shall not have had a break in service during the five years immediately preceding the reduction in workload. Sabbaticals and other approved leaves of absence shall not constitute a break in service. However, time on a sabbatical or other approved leave of absence shall not be used in computing the five-year full-time requirement.
4. The employee shall have reached the age of 55 years prior to the reduction in workload.
5. The employee shall not hold a position with a salary above that of a school principal.
6. The reduced workload shall be equal to at least one-half of the time the district requires for full-time employment, in accordance with Education Code 22138.5, pursuant to the employee's contract of employment during his/her last year of full-time employment.
7. The employee shall be paid compensation that is the pro rata share of the creditable compensation he/she would have earned had he/she not reduced his/her workload.

PRE-RETIREMENT PART-TIME EMPLOYMENT

8. The agreement may be revoked only by mutual consent of the employee and the Superintendent or designee.

However, an employee who has entered into a formalized agreement with the district to have his/her contribution into the defined benefit program picked up by the district may not terminate the agreement to reduce his/her workload except by one of the following:

- a. Terminating his/her service
- b. Retiring from service under the defined benefit program
- c. Continuing to perform creditable service under a new reduced workload arrangement for at least one-half of the time the district requires for full-time employment in accordance with Education Code 22138.5
- d. Returning to full-time employment

9. The period of the reduced workload shall not exceed 10 years.

The Superintendent or designee shall verify the employee's eligibility prior to the reduction of an employee's workload. This shall be done in conjunction with the administrative staff of STRS and/or the Public Employee's Retirement System, in accordance with law. (Education Code 22713)

The Superintendent or designee shall maintain the necessary records to separately identify each employee who participates in the reduced workload program. (Education Code 22713)

Revised: May 24, 2011

INDEPENDENT CONTRACTORS

Auxiliary Services Contract

1. Purpose

The Governing Board recognizes that because of their expertise and knowledge of district programs and procedures, retired certificated employees may be uniquely suited to performing specialized work of limited duration after retirement. In such instances, certificated employees may provide auxiliary services to the district.

2. Requirements

- a. Possess a valid credential, or credentials, which shall remain in effect and be registered with the Los Angeles County Superintendent of Schools.
- b. Will have reached an age of 55 and rendered a minimum of 10 years of full-time service to the district within the immediately preceding 12 years.
- c. Must have worked at least 75% of a full-time year in each of the last five years of service.

3. Length of Agreement

The person engaged as an independent contractor shall agree as follows:

- a. To serve no more than 30 days a calendar year, with no provision for unused days to be carried over to the following year.
- b. To provide service on only those days specified and approved by the district.
- c. To serve up to five consecutive years or until age 65, whichever is first.
- d. To perform only those duties agreed upon with the district.
- e. To serve for all purposes as an independent contractor, pursuant to the provisions of Education and Government Codes.

4. Compensation

The Superintendent or his/her designee is authorized to offer compensation within the following guidelines:

- a. Daily compensation shall be based upon the individual's step and column placement at the time of retirement, which shall not be adjusted after retirement.

INDEPENDENT CONTRACTORS (continued)

- b. The daily rate or per diem shall be determined based on the certificated salary schedule at the time of retirement.
 - c. The amount of the daily rate will be a "B" warrant and upon receipt of an invoice from the independent contractor.
 - d. The district will contribute a maximum for medical, dental and vision insurance premiums for the retiree and one dependent based upon the least expensive two-party insurance coverage provided to employees.
5. Request Procedure
- Applications for service as an independent contractor under this policy shall be submitted by March 1 for the following school year. Applications may be accepted after that date if special circumstances warrant such an exception.
6. Services to the District
- A person approved for this program shall serve a maximum of 30 days per year in educational activities mutually agreed upon by the contractor and the district. These activities may include, but would not be limited to, demonstration teaching, staff development or in-service programs, working with the district or school testing program, compilation of data as it relates to the instructional program, orientation and assistance to new teachers, updating instructional materials and guides as well as assisting with the volunteer-aid program.
7. Severance
- Independent contractors may withdraw from participation at any time provided 30-day notice has been given. The contract for services may be terminated by the district should there be unsatisfactory performance, as determined by the district, or a failure in the performance of required services.
8. Review
- The evaluation of services and termination of contract by the district are subject to review by the district annually.
9. Annual Contracts
- The Superintendent or his/her designee shall prepare annual contracts with the independent contractor with regard to the annual services to be performed.

POST-RETIREMENT EMPLOYMENT

The Governing Board may hire retired certificated individuals who possess unique knowledge and experience to perform specialized work of a limited duration.

Any retired certificated individual who is a member of the defined benefit program of the State Teachers' Retirement System (STRS) and who is hired by the district to perform services pursuant to this administrative regulation shall not make contributions to the retirement fund or accrue service credit based on compensation earned from that service. (Education Code 24214)

Any retired individual hired under this administrative regulation shall be paid at a rate commensurate with that of other district employees performing comparable duties. (Education Code 24214)

Beginning July 1, 2010, any certificated individual who is a member of STRS and who retires from service below normal retirement age shall not be hired for service pursuant to this administrative regulation for at least six calendar months after his/her retirement from service. (Education Code 24214.5)

Post-retirement Compensation Limitation

Upon retaining the services of a retired individual as a district employee, employee of a third party, or an independent contractor, the Superintendent or designee shall: (Education Code 22461, 24214)

1. Advise the retired individual of the post-retirement compensation limitation set forth in Education Code 24116, 24214, and 24215.
2. Maintain accurate records of the retired individual's compensation and report it monthly to STRS and the individual regardless of the method of payment or the fund from which the payments are made.

When employing a retired individual eligible for any of the exemptions from the post-retirement compensation limitation stated below, the Superintendent or designee shall submit to STRS, no later than June 30 of the school year for which the exemption is to apply, all required documentation to substantiate eligibility for the exemption. (Education Code 24216, 24216.5, 24216.6)

Exemption for Providing Specified Instructional Services

Until June 30, 2012, any retired certificated individual employed by the district shall be exempt from the compensation limitation for members of STRS provided that he/she retired from service with an effective date on or before January 1, 2009, and is employed to provide any of the following services: (Education Code 24216.5, 24216.6)

POST-RETIREMENT EMPLOYMENT (continued)

1. Direct classroom instruction to students in grades kindergarten through 12
2. Support and assessment for new teachers through the Beginning Teacher Support and Assessment System (Education Code 44279.1-44279.7)

(cf. 4131 - Staff Development)

3. Support to individuals completing student teaching assignments
4. Support to individuals participating in an alternative certification program pursuant to Education Code 44380-44386 or a school paraprofessional teacher training program pursuant to Education Code 44390-44393

(cf. 4112.21 – Interns)

(cf. 4222 – Teacher Aides/Paraprofessionals)

5. Instruction and student services to students enrolled in special education programs pursuant to Education Code 56000-56885

(cf. 4112.23 – Special Education Staff)

6. Instruction to students enrolled in English language learner programs pursuant to Education Code 300-340, 400-410, and 430-446

(cf. 4112.22 – Staff Teaching Students of Limited English Proficiency)

7. Direct remedial instruction to students in grades 2-12 for the programs specified in Education Code 37252 and 37252.2

(cf. 5123 – Promotion/Acceleration/Retention)

(cf. 6179 – Supplemental Instruction)

Such retired teachers shall be treated as part of a distinct class of temporary employees within the existing bargaining unit whose service shall not be included in computing the service required as a prerequisite to attainment of or eligibility for classification as a permanent employee of the district. The compensation shall be agreed to in the collective bargaining agreement between the district and the exclusive representative for the bargaining unit and shall not be less than the minimum nor exceed that paid by the district to other employees performing comparable duties. (Education Code 24214, 24216.5, 24216.6)

(cf. 4121 - Temporary/Substitute Personnel)

(cf. 4141/4241 - Collective Bargaining Agreement)

POST-RETIREMENT EMPLOYMENT (continued)

Exemption for Appointment as Trustee/Administrator or for Emergency Situations

Until June 30, 2012, a retired certificated individual shall be exempt from the postretirement compensation limitation for a maximum period of 24 consecutive months if he/she is appointed by the Superintendent of Public Instruction as a trustee or administrator pursuant to Education Code 41320.1, appointed as a trustee by the State Board of Education pursuant to Education Code 52055.57-52055.60 (the Local Educational Agency Intervention program), or assigned to a position by the County Superintendent of Schools pursuant to Education Code 42122-42129. (Education Code 24216)

Until June 30, 2012, a retired individual shall be exempt from the postretirement compensation limitation up to an additional one-half of the full-time position when employed in an emergency situation to fill a vacant administrative position requiring highly specialized skills, provided that all of the following conditions are met: (Education Code 24216)

1. The vacancy occurred due to circumstances beyond the district's control.
2. The recruitment process to fill the vacancy on a permanent basis is expected to extend over several months.
3. The employment is reported in a public meeting of the Board.

(cf. 9320 – Meetings and Notices)

4. The retired individual's termination of employment with the district is not the basis for the vacant administrative position.

The above exemptions shall not apply to any individual who has received additional retirement service credit pursuant to Education Code 22715 or 22716. A retiree who has received an additional service credit pursuant to Education code 22714 or 22714.5 shall be ineligible for the above exemptions for one year from his/her effective date of retirement for service performed in any California district, community college district, or county office of education. (Education Code 24216)

(cf. 4117.13/4317.13 – Early Retirement Option)

Consultancy Contracts

A retired certificated employee serving as a consultant shall be retained as an employee and his/her service shall be limited in accordance with retirement system rules and regulations. (Education Code 35046)

POST-RETIREMENT EMPLOYMENT (continued)

To be eligible for consideration for a consultancy contract, a retired certificated employee must have served the district or the County Superintendent for at least 10 years and be at least 55 years of age. (Education Code 35046)

Retirement consultancy contracts are renewable annually for up to five years or until the employee reaches age 65, whichever comes first. (Education Code 35046)

The Superintendent or designee shall submit documentation required by STRS to substantiate the eligibility of the temporary employment of a retired member for the exemption from the limitation on earnings. (Education Code 24216.5)

The Superintendent or designee shall maintain accurate records of the retired member's compensation earned and shall report that compensation monthly to STRS regardless of the method of payment or the source of funds from which the compensation is paid. (Education Code 24216.5)

(cf. 4117.11/4317.11 - Preretirement/Part-Time Employment)

(cf. 4117.12/4317.12 - Retirement Consultancy Contracts)

Legal Reference:

EDUCATION CODE

300-340 English language education

400-410 English language acquisition program

430-446 English Learner and Immigrant Student Federal Conformity Act

22119.5 Creditable service, definition

22461 Notice of earnings limitation

22714 Encouragement of retirement

22714.5 2+2 service and year credit option under STRS

22715 Additional service credit

22716 Unpaid services

24116 Service at California State University

24214 Creditable service by retiree

24214.5 Post-retirement compensation limit; members below normal retirement age

24215 Service at California State University

24216 Payments to retirees in excess of limitation

24216.5-24216.6 Exemption from earnings limitation

35046 Consultancy contracts

37252-37254.1 Supplemental instruction

41320.1 Appointment of trustee

42120-42129 Budget completion

44279.1-44279.7 Beginning Teacher Support and Assessment System

44380-44386 Alternative certification program

44390-44393 School paraprofessional teacher training program

POST-RETIREMENT EMPLOYMENT (continued)

Legal Reference: (Continued)

44830 Employment of certificated employees

44830.3 Employment of district interns

44929 Service credit under STRS; additional two years

44929.1 2+2 service and year credit option under STRS

52055.57-52055.60 Local Educational Agency Intervention program

56000-56885 Special education

Management Resources:

WEB SITES

STRS: <http://www.calstrs.com>

Revised: May 24, 2011

All Personnel

BP 4117.2

4217.2

RESIGNATION

4317.2

Any district employee who desires to resign his/her position shall submit, in writing, a letter of resignation which indicates the date which the employee intends as his/her last day at work. The Governing Board encourages employees to provide advance notice that is appropriate for the position they hold.

The Governing Board authorizes the Superintendent or designee to accept an employee's written resignation and to set its effective date. Once the Superintendent or designee has accepted and set an effective date for this resignation, the resignation may not thereafter be withdrawn by the employee.

The effective date of the resignation shall be a date not later than the close of the school year during which the resignation is received. However, an employee and the Governing Board may agree that a resignation will be accepted at a mutually agreed upon date not later than two years beyond the close of the school year during which the resignation is received by the Governing Board. (Education Code 44930, 45201)

Resignation by certificated employee after July 1 for the following school year may not be accepted unless a suitable replacement is available.

(cf. 4117.7 - Employment Status Reports)

Legal Reference:

EDUCATION CODE

35161 Board delegation of any powers or duties

44242.5 Reports of change in employment status, alleged misconduct

44420 Failure to fulfill contract as ground for suspension of diplomas and certificates

44433 Unauthorized departure from service as unprofessional conduct

44930 Acceptance and date of resignation

45201 Power to accept resignation

CODE OF REGULATIONS, TITLE 5

80303 Reports of change in employment status

80304 Notice of sexual misconduct

COURT DECISIONS

American Federation of Teachers, Local #1050 v. Governing Board of Pasadena Unified School

District, (1980) 107 Cal.App.3d 829

PERSONNEL REDUCTION

The Governing Board may reduce the number of certificated personnel, or their hours and wages, due to any of the following conditions: (Education Code 44955)

1. Declining enrollment, provided that the percentage of reduction in probationary and permanent certificated personnel shall not exceed the corresponding percentage of student attendance lost
2. Reduction or discontinuance of programs or services
3. State-mandated modification of the curriculum
4. The fiscal crisis that may occur after enactment of the Budget Act when the total revenue limit per ADA has not increased by at least two percent (Education Code 44955.5)

The Governing Board recognizes that its authority in the reduction of personnel is subject to legal requirements. Except as otherwise provided by statute, a permanent employee who is certificated and competent to render a service shall not be terminated or given a reduction in hours and wages while a probationary employee or other employee with less seniority is retained to render the service. (Education Code 44955)

To be considered competent, an employee must have academic training and one year of full-time experience in the specialized area to which the district would be able to assign him/her. The district will also consider the recency of the employee's experience.

(cf. 4113 - Assignment)
(cf. 4115 - Evaluation/Supervision)
(cf. 4117.4 - Dismissal)

Legal Reference:

EDUCATION CODE

- 44830 Employment of certificated persons*
- 44949 Dismissal of probationary employees*
- 44955 Reduction in number of permanent employees*
- 44955.5 Termination of certificated employees*
- 44956-44959.5 Rights of employees*

GOVERNMENT CODE

- 3543.2 Scope of representation*

COURT DECISIONS

- Menagh v. Montebello Unified School District (1993) 20 Cal.App.4th 1846*
- Forker v. Board of Trustees (1984) 160 Cal.App.3d 13*
- Moreland Teachers Assoc. v. Kurze (1980) 109 Cal.App.3d 648*
- King v. Berkeley Unified School District (1979) 89 Cal.App. 3d 1016*

PERSONNEL REDUCTION

For purposes of reduction of certificated personnel, terminations shall generally be in order of least seniority. The district may deviate from terminating or reappointing a certificated employee in order of seniority for either of the following reasons: (Education Code 44955, 44956)

1. To fill a demonstrated specific need for personnel to teach a specific course or courses of study, or to provide services authorized by a services credential with a specialization in either student personnel services or health for a school nurse, when the certificated employee has the necessary special training and experience which others with more seniority do not possess
2. To maintain or achieve compliance with constitutional requirements related to equal protection of the law

Before assigning or reassigning any certificated employee to teach a subject which he/she has not previously taught, and for which he/she does not have a teaching credential or which is not within the employee's major area of postsecondary study, the Governing Board shall require the employee to pass a subject matter competency test in the appropriate subject. (Education Code 44955, 44956)

(cf. 4112.2 - Certification)

Terminated certificated employees shall not be subject to any requirements that were not imposed on employees who continued in service; their period of absence shall be treated as a leave of absence and not considered a break in the continuity of their service. (Education Code 44956, 44957)

Notice and Right to Hearing

When the district needs to reduce the number of certificated staff, the district shall adhere to the notice, hearing and layoff procedures in Education Code 44949 and 44955.

When the Governing Board, during the time period between five days after enactment of the Budget Act and August 15, determines that the total revenue limit per ADA has not increased by at least two percent and that the district therefore needs to reduce the number of certificated staff pursuant to Education Code 44955.5, the Governing Board shall adopt a schedule of notice and hearings, and the district shall otherwise proceed pursuant to Education Code 44949 and 44955. (Education Code 44955.5)

PERSONNEL REDUCTION (continued)

Reappointment

If the number of employees is increased or the discontinued service reestablished, permanent certificated employees under 65 years of age shall have the right to reappointment in order of seniority for 39 months after being terminated. Probationary certificated employees under 65 years of age shall have the same right for 24 months after being terminated, subject to the prior reappointment rights of permanent employees. (Education Code 44956, 44957)

DISMISSAL

Permanent Employees

Permanent employees shall not be dismissed from their position except when cause for dismissal can be shown. Cause and procedures for dismissal are defined by provisions of Education Code 44932 et seq.

(cf. 4116 - Probationary/Permanent Status)

Probationary Employees

During the school year, certificated probationary employees may be dismissed for causes specified in Education Code 44932 or for unsatisfactory performance determined pursuant to Education Code 44660-44665. Procedures and time limits for such action shall be those set forth in Education Code 44948.3.

(cf. 4115 - Evaluation/Supervision)

At the end of the school year, the Governing Board may decide not to rehire probationary employees without a statement of reasons, giving notice in accordance with Education Code 44929.21.

(cf. 4117.6 - Decision Not to Rehire)

Legal References:

EDUCATION CODE

44660-44665 Evaluation and assessment of performance

44842 Automatic declining of employment

44918 Substitute or temporary employee; reemployment rights

44929.21 Districts with 250 ADA or more; notice of reelection decision.

44929.23 Districts with daily attendance less than 250

44932-44947 Suspension and/or dismissal of permanent employees

44948 Dismissal or suspension of probationary employees during school year

44948.2 Election to use provisions of Education Code 44948.3

44948.3 Dismissal of probationary employees (over 250 ADA)

44948.5 Dismissal of probationary employees (under 250 ADA)

44949 Cause, notice and right to hearing for dismissal of probationary employee

44953 Dismissal of substitute employees

44955 Reduction in number of permanent employees

GOVERNMENT CODE

3543.2 Scope of representation (re duty of district to meet and negotiate regarding causes and procedures for discipline less than dismissal)

All Personnel

AR 4117.5(a)
4217.5
4317.5

TERMINATION AGREEMENTS

If a termination settlement agreement has been made with an employee, the Superintendent or designee shall inform prospective employers, upon request for an employment reference, that an agreement exists and that he/she may only provide information as provided for in the agreement.

(cf. 1340 - Access to District Records)
(cf. 4112.6/4212.6/4312.6 - Personnel Files)
(cf. 4112.61/4212.61/4312.61 - Employment References)

Cash settlements made upon the termination of a contract shall never exceed an amount equal to the employee's monthly salary multiplied by the number of months, up to 18, in the unexpired term of the contract. This amount is a maximum ceiling, not to be construed as a target amount for settlement agreements. (Government Code 53260)

Settlement agreements shall not include noncash items other than health benefits, which the district may offer to continue for the unexpired term up to 18 months or until the employee finds other employment, whichever comes first. (Government Code 53261)

Copies of settlement agreements with a superintendent, deputy superintendent, assistant superintendent, associate superintendent or other similar chief administrative officer or chief executive officer shall be made available to the public upon request. (Government Code 53262)

(cf. 2121 - Superintendent's Contract)
(cf. 4312.1 - Contracts)

Legal Reference: (see next page)

AR 4117.5(b)
4217.5
4317.5

TERMINATION AGREEMENTS (continued)

Legal Reference:

CIVIL CODE

47 Privileged communication

GOVERNMENT CODE

53260-53264 Employment contracts

LABOR CODE

1198.5 Inspection of personnel files by employees

CODE OF REGULATIONS, TITLE 5

80303 Reports of dismissal, resignation and other terminations for cause

80332 Professional honesty in letters of employment recommendation

COURT DECISIONS

Randi W. v. Muroc Joint Unified School District, (1997) 14 Cal.4th 1066

Board of Trustees of Leland Stanford Junior University v. Superior Court, (1981) 119 Cal. App. 3d 516

DECISION NOT TO REHIRE

The Superintendent or designee shall provide the Governing Board with his/her recommendations regarding the rehiring of probationary employees.

The Governing Board may decide not to rehire a probationary employee for a second year and give written notice of its decision to the employee at any time during his/her first year. If the Governing Board does not give written notice, the employee shall be rehired for the following year. (Education Code 44929.21)

The Governing Board may decide not to rehire a probationary employee for a third year and give written notice to the employee on or before March 15 of his/her second year. If the Governing Board does not give written notice on or before March 15, the employee shall be rehired for the following year. (Education Code 44929.21)

The Governing Board may also decide not to rehire a district intern at the end of his/her first, second or third consecutive year. Written notice to the employee may be given at any time during the year except during the employee's last year as an intern, when notice must be given on or before March 15. If the Governing Board does not give written notice, the employee shall be rehired as a probationary employee for the following year. (Education Code 44929.21, 44885.5)

(cf. 4112.21 - District Interns)
(cf. 4116 - Probationary/Permanent Status)
(cf. 4117.3 - Personnel Reduction)

Legal Reference:

EDUCATION CODE

44885.5 *District interns*

44929.21 *Districts with 250 ADA or more; notice of reelection decision*

44929.23 *Districts with daily attendance less than 250*

44948.2 *Election to use provisions of Education Code 44948.3*

44948.3 *Dismissal of probationary employees (over 250 ADA)*

44949 *Cause, notice and right to hearing required for dismissal of probationary employee*

44955 *Reduction in number of permanent employees*

COURT DECISIONS

Bellflower Education Assn. v. Bellflower Unified School District 228 Cal. App. 3d 805, 279 Cal. Rptr. 179 (1991)

Fontana Teachers Assn. v. Fontana Unified School District 201 Cal. App. 3d 1517, 247 Cal. Rptr. 761 (1988)

Grimsley v. Board of Trustees 189 Cal. App. 3d 1440, 235 Cal. Rptr. 85 (1987)

EMPLOYMENT STATUS REPORTS

Within 30 days of any change in the employment status of a credential holder working in a position requiring a credential made as a result of an allegation of misconduct, the Superintendent shall report the change to the Commission on Teacher Credentialing. The report shall be made whenever one of the following actions is taken as a result of alleged misconduct: (Education Code 44242.5; 5 CCR 80303)

1. Dismissal

(cf. 4117.4 - Dismissal)

2. Nonreelection/nonreemployment

(cf. 4117.6 - Decision Not to Rehire)

3. Suspension for more than 10 days

(cf. 4118 - Suspension/Disciplinary Action)

4. Placement on unpaid administrative leave for more than 10 days pursuant to a final adverse employment action

5. Resignation or other departure from employment

(cf. 4117.2 - Resignation)

The report shall contain all known information about each alleged act of misconduct by the employee. (5 CCR 80303)

The report shall be made regardless of any proposed or actual agreement, settlement or stipulation between the district and the employee not to make such a report. The report shall also be made if the allegations are withdrawn in consideration of the employee's resignation, retirement or other failure to contest the truth of the allegations. (5 CCR 80303)

The Superintendent shall inform the employee in writing of the contents of 5 CCR 80303 upon a change in employment status as a result of alleged misconduct. (5 CCR 80303)

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

Notice of Other Violations

The Superintendent or designee may notify the Commission on Teacher Credentialing of any of the following: (Education Code 44242.5)

EMPLOYMENT STATUS REPORTS (continued)

1. A complaint received by the district regarding a credential holder's alleged sexual misconduct

The notice shall contain all of the following information: (5 CCR 80304)

- a. Name of the employee alleged to have engaged in the sexual misconduct
- b. Name, age and address of each victim of the alleged sexual misconduct
- c. A summary of all information known to the district regarding the alleged sexual misconduct
- d. A summary of the action, if any, taken at the district level in response to the complaint of sexual misconduct

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

(cf. 5145.7 - Sexual Harassment)

2. Refusal, without good cause, to fulfill a valid employment contract, or departure from district service without the consent of the Superintendent or Governing Board (Education Code 44420)
3. Knowing and willful use of student records in connection with, or in implicit or explicit attempts to recruit a student to be a customer for, any business owned by the credential holder or in which the credential holder is an employee (Education Code 44421.1)
4. Knowing and willful reporting of false fiscal expenditure data relative to the conduct of any educational program (Education Code 44421.5)

Legal Reference:

EDUCATION CODE

44225 Powers and duties of the Commission on Teacher Credentialing

44242.5 Reports and review of alleged misconduct

44420-44440 Adverse actions by CTC against credential holder

CODE OF REGULATIONS, TITLE 5

80303 Reports of change in employment status, alleged misconduct

80304 Notice of sexual misconduct

Management Resources:

WEB SITES

CSBA: <http://www.csba.org>

CTC: <http://www.ctc.ca.gov>

SUSPENSION/DISCIPLINARY ACTION

The Governing Board desires that all employees exhibit professional and appropriate conduct and serve as positive role models at school and in the community. Unacceptable conduct shall be subject to disciplinary action in accordance with law, collective bargaining agreement, Governing Board policy and administrative regulations.

(cf. 4141/4241 - Collective Bargaining Agreement)

The Superintendent or designee shall develop administrative regulations that identify types of misconduct and possible consequences. Disciplinary actions may include, but not be limited to, verbal warnings, written warnings, reassignment, suspension, freezing or reduction of wages, compulsory leave and dismissal.

The Superintendent or designee may take disciplinary action as he/she deems appropriate in light of the particular facts and circumstances involved. He/she shall ensure that disciplinary actions are taken in a consistent, nondiscriminatory manner and are appropriately documented.

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4032 - Complaints Concerning Discrimination in Employment)

(cf. 4117.4 - Dismissal)

(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

Legal Reference: (see next page)

SUSPENSION/DISCIPLINARY ACTION (continued)

Legal Reference:

EDUCATION CODE

44009 Conviction of specified crimes

44010 Sex offense - definitions

44011 Controlled substance offense - definitions

44660-44665 Evaluation and assessment of performance of certificated employees

44830.1 Criminal record summary certificated employees

44932 Grounds for dismissal of permanent employee

44933 Other grounds for dismissal

44938 Unprofessional conduct or unsatisfactory performance; notice of charges

44940 Sex offenses and narcotic offenses; compulsory leave of absence

44940.5 Compulsory leave of absence; procedures; extension; compensation; bond or security; reports

44942 Suspension or transfer of certificated employee on grounds of mental illness

44944 Conduct of hearing

44948.3 Dismissal of employees on probation

45055 Drawing of warrants for teachers

51530 Advocacy or teaching of communism

GOVERNMENT CODE

3543.2 Scope of representation

HEALTH AND SAFETY CODE

11054 Schedule I; substances included

11055 Schedule II, substances included

11056 Schedule III, substances included

11357-11361 Marijuana

11363 Peyote

11364 Opium

11370.1 Possession of controlled substances with a firearm

PENAL CODE

667.5 Prior prison terms, enhancement of prison terms

1192.7 Plea bargaining limitation

COURT DECISIONS

Crowl v. Commission on Professional Competence (1990) 225 Cal. App. 3d 334 (275 Cal.Rptr. 86)

SUSPENSION/DISCIPLINARY ACTION

Suspension Without Pay

When a permanent certificated employee's unprofessional conduct is not considered serious enough to warrant dismissal, he/she may be suspended without pay on grounds of unprofessional conduct, following procedures designated in Education Code 44932(b).

A probationary certificated employee may be suspended without pay for a specified period during the school year as an alternative to dismissal following procedures designated in Education Code 44948.3.

Prior to any action on charges leading to suspension without pay on the grounds of unprofessional conduct, the Superintendent or designee shall give the employee written notice. This written notice shall: (Education Code 44938)

1. Indicate the nature of the employee's unprofessional conduct
2. Cite specific instances of unprofessional behavior
3. Give the employee a 45-day opportunity to correct the misconduct and overcome the grounds for the charge
4. Include the evaluation made pursuant to Education Code 44660-44665, if applicable

(cf. 4115 - Evaluation/Supervision)

Compulsory Leave

The Superintendent or designee shall immediately place on compulsory leave of absence any certificated employee who is charged with committing: (Education Code 44830.1, 44940)

1. Any sex offense as defined in Education Code 44010
2. Any offense involving the unlawful sale, use or exchange to minors of controlled substances as listed in Health and Safety Code 11054, 11055 and 11056, with the exception of marijuana, mescaline, peyote, or tetrahydrocannabinols

Upon receipt of notification from the Department of Justice by telephone that a current temporary employee, substitute employee, or probationary employee serving before March 15 of the employee's second probationary year has been convicted of a violent or serious felony, that employee shall be immediately placed on leave without pay. (Education Code 44830.1)

(cf. 4112.5/4312.5 - Criminal Record Check)

SUSPENSION/DISCIPLINARY ACTION (continued)

Upon receipt of written electronic notification of the conviction from the Department of Justice the employee, as specified above, shall be terminated automatically, and without regard to any other termination procedure. (Education Code 44830.1)

The Governing Board also may require an immediate compulsory leave of absence when a certificated employee is charged with "an optional leave of absence offense" as specified in law. (Education Code 44940)

The compulsory leave may extend for not more than 10 days after the entry of judgment in the proceedings. However, the Governing Board may extend a certificated employee's compulsory leave by giving notice, within 10 days after the entry of judgment in the proceedings, that the employee will be dismissed in 30 days unless he/she demands a hearing. (Education Code 44940, 44940.5)

(cf. 4117.4 - Dismissal)

The Governing Board shall report to the Commission on Teacher Credentialing (formerly the Commission for Teacher Preparation and Licensing) any action it takes in connection with extending a compulsory leave beyond 10 days. (Education Code 44940.5)

Employee compensation during the period of compulsory leave shall be made in accordance with Education Code 44940.5.

All Personnel

BP 4119.1

4219.1

CIVIL AND LEGAL RIGHTS

4319.1

The Governing Board believes that the personal life of an employee is not an appropriate concern of the district, except as it may directly prevent the employee from performing his/her duties or responsibilities.

An employee's religious or political activities, or the lack thereof, shall not be grounds for any discrimination or disciplinary action by the district, provided these activities do not violate Governing Board policy, administrative regulations or local, state or federal laws.

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4119.21/4219.21/4319.21 - Professional Standards)

(cf. 4119.25/4219.25/4319.25 - Political Activities of Employees)

Teachers shall have the right to refuse to submit to any evaluation or survey conducted by the district concerning personal values, attitudes and beliefs; sexual orientation; political affiliations or opinions; critical appraisals of other individuals with whom the teacher has a family relationship; or religious affiliations or beliefs. (Education Code 49091.24)

Whistleblower Protection

All employees shall have the right to disclose improper governmental activities to a Governing Board member, a school administrator, a member of the County Governing Board, County Superintendent of Schools, or the Superintendent of Public Instruction. An improper governmental activity is an activity by the district or a district employee that violates state or federal law, is economically wasteful, or involves gross misconduct, incompetency or inefficiency. (Education Code 44111, 44112)

No employee shall use or attempt to use his/her official authority or influence to intimidate, threaten, coerce or command another employee for the purpose of interfering with that employee's right to disclose improper governmental activity. (Education Code 44113)

(cf. 4118 - Suspension/Disciplinary Action)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

An employee who has disclosed improper governmental activity and believes that he/she has subsequently been subjected to acts or attempted acts of reprisal shall file a written complaint in accordance with the district's complaint procedures. After filing a complaint with the district, he/she may also file a copy of the complaint with local law enforcement in accordance with Education Code 44114.

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 4144/4244/4344 - Complaints)

CIVIL AND LEGAL RIGHTS (continued)

Rights in Legal Proceedings

Any employee has the right, if contacted by an attorney or the representative of a law firm not employed by the district about any claim, complaint, lawsuit or other legal proceeding against the district, to:

1. Speak to the attorney or the representative without fear of punishment in retaliation for such communication
2. Contact his/her supervisor before answering questions or responding in any way
3. Refuse to speak to the attorney or representative
4. Notify the district that the attorney or representative has requested an interview
5. Consult with his/her own attorney or an attorney employed by the district or bargaining unit
6. Be represented at any interview either by his/her own attorney or an attorney employed by the district

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination on the basis of sex

7050-7057 Political activities of school officers and employees

44040 Unlawful to discriminate solely because of employee's appearance before certain boards or committees

44110-44114 Reporting by school employees of improper governmental activity

44801 Leave of absence for employees elected to the Legislature

49091.24 Teacher rights to refuse evaluation/survey of personal life

CIVIL CODE

51 Unruh Civil Rights Act

GOVERNMENT CODE

3540.1 Public employment definitions

3543.5 Interference with employee's rights prohibited

12940-12950 Discrimination prohibited; unlawful practices

UNITED STATES CODE, TITLE 42

2000d-2000d-7 Title VI, Civil Rights Act

2000e-2000e-17 Title VII, Civil Rights Act of 1964 as amended

2000h-2000h-6 Title IX, 1972 Education Act Amendments

12101-12213 Americans with Disabilities Act

SEXUAL HARASSMENT

The Governing Board prohibits sexual harassment of District employees and job applicants. The Governing Board also prohibits retaliatory behavior or action against District employees or other persons who complain, testify or otherwise participate in the complaint process established pursuant to this policy and the administrative regulation.

(cf. 0410 - Nondiscrimination in District Program and Activities)
(cf. 4030 - Nondiscrimination in Employment)

The Superintendent or designee shall take all actions necessary to ensure the prevention, investigation, and correction of sexual harassment, including but not limited to:

1. Providing training to employees in accordance with law and administrative regulation.
2. Publicizing and disseminating the District's sexual harassment policy to staff.

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

3. Ensuring prompt, thorough, and fair investigation of complaints.
4. Taking timely and appropriate corrective/remedial actions, which may require interim separation of the complainant and the alleged harasser, and subsequent monitoring of developments.

Any District employee or job applicant who feels that he/she has been sexually harassed, or who has knowledge of any incident of sexual harassment by or against another employee, a job applicant or a student, shall immediately report the incident to his/her supervisor, the principal, District administrator or Superintendent to obtain procedures for filing a complaint.

Complaints of sexual harassment shall be filed in accordance with AR 4031 - Complaints Concerning Discrimination in Employment. An employee may bypass his/her supervisor in filing a complaint where the supervisor is the subject of the complaint. A supervisor, principal or other District administrator who receives a harassment complaint shall promptly notify the Superintendent or designee.

(cf. 4031 - Complaints Concerning Discrimination in Employment)

All Personnel

BP 4119.11(b)
4219.11
4319.11

SEXUAL HARASSMENT (continued)

All complaints and allegations of sexual harassment shall be kept confidential to the extent necessary to carry out the investigation or take other subsequent necessary action. (5 CCR 4964)

Any District employee who engages or participates in sexual harassment, or who aids, abets, incites, compels or coerces another to commit sexual harassment against a District employee, job applicant or student, is in violation of this policy and is subject to disciplinary action, up to and including dismissal.

(cf. 4117.4 - Dismissal)

(cf. 4118 - Suspension/Disciplinary Action)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of Discrimination on the Basis of Sex

GOVERNMENT CODE

12900-12996 Fair Employment and Housing Act

12940 Prohibited Discrimination

12950.1 Sexual Harassment Training

LABOR CODE

1101 Political Activities of Employees

1102.1 Discrimination: Sexual Orientation

CODE OF REGULATIONS, TITLE 2

7287.8 Retaliation

CODE OF REGULATIONS, TITLE 5

4900-4965 Nondiscrimination in Elementary and Secondary Education

Programs Receiving State Financial Assistance

UNITED STATES CODE, TITLE 42

2000d-2000d-7 Title VI, Civil Rights Act of 1964

2000e-2000e-17 Title VII, Civil Rights Act of 1964 as amended

2000h-2-2000h-6 Title IX, 1972 Education Act Amendments

SEXUAL HARASSMENT (continued)

Legal Reference (continued):

CODE OF FEDERAL REGULATIONS, TITLE 34

106.9 Dissemination of policy

COURT DECISIONS

Department of Health Services v. Superior Court of California, (2003) 31 Cal.4th 1026

Faragher v. City of Boca Raton, (1998) 118 S.Ct. 2275

Burlington Industries v. Ellreth, (1998) 118 S.Ct. 2257

Gebser v. Lago Vista Independent School District, (1998) 118 S.Ct. 1989

Oncale v. Sundowner Offshore Serv. Inc., (1998) 118 S.Ct. 998

Meritor Savings Bank, FSB v. Vinson et al., (1986) 447 U.S. 57

Management Resources:

OFFICE OF CIVIL RIGHTS AND NATIONAL ASSOCIATION OF ATTORNEYS GENERAL

Protecting Students from Harassment and Hate Crime, January, 1999

WEB SITES

California Department of Fair Employment and Housing:

<http://www.dfeh.ca.gov>

Equal Employment Opportunity Commission: <http://www.eeoc.gov>

U.S. Department of Education, Office of Civil Rights:

<http://www.ed.gov/offices/OCR>

Adopted: January 17, 2007

All Personnel

AR 4119.11(a)

4219.11

SEXUAL HARASSMENT

4319.11

Prohibited sexual harassment includes, but is not limited to, unwelcome sexual advances, unwanted requests for sexual favors or other unwanted verbal, visual or physical conduct of a sexual nature made against another person of the same or opposite gender, in the work or educational setting, when: (Education Code 212.5; 5 CCR 4916)

1. Submission to the conduct is made expressly or implicitly a term or condition of the individual's employment
2. Submission to or rejection of such conduct by the individual is used as the basis for an employment decision affecting him/her
3. The conduct has the purpose or effect of unreasonably interfering with the other individual's work performance; creating an intimidating, hostile or offensive work environment; or adversely affecting the other individual's evaluation, advancement, assigned duties, or any other condition of employment or career development
4. Submission to or rejection of the conduct by the other individual is used as the basis for any decision affecting him/her regarding benefits, services, honors, programs or activities available at or through the district

Other examples of actions that might constitute sexual harassment, whether committed by a supervisor or any other employee, include but are not limited to:

1. Unwelcome leering, sexual flirtations or propositions
2. Unwelcome sexual slurs, epithets, threats, innuendoes, derogatory comments or sexually degrading descriptions
3. Graphic verbal comments about an individual's body, or overly personal conversations or pressure for sexual activity
4. Sexual jokes, stories, drawings, pictures, graffiti, gestures or sexually explicit e-mails
5. Spreading sexual rumors
6. Massaging, grabbing, fondling, stroking or brushing the body
7. Touching an individual's body or clothes in a sexual way
8. Cornering, blocking, leaning over or impeding normal movements
9. Displaying sexually suggestive objects or using sexual computer screen savers

SEXUAL HARASSMENT (continued)

10. Any act of retaliation against an individual who reports a violation of the district's sexual harassment policy or who participates in the investigation of a sexual harassment complaint

Notifications

A copy of the Governing Board's policy and this administrative regulation shall: (Education Code 231.5)

1. Be displayed in a prominent location in the main administrative building or other area of the school where notices of district rules, regulations, procedures and standards of conduct are posted
2. Be provided to each faculty member, all members of the administrative staff, and all members of the support staff at the beginning of the first quarter or semester of the school year, or whenever a new employee is hired

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

3. Appear in any school or district publication that sets forth the school's or district's comprehensive rules, regulations, procedures and standards of conduct

All employees shall receive either a copy of information sheets prepared by the California Department of Fair Employment and Housing or a copy of district information sheets that contain, at a minimum, components on: (Government Code 12950)

1. The illegality of sexual harassment
2. The definition of sexual harassment under applicable state and federal law
3. A description of sexual harassment, with examples
4. The district's complaint process available to the employee
5. The legal remedies and complaint process available through the Fair Employment and Housing Department and Equal Employment Opportunity Commission
6. Directions on how to contact the Fair Employment and Housing Department and Equal Employment Opportunity Commission

All Personnel

BP 4119.21

4219.21

PROFESSIONAL STANDARDS

4319.21

The Governing Board expects district employees to maintain the highest ethical standards, follow district policies and regulations, and abide by state and federal laws. Employee conduct should enhance the integrity of the district and advance the goals of the educational programs. Each employee should make a commitment to acquire the knowledge and skills necessary to fulfill his/her responsibilities and should focus on his/her contribution to the learning and achievement of district students.

(cf. 0000 - Vision)

(cf. 4112.2 - Certification)

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

The Governing Board encourages district employees to accept as guiding principles the professional standards and codes of ethics adopted by professional associations to which they may belong.

(cf. 2111 - Superintendent Governance Standards)

(cf. 9005 - Governance Standards)

Legal Reference:

CODE OF REGULATIONS, TITLE 5

80331-80338 Rules of conduct for professional educators

Management Resources:

CDE PUBLICATIONS

California Professional Standards for Educational Leaders, 2001

COUNCIL OF CHIEF STATE SCHOOL OFFICERS PUBLICATIONS

Standards for School Leaders, 1996

NATIONAL EDUCATION ASSOCIATION PUBLICATIONS

Code of Ethics of the Education Profession, 1975

WEB SITES

CDE: <http://www.cde.ca.gov>

Commission on Teacher Credentialing: <http://www.ctc.ca.gov>

Association of California School Administrators: <http://www.acsa.org>

California School Leadership Academy: <http://www.csla.org>

Council of Chief State School Officers: <http://www.ccsso.org>

California Teachers Association: <http://www.cta.org>

California Federation of Teachers: <http://www.cft.org>

California School Employees Association: <http://www.csea.com>

PROFESSIONAL STANDARDS

CODE OF ETHICS OF THE EDUCATION PROFESSION

Preamble

The educator, believing in the worth and dignity of each human being, recognizes the supreme importance of the pursuit of truth, devotion to excellence, and the nurturing of democratic principles. Essential to these goals is the protection of freedom to learn and to teach and the guarantee of equal educational opportunity for all. The educator accepts the responsibility to adhere to the highest ethical standards.

The educator recognizes the magnitude of the responsibility inherent in the teaching process. The desire for the respect and confidence of one's colleagues, of students, of parents, and of the members of the community provides the incentive to attain and maintain the highest possible degree of ethical conduct. The Code of Ethics of the Education Profession indicates the aspiration of all educators and provides standards by which to judge conduct.

Principle I. Commitment to the Student

The educator strives to help each student realize his/her potential as a worthy and effective member of society. The educator therefore works to stimulate the spirit of inquiry, the acquisition of knowledge and understanding, and the thoughtful formulation of worthy goals.

In fulfillment of the obligation to the student, the educator:

1. Shall not unreasonably restrain the student from independent action in the pursuit of learning
2. Shall not unreasonably deny the student access to varying points of view
3. Shall not deliberately suppress or distort subject matter relevant to the student's progress
4. Shall make reasonable effort to protect the student from conditions harmful to learning or to health and safety
5. Shall not intentionally expose the student to embarrassment or disparagement
6. Shall not on the basis of race, color, creed, gender, national origin, marital status, political or religious beliefs, family, social, or cultural background, or sexual orientation, unfairly:
 - a. Exclude any student from participation in any program
 - b. Deny benefits to any student
 - c. Grant any advantage to any student

PROFESSIONAL STANDARDS (continued)

7. Shall not use professional relationships with students for private advantage
8. Shall not disclose information in the course of professional service unless disclosure serves a compelling professional purpose or is required by law

Principle II. Commitment to the Profession

The education profession is vested by the public with a trust and responsibility requiring the highest ideals of professional service.

In the belief that the quality of the services of the education profession directly influences the nation and its citizens, the educator shall exert every effort to raise professional standards, to promote a climate that encourages the exercise of professional judgment, to achieve conditions that attract persons worthy of the trust to careers in education, and to assist in preventing the practice of the profession by unqualified persons.

In fulfillment of the obligation of the profession, the educator:

1. Shall not in any application for a professional position deliberately make a false statement or fail to disclose a material fact related to competency and qualifications
2. Shall not misrepresent his/her professional qualifications
3. Shall not assist any entry into the profession of a person known to be unqualified in respect to character, education, or other relevant attribute
4. Shall not knowingly make a false statement concerning the qualifications of a candidate for a professional position
5. Shall not assist a noneducator in the unauthorized practice of teaching
6. Shall not disclose information about colleagues obtained in the course of professional service unless disclosure serves a compelling professional purpose or is required by law
7. Shall not knowingly make false or malicious statements about a colleague
8. Shall not accept any gratuity, gift, or favor that might impair or appear to influence professional decisions or action

Source: National Education Association, 1975

DRESS AND GROOMING

The Governing Board believes that since teachers serve as role models, they should maintain professional standards of dress and grooming. Just as overall attitude and instructional competency contribute to a productive learning environment, so do appropriate dress and grooming.

The Governing Board encourages staff during school hours to wear clothing that demonstrates their high regard for education and presents an image consistent with their job responsibilities. Clothes that may be appropriate for shop instructors or gym teachers may not be appropriate for classroom teachers.

Legal Reference:

EDUCATION CODE

35160 Authority of governing boards

35160.1 Broad authority of school districts

GOVERNMENT CODE

3543.2 Scope of Representation

COURT DECISIONS

San Mateo City School District v. PERB (1983) 33 Cal. 3d 850

Domino v. Rapids Parish School Board (5th Cr. 1982) 675 F.2d 100

East Hartford Education Assn. v. Governing Board (2d Cir. 1977) 562 F. 2d 856

Miller v. School District # 167 (7th Cir. 1974) 495 F.2d 658

PUBLIC EMPLOYMENT RELATIONS BOARD DECISIONS

Inglewood Unified School District (1985) PERB 1700

All Personnel

BP 4119.23(a)
4219.23
4319.23

**UNAUTHORIZED RELEASE OF CONFIDENTIAL/
PRIVILEGED INFORMATION**

The Governing Board, administration and staff shall maintain the confidentiality of all confidential records until such time as laws, state regulations and/or bylaws of this district permit disclosure. Information and records pertaining to closed sessions, negotiations and student records are not subject to public disclosure under Government Code 6252-6260.

Any employee who willfully releases confidential/privileged information about students, staff or any topic properly confined to a closed session shall be subject to disciplinary action up to and including dismissal from district service. Confidential information includes any information relating to the Governing Board's employer-employee strategies on matters in negotiation or matters to be placed in negotiation.

Any employee who willingly and for monetary gain uses or discloses confidential/privileged information as defined in Government Code 1098 is guilty of a misdemeanor. (Government Code 1098)

Any action by an employee which inadvertently or carelessly results in release of confidential/privileged information shall be recorded, and the record shall be placed in the employee's personnel file. Depending on the circumstances, the Superintendent or designee may deny the employee further access to any privileged information and shall take any steps necessary to prevent any further unauthorized release of such information.

(cf. 5125 - Student Records)

(cf. 5125.1 - Release of Directory Information)

(cf. 9321 - Closed Session Purposes and Agendas)

Legal Reference: (see next page)

**UNAUTHORIZED RELEASE OF CONFIDENTIAL/
PRIVILEGED INFORMATION (continued)**

Legal Reference:

EDUCATION CODE

35010 *Control of district; prescription and enforcement of rules*

35146 *Closed sessions (re student suspension)*

44031 *Personnel file contents and inspection*

44932 *Grounds for dismissal of permanent employees*

44933 *Other grounds for dismissal*

45113 *Rules and regulations for classified service*

49060-49078 *Pupil records*

GOVERNMENT CODE

1098 *Public officials and employees: confidential information*

3540 *et seq. Meeting and negotiating in public employment*

6252 *et seq. Inspection of public records*

54957 *Closed session; purposes for holding; definition of "employee" exclusion of witnesses*

54957.2 *Taking of minutes at closed sessions; clerk; minute book*

54957.6 *Closed session, representatives to employee organization(s); state conciliator*

LABOR CODE

1102.5 *Employees: disclosure of information*

UNITED STATES CODE, TITLE 20

1232g *Family Education Rights and Privacy Act*

All Personnel

BP 4119.25(a)
4219.25
4319.25

POLITICAL ACTIVITIES OF EMPLOYEES

The Governing Board respects the right of school employees to engage in political discussions and activities on their own time and at their own expense. On such occasions, employees shall make it clear that they are acting as individuals and not as representatives of the district.

(cf. 1160 - Political Processes)

Like other community members, employees may use school facilities for meetings under the Civic Center Act.

(cf. 1330 - Use of School Facilities)

Employees shall refrain from prohibited activities identified in law and administrative regulations. Employees who engage in these activities shall be subject to disciplinary action and/or criminal penalties.

(cf. 1325 - Advertising and Promotion)
(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

Legal Reference: (see next page)

POLITICAL ACTIVITIES OF EMPLOYEES (continued)

Legal Reference:

EDUCATION CODE

7050-7057 *Political activities of school officers and employees*

38130-38139 *Civic Center Act*

51520 *Prohibited solicitations on school premises*

GOVERNMENT CODE

3543.1 *Rights of employee organizations*

COURT DECISIONS

Downs v. Los Angeles Unified School District, (9th Cir. 2000) 228 F.3d 1003

California Teachers Association v. Governing Board of San Diego Unified School District, (1996) 45 Cal.App. 4th 1333

L.A. Teachers Union v. L.A. City Governing Board, (1969) 71 Cal.2d 551

ATTORNEY GENERAL OPINIONS

84 *Ops.Cal.Atty.Gen.* 106 (2001)

84 *Ops.Cal.Atty.Gen.* 52 (2001)

77 *Ops.Cal.Atty.Gen.* 56 (1994)

PERB RULINGS

California Federation of Teachers, Local 1931 v. San Diego Community College District (2001) PERB Order #1467 (26 PERC 33014)

Management Resources:

CSBA PUBLICATIONS

Political Activities of School Districts: Legal Issues, 1998, revised 2001

WEB SITES

CSBA: <http://www.csba.org>

Office of the Attorney General, Dept. of Justice: <http://caag.state.ca.us/>

Public Employment Relations Board: <http://www.perb.ca.gov>

All Personnel

AR 4119.25(a)

4219.25

POLITICAL ACTIVITIES OF EMPLOYEES

4319.25

District employees shall not:

1. Use district funds, services, supplies or equipment to urge the passage or defeat of any ballot measure or candidate, including any candidate for election to the Governing Board (Education Code 7054)

(cf. 1160 - Political Processes)

2. During working hours and on district property, solicit or receive any political funds or contributions to promote the passage or defeat of a ballot measure that would affect the rate of pay, hours of work, retirement, civil service or other working conditions (Education Code 7056)

3. During working hours and on district property, solicit or receive any political funds or contributions to promote the passage or defeat of other types of ballot measures

4. Use district time to urge the passage or defeat of any ballot measure or candidate

5. Use district equipment for the preparation or reproduction of political campaign materials, even if the district is reimbursed

(cf. 3512 - Equipment)

6. Post or distribute political campaign materials on district property

7. Disseminate political campaign materials through the district's mail service, e-mail or staff mailboxes

(cf. 4040 - Employee Use of Technology)

8. Use students to write, address or distribute political campaign materials

9. Present viewpoints on particular candidates or ballot measures in the classroom without giving equal time to the presentation of opposing views

(cf. 6144 - Controversial Issues)

10. Wear buttons or articles of clothing that express political opinions on ballot measures or candidates during instructional time

However, teachers shall not be prohibited from wearing political buttons during noninstructional time, such as Back-to-School Night.

Nothing in Governing Board policy or administrative regulation shall be construed to prevent employees from soliciting or receiving funds or contributions for political purposes during nonworking time, including before and after school, the lunch period or other scheduled work intermittency during the school day. (Education Code 7056)

AR 4119.25(b)
4219.25
4319.25

POLITICAL ACTIVITIES OF EMPLOYEES (continued)

Employee Organizations

Employee organizations may use district mailboxes and other means to communicate with employees, subject to reasonable regulation. Employee organizations may have access at reasonable times to areas in which employees work; may use institutional bulletin boards, mailboxes, and other means of communication and may use district facilities at reasonable times for the purpose of meetings. (Government Code 3543.1)

However, employee organizations shall not use district funds, services, supplies or equipment, such as the district mail system, to urge the passage or defeat of any ballot measure or candidate, including any candidate for election to the Governing Board (Education Code 7054)

(cf. 4140/4240 - Bargaining Units)

Access to district communication channels shall be limited in cases where such access would be disruptive to district operations.

In the event of a concerted action or work stoppage, political activities by employee organizations and individual employees shall be restricted to peaceful informational picketing and other activities allowed by law.

(cf. 4141.6/4241.6 - Concerted Action/Work Stoppage)

All Personnel

BP 4119.3(a)

4219.3

DUTIES OF PERSONNEL

4319.3

The Governing Board recognizes the importance of having adequate job descriptions for every district employee. Student safety, the district's fiscal stability, and the success of the educational program all depend on employees' fully understanding their responsibilities and duties.

The Superintendent or designee shall prepare and regularly update job descriptions for all positions. Job descriptions shall clearly specify all essential and peripheral/marginal functions and duties of the position, the degree of responsibility the position entails, the type and extent of training required, and the position of the person to whom the employee reports.

All employees shall fulfill the duties and responsibilities set forth in their job descriptions and shall comply with Governing Board policies, administrative regulations, applicable employee agreements, and local, state and federal laws.

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4115 - Evaluation/Supervision)

(cf. 4118 - Suspension/Disciplinary Action)

(cf. 4215 - Evaluation/Supervision)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

(cf. 4315 - Evaluation/Supervision)

Legal Reference: (see next page)

DUTIES OF PERSONNEL (continued)

Legal Reference:

EDUCATION CODE

- 233.5 Duty concerning instruction in morals, manners, citizenship*
- 35020 Duties of employees fixed by governing board*
- 35035 Further powers and duties of superintendent*
- 44014 Report of assault*
- 44662 Job responsibilities for certificated nonmanagement personnel*
- 44805 Enforcement of course of studies, use of textbooks, rules and regulations*
- 44807 Duty concerning conduct of pupils*
- 44809 School register*
- 44816 Annual report of elementary teacher*
- 45100.5-45108.7 Senior management of the classified service*
- 45109 Fixing of duties*
- 45110 Inconsistent duties, compensation*
- 45256.5 Senior management of classified service*

GOVERNMENT CODE

- 7293 Local public agencies; bilingual employees*

CODE OF REGULATIONS, TITLE 5

- 5530-5531 Duties of all certificated personnel*
- 5550-5552 Duties of principals*
- 5570 Duties of teachers*
- 5590 Duties of temporary athletic team coaches*
- 11256 Duties and responsibilities of mentor teachers*
- 12067 Teacher aide duties under supervision of classroom teacher*
- 12068 Teacher aide duties not under direct supervision of classroom teacher*
- 13003 Duties of team leader*
- 16043 Duties of library personnel*

UNITED STATES CODE, TITLE 42

- 12101-12213 Americans With Disabilities Act*

All Personnel

BP 4119.41(a)

4219.41

EMPLOYEES WITH INFECTIOUS DISEASE

4319.41

The Governing Board encourages each employee to inform the district as soon as possible if he/she contracts an infectious disease which creates a physical or mental disability. The Governing Board will reasonably accommodate the needs of such individuals.

The Governing Board may reassign or grant disability leave to an employee who is unable to perform his/her job responsibilities because of illness or because the employee's illness significantly endangers his/her health or safety or the health or safety of others.

(cf. 4161.1/4361.1 - Personal Illness/Injury Leave)

(cf. 4261.1 - Personal Illness/Injury Leave)

No employee will be discriminated against because of his/her disability. Legal protections established for disabled persons extend to individuals significantly impaired by infectious diseases.

(cf. 0410 - Nondiscrimination in District Programs and Activities)

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4112.4/4212.4/4312.4 - Health Examinations)

When informed that an employee has a disabling infectious disease, the Superintendent or designee may request that the employee sign a release form to provide confidential medical information and records.

In determining a reasonable accommodation of the employee's condition, the Superintendent or designee may consult with public health officials or physicians with expertise in the diagnosis and treatment of infectious disease. The Superintendent or designee may also communicate with the employee's physician regarding the employee's ability to perform the essential requirements of the job with reasonable accommodation and without posing significant health or safety risks to the employee or others.

The Superintendent or designee shall prepare a confidential report which includes his/her recommendation and the medical information upon which it is based. These recommendations shall take into consideration:

1. The nature of the disease and the probability of its being transmitted, including the duration and severity of the risk
2. The physical condition of the employee, including diagnosis, treatment, and prognosis of the condition
3. The actual requirements of the employee's job and the expected type of interaction with others in the school setting

This report shall be forwarded to the Governing Board for confidential review and action.

BP 4119.41(b)
4219.41
4319.41

EMPLOYEES WITH INFECTIOUS DISEASE (continued)

The job assignment of an employee with a disabling infectious disease shall be reevaluated whenever there is a change in medical knowledge or in the employee's medical regimen or health which might affect his/her assignment.

Confidentiality

The Governing Board and the Superintendent or designee shall ensure that employee rights to confidentiality are strictly observed. The district shall disclose medical record information only to the extent required or permitted by law. The medical records of any employee with a disabling infectious disease shall be held in strict confidence.

Legal Reference:

CIVIL CODE

56-56.37 Confidentiality of medical information

GOVERNMENT CODE

12900-12996 Fair Employment and Housing Act

HEALTH AND SAFETY CODE

120975-121020 Mandated blood testing and confidentiality to protect public health

CODE OF REGULATIONS, TITLE 2

7293.5 et seq.

UNITED STATES CODE, TITLE 29

701 et seq. Rehabilitation Act

UNITED STATES CODE, TITLE 42

12101-12213 Americans With Disabilities Act

COURT DECISIONS

School Board of Nassau County, Fla. v. Arline, 408 U.S. 273 (1987)

All Personnel

BP 4119.42

4219.42

EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS

4319.42

As part of its commitment to provide a safe and healthful work environment, the Governing Board recognizes the importance of developing an exposure control plan. The Superintendent or designee shall establish a written exposure control plan in accordance with state and federal standards for dealing with potentially infectious materials in the workplace to protect employees from possible infection due to contact with bloodborne pathogens, including but not limited to hepatitis B virus, hepatitis C virus and human immunodeficiency virus (HIV).

(cf. 4119.43/4219.43/4319.43 - Universal Precautions)

(cf. 4157/4257/4357 - Employee Safety)

The Superintendent or designee shall determine which employees have occupational exposure to bloodborne pathogens and other potentially infectious materials. In accordance with the district's exposure control plan, employees having occupational exposure shall be offered the hepatitis B vaccination.

The Superintendent or designee may exempt designated first aid providers from pre-exposure hepatitis B vaccination under the conditions specified by state regulations. (8 CCR 5193(f))

Any employee not identified by the Superintendent or designee as having occupational exposure may submit a request to the Superintendent or designee to be included in the training and hepatitis B vaccination program. The Superintendent or designee may deny a request when there is no reasonable anticipation of contact with any infectious material.

Legal Reference:

LABOR CODE

142.3 Authority of Cal/OSHA to adopt standards

144.7 Requirement to amend standards

CODE OF REGULATIONS, TITLE 8

3204 Access to employee exposure and medical records

5193 California bloodborne pathogens standards

CODE OF FEDERAL REGULATIONS, TITLE 29

1910.1030 OSHA bloodborne pathogens standards

Management Resources:

CDE ADVISORIES

1016.89 Guidelines for Informing School Employees about Preventing the Spread of Infectious Diseases, including Hepatitis B and AIDS/HIV Infections and Policies for Dealing with HIV-Infected Persons in School Settings

WEB SITES

OSHA: <http://www.osha.gov>

Cal/OSHA: http://www.dir.ca.gov/occupational_safety.html

Centers for Disease Control and Prevention: <http://www.cdc.gov>

All Personnel

AR 4119.42(a)
4219.42
4319.42

EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS

Definitions

Occupational exposure means reasonably anticipated skin, eye, mucous membrane, or parenteral contact with blood or other potentially infectious materials that may result from the performance of an employee's duties. (8 CCR 5193(b))

Exposure incident means a specific eye, mouth, other mucous membrane, nonintact skin, or parenteral contact with blood or other potentially infectious materials that result from the performance of an employee's duties. (8 CCR 5193 (b))

Parenteral contact means piercing mucous membranes or the skin barrier through such events as needlesticks, human bites, cuts, and abrasions. (8 CCR 5193(b))

A *sharp* is any object that can be reasonably anticipated to penetrate the skin or any other part of the body and to result in an exposure incident. (8 CCR 5193(b))

A *sharps injury* is any injury caused by a sharp, including but not limited to cuts, abrasions or needlesticks. (8 CCR 5193(b))

Work practice controls are controls that reduce the likelihood of exposure by defining the manner in which a task is performed. (8 CCR 5193(b))

Engineering controls are controls, such as sharps disposal containers, needleless systems, and sharps with engineered sharps injury protection, that isolate or remove the bloodborne pathogens hazard from the workplace. (8 CCR 5193(b))

Engineered sharps injury protection is a physical attribute built into a needle device or into a non-needle sharp which effectively reduces the risk of an exposure incident. (8 CCR 5193(b))

Exposure Control Plan

The district's exposure control plan shall contain at least the following components: (8 CCR 5193(c))

1. A determination of which employees have occupational exposure to blood or other potentially infectious materials

The district's exposure determination shall be made without regard to the use of personal protective equipment and shall include a list of:

- a. All job classifications in which all employees have occupational exposure
- b. Job classifications in which some employees have occupational exposure

EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS (continued)

- c. All tasks and procedures, or groups of closely related tasks and procedures, in which occupational exposure occurs and which are performed by employees listed in item #b above
2. The schedule and method of implementing:
 - a. Methods of compliance required by 8 CCR 5193(d), such as universal precautions, general and specific engineering and work practice controls, and personal protective equipment

(cf. 4119.43/4219.43/4319.43 - Universal Precautions)

 - b. Hepatitis B vaccination
 - c. Bloodborne pathogen post-exposure evaluation and follow-up
 - d. Communication of hazards to employees, including labels, signs, information and training
 - e. Record keeping
 3. The district's procedure for evaluating circumstances surrounding exposure incidents
 4. An effective procedure for gathering information about each exposure incident involving a sharp, as required for the log of sharps injuries
 5. An effective procedure for periodically determining the frequency of use of the types and brands of sharps involved in exposure incidents documented in the sharps injury log
 6. An effective procedure for identifying currently available engineering controls and selecting such controls as appropriate for the procedures performed by employees in their work areas or departments
 7. An effective procedure for documenting instances when a licensed healthcare professional directly involved in a patient's care determines, in the reasonable exercise of clinical judgment, that the use of an engineering control would jeopardize an individual's safety or the success of a medical, dental or nursing procedure involving the individual

EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS (continued)

8. An effective procedure for obtaining the active involvement of employees in reviewing and updating the exposure control plan with respect to the procedures performed by employees in their respective work areas or departments

The exposure control plan shall be reviewed and updated at least annually and whenever necessary to: (8 CCR 5193(c))

1. Reflect new or modified tasks and procedures affecting occupational exposure
2. To the extent that sharps are used in the district, reflect progress in implementing the use of needleless systems and sharps with engineered sharps injury protection
3. Include new or revised employee positions with occupational exposure
4. Review and evaluate the exposure incidents which occurred since the previous update
5. Review and respond to information indicating that the exposure control plan is deficient in any area

The district's exposure control plan shall be accessible to employees upon request. (8 CCR 3204(e))

Preventive Measures

The Superintendent or designee shall use engineering and work practice controls to eliminate or minimize employee exposure, and shall regularly examine and update controls to ensure their effectiveness. (8 CCR 5193(d))

Hepatitis B Vaccination

The hepatitis B vaccination and vaccination series shall be made available at no cost to all employees who have occupational exposure. The hepatitis B vaccination shall be made available after an employee with occupational exposure has received the required training and within 10 working days of initial assignment, unless the employee has previously received the complete hepatitis B vaccination series, or antibody testing has revealed that the employee is immune, or vaccination is contraindicated by medical reasons. (8 CCR 5193(f))

Employees who decline to accept the vaccination shall sign the hepatitis B declination statement. (8 CCR 5193(f))

EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS (continued)

The Superintendent or designee may exempt designated first aid providers from the pre-exposure hepatitis B vaccine in accordance with 8 CCR 5193 (f).

Information and Training

The Superintendent or designee shall ensure that all employees with occupational exposure participate in a training program containing the elements required by state regulations, during working hours and at no cost to the employee. This program shall be offered at the time of initial assignment to tasks where occupational exposure may take place, at least annually thereafter, and whenever a change of tasks or procedures affects the employee's exposure. (8 CCR 5193(g))

Designated first aid providers shall receive training that includes the specifics of reporting first-aid incidents which involve blood or body fluids which are potentially infectious. (8 CCR 5193(g))

Reporting Incidents

All exposure incidents shall be reported as soon as possible to the Superintendent or designee.

Unvaccinated designated first aid providers must report any first aid incident involving the presence of blood or other potentially infectious material, regardless of whether an exposure incident occurred, by the end of the work shift. The full hepatitis B vaccination series shall be made available to such employees no later than 24 hours after the first aid incident. (8 CCR 5193(f))

Sharps Injury Log

The Superintendent or designee shall establish and maintain a log recording each exposure incident involving a sharp. The exposure incident shall be recorded within 14 working days of the date the incident is reported to the district. (8 CCR 5193(c))

The information recorded shall include the following, if known or reasonably available: (8 CCR 5193(c))

1. Date and time of the exposure incident
2. Type and brand of sharp involved in the exposure incident
3. A description of the exposure incident, including:

EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS (continued)

- a. Job classification of the exposed employee
- b. Department or work area where the exposure incident occurred
- c. The procedure that the exposed employee was performing at the time of the incident
- d. How the incident occurred
- e. The body part involved in the incident
- f. If the sharp had engineered sharps injury protection, whether the protective mechanism was activated and whether the injury occurred before, during or after the protective mechanism was activated
- g. If the sharp had no engineered sharps injury protection, the injured employee's opinion as to whether and how such a mechanism could have prevented the injury
- h. The employee's opinion about whether any other engineering, administrative or work practice could have prevented the injury

Post-Exposure Evaluation and Follow-up

Following a report of an exposure incident, the Superintendent or designee shall immediately make available to the exposed employee, at no cost, a confidential medical evaluation, post-exposure evaluation and follow-up. The Superintendent or designee shall, at a minimum: (8 CCR 5193(f))

1. Document the route(s) of exposure and the circumstances under which the exposure incident occurred
2. Identify and document the source individual, unless that identification is infeasible or prohibited by law
3. Provide for the collection and testing of the employee's blood for hepatitis B, hepatitis C and HIV serological status
4. Provide for post-exposure prophylaxis, when medically indicated, as recommended by the U.S. Public Health Service

EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS (continued)

5. Provide for counseling and evaluation of reported illnesses

The Superintendent or designee shall provide the health care professional with a copy of 8 CCR 5193; a description of the employee's duties as they relate to the exposure incident; documentation of the route(s) of exposure and circumstances under which exposure occurred; results of the source individual's blood testing, if available; and all medical records maintained by the district relevant to the appropriate treatment of the employee, including vaccination status. (8 CCR 5193(f))

The district shall maintain the confidentiality of the affected employee and the exposure source during all phases of the post-exposure evaluation. (8 CCR 5193(f))

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)
(cf. 9011 - Disclosure of Confidential/Privileged Information)

Records

Upon an employee's initial employment and at least annually thereafter, the Superintendent or designee shall inform employees with occupational exposure of the existence, location and availability of related records; the person responsible for maintaining and providing access to records; and the employee's right of access to these records. (8 CCR 3204)

(cf. 1340 - Access to District Records)
(cf. 3580 - District Records)

Medical records for each employee with occupational exposure shall be kept confidential and not disclosed or reported without the employee's written consent to any person within or outside the workplace except as required by law. (8 CCR 5193(h))

Upon request by an employee, or a designated representative with the employee's written consent, the Superintendent or designee shall provide access to a record in a reasonable time, place and manner, no later than 15 days after the request is made. (8 CCR 3204(e))

Records shall be maintained as follows: (8 CCR 3204(d), 5193(h))

1. Medical records shall be maintained for the duration of employment plus 30 years.
2. Training records shall be maintained for three years from the date of training.
3. The sharps injury log shall be maintained five years from the date the exposure incident occurred.

AR 4119.42(g)
4219.42
4319.42

EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS (continued)

4. Exposure records shall be maintained for at least 30 years.
5. Each analysis using medical or exposure records shall be maintained for at least 30 years.

All Personnel

E 4119.42

4219.42

EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS

4319.42

Hepatitis B Vaccine Declination

I understand that due to my occupational exposure to blood or other potentially infectious materials I may be at risk of acquiring hepatitis B virus (HBV) infection. I have been given the opportunity to be vaccinated with hepatitis B vaccine, at no charge to myself. However, I decline hepatitis B vaccination at this time. I understand that by declining this vaccine, I continue to be at risk of acquiring hepatitis B, a serious disease. If in the future I continue to have occupational exposure to blood or other potentially infectious materials and I want to be vaccinated with hepatitis B vaccine, I can receive the vaccination series at no charge to myself.

Signature

Employee Name (Please print)

Date

All Personnel

BP 4119.43

4219.43

UNIVERSAL PRECAUTIONS

4319.43

In order to protect employees from contact with potentially infectious blood or other body fluids, the Governing Board requires that universal precautions be observed throughout the district.

Universal precautions are appropriate for preventing the spread of all infectious diseases and shall be used regardless of whether bloodborne pathogens are known to be present.

(cf. 4157/4257/4357 - Employee Safety)

(cf. 5141.1 - Accidents)

(cf. 5141.22 - Infectious Diseases)

(cf. 5141.23 - Infectious Disease Prevention)

(cf. 5141.24 - Specialized Health Care Services)

(cf. 5141.6 - Student Health and Social Services)

(cf. 6145.2 - Athletic Competition)

Employees shall immediately report any exposure incident or first aid incident in accordance with the district's exposure control plan or other safety procedures.

(cf. 4119.42/4219.42/4319.42 - Exposure Control Plan for Bloodborne Pathogens)

Legal Reference:

HEALTH AND SAFETY CODE

117600-118360 Handling and disposal of regulated waste

120875 Providing information to school districts on AIDS, AIDS-related conditions and Hepatitis B

120880 Information to employees of school district

CODE OF REGULATIONS, TITLE 8

5193 California bloodborne pathogens standard

CODE OF FEDERAL REGULATIONS, TITLE 29

1910.1030 OSHA bloodborne pathogens standards

Management Resources:

CDE PROGRAM ADVISORIES

1016.89 Guidelines for Informing School Employees about Preventing the Spread of Infectious Diseases, including Hepatitis B and AIDS/HIV Infections and Policies for Dealing with HIV-Infected Persons in School Settings

WEB SITES

Centers for Disease Control and Prevention: <http://www.cdc.gov>

All Personnel

AR 4119.43(a)

4219.43

UNIVERSAL PRECAUTIONS

4319.43

Definitions

Universal precautions are an approach to infection control. All human blood and certain human body fluids, including but not limited to semen, vaginal secretions and any body fluid that is visibly contaminated with blood, are treated as if known to be infectious for human immunodeficiency virus (HIV), hepatitis B virus (HBV), hepatitis C virus (HCV) and other bloodborne pathogens. (8 CCR 5193(b))

Personal protective equipment includes specialized clothing or equipment worn or used for protection against a hazard. General work clothes such as uniforms, pants, shirts or blouses not intended to function as protection against a hazard are not considered to be personal protective equipment. (8 CCR 5193(b))

A sharp is any object that can be reasonably anticipated to penetrate the skin or any other part of the body and to result in an exposure incident. (8 CCR 5193(b))

Engineered sharps injury protection is a physical attribute built into a needle device or into a non-needle sharp which effectively reduces the risk of an exposure incident. (8 CCR 5193(b))

Employee Information

The Superintendent or designee shall distribute to employees information provided by the California Department of Education regarding acquired immune deficiency syndrome (AIDS), AIDS-related conditions, and hepatitis B. This information shall include, but not be limited to, any appropriate methods employees may use to prevent exposure to AIDS and hepatitis B, including information concerning the availability of a vaccine to prevent contraction of hepatitis B, and that the cost of this vaccination may be covered by the health plan benefits of the employees. Information shall be distributed at least annually, or more frequently if there is new information supplied by the California Department of Education. (Health and Safety Code 120875, 120880)

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

(cf. 4119.42/4219.42/4319.42 - Exposure Control Plan for Bloodborne Pathogens)

Infection Control Practices

The Superintendent or designee shall ensure that the worksite is effectively maintained in a clean and sanitary condition, and shall implement an appropriate written schedule for cleaning and decontamination of the worksite. (8 CCR 5193(d))

Where occupational exposure remains after the institution of engineering and work practice controls, the Superintendent or designee shall provide appropriate personal protective equipment at no cost to the employee. Such equipment may include gloves, gowns, masks,

UNIVERSAL PRECAUTIONS (continued)

eye protection, and other devices that do not permit blood or other potentially infectious materials to pass through or reach the employee's clothes, skin, eyes, mouth or other mucous membranes under normal conditions of use. The Superintendent or designee shall maintain, repair, make accessible and require employees to use and properly handle protective equipment. (8 CCR 5193(d))

The Superintendent or designee shall provide hand washing facilities which are readily accessible to employees. When provision of hand washing facilities is not feasible, the Superintendent or designee shall provide an appropriate antiseptic hand cleanser in conjunction with clean cloth or paper towels, or antiseptic towelettes. (8 CCR 5193(d))

For the prevention of infectious disease, employees shall routinely: (8 CCR 5193(d))

1. Perform all procedures involving blood or other potentially infectious materials in such a manner as to minimize splashing, spraying, spattering, and generating droplets of these substances.
2. Use personal protective equipment as appropriate.
 - a. Appropriate clothing, including but not limited to, gowns, aprons, lab coats, clinic jackets or similar outer garments, shall be worn in occupational exposure situations.

If a garment becomes penetrated by blood or other potentially infectious materials, the employee shall remove the garment immediately or as soon as feasible. All personal protective equipment shall be removed prior to leaving the work area. When removed, it shall be placed in an appropriately designated area or container for storage, washing, decontamination or disposal.

- b. Gloves shall be worn when it can be reasonably anticipated that the employee may have hand contact with blood, other potentially infectious materials, mucous membranes and nonintact skin, and when handling or touching contaminated items or surfaces.

Disposable gloves shall be replaced as soon as practical when contaminated, or as soon as feasible if they are torn, punctured, or when their ability to function as a barrier is compromised. They shall not be washed or decontaminated for reuse. Utility gloves may be decontaminated for reuse if the integrity of the gloves is not compromised, but must be discarded if they

UNIVERSAL PRECAUTIONS (continued)

are cracked, peeling, torn, punctured, or exhibit other signs of deterioration or when their ability to function as a barrier is compromised.

- c. Masks in combination with eye protection devices or face shields shall be worn whenever splashes, spray, spatter, or droplets of blood or other potentially infectious materials may be generated and eye, nose or mouth contamination can be reasonably anticipated.
3. Wash hands and other skin surfaces thoroughly with soap and running water:
 - a. Immediately or as soon as feasible following contact of hands or any other skin or mucous membranes with blood or other potentially infectious materials
 - b. Immediately after removing gloves or other personal protective equipment

When hand washing facilities are not available, the employee shall use antiseptic hand cleanser in conjunction with clean cloth or paper towels, or antiseptic towelettes. In such instances, hands shall be washed with soap and running water as soon as feasible.

4. Refrain from eating, drinking, smoking, applying cosmetics or lip balm, or handling contact lenses in work areas with a reasonable likelihood of occupational exposure.
5. Clean and decontaminate all equipment and environmental and work surfaces after contact with blood or other potentially infectious material, no later than the end of the shift or more frequently as required by state regulations.
6. Rather than using the hands directly, use mechanical means such as a brush and dust pan, tongs or forceps to clean up broken glassware which may be contaminated.
7. Use effective patient-handling techniques and other methods designed to minimize the risk of a sharps injury in all procedures involving the use of sharps in patient care.

(cf. 5141.21 - Administering Medication and Monitoring Health Conditions)

(cf. 5141.24 - Specialized Health Care Services)

- a. Needleless systems shall be used to administer medication or fluids, withdraw body fluids after initial venous or arterial access is established, and conduct any other procedure involving the potential for an exposure incident for which a needleless system is available as an alternative to the use of needle devices.

UNIVERSAL PRECAUTIONS (continued)

If needleless systems are not used, needles or non-needle sharps with engineered sharps injury protection shall be used.

- b. Contaminated needles or other sharps shall not be broken, bent, recapped, removed from devices, or stored or processed in a manner that requires employees to reach by hand into the containers where these sharps have been placed.
 - c. Disposable sharps shall not be reused.
8. Handle, store, treat and dispose of regulated waste in accordance with Health and Safety Code 117600-118360 and other applicable state and federal regulations.
- a. Immediately or as soon as possible after use, contaminated sharps shall be placed in containers meeting the requirements of 8 CCR 5193(d)(3)(D). Containers shall be easily accessible, maintained upright throughout use where feasible, and replaced as necessary to avoid overfilling.
 - b. Specimens of blood or other potentially infectious material shall be placed in a container which prevents leakage during collection, handling, processing, storage, transport or shipping.

(cf. 4157/4257/4357 - Employee Safety)
(cf. 5141.1 - Accidents)
(cf. 5141.22 - Infectious Diseases)
(cf. 5141.23 - Infectious Disease Prevention)
(cf. 5141.6 - Student Health and Social Services)
(cf. 6145.2 - Athletic Competition)

TEMPORARY/SUBSTITUTE PERSONNEL

Hiring

The Governing Board may employ substitute certificated personnel to fill positions of regularly employed persons absent from service. (Education Code 44917)

Substitute personnel may be employed on an on-call, day-to-day basis.

In addition, after September 1 of any school year, the Governing Board may employ substitute personnel for the remainder of the school year for positions for which no regular employee is available. The district shall first demonstrate to the Commission on Teacher Credentialing the inability to acquire the services of a qualified regular employee. (Education Code 44917)

During the period of their preferred right to reappointment, permanent and probationary certificated employees who have been laid off due to a reduction in force shall be offered prior opportunity for substitute service. (Education Code 44955, 44956, 44957)

(cf. 4117.3 - Personnel Reduction)

Classification

The Governing Board may classify as a temporary employee a teacher who is employed at least one semester and up to one school year. Persons whose service begins in the second semester and before March 15 may be classified as temporary employees even if employed for less than a semester. The Governing Board shall determine the number of persons who shall be so employed based on the absence of regular employees due to leaves or long-term illness. (Education Code 44920)

The Governing Board also shall classify as temporary employees those certificated persons, other than substitute employees, who are employed to:

1. Serve from day to day during the first three months of any semester to teach temporary classes which shall not exist after that time, or perform any other duties which do not last longer than the first three months of any semester (Education Code 44919)
2. Teach in special day and evening classes for adults or in schools of migratory population for not more than four months of any semester (Education Code 44919)
3. Serve in a limited assignment supervising student athletic activities provided such assignments have first been made available to teachers presently employed in the district (Education Code 44919)

(cf. 4127/4227/4327 - Temporary Athletic Team Coaches)

TEMPORARY/SUBSTITUTE PERSONNEL (continued)

4. Serve in a position for a period not to exceed 20 working days in order to prevent the stoppage of district business during an emergency when persons are not immediately available for probationary classification (Education Code 44919)
5. Are employed only for the first semester because the district expects a reduction in student enrollment during the second semester due to midyear graduations (Education Code 44921)

At the time of employment and each July thereafter, the Governing Board shall classify substitute and temporary employees as such. (Education Code 44915, 44916)

Each new substitute and temporary employee shall receive a written statement at the time of initial employment during each school year indicating his/her employment status and salary. This statement shall clearly indicate the temporary nature of employment and the length of time for which the person is being employed. (Education Code 44916)

The Superintendent or designee shall ensure that substitute and temporary employees are appropriately trained, assigned, oriented and evaluated.

(cf. 4113 - Assignment)

(cf. 4115 - Evaluation/Supervision)

(cf. 4131 - Staff Development)

Qualifications

Any person employed on a substitute or temporary basis in a position requiring certification qualifications shall possess the appropriate credential or permit authorizing his/her employment in such positions and shall meet all other requirements of law for certificated positions.

(cf. 4111.2/4211.2/4311.2 - Legal Status Requirement)

(cf. 4112.2 - Certification)

(cf. 4112.3/4212.3/4312.3 - Oath or Affirmation)

(cf. 4112.4/4212.4/4312.4 - Health Examinations)

All persons employed on a substitute or temporary basis in a capacity designated in his/her credential shall be required to demonstrate basic skills proficiency in reading, writing and mathematics pursuant to Education Code 44252.5, unless exempted by law. (Education Code 44830)

Qualifications for Special Education

A noncredentialed person shall not substitute for any special education certificated position. (Education Code 56060)

TEMPORARY/SUBSTITUTE PERSONNEL (continued)

A person holding a valid credential authorizing substitute teaching may serve as a substitute for a special education teacher for a period not to exceed 20 school days unless, upon application by the district, a 20-day extension is approved by the Superintendent of Public Instruction. In extraordinary circumstances the district may seek an extension longer than 20 days. (Education Code 56061)

In placing substitute teachers in special education classrooms, the district shall give first priority to substitute teachers with the appropriate special education credential and second priority to substitute teachers with any other special education credential. If no substitute with a special education credential is available, the district shall use a substitute teacher with a regular teaching credential. (Education Code 56062)

The Superintendent or designee shall recruit and maintain lists of appropriately credentialed substitute teachers. He/she shall contact institutes of higher education with approved special education programs for possible recommendations of appropriately credentialed special education personnel. (Education Code 56063)

Salary/Benefits

The Governing Board shall adopt and make public a salary schedule setting the daily or pay period rate(s) for substitute employees for all categories or classes of certificated employees of the district. (Education Code 44977, 45030)

If an employee who was previously laid off due to a reduction in force serves as a substitute employee for 21 days or more within a period of 60 school days, he/she shall receive compensation at a rate equal to or greater than the amount he/she would have received upon reappointment. (Education Code 44956)

Substitute and temporary employees shall not participate in the health and welfare plans or other fringe benefits of the district.

Granting Probationary Status

With the exception of on-call, day-to-day substitutes, any substitute or temporary employee who performs the duties normally required of certificated employees for at least 75 percent of the school year shall be deemed to have served a complete school year as a probationary employee if employed as a probationary employee for the following school year. (Education Code 44918)

(cf. 4116 - Probationary/Permanent Status)

TEMPORARY/SUBSTITUTE PERSONNEL (continued)

Temporary employees hired pursuant to the above to teach temporary classes or perform other certificated duties not expected to last more than the first three months of any semester, or to teach special day and evening classes for adults or in schools for migratory populations for the first four months of a semester, shall be classified as probationary employees if the duties continue beyond the time limits. (Education Code 44919)

Temporary employees hired to teach only the first semester due to anticipated midyear graduations shall be classified as probationary employees for the entire school year if the employment continues beyond the first semester. (Education Code 44921)

Release from Employment/Dismissal

The Governing Board may dismiss substitute employees at any time at its discretion. (Education Code 44953)

The Governing Board may release temporary employees at its discretion if such employees have served less than 75 percent of the school year. Temporary employees who have served 75 percent or more of the school year may be released as long as such employees are notified before the end of the school year of the district's decision not to reelect them for the following school year. (Education Code 44954)

Reemployment Rights

With the exception of on-call, day-to-day substitutes, a temporary or substitute employee who served at least 75 percent of the previous school year and who was not released pursuant to Education Code 44954 prior to the end of the school year shall be reemployed for the following school year to fill any vacant positions in the district. (Education Code 44918)

With the exception of on-call, day-to-day substitutes, temporary or substitute employees who were released pursuant to Education Code 44954 but who have nevertheless served for two consecutive years, for at least 75 percent of each year, shall receive first priority if the district fills a vacant position for the subsequent school year at the grade level at which the employee served during either year. In the case of a departmentalized program, the employee shall have taught the subject matter in which the vacant position occurs. (Education Code 44918)

Persons employed for only the first semester because of anticipated midyear graduations shall be reemployed to fill any vacant positions in the district for which the employee is certified. Preference for available positions shall be determined by the Governing Board as prescribed by Education Code 44845 and 44846. (Education Code 44921)

TEMPORARY/SUBSTITUTE PERSONNEL (continued)

Legal Reference:

EDUCATION CODE

- 44252.5 State basic skills assessment required for certificated personnel*
- 44300 Emergency teaching or specialist permits*
- 44830 Employment of certificated persons; requirements of proficiency in basic skills*
- 44839.5 Employment of retirant*
- 44845-44846 Criteria for reemployment preferences*
- 44914 Substitute and probationary employment in computation for classification as permanent employee*
- 44915 Classification of probationary employees*
- 44916 Time of classification; statement of employment status*
- 44917 Classification of substitute employees*
- 44918 Substitute or temporary employee deemed probationary employee; reemployment rights*
- 44919 Classification of temporary employees*
- 44920 Employment of certain temporary employees; classifications*
- 44921 Employment of temporary employees; reemployment rights (unified and high school districts)*
- 44953 Dismissal of substitute employees*
- 44954 Release of temporary employees*
- 44956 Rights of laid-off permanent employees to substitute positions*
- 44957 Rights of laid-off probationary employees to substitute positions*
- 44977 Salary schedule for substitute employees*
- 45030 Substitutes*
- 45041 Computation of salary*
- 45042 Alternative method of computation for less than one school year*
- 45043 Compensation for employment beginning in the second semester*
- 56060-56063 Substitute teachers in special education*

CODE OF REGULATIONS, TITLE 5

- 5502 Filing of notice of physical examination for employment of retired person*
- 5503 Physical examination for employment of retired persons*

TEMPORARY ATHLETIC TEAM COACHES

The Governing Board desires to employ highly qualified coaches for the district's sports and interscholastic athletic programs in order to enhance the knowledge, skills, motivation, and safety of student athletes.

(cf. 6142.7 – Physical Education and Activity)

The Superintendent or designee may employ a certificated or non-certificated employee, other than a substitute employee, to supervise or instruct interscholastic athletic activities as a temporary employee in a limited assignment capacity. (5 CCR 5590)

(cf. 4121 – Temporary/Substitute Personnel)

The Superintendent or designee shall establish qualification criteria for all athletic coaches in accordance with law and with district standards and priorities. These criteria shall ensure that coaches possess the proper credential or Activity Supervisor Clearance Certificate and an appropriate level of competence, knowledge and skill.

When hiring a person to fill a position as a temporary athletic team coach, the position shall first be made available to qualified certificated teachers currently employed by the district. (Education Code 44919)

In addition, all coaches shall be subject to Governing Board policy, administrative regulation and the bylaws and codes of ethical conduct published by the California Interscholastic Federation.

(cf. 4118 – Suspension/Disciplinary Action)
(cf. 4218 – Dismissal/Suspension/Disciplinary Action)
(cf. 5121 – Grades/Evaluation of Student Achievement)
(cf. 5131.1 - Bus Conduct)
(cf. 5131.63 – Steroids)
(cf. 6145.2 - Athletic Competition)

Volunteer Coaches

Volunteer athletic team coaches shall meet all the qualification criteria required of temporary athletic team coaches employed by the district.

(cf. 1240 - Volunteer Assistance)

TEMPORARY ATHLETIC TEAM COACHES (continued)

Legal Reference:

EDUCATION CODE

35179-35179.7 Interscholastic athletics
44010 Sex offense
44011 Controlled substance offense
44258.7 Credential types; Activity Supervisor Clearance Certificate
44332-44332.5 Temporary certificates
44424 Conviction of a crime
44808 Liability when students are not on school property
44919 Classification of temporary employees
49024 Activity Supervisor Clearance Certificate
49030-49034 Performance-enhancing substances

CODE OF REGULATIONS, TITLE 5

5531 Supervision of extracurricular activities of pupils
5590-5596 Duties of temporary athletic team coaches

COURT DECISIONS

CTA v. Rialto Unified School District, (1997)14 Cal. 4th 627
San Jose Teachers Association, CTA, NEA v. Barozzi, (1991) 230 Cal. App. 3d 1376, 281 Cal. Rptr. 724

Management Resources:

CSBA PUBLICATIONS

Steroids and Students: What Boards Need to Know, Policy Brief, July 2005
A School Board Member's Guide to CIF and Interscholastic Sports, 1997

CALIFORNIA INTERSCHOLASTIC FEDERATION PUBLICATIONS

Pursuing Victory with Honor, 1999

California Interscholastic Federation Constitution and Bylaws

COMMISSION ON TEACHER CREDENTIALING CODED CORRESPONDENCE

10-11 Information on Assembly Bill 346 Concerning the Activity Supervisor Clearance Certificate (ASCC), July 20, 2010

WEB SITES

CSBA: <http://www.csba.org>
California Athletic Trainers' Association: <http://www.ca-at.org>
California Department of Education: <http://www.cde.ca.gov>
California Interscholastic Federation: <http://www.cifstate.org>
Commission on Teacher Credentialing: <http://www.ctc.ca.gov>
National Athletic Trainers' Association: <http://www.nata.org>

Adopted: May 18, 2011

TEMPORARY ATHLETIC TEAM COACHES

At the first regular Governing Board meeting or within 30 days after selection of a temporary athletic team coach, whichever is sooner, the Superintendent or designee shall certify to the Governing Board that all temporary athletic team coaches meet the qualifications and competencies required by law. (5 CCR 5594)

Upon the recommendation of the Superintendent or designee, the Governing Board shall certify to the State Governing Board, by April 1 of each year, that the district conforms with state requirements governing the employment of temporary athletic team coaches. (5 CCR 5594)

Competencies

The Superintendent or designee shall establish minimum qualification criteria for temporary athletic team coaches. These criteria shall include, but not necessarily be limited to, competencies in the following areas: (5 CCR 5593)

1. Care and prevention of athletic injuries, basic sports injury first aid, and emergency procedures as evidenced by one or more of the following:
 - a. Completion of a college-level course in the care and prevention of athletic injuries and possession of a valid cardiopulmonary resuscitation (CPR) card
 - b. A valid sports injury certificate or first aid card, and a valid cardiopulmonary resuscitation (CPR) card
 - c. A valid Emergency Medical Technician (EMT) I or II card
 - d. A valid trainer's certification issued by the National or California Athletic Trainers' Association (NATA/CATA)
 - e. Practical experience under the supervision of an athletic coach or trainer or experience assisting in team athletic training and conditioning and both valid CPR and first aid cards
2. Coaching theory and techniques in the sport or game being coached, as evidenced by one or more of the following:
 - a. Completion of a college course in coaching theory and techniques
 - b. Completion of inservice programs arranged by a school district or county office of education

TEMPORARY ATHLETIC TEAM COACHES (continued)

- c. Prior service as a student coach or assistant athletic coach in the sport or game being coached
 - d. Prior coaching in community youth athletic programs in the sport being coached
 - e. Prior participation in organized competitive athletics at high school level or above in the sport being coached
3. Knowledge of the rules and regulations pertaining to the sport or game being coached, the league rules, and, at the high school level, regulations of the California Interscholastic Federation (CIF)
4. Knowledge of child or adolescent psychology, as appropriate, as it relates to sport participation, as evidenced by one or more of the following:
- a. Completion of a college-level course in child psychology for elementary school positions and adolescent or sports psychology for secondary school positions
 - b. Completion of a seminar or workshop on human growth and development of youth
 - c. Prior active involvement with youth in school or community sports program

The Superintendent or designee may waive competency requirements for persons enrolled in appropriate training courses leading to acquisition of the competency, provided such persons serve under the direct supervision of a fully qualified coach until the competencies are met. (5 CCR 5593)

Volunteers who supervise or direct an athletic program shall meet the qualification criteria specified in 5 CCR 5593 required for temporary athletic team coaches employed by the district. Any volunteer who does not meet such criteria shall serve only under the supervision of a fully qualified coach and shall not be given charge of an athletic program.

(cf. 1240 – Volunteer Assistance)

TEMPORARY ATHLETIC TEAM COACHES (continued)

Additional Competencies for Noncertificated Personnel and Volunteers

In addition to the qualifications listed above, any noncertificated person employed as a temporary athletic team coach shall: (5 CCR 5592)

1. Has not been convicted of any offense referred to in Education Code 44010, 44011 or 44424, or any offense involving moral turpitude or evidencing unfitness to associate with children.

(cf. 4212.5 - Criminal Record Check)

2. Is free from tuberculosis and any other contagious disease that would prohibit certificated teachers from teaching, as verified by a written statement, renewable every four years, from a licensed physician or other person approved by the district.

(cf. 4112.4/4212.4/4312.4 - Health Examinations)

Noncertificated coaches have no authority to give grades to students. (5 CCR 5591)

Beginning July 1, 2010, any noncertificated employee or volunteer who supervises, directs, or coaches an interscholastic athletic team shall be required to obtain an Activity Supervisor Clearance Certificate from the Commission on Teacher Credentialing. (Education Code 49024)

(cf. 1240 – Volunteer Assistance)

High School Coaching Education Program

Each high school athletic team coach or volunteer coach shall complete, at his/her expense, a coaching education program that meets the standards developed by the CIF. A high school coach who has completed the education program in another California school district shall be deemed to have met the requirement for this district. (Education Code 49032)

An individual who has not completed the education program may be assigned as a coach for no longer than one season of interscholastic competition. (Education Code 49032)

Code of Ethical Conduct

Employees providing supervisory or instructional services in interscholastic athletic programs and activities shall: (5 CCR 5596)

TEMPORARY ATHLETIC TEAM COACHES (continued)

1. Show respect for players, officials and other coaches
2. Respect the integrity and judgment of game officials
3. Establish and model fair play, sportsmanship and proper conduct
4. Establish player safety and welfare as the highest priority
5. Provide proper supervision of students at all times
6. Use discretion when providing constructive criticism and when reprimanding players
7. Maintain consistency in requiring all players to adhere to the established rules and standards of the game
8. Properly instruct players in the safe use of equipment
9. Avoid exerting undue influence on a student's decision to enroll in an athletic program at any public or private postsecondary educational institution
10. Avoid exerting undue influence on students to take lighter academic course(s) in order to be eligible to participate in athletics
11. Avoid suggesting, providing or encouraging any athlete to use non-prescriptive drugs, anabolic steroids or any substance to increase physical development or performance that is not approved by the U.S. Food and Drug Administration, U.S. Surgeon General or the American Medical Association

(cf. 5131.63 – Steroids)

12. Avoid recruitment of athletes from other schools
13. Follow the rules of behavior and the procedures for crowd control as established by the Governing Board and the league in which the district participates

Revised: June 21, 2011

SHARED TEACHING ASSIGNMENTS

The Governing Board realizes that for personal reasons, a certificated teacher sometimes may prefer to share the responsibility, salary and benefits of a full-time teaching position with one of his/her fellow teachers. When those sharing a position have compatible work patterns and similar goals, this situation can benefit teachers and students alike. By accommodating requests for shared teaching assignments, the district is more likely to retain teachers of outstanding capabilities.

The Superintendent or designee may authorize two teachers to share one full teaching assignment under terms and conditions specified in administrative regulations.

Legal Reference:

GOVERNMENT CODE

3543.2 Scope of representation

SHARED TEACHING ASSIGNMENTS

Eligibility

1. Shared teaching assignments shall be available to teachers who possess a valid credential, who are already employed or may be by the district and who have mutually agreed to work together. Teachers shall submit their request for such an assignment to the Superintendent or designee.
2. Teachers requesting a shared assignment shall be informed of the status of their proposal within 10 workdays of receiving the proposal.
3. The Superintendent or designee shall annually review the effectiveness of the shared teaching assignment and determine whether or not it may continue the following year. He/she shall notify the teachers of this decision on or before March 15 of each year.

(cf. – 10.10 Certificated collective bargaining unit agreement)

4. Teachers sharing an assignment shall only receive credit for advancement to permanent status to the extent that they serve beyond 75% of the school year.

Hours and Responsibilities

1. Both teachers will work the equivalent of half of the school days or an agreed upon proportion required of full-time teachers and will perform a proportionate share of adjunct duties.
2. Both teachers shall meet with the principal before school opens to establish exact working days and meeting responsibilities. Although the teacher not on duty will not normally be required to attend staff meetings, both teachers shall attend parent conferences, open house, and back-to-school nights. Both teachers also may be expected to attend specific inservice meetings and to work a full day on at least the first two days of the first week of school.
3. Both teachers shall assume full responsibility for the class instructional program. They will regularly meet to jointly develop lesson plans and ensure clear lines of communication with parents/guardians.
4. The principal shall approve the teachers' working calendar before school opens.

Salary, Leaves and Absences

1. Each teacher will receive the commensurate proportion of his/her annual salary according to individual placement on the salary schedule. Progression on the salary schedule requires the performance of duty beyond 75% of the year. Years may be combined to reach this requirement.

SHARED TEACHING ASSIGNMENTS (continued)

2. The employee and the district's contribution to the retirement system shall be proportional of that normally paid. Upon completing a year's work, the teachers will receive proportionate years of service toward advancement on the salary schedule and proportional credit toward years of service in the teachers' retirement system.
3. Whenever one of the teachers sharing an assignment is absent, the other teacher sharing the assignment shall make every reasonable effort to perform substitute teaching duties. For this service, his/her pay shall correspond with district substitute pay for day-to-day substituting. If an absence extends beyond two consecutive weeks, he/she shall receive his/her regular teacher's pay beginning with the first day of substitute service.
4. Teachers sharing an assignment shall accrue sick leave and other leave benefits proportionate to their time of service. Worker compensation insurance shall be paid on the employee's actual salary.

Health Plan

Unless he/she is a dependent spouse of another district employee who is covered by the district's health and welfare plan, each teacher will be required to participate in this plan if so required by the insurance carrier. Premiums will be prorated, based on the number of days or hours worked.

STAFF DEVELOPMENT

The Governing Board believes that in order to maximize student learning certificated staff members must be continuously learning and improving their skills. The Superintendent or designee shall develop a program of ongoing professional development which includes opportunities for teachers and certificated teaching assistants to enhance their instructional and classroom management skills and increase their knowledge of academic content in the core curriculum. The program may include but is not limited to:

1. Mastery of discipline-based knowledge, including the state-adopted standards, and effective subject-specific pedagogical skills

(cf. 6011 - Academic Standards)
(cf. 6142.1 - Family Life/Sex Education)
(cf. 6142.2 - AIDS Prevention Instruction)
(cf. 6142.5 - Environmental Education)
(cf. 6142.6 - Visual and Performing Arts Education)
(cf. 6142.7 - Physical Education)
(cf. 6142.8 - Comprehensive Health Education)
(cf. 6142.91 - Reading/Language Arts Instruction)
(cf. 6142.92 - Mathematics Instruction)
(cf. 6142.93 - Science Instruction)
(cf. 4.7 – Certificated Collective Bargaining Unit Agreement)

2. Teaching methods and strategies, including the use of technologies to enhance instruction

(cf. 0440 - District Technology Plan)
(cf. 6162.7 - Use of Technology in Instruction)

3. Sensitivity to the needs of diverse student populations, including minorities, students with disabilities, English language learners and economically disadvantaged students, and ability to meet those needs

(cf. 4112.22/4212.22 - Staff Teaching Students of Limited English Proficiency)
(cf. 4112.23 - Special Education Staff)

4. Understanding of how academic and vocational instruction can be integrated and implemented to increase student learning; skill in evaluating and combining available instructional resources; opportunities to collaborate with other staff members in the alignment of academic and vocational curricula

(cf. 6030 - Integrated Academic and Vocational Instruction)

5. Knowledge of strategies that enable parents/guardians to participate fully and effectively in their children's education

(cf. 6020 - Parent Involvement)

STAFF DEVELOPMENT (continued)

6. Effective classroom management skills, ability to relate to students, understand their various stages of growth and development, and motivate them to learn
7. Training related to student health, safety and welfare

(cf. 3515.5 - Sex Offender Notification)
(cf. 5131.6 - Alcohol and Other Drugs)
(cf. 5141.4 - Child Abuse Reporting Procedures)
(cf. 5145.3 - Nondiscrimination/Harassment)
(cf. 5145.7 - Sexual Harassment)
(cf. 5149 - At-Risk Students)

The district's staff development program shall provide maximum opportunities for staff participation without impacting the number of instructional days offered to students as required by law.

(cf. 6111 - School Calendar)

The Superintendent or designee shall develop a district staff development plan that is coordinated with school improvement objectives and school plans established by individuals who are closest to the classroom and most knowledgeable about the needs of the school and its students.

(cf. 0420.1 - School-Based Program Coordination)
(cf. 0420.3 - School-Based Student Motivation and Maintenance Program)
(cf. 4131.6 - Professional Development Program)

The Superintendent or designee shall ensure that the district meets its obligations related to the professional growth of individual probationary and permanent teachers.

(cf. 4112.21 - District Interns)
(cf. 4116 - Probationary/Permanent Status)
(cf. 4131.5 - Professional Growth)
(cf. 4138 - Mentor Teachers)

Because the Governing Board believes that intensive professional development is especially critical during the beginning years of a teacher's career, the Superintendent or designee shall develop a voluntary program of individualized support and assistance for first-year and second-year teachers.

(cf. 4112.2 - Certification)

The Governing Board may budget funds for actual and reasonable expenses incurred by staff who participate in staff development activities.

(cf. 3350 - Travel Expenses)

STAFF DEVELOPMENT (continued)

The Superintendent or designee shall provide a means for continual evaluation of the benefit of these activities to staff and students.

(cf. 0500 - Accountability)

Legal Reference: (see next page)

STAFF DEVELOPMENT (continued)

Legal Reference:

EDUCATION CODE

44032 *Travel expense payment*
44259.5 *Standards for preparation for all students*
44277-44279 *Professional growth requirements for maintaining valid credentials*
44279.1-44279.7 *Beginning Teacher Support and Assessment Program (BTSA)*
44560 *Inservice preparation in ethnic backgrounds*
44570-44578 *Inservice training - personnel, secondary education*
44579-44579.5 *Instructional Time and Staff Development Reform Program*
44580-44591 *Inservice training - personnel, elementary teachers*
44630-44643 *Professional Development and Program Improvement Act of 1968*
44670.1-44680.8 *School personnel staff development and resource centers*
44681-44689 *Administrator training and evaluation*
44700-44705 *Classroom teacher instructional improvement program*
44755-44759.7 *Inservice training in reading instruction, grades K-3 and 4-8*
48980 *Notification of parents/guardians: schedule of minimum days*
51210 *Courses of study for grades 1-6*
51220 *Courses of study for grades 7-12*
51226.3 *Legislative intent for staff development on the Great Irish Famine*
52800-52870 *School-Based Program Coordination Act*
54720-54734 *School-Based Pupil Motivation and Maintenance Program*
56240-56245 *Staff development; service to persons with disabilities*

GOVERNMENT CODE

3543.2 *Scope of representation of employee organization*

CODE OF REGULATIONS, TITLE 5

6000-6002 *Instructional time and staff development reform program*
13025-13044 *Professional development and program improvement programs*

UNITED STATES CODE, TITLE 20

6101-6251 *School-to-Work Opportunities Act of 1994*
6601-6702 *Dwight D. Eisenhower Professional Development Program*

PUBLIC EMPLOYMENT RELATIONS BOARD DECISIONS

San Mateo City School District, (1984) PERB Dec. No. 375, 8 PERC 15021
Jefferson School Districts, (1980) PERB Dec. No. 133, 4 PERC 11117

Management Resources:

CTC PUBLICATIONS

California Standards for the Teaching Profession: A Description of Professional Practice for California Teachers, 1997

LABOR LAW REPORTER

Public Sector Labor Relations, Matthew Bender & Co., Inc. Rel. 2-5/91, Pub. 176, Section 11.05[14]

WEB SITES

CDE: <http://www.cde.ca.gov>

STAFF DEVELOPMENT

The Superintendent or designee shall ensure that certificated staff members have opportunities to learn both from outside sources and from each other. These opportunities may include release time, leaves of absence or use of noninstructional time for:

1. Visits to other classrooms and other schools
2. Attendance at professional education conferences or committee meetings
3. Participation in professional development networks that promote inquiry and allow staff to analyze and evaluate each other's work
4. Peer conferences and/or joint staff preparation time
5. Discussions with representatives of business and community agencies for the purpose of identifying the skills, knowledge and aptitudes necessary for specific career paths and developing meaningful career-related, work-based learning experiences
6. Internships in industry and community agencies where teachers can learn how academic skills are used in the workplace

(cf. 1700 - Relations Between Private Industry and the Schools)

7. Travel, study and research in subject matter content and effective educational practices

(cf. 4161.3 - Professional Leaves)

8. Training classes and workshops offered by the district, county office of education or state projects
9. Training in institutions of higher education, including credit courses conducted in or near the district whenever possible
10. Follow-up activities that help staff to implement newly acquired skills

The Superintendent or designee shall provide an up-to-date professional library for use by staff.

STAFF DEVELOPMENT (continued)

Instructional Time and Staff Development Reform Program

The Superintendent or designee shall design a program which provides staff development opportunities for certificated classroom teachers and certificated teaching assistants on days that are not counted as instructional time. This staff development program shall meet the following conditions:

1. The program shall meet the district's educational priorities as defined by the Governing Board and be consistent with regulations adopted by the State Governing Board. (Education Code 44579.1)

(cf. 0000 - Vision)

(cf. 0200 - Goals for the School District)

(cf. 6010 - Goals and Objectives)

2. The program shall provide staff development in the academic content of the core curriculum; in instructional methods, including teaching strategies and classroom management; and in any other training designed to improve student performance. (Education Code 44579.1)

"Core curriculum areas" means those areas of study specified in Education Code 51210(a)-(g) and 51220(a)-(j). (5 CCR 6000)

3. For each staff development day provided under this program, records of attendance shall be maintained and participants shall be present for the full day. (Education Code 44579.1)

The district shall maintain a certification of the contemporaneous record of attendance of the eligible participants who attended each full staff development day for which the district requests funding. If a single staff development day is conducted over several calendar days, the contemporaneous records must evidence that each employee who participated in the staff development day was present for the equivalent of a full-time instructional work day. (5 CCR 6001)

4. Each staff development day shall be at least as long as the full-time instructional day for certificated employees of the district. However, a single staff development day may be conducted over several calendar days. (Education Code 44579.1)
5. If the staff development day is conducted after completion of an instructional day, it may not be held on a minimum day for which parents/guardians were notified pursuant to Education Code 48980. (Education Code 44579.1)

(cf. 5145.6 - Parental Notifications)

(cf. 6111 - School Calendar)

STAFF DEVELOPMENT (continued)

6. For staff working in multitrack, year-round schools, not more than two staff development days shall be scheduled for "off track" teachers at a school with a minimum day scheduled. (Education Code 44579.1)

Beginning Teacher Support

To support teachers who are serving in their first or second year of service and enhance their effectiveness in teaching district students, the Superintendent or designee shall: (Education Code 44279.2)

1. Develop, implement and evaluate a teacher induction program which meets the Quality and Effectiveness for Beginning Teacher Induction Program Standards adopted by the Commission on Teacher Credentialing
2. Support beginning teachers in meeting the competencies described in the California Standards for the Teaching Profession adopted by the Commission on Teacher Credentialing
3. Meet criteria for the cost-effective delivery of program services

PROFESSIONAL GROWTH

The Governing Board recognizes its obligation to help teachers meet their responsibility for fulfilling the professional growth requirements of their credentials. The Governing Board expects that the increased competence attained by these teachers during their professional growth activities will contribute significantly to the district's educational program.

The Superintendent or designee shall maintain procedures for the selection of professional growth advisors. These procedures shall be designed to provide for the best possible match between teachers and advisors.

The Governing Board may appoint one or more professional growth panels to participate in selecting, orienting and assisting professional growth advisors. (5 CCR 80556)

The Governing Board may appoint one or more professional growth panels to resolve disputes between teachers and professional growth advisors. (5 CCR 80556)

The Superintendent or designee shall provide the Governing Board with recommendations for panel membership. Panels may include administrators, teachers, parents and other members of the community.

Professional growth activities shall remain in accordance with provisions of negotiated employee contracts.

Legal Reference:

EDUCATION CODE

44277-44279 *Requirements for professional growth*

CALIFORNIA CODE OF REGULATIONS, TITLE 5

80550-80565 *Generally, especially:*

80550 *Professional growth requirements definitions*

80552-80553 *Specific renewal requirements*

80554-80555 *Elements of professional growth plan and professional growth record*

80556 *Professional growth advisors, and employing agencies; roles and responsibilities*

80558 *Definition of professional growth activities*

80565 *Professional service requirements*

Management Resources:

CTC PUBLICATIONS

California Professional Growth Manual, second revision (1990)

PROFESSIONAL GROWTH

When selecting professional growth advisors, the Superintendent or designee shall consider:
(5 CCR 80556)

1. Subject matter compatibility, interest in special topics, and interactive skills
2. Proximity to the work location of the teacher and reasonable workload for the advisor

The professional growth advisor shall:

1. Advise teachers of school district and state professional growth requirements.
2. Identify growth needs of the district.
3. Assist in defining the teacher's goals and objectives for professional growth.
4. Approve all plans prior to their implementation and upon completion.

The Superintendent or designee shall provide all teachers with the names and work locations of the district's designated professional growth advisors. (5 CCR 80556)

All Personnel

BP 4131.6(a)
4231.6
4331.6

PROFESSIONAL DEVELOPMENT PROGRAM

The Governing Board encourages professional development activities to be tied directly to school improvement objectives at each school as part of a comprehensive school development plan.

(cf. 4131 - Staff Development)
(cf. 4131.5 - Professional Growth)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)

The Superintendent or designee shall provide schools with information about the resources which may help them to design and carry out comprehensive school development plans that are consistent with Governing Board-established criteria. Such plans shall be developed by school-site committees and approved by the Governing Board in accordance with law and administrative regulation.

(cf. 0420 - School Plans/Site Councils)

A committee at each participating school shall design a professional development program which supports the school's improvement objectives and provides opportunities for all school staff to strengthen their subject matter knowledge, instructional practices and support services.

The district's professional development program shall include schools representing a diverse student population and that serve low-income and underachieving students. (Education Code 44671)

Legal Reference: (see next page)

BP 4131.6(b)
4231.6
4331.6

PROFESSIONAL DEVELOPMENT PROGRAM (continued)

Legal Reference:

EDUCATION CODE

44277 Requirements for maintenance of valid teaching credential

44670.1-44671.5 Local staff development programs

52850-52904 School plans

54720-54734 School-Based Pupil Motivation and Maintenance Program

Management Resources:

CDE PROGRAM ADVISORIES

06271.09 School-Based Program Coordination Act

09211.09 Implementing Class Size Reduction Under the Morgan-Hart Class Size Reduction Act of 1989

0430.09 Using School Improvement Program Resources and SB 1882 Funding to Promote School Change

10271.89 California Professional Development Program

All Personnel

AR 4131.6(a)
4231.6
4331.6

PROFESSIONAL DEVELOPMENT PROGRAM

District Development Plan

The Superintendent or designee shall prepare a district development plan which supports coordinated professional development for administrators, teachers, other certificated personnel and classified personnel, consistent with district development objectives. (Education Code 44671)

(cf. 4131 - Staff Development)
(cf. 4131.5 - Professional Growth)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)

Professional development activities for each category of school personnel shall be designed and implemented in consultation with staff representing that category. (Education Code 44671)

The district development plan shall: (Education Code 44671)

1. Demonstrate a comprehensive approach to staff development to ensure that each subject matter area specified in Education Code 51210 and 51220 receives staff development support, although different subject matter areas may be emphasized in different years

(cf. 6143 - Courses of Study)

2. Specify how services available through the statewide California Writing, Mathematics, and Science Projects shall be used to meet annual improvement objectives
3. Include a process for the phase-in of all schools that choose to create and implement school development plans

School Development Plans

1. Content of the School Development Plan

Each school participating in this program shall develop a three-year school development plan, updated annually, which includes school improvement objectives and staff development activities directly related to those objectives. (Education Code 44670.3, 44670.9)

School plans developed pursuant to other state or federal categorical programs shall be integrated into the school development plan so as to form one comprehensive improvement plan for the school. (Education Code 44670.5)

PROFESSIONAL DEVELOPMENT PROGRAM (continued)

(cf. 0420 - School Plans/Site Councils)

(cf. 0420.1 - School-Based Program Coordination)

(cf. 0420.3 - School-Based Student Motivation and Maintenance Program)

School development plans shall describe: (Education Code 44670.9)

- a. Specific subject matter areas to be addressed
 - b. Professional development objectives and steps necessary to achieve them, including intended outcomes
 - c. How any staff development activities, regardless of funding source, are incorporated into the plan
 - d. How the school plan is articulated with the district development plan
 - e. A budget directly related to proposed school development activities that identifies, coordinates and makes efficient use of existing resources available to support the plan
 - f. Procedures for ongoing evaluation and modification of the school development activities, including evaluation of the long-term impact on student learning and on the professional growth of staff
 - g. How any professional development days made available to staff pursuant to Education Code 44670.6 may be used to further the professional development goals and objectives of the school
2. School Improvement Objectives

The school development plan in each participating school shall include annual school improvement objectives developed with the involvement of classroom teachers selected by teachers, other staff including instructional and teaching aides, the principal, parents/guardians, and other community members. In secondary schools, this group shall include students and teachers representing each major academic subject area offered at the school. (Education Code 44670.4)

The objectives of the school development plan shall be designed to include but not be limited to the following: (Education Code 44670.3)

PROFESSIONAL DEVELOPMENT PROGRAM (continued)

- a. Improving instructional practices in each subject, strengthening subject matter knowledge, and improving support services based on a continuing examination of instruction and learning in the subject areas offered by the school. This examination shall include research, if any, based on classroom experience conducted by teachers in accordance with research standards and procedures generally accepted in higher education.
- b. Ensuring that subject matter requirements, instructional strategies and instructional materials meet uniformly high academic standards and are responsive to the diversity of student learning needs and styles in a multicultural society, including underachieving students and students with exceptional abilities or needs.
- c. Reviewing, selecting and learning to use curricula and instructional materials in a wide variety of subject areas, giving consideration to the state-recommended curriculum framework and model curriculum standards for each subject.
- d. Addressing ways in which educational technology can support the instructional program.

(cf. 6162.7 - Use of Technology in Instruction)

- e. Improving the school and classroom environments, including working relationships among students, parents/guardians and other community members of various ethnic and cultural backgrounds.

(cf. 5137 - Positive School Climate)

- f. Developing tolerance programs that capitalize on the positive potential of ethnic diversity and offer educators solutions for confronting problems generated by a multiethnic constituency with following goals:
 - (1) Building a greater awareness among educators of the issues of tolerance and diversity
 - (2) Exposing working professionals to the dynamics of prejudice and discrimination that impede effective learning

PROFESSIONAL DEVELOPMENT PROGRAM (continued)

- (3) Providing a broad range of multicultural viewpoints that may influence relationships among students, and between students and teachers
- (4) Providing solutions for conflicts that result from multiethnic disputes

(cf. 5138 - Conflict Resolution/Peer Mediation)
(cf. 5145.3 - Nondiscrimination/Harassment)
(cf. 5145.9 - Hate-Motivated Behavior)

- g. Improving school attendance

In addition, school improvement objectives shall consider the capacity of school personnel to provide the services required of them. (Education Code 44670.4)

3. Professional Development Plan

The school development plan shall include the professional development of school staff necessary to meet the requirements of the plan. The plan shall also describe opportunities for parents/guardians to participate in the professional development program. All school staff and interested parents/guardians of students enrolled in the school shall have opportunities to participate in ongoing activities which reflect school improvement objectives. (Education Code 44670.5)

(cf. 5020 - Parent Rights and Responsibilities)

Professional development programs shall be designed and implemented under the direction of parents/guardians of students enrolled in the school, classroom teachers, the principal, one or more mentor teachers, and other school staff. Non-administrative certificated staff, including but not be limited to counselors, librarians and nurses, may serve on the committee. Classroom teachers selected by teachers shall comprise the majority of this committee in designing professional development activities for instructional personnel. (Education Code 44670.5)

As appropriate, the committee shall consult with institutions of higher education, resource agencies or consortia established pursuant to Education Code 44680, or subject matter projects. (Education Code 44670.5)

Professional development programs shall: (Education Code 44670.5)

PROFESSIONAL DEVELOPMENT PROGRAM (continued)

- a. Allow for diverse activities, including but not limited to the study of theory and rationale, observation of demonstration lessons, practice opportunities for peer coaching, consultation and feedback in the classroom setting, and systematic observations of other classrooms or schools
- b. Be conducted during time that is set aside for such activities throughout the year, including time on a continuing basis when participating staff are released from their regular duties
- c. Be continually evaluated and modified by participating staff, in consultation with regional resource consortia personnel and subject matter project personnel as appropriate, based upon benefits to staff and students
- d. Include the active, continuing participation of the principal and other administrators in one or more activities
- e. Offer follow-up activities to help participating staff use newly acquired skills on the job
- f. Promote the professional development of instructional aides and teacher aides, including activities that encourage them to pursue the education and training necessary to become classroom teachers

In addition, all activities in the professional development program shall meet the requirements for professional growth activities specified in Education Code 44277 for maintenance of valid credentials. (Education Code 44670.9)

4. Plan Approval

The Superintendent or designee shall develop and disseminate, to all schools, criteria for approval of school development plans. (Education Code 44671)

The Governing Board shall approve or disapprove school plans consistent with the district approval criteria, the district development plan, State Governing Board regulations and other criteria adopted by the Governing Board. (Education Code 44671)

AR 4131.6(f)
4231.6
4331.6

PROFESSIONAL DEVELOPMENT PROGRAM (continued)

In determining whether to approve a school development plan, the Governing Board shall consider: (Education Code 44671.2)

- a. The degree to which the objectives of the plan conform to objectives specified in law and in the district development plan
- b. The extent to which a substantial percentage of school staff will participate in proposed professional development activities
- c. The adequacy of procedures to evaluate the effectiveness of school development activities
- d. The extent to which existing resources are identified, coordinated and used efficiently to support the school development plan

School development plans shall be subject to Governing Board approval every two years. (Education Code 44670.9)

If a school plan is not approved, the Governing Board shall communicate to the school its specific reasons for disapproval. (Education Code 44671)

School representatives shall have reasonable opportunities to discuss their school plans with the Governing Board or its designated representatives. (Education Code 44671)

Upon request, the Superintendent or designee shall assist schools to plan, implement and evaluate school development plans. The Superintendent or designee also shall help schools identify, coordinate and make efficient use of existing resources to support school development plans. (Education Code 44671)

All Personnel

BP 4132

4232

PUBLICATION OR CREATION OF MATERIALS

4332

The Governing Board recognizes that district employees may create copyrightable materials at work, at home, or both at work and at home. The development of copyrightable materials during, or in part during, the work day shall be approved by the Superintendent or designee. However, the Superintendent or designee's approval or lack of approval shall not affect the district's ownership of copyrights for materials developed during work hours.

Materials written or developed by an employee during the normal school day are considered district property. (Education Code 60076, 17 USC 201)

Materials developed during both school and leisure hours are owned jointly by the employee and the district. In such cases, the Superintendent or designee shall ensure that a contractual agreement is made, clarifying the joint ownership. A partnership entity may be created to hold the copyright on behalf of both parties.

The Governing Board may secure copyrights in the name of the district for all copyrightable works developed by the district. All royalties or revenues from these copyrights shall be used for the benefit of the district. (Education Code 35170)

The Governing Board may market or license any noneducational mainframe electronic software developed by the district. Proceeds from this marketing or licensing shall be used exclusively for educational purposes. (Education Code 35182)

Legal Reference:

EDUCATION CODE

32360 Copyrights; use of funds

32361 Copyrights; use of employee work time

35170 Authority to secure copyrights

35182 Marketing or licensing noneducational mainframe electronic data-processing software

60076 Royalties or other compensation

LABOR CODE

2870-2872 Inventions made by an employee

UNITED STATES CODE, TITLE 17

201 Copyright Law

201(a) Copyright Law

All Personnel

BP 4135

4235

SOLICITING AND SELLING

4335

Staff shall not distribute promotional, political, controversial or other noninstructional materials unless approved by the Superintendent or designee.

(cf. 1325 - Advertising and Promotion)

Staff members shall not use their status as district employees to secure information such as names, addresses and telephone numbers for use in profit-making ventures.

Any classroom activity requiring students to bring money to school for any purpose must have the principal's approval.

Staff participation in "flower funds," "sickness and bereavement funds," "anniversary funds" and the like shall be a matter of individual discretion.

(cf. 5145.2 - Freedom of Speech/Expression)

Legal Reference:

EDUCATION CODE

51520 Prohibited solicitations on school premises

All Personnel

BP 4136

4236

NONSCHOOL EMPLOYMENT

4336

The Governing Board recognizes that district employees may receive compensation for outside activities as long as these activities are not inconsistent, incompatible, in conflict with or inimical to the employee's duties or to the duties, functions or responsibilities of the district.

Outside paid activities are incompatible with district employment if they require time periods that interfere with the proper, efficient discharge of the employee's duties, if they entail compensation from an outside source for activities which are part of the employee's regular duties, or if they involve using for private gain the district's name, prestige, time, facilities, equipment or supplies.

(cf. 1321 - Solicitation of Funds from and by Students)
(cf. 4119.21/4219.21/4319.21 - Professional Standards)
(cf. 4135/4235/4335 - Soliciting and Selling)
(cf. 4137 - Tutoring)

District employees shall not perform, without prior Governing Board approval, any outside paid service which will be wholly or in part subject to the approval or control of another district employee or a district officer.

(cf. 4132/4232/4332 - Publication or Creation of Materials)
(cf. 6161.1 - Selection and Evaluation of Instructional Materials)
(cf. 9270 - Conflict of Interest)

Upon determining that an employee's outside job is incompatible with district employment, the Superintendent or designee shall so inform the employee. An employee who continues to pursue an incompatible activity may be subject to disciplinary action. Appeals shall be addressed in accordance with law, Governing Board policy and administrative regulations.

(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4119.1/4219.1/4319.1 - Civil and Legal Rights)
(cf. 4144/4244/4344 - Complaints)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

Legal Reference:

EDUCATION CODE

35160 Authority of governing boards

35160.1 Broad authority of school districts

51520 Prohibited solicitation on school premises

GOVERNMENT CODE

1126 Incompatible activities of employees

TUTORING

The Governing Board expects teachers and other members of the instructional staff to make every effort to resolve students' learning problems at school before recommending that parents/guardians engage a tutor or other professional help. By maintaining a competent, dedicated staff and adequate instructional resources, the Governing Board seeks to minimize the need for individual tutoring.

To preclude conflicts of interest, teachers may not accept any kind of remuneration for tutoring a student enrolled in any of their classes. Teachers may not use District records, including, but not limited to, class rosters, attendance records, grades, or student directory information, for purpose of identifying students in need of, or having an interest in, tutoring by District teachers. Teachers who tutor other students must perform this service outside of school facilities and make their own arrangements with parents/guardians for the fees to be charged. The Governing Board encourages teachers to tutor only in subjects or grade levels for which they are certificated.

(cf. 4119.21/4219.21/4319.21 - Professional Standards)

(cf. 4135 - Soliciting and Selling)

Legal Reference:

GOVERNMENT CODE

1126 Incompatible activities of employees

PEER ASSISTANCE AND REVIEW

In order to assist teachers who may need additional development in subject matter knowledge and/or teaching strategies, the Governing Board shall work with the local teachers' organization to establish and maintain a program of peer assistance and review linking participating teachers with exemplary teachers serving as consulting teachers. Consulting teachers shall provide sustained, intensive support including, but not limited to, multiple classroom observations, recommendations for staff development and regular meetings with participating teachers.

(cf. 4140/4240 - Bargaining Units)

(cf. 4141/4241 - Collective Bargaining Agreement)

(cf. Certificated Collective Bargaining Agreement-Peer Assistance)

The Superintendent or designee shall establish in accordance with law a joint teacher-administrator peer review panel to manage the program.

Governing Board decisions regarding the continued employment of an individual participating teacher shall include consideration of the results of the individual's participation in the peer assistance and review program and the recommendations of the consulting teacher and review panel.

(cf. 4115 - Evaluation/Supervision)

(cf. 4117.4 - Dismissal)

The Governing Board shall coordinate policies and procedures related to the district's peer assistance and review program with other district activities for staff development, teacher support and staff evaluation.

(cf. 4131 - Staff Development)

(cf. 4315.1 - Staff Evaluating Teachers)

Legal Reference: (see next page)

PEER ASSISTANCE AND REVIEW (continued)

Legal Reference:

EDUCATION CODE

44279.1-44279.7 *Beginning teacher support and assessment*

44305-44308 *Pre-internship teaching program*

44325-44328 *District intern program*

44490-44497 *Mentor teacher program*

44500-44508 *Peer assistance and review program*

44662 *Evaluation of certificated employees*

44664 *Evaluation*

Management Resources:

WEB SITES

CSBA: <http://www.csba.org>

CDE: <http://www.cde.ca.gov>

California Commission on Teacher Credentialing: <http://www.ctc.ca.gov>

California Teachers Association: <http://www.cta.org>

California Federation of Teachers: <http://www.cft.org>

PEER ASSISTANCE AND REVIEW

Joint Teacher-Administrator Peer Review Panel

The joint teacher-administrator peer review panel shall: (Education Code 44502)

1. Select teachers to serve as consulting teachers
2. Review peer review reports prepared by consulting teachers
3. Make recommendations to the Governing Board regarding participants in the peer assistance and review program including forwarding to the Governing Board the names of individuals who, after sustained assistance, have been unable to demonstrate satisfactory improvement
4. Annually evaluate the impact of the program in order to improve the program, including but not limited to, interviews or surveys of program participants, and submit any recommendations for improvement to the Governing Board and exclusive representative of certificated employees in the district

(cf. 4140/4240 - Bargaining Units)

The majority of the panel shall be composed of certificated classroom teachers chosen by other certificated classroom teachers. The remainder of the panel shall be composed of school administrators chosen by the Superintendent or designee. (Education Code 44502).

Program Participation

Teachers may volunteer to participate in the program or may be referred as a result of an unsatisfactory rating in their performance evaluation. Teachers also may be referred pursuant to a collective bargaining agreement. (Education Code 44500)

(cf. 4115 - Evaluation/Supervision)

(cf. 4141/4241 - Collective Bargaining Agreement)

(cf. 4315.1 - Staff Evaluating Teachers)

A teacher participating in the program shall be a permanent employee of the district. (Education Code 44500)

Selection of Consulting Teachers

Consulting teachers shall be selected by the majority vote of the joint teacher-administrator peer review panel. The selection process shall include provisions for the panel to observe the candidate's classroom. (Education Code 44502)

PEER ASSISTANCE AND REVIEW (continued)

A teacher selected to serve as a consulting teacher shall: (Education Code 44501)

1. Have substantial recent experience in classroom instruction
2. Have demonstrated exemplary teaching ability as indicated by, at a minimum, effective communication skills, subject matter knowledge, and mastery of a range of teaching strategies necessary to meet the needs of students in different contexts
3. Be a credentialed classroom teacher with permanent status in the district

Program Components

The district's peer assistance and review program shall include: (Education Code 44500)

1. Written performance goals for an individual teacher that are clearly stated, aligned with student learning and consistent with the evaluation criteria specified in Education Code 44662
2. Assistance and review through multiple observations of a teacher during periods of classroom instruction
3. A cooperative relationship between the consulting teacher and the principal with respect to the process of peer assistance and review
4. Sufficient staff development activities to assist a teacher to improve his/her teaching skills and knowledge
5. A monitoring component with a written record

A certificate of completion and summary report of a teacher's participation in the program shall be made available for placement in the teacher's personnel file. (Education Code 44500)

(cf. 4112.6/4212.6/4312.6 - Personnel Files)

BARGAINING UNITS

The Governing Board recognizes the right of public school employees to form bargaining units, select an employee organization as the exclusive representative of their unit, and be represented by that organization in their employment relationship with the district.

The Governing Board is committed to negotiating in good faith and respecting the rights of employees and employee organizations. As required by law, the Governing Board shall negotiate only with the exclusive representative of each bargaining unit.

(cf. 4141/4241 - Collective Bargaining Agreement)
(cf. 4143/4243 - Negotiations/Consultation)

Employees shall not be intimidated, restrained, coerced or discriminated against, either by the district or by employee organizations, because of their membership or nonmembership in an employee organization.

Legal Reference:

GOVERNMENT CODE
3540-3549.3 Educational Employment Relations Act

COLLECTIVE BARGAINING AGREEMENT

The Governing Board recognizes that collective bargaining agreements are legally binding, bilateral agreements. The Governing Board is committed to carrying out the provisions of each agreement and expects the agreements to be consistently and uniformly administered.

In order to help prepare for future negotiations, the Superintendent or designee shall identify any portions of the agreement that hinder the district's efforts to meet district goals.

(cf. 4140/4240 - Bargaining Units)

(cf. 4143/4243 - Negotiations/Consultation)

Legal Reference:

EDUCATION CODE

35160 Authority of governing boards

35160.1 Broad authority of school districts

GOVERNMENT CODE

3540-3549.3 Educational Employment Relations Act

CODE OF REGULATIONS, TITLE 8

31001-32997 Regulations of employee relations boards

CONCERTED ACTION/WORK STOPPAGE

The Governing Board recognizes the importance of maintaining positive relations with employees, employee organizations, parents/guardians and community members throughout the collective bargaining process. In the event of an impasse in negotiations, the Governing Board shall make a good faith effort to reach an agreement with the employee organization through participation in state mediation and factfinding procedures.

(cf. 4141/4241 - Collective Bargaining Agreement)

(cf. 4143/4243 - Negotiations/Consultation)

During any threatened or actual withholding of services, the Governing Board shall keep parents/guardians and community informed about the status of district negotiations, the educational program and safety measures that have been taken by the district.

When feasible, the Governing Board desires to keep schools operating during any work stoppage. The Superintendent or designee shall take steps necessary in order to help ensure the safety of students, staff and district property during a work stoppage. Such steps shall be reported to the Governing Board as soon as possible.

The Governing Board recognizes that preparation is necessary to reduce disruption during a work stoppage and to ensure that students receive the education to which they are entitled. The Superintendent or designee shall develop a written plan which shall delineate actions to be taken in the event of a strike or threatened strike. The plan shall include specific responsibilities of the Governing Board and district staff, plans to maintain district operations, appropriate student instruction and supervision, as well as communication and safety issues.

(cf. 0450 - Comprehensive Safety Plan)

(cf. 1100 - Communications with the Public)

(cf. 1112 - Media Relations)

(cf. 9000 - Role of the Board)

(cf. 4118 - Suspension/Disciplinary Action)

(cf. 4218 - Suspension/Disciplinary Action)

Legal Reference: (see next page)

CONCERTED ACTION/WORK STOPPAGE (continued)

Legal Reference:

EDUCATION CODE

35204 *Contract with attorney in private practice*

35205 *Contract for legal services*

37200-37202 *Instructional days*

GOVERNMENT CODE

3540-3549.3 *Educational Employment Relations Act, especially:*

3543.5-3543.6 *Unfair labor practices*

3548-3548.8 *Impasse procedures*

INSURANCE CODE

10116 *Employee continuation of insurance coverage*

UNITED STATES CODE, TITLE 29

1161-1169 *Continuation coverage and additional standards for group health plan*

PUBLIC EMPLOYMENT RELATIONS BOARD DECISIONS

Fresno Unified School District, 1982, PERB Dec. No. 208, 6 PERC 13110

Konocti Unified School District, 1982, PERB Dec. No. 217, 6 PERC 13152

Management Resources:

CSBA PUBLICATIONS

Before the Strike: Planning Ahead in Difficult Negotiations, 1996

NEGOTIATIONS/CONSULTATION

The Governing Board is legally responsible for negotiating in good faith with exclusive employee representatives on wages, hours of employment, and other terms and conditions of employment identified in law as being within the scope of representation. (Government Code 3543.2)

(cf. 4140/4240 - Bargaining Units)

The Governing Board recognizes its responsibility to represent the public's interests in the collective bargaining process. The Governing Board and/or Superintendent shall keep the public informed about the progress of negotiations and the ways in which negotiations affect district goals.

(cf. 4141.6/4241.6 - Concerted Action/Work Stoppage)
(cf. 4143.1/4243.1- Public Notice - Personnel Negotiations)

In reaching agreements on employee contracts, the Governing Board shall balance the needs of staff and the priorities of the district in order to provide students with a high-quality instructional program based on a sound, realistic budget.

(cf. 0200 - Goals for the School District)
(cf. 3100 - Budget)
(cf. 4141/4241 - Collective Bargaining Agreement)

The Governing Board encourages an interest-based, nonadversarial approach to collective bargaining. The goal of negotiations shall be to reach an agreement which meets the interests of all concerned.

The Governing Board believes that effective negotiations require the input of all levels of the administration. The Governing Board shall establish a bargaining team to assist in analyzing contract provisions and conducting contract negotiations.

The Governing Board with its bargaining team shall establish standards of conduct pertaining to the negotiations process for individual Governing Board members and members of the bargaining team. Meetings related to negotiations are not subject to state open meeting laws and shall be held in closed session. Matters discussed in these meetings shall be kept in strict confidence.

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)
(cf. 9010 - Public Statements)
(cf. 9011 - Disclosure of Confidential/Privileged Information)
(cf. 9321 - Closed Session Purposes and Agendas)

NEGOTIATIONS/CONSULTATION (continued)

The Governing Board shall provide its negotiator(s) with expected outcomes and clear parameters for acceptable contract provisions and may initiate proposals which promote the realization of district goals. The Governing Board shall closely monitor the progress of negotiations and carefully consider how proposed contract provisions would affect the district's short- and long-term goals.

Consultation

The exclusive representative of certificated staff may consult with the Governing Board on the definition of educational objectives, the determination of the content of courses and curriculum and the selection of textbooks.

(cf. 6010 - Goals and Objectives)

(cf. 6141 - Curriculum Development and Evaluation)

(cf. 6161.1 - Selection and Evaluation of Instructional Materials)

(cf. 9311 - Board Policies)

Legal Reference:

GOVERNMENT CODE

3540-3549.3 *Educational Employment Relations Act*

PUBLIC NOTICE - PERSONNEL NEGOTIATIONS

Because the Governing Board has a responsibility to represent the public's interest in negotiations with employee organizations, the Governing Board is committed to keeping the public informed about issues being negotiated, providing members of the public an opportunity to express their views, and disclosing the positions of Governing Board members.

- (cf. 1100 - Communication with the Public)*
- (cf. 1112 - Media Relations)*
- (cf. 4141/4241 - Collective Bargaining Agreement)*
- (cf. 4141.6/4241.6 - Concerted Action/Work Stoppage)*
- (cf. 4143/4243 - Negotiations/Consultation)*
- (cf. 9000 - Role of the Board)*
- (cf. 9010 - Public Statements)*
- (cf. 9011 - Disclosure of Confidential/Privileged Information)*

Public Notice

All initial contract proposals of the Governing Board and an employee organization, which relate to matters within the scope of representation, shall be presented at a public meeting and shall thereafter be public record. (Government Code 3547)

- (cf. 1340 - Access to District Records)*
- (cf. 9321 - Closed Session Purposes and Agendas)*
- (cf. 9321.1 - Closed Session Actions and Reports)*

Meeting and negotiating between District and employee organization representatives shall not take place on these initial proposals until a reasonable time has elapsed after the submission of these proposals to enable the public to become informed and to express itself regarding the proposals at a public meeting. (Government Code 3547)

After the public has had an opportunity to provide input, the Governing Board shall adopt its initial proposal at a public meeting. (Government Code 3547)

New subjects of meeting and negotiating arising after the presentation of initial proposals shall be made public within 24 hours. If a vote is taken on any such subject by the Governing Board, each member's vote also shall be made public within 24 hours. (Government Code 3547)

PUBLIC NOTICE - PERSONNEL NEGOTIATIONS (continued)

Public Disclosure

Before entering into a written agreement covering matters within the scope of representation, the Governing Board shall disclose, at a public meeting, the major provisions of the agreement, including but not limited to the costs that would be incurred by the District under the agreement for the current and subsequent fiscal years. (Government Code 3547.5)

A copy of the proposed agreement shall be made available to the public prior to the day of the Board Meeting. The Superintendent or designee shall prepare a summary of the major provisions and changes in the proposed agreement.

Certification of Agreement

Before the Board approves any agreement, the Superintendent and Chief Business Official shall certify, in writing, that any costs incurred by the District under the agreement can be met by the District during the term of the agreement. The certification shall itemize any budget revision necessary to meet the costs of the agreement in each year of its term. (Government Code 3547.5)

(cf. 3460 - Financial Reports and Accountability)

Legal Reference:

EDUCATION CODE

42130-41234 Financial Reports and Certifications

GOVERNMENT CODE

3540.2 Meeting and Negotiating in Public Educational Employment

3547 Proposals Relating to Representation; Informing Public, Adoption of Proposals; New Subjects; Regulations

3547.5 Major Provisions of Agreement with Exclusive Representative

CODE OF REGULATIONS, TITLE 8

32075 PERB Regional Office Defined

32900 EERA and HEERA Public Notice: Requirements for Governing Boards to Adopt Policy

32910 Filing of EERA or HEERA Complaint

PUBLIC NOTICE - PERSONNEL NEGOTIATIONS (continued)

Management Resources:

CDE MANAGEMENT ADVISORIES

0515.92 Public Disclosure of Collective Bargaining Agreements, 92-01

CSBA PUBLICATIONS

*Public Notice and Disclosure, Resource Guide for Employment Relations,
December 1996*

Maximizing School Board Leadership: Collective Bargaining, 1996

Maximizing School Board Leadership: Collective Bargaining, 1996

WEB SITES

California School Board Association (CSBA): <http://www.csba.org>

California Department of Education: <http://www.cde.ca.gov>

Fiscal Crisis and Management Assistance Team: <http://www.fcmat.org>

Public Employment Relations Board: <http://www.perb.ca.gov>

Adopted: January 17, 2007

PUBLIC NOTICE - PERSONNEL NEGOTIATIONS

Public Disclosure

The Superintendent or designee shall prepare a summary of the proposed agreement which shall be available to the public prior to the Governing Board entering into the agreement. The summary shall include, but may not necessarily be limited to:

1. Major provisions of the agreement that affect compensation, such as:
 - a. Percentage change in salaries
 - b. Changes in health and welfare benefits
 - c. Changes in health and welfare benefit dollar contributions by the district
 - d. Changes in step and column or longevity provisions
 - e. Changes in overtime, differential, callback and standby pay provisions
 - f. Changes in staffing ratios
 - g. One-time bonuses or off-the-schedule increases
 - h. Percentage change of total compensation for the average represented employee
2. Other provisions that will result in increased costs to the district even if they do not involve an increase in employee compensation, such as class-size reduction or increased number of staff development days
3. Costs of the proposed agreement, for the current and subsequent fiscal years, categorized for salaries, benefits, other compensation and other noncompensation costs
4. Proposed source(s) of funding for the current and subsequent fiscal years including the assumptions used to determine available resources to meet the obligations of the proposed agreement
5. Other major provisions that do not directly affect the district's costs, such as grievance procedures

A copy of the summary shall be provided to the county office of education.

A copy of the Governing Board's policy implementing the public notice requirements shall be available in the district office. (8 CCR 32900)

All Personnel

BP 4144

4244

COMPLAINTS

4344

The Governing Board recognizes the need for providing employees with a complaint process.

The Governing Board expects that employees and supervisors will make every effort to resolve employee complaints and disagreements informally before resorting to formal complaint procedures.

The Superintendent or designee shall establish complaint procedures which allow employees to appeal to the Governing Board.

(cf. 4031 - Complaints Concerning Discrimination in Employment)

(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

(cf. 4141/4241 - Collective Bargaining Agreement)

Legal Reference:

GOVERNMENT CODE

3543 Public school employees' rights

3543.1 Rights of employee organizations

53296 Definitions

53297 Filing complaint

53298 Reprisals

53298.5 Violations; punishment

All Personnel

AR 4144(a)

4244

COMPLAINTS

4344

The following guidelines shall prescribe the manner in which complaints are handled:

1. A "complaint" shall be defined as an alleged misapplication of the district's policies, regulations, rules or procedures. Procedures for the resolution of employee complaints provide a route of appeal through administrative channels and to the Governing Board, if necessary. If the complaint is related to discrimination, the district's procedure for complaints concerning discrimination should be used.

(cf. 4031 - Complaints Concerning Discrimination in Employment)

2. If a complaint involves sexual harassment, the initial complaint should be made directly to the offending employee's immediate supervisor. An employee is not required to resolve sexual harassment complaints with the offending person.
3. So as not to interfere with school schedules, meetings related to a complaint shall be held before or after the complainant's regular working hours.
4. All matters related to a complaint shall be kept confidential. Only those individuals directly involved in resolving the complaint shall be informed of the complaint.
5. All documents, communications and records dealing with the complaint shall be placed in a district complaint file. No such material shall be placed in an employee's personnel file.
6. No reprisals shall be taken against any participant in a complaint procedure by reason of such participation.
7. Time limits specified in these procedures may be reduced or extended in any specific instance by written mutual agreement of the parties involved. If specified or adjusted time limits expire, the complaint may proceed to the next step.
8. Any complaint not taken to the next step within prescribed time limits shall be considered settled on the basis of the answer given at the preceding step.

Informal Complaints

Employees are encouraged to resolve complaints informally. Formal complaint procedures shall not be initiated unless informal efforts to resolve the complaint have been exhausted and the complainant has provided a written description of such efforts.

Formal Complaint Procedure - Step 1

If a complaint has not been satisfactorily resolved by informal procedures, the complainant may file a written complaint with the immediate supervisor or principal within 60 days of the act or event which is the subject of the complaint.

COMPLAINTS (continued)

Within five working days of receiving the complaint, the immediate supervisor or principal shall conduct any necessary investigation and meet with the complainant in an effort to resolve the complaint.

The immediate supervisor or principal shall present all concerned parties with a written answer to the complaint within 10 working days after the meeting.

Formal Complaint Procedure - Step 2

If a complaint has not been satisfactorily resolved at Step 1, the complainant may file the written complaint with the Superintendent or designee within five working days of receiving the answer at Step 1. All information presented at Step 1 shall be included with the complaint, and the immediate supervisor or principal shall submit to the Superintendent or designee a report describing attempts to resolve the complaint at Step 1.

Within five working days of receiving the complaint, the Superintendent or designee shall conduct any necessary investigation and meet with the complainant in an effort to resolve the complaint.

The Superintendent or designee shall present all concerned parties with a written answer to the complaint within 10 working days after the meeting.

Formal Complaint Procedure - Step 3

If a complaint has not been satisfactorily resolved at Step 2, the complainant may file a written appeal to the Governing Board within five working days of receiving the answer at Step 2. All information presented at Steps 1 and 2 shall be included with the appeal, and the Superintendent or designee shall submit to the Governing Board a report describing attempts to resolve the complaint at Step 2.

An appeal hearing shall be held at the next regularly scheduled Governing Board meeting which falls at least 12 days after the appeal is filed. This hearing shall be held in closed session if the complaint relates to matters properly addressed in closed session.

(cf. 9321 - Closed Session Purposes and Agendas)

The Governing Board shall make its decision within 30 days of the hearing and shall mail its decision to all concerned parties. The Governing Board's decision shall be final.

All Personnel

BP 4151

4251

EMPLOYEE COMPENSATION

4351

In order to secure and hold staff committed to student learning, the Governing Board recognizes the importance of an attractive compensation package which includes salaries, health benefits and other amenities.

The Governing Board shall adopt separate salary schedules for certificated, classified, and management/supervisory/confidential personnel. These schedules shall comply with law and negotiated agreements and shall be printed and made available for inspection at the district office. Salary schedules for staff who are not a part of a bargaining unit shall be determined by the Governing Board at the recommendation of the Superintendent or designee.

(cf. 4121 - Temporary/Substitute Personnel)

(cf. 4141/4241 - Collective Bargaining Agreement)

Legal Reference:

EDUCATION CODE

44492-44494 Mentor teacher stipends

44977 Salary deductions during absence

45022-45061 Salaries, especially:

45023 Availability of salary schedule

45028 Salary schedule for certificated employees

45030 Salary schedule for substitutes

45032 Power of governing board to increase salaries

45160-45169 Salaries for classified employees

45268 Salary schedule for classified service in merit system districts

GOVERNMENT CODE

3540-3549 Meeting and negotiating, especially:

3543.2 Scope of representation

3543.7 Duty to meet and negotiate in good faith

All Personnel

BP 4154(a)
4254
4354

HEALTH AND WELFARE BENEFITS

The district shall provide health and welfare benefits for certificated and classified employees in bargaining units in accordance with state and federal law and subject to negotiated employee agreements.

(cf. 4140/4240 - Bargaining Units)
(cf. 4141/4241 - Collective Bargaining Agreement)

Employees who are not in bargaining units shall receive the same benefits as those specified in the appropriate collective bargaining agreement.

Retired Employees

Retired employees and their eligible dependents may continue to participate in the district's group medical, dental and vision plans in accordance with state and federal law. The Superintendent or designee shall advise all employees of their rights and responsibilities related to continuing their health insurance benefits when their eligibility changes.

To receive continuation coverage under this program, the qualifying individual shall pay the premiums and other charges, including any increases in premiums and costs incurred by the district in administering this program.

Legal Reference: (see next page)

HEALTH AND WELFARE BENEFITS (continued)

Legal Reference:

EDUCATION CODE

7000-7008 Health and welfare benefits, retired certificated employees

35208 Liability insurance

35214 Liability insurance (self-insurance)

44041 Deductions in salary payment as requested by employee

44042 Payroll deduction for collection of insurance premium

44986 Leave of absence for disability allowance applicant

45136 Benefits for classified

GOVERNMENT CODE

22156 Medicare coverage for school district employees

22751-22883 Public Employees' Medical and Hospital Care Act

22858 Application of education code provisions relating to mandatory inclusion of certain retirees in local health and welfare benefit plans

22859 Participation in Medicare reimbursement program

53200-53210 Group insurance, especially:

53200 Definitions: group insurance, local agency; health and welfare benefits, employees

HEALTH AND SAFETY CODE

1366.20-1366.28 Cal-COBRA program, health insurance

1373.621 Continuation coverage, age 60 or older after five years with district

INSURANCE CODE

10116.5 Continuation coverage, age 60 or older after five years with district

10128.50-10128.58 Cal-COBRA program, disability insurance

UNEMPLOYMENT INSURANCE CODE

2613 Education program; notice of rights and benefits

UNITED STATES CODE, TITLE 26

4980B Failure to satisfy continuation coverage

UNITED STATES CODE, TITLE 29

1161-1168 COBRA continuation coverage

UNITED STATES CODE, TITLE 42

1395-1395g Medicare benefits

HEALTH AND WELFARE BENEFITS

Retired Certificated Employees

Note: The following section does not apply to employees who receive health care coverage under the Public Employees' Medical and Hospital Care Act (PEMHCA), Government Code 22750-22944.

The district's health and welfare benefit plan and dental care benefit plan provided for eligible employees shall permit enrollment by any former employee who retired under any public retirement system and to his/her spouse. In addition, the plan shall be available to any surviving spouse of a former employee who either retired from the district or was, at the time of death, employed by the district and a member of the State Teachers' Retirement System or the Public Employees Retirement System.

A retired employee or surviving spouse shall be allowed to enroll in the coverage within 30 days of losing active employee coverage. In addition, the Superintendent or designee shall annually select a one-month period during which former employees or their spouses may elect to enroll in the health or dental plan or change their enrollment from one plan to another. (Education Code 7000)

If a retired employee or surviving spouse fails to enroll during the initial enrollment period, further opportunity to do so may be denied. A person who has previously received but then voluntarily terminated coverage also may be excluded from obtaining further coverage. (Education Code 7000)

Covered district employees and their qualified beneficiaries shall be offered the opportunity to continue health and disability insurance coverage when they otherwise would lose coverage due to one of the following qualifying events: (Health and Safety Code 1366.21, 1366.23, 1373; Insurance Code 10128.51, 10128.53, 10277; 26 USC 4980B; 26 CFR 54.4980B-4

1. The death of a covered employee
2. The termination other than by reason of the employee's gross misconduct or reduction in hours of the covered employee's employment

(cf. 4117.4 - Dismissal)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

3. The divorce or legal separation of a covered employee
4. A covered employee's becoming entitled to Medicare benefits
5. A dependent child ceasing to be a dependent child of a covered employee

HEALTH AND WELFARE BENEFITS (continued)

COBRA/Cal-COBRA Continuation of Coverage

Continuation health coverage shall be the same as provided to similarly situated individuals under the group benefit plan. (26 USC 4980B; Health and Safety Code 1366.23 Insurance Code 10128.53)

The Superintendent or designee shall notify the health care service plan administrator of a qualifying event listed in item #1, 2, or 4 above, within 30 days of the event. A covered employee or qualified beneficiary shall notify the service plan administrator of a qualifying event listed in item #3 or 5 above within 60 days of the event or of the date that the beneficiary would lose coverage, whichever is later. (26 USC 4980B; 29 USC 1163, 1166; 26 CFR 54.4980B-6)

Continuation coverage shall be terminated in accordance with the district's insurance plan and federal and state law. (26 USC 4980B; 26 CFR 54.4980B-6; Health and Safety Code 1373.621; Insurance Code 10116.5)

The Superintendent or designee shall notify covered employees and qualified beneficiaries of the availability of conversion and continuation coverage. This notification shall include the statement in Labor Code 2800.2 encouraging individuals to examine their options carefully before declining such coverage. (Labor Code 2800.2)

(cf. 4112.9/4212.9/4312.9 – Employee Notifications)

Temporary Subsidized Premium for COBRA/Cal-COBRA

Under either of the following circumstances, a former employee and his/her qualified beneficiaries shall pay 35 percent of the premium amount they would otherwise be required to pay for health care continuation coverage: (26 USC 139C, 6432 Note; Health and Safety Code 1366.25; Insurance Code 10128.55)

1. The employee is involuntarily terminated, other than by reason of gross misconduct, between September 1, 2008 and March 31, 2010, or a later date if extended by law
2. The employee's eligibility for continuation coverage is due to a reduction in hours and he/she subsequently experiences an involuntary termination between March 2, 2010 and March 31, 2010, or a later date if extended by law

The district shall seek reimbursement of district payments toward the normal employee share of the premium as allowed by law. (26 USC 139C, 6432; Health and Safety Code 1366.25; Insurance Code 10128.55)

HEALTH AND WELFARE BENEFITS (continued)

The premium reduction shall apply until one of the following dates, whichever comes first: (26 USC 6432 Note)

1. Fifteen months after the first day of the first month for which the premium reduction applies to the assistance eligible individual
2. The first date that the assistance eligible individual becomes eligible for Medicare coverage or other group health plan coverage, with certain exceptions specified in law
3. The date the assistance eligible individual ceases to be eligible for continuation coverage for other reasons as noted in the section "Continuation of Coverage" above

Because the premium reduction will be offset by an increase in income tax liability for individuals who earn more than \$125,000 for the tax year (or \$250,000 for married couples filing a joint federal income tax return), such individuals may choose to permanently waive their right to the subsidy. (26 USC 6432)

Disability Insurance

The Superintendent or designee shall give notice of disability insurance rights and benefits to each new employee and each employee leaving work due to pregnancy or non-occupational illness or injury or the need to provide care for any sick or injured family member, or the need to bond with a minor child within the first year of the child's birth or placement in connection with foster care or adoption. (Unemployment Insurance Code 2613)

(cf. 4157.1/4257.1/4357.1 – Work-Related Injuries)
(cf. 4161 - Leaves)
(cf. 4161.1/4261.1 - Personal Illness/Injury Leave)
(cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)
(cf. 4261.1 - Personal Illness and Injury Leave)
(cf. 4361 - Leaves)

Note: Education Code 7008, reflected below, does not apply to employees of districts that have contracted for health care coverage through PEMHCA, Government Code 22750-22944.

All Personnel

AR 4154(d)
4254
4354

HEALTH AND WELFARE BENEFITS (continued)

When disabled by an injury resulting from a violent act sustained while performing their job duties, certificated and classified employees may continue in the district health and dental care plans upon meeting criteria specified by law. The employee shall pay all employer and employee premiums and related administrative costs. (Education Code 7008)

Revised: May 18, 2011

All Personnel

BP 4156.2

4256.2

AWARDS AND RECOGNITION

4356.2

The Governing Board believes the district's employees are its most valuable resource and encourages recognition of the services they provide. The Superintendent or designee may issue service pins, certificates, plaques or other mementos in accordance with Governing Board policy and administrative regulations.

(cf. 1150 - Commendations and Awards)

(cf. 3300 - Expenditures/Expending Authority)

The Governing Board authorizes awards to employees who: (Education Code 44015)

1. Propose ideas or procedures which eliminate or reduce district expenditures or improve district operations
2. Perform special acts or services in the public interest
3. By their superior accomplishments, make exceptional contributions to the efficiency, economy, or other improvement in district operations

The Superintendent or designee shall establish regulations governing employee awards.

Legal Reference:

EDUCATION CODE

35160 Authority of governing boards

35160.1 Broad authority of school districts

35161 Powers and duties generally

44015 Awards to Employees

All Personnel

BP 4156.3

4256.3

EMPLOYEE PROPERTY REIMBURSEMENT

4356.3

The Governing Board authorizes the Superintendent or designee to pay the cost of replacing or repairing employee personal property, except cash, which has been stolen or intentionally or accidentally destroyed or damaged while being used for work-related purposes. The use of such personal property shall be approved by the employees' supervisor.

No reimbursement shall be made for damage or for any loss due to lack of personal supervision or failure to keep property in a secured area, nor for the use of personal property which has not been authorized.

The maximum payment shall be the amount specified by the district's insurance carrier for such loss or the amount specified in the applicable collective bargaining agreement, whichever is less.

(cf. 3515.4 - Recovery for Property Loss or Damage)

(cf. 5131.5 - Vandalism, Theft and Graffiti)

Reimbursement for personal items used for work-related purposes shall be made only if: (Education Code 35213)

1. Use of the personal property was approved by the principal, site supervisor or designee before the property was brought to school or district premises
2. A request for reimbursement shall be accompanied by verification of value from the claimant.

Legal Reference:

EDUCATION CODE

35213 Reimbursement for loss, destruction or damage of personal property

48904 Liability of parent/guardian for willful misconduct; withholding of grades, diplomas and transcripts

CIVIL CODE

1714.1 Liability of parent or guardian for act of willful misconduct by a minor

EMPLOYEE SAFETY

The Governing Board is committed to maximizing employee safety and believes that workplace safety is every employee's responsibility. Working conditions and equipment shall comply with standards prescribed by federal, state and local laws and regulations.

(cf. 0450 – Comprehensive Safety Plan)

No employee shall be required or permitted to be in any place of employment which is unsafe or unhealthful. (Labor Code 6402)

The Governing Board expects all employees to use safe work practices and to the extent possible, to correct any unsafe conditions which may occur. If an employee is unable to correct an unsafe condition, he/she shall immediately report the problem to the Superintendent or designee.

The Superintendent or designee shall promote safety and correct any unsafe work practice through education, training and enforcement.

The Superintendent or designee shall establish and implement a written injury and illness prevention program in accordance with law. (Labor Code 6401.7)

(cf. 3514 - Environmental Safety)

(cf. 3514.1 - Hazardous Substances)

(cf. 3516 – Emergencies and Disaster Preparedness Plan)

(cf. 4119.41/4219.41/4319.41 - Employees with Infectious Disease)

(cf. 4119.42/4219.42/4319.42 - Exposure Control Plan for Bloodborne Pathogens)

(cf. 4119.43/4219.43/4319.43 - Universal Precautions)

(cf. 4157.1/4257.1/4357.1 - Work-Related Injuries)

(cf. 4157.2/4257.2/4357.2 - Ergonomics)

(cf. 4158/4258/4358 - Employee Security)

The Governing Board shall ensure that the Superintendent or designee provides eye protective devices as specified in law and administrative regulation.

The Superintendent or designee shall ensure the ready availability of first aid materials at district workplaces and shall make effective provisions, in advance, for prompt medical treatment in the event of an employee's serious injury or illness. (8CCR 3400)

EMPLOYEE SAFETY (continued)

No employee shall be discharged or discriminated against for making complaints, instituting proceedings or testifying with regard to employee safety or health, or for participating in any occupational health and safety committee established pursuant to Labor Code 6401.7. (Labor Code 6310)

(cf. 4117.4 – Dismissal)
(cf. 4118 – Suspension/Disciplinary Action)
(cf. 4218 – Dismissal/Suspension/Disciplinary Action)

Legal Reference:

EDUCATION CODE

32030-32034 Eye safety
32225-32226 Communications devices in classrooms
32280-32289 School safety plans
44984 Required rules for industrial accident and illness leave of absence

GOVERNMENT CODE

3543.2 Scope of bargaining

LABOR CODE

3300 - Definitions
6305 Occupational safety and health standards; special order
6310 Retaliation for filing complaint prohibited
6400-6413.5 Responsibilities and duties of employers and employees
6401.7 Injury prevention programs

CODE OF REGULATIONS, TITLE 8

3203 Injury and illness prevention program
3400 Medical services and first aid
5095-5100 Control of noise exposure

CODE OF FEDERAL REGULATIONS, TITLE 29

1910.95 Noise standards

Management Resources:

CAL/OSHA PUBLICATIONS

Guide to Developing Your Workplace Injury and Illness Prevention Program, revised August 2005

DHHS PUBLICATIONS

Preventing Occupational Hearing Loss - A Practical Guide, June 1996, Department of Health and Human Services (National Institute for Occupational Safety and Health)

WEB SITES

OSHA: <http://www.osha.gov>
Cal/OSHA: http://www.dir.ca.gov/occupational_safety.html
Centers for Disease Control and Prevention: <http://www.cdc.gov>
National Hearing Conservation Association: <http://www.hearingconservation.org>
National Institute for Occupational Safety and Health: <http://www.cdc.gov/niosh>

Adopted: May 18, 2011

EMPLOYEE SAFETY

The Superintendent or designee shall provide and implement safety devices, safeguards, methods and processes for staff that are reasonably adequate to render the employment and place of employment safe and healthful. (Labor Code 6401)

(cf. 4157.1/4257.1/4357.1 - Work-Related Injuries)
(cf. 4157.2/4257.2/4357.2 - Ergonomics)
(cf. 4161.11/4361.11 – Industrial Accident/Illness Leave)
(cf. 4261.1 – Industrial Accident/Illness Leave)

Injury and Illness Prevention Program

The district's injury and illness prevention program shall cover all district employees and all other workers whom the district controls or directs and directly supervises on the job to the extent that workers are exposed to hazards specific to their worksite and job assignment. The obligation of contractors or other employers who control or direct and supervise their own employees on the job shall not be affected by the district's injury prevention program. (Labor Code 6401.7)

The district's injury and illness prevention program shall include: (Labor Code 6401.7; 8 CCR 3203)

1. The name/position of the person(s) with authority and responsibility for implementing the program.
2. A system for ensuring that employees comply with safe and healthful work practices, which may include but not be limited to:
 - a. Recognition of employees who follow safe and healthful work practices

(cf. 4156.2/4256.2/4356.2 - Awards and Recognition)

- b. Training and retraining programs
- c. Disciplinary actions

(cf. 4117.4 - Dismissal)
(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

3. A system for communicating with employees in a form readily understandable by all employees on matters related to occupational health and safety, including provisions designed to encourage employees to report hazards at the worksite without fear of reprisal. This system may include but not be limited to:

EMPLOYEE SAFETY (continued)

- a. Meetings
 - b. Training programs
 - c. Posting
 - d. Written communications
 - e. A system of anonymous notification by employees about hazards
 - f. A labor/management safety and health committee
4. Procedures for identifying and evaluating workplace hazards, including scheduled periodic inspections to identify unsafe conditions and work practices. Such inspections shall be made:
- a. Whenever introducing into the workplace new substances, processes, procedures or equipment that represent a new occupational safety or health hazard
 - b. Whenever the district is made aware of a new or previously unrecognized hazard

(cf. 3514 - Environmental Safety)
(cf. 3514.1 - Hazardous Substances)

5. A procedure for investigating occupational injury or illness.
6. Methods and/or procedures for correcting unsafe or unhealthful conditions, work practices and work procedures in a timely manner based on the severity of the hazard when observed or discovered.

When an imminent hazard exists which cannot be immediately abated without endangering employee(s) and/or property, these procedures shall call for the removal of all exposed staff from the area except those necessary to correct the hazardous condition. Employees needed to correct the condition shall be provided necessary safeguards.

7. Provision of training and instruction as follows:
- a. To all new employees
 - b. To all employees given new job assignments for which training has not previously been received

EMPLOYEE SAFETY (continued)

- c. Whenever new substances, processes, procedures or equipment are introduced into the workplace and represent a new hazard
- d. Whenever the district is made aware of a new or previously unrecognized hazard
- e. To familiarize supervisors with the safety and health hazards to which employees under their immediate direction and control may be exposed

(cf. 4131/4231/4331 - Staff Development)

Records of the steps taken to implement and maintain the injury and illness prevention program shall be kept in accordance with 8 CCR 3203.

Labor/Management Safety and Health Committee

The district's labor/management safety and health committee shall: (8 CCR 3203)

1. Meet regularly, but not less than quarterly.
2. Prepare and make available to affected employees written records of the safety and health issues discussed at committee meetings and maintained for review by Cal/OSHA upon request. These records shall be maintained for at least one year.
3. Review results of the periodic, scheduled worksite inspections.
4. Review investigations of occupational accidents and causes of incidents resulting in occupational injury or illness or exposure to hazardous substances. As appropriate, the committee may submit suggestions to the Superintendent or designee regarding the prevention of future incidents.
5. Review investigations of alleged hazardous conditions brought to the attention of any committee member. When determined necessary by the committee, it may conduct its own inspection and investigation to assist in remedial solutions.
6. Submit recommendations to assist in the evaluation of employee safety suggestions
7. Upon request of Cal/OSHA, verify abatement action taken by the district to abate citations issued by Cal/OSHA

EMPLOYEE SAFETY (continued)

Hearing Protection

Whenever employee noise exposure equals or exceeds the standards specified in law, the Superintendent or designee shall implement a hearing conservation program in accordance with state and federal regulations, including, when required, monitoring of sound levels, audiometric testing of affected employees, the provision of hearing protectors, and employee training. (8 CCR 5095-5100; 29 CFR 1910.95)

Eye Safety Devices

Eye safety devices shall be worn by employees whenever they are engaged in or observing an activity involving hazards or hazardous substances likely to cause injury to the eyes. (Education Code 32030-32034)

Such activities include, but are not limited to, the following: (Education Code 32031)

1. Working with hot molten metal
2. Milling, sawing, turning, shaping, cutting, grinding and stamping of any solid materials
3. Heat treating, tempering, or kiln firing of any metal or other materials
4. Gas or electric arc welding
5. Repair or servicing of any vehicles, machinery or equipment
6. Working with hot liquids or solids or with chemicals which are flammable, toxic, corrosive to living tissues, irritating, strongly sensitizing, radioactive, or which generate pressure through heat, decomposition, or other means

(cf. 5142 - Safety)

Revised: May 18, 2011

All Personnel

BP 4157.1

4257.1

WORK-RELATED INJURIES

4357.1

The Governing Board desires to provide its employees with insurance and workers' compensation benefits in accordance with law. The Superintendent or designee shall develop an efficient claims handling process in order to reduce costs and facilitate employee recovery.

(cf. 3320 - Claims and Actions Against the District)

(cf. 4032 - Reasonable Accommodation)

(cf. 4113.4/4213.4/4313.4 - Temporary Modified/Light-Duty Assignment)

(cf. 4154/4254/4354 - Health and Welfare Benefits)

(cf. 4157/4257/4357 - Employee Safety)

(cf. 4157.2/4257.2/4357.2 - Ergonomics)

(cf. 4161.11/4361.11 - Industrial Accident/Illness Leave)

(cf. 4261.11 - Industrial Accident/Illness Leave)

An employee shall report any work-related injury or illness to his/her supervisor as soon as practicable. Upon learning of an injury, a supervisor shall promptly report the incident to the Superintendent or designee and the insurance carrier as appropriate.

The Superintendent or designee shall ensure that every new employee is notified of his/her right to receive workers' compensation if injured at work and that injured employees are given notice of rights in accordance with law.

The Superintendent or designee shall ensure that notifications regarding workers' compensation are posted in accordance with law.

Legal Reference:

EDUCATION CODE

44984 Industrial accident and illness leaves, certificated employees

45192 Industrial accident and illness leaves, classified employees

LABOR CODE

3200-4855 Workers' compensation, especially:

3550-3553 Employee notice

3600-3605 Conditions of liability

3760 Report of injury to insurer

4600 Provision of medical and hospital treatment by employer

4906 Disclosures and statements

5400-5413 Notice of injury or death

6409.1 Reports

CODE OF REGULATIONS, TITLE 8

15596 Notice of employee rights

Management Resources:

WEB SITES

California Department of Industrial Relations: <http://www.dir.ca.gov>

All Personnel

AR 4157.1(a)

4257.1

WORK-RELATED INJURIES

4357.1

Notifications

The Superintendent or designee shall post a notice of employee rights related to workers' compensation and shall provide this information in writing to new employees. (Labor Code 3550-3551)

This notice shall also include a statement of the district's policy requiring employees to report work-related injuries as soon as practicable.

Employees shall also be informed that pursuant to Labor Code 4906, it is a felony for an employee to make a false workers' compensation claim.

District Responsibilities

Supervisors receiving reports of a work-related employee injury shall gather appropriate information, including but not limited to:

1. The date, time and place of the injury
2. The name, occupation and signature of the injured employee
3. Details of how the injury occurred
4. The names of any witnesses

Supervisors shall promptly remit information about work-related injuries to the Superintendent or designee.

Whenever a work-related injury results in lost work time beyond the date of the injury or requires medical treatment beyond first aid, the employee shall be given a workers' compensation claim form and a notice of potential eligibility for benefits within one working day of the injury. (Labor Code 5401) In the case of stress claims, the claim form shall be provided only if the employee indicates that he/she is going to a physician or is unable to work.

Within five working days of obtaining knowledge of any injury which results in lost time beyond the date of the injury or which requires medical treatment beyond first aid, the Superintendent or designee shall file a complete report of the injury with the district's insurer. (Labor Code 6409.1)

AR 4157.1(b)
4257.1
4357.1

WORK-RELATED INJURIES (continued)

Employee Responsibilities

Upon receiving treatment for a work-related injury, the employee shall obtain a medical verification of his/her condition, indicating any limitations on the employee's ability to work, the anticipated time needed for recovery from these limitations, and the type of work modification needed.

(cf. 4113.4/4213.4/4313.4 - Temporary Modified/Light-Duty Assignment)

The district has designated a medical carrier where employees will be taken in case of a work-related injury. Employees who wish to be taken to their personal physician for treatment of work-related injuries must have a written request on file with the Superintendent or designee. It is the employee's responsibility to inform his/her supervisor that he/she has such a request on file. (Labor Code 4600)

(cf. 4161.11/4361.11 - Industrial Accident/Illness Leave)

(cf. 4261.11 - Industrial Accident/Illness Leave)

To qualify for workers' compensation, employees must notify their supervisor of a work-related injury within 30 days. (Labor Code 5400)

All Personnel

AR 4157.2(a)

4257.2

ERGONOMICS

4357.2

To minimize employees' risk of repetitive motion injuries (RMIs), the Superintendent or designee shall implement an ergonomics program whenever two or more RMIs from an identical work activity have been reported by district employees within a 12-month period beginning July 3, 1997. In addition, all reported injuries must satisfy all of the following conditions: (8 CCR 5110)

1. The RMIs were predominantly caused (i.e., 50 percent or more) by a repetitive job, process or operation.
2. The employees incurring the RMIs were performing a job process or operation of identical work activity. Identical work activity means that the employees were performing the same repetitive motion task, such as similar word processing, assembly or loading tasks.
3. The RMIs were musculoskeletal injuries that a licensed physician objectively identified and diagnosed.

The Superintendent or designee shall ensure that the ergonomics program be designed to minimize RMIs in accordance with law. The program shall be composed of the following components: (8 CCR 5110)

1. Worksite evaluation

Each job, process or operation of identical work activity, or a representative number of such jobs, processes or operations of identical activities, shall be evaluated for exposures which have caused RMIs.

2. Control of exposures which have caused RMIs

Any exposures that have caused RMIs shall, in a timely manner, be corrected or, if not capable of being corrected, be minimized to the extent feasible. The district shall consider engineering controls, such as work station redesign, adjustable fixtures or tool redesign, and administrative controls such as job station, work pacing or work breaks.

3. Training

Employees shall be provided training that includes an explanation of:

- a. The district's program
- b. The exposures that have been associated with RMIs

ERGONOMICS (continued)

- c. The symptoms and consequences of injuries caused by repetitive motion
- d. The importance of reporting symptoms and injuries to the employer
- e. Methods used by the district to minimize RMIs

(cf. 4157/4257/4357 - *Employee Safety*)
(cf. 4157.1/4257.1/4357.1 - *Work-Related Injuries*)

Legal Reference:

EDUCATION CODE

44984 *Industrial accident and illness leaves, certificated employees*

45192 *Industrial accident and illness leaves, classified employees*

GOVERNMENT CODE

21153 *Employer not to separate for disability members eligible to retire*

LABOR CODE

142.3 *Adoption, amendment or repeal of standards and orders*

3200-4855 *Workers' compensation, especially:*

3550 *Posting of notice re workers' compensation insurance carrier*

3551 *Written notice to new employees*

3552 *Indication of employee's personal physician*

3600-3605 *Conditions of liability*

3760 *Report of injury to insurer*

4600 *Provision of medical and hospital treatment by employer*

4906 *Disclosures and statements*

5400-5404 *Notice of injury or death*

6303 *Place of employment; employment*

6305 *Occupational safety and health standards; special orders*

6310 *Retaliation for filing complaint prohibited*

6357 *Standards for workplace ergonomics*

6401.7 *Injury prevention programs*

6409.1 *Reports*

CODE OF REGULATIONS, TITLE 8

3203 *Injury and Illness Prevention Program*

5110 *Repetitive motion injuries*

EMPLOYEE SECURITY

The Governing Board desires to provide a safe, orderly working environment for all employees. As part of the district's comprehensive school safety plan, the Superintendent or designee shall develop strategies for protecting employees from potentially dangerous persons and situations and for assisting them in the event of an emergency situation.

(cf. 0450 - Comprehensive Safety Plan)
(cf. 3515 - Campus Security)
(cf. 5131.4 - Campus Disturbances)

The Superintendent or designee shall ensure that employees are informed, in accordance with law, regarding crimes and offenses by students who may pose a danger in the classroom.

Any employee against whom violence or any threat of violence has been directed in the workplace shall notify the Superintendent or designee immediately. The Superintendent or designee shall initiate legal and security measures to protect the employee and others in the workplace. In addition, the Superintendent or designee may initiate legal proceedings against any individual to recover damages for injury caused by the willful misconduct of that individual to the person or property of an employee or another person on district premises.

(cf. 3320 – Claims and Actions Against the District)
(cf. 3515.4 – Recovery for Property Loss or Damage)

The Superintendent or designee shall ensure that employees are trained in crisis prevention and intervention techniques in order to protect themselves and students. Staff development may include training in classroom management, effective communication techniques and crisis resolution.

(cf. 4131 - Staff Development)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)

The Governing Board recognizes that access to two-way communications devices allows employees to call for assistance from their supervisor or law enforcement in the event of a threat of violence or medical emergency. The district shall provide such communications devices in classrooms to the extent possible.

(cf. 5141 - Health Care and Emergencies)

EMPLOYEE SECURITY

Reporting of Injurious Objects

The Governing Board requires school employees to take immediate action upon being made aware that any person is in possession of an injurious object on school grounds or at a school-related or school-sponsored activity. The employee shall use his/her own judgment as to the dangerousness of the situation and, based upon this analysis, shall do one of the following:

1. Confiscate the object and deliver it to the principal immediately
2. Immediately notify the principal, who shall take appropriate action
3. Immediately notify the local law enforcement agency and the principal

(cf. 5131.7 - Weapons and Dangerous Instruments)

(cf. 5144. - Discipline)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

When informing the principal about the possession or seizure of a weapon or dangerous device, the employee shall report the name(s) of persons involved, witnesses, location, and the circumstances of any seizure.

Legal Reference: (see next page)

EMPLOYEE SECURITY

Legal Reference:

EDUCATION CODE

- 32210-32212 Willful disturbance, public schools or meetings
- 32225-32226 Communication devices
- 35208 Liability insurance
- 35213 Reimbursement for loss, destruction or damage of school property
- 44014 Report of assault by pupil against school employee
- 44807 Duty concerning conduct of students
- 48201 Transfer of student records
- 48900-48926 Suspension or expulsion
- 49079 Notification to teacher; student who has engaged in acts re grounds for suspension or expulsion
- 49330-49335 Injurious objects

CIVIL CODE

- 51.7 Freedom from violence or intimidation

CODE OF CIVIL PROCEDURE

- 527.8 Workplace violence safety act

GOVERNMENT CODE

- 995-996.4 Defense of public employees
- 3543.2 Scope of representation

PENAL CODE

- 71 Threatening public officers and employees and school officials
- 240-246.3 Assault and battery, including:
 - 241.3 Assault against school bus drivers
 - 241.6 Assault on school employee includes board member
 - 243.3 Battery against school bus drivers
 - 243.6 Battery against school employee includes board member
- 245.5 Assault with deadly weapon; school employee includes board member
- 290 Registration of sex offenders
- 601 Trespass by person making credible threat
- 626-626.11 School crimes
- 646.9 Stalking
- 12403.7 Weapons approved for self defense

WELFARE AND INSTITUTIONS CODE

- 827 Juvenile court proceedings; reports; confidentiality
- 828.1 District police or security department, disclosure of juvenile records

COURT DECISIONS

- City of San Jose v. William Garbett, (2010) 190 Cal. App. 4th 526

Management Resources:

WEB SITES

- CDE, Safe Schools and Violence Prevention Office:
<http://www.cde.ca.gov/spbranch/safety/safetyhome>
- CSBA: <http://www.csba.org>

Adopted: _____ October 19, 2011

All Personnel

AR 4158(a)

4258

EMPLOYEE SECURITY

4358

An employee may use reasonable and necessary force when necessary for self-defense, to protect another person or property, to quell a disturbance threatening physical injury to others, or to obtain possession of weapons or other dangerous objects on or within the control of a student. (Education Code 44807, 49001)

(cf. 5131.7 - Weapons and Dangerous Instruments)

(cf. 5144 - Discipline)

Employees shall promptly report to their principal or other immediate supervisor any attack, assault or physical threat made against them by a student.

Both the employee and the principal or other immediate supervisor shall promptly report such instances to the appropriate local law enforcement agency. (Education Code 44014)

In addition, employees shall promptly report to their principal or supervisor, and may report to law enforcement, any attack, assault or threat made against them on school grounds by any other individual.

(cf. 3515.2 - Disruptions)

Reports of attack, assault or threat also shall be forwarded immediately to the Superintendent or designee.

An employee whose person or property is injured or damaged by willful misconduct of a student may ask the district to pursue legal action against the student or the student's parent/guardian. (Education Code 48905)

(cf. 3515.4 - Recovery for Property Loss or Damage)

Notice Regarding Student Offenses Committed While Under School Jurisdiction

The Superintendent or designee shall inform the teacher of each student who has engaged in, or is reasonably suspected of, any act during the previous three school years which could constitute grounds for suspension or expulsion under Education Code 48900, with the exception of the possession or use of tobacco products, or Education Code 48900.2, 48900.3, 48900.4, or 48900.7. This information shall be based upon district records maintained in the ordinary course of business or records received from a law enforcement agency. (Education Code 49079)

(cf. 5125 - Student Records)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

EMPLOYEE SECURITY (continued)

Upon receiving a transfer student's record regarding acts committed by the student that resulted in his/her suspension or expulsion, the Superintendent or designee shall inform any of the student's teacher(s) that the student was suspended from his/her former district and of the act that resulted in the suspension or expulsion. (Education Code 48201)

Information received by teacher(s) shall be received in confidence for the limited purpose for which it was provided and shall not be further disseminated by the teacher. (Education Code 49079)

Notice Regarding Student Offenses Committed While Outside School Jurisdiction

When a minor student has been found by a court of competent jurisdiction to have illegally used, sold or possessed a controlled substance or committed specified crimes involving serious acts of violence, the district police or security department may provide written notification to the Superintendent. (Welfare and Institutions Code 828.1)

(cf. 3515.3 - District Police/Security Department)

When informed by the court that a minor student has been found by a court to have committed any felony or any misdemeanor involving curfew, gambling, alcohol, drugs, tobacco products, carrying of weapons, a sex offense listed in Penal Code 290, assault or battery, larceny, vandalism or graffiti, the Superintendent or designee shall so inform the school principal. (Welfare and Institution Code 827)

The principal shall disseminate this information to the counselor(s) who directly supervises or reports on the student's behavior or progress. The principal also may inform any teacher or administrator he/she thinks may need the information so as to work with the student appropriately, avoid being needlessly vulnerable, or protect others from vulnerability. (Welfare and Institutions Code 827)

Any court-initiated information that a teacher, counselor or administrator receives shall be kept confidential and used only to rehabilitate the student and protect other students and staff. The information shall be further disseminated only when communication with the student, parent/guardian, law enforcement staff and probation officer is necessary to rehabilitate the student or to protect students and staff. (Welfare and Institutions Code 827)

When a student is removed from school as a result of his/her offense, the Superintendent shall hold the court's information in a separate confidential file until the student is returned to public school. If the student is returned to a different district, the Superintendent shall transmit the information provided by the student's parole or probation officer to the Superintendent of the new district of attendance. (Welfare and Institutions Code 827)

EMPLOYEE SECURITY (continued)

Any confidential file of court-initiated information shall be kept until the student becomes 18, graduates from high school, or is released from juvenile court jurisdiction, whichever occurs first; it shall then be destroyed. (Welfare and Institutions Code 827)

Procedures to Maintain Confidentiality of Student Offenses

In order to maintain confidentiality when providing information about student offenses to counselors and teachers of classes/programs to which a student is assigned, the principal or designee shall send the staff member a written notification requesting him/her to review a student's file in the school office as soon as practicable. This notification shall not name or otherwise identify the student. The staff member shall be asked to initial the notification and return it to the principal or designee.

The staff member shall also initial the student's file when reviewing it in the school office. Once the district has made a good faith effort to comply with the notification requirement of Education Code 49079 and Welfare and Institutions Code 827, an employee's failure to review the file constitutes district compliance with the requirement to provide notice to the teacher.

All Personnel

BP 4159

4259

EMPLOYEE ASSISTANCE PROGRAMS

4359

The Governing Board recognizes that school district employees may have problems which can have detrimental effects upon job performance and student safety. The Governing Board encourages employees to seek help when such problems exist and to take advantage of the resources that are available to assist them.

Employees shall have confidential access to information about the district's employee assistance program. This information shall be available to all employees and their spouses and dependents.

- (cf. 3513.3 - Tobacco-Free Schools)*
- (cf. 4020 - Drug and Alcohol-Free Workplace)*
- (cf. 5131.62 - Tobacco)*

Management and supervisory staff shall be knowledgeable about the district's employee assistance program and may counsel employees about the program, as appropriate.

Participation in the assistance program shall not jeopardize an employee's employment or career advancement, nor will it protect the employee from disciplinary action for substandard job performance.

- (cf. 4032 - Reasonable Accommodation)*
- (cf. 4115 - Evaluation/Supervision)*
- (cf. 4118 - Suspension/Disciplinary Action)*
- (cf. 4161/4261 - Leaves)*
- (cf. 4161.1/4261.1 - Personal Illness/Injury Leave)*
- (cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)*
- (cf. 4161.9/4261.9/4361.9 - Catastrophic Leave Program)*
- (cf. 4215 - Evaluation/Supervision)*
- (cf. 4218 - Dismissal/Suspension/Disciplinary Action)*
- (cf. 4315 - Evaluation/Supervision)*
- (cf. 4361 - Leaves)*
- (cf. 4361.1 - Personal Illness/Injury Leave)*

Legal Reference:

EDUCATION CODE

- 35160 Authority of governing board*
- 35160.1 Broad authority of school districts*
- 44962 Leaves of absence for certificated employees*
- 44964 Power to grant leaves of absence for accident, illness or quarantine*
- 45190-45209 Resignations and leaves of absence for classified employees*

GOVERNMENT CODE

- 8355 Certification to contracting or granting agency; requisites*

HEALTH AND SAFETY CODE

- 104420 Providing information re: smoking cessation program*

UNITED STATES CODE, TITLE 41

- 701-707 Drug-Free Workplace Act*

Certificated and Classified Personnel

BP 4161.6

4261.6

CONTINUED PARTICIPATION IN BENEFIT PLANS

4361.6

Employees on Leave of Absence

- a. Employees on approved unpaid leaves of absence or disability may, for the duration of the leave or total disability, continue participation in the district group medical, dental, vision, and life insurance plans in which they are enrolled by paying the total premium costs. Total premium costs include the district contribution for the employee and any employee contribution for himself/herself and eligible family members, if applicable.
- b. To remain eligible for participation, the employee shall remit the total premium to the district or receive approval from Fiscal Services for a payment schedule not later than 30 days after the district invoice is mailed. Employees who fail to remit premiums according to their approved schedule shall have all coverage terminated and shall be ineligible for further participation in any district benefit plans.
- c. Employees on a district-approved leave of absence of less than one calendar month shall continue to participate in the fringe benefit program as though they were in a paid status.

Retirees

Employees who are retiring under the Public Employees or State Teachers Retirement Systems or completing an auxiliary services contract may continue to participate in group medical, dental, and vision services plans in which they were enrolled until age 65. The retiree must enroll within 30 days of losing active employment coverage and pay the total premium costs for retirees and eligible dependents. A retiree who fails to re-enroll in a plan within the time limit or discontinues participation in any plan, is ineligible for reinstatement of that plan.

Dependent Coverage

The district will continue the Group Health Care Coverage in effect for the spouse and/or dependents of a deceased employee during the 60-day insurance election period provided in COBRA.

LEAVES

The Governing Board shall provide for paid and unpaid employee leaves of absence in accordance with law, Governing Board policy, administrative regulation and collective bargaining agreements.

The Governing Board recognizes the following justifiable reasons for absence as provided by law:

1. Personal illness or injury
2. Industrial accident or illness
3. Childbirth and recovery, care of newborn, placement of a child with the employee for foster care or adoption of a child
4. Military service
5. Family illness or accident; bereavement; fire, flood or other immediate danger to the employee's home or property; and other personal emergencies
6. Vacations for classified staff and certificated management staff, as applicable
7. Jury duty or required court appearances
8. Religious observances
9. Participation in child's school or day care activities
10. For certificated staff, sabbaticals for purposes of study or travel; for classified staff, sabbaticals for purposes of study or retraining
11. Attendance at work-related meetings and staff development opportunities
12. Compulsory leave

(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4131 - Staff Development)
(cf. 4161.1/4361.1 - Personal Illness/Injury Leave)
(cf. 4161.11/4361.11 - Industrial Accident/Illness Leave)
(cf. 4161.2/4261.2/4361.2 - Personal Leaves)
(cf. 4161.3 - Professional Leaves)
(cf. 4161.5/4261.5/4361.5 - Military Leave)
(cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)
(cf. 4231 - Staff Development)
(cf. 4261.1 - Personal Illness/Injury Leave)
(cf. 4261.11 - Industrial Accident/Illness Leave)
(cf. 4261.3 - Professional Leaves)
(cf. 4331 - Staff Development)
(cf. 4361 - Leaves)

LEAVES (continued)

Long-Term Leaves

With Governing Board approval, employees may receive a long-term leave of absence without pay and without increment, seniority or service credit, for a period of up to one school year. Applications for long-term leave shall be made in writing and shall state the purpose for which leave is requested. All long-term leave agreements shall be in writing and shall state the terms and conditions of the leave, including the conditions governing the employee's return.

At the end of a long-term leave, the employee shall be reinstated in a position at the same level as that held at the time leave was granted, unless otherwise agreed upon.

The Governing Board shall consider any written request by an employee to return to work prior to the expiration date of the leave.

Legal Reference:

EDUCATION CODE

44036 Leaves of absence for judicial and official appearances

44037 Unlawful to encourage exemption from jury duty

44842 Failure to provide notice or to report to work

44940 Sex offenses and narcotic offenses; compulsory leave of absence

44962-44988 Leaves of absence (certificated)

45190-45210 Leaves of absence (classified)

GOVERNMENT CODE

3543.2 Scope of representation

LEAVES

Disability Leave

The Governing Board may grant a leave of absence to any certificated employee who has applied for disability benefits, not to exceed 30 days beyond final determination of the employee's eligibility for disability benefits by the State Teachers' Retirement System. If the employee is determined to be eligible, that leave shall be extended for the term of the disability, but not more than 39 months. (Education Code 44986)

Return to Service After Leaves

By May 30 of each school year, the clerk or secretary of the Governing Board may request any certificated employee on leave of absence to notify the district, in the manner described in Education Code 44842, of his/her intention to remain in service with the district the following school year. (Education Code 44842)

Following a request by the district to give notice in the manner described in Education Code 44842, an employee who is on leave of absence for 20 or more consecutive working days after April 30 of any school year may have his/her employment terminated if: (Education Code 44842)

1. The employee, without good cause, fails to notify the district by July 1 that he/she intends to remain in service the following school year.
2. The employee, without good cause and without being granted a leave of absence, fails to report for duty at the beginning of the next school year for 20 consecutive days after being notified at least five days in advance of the time and place at which to report to work.

(cf. 4117.4 - Dismissal)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

Use of Leaves by Classified Employees

A classified employee may interrupt or terminate vacation leave in order to begin another type of paid leave without a return to active service, as long as the employee provides adequate notice and relevant supporting information regarding the basis for such interruption or termination. (Education Code 45200)

Certificated Personnel

AR 4161.1(a)
4361.1

PERSONAL ILLNESS/INJURY LEAVE

Full-time certificated employees are entitled to 10 days leave of absence for personal illness or injury (sick leave) per school year, with full pay. Employees working less than five days per week shall be granted comparable sick leave in proportion to the time they work. (Education Code 44978)

(cf. 4161/4261 - Leaves)
(cf. 4161.9/4261.9/4361.9 - Catastrophic Leave Program)
(cf. 4361 - Leaves)

An employee may take sick leave at any time during the school year, even if credit for sick leave has not yet been accrued. (Education Code 44978)

An employee who does not complete a given year of service shall be charged for any unearned sick leave used as of the date of termination.

Unused days of sick leave shall be accumulated from year to year without limitation. (Education Code 44978)

At the beginning of each school year, employees shall be notified of the amount of sick leave they have accumulated.

Any certificated employee who leaves the district after at least one year of employment and accepts a certificated position in another district, county office of education or community college district within one year shall have transferred with him/her the total amount of accumulated sick leave. The district shall not require new employees to waive their leave accumulated in a previous district. (Education Code 44979, 44980)

Sick leave may be used by a certificated employee for:

1. Cases of temporary inability to perform duties because of illness, accident or quarantine, whether or not the cause of absence arises out of and in the course of employment (Education Code 44964)

(cf. 4157.1/4257.1/4357.1 - Work-Related Injuries)

2. Absences due to pregnancy, miscarriage, childbirth and recovery (Education Code 44965, 44978)

(cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)

3. Cases of personal necessity (Education Code 44981)

(cf. 4161.2/4261.2/4361.2 - Personal Leaves)

4. Medical and dental appointments, in increments of not less than one hour

PERSONAL ILLNESS/INJURY LEAVE (continued)

5. Cases of industrial accidents or illnesses when leave granted specifically for that purpose has expired (Education Code 44984)

(cf. 4161.11/4361.11 - Industrial Accident/Illness Leave)

6. Illness of the employee's child, parent, spouse, registered domestic partner or domestic partner's child, up to the amount of sick leave that would be accrued during six months (Labor Code 233)

An employee shall notify the district of his/her need to be absent as soon as such need is known, so that substitute services may be secured. This notification shall include an estimate of the expected duration of absence. If the absence becomes longer than estimated, the employee shall so notify the district. If the duration of absence becomes shorter than estimated, the employee shall notify the district not later than 3 p.m. of the day preceding the day on which he/she intends to return to work. If failure to so notify the district results in a substitute being secured, the cost of the substitute shall be deducted from the employee's pay.

(cf. 4121 - Temporary/Substitute Personnel)

Sick Leave Beyond 10 Days

When a certificated employee has exhausted all available sick leave, including all accumulated sick leave, and continues to be absent from his/her duties due to illness or accident for an additional period up to five school months, the employee shall receive his/her regular salary minus the actual cost of a substitute to fill the position. If the district has made every reasonable effort to secure the services of a substitute and has been unable to do so, the amount that might have been paid to a substitute shall be deducted from the employee's salary. (Education Code 44977)

The sick leave, including accumulated sick leave, and the five-month period shall run consecutively. (Education Code 44977)

An employee shall not be provided more than one five-month period per illness or accident. However, if the school year ends before the five-month period is exhausted, the employee may take the balance of the five-month period in a subsequent school year. (Education Code 44977)

After five months, if a certificated employee has exhausted all available sick leave and is not medically able to resume his/her duties, the employee shall be placed either in another position or on a reemployment list. If the employee is on probationary status, he/she shall be placed on the reemployment list for 24 months beginning at the expiration of the five-month period provided pursuant to Education Code 44977; if on permanent status, the employee

PERSONAL ILLNESS/INJURY LEAVE (continued)

shall be placed on the reemployment list for 39 months. If during this time the employee becomes medically able, he/she shall be returned to employment in a position for which he/she is credentialed and qualified. (Education Code 44978.1)

(cf. 4116 - Probationary/Permanent Status)

Verification Requirements

After any absence due to illness or injury, the employee shall verify the absence in accordance with the provisions of the certificated collective bargaining agreement.

(cf. Certified Contract 8.1.3)

The Superintendent or designee may, at any time, require additional written verification by the employee's physician or practitioner. Such verification shall be required whenever an employee's absence record shows chronic absenteeism or a pattern of absences immediately before or after weekends and/or holidays or whenever clear evidence indicates that an absence is not related to illness or injury.

The Superintendent or designee may require an employee to visit a physician selected by the district and at district expense in order to receive a report on the medical condition of the employee. The report shall include a statement as to the employee's need for further leave of absence and a prognosis as to when the employee will be able to return to work. If the report concludes that the employee's condition does not warrant continued absence, the Superintendent or designee may, after giving notice to the employee, deny further leave.

Before returning to work, an employee who has been absent for surgery, hospitalization or extended medical treatment may be asked to submit a letter from his/her physician stating that he/she is able to return and stipulating any recommended restrictions or limitations.

(cf. 4032 - Reasonable Accommodation)

(cf. 4113.4/4213.4/4313.4 - Temporary Modified/Light-Duty Assignment)

Legal Reference: (see next page)

PERSONAL ILLNESS/INJURY LEAVE (continued)

Legal Reference:

EDUCATION CODE

44964 Power to grant leave of absence in case of illness, accident or quarantine

44965 Granting of leaves of absence for pregnancy and childbirth

44976 Transfer of leave rights when school is transferred to another district

44977 Salary deduction during absence from duties

44978 Provisions for sick leave of certificated employees

44979 Transfer of accumulated sick leave to another district

44980 Transfer of accumulated sick leave to a county office of education

44981 Leave of absence for personal necessity

44983 Exception to sick leave when district adopts specific rule

44986 Leave of absence for disability allowance applicant

LABOR CODE

233 Illness of child, parent, spouse or domestic partner

CODE OF REGULATIONS, TITLE 5

5601 Transfer of accumulated sick leave

INDUSTRIAL ACCIDENT/ILLNESS LEAVE

In each fiscal year, allowable leave for certificated employees for any single industrial accident or illness shall be for 60 days during which the schools of the district are in session or when the employee would otherwise have been performing work for the district.

(cf. 4113.4/4213.4/4313.4 - Temporary Modified/Light-Duty Assignment)

(cf. 4157.1/4257.1/4357.1 - Work-Related Injuries)

(cf. 4157.2/4257.2/4357.2 - Ergonomics)

(cf. 4161/4261 - Leaves)

(cf. 4361 - Leaves)

Allowable industrial accident/illness leave shall not accumulate from year to year. (Education Code 44984)

When a certificated employee is absent from his/her duties because of an industrial accident or illness: (Education Code 44984)

1. Industrial accident or illness leave shall start on the first day of absence.
2. The employee shall be paid such portion of the salary due for any month in which the absence occurs as, when added to the temporary disability indemnity under Division 4 or 4.5 of the Labor Code, will result in a payment to the employee of not more than his/her full salary.
3. Industrial accident or illness leave shall be reduced by one day for each day of authorized absence, regardless of a temporary disability indemnity award.
4. When an industrial accident or illness leave overlaps into the next fiscal year, the employee is entitled to only the amount of unused leave due the employee for the same illness or injury.

Upon expiration of allowable leave for an industrial accident or illness, the employee may use personal illness and injury leave. If the employee continues to receive temporary disability indemnity, he/she may elect to take as much of the accumulated sick leave which, when added to his/her temporary disability indemnity, will result in a payment to the employee of not more than the employee's full salary. (Education Code 44984)

During any paid leave of absence, the employee may endorse to the district the temporary disability indemnity checks received on account of his/her industrial accident or illness. In those cases, the district shall issue appropriate salary warrants for payment of the employee's salary, and shall deduct normal retirement, other authorized contributions, and the temporary disability indemnity, if any, actually paid to and retained by the employee for periods covered by such salary warrants. (Education Code 44984)

(cf. 4161.1/4361.1 - Personal Illness/Injury Leave)

INDUSTRIAL ACCIDENT/ILLNESS LEAVE (continued)

Any employee receiving benefits under this leave shall, during periods of injury or illness, remain within the State of California unless the Governing Board authorizes travel outside the state. (Education Code 44984)

Legal Reference:

EDUCATION CODE

44977 Salary deductions during absence from duties

44978 Provisions for certificated employee sick leave

44983 Exception to sick leave

44984 Required rules for industrial accident and illness leave of absence

Management Resources:

WEB SITES

Department of Industrial Relations: <http://www.dir.ca.gov/DIR/OS&H/DOSH/dosh1.html>

PERSONAL LEAVES

For the purpose of any personal leave offered pursuant to state law, a registered domestic partner shall have the same rights, protections, and benefits as a spouse and protections provided to a spouse's child shall also apply to a child of a registered domestic partner. (Family Code 297.5)

Whenever possible, employees shall request personal leaves in advance and prepare suitable lesson plans or instructions for a substitute employee.

Bereavement

Employees are entitled to a leave of up to three days, or five days if out-of-state travel is required, upon the death of any member of the employee's immediate family. No deduction shall be made from the employee's salary, nor shall such leave be deducted from any other leave to which the employee is entitled. (Education Code 44985, 45194)

(cf. 4161/4261 - Leaves)
(cf. 4361 - Leaves)

Members of the immediate family include the mother, father, grandmother, grandfather, or grandchild of the employee or of the employee's spouse; the employee's spouse, son, son-in-law, daughter, daughter-in-law, brother or sister; or any relative living in the employee's immediate household. (Education Code 44985, 45194)

At his/her discretion, the Superintendent or designee may grant additional unpaid bereavement leave.

At the employee's request, bereavement leave may be extended under personal necessity leave provisions. (Education Code 44981, 45207)

Personal Necessity

Employees may use up to ten days of their accrued sick leave during each contract year for reasons of personal necessity. (Education Code 44981, 45207)

(cf. 4161.1/4361.1 - Personal Illness/Injury Leave)
(cf. 4261.1 - Personal Illness/Injury Leave)

Acceptable reasons for the use of personal necessity leave include:

1. Death of a member of the immediate family when the number of days of absence exceeds the limits set by bereavement leave provisions (Education Code 44981, 45207)

All Personnel

AR 4161.2(b)
4261.2
4361.2

PERSONAL LEAVES (continued)

2. An accident involving the employee's person or property or the person or property of a member of the employee's immediate family (Education Code 44981, 45207)
3. A serious illness of a member of the employee's immediate family (Education Code 44981)

(cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)

4. A classified employee's appearance in any court or before any administrative tribunal as a litigant, party or witness under subpoena or other order (Education Code 45207)
5. Fire, flood or other immediate danger to the home of the employee
6. Personal business of a serious nature which the employee cannot disregard

Leave for personal necessity may be allowed for other reasons at the discretion of the Superintendent or designee. However, no such leave shall be granted for purposes of personal convenience, for the extension of a holiday or vacation, or for matters which can be taken care of outside of working hours. The Superintendent or designee shall have final discretion as to whether a request reflects true personal necessity.

Advance permission shall not be required of any employees in cases involving the death or serious illness of a member of the employee's immediate family or an accident involving the employee's person or property or the person or property of a member of his/her immediate family. (Education Code 44981, 45207)

After any absence due to personal necessity, the employee shall verify the absence by submitting a completed and signed district absence form to his/her immediate supervisor.

Legal Duties

Classified employees called for jury duty shall be granted leave with pay up to the amount of the difference between the employee's regular earnings and any amount received for jury or witness fees. (Education Code 44037)

Certificated employees also shall be granted leave for jury duty with pay up to the amount of the difference between the employee's regular earnings and any amount received as juror's fees.

PERSONAL LEAVES (continued)

Employees shall be granted leaves to appear in court as witnesses other than litigants or to respond to an official order from another governmental jurisdiction for reasons not brought about through the connivance or misconduct of the employee. Such employees shall receive pay up to the amount of the difference between the employee's regular earnings and any amount received for witness fees.

An employee may take time off work in order to: (Labor Code 230)

1. Serve on an inquest jury or trial jury
2. Comply with a subpoena or other court order to appear as a witness, including but not limited to cases in which the employee is a victim of a crime

Notices, summons and subpoenas for court appearances shall be submitted to the district office when requesting leave.

Leaves for Crime Victims

An employee may be absent from work in order to attend judicial proceedings related to a crime when he/she is a victim, immediate family member of a victim, registered domestic partner of a victim, or child of a registered domestic partner of a victim of the following crimes: (Labor Code 230.2)

1. A violent felony as defined in Penal Code 667.5(c)
2. A serious felony as defined in Penal Code 1192.7(c)
3. A felony provision of law proscribing theft or embezzlement

For these purposes, the employee may use vacation, personal leave, personal illness/injury leave, compensatory time off that is otherwise available to the employee, or unpaid leave. (Labor Code 230.2)

Prior to taking time off, an employee shall give his/her supervisor a copy of the notice of each scheduled proceeding that is provided by the responsible agency, unless advance notice is not feasible. When advance notice is not feasible or an unscheduled absence occurs, the employee shall, within a reasonable time after the absence, provide documentation evidencing the judicial proceeding from the court or government agency setting the hearing, the district attorney or prosecuting attorney's office, or the victim/witness office that is advocating on behalf of the victim. (Labor Code 230.2)

PERSONAL LEAVES (continued)

The district shall keep confidential any records pertaining to the employee's absence from work. (Labor Code 230.2)

Leaves for Victims of Domestic Violence or Sexual Assault

An employee who is a victim of domestic violence or sexual assault as defined by law may take time off work to obtain or attempt to obtain a temporary restraining order, restraining order or other injunctive relief to help ensure the health, safety or welfare of the employee or his/her child. (Labor Code 230)

In addition, an employee who is a victim of domestic violence or sexual assault may take time off work to attend to the following activities: (Labor Code 230.1)

1. Seek medical attention for injuries caused by domestic violence or sexual assault
2. Obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence or sexual assault
3. Obtain psychological counseling related to an experience of domestic violence or sexual assault
4. Participate in safety planning and take other actions to increase safety from future domestic violence or sexual assault, including temporary or permanent relocation

An employee who is a victim of domestic violence or sexual assault may use vacation, personal leave, or compensatory time off that is otherwise available to the employee under the applicable terms of employment, unless otherwise provided by a collective bargaining agreement. (Labor Code 230, 230.1)

Prior to taking this time off, an employee shall give reasonable notice to his/her supervisor, unless advance notice is not feasible. When an unscheduled absence occurs, the employee shall provide to his/her supervisor sufficient certification of the absence in the form of any of the following documents: (Labor Code 230)

1. A police report indicting that the employee was a victim of domestic violence or sexual assault
2. A court order protecting or separating the employee from the perpetrator of an act of domestic violence or sexual assault, or other evidence from the court or prosecuting attorney that the employee has appeared in court

PERSONAL LEAVES (continued)

3. Documentation from a medical professional, domestic violence advocate or advocate for victims of sexual assault, health care provider, or counselor that the employee was undergoing treatment for physical or mental injuries or abuse from an act of domestic violence or sexual assault

The district shall maintain the confidentiality of such an employee to the extent authorized by law. (Labor Code 230, 230.1)

Personal Leave for a Child’s School Activities

Any employee who is a parent, guardian or grandparent having custody of one or more children who are enrolled in grades kindergarten through 12, or who attend a licensed day care facility, may use up to 40 hours of personal leave, vacation or compensatory time off each school year in order to participate in school or day care activities. Such leave shall not exceed eight hours in any month of the school year, and the employee shall give reasonable advance notice of the absence. (Labor Code 230.8)

(cf. 1240 – Volunteer Assistance)

If both parents of a child are employed at the same work site, this leave shall be allowed for the first parent who applies; simultaneous absence by the second parent may be granted by the Superintendent or designee. (Labor Code 230.8) The employee shall use existing vacation, personal leave or compensatory time off for purposes of this leave. (Labor Code 230.8)

In lieu of using vacation, personal leave or compensatory time off, eligible employees giving reasonable advance notice may take up to 40 hours without pay each school year for this purpose, not to exceed eight hours in any month.

Upon request, the employee shall provide documentation from the school or licensed day care facility to prove that he/she participated in school or licensed day care facility activities at the time of the leave. (Labor Code 230.8)

Service on Education Boards, Committees, and State or Employee Organizations

Upon request, employees shall be granted up to 20 days of paid leave per year for service performed within the state on any boards, commissions, committees or groups authorized by Education Code 44987.3, provided that the service is in the state of California, the organization informs the district in writing of the service and the organization reimburses the district, upon the district's request, for compensation paid to the employee's substitute and for actual related administrative costs. (Education Code 44987.3)

All Personnel

AR 4161.2(f)
4261.2
4361.2

PERSONAL LEAVES (continued)

Upon request, certificated and classified employees shall be granted a leave of absence without loss of compensation to serve as an elected officer of a district employee organization or any statewide or national employee organization with which the local organization is affiliated. The leave shall include, but is not limited to, absence for purposes of attending periodic, stated, special, or regular meetings of the body of the organization. (Education Code 44987, 45210)

Spouse on Leave from Military Deployment

An employee who works an average of 20 hours or more per week and whose spouse is a member of the United States Armed Forces, National Guard, or reserves may take up to 10 days of unpaid leave during a period that his/her spouse is on leave from deployment during a military conflict, as defined in Military and Veterans Code 395.10. (Military and Veterans Code 395.10)

The employee shall provide the Superintendent or designee with notice, within two business days of receiving official notice that his/her spouse will be on leave from deployment, of his/her intention to take the leave. The employee shall submit written documentation certifying that his/her spouse will be on leave from deployment during the time that the leave is requested. (Military and Veterans Code 395.10)

Leave for Emergency Duty

An employee may take time off to perform emergency duty as a volunteer firefighter, a reserve peace officer, or emergency rescue personnel. (Labor Code 230.3)

An employee who is a volunteer firefighter shall be permitted to take temporary leaves of absence, not to exceed an aggregate total of 14 days per calendar year, for the purpose of engaging in fire or law enforcement training. (Labor Code 230.4)

Civil Air Patrol Leave

An employee may take up to 10 days of unpaid leave per calendar year, beyond any leave otherwise available to employees, to respond to an emergency operational mission to the California Civil Air Patrol, provided that the employee has been employed by the district for at least a 90-day period immediately preceding the leave. Such leaves shall not exceed three days for a single emergency operational mission, unless an extension is granted by the governmental entity authorizing the mission and is approved by the Superintendent or designee. (Labor Code 1501,1503)

PERSONAL LEAVES (continued)

Legal Reference:

EDUCATION CODE

- 44036-44037 Leaves of absence for judicial and official appearances
- 44963 Power to grant leaves of absence (certificated)
- 44981 Leaves of absence for personal necessity (certificated)
- 44985 Leave of absence due to death in immediate family (certificated)
- 44987 Service as officer of employee organization (certificated)
- 44987.3 Leave of absence to serve on certain boards, commissions, etc.
- 45190 Leaves of absence and vacations (classified)
- 45194 Bereavement leave of absence (classified)
- 45198 Effect of provisions authorizing leaves of absence
- 45207 Personal necessity (classified)
- 45210 Service as officer of employee organization (classified)
- 45240-45320 Merit system, classified employees

FAMILY CODE

- 297-297.5 Registered domestic partner rights, protections, and benefits

GOVERNMENT CODE

- 3543.1 Release time for representatives of employee organizations

LABOR CODE

- 230-230.2 Leave for victims of domestic violence, sexual assault, or specified felonies
- 230.3 Leave for emergency personnel
- 230.4 Leave for volunteer firefighters
- 230.8 Leave to visit child's school
- 233 Illness of child, parent, spouse, or domestic partner or domestic partner's child
- 234 Absence control policy
- 1500-1507 Civic Air Patrol leave

MILITARY AND VETERANS CODE

- 395.10 Leave when spouse on leave from military deployment

PENAL CODE

- 667.5 Violent felony, defined
- 1192.7 Serious felony, defined

CALIFORNIA CONSTITUTION

- Article 1, Section 8 Religious discrimination

UNITED STATES CODE, TITLE 29

- 2612 Family and Medical Leave Act, leave requirements

UNITED STATES CODE, TITLE 42

- 2001d-2001d-7 Title VII, Civil Rights Act of 1964

COURT DECISIONS

- Rankin v. Commission on Professional Competence (1988) 24 Cal.3d 167

Management Resources:

WEB SITES

- California Federation of Teachers: <http://www.cft.org>
 - California School Employees Association: <http://www.csea.com>
 - California Teachers Association: <http://www.cta.org>
- (11/03 11/07) 3/10

Revised: May 18, 2011

All Personnel

AR 4161.5(a)

4261.5

MILITARY LEAVE

4361.5

Purposes of Leave

Military leave shall be granted to any district employee who:

1. Is a member of the reserve corps of the United States Armed Forces, National Guard or Naval Militia who, on a temporary basis, is engaged in active military training, encampment, naval cruises, special exercises, or like activity, provided that: (Military and Veterans Code 395, 395.01)
 - a. The ordered duty does not exceed 180 calendar days, including time involved in going to and returning from such duty.
 - b. The employee has been an employee of the district for at least one year immediately prior to the day the military leave begins. All recognized military service performed prior to and during district employment shall count toward the period of time that the employee has been employed by the district.
2. Has served with the district for at least one year and is ordered, on other than a temporary basis, into active military duty as a member of the reserve corps of the United States Armed Forces, National Guard or Naval Militia or who otherwise is inducted, enlisted, entered, ordered or called into active duty as a member of the Armed Forces (Military and Veterans Code 395.02)
3. Is a member of the National Guard, however long employed by the district, who is engaged in military or naval duty during a state of extreme emergency as declared by the Governor or during such time as the National Guard may be on active duty in situations described in Military and Veterans Code 146, provided that the leave does not exceed the duration of the emergency (Military and Veterans Code 395.05)
4. Is a member of the reserve corps of the United States Armed Forces, National Guard or Naval Militia who is engaged in temporary inactive duty training under the conditions described in items #1a-b above (Military and Veterans Code 395)
5. Is a member of the State Military Reserve who is engaged in temporary military training, drills, unit training assemblies or similar inactive duty, not to exceed 15 calendar days each year (Military and Veterans Code 395.9)
6. Enters active military service in the United States or State of California, including a uniformed auxiliary of any branch of military service, the United States Merchant Marines, or full-time paid service of the American Red Cross, during any period of war or national emergency (Education Code 44800; Military and Veterans Code 395.2)

(cf. 4161/4261 - Leaves)

(cf. 4361 - Leaves)

AR 4161.5(b)
4261.5
4361.5

MILITARY LEAVE (continued)

An employee's cumulative length of the absence and of all previous military leave shall not exceed five years, excluding those training and service obligations specified in 38 USC 4312. (38 USC 4312)

Notification of Leave

An employee who needs to be absent from the district to fulfill military service shall provide advance written or verbal notice to the Superintendent or designee, unless the giving of such notice is precluded by military necessity or is otherwise impossible or unreasonable. (38 USC 4312)

Compensation During Leave

An employee shall receive his/her salary for the first 30 calendar days of an absence for the purposes described in items #1-4 above. A National Guard member is entitled to receive his/her salary for the first 30 days regardless of length of employment. (Military and Veterans Code 395, 395.01, 395.02, 395.05, 395.07)

The 30-day pay entitlement is the maximum allowance which shall be paid for any one military leave or during any one fiscal year. (Military and Veterans Code 395.03)

For classified employees, 30 days compensation shall be one month's salary. For certificated employees, 30 days compensation shall be one-tenth of the employee's annual salary. (Education Code 45059)

Teachers shall not be entitled to compensation during non-teaching, non-paying months of the year.

During the period of military leave, an employee may, but is not required to, use any vacation or similar paid leave accrued before the commencement of the military leave. (38 USC 4316)

Benefits/Employment Status

Absence for military leave shall not affect the classification of any certificated employee. In the case of a probationary employee, the period of such absence shall not count as part of the service required to obtain permanent status, but shall not be construed as a break in the continuity of service for any purpose. (Education Code 44800)

(cf. 4116 - Probationary/Permanent Status)

AR 4161.5(c)
4261.5
4361.5

MILITARY LEAVE (continued)

An employee on temporary military leave, including an employee in the National Guard, shall continue to accrue the same vacation, sick leave or holiday privileges for up to a maximum period of 180 days, provided he/she has been employed by the district for at least one year immediately prior to beginning the leave. (Military and Veterans Code 395)

An employee on military leave for active duty shall not accrue sick leave or vacation leave. However, an employee who is a National Guard member on active duty shall accrue vacation and holiday privileges, but not sick leave, for the first 30 days of active service, regardless of his/her length of service with the district. (Military and Veterans Code 395.1, 395.05)

(cf. 4161.1/4361.1 - Personal Illness/Injury Leave)
(cf. 4261.1 - Personal Illness/Injury Leave)

An employee on military leave may be required to pay the employee cost, if any, of any funded benefit to the extent that other employees on leave are so required. (38 USC 4316)

An employee may elect to continue his/her health coverage during the leave. The maximum period of coverage for the employee and his/her dependents shall be either 18 months from the beginning of the leave or until the day after the employee fails to apply for or return to employment, whichever is less. An employee absent for 30 days or fewer shall not be required to pay more than the employee share for such coverage. An employee absent for 31 days or more may be required to pay not more than 102 percent of the full premium under the plan. (38 USC 4317)

Pension Plan Service Credit

Pension plan service credit and vesting shall continue during an employee's military leave as though no break in service has occurred. Payment of employer and employee contributions shall be made in accordance with law for members of the State Teachers' Retirement System and Public Employees' Retirement System. (Education Code 22850-22856; Government Code 20990-21013)

Reinstatement Rights

At the conclusion of the military duty, an employee shall be entitled to return to the position held at the beginning of the military leave, at the salary to which he/she would otherwise have been entitled. (Education Code 44800; Military and Veterans Code 395, 395.2)

An employee who performs active military duty in time of war or national emergency has a right to return to his/her position within six months of an honorable discharge or placement in inactive duty. Reemployment rights shall not be extended to any such employee who fails to return within 12 months after the first date upon which he/she could terminate or could cause to be terminated his/her active service. (Education Code 44800, Military and Veterans Code 395.1)

MILITARY LEAVE (continued)

When an employee has been on military leave for reasons other than war or national emergency, the time frame for reinstatement shall depend on the length of military service as follows: (38 USC 4312)

1. For a leave of 30 days or fewer, the employee shall report for duty no later than the beginning of the first full calendar day following the completion of military service
2. For a leave of 31 to 180 days, the employee shall complete an application for reemployment not later than 14 days after the completion of military service
3. For a leave of more than 180 days, the employee shall submit an application for reemployment within 90 days after the completion of military service

An employee failing to apply for reemployment within the appropriate period does not automatically forfeit his/her rights, but shall be subject to the Governing Board's rules governing unexcused absences. (38 USC 4312)

The employee shall be promptly reinstated upon request. (38 USC 4313)

If the employee's previous position has been abolished, he/she shall be reinstated in a position of like seniority, status and pay if such position exists, or to a comparable vacant position for which he/she is qualified. (Military and Veterans Code 395, 395.1)

An employee may not be reemployed if the district's circumstances have so changed as to make such reemployment impossible or unreasonable; if the accommodation, training or effort described in 38 USC 4313(a)(3), (a)(4) or (b)(2)(B) would impose an undue hardship on the district; or if the employee's position was for a brief, nonrecurrent period and there was no reasonable expectation that such employment will continue indefinitely or for a significant period. (38 USC 4312)

Legal Reference: (see next page)

AR 4161.5(e)
4261.5
4361.5

MILITARY LEAVE (continued)

Legal Reference:

EDUCATION CODE

22850-22856 Pension benefits, STRS members on military leave

44800 Effect of active military service on status of employees

45059 Employee ordered to military/naval duty - computation of salary

GOVERNMENT CODE

18540 Definition of armed forces

18540.3 Recognized military service

20990-21013 Pension benefits, PERS members on military leave

MILITARY AND VETERANS CODE

146 Events justifying calling of militia into active service

389 Definition of temporary military leave

395-395.9 Military leave

UNITED STATES CODE, TITLE 38

4301-4333 Uniformed Services Employment and Reemployment Rights Act of 1994

COURT DECISIONS

Wright v. City of Santa Clara (1989) 213 Cal. App. 3d 1503

Bowers v. San Buenaventura (1977) 75 Cal. App. 3d 65

ATTORNEY GENERAL OPINIONS

77 Ops. Cal. Atty. Gen. 209 (1994)

69 Ops. Cal. Atty. Gen. 185 (1986)

63 Ops. Cal. Atty. Gen. 924 (1978)

19 Ops. Cal. Atty. Gen. 132 (1952)

18 Ops. Cal. Atty. Gen. 178 (1951)

Management Resources:

U.S. DEPARTMENT OF LABOR PUBLICATIONS

A Non-Technical Resource Guide to the Uniformed Services Employment and Reemployment Rights Act (USERRA), February 2001

WEB SITES

U.S. Department of Labor, Veterans' Employment and Training Service: <http://www.dol.gov/dol/vets>

National Committee for Employer Support of the Guard and Reserve: <http://www.esgr.org>

All Personnel

AR 4161.8(a)
4261.8
4361.8

FAMILY CARE AND MEDICAL LEAVE

Eligibility

The district shall not interfere with, restrain or deny the exercise of any right provided to an eligible employee under the law. Also, the district shall not discharge or discriminate against any employee for opposing any practice made unlawful by, or because of his/her involvement in any proceedings related to the family care and medical leave. (Government Code 12945.2; 29 USC 2615)

(cf. 4030 - Nondiscrimination in Employment)

The district shall grant family care and medical leave to eligible employees for the following reasons: (29 USC 2612; 29 CFR 825.112; Family Code 297.5; Government Code 12945.2)

1. Because of the birth of a child of the employee or placement of a child with the employee in connection with the employee's adoption or foster care of the child
2. To care for the employee's child, parent, or spouse with a serious health condition
3. Because of the employee's own serious health condition that makes him/her unable to perform one or more essential functions of his/her position, except that CFRA leave shall not cover an employee's disability on account of pregnancy, childbirth, or related medical conditions
4. Because of any qualifying exigency arising out of the fact that the employee's spouse, child, or parent is a covered military member on covered active duty (or has been notified of an impending call or order to covered active duty)
5. To care for a covered servicemember with a serious injury or illness if the employee is the spouse, child, parent, or next of kin, as defined, of the servicemember

In addition to FMLA leave for disability on account of a pregnancy, childbirth, or related medical conditions pursuant to item #3 above, a female employee disabled by pregnancy, childbirth, or related medical conditions may be entitled to take leave for a reasonable period of time, not to exceed four months. (Government Code 12945)

FAMILY CARE AND MEDICAL LEAVE (Continued)

Definitions

Any word or phrase defined below shall have the same meaning throughout this administrative regulation except where otherwise specifically defined.

Child means a biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis as long as the child is under 18 years of age or an adult dependent child. (29 USC 2611; Government Code 12945.2)

Eligible employee means an employee who has at least 12 months of service with the employer, and who has at least 1,250 hours of service with the employer during the previous 12-month period. (29 USC 2611; 29 CFR 825.110; Government Code 12945.2)

Full-time teachers are deemed to meet the 1,250 hours of service requirement. (29 CFR 825.110)

Instructional employee means an employee whose principal function is to teach; instructional employees include athletic coaches, driving instructors, special education assistants and signers for the hearing impaired. The term does not include teacher assistants or aides, counselors, psychologists, curriculum specialists or other primarily non-instructional employees. (29 CFR 825.600)

Parent means a biological, foster or adoptive parent, a stepparent, a legal guardian, or another person who stood in loco parentis to the employee when the employee was a child. Parent does not include a spouse's parents (29 USC 2611; 29 CFR 825.122; Government Code 12945.2; 2 CCR 7297.0)

Serious health condition means an illness, injury, impairment, or physical or mental condition that involves either of the following: (29 USC 2611; 29 CFR 825.113, 825.114, 825.115; Government Code 12945.2)

1. Inpatient care in a hospital, hospice or residential health care facility
2. Continuing treatment or continuing supervision by a health care provider, including one or more of the following:
 - a. A period of incapacity of more than three consecutive full days
 - b. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition

All Personnel

AR 4161.8(c)
4261.8
4361.8

FAMILY CARE AND MEDICAL LEAVE (Continued)

- c. For purposes of leave under the Family and Medical Leave Act (FMLA), any period of incapacity due to pregnancy or for prenatal care
- d. Any period of incapacity which is permanent or long term due to a condition for which treatment may not be effective
- e. Any period of absence to receive multiple treatments including recovery, by a health care provider

Spouse means a partner in marriage as defined in Family Code 300 or 1 USC 7. In addition, for purposes of rights under the California Family Rights Act (CFRA), a registered domestic partner shall have the same rights, protections, and benefits as a spouse and protections provided to a spouse's child shall also apply to a child of a registered domestic partner. (1USC 7; 29 CFR 825.122; Family Code 297.5, 300; 2 CCR 7297.0)

Rights to Reinstatement and Maintenance of Benefits

Note: Pursuant to Government Code 12945.2 and 29 USC 2614, an employee on family care and medical leave has the right to be reinstated to the same or a comparable position when he/she returns from such leave. However, such an employee has no greater right to reinstatement or other benefits than he/she would have if he/she had been continuously employed. In addition, in certain situations described below, the district may be relieved of the obligation to reinstate an employee.

Upon granting an employee's request for family care and medical leave, the Superintendent or designee shall guarantee to reinstate the employee in the same or a comparable position when the leave ends. (29 USC 2614; Government Code 12945.2)

The district may refuse to reinstate an employee returning from leave to the same or a comparable position if all of the following apply: (29 USC 2614, Government Code 12945.2)

- 1. The employee is a salaried "key employee" who is among the highest paid 10 percent of those district employees who are employed within 75 miles of the employee's worksite
- 2. The refusal is necessary to prevent substantial and grievous economic injury to district operations

FAMILY CARE AND MEDICAL LEAVE (Continued)

3. The district informs the employee of its intent to refuse reinstatement at the time it determines that the refusal is necessary, and the employee fails to immediately return to service

An employee who takes leave has no greater right to reinstatement than if he/she had been continuously employed during the leave period. If the district reduces its work force during the leave period and the employee is laid off for legitimate reasons at that time, he/she is not entitled to reinstatement, provided the district has no continuing obligations under a collective bargaining agreement or otherwise. (29 CFR 825.216)

(cf. 4117.3 - Personnel Reduction)

(cf. 4217.3 - Layoff/Rehire)

(cf. 4317.3 - Personnel Reduction)

During the period when an employee is on family care and medical leave, he/she shall maintain his/her status with the district and the leave shall not constitute a break in service for purposes of longevity, seniority or any employee benefit plan. (29 USC 2614; Government Code 12945.2)

For a period of 12 work weeks, the district shall continue to provide an eligible employee on family care and medical leave, the group health plan coverage that was in place before he/she took the leave. If the employee fails to return to district employment after the expiration of the leave, for any reason other than the continuation, recurrence or onset of a serious health condition, or other circumstances beyond his/her control, he/she shall reimburse the district for premiums paid during the family care and medical leave. (29 USC 2614; 29 CFR 825.213; Government Code 12945.2)

(cf. 4154/4254/4354 - Health and Welfare Benefits)

In addition, during the period when an employee is on family care and medical leave, he/she shall be entitled to continue to participate in other employee benefit plans including life insurance, short-term or long-term disability insurance, accident insurance, pension and retirement plans, and supplemental unemployment benefit plans to the same extent and under the same conditions as apply to an unpaid leave taken for any other purpose. However, for purposes of pension and retirement plans, the district shall not be required to make plan payments for an employee during the leave period and the leave period shall not be counted for purposes of time accrued under the plan. (Government Code 12945.2)

All Personnel

AR 4161.8(e)
4261.8
4361.8

FAMILY CARE AND MEDICAL LEAVE (Continued)

Terms of Leave

An eligible employee shall be entitled to a total of 12 work weeks of family care and medical leave during any 12-month period, except in the case of leave to care for a covered servicemember as provided under "Military Caregiver Leave" below. (29 USC 2612; Government Code 12945.2)

This 12-month period shall be measured forward from the date the employee's first family care and medical leave begins. (29 CFR 825.200)

Note: Except in the situations described below, Government Code 12945.2 provides that leave granted under the CFRA must run concurrently with leave granted under the FMLA. Thus, CFRA leave and FMLA leave may not be combined so that total leave could exceed 12 work weeks.

Leave taken pursuant to the California Family Rights Act shall run concurrently with leave taken pursuant to the federal Family and Medical Leave Act (FMLA), except in the following circumstances:

1. Leave taken to care for a registered domestic partner or a child of a domestic partner. Such leave shall count as leave under the CFRA only. (Family Code 297.5)

Note: Pursuant to 2 CCR 7297.6, an employee's right to take pregnancy disability leave under Government Code 12945 is separate from her right to take leave under the CFRA.

2. Leave taken for disability on account of pregnancy, childbirth, or related medical conditions. FMLA leave taken for these purposes shall run concurrently with the California pregnancy disability leave granted pursuant to Government Code 12945. CFRA leave related to the birth of a child shall not commence until the expiration of the pregnancy disability leave. (Government Code 12945, 12945.2; 2 CCR 7297.6)

(cf. 4161.1/4361.1 - Personal Illness/Injury Leave)
(cf. 4261.1 - Personal Illness/Injury Leave)

Note: The following paragraph reflects the provisions of 29 USC 2612, indicating that leave taken for the birth or placement of a child must be concluded (not initiated) within one year of the child's birth or placement.

All Personnel

AR 4161.8(f)
4261.8
4361.8

FAMILY CARE AND MEDICAL LEAVE (Continued)

Leave taken pursuant to the California Family Rights Act shall run concurrently with leave taken pursuant to the federal Family and Medical Leave Act (FMLA), for any leave taken under the FMLA for disability on account of pregnancy, childbirth, or related medical conditions. In addition to family care and medical leave, an employee may be entitled to take pregnancy disability leave of up to four months. During the otherwise unpaid portion of pregnancy disability leave, the employee may use any accrued vacation, sick time or other paid leave. (Government Code 12945, 12945.2)

Leave taken for the birth or placement of a child must be concluded within the 12-month period beginning on the date of the birth or placement of the child. Such leave does not have to be taken in one continuous period of time. The basic minimum duration of the leave for birth or placement of a child shall be two weeks. However, the district shall grant a request for leave of less than two weeks' duration on any two occasions. (29 USC 2612; 2 CCR 7297.3)

If both parents of a child work for the district, their family care and medical leave related to the birth or placement of the child shall be limited to a combined total of 12 weeks. This restriction shall apply whether or not the parents are married, not married, or registered domestic partners. (29 USC 2612; Government Code 12945.2)

Use/Substitution of Paid Leave

During the period of family care and medical leave, the employee may elect to use his/her accrued vacation leave, other accrued time off, or any other paid or unpaid time off negotiated with the district. Accrued sick leave may be used when the purpose of the family care and medical leave is one for which sick leave may be taken pursuant to collective bargaining agreements and/or Governing Board policy. (29 USC 2612, Government Code 12945.2)

(cf. 4141/4241 - Collective Bargaining Agreement)
(cf. 4161/4261 - Leaves)

Intermittent Leave/Reduced Leave Schedule

Leave related to the serious health condition of the employee or his/her child, parent or spouse may be taken intermittently or on a reduced leave schedule when medically necessary, as determined by the health care provider of the person with the serious health condition. However, the district may limit leave increments to the shortest period of time that the district's payroll system uses to account for absences or use of leave. (29 USC 2612; 2 CCR 7297.3)

All Personnel

AR 4161.8(g)
4261.8
4361.8

FAMILY CARE AND MEDICAL LEAVE (Continued)

If an employee needs intermittent leave or leave on a reduced work schedule that is foreseeable based on planned medical treatment for the employee or a family member, the district may require the employee to transfer temporarily to an available alternative position. This alternative position must have equivalent pay and benefits, the employee must be qualified for the position, and the position must better accommodate recurring periods of leave than the employee's regular job. Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent leave or a reduced leave schedule.

(cf. 4113.4/4213.4/4313.4 - Temporary Modified/Light-Duty Assignment)

Instructional Employees: Leaves Near the End of the Term

The district may require an instructional employee to continue taking a requested leave until the end of the term in any of the following situations: (29 USC 2618)

1. If the instructional employee begins a leave of three or more weeks duration more than five weeks before the end of a term and would subsequently return to work during the last three weeks of the term
2. If the instructional employee, for reasons other than his/her own serious health condition, begins a leave of more than two weeks duration during the period that begins five weeks before the end of the term and would subsequently return to work during the last two weeks of the term
3. If the instructional employee, for reasons other than his/her own serious health condition, begins a leave of more than five days duration during the period that begins three weeks before the end of the term

Request for Family Care and Medical Leave

An employee shall provide at least verbal notice sufficient to make the district aware that he/she needs family care and medical leave and the anticipated timing and duration of the leave. The employee need not expressly assert or mention FMLA/CFRA to satisfy this requirement; however, he/she must state the reason the leave is needed (e.g., birth of child, medical treatment). If more information is necessary to determine whether the employee is eligible for family care and medical leave, the Superintendent or designee shall inquire further and obtain the necessary details of the leave to be taken. (2 CCR 7297.4)

Based on the information provided by the employee, the Superintendent or designee shall designate the leave, paid or unpaid, as FMLA/CFRA qualifying leave and shall give notice of such designation to the employee. (2CCR 7297.4)

All Personnel

AR 4161.8(h)
4261.8
4361.8

FAMILY CARE AND MEDICAL LEAVE (Continued)

When the need for the leave is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment for a serious health condition of the employee or a family member, the employee shall provide the district with at least 30 days advance notice before the leave. The employee shall consult with the district and make a reasonable effort to schedule, subject to the health care provider's approval, any planned medical treatment or supervision so as to minimize disruption to district operations. (Government Code 12945.2; 2 CCR 7297.4)

When the 30 days notice is not practicable because of a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, the employee shall provide the district with notice as soon as practicable. (2 CCR 7297.4)

Certification of Health Condition

At the time of the employee's request for leave for his/her own or his/her child's, parent's, or spouse's serious health condition, or within five business days of the request, the Superintendent or designee shall request that the employee provide certification by a health care provider of the need for leave. Upon receiving the district's request, the employee shall provide the certification within 15 days, unless either the Superintendent or designee provides additional time or it is not practicable under the particular circumstances, despite the employee's diligent, good faith efforts. (29 CFR 825.305; 2 CCR 7297.4)

The certification shall include the following: (29 USC 2613; Government Code 12945.2; 2CCR 7297.0)

1. The date on which the serious health condition began
2. The probable duration of the condition
3. If the employee is requesting leave to care for a child, parent or spouse with a serious health condition, the health care provider's certification of both of the following:
 - a. Estimated amount of time the health care provider believes the employee needs to care for the child, parent or spouse
 - b. Statement that the serious health condition warrants the participation of a family member to provide care during a period of the treatment or supervision of the child, parent or spouse

FAMILY CARE AND MEDICAL LEAVE (Continued)

4. If the employee is requesting leave because of his/her own serious health condition, the health care provider's certification that due to the serious health condition, the employee is unable to perform the functions of his/her job
5. If the employee is requesting leave for intermittent treatment or is requesting leave on a reduced leave schedule for planned medical treatment, the certification must also state the medical necessity for the leave, the dates on which treatment is expected to be given, the duration of such treatment, and the expected duration of the leave

The Superintendent or designee shall not request any genetic information, as defined in 42 USC 2000ff, from any employee or his/her family member except as necessary to comply with a certification requirement for FMLA/CFRA leave purposes or with the prior written authorization of the employee. Any such genetic information received by the district shall be kept confidential in accordance with law. (42 USC 2000ff-1, 2000ff-5)

When an employee has provided sufficient medical certification to enable the district to determine whether the employee's leave request is FMLA – eligible, the Superintendent or designee shall notify the employee within five business days whether the leave is FMLA – eligible. The Superintendent or designee may also retroactively designate leave as FMLA/CFRA as long as there is no individualized harm to the employee. (29 CFR 825.301)

If the Superintendent or designee doubts the validity of a certification that accompanies a request for leave for the employee's own serious health condition, he/she may require the employee to obtain a second opinion from a district-approved health care provider, at district expense. If the second opinion is contrary to the first, the Superintendent or designee may require the employee to obtain a third medical opinion from a third health care provider approved by both the employee and the district, again at district expense. The opinion of the third health care provider shall be final and binding. (29 USC 2613; Government Code 12945.2)

If additional leave is needed when the time estimated by the health care provider expires, the district may require the employee to provide recertification in the manner specified in the preceding paragraph. (29 USC 2613; Government Code 12945.2)

Fitness for Duty Upon Return to Work

Upon expiration of leave taken for his/her own serious health condition, an employee shall present certification from his/her health care provider that he/she is able to resume work.

All Personnel

AR 4161.8(j)
4261.8
4361.8

FAMILY CARE AND MEDICAL LEAVE (Continued)

(cf. 4112.4/4212.4/4312.4 - Health Examinations)

The certification from the employee's health care provider shall address the employee's ability to perform the essential functions of his/her job.

Military Family Leave Resulting from Qualifying Exigencies

An eligible employee may take up to 12 work weeks of unpaid leave during the 12-month period established by the district while a covered military member is on covered active duty or call to covered active duty status for one or more qualifying exigencies. (29 USC [2612](#))

Covered military member means an employee's spouse, son, daughter, or parent on covered active duty or call to covered active duty status. (29 CFR [825.126](#))

Covered active duty means duty during the deployment of a member of the regular Armed Forces to a foreign country or duty during the deployment of a member of the National Guard or Reserves to a foreign country under a call or order to active duty. (29 USC [2611](#))

Qualifying exigencies include time needed to: (29 CFR [825.126](#))

1. Address issues arising from short notice deployment (up to seven calendar days from the date of receipt of call or order of short notice deployment)
2. Attend military events and related activities, such as any official ceremony or family assistance program related to the active duty or call to active duty status
3. Arrange childcare or attend school activities arising from the active duty or call to active duty, such as arranging for alternative childcare, enrolling or transferring a child to a new school, or attending meetings
4. Make or update financial and legal arrangements to address a covered military member's absence
5. Attend counseling provided by someone other than a health care provider
6. Spend time (up to five days of leave per instance) with a covered military member who is on short-term temporary rest and recuperation leave during deployment

All Personnel

AR 4161.8(k)
4261.8
4361.8

FAMILY CARE AND MEDICAL LEAVE (Continued)

7. Attend to certain post-deployment activities, such as arrival ceremonies or reintegration briefings
8. Address any other event that the employee and district agree is a qualifying exigency

The employee shall provide the Superintendent or designee with notice of the need for the qualifying exigency leave as soon as practicable, regardless of how far in advance such leave is foreseeable. (29 CFR [825.302](#))

An employee who is requesting such leave for the first time shall provide the Superintendent or designee with a copy of the covered military member's active duty orders, or other documentation issued by the military, and the dates of the service. In addition, the employee shall provide the Superintendent or designee with certification of the qualifying exigency necessitating the leave. The certification shall contain the information specified in 29 CFR [825.309](#).

The employee's qualifying exigency leave may be taken on an intermittent or reduced leave schedule basis. (29 CFR [825.302](#))

During the period of qualified exigency leave, the district's rule regarding an employee's use of his/her accrued vacation leave and any other accrued paid or unpaid time off, as specified in "Use/Substitution of Paid Leave" above, shall apply.

The district shall grant up to a total of 26 work weeks of leave during a single 12-month period, measured forward from the first date of leave taken, to an eligible employee to care for a covered servicemember with a serious illness or injury. In order to be eligible for such military caregiver leave, an employee must be the spouse, son, daughter, parent, or next of kin of the covered servicemember. This 26-week period is not in addition to, but rather is inclusive of, the 12 work weeks of leave that may be taken for other FMLA qualifying reasons. (29 USC [2611](#), [2612](#); 29 CFR [825.127](#))

Covered servicemember may be either: (29 USC 2611)

1. A member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy; is otherwise in outpatient status; or is otherwise on the temporary disability retired list for a serious injury or illness
2. A veteran who, within the five years preceding his/her undergoing of medical treatment, recuperation, or therapy for a serious injury or illness, was a member of the Armed Forces, including the National Guard or Reserves

All Personnel

AR 4161.8(l)
4261.8
4361.8

FAMILY CARE AND MEDICAL LEAVE (Continued)

Son or daughter of a covered servicemember means the biological, adopted, or foster child, stepchild, legal ward, or a child of any age for whom the covered servicemember stood in loco parentis. (29 CFR 825.127)

Parent of a covered servicemember means the covered servicemember's biological, adopted, step or foster parent, or any other individual who stood in loco parentis to the covered servicemember (except "parents in law"). (29 CFR 825.127)

Next of kin means the nearest blood relative to the covered servicemember, or as designated in writing by the covered servicemember. (29 USC 2611, 2612)

Outpatient status means the status of a member of the Armed Forces assigned to a military medical treatment facility as an outpatient or a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients. (29 USC 2611; 29 CFR 825.127)

Serious injury or illness means: (29 USC 2611; 29 CFR 825.127)

1. For a member of the Armed Forces, an injury or illness incurred or aggravated by the member's service in the line of duty while on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating
2. For a veteran, an injury or illness incurred or aggravated by the member's service in the line of duty on active duty in the Armed Forces, including the National Guard or Reserves, that manifested itself before or after the member became a veteran

The employee shall provide reasonable and practicable notice of the need for the leave in accordance with the procedures in the section entitled "Request for Leave" above.

An employee requesting leave to care for a covered servicemember with a serious injury or illness shall provide the Superintendent or designee with certification from an authorized health care provider of the servicemember that contains the information specified in 29 CFR 825.310.

All Personnel

AR 4161.8(m)
4261.8
4361.8

FAMILY CARE AND MEDICAL LEAVE (Continued)

The leave may be taken intermittently or on a reduced schedule when medically necessary. An employee taking military caregiver leave in combination with other leaves pursuant to this administrative regulation shall be entitled to a combined total of 26 work weeks of leave during a single 12-month period. When both spouses work for the district and both wish to take such leave, the spouses are limited to a maximum combined total of 26 work weeks during a single 12-month period. (29 USC 2612)

During the period of military caregiver leave, the district's rule regarding an employee's use of his/her accrued vacation leave and other accrued paid or unpaid time off, as specified in "Use/Substitution of Paid Leave" above, shall apply.

Notifications

The Superintendent or designee shall provide the following notifications about state and federal law related to FMLA/CFRA:

1. General Notice: Information explaining the provisions of the FMLA/CFRA and employee rights and obligations shall be posted in a conspicuous place on district premises, or electronically, and shall be included in employee handbooks. (29 USC 2619; 2 CCR 7297.9)

The general notice shall also explain an employee's obligation to provide the Superintendent or designee with at least 30 days notice of the need for the leave, when the need for the leave is reasonably foreseeable. (2 CCR 7297.4)

2. Eligibility Notice: When an employee requests leave or when the Superintendent or designee acquires knowledge that an employee's leave may be for an FMLA/CFRA qualifying reason, the Superintendent or designee shall, within five business days, provide notification to the employee of his/her eligibility to take such leave. (29 CFR 825.300)
3. Rights and Responsibilities Notice: Each time the eligibility notice is provided to an employee, the Superintendent or designee shall provide written notification explaining the specific expectations and obligations of the employee, including any consequences for a failure to meet those obligations. Such notice shall include, as appropriate: (29 CFR 825.300)
 - a. A statement that the leave may be designated and counted against the employee's annual FMLA/CFRA leave entitlement and the appropriate 12-month entitlement period, if qualifying

FAMILY CARE AND MEDICAL LEAVE (Continued)

- b. Any requirements for the employee to furnish medical certification of a serious health condition, serious injury or illness, or qualifying exigency arising out of active duty or call to active duty status and the consequences of failing to provide the certification
 - c. The employee's right to substitute paid leave, whether the district will require substitution of paid leave, conditions related to any substitution, and the employee's entitlement to take unpaid leave if the employee does not meet the conditions for paid leave
 - d. Any requirements for the employee to make any premium payments to maintain health benefits, the arrangement for making such payments, and the possible consequences of failure to make payments on a timely basis
 - e. If applicable, the employee's status as a "key employee," potential consequence that restoration may be denied following the FMLA leave, and explanation of the conditions required for such denial
 - f. The employee's right to maintenance of benefits during the leave and restoration to the same or an equivalent job upon return from leave
 - g. The employee's potential liability for health insurance premiums paid by the district during the employee's unpaid FMLA leave should the employee not return to service after the leave
- Any time the information provided in the above notice changes, the Superintendent or designee shall, within five business days of his/her receipt of an employee's first notice of need for leave, provide the employee with a written notice referencing the prior notice and describing any changes to the notice. (29 CFR 825.300)
4. Designation Notice: When the Superintendent or designee has information (e.g., sufficient medical certification) to determine whether the leave qualifies as FMLA/CFRA leave, he/she shall, within five business days, provide written notification designating the leave as FMLA/CFRA qualifying or, if the leave will not be so designated, the reason for that determination. (29 CFR 825.300)

All Personnel

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4361.8

FAMILY CARE AND MEDICAL LEAVE (Continued)

If the amount of leave needed is known, the notice shall include the number of hours, days, or weeks that will be counted against the employee's FMLA/CFRA entitlement. If it is not possible to provide that number at the time of the designation notice, notification shall be provided of the amount of leave counted against the employee's entitlement upon request by the employee and at least once in every 30-day period if leave was taken in that period. (29 CFR 825.300)

If the district requires paid leave to be substituted for unpaid family care and medical leave, the notice shall so specify. If the district requires an employee to present a fitness-for-duty certification that addresses the employee's ability to perform the essential functions of the job, the notice shall also specify that requirement.

Any time the information provided in the designation notice changes, the Superintendent or designee shall, within five business days, provide the employee with written notice referencing the prior notice and describing any changes to the notice. (29 CFR 825.300)

Records

The Superintendent or designee shall maintain records pertaining to individual employees' use of family care and medical leave in accordance with law. (29 USC 2616; 42 USC 2000ff-1; 29 CFR 825.500; Government Code 12946).

Legal Reference:

EDUCATION CODE

[44965](#) *Granting of leaves of absence for pregnancy and childbirth*

FAMILY CODE

[297-297.5](#) *Rights, protections and benefits under law; registered domestic partners*

[300](#) *Validity of marriage*

GOVERNMENT CODE

12940 *Unlawful employment practices*

12945 *Pregnancy; childbirth or related medical condition; unlawful practice*

12945.1-12945.2 *California Family Rights Act*

19702.3 *Family care leave; exercise of rights*

CODE OF REGULATIONS, TITLE 2

7291.2-7291.16 *Sex discrimination: pregnancy and related medical conditions*

7297.0-7297.11 *Family care leave*

UNITED STATES CODE, TITLE 1

7 *Definition of marriage, spouse*

UNITED STATES CODE, TITLE 29

2601-2654 *Family and Medical Leave Act of 1993, as amended*

CODE OF FEDERAL REGULATIONS, TITLE 29

825.100-825.800 *Family and Medical Leave Act of 1993*

UNITED STATES CODE, TITLE 42

[2000ff-1-2000ff-11](#) *Genetic Information Nondiscrimination Act of 2008*

All Personnel

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FAMILY CARE AND MEDICAL LEAVE (Continued)

CODE OF FEDERAL REGULATIONS, TITLE 29

825.100-825.800 Family and Medical Leave Act of 1993

COURT DECISIONS

Faust v. California Portland Cement Company, (2007) 150 Cal.App.4th 864

Tellis v. Alaska Airlines, (9th Cir., 2005) 414 F.3d 1045

Management Resources:

FEDERAL REGISTER

Final Rule and Supplementary Information, November 17, 2008. Vol. 73, No. 222, pages 67934-68133

U.S. DEPARTMENT OF LABOR PUBLICATIONS

Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers

WEB SITES

California Department of Fair Employment and Housing: <http://www.dfeh.ca.gov>

U.S. Department of Labor, FMLA: <http://www.dol.gov/whd/fmla>

(3/08 3/09) 3/10

Revised: May 18, 2011

All Personnel

E(1) 4161.8(a)

4261.8

FAMILY CARE AND MEDICAL LEAVE

4361.8

YOUR RIGHTS UNDER THE FAMILY AND MEDICAL LEAVE ACT OF 1993

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to "eligible" employees for certain family and medical reasons. Employees are eligible if they have worked for a covered employer for at least one year, and for 1,250 hours over the previous 12 months, and if there are at least 50 employees within 75 miles.

REASONS FOR TAKING LEAVE

Unpaid leave must be granted for any of the following reasons:

- to care for the employee's child after birth, or placement for adoption or foster care;
- to care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
- for a serious health condition that makes the employee unable to perform the employee's job.

At the employee's or employer's option, certain kinds of paid leave may be substituted for unpaid leave.

ADVANCE NOTICE AND MEDICAL CERTIFICATION

The employee may be required to provide advance leave notice and medical certification. Taking of leave may be denied if requirements are not met.

- The employee ordinarily must provide 30 days' advance notice when the leave is "foreseeable."
- An employer may require medical certification to support a request for leave because of a serious health condition, and may require second or third opinions (at the employer's expense) and a fitness for duty report to return to work.
- For the duration of FMLA leave, the employer must maintain the employee's health coverage under any "group health plan."
- Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits and other employment terms.
- The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

FAMILY CARE AND MEDICAL LEAVE (continued)

UNLAWFUL ACTS BY EMPLOYERS

FMLA makes it unlawful for any employer to:

- interfere with, restrain, or deny the exercise of any right provided under FMLA;
- discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

ENFORCEMENT

- The U.S. Department of Labor is authorized to investigate and resolve complaints of violations.
- An eligible employee may bring a civil action against an employer for violations.

FMLA does not affect any federal or state law prohibiting discrimination, or supersede any state or local law or collective bargaining agreement which provides greater family or medical leave rights.

FOR ADDITIONAL INFORMATION

Contact the nearest office of the Wage and Hour Division, listed in most telephone directories under U.S. Government, Department of Labor.

All Personnel

E(2) 4161.8(a)

4261.8

FAMILY CARE AND MEDICAL LEAVE

4361.8

**FAMILY CARE AND MEDICAL LEAVE (CFRA LEAVE)
AND PREGNANCY DISABILITY LEAVE**

Under the California Family Rights Act of 1993 (CFRA), if you have more than 12 months of service with us and have worked at least 1,250 hours in the 12-month period before the date you want to begin your leave, you may have a right to an unpaid family care or medical leave (CFRA leave). This leave may be up to 12 work weeks in a 12-month period for the birth, adoption or foster care placement of your child or for your own serious health condition or that of your child, parent or spouse.

Even if you are not eligible for CFRA leave, if you are disabled by pregnancy, childbirth or related medical conditions, you are entitled to take a pregnancy disability leave of up to four months, depending on your period(s) of actual disability. If you are CFRA-eligible, you have certain rights to take BOTH a pregnancy disability leave and a CFRA leave for reason of the birth of your child. Both leaves contain a guarantee of reinstatement to the same or to a comparable position at the end of the leave, subject to any defense allowed under law.

If possible, you must provide at least 30 days' advance notice for foreseeable events (such as the expected birth of a child or planned medical treatment for yourself or of a family member). For events which are unforeseeable, we need you to notify us, at least verbally, as soon as you learn of the need for the leave.

Failure to comply with these notice rules is grounds for, and may result in, deferral of the requested leave until you comply with this notice policy.

We may require certification from your health care provider before allowing you a leave for pregnancy or your own serious health condition or certification from the health care provider of your child, parent or spouse who has a serious health condition before allowing you a leave to take care of that family member. When medically necessary, leave may be taken on an intermittent or reduced work schedule.

If you are taking a leave for the birth, adoption or foster care placement of a child, the basic minimum duration of the leave is two weeks and you must conclude the leave within one year of the birth or placement for adoption or foster care.

Taking a family care or pregnancy disability leave may impact certain of your benefits and your seniority date. If you want more information regarding your eligibility for a leave and/or the impact of the leave on your seniority and benefits, please contact _____.

Authority Cited:

Sections 12935, subd. (a) and 12945.2,
Government Code

CLASSIFIED PERSONNEL

The Governing Board desires to fill each of its classified positions with highly skilled and qualified persons, consistent with position requirements. The primary role of classified personnel is to provide services that support and enhance the district's educational program.

(cf. 0200 - Goals for the School District)
(cf. 4211 - Recruitment and Selection)

The classified service shall consist of all employees in positions not requiring certification unless the position is specifically exempted from the classified service. Individuals who possess certification qualifications shall not be prohibited from being employed in a classified position. (Education Code 45104)

Each classified staff member shall be held accountable for duties assigned to him/her and shall undergo regular performance evaluations in accordance with negotiated agreements.

(cf. 4141/4241 - Collective Bargaining Agreement)
(cf. 4215 - Evaluation/Supervision)

Policies, rules and regulations related to classified personnel shall be available to all concerned and shall be administered in a fair and equitable fashion.

Legal Reference:

EDUCATION CODE

- 45100-45139 Employment of classified staff*
- 45160-45166 Salaries and differential compensation*
- 45190-45210 Resignation and leaves of absence*
- 45220-45320 Merit system*
- 49406 Examination for tuberculosis*
- 51760-51769.5 Work experience education*

CLASSIFIED PERSONNEL

Merit System Districts

Individuals hired solely for the following purposes are exempt from the classified service:

1. Part-time playground positions (noon duty aides) (Education Code 45256)
2. Apprentices (Education Code 45256)
3. Professional experts employed on a temporary basis for a specific project (Education Code 45256)
4. Full-time day students employed part time (Education Code 45256)
5. Part-time students employed part time in any program conducted by a community college district pursuant to Education Code 51760 et seq. and which is financed by state or federal funds (Education Code 45256)
6. Positions established for the employment of community representatives in advisory or consulting capacities for not more than 90 working days or 720 hours in a fiscal year, provided the authorized duties are not those normally assigned to a class of positions in the classified service and are approved by the personnel commission in advance of employment (Education Code 45258)

Persons hired solely for purposes which are exempted from the classified service shall nevertheless fulfill the obligations of classified employees related to physical examinations pursuant to Education Code 45122, fingerprinting pursuant to Education Code 45125, and tuberculosis tests pursuant to Education Code 49406. Employment for such purposes after conviction of a sex or controlled substance offense shall be subject to the provisions of Education Code 45123 and 45124. (Education Code 45106)

(cf. 4112.4/4212.4/4312.4 - Health Examinations)

(cf. 4212.5 - Criminal Record Check)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

Persons employed in restricted positions shall be classified employees for all purposes except that they shall not be subject to the provisions of Education Code 45272-45273 related to promotional examinations and the filling of vacancies and shall not acquire permanent status or seniority credit. They shall be eligible for promotion into the regular classified service only after completing six months of satisfactory service, and only upon the subsequent satisfactory completion of the qualifying examinations required of all other persons serving in the same class in the regular classified service. (Education Code 45105, 45108)

RECRUITMENT AND SELECTION

In order to secure quality personnel, the district shall maintain an effective recruitment program based upon alertness to good candidates, initiative that results in prompt action, and good personnel practices in dealing with applicants.

The Superintendent or designee shall determine the personnel needs of the district. He/she shall locate suitable candidates and make recommendations to the Governing Board for employment.

No inquiry shall be made with regard to the age, race, color, religion, sex or national origin of persons proposed for or seeking employment. Questions regarding handicap shall be asked only when directly related to the job.

District employment practices shall not discriminate against authorized aliens. Legally-required inquiries to assure employment eligibility status shall be made in accordance with Governing Board policy and administrative regulation.

(cf. 4111.2/4211.2/4311.2 - Legal Status Requirement)

The Superintendent shall ensure that persons nominated for employment meet all qualifications established by law and by the Governing Board.

(cf. 4112.4/4212.4/4312.4 - Health Examinations)

Legal Reference:

EDUCATION CODE

200-261 *Prohibition of discrimination on the basis of sex*

44066 *Limitations on certification requirements*

45103-45138 *Employment (classified employees)*

49406 *Examination for tuberculosis*

CODE OF REGULATIONS, TITLE 5

30-31 *Affirmative Action Employment Programs*

TITLE VII, Civil Rights Act as amended by Title IX, Equal Employment Opportunity Act

IMMIGRATION REFORM AND CONTROL ACT OF 1986

APPOINTMENT AND CONDITIONS OF EMPLOYMENT

Upon recommendation of the Superintendent, the Governing Board shall approve the appointment of all classified employees. The position and the pay rate shall be reported to the Governing Board at a regular meeting.

Individuals appointed to the classified staff shall, at a minimum:

1. Submit to fingerprinting as required by law (Education Code 45125)
2. Not have been convicted of a violent or serious felony (Education Code 45122.1)
(cf. 4212.5 - Criminal Record Check)
3. Not have been convicted of any sex offense as defined in Education Code 44010 (Education Code 45123)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)
4. Not have been determined to be a sexual psychopath pursuant to Welfare and Institutions Code 6300-6332 (Education Code 45124)
5. If the individual will be working directly and in an unaccompanied setting with minor children on a more than incidental and occasional basis or will have supervision or disciplinary power over minor children, not be required to register as a sex offender pursuant to Penal Code 290 because of a conviction for a crime where the victim was a minor under the age of 16 (Penal Code 290.95)
(cf. 3515.5 - Sex Offender Notification)
6. Not have been convicted of any controlled substance offense as defined in Education Code 44011 (Education Code 45123)
7. Submit to a physical examination or provide proof thereof as required by law and Governing Board policy (Education Code 45122, 49406)
(cf. 4112.4/4212.4/4312.4 - Health Examinations)
8. File the oath or affirmation of allegiance required by Government Code 3100-3109
(cf. 4112.3/4212.3/4312.3 - Oath or Affirmation)
9. Submit to drug and alcohol testing as required by Governing Board policy
(cf. 4112.41/4212.41/4312.41 - Employee Drug Testing)
10. Fulfill any other requirements as specified by law, collective bargaining agreement, Governing Board policy or administrative regulation

APPOINTMENT AND CONDITIONS OF EMPLOYMENT (continued)

(cf. 4112.8/4212.8/4312.8 - Employment of Relatives)

Notification of Classification and Compensation

When first employed and upon each subsequent change in classification, classified employees other than short-term, limited-term or provisional employees shall be given two copies of their class specification, salary data, assignment or work location, duty hours and prescribed work week. Salary data shall specify pay period (monthly, semimonthly or other) and applicable rates of compensation (daily, hourly, overtime and differential rates). Employees shall keep one copy of this information and shall sign and date the other copy and return it to their supervisor. (Education Code 45169)

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

(cf. 4151/4251/4351 - Employee Compensation)

Legal Reference: (see next page)

APPOINTMENT AND CONDITIONS OF EMPLOYMENT (continued)

Legal Reference:

EDUCATION CODE

35161 Powers and duties

44010 Sex offense - definitions

44011 Controlled substance offense - definitions

44066 Limitation on certification requirements

45103 Classified service in districts not incorporating the merit system

45104 Positions not requiring certification qualifications

45105 Positions under various acts not requiring certification qualifications

45108 Restricted positions

45113 Rules and regulations for classified service in districts not incorporating the merit system

45122 Physical examinations

45122.1 Classified employees, conviction of a violent or serious felony

45123 Employment after conviction of sex offense or controlled substance offense

45125 Use of personal identification cards to ascertain conviction of crime

45169 Employee salary data

49406 Examination for tuberculosis

60850-60856 High school exit exam

GOVERNMENT CODE

3100-3109 Oaths or affirmations

12940-12950 Unlawful employment practices

PENAL CODE

290 Registration of sex offenders

290.95 Disclosure by person required to register as sex offenders

667.5 Prior prison terms, enhancement of prison terms

1192.7 Plea bargaining limitation

1203.4 Discharged petitioner, change of plea

WELFARE AND INSTITUTIONS CODE

6300-6332 Sexual psychopaths

CRIMINAL RECORD CHECK

Applicants for Employment

Each person to be employed in a classified position, including temporary, substitute and part-time positions, shall be required to submit fingerprint identification data. However, secondary school students attending a district school who are to be employed in a temporary or part-time position shall not be required to submit fingerprint identification data. (Education Code 45125)

The Superintendent or designee shall ensure that each person to be employed submits fingerprints, either electronically through the Live Scan system or on fingerprint identification card, for processing by the Department of Justice. If the district is using the Live Scan system, the Superintendent or designee shall also provide the applicant with a Live Scan request form and a list of nearby Live Scan locations.

The Superintendent or designee shall request the Department of Justice to forward one copy of the applicant's fingerprint identification data to the Federal Bureau of Investigation for the purpose of obtaining any record of previous convictions if the applicant: (Education Code 45125)

1. Has not resided in the State of California for at least one year immediately preceding the application for employment
2. Has resided for more than one year, but less than seven years, in the State of California and the Department of Justice has ascertained that the person was convicted of a sex offense where the victim was a minor or a drug offense where an element of the offense is either the distribution to or the use of a controlled substance by a minor

The Governing Board shall not employ an applicant until the Department of Justice completes its check of the state criminal history files. (Education Code 45125)

(cf. 4212 - Appointment and Conditions of Employment)

The Superintendent or designee shall ensure that no person is hired who has been convicted of a violent or serious felony as listed in Penal Code 667.5(c) or 1192.7(c), unless that person has obtained a certificate of rehabilitation or pardon. (Education Code 45122.1)

The Superintendent or designee may hire a classified employee without waiting for the disposition of the employee's criminal history files upon a determination that an emergency or exceptional situation exists and that a delay in filling the position would endanger student health or safety. (Education Code 45125)

(cf. 4112.6/4212.6/4312.6 - Personnel Files)

(cf. 4112.62/4212.62/4312.62 - Maintenance of Criminal Offender Records)

CRIMINAL RECORD CHECK (continued)

Subsequent Arrest Notification

The Superintendent or designee shall request subsequent arrest notification from the Department of Justice as provided under Penal Code 11105.2. (Education Code 45125)

Current Employees

Upon notification by telephone from the Department of Justice that a current temporary, substitute or probationary classified employee has been convicted of a violent or serious felony, the Superintendent or designee shall immediately place that employee on leave without pay, unless the employee has received a certificate of rehabilitation and a pardon. (Education Code 45122.1)

Upon receipt of written notification of the fact of conviction from the Department of Justice, the Superintendent or designee shall terminate the temporary, substitute or probationary employee without regard to any other procedure for termination specified in the Education Code or district procedures, unless that employee has received a certificate of rehabilitation and a pardon. (Education Code 45122.1)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

If the employee challenges the Department of Justice record and the Department of Justice withdraws in writing its notification, the Superintendent or designee shall immediately reinstate the employee with full restoration of salary and benefits. (Education Code 45122.1)

Legal Reference: (see next page)

CRIMINAL RECORD CHECK (continued)

Legal Reference:

EDUCATION CODE

44332.6 *Criminal record check, county Governing Board*
44346.1 *Applicants for credential, conviction of a violent or serious felony*
44830.1 *Certificated employees, conviction of a violent or serious felony*
44830.2 *Certificated employees; Interagency agreements*
45122.1 *Classified employees, conviction of a violent or serious felony*
45125 *Use of personal identification cards to ascertain conviction of crime*
45125.01 *Classified employees; interagency agreements*
45125.1 *Fingerprint for contractors*
45125.5 *Automated records check*
45126 *Duty of Department of Justice to furnish information*

GOVERNMENT CODE

6200-6203 *Crimes related to public records*

PENAL CODE

502 *Unauthorized access to computers*
667.5 *Violent felonies*
1192.7 *Serious felonies*
11075-11081 *Criminal record dissemination*
11105-11105.75 *Criminal identification*
11140-11144 *Furnishing of state criminal history information*
13300-13305 *Local summary criminal history information*

CODE OF REGULATIONS, TITLE 11

703 *Release of criminal offender record information*
708 *Destruction of criminal offender record information*

Management Resources:

WEB SITES

Department of Justice/Attorney General's Office: <http://www.caag.state.ca.us/app>
CSBA: <http://www.csba.org>

ASSIGNMENT/CLASSIFICATION

Assignment

Classified employees shall be assigned by their immediate supervisors with the approval of the Superintendent. They shall be required to perform those duties prescribed by the Governing Board for the position the employee holds. Employees may be required to work outside of their job classification. Compensation shall be adjusted upward to reflect the performance of duties outside of the employees normal assignment.

(cf. 4119.3/4219.3/4319.3 - Duties of Personnel)

Classification

The Governing Board shall classify all positions in the classified service and other positions not requiring certification qualifications. Each position shall have a designated title, regular minimum number of assigned hours per day, days per week and months per year. A specific statement of the duties required and the regular monthly salary ranges shall be established for each position.

Legal Reference:

EDUCATION CODE

45102 *Assignment at times other than regular academic year*

45109 *Fixing of duties*

45110 *Inconsistent duties; compensation*

45127 *Work week (conditions of service)*

45132 *Four-consecutive-day workweek*

45169 *Data furnished employee, copies; application*

45183 *Basis of assignment to duties*

EVALUATION/SUPERVISION

The Governing Board recognizes that appropriate supervision and regular, comprehensive evaluations can help employees to continually improve in the performance of their responsibilities. Evaluations shall be made in accordance with procedures specified in negotiated contracts and based on job-specific standards of performance.

(cf. 4141/4241 - Collective Bargaining Agreement)

The Governing Board expects supervisors to gauge employees' on-the-job effectiveness and appraise their major accomplishments and progress in a fair, objective and consistent manner. Evaluations shall address the competence and care with which the employee executes his/her assigned responsibilities. As appropriate, evaluations also may address the extent to which the employee works cooperatively with others and observes school or district rules and regulations.

(cf. 4219.21 - Code of Ethics)

The Superintendent or designee shall ensure that evaluation ratings have uniform meaning throughout the district.

The Superintendent or designee shall ensure that classified employees have access to written rules or procedures related to the evaluation of their performance. (Education Code 45262)

Legal Reference:

EDUCATION CODE

45113 Rules and regulations for the classified service in districts not incorporating the merit system

45261 Subjects of rules (merit system districts)

45262 Printing and distribution of rules

GOVERNMENT CODE

3543.2 Scope of representation

PROBATIONARY/PERMANENT STATUS

Employees newly hired for regular positions in the classified service shall be considered probationary employees until they have satisfactorily completed probationary service as provided for in the classified Collective Bargaining Agreement. Upon satisfactorily completing this period, they shall become permanent classified employees of the district.

(cf. 5.6.2 of the Classified Collective Bargaining Agreement)

Probationary employees shall receive written performance evaluations by their supervisor during the probationary period. These evaluations shall indicate whether the evaluator is satisfied or not satisfied with the employee's ability, performance, and compatibility with the job.

(cf. 4215 - Evaluation/Supervision)

The Superintendent or designee may dismiss an employee during the initial probationary period.

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

Permanent employees promoted to a higher classification shall be considered probationary in their new position until they have satisfactorily completed one year of service in that position.

A permanent employee who accepts a promotion and fails to complete the probationary period for that promotional position shall be employed in the classification from which he/she was promoted. (Education Code 45113)

This policy shall be made available to classified employees and the public. (Education Code 45113)

Legal Reference: (see next page)

PROBATIONARY/PERMANENT STATUS (continued)

Legal Reference:

EDUCATION CODE

45113 *Rules and regulations for classified service in districts not incorporating the merit system*

45240-45320 *Merit system*

Management Resources:

WEB SITES

California School Employees Association: <http://www.csea.org>

LAYOFF/REHIRE

Classified employees shall be subject to layoff for lack of work or lack of funds. (Education Code 45114, 45308)

Order of Layoff; Determination of Seniority

The order of layoff within the class shall be determined by length of service. (Education Code 45114, 45308)

The Superintendent or designee shall maintain a current determination of each employee's seniority in the district.

Length of service shall be equivalent to all hours in paid status, whether during the school year, a holiday, recess, or during any period that school is in session or closed. Hours compensated solely on an overtime basis in accordance with Education Code 45128 shall not be included. The employee who has been employed the shortest time in a particular class, plus time served in higher classes, shall be laid off first. (Education Code 45308)

(cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)

Persons employed under Education Code Section 45105(b) or 45259 in "restricted" positions do not acquire permanent status under Education Code 45113 or 45301 and do not acquire seniority credits for the purpose of layoff for lack of work or lack of funds. After completing six months of satisfactory service, however, persons hired into these positions shall be given the opportunity to take qualifying examinations. If they successfully complete the examination, they shall be entitled to the full rights, benefits and burdens of regular classified employees, and his/her service for layoff purposes shall be counted from the original date of employment in the "restricted" position. (Education Code 45105)

Short-term or substitute employees may be separated at the completion of their assignment without regard to the procedures in this regulation.

(cf. 4121 - Temporary/Substitute Personnel)

Layoff Procedures

Classified employees subject to layoff because of lack of work in the event of a bona fide reduction or elimination of service being performed shall receive notice of the layoff 30 days before the effective date. They shall be informed of their reemployment rights and displacement rights, if any. (Education Code 45117)

In cases where specially funded programs expire at the end of any school year, classified employees subject to layoff for lack of funds shall receive written notice on or before May 29. The notice shall inform them of the layoff effective at the end of the school year and of their displacement and reemployment rights. If the termination date of the specially funded

LAYOFF/REHIRE (continued)

program is other than June 30, the notice shall be given at least 30 days before the effective date of the layoff. (Education Code 45117)

The district is not bound to provide 30 days' notice in the event that it is unable to pay the salaries of classified employees due to an actual and existing financial inability, or if layoff is caused by conditions not foreseeable or preventable by the district. The district will provide information about reemployment and displacement rights, if any, to all employees laid off under these conditions. (Education Code 45117)

Voluntary Demotion or Voluntary Reduction of Hours

Employees may sometimes take voluntary demotions or voluntary reductions in assigned time in lieu of layoff or in order to remain in their present position rather than be reclassified or reassigned. Employees who do so shall be granted the same rights as persons laid off. (Education Code 45114, 45298)

Reemployment Eligibility

Classified employees laid off because of lack of work or lack of funds are eligible for reemployment within a period of 39 months and shall be reemployed in preference to new applicants. Persons so laid off also have the right to apply and establish their qualification for vacant promotional positions within the district during the 39-month period. (Education Code 45114, 45298)

Employees who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff, reclassification or reassignment shall retain eligibility to be considered for reemployment in a position of the previously held class or number of hours for an additional period of time, provided that the same tests of fitness under which they qualified for appointment to the class are still applicable. The length of this additional period of time shall be determined by the Governing Board on a class-by-class basis and shall not exceed 24 months. (Education Code 45114, 45298)

Employees who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff shall have the option of returning to a position in their former class or to positions with increased assignment time as vacancies become available, and without limitation of time. If there is a valid reemployment list they shall be ranked on that list in accordance with their proper seniority. (Education Code 45114, 45298)

Upon rejecting two offers of reemployment, the employee's name will be removed from the reemployment list and he/she will forfeit all rights to which he/she would otherwise be entitled.

LAYOFF/REHIRE (continued)

When an employee is notified of a vacancy and fails to respond or report to work within time limits specified by district procedures, his/her name will be removed from the reemployment list and he/she will forfeit all rights to which he/she would otherwise be entitled.

Reemployment Procedures

Reemployment shall be in reverse order of layoff. (Education Code 45114, 45298, 45308)

In order to be reinstated, an employee must be fully capable of performing the normal and customary duties of the job. Employees whose physical condition is such that they cannot be reinstated at the time called for reemployment will be kept on the reemployment list until physically capable of returning to work or for a period not to exceed 39 calendar months.

(cf. 4032 - Reasonable Accommodation)

When a vacancy occurs, the senior employee who has held prior permanency in the position will be so notified by certified U.S. mail at his/her last known address and given the opportunity to accept or reject appointment into the vacant position. The employee must advise the district of his/her decision no later than 10 calendar days following notification. If the employee accepts, he/she must report to work no later than two calendar weeks from the vacancy notification date or on a later date specified by the district.

When a laid-off employee is reemployed, all accumulated sick leave credit will be restored.

A laid-off permanent employee will be reemployed with all rights and benefits accorded to him/her at the time of layoff. A laid-off probationary employee will be reemployed as a probationary employee, and the time served toward the completion of the required probationary period will be counted. He/she will also be reemployed with all rights and benefits accorded to him/her at the time of layoff.

A laid-off employee, when reemployed, will be placed on the salary step held at the time of layoff. An employee who bumped into a lower class will, when reinstated to the previous class, be placed on the salary step to which he/she would have progressed had he/she remained there. An adjusted anniversary date will be established for step increment purposes so as to reflect the actual amount of time served in the district.

Legal Reference: (see next page)

LAYOFF/REHIRE (continued)

Legal Reference:

EDUCATION CODE

45101 *Definitions*

45103 *Classified service in districts not incorporating the merit system*

45105 *Positions under various acts not requiring certification qualifications; classification*

45113 *Rules and regulations for classified service in districts not incorporating the merit system*

45114 *Layoff and reemployment procedures; definitions*

45115 *Layoff: Reinstatement from service retirement*

45117 *Notice of layoff due to expiration of specially funded programs or bona fide reduction or elimination of service*

45286 *Limited term employees*

45297 *Right to take equivalent examination while employee in military service*

45298 *Reemployment and promotional examination preference of persons laid off; voluntary demotions or reductions in time*

45308 *Order of layoff and reemployment; length of service*

45309 *Reinstatement of permanent noncertified employees after resignation*

UNITED STATES CODE, TITLE 38

4301-4307 *Veterans' Reemployment Rights*

COURT DECISIONS

San Mateo City School District v. Public Employment Relations Board (1983) 33 Cal.3d 850, 866

DISMISSAL/SUSPENSION/DISCIPLINARY ACTION

Termination of Probationary Employment

At any time prior to the expiration of the probationary period, the Superintendent or designee may, at his/her discretion, dismiss a probationary classified employee from district employment. A probationary employee shall not be entitled to a hearing.

Involuntary Suspension Without Pay, Demotion, Reduction of Pay Step in Class, or Dismissal of Permanent Classified Employees

Permanent classified employees shall be subject to personnel action (suspension without pay, demotion, reduction of pay step in class, dismissal) only for cause. The Personnel Commission's determination of the sufficiency of the cause for disciplinary action shall be conclusive, and in accordance with Personnel Commission Rule XV Suspension, Demotion, Dismissal.

1. Compulsory Leave of Absence

Employees charged with a mandatory leave of absence offense as defined in Education Code 44940 shall be placed immediately on compulsory leave of absence for not more than 10 days after entry of judgment in the criminal proceedings, unless the leave is extended as provided below. (Education Code 45304)

Employees charged with an optional leave of absence offense as defined in Education Code 44940 may be placed immediately on compulsory leave of absence under the terms and conditions stated below. (Education Code 45304)

Despite the disposition of criminal charges, the Governing Board reserves the right to dismiss an employee for the facts upon which the criminal charges were based. An employee ultimately found guilty by the Personnel Commission to have committed the acts upon which the original charges were based may be dismissed. If so dismissed, the employee is not entitled to compensation during the time of his/her suspension, unless otherwise required by law.

An employee shall be given notice of the possibility of being dismissed without pay during the compulsory suspension if he/she is ultimately found guilty of the acts leading to the criminal charges, despite the disposition of the charges by the court.

DISMISSAL/SUSPENSION/DISCIPLINARY ACTION (continued)2. Extension of Compulsory Leave

The Governing Board may extend an employee's compulsory leave of absence by giving him/her notice, within 10 days after the entry of judgment in the proceedings, that he/she will be dismissed in 30 days unless he/she demands a hearing. Employee compensation during the period of compulsory leave shall be made in accordance with law. (Education Code 44940.5)

*Legal Reference:*EDUCATION CODE*35161 Delegation of powers and duties**44009 Conviction of specified crimes**44010 Sex offense**44011 "Controlled substance offense" defined**44940 Leave of absence; employee charged with mandatory or optional leave of absence offense**44940.5 Compulsory leave of absence; procedures; extension; compensation; bond or security; reports**45101 Definitions (including "disciplinary action," "cause")**45109 Fixing of duties**45113 Rules and regulations for classified service in districts not incorporating the merit system**45123 Employment after conviction of sex or narcotics offense**45302 Demotion and removal from permanent classified service**45303 Additional cause for suspension or dismissal of employees in classified service**45304 Suspension for reasonable cause; filing of charges; employee charged with mandatory or optional leave of absence offense*VEHICLE CODE*1808.8 School bus drivers; dismissal for safety-related cause*UNITED STATES CODE, TITLE 42*12101 -12213 Americans With Disabilities Act*COURT DECISIONS*CSEA v. Foothill Community College District, 52 Cal. App. 3rd 150, 155-156, 124 Cal. Rptr 830 (1975)*

EMPLOYMENT RESPONSIBILITIES

Each classified position represents a service that is important in carrying on the program of public education in this district. The community expects much from its public employees in return for adequate salaries and responsible conditions of employment.

The first responsibility of any employee is to do well in the position to which he/she has been assigned. The safety and health of students are affected by the condition of the buildings, ground and equipment. The Governing Board believes that since the classified employees are working in an educational environment and many are working closely with students they should attempt to conduct themselves in a manner that will serve as a good example to youth.

Public education is a cooperative venture involving the services of many people. The district functions best when there is a spirit of cooperation among all employees-when the employees have confidence in and respect for the rights and responsibilities of others.

Each employee should seek to learn as much as possible about the total program of the schools, for he/she will be called upon frequently to answer questions about the schools and to interpret the school program to the community.

**CODE OF ETHICS
CLASSIFIED EMPLOYEES**

School employees who are in daily contact with many phases of educational work should be persons whose conduct is beyond reproach and who sincerely believe in the advancement of education and the betterment of working conditions; therefore, the California School Employees' Association proposes this Code of Ethics as a standard for its members.

AS A SCHOOL EMPLOYEE I WILL:

1. Be proud of my vocation in order that I may use my best endeavors to elevate the standards of my position so that I may merit a reputation for high quality of service -- to the end that others may emulate my example.
2. Be a person of integrity, clean speech, desirable personal habits, and physical fitness.
3. Be just in my criticism and be generous in my praise; to improve and not destroy.
4. At all times be courteous in my relations with students, parents, teachers and others.
5. Be a resourceful person who readily adapts himself to different kinds of work and changed conditions and finds better ways to do things.
6. Conduct myself in a spirit of friendly helpfulness to my fellow employees to the end that I will consider no personal success legitimate or ethical which is secured by taking unfair advantage of another.
7. Associate myself with employees of other districts for the purpose of discussing school problems and cooperating in the improvement of public school conditions.
8. Always uphold my obligations as a citizen to my nation, my state, my school district and my community, and give them unswerving loyalty.
9. Always bear in mind that the purpose of CSEA is to promote the efficiency and raise the standards of all school employees and that I shall be equally obligated to assist all my fellow workers.

SOURCE: CALIFORNIA SCHOOL EMPLOYEES' ASSOCIATION

INSTRUCTIONAL AIDES/PARAPROFESSIONALS

The Governing Board recognizes that paraprofessionals support student learning by providing valuable assistance to teachers and other certificated personnel and enabling greater individualized instruction and supervision of students. Such employees may perform instructional and/or administrative tasks in accordance with law, Governing Board policy and administrative regulation.

(cf. 1240 - Volunteer Assistance)

(cf. 4200 - Classified Personnel)

(cf. 6171 - Title I Programs)

Each paraprofessional shall be provided with a clear definition of his/her roles and responsibilities.

Paraprofessionals shall be under the immediate supervision and direction of certificated personnel.

In determining the assignment of paraprofessionals, the Superintendent or designee shall consider the greatest benefit to students based on such factors as class size, grade levels, student needs, subject matter and teacher workload.

The Superintendent or designee shall ensure that all paraprofessionals have appropriate training for their positions, ongoing support and regular performance assessments. Teachers shall receive training in how to collaborate effectively with an assistant and are expected to assign duties consistent with written job descriptions for paraprofessionals.

(cf. 4212 - Appointment and Conditions of Employment)

(cf. 4215 - Evaluation/Supervision)

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

The Governing Board encourages qualified paraprofessionals to pursue opportunities that lead to attainment of a teaching credential and enable them to increase their skills and experience in the classroom.

(cf. 4112.2 - Certification)

(cf. 4112.21 - District Interns)

Legal Reference: (see next page)

INSTRUCTIONAL AIDES/PARAPROFESSIONALS (continued)

Legal Reference:

EDUCATION CODE

44390-44393 *California School Paraprofessional Teacher Training Program*

44833 *Postsecondary students as nonteaching aides*

44835 *Duties of nonteaching work study aides*

45340-45349 *Instructional aides*

45350-45354 *Teacher assistants*

45360-45367 *Teacher aides*

54480-54486 *Special Teacher Employment Programs*

CODE OF REGULATIONS, TITLE 5

12065-12070 *Teacher aides for Special Teacher Employment Programs*

PUBLIC LAW 107-110

1111 *State plans*

1119 *Qualifications for teachers and paraprofessionals*

Management Resources:

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

Roles for Education Paraprofessionals in Effective Schools, 1997

WEB SITES

CTC Paraprofessional Teacher Training Program: <http://www.ctc.ca.gov/para>

CDE: <http://www.cde.ca.gov>

U.S. Department of Education: <http://www.ed.gov>

California School Employees Association: <http://www.csea.com>

National Resource Center for Paraprofessionals: <http://www.nrcpara.org>

National Clearinghouse for Paraeducator Resources: <http://www.usc.edu/dept/education/CMMR/>

Clearinghouse.html

INSTRUCTIONAL AIDES/PARAPROFESSIONALS

Qualifications and Duties of Instructional Aides

OPTION 1: (Districts maintaining high schools)

Instructional aides shall have demonstrated proficiency in basic reading, writing, and mathematics skills up to or exceeding that required for the district's high school seniors. (Education Code 45344.5, 45361.5)

OPTION 2: (Elementary districts)

Instructional aides shall have demonstrated proficiency in basic reading, writing, and mathematics skills up to or exceeding that required for high school seniors in the high school district that includes all or the largest portion of the district. (Education Code 45344.5, 45361.5)

An instructional aide who has passed a comparable proficiency test in another district shall be considered to have met the district's proficiency standards. (Education Code 45344.5, 45361.5)

Instructional aides shall perform only such duties as, in the judgment of the certificated personnel to whom the instructional aide is assigned, may be performed by a person not licensed as a classroom teacher. These duties shall not include assignment of grades to students. (Education Code 45344)

Instructional aides need not perform their duties in the physical presence of the teacher, but the teacher shall retain responsibility for the instruction and supervision of the students in his/her charge. (Education Code 45344)

Qualifications and Duties of Paraprofessionals in Title I Programs

All paraprofessionals hired after January 8, 2002, to work in a program supported by federal Title I funds shall have received a high school diploma or its equivalent. (P.L. 107-110, Section 1119)

In addition, such paraprofessionals shall have met at least one of the following criteria: (P.L. 107-110, Section 1119)

1. Completed at least two years of study at an institution of higher education
2. Obtained an associate's degree or higher
3. In a manner other than receipt of a high school diploma, met a rigorous standard of quality and demonstrated, through a formal state or local academic assessment, knowledge of and the ability to assist in instructing either:

INSTRUCTIONAL AIDES/PARAPROFESSIONALS (continued)

- a. Reading, writing and mathematics
- b. Reading readiness, writing readiness and mathematics readiness

(cf. 6171 - Title I Programs)

All paraprofessionals hired before January 8, 2002, and working in a program supported by Title I funds shall satisfy the above requirements by January 2006. (P.L. 107-110, Section 1119)

Items #1-3 above shall not apply to any paraprofessional who provides services primarily to enhance the participation of children in Title I programs by acting as a translator, or whose duties consist solely of conducting parental involvement activities consistent with Section 1118. (P.L. 107-110, Section 1119)

Paraprofessionals working in a program supported by Title I funds may be assigned to: (P.L. 107-110, Section 1119)

1. Provide one-on-one tutoring for eligible students, if the tutoring is scheduled at a time when a student would not otherwise receive instruction from a teacher
2. Assist with classroom management, such as organizing instructional and other materials
3. Provide assistance in a computer laboratory
4. Conduct parental involvement activities
5. Provide support in a library or media center
6. Act as a translator
7. Provide instructional services to students, provided that the paraprofessional is working under the direct supervision of a teacher

Title I paraprofessionals may assume limited duties that are assigned to similar personnel in non-Title I programs, including duties beyond classroom instruction or that do not benefit Title I students, in the same proportion of total work time as non-Title I paraprofessionals. (P.L. 107-110, Section 1119)

The principal of each school operating a Title I program pursuant to P.L. 107-110, Section 1114 or 1115, shall annually attest in writing as to whether the school is in compliance with federal requirements regarding qualifications and duties of paraprofessionals listed above.

INSTRUCTIONAL AIDES/PARAPROFESSIONALS (continued)

Copies of attestations shall be maintained at the school and district office and shall be available to the public upon request. (P.L. 107-110, Section 1119)

Parent/Guardian Notification

At the beginning of each school year, a parent/guardian shall be notified that he/she may request information regarding whether his/her child is provided services by paraprofessionals and, if so, their qualifications. (P.L. 107-110, Section 1111)

(cf. 5145.6 - Parental Notifications)

INSTRUCTIONAL AIDES/PARAPROFESSIONALS

ATTESTATION REGARDING TITLE I PARAPROFESSIONALS

The following certification must be annually completed and signed by each principal in a school that operates a Title I program pursuant to P.L. 107-110, Section 1114 (schoolwide programs) and Section 1115 (targeted assistance schools).

School: _____ Principal: _____

1. I certify that every paraprofessional hired after January 8, 2002, and working in a program supported by Title I funds, unless he/she is exempted by law, has received a high school diploma or its equivalent and has met at least one of the following criteria pursuant to Section 1119, P.L. 107-110:
 - a. Completed at least two years of study at an institution of higher education
 - b. Obtained an associate's or higher degree
 - c. Met a rigorous standard of quality and demonstrated, through a formal state or local academic assessment, knowledge of and the ability to assist in instructing either reading, writing and mathematics or reading readiness, writing readiness and mathematics readiness.

2. All paraprofessionals working in a Title I program are performing duties consistent with Section 1119.

Signature of Principal

STAFF DEVELOPMENT

Classified staff shall have opportunities to participate in staff development activities in order to improve job skills, retrain to meet changing conditions in the district and/or enhance personal growth.

(cf. 4261.3 - Professional Leaves)

The Superintendent or designee shall develop a program of ongoing staff development designed to improve general workplace skills and/or skills and knowledge specific to the duties of each classified position. Staff development activities may include, but not be limited to, training in:

1. The role of classified staff in achieving district goals

(cf. 0000 - Vision)

(cf. 0200 - Goals for the School District)

(cf. 6010 - Goals and Objectives)

2. The use of technologies to improve job performance

(cf. 0440 - District Technology Plan)

3. Effective interaction with other staff, students, parents/guardians and community members

(cf. 6020 - Parent Involvement)

4. Issues related to student health, safety and welfare

(cf. 3515.5 - Sex Offender Notification)

(cf. 5131.6 - Alcohol and Other Drugs)

(cf. 5141.4 - Child Abuse Reporting Procedures)

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

(cf. 5149 - At-Risk Students)

The district's staff development plan for classified staff shall be coordinated with school improvement objectives and school-site plans.

(cf. 0420.1 - School-Based Program Coordination)

(cf. 0420.2 - School Improvement Program)

(cf. 0420.3 - School-Based Student Motivation and Maintenance Program)

The Governing Board may budget for actual and reasonable expenses incurred by classified staff who participate in staff development activities.

(cf. 3350 - Travel Expenses)

STAFF DEVELOPMENT (continued)

The Superintendent or designee shall provide a means for continual evaluation of the benefit of these activities to staff and the district.

(cf. 0500 - Accountability)

Legal Reference:

EDUCATION CODE

44032 *Travel expense payment*

44579-44579.4 *Instructional Time and Staff Development Reform Program*

44670.1-44680.8 *School personnel staff development and resource centers*

45380-45387 *Retraining and study leave (classified)*

56240-56245 *Staff development; service to persons with disabilities*

GOVERNMENT CODE

3543.2 *Scope of representation of employee organization*

CODE OF REGULATIONS, TITLE 5

6000-6002 *Instructional Time and Staff Development Reform Program*

PUBLIC EMPLOYMENT RELATIONS BOARD DECISIONS

San Mateo City School District, (1984) PERB Dec. No. 375, 8 PERC 15021

Jefferson School Districts, (1980) PERB Dec. No. 133, 4 PERC 11117

STAFF DEVELOPMENT

Staff development opportunities for classified staff may include, but are not limited to, the following:

1. Visits to other schools and school districts
2. Local and state conferences involving other classified personnel
3. Training classes and workshops offered by the district, county office of education, institution of higher education, private organization or other appropriate agency

(cf. 4261.3 - Professional Leaves)

4. Access to a professional library, which shall include books and reference materials related to job responsibilities

Classified Classroom Instructional Aides

Classified classroom instructional aides may participate in staff development related to the academic content of the core curriculum and/or instructional methods, including teaching strategies, classroom management and other training designed to improve student performance. Such staff development shall be conducted on days that are not counted as instructional time and shall meet other requirements of Education Code 44579.1.

(cf. 4131 - Staff Development)

(cf. 6111 - School Calendar)

Probationary and permanent classified employees shall not receive regular pay on such staff development days unless they are required to report for duty on those days. (Education Code 44579.1)

OVERTIME PAY/COMPENSATORY TIME OFF

The district shall provide compensatory time off or cash payment for overtime work in accordance with law and any applicable negotiated employee agreement. Overtime is not paid to salaried employees who serve in exempt positions.

Overtime shall be considered any time worked over an 8-hour day or a 40-hour week and shall be compensated at time-and-one-half. If for all or certain classes of classified positions the established workday is less than eight hours but seven hours or more and the established work week is less than 40 hours but 35 hours or more, all time worked in excess of the established workday and work week shall be considered overtime. (Education Code 45128)

The district shall carefully keep records related to the accrual of overtime. Employees subject to overtime payment shall complete a daily record of time worked. Falsification of time records will result in disciplinary action against the employee and may subject him/her to civil and criminal penalties.

Employees have the option of receiving overtime compensation in the form of monetary wages or compensatory time off (CTO). CTO may be accrued up to a maximum of 240 hours (160 hours of overtime work). An employee who wishes to receive CTO must elect to do so pursuant to a written agreement entered into between the district and the employee before the work is performed. (Education Code 45128-45129; Labor Code 204.3)

Employees may use CTO within a reasonable period of the employee's request to do so, provided that this does not unduly disrupt district operations. The district shall make cash payments for CTO which has not been taken within 12 months of its accrual.

No overtime shall be allowed except as authorized by an employee's immediate supervisor.

(cf. 1240 - Volunteer Assistance)

(cf. 4313.1 - Load/Scheduling/Hours of Employment)

Legal Reference: (see next page)

OVERTIME PAY/COMPENSATORY TIME OFF (continued)

Legal Reference:

EDUCATION CODE

45127 *Workweek*

45128 *Overtime*

45129 *Compensatory time off*

45130 *Exclusion from overtime provisions*

45131 *Workweek; five consecutive days; overtime*

45132 *Four-consecutive-day workweek*

LABOR CODE

204.3 *Compensating time off in lieu of overtime compensation*

PENAL CODE

424 *Embezzlement and falsification of accounts by public officers*

UNITED STATES CODE, TITLE 29

201-216 *Fair Labor Standards Act*

CODE OF FEDERAL REGULATIONS, TITLE 29

511-800 *Department of Labor Relations especially:*

785.12 *Overtime suffered or permitted*

COURT DECISIONS

People v. Theresa Groat (1993) 19 Cal.App.4th 1228

SICK LEAVE

Full-time classified employees are entitled to 12 days leave of absence, with full pay, for personal illness or injury per fiscal year. Employees who serve less than a full fiscal year or less than five days a week shall be granted comparable sick leave in proportion to the time they work. (Education Code 45191)

(cf. 4161/4261 - Leaves)

(cf. 4161.9/4261.9/4361.9 - Catastrophic Leave Program)

An employee may take sick leave at any time during the year, even if credit for sick leave has not yet been accrued. However, new employees shall not be entitled to more than six days of sick leave until they have completed six months of active service with the district. (Education Code 45191)

When available paid leave has been exhausted, the employee shall be so notified in writing and shall be offered an opportunity to request additional leave. (Education Code 45195)

An employee who does not complete a given year of service shall be charged for any unearned sick leave used as of the date of termination.

Unused days of sick leave shall be accumulated from year to year without limitation. (Education Code 45191)

At the beginning of each school year, employees shall be notified of the amount of sick leave they have accumulated.

A classified employee who leaves the district after at least one year of employment and accepts employment in another district or county office of education within one year shall have transferred with him/her the total amount of accumulated sick leave. This provision shall not apply to employees whose employment is terminated due to action initiated by the district for cause. The district shall not require new employees to waive their leave accumulated in a previous district. (Education Code 45202)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

Sick leave may be used by a classified employee for:

1. Absences caused by accident or illness, whether or not the absence arises out of or in the course of employment, or by quarantine which results from contact during the performance of the employee's duties with other persons having a contagious disease (Education Code 45199)
2. Absences due to pregnancy, childbirth and recovery (Education Code 45193)

(cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)

SICK LEAVE (continued)

3. Cases of personal necessity (Education Code 45207)

(cf. 4161.2/4261.2/4361.2 - Personal Leaves)

4. Medical or dental appointments, in increments of not less than one hour

5. Cases of industrial accidents or illnesses when leave granted specifically for that purpose has expired (Education Code 45192)

(cf. 4261.11 - Industrial Accident/Illness Leave)

6. Illness of the employee's child, parent, spouse, registered domestic partner or domestic partner's child, up to the amount of sick leave that would be accrued during six months (Labor Code 233)

An employee shall notify the district of his/her need to be absent as soon as such need is known, so that substitute services may be secured as necessary. This notification shall include an estimate of the expected duration of absence. If the absence becomes longer than estimated, the employee shall so notify the district. If the duration of absence becomes shorter than estimated, the employee shall notify the district by not later than 3 p.m. of the day preceding the day on which he/she intends to return to work. If failure to so notify the district results in a substitute being secured, the cost of the substitute shall be deducted from the employee's pay.

Sick Leave Beyond 12 Days

Sick leave beyond 12 days shall be provided in accordance with 8.5.2.1 of the Classified Collective Bargaining Agreement.

After a permanent employee who is absent because of nonindustrial accident or illness has exhausted all available sick leave, vacation, compensatory overtime and any other paid leave, he/she shall be so notified in writing and offered an opportunity to request additional leave. The Governing Board may grant the employee additional leave, paid or unpaid, for a period not to exceed six months and may renew this leave for two additional six-month periods or for lesser periods. Total leave so granted shall not exceed 18 months. (Education Code 45195)

When a classified employee has exhausted all available leaves, paid or unpaid, and is still not able to resume his/her duties, the employee shall be placed on a reemployment list for a period of 39 months. If during this time the employee becomes able, he/she shall be reemployed in the first vacancy in the classification of his/her previous assignment. The employee's reemployment shall take preference over all other applicants except those laid off

SICK LEAVE (continued)

for lack of work or funds, in which case the employee shall be ranked according to his/her seniority. (Education Code 45195)

Verification Requirements

After any absence due to illness or injury, the employee shall verify the absence by submitting a completed and signed district absence form to his/her immediate supervisor.

The Superintendent or designee may, at any time, require additional written verification by the employee's physician or practitioner. Such verification shall be required whenever an employee's absence record shows chronic absenteeism or a pattern of absences immediately before or after weekends and/or holidays or whenever clear evidence indicates that an absence is not related to illness or injury.

The Superintendent or designee may require an employee to visit a physician selected by the district and at district expense in order to receive a report on the medical condition of the employee. The report shall include a statement as to the employee's need for further leave of absence and a prognosis as to when the employee will be able to return to work. If the report concludes that the employee's condition does not warrant continued absence, the Superintendent or designee, after giving notice to the employee, may deny further leave.

Before returning to work, an employee who has been absent for surgery, hospitalization or extended medical treatment may be asked to submit a letter from his/her physician stating that he/she is able to return and stipulating any recommended restrictions or limitations.

(cf. 4032 - Reasonable Accommodation)

(cf. 4113.4/4213.4/4313.4 - Temporary Modified/Light-Duty Assignment)

Legal Reference:

EDUCATION CODE

45190 Leaves of absence and vacations

45191 Leaves of absence for illness and injury

45193 Leave of absence for pregnancy (re use of sick leave under certain circumstances)

45195 Additional leave for nonindustrial accident or illness; reemployment preference

45196 Salary; deductions during sick leave

45202 Transfer of accumulated sick leave and other benefits

LABOR CODE

233 Illness of child, parent, spouse or domestic partner

INDUSTRIAL ACCIDENT/ILLNESS LEAVE

Leave of absence for industrial accidents or illnesses shall be provided to classified employees who have served in the district continuously for at least three years.

In each fiscal year, allowable leave for any single industrial accident or illness shall be for 60 working days. (Education Code 45192)

(cf. 4113.4/4213.4/4313.4 - Temporary/Modified Light-Duty Assignment)

(cf. 4157.1/4257.1/4357.1 - Work-Related Injuries)

(cf. 4157.2/4257.2/4357.2 - Ergonomics)

(cf. 4161/4261 - Leaves)

Allowable leave shall not accumulate from year to year. (Education Code 45192)

When a classified employee is absent from his/her duties because of an industrial accident or illness: (Education Code 45192)

1. Industrial accident or illness leave shall start on the first day of absence.
2. Payment for wages lost on any day shall not, when added to an award granted the employee under the workers' compensation laws of this state, exceed the normal wage for the day.
3. Industrial accident or illness leave shall be reduced by one day for each day of authorized absence, regardless of a compensation award made under workers' compensation.
4. If an industrial accident or illness leave overlaps into the next fiscal year, the employee is entitled to only that amount remaining at the end of the fiscal year in which the injury or illness occurred, for the same illness or injury.

Upon expiration of allowable leave for an industrial accident or illness, the employee shall use personal illness and injury leave as provided by Education Code 45191. If the employee continues to receive workers' compensation, he/she shall be entitled to use only as much of his/her accumulated or available sick leave, accumulated compensating time, vacation or other available leave as, when added to the employee's workers' compensation award, will provide for a full day's wage or salary. (Education Code 45192)

(cf. 4261.1 - Personal Illness/Injury Leave)

During any paid leave of absence, the employee shall endorse to the district the workers' compensation checks received on account of his/her industrial accident or illness. In those cases, the district shall issue appropriate salary warrants for payment of the employee's salary and shall deduct normal retirement and other authorized contributions. (Education Code 45192)

INDUSTRIAL ACCIDENT/ILLNESS LEAVE (continued)

When available paid leave has been exhausted, the employee shall be so notified in writing and shall be offered an opportunity to request additional leave. (Education Code 45192)

When all available leaves of absence, paid or unpaid, have been exhausted and the employee is not medically able to assume the duties of his/her position, the employee shall be placed either in another position or on a reemployment list for a period of 39 months. If during this time the employee becomes medically able, he/she shall be employed in a vacant position in the class of his/her previous assignment over all other available candidates, except for a reemployment list established because of lack of work or lack of funds, in which case the employee shall be listed in accordance with appropriate seniority regulations. An employee who has been placed on a reemployment list and has been medically released for return to duty, but fails to accept an appropriate assignment, shall be dismissed. (Education Code 45192)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

Any employee receiving benefits under this leave shall, during periods of injury or illness, remain within the State of California unless the Governing Board authorizes travel outside the state. (Education Code 45192)

During this leave, the employee may return to his/her position without suffering any loss of status or benefits. Periods of leave of absence, paid or unpaid, shall not be considered to be a break in service of the employee. (Education Code 45192)

Legal Reference:

EDUCATION CODE

45191 Leave of absence for illness or injury

45192 Industrial accident and illness leaves for classified employees

PROFESSIONAL LEAVES

The Governing Board may grant a leave of absence of up to one year to classified employees for the purpose of permitting study or retraining the employee to meet changing conditions within the district (Education Code 45381)

(cf. 4161/4261 - Leaves)

(cf. 4231 - Staff Development)

To be eligible for a leave for study purposes, the employee must have served in the district for at least seven consecutive years preceding the leave, unless the leave is for purposes of retraining, in which case the employee must have served in the district for at least three consecutive years. Sick leave shall not be deemed a break in service, except if it will not be included as service in computing service for the granting of any subsequent professional leave. (Education Code 45382)

No more than one such leave of absence shall be granted in each seven or three-year period. (Education Code 45382)

The Governing Board may require that such leaves of absence be taken in separate six-month periods or in any other appropriate periods as long as the total leave is completed within three years. Any period of service by the employee between the separate periods of leave shall comprise a part of the service required for qualifying for a subsequent leave of absence. (Education Code 45381)

Every employee granted a leave of absence for these purposes may be required to perform such services during the leave as the Governing Board and employee may agree upon in writing. (Education Code 45383)

The employee shall receive such compensation during the leave as the Governing Board and employee agree upon in writing, which shall be not less than the difference between the employee's salary and the salary of a substitute employee. In lieu of such a difference, the Governing Board may pay one-half of the salary of the employee or any additional amount up to and including the full salary of the employee. (Education Code 45383)

Compensation during the leave shall be paid in the manner authorized by Education Code 45384.

The Governing Board may grant reimbursement of the costs, including tuition fees, to any permanent classified employee who satisfactorily completes approved training to improve his/her job knowledge, ability or skill. Programs eligible for reimbursement include, but are not limited to, courses of study at approved academic institutions, seminars and training institutes conducted by recognized professional associations, conferences, meetings and other training programs designed to upgrade the classified service and encourage the retraining of employees who may otherwise be subject to layoff as the result of technological changes. (Education Code 45387)

PROFESSIONAL LEAVES (continued)

Legal Reference:

EDUCATION CODE

45380-45387 Leaves of absence for study or retraining, classified personnel

MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL

The Governing Board recognizes that effective management is vital to the success of district operations. Management personnel are expected to demonstrate initiative and good judgment in the development, implementation and oversight of district programs. Supervisors shall promote the productivity, professional growth and teamwork of district staff.

The Governing Board shall adopt policies related to management, supervisory and confidential personnel insofar as they are needed to comply with law and describe circumstances of employment within the district.

The Governing Board may, by resolution, establish or abolish positions designated as senior management of the classified service.

Legal Reference:

EDUCATION CODE

35031 *Term of employment*

45100.5 *Senior management positions*

45104.5 *Abolishment of senior classified management positions*

45108.5 *Definitions of senior classified management employees*

45108.7 *Waiver of provisions of 45108.5*

45128 *Overtime*

45130 *Exclusion from overtime provisions*

45256.5 *Designation of certain positions*

GOVERNMENT CODE

3540.1 *Definitions*

3543.4 *Management position; representation*

3545 *Appropriateness of unit; basis*

COURT DECISIONS

Auer v. Robbins, (1997) 117 S.Ct. 905

MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL

Management, supervisory and confidential positions shall be defined as follows:
(Government Code 3540.1)

1. Management employees are those having significant responsibilities for formulating district policies or administering district programs and who serve in a position which the Governing Board has legally designated as a management position.
2. Supervisory employees are those who, using independent judgment:
 - a. Have the authority to make recommendations to the Superintendent or designee concerning employee hiring, transfer, suspension, layoff, recall, promotion, discharge, assignment, reward, or discipline
 - b. Assign work to employees and direct them
 - c. Adjust employee grievances

(cf. 2220 - Administrative Staff Organization)

3. Confidential employees are those employees who, in the regular course of their duties, have access to or possess information relating to the district's employer-employee relations.

Senior Management of the Classified Service

A senior management employee is either a fiscal advisor to the Superintendent or an employee in the highest program area position not requiring certification, with districtwide responsibility for formulating policy or administering the program. (Education Code 45108.5)

Employees designated as senior management are part of the classified service and shall have the same rights, benefits and duties except the right to permanent status in these positions. (Education Code 45100.5) The Governing Board designates the position of Assistant Superintendent, Business Services as senior management of the Classified Services.

(cf. 4312.1 - Contracts)

Positions in the senior management of the classified service shall be filled from an unranked list of eligible persons who have demonstrated managerial ability and who have been found qualified for the positions as specified by the Superintendent and determined by the personnel commission. (Education Code 45256.5)

(cf. 2230 - Representative and Deliberative Groups)

RECRUITMENT AND SELECTION

Recruitment and Screening

When a management position vacancy is known or anticipated, the Superintendent or designee shall determine the need and qualifications for the position. As soon as possible, notice of the vacancy shall be published within the district and may be published through other recruitment sources.

In selecting candidates for formal interview, the Superintendent or designee shall:

1. Review valid transfer requests
2. Review the current applicant file
3. Establish an interview committee
4. Arrange interviews for the best qualified applicants
5. Provide the interview committee with each candidate's complete personnel folder, a set of questions to be asked, rating sheets, and related instructions.

The interview committee shall rank candidates in order of priority. When all interviews have been completed, committee members may discuss candidates before recommending finalists. All discussions and recommendations shall be confidential.

A special effort shall be made to interview candidates who qualify for consideration under the district's affirmative action plan.

Selection

When finalists have been identified, the Superintendent or designee shall interview in person or by telephone those individuals given as references who have had the greatest opportunity to observe the finalists' professional activities.

The Superintendent or designee shall interview the finalists and submit a recommendation to the Governing Board. No management position shall be filled without concurrence of both the Superintendent or designee and the Governing Board.

If the Superintendent or designee cannot make a recommendation in full confidence, he/she shall be directed to declare the position open and undertake a new search.

When a final recommendation is approved, the Superintendent or designee shall contact the finalist to obtain acceptance of an offer of employment.

RECRUITMENT AND SELECTION (continued)

The salary and placement of newly elected staff shall be determined by the Governing Board. Employment shall be subject to the possession of valid, appropriate credentials.

(cf. 4112.4/4212.4/4312.4 - Health Examinations)

As soon as the position is filled, the Superintendent or designee shall notify all candidates who were not selected.

CONTRACTS

The Governing Board recognizes the importance of qualified and competent individuals to lead district programs and to assist the Superintendent in coordinating efforts to achieve district goals and objectives. To that end, the Board may fill certificated administrative and supervisory positions and classified senior management positions on a contract basis.

(cf. 0000 - Vision)
(cf. 2121 - Superintendent's Contract)
(cf. 4111/4211/4311 - Recruitment and Selection)
(cf. 4300 - Administrative and Supervisory Personnel)
(cf. 4313.2 - Demotion/Reassignment)
(cf. 4314 - Transfers)

The Board may offer a continuing contract of up to four years to any deputy, associate, or assistant superintendent; any certificated employee holding a position requiring a supervision or administration credential; or any senior manager of the classified service. (Education Code 35031, 44929.20)

Prior to entering into any such contract, the Board and Superintendent shall consider the financial impact of the contract on the district. The proposed contract shall also be reviewed by legal counsel to ensure that all legally required provisions are included in the contract and to address any potentially adverse obligations to the district.

(cf. 3460 - Financial Reports and Accountability)

The Board shall deliberate in the closed session of a regular meeting about the terms of an employment contract for a deputy, associate, or assistant superintendent; other certificated employee holding a position requiring a supervision or administration credential; or a senior manager of the classified service. (Government Code 54957)

(cf. 9320 - Meetings and Notices)
(cf. 9321 - Closed Session Purposes and Agendas)
(cf. 9321.1 - Closed Session Actions and Reports)

Any such employment contract shall be ratified by the Board during an open session of a regularly scheduled Board meeting and reflected in the Board's minutes. Copies of the contracts shall be available to the public upon request. (Government Code 53262)

(cf. 1340 - Access to District Records)
(cf. 9322 - Agenda/Meeting Materials)
(cf. 9324 - Minutes and Recordings)

CONTRACTS (continued)

Extension of Contract and Reemployment

A contract shall be extended only by Board action and subsequent to a satisfactory evaluation of the employee's performance. No employment contract shall include a provision for automatic renewal of the contract.

(cf. 4315 - Evaluation/Supervision)

During the term of the contract and with the consent of the employee involved, the Board may reelect or reemploy the employee starting on the next succeeding first day of July and based on terms and conditions mutually agreed upon by the Board and the employee. (Education Code 35031)

If the Board decides not to reelect or reemploy a deputy, associate, or assistant superintendent or a senior manager of the classified service upon the expiration of his/her term, it shall notify the employee in writing 45 days prior to the expiration of the term of the contract. (Education Code 35031)

Termination of Contract

Every employee contract shall include a provision specifying the legal maximum cash settlement that the employee may receive in the event that the Board finds it necessary to terminate the contract prior to its expiration date. (Government Code 53260)

(cf. 4117.5/4217.5/4317.5 - Termination Agreements)

In addition, all employee contracts shall include a provision that, if the employee is convicted of a crime involving an abuse of his/her office or position, he/she shall fully reimburse the district for payments he/she receives as paid leave salary pending investigation or as cash settlement upon his/her termination and for any funds expended by the district in his/her criminal legal defense. (Government Code 53243-53243.4, 53260)

AUXILIARY SERVICES CONTRACT

The Governing Board recognizes that because of their expertise and knowledge of district programs and procedures, retired classified management, confidential and supervisory employees may be uniquely suited to perform specialized work of limited duration after retirement. In such instances, classified management, confidential, and supervisory employees may provide auxiliary services to the district.

CONTRACTS (continued)

Requirements

The employee shall have reached an age of 55 and have rendered a minimum 10 years of fulltime service to the district, within the immediately preceding 12 years. The last five years immediately preceding retirement must be spent in a classified management, confidential, or supervisory position.

Length of Agreement

The length of this agreement of service shall be for a period of five years or to age 65, whichever comes first. A participant shall have the opportunity to provide up to 30 days of service per calendar year. Services are to be determined by the district, and will be evaluated annually. Provision of service to the district may be terminated by the district should there be unsatisfactory performance, as determined by the district, or a failure in performance of required services.

Review

The evaluation of services provided shall be the responsibility of the district annually.

Compensation

Up to 30 days (240 hours per year), at the employee's hourly rate of pay at the time of retirement, which shall not be adjusted after retirement.

Fringe Benefits

The district's maximum contribution toward medical, dental, and vision insurance premiums for the retiree and one dependent shall be based upon the least expensive two-party insurance package provided to employees.

Request Procedure

Applications for service as an independent contractor under this policy shall be submitted by April 1, for the following school year. Applications may be accepted after that date if special circumstances warrant such an exception. Application shall be subject to Governing Board approval and availability of district funds.

Services to the District

Services performed may include, but are not be limited to, the services provided by the employee prior to retirement or other services for which the retiree is qualified.

CONTRACTS (continued)

INDEPENDENT CONTRACTORS

The Governing Board recognizes that because of their expertise and knowledge of district programs and procedures, retired certificated administrative employees may be uniquely suited to performing specialized work of limited duration after retirement. In such instances, certificated administrative employees may provide auxiliary services to the district.

Requirements

- a. Possess a valid credential, or credentials, which shall remain in effect and be registered with the Los Angeles County Superintendent of Schools.
- b. Will have reached an age of 55 and rendered a minimum of 15 years of full-time service to the district, 12 of which must have been in a management assignment, and all of which must have been served within the immediately preceding 18 years.
- c. Must have worked at least 75% of a full-time year in each of the last five years of service.

Length of Agreement

The person engaged as an independent contractor shall agree as follows:

- a. To serve no more than 30 days a calendar year, with no provision for unused days to be carried over to the following year.
- b. To provide service on only those days specified and approved by the district.
- c. To serve up to five consecutive years or until age 65, whichever is first.
- d. To perform only those duties agreed upon with the district.
- e. To serve for all purposes as an independent contractor, pursuant to the provisions of Education and Government Codes.

Compensation

The Superintendent or his/her designee is authorized to offer compensation within the following guidelines:

- a. Daily compensation shall be based upon the individual's salary step at the time of retirement, which shall not be adjusted after retirement.

CONTRACTS (continued)

- b. The daily rate or per diem shall be determined based on the Certificated/Senior Management Salary Schedule at the time of retirement.
- c. The amount of the daily rate will be a "B" warrant and upon receipt of an invoice from the independent contractor.
- d. The district will contribute a maximum for medical, dental and vision insurance premiums for the retiree and one dependent based upon the least expensive two-party insurance coverage provided to employees.

Request Procedure

Applications for service as an independent contractor under this policy shall be submitted by March 1 for the following school year. Applications may be accepted after that date if special circumstances warrant such an exception.

Services to the District

A person approved for this program shall serve a maximum of 30 days per year in educational activities mutually agreed upon by the contractor and the district. These activities may include, but would not be limited to, demonstration teaching, staff development or in-service programs, working with the district or school testing program, compilation of data as it relates to the instructional program, orientation and assistance to new teachers, updating instructional materials and guides as well as assisting with the volunteer-aid program.

Severance

Independent contractors may withdraw from participation at any time provided 30-day notice has been given. The contract for services may be terminated by the district should there be unsatisfactory performance, as determined by the district, or a failure in the performance of required services.

Review

The evaluation of services and termination of contract by the district are subject to review by the district annually.

Annual Contract

The Superintendent or his/her designee shall prepare annual contracts with the independent contractor with regard to the annual services to be performed.

CONTRACTS (continued)

Legal Reference:

EDUCATION CODE

35030 *Title of deputy, associate or assistant superintendent for certain positions*

35031 *Term of employment*

44842 *Automatic declining of employment*

44843 *Notice of employment (to county superintendent)*

44929.20 *Continuing contract*

44951 *Continuation in position unless notified*

GOVERNMENT CODE

3511.1-3511.2 *Local agency executives*

53243-53243.4 *Abuse of office*

53260-53264 *Employment contracts*

54954 *Time and place of regular meetings*

54956 *Brown Act - Open meeting laws; special meetings*

54957 *Closed session, personnel matters*

Management Resources:

CSBA PUBLICATIONS

Maximizing School Board Governance: The Board's Relationship to District Staff, 2007

WEB SITES

California School Boards Association: <http://www.csba.org>

Association of California School Administrators: <http://www.acsa.org>

Adopted: September 19, 2012

LOAD/SCHEDULING/HOURS OF EMPLOYMENT

The Governing Board designates in accordance with law salaried positions which are exempt from overtime. All management positions are exempt from overtime. Persons holding these positions work whatever hours are necessary in order to fulfill their assignments. Their positions are set apart from other positions by virtue of the duties, flexibility of hours, salary, benefit structure and authority which they entail.

Employees serving in positions excluded from overtime shall not be unreasonably discriminated against as a result of the exclusion. (Education Code 45130)

Supervisory and confidential personnel are eligible for overtime.

Exempt employees' pay shall not be subject to salary deductions for absences of less than a day.

Legal Reference:

EDUCATION CODE

45130 *Exclusion from overtime provisions*

UNITED STATES CODE, TITLE 29

201-215 *Fair Labor Standards Acts*

CODE OF FEDERAL REGULATIONS, TITLE 29

511-800 *Department of Labor Relations*

COURT DECISIONS

Abshire v. County of Kern, (9th Cir. 1990) 908 F.2d 483

PROMOTION/DEMOTION/REASSIGNMENT

The Governing Board may promote, demote, and reassign management and confidential employees when such action is determined to be in the best interest of the district. The Governing Board shall consider the recommendation of the Superintendent or designee when making decisions related to promotion, demotion and reassignment.

The Superintendent or designee shall ensure that the district complies with all applicable statutory deadlines and due process procedures.

(cf. 4317.3 - Personnel Reduction)

Legal Reference:

EDUCATION CODE

35031 Senior management employee in the classified service: nonreelection

44660-44665 Evaluation and assessment of performance of certificated employees

44850.1 No tenure in administrative or supervisory positions

44896 Transfer of administrator or supervisor to teaching position

44951 Continuation in position unless notified (position requiring administrative or supervisory credential)

45101 Definitions (including disciplinary action, cause)

45113 Rules for classified service in districts not incorporating the merit system

COURT DECISIONS

Jefferson v. Compton Unified School District, (1993) 14 Cal.App. 4th 32

Ellerbroek v. Saddleback Valley Unified School District, (1981) 177 Cal. Rptr. 910

Hentschke v. Sink, (1973) 34 Cal.App. 3d 19

PROMOTION/DEMOTION/REASSIGNMENT

Certificated Management and Supervisory Personnel

Certificated employees holding an administrative or supervisory credential may be released and placed in a different position for the following year.

Before March 15, the Governing Board shall meet and determine whether the identified employee may be released from his/her position effective the end of the school year and reassigned to a different position.

By March 15, the employee shall be notified of the Governing Board's action by registered mail or in person. If the notice is presented to the employee in person, the employee's signature acknowledging receipt of the notice shall be obtained on the district's copy of the written notice. (Education Code 44951)

Before July 1, the Governing Board shall take additional action to bring into effect the release and reassignment of employees who received the above notice.

If the reassignment is to a teaching position, the Governing Board shall give the employee, if requested, a written statement of the reasons for the reassignment. If these reasons include incompetency as an administrator or supervisor, the district shall have completed an evaluation of the employee within the 60-day period immediately preceding the notice date. (Education Code 44896)

Classified Management, Supervisory and Confidential Personnel

For personnel in this classification:

Demotion means assignment to an inferior position or status, without the employee's written voluntary consent. (Education Code 45101)

Reclassification means the upgrading of a position to a higher classification as a result of the gradual increase of the duties being performed by the incumbent in such position. (Education Code 45101)

If assigned to a position within a bargaining unit, management, supervisory and confidential classified employees shall be reclassified at the discretion of the district subject to provisions of the applicable collective bargaining agreement.

(cf. 4312.1 - Contracts)

Any decision regarding the demotion of a permanent management, supervisory or confidential classified employee shall be subject to the causes, appeal rights, and procedure set forth in district policy, regulation or collective bargaining agreements for disciplinary action against classified employees. (Education Code 45113)

PROMOTION/DEMOTION/REASSIGNMENT (continued)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

The Governing Board shall provide 45 days' notice before demoting a deputy, associate or assistant superintendent or employee in the senior management of the classified service. (Education Code 35031)

In initiating the involuntary reassignment of a classified manager, the Superintendent or designee shall provide the classified manager with prior written notice of the intent to reassign him/her to a designated position. The notice will inform the manager of the specific reasons for the reassignment, his/her right to a hearing, and the time within which an appeal must be filed. The notice shall also contain a card or paper for requesting a hearing. The classified manager may, within five days after receiving such notice, file a written request for hearing before the Governing Board.

The request for hearing shall be filed in the office of the Superintendent or designee. If the manager fails to file a request for hearing as specified above, he/she will be deemed to have waived the right to a hearing and the reassignment may be made effective immediately.

If a request for hearing is filed as specified above, a hearing shall be scheduled before the Governing Board. The Governing Board shall hear the matter, with the party initiating the reassignment bearing the burden of proving the reasons for the reassignment. The hearing shall be recorded by a reporter or tape recording. After the hearing, the Governing Board shall determine whether to approve, modify, or revoke the reassignment. The decision of the Governing Board shall be final.

TRANSFERS

The Superintendent or designee shall assess the needs of the district and place management personnel in positions which will meet those needs.

Voluntary Transfer

The Governing Board recognizes that management employees may wish to request transfers to vacant positions for which they are qualified in order to promote their professional growth and broaden their management background. The Superintendent or designee shall establish procedures for the transfer of management personnel.

Involuntary Transfer

Involuntary transfers within an administrator's classification (same job title) shall be initiated at the recommendation of the Superintendent or designee in the best interests of the district.

(cf. 4312.1 - Contracts)

Legal Reference:

EDUCATION CODE

35035 *Additional powers and duties of superintendent*

COURT DECISIONS

Hentschke v. Sink (1973) 34 Cal.App. 3d 19

TRANSFERS

Voluntary Transfer

Requests for voluntary transfers shall be submitted to the Superintendent or designee at the time of the known vacancy.

Transfer requests may be withdrawn by the employee at any time.

Involuntary Transfer

Before recommending the involuntary transfer or lateral end-of-the-year rotation of administrators, the Superintendent or designee shall confer with the affected employee and notify him/her of the intent to recommend the transfer or rotation and the specific reasons for the transfer.

EVALUATION/SUPERVISION

Certificated Management

The Governing Board shall establish and define job responsibilities for administrative personnel. The evaluation and assessment of the competency of administrative personnel shall be based on:

1. The administrator's progress toward agreed-upon goals, objectives and tasks
2. General expectations of performance which recognize professional responsibility, accountability and attitude
3. The fulfillment of responsibilities contained in the specific job descriptions adopted by the Governing Board
4. Additional factors as determined by the Superintendent or designee

The evaluation shall recognize the worth and needs of the individual in the total working environment and shall provide direction toward the improvement of his/her effectiveness.

Each administrator shall be evaluated formally at least once every other school year. Administrators new to a position may be evaluated each year for the first two years in the position. Evaluation is a continuous process and may occur between scheduled periods at the request of the administrator, the administrator's immediate supervisor or any higher supervisor.

Formal management evaluations shall be recorded in writing on a form prescribed by the Superintendent or designee. The evaluation shall include recommendations for improvement if needed. Assistance shall be provided by the district to this end.

The evaluation report must be signed by the evaluator and the evaluatee and may be reviewed by the evaluator's immediate supervisor at the request of either party. The signature of the evaluated administrator shall not show agreement with the evaluation unless so indicated above his/her signature.

For 12-month employees, the written evaluation report shall be given to the administrator no later than June 30 and a discussion of the evaluation shall be held no later than July 30 of the year in which the evaluation takes place. (Education Code 44663)

The Superintendent or designee shall develop regulations and procedures for the evaluation of all administrative and supervisory personnel. These written regulations and procedures shall be available to administrative and supervisory personnel. (Education Code 35171)

EVALUATION/SUPERVISION (continued)

Classified Management Employees

Classified management personnel will be evaluated according to the procedures developed by the Superintendent or designee and approved by the Governing Board. The evaluation shall include recommendations for improvement if needed. Assistance shall be provided by the district to this end.

The evaluation form must be signed by both the person being evaluated and the supervisor making the evaluation. The signature of the evaluated management employee shall not show agreement with the evaluation unless so indicated above the signature of the employee. The employee may make written response to the evaluation at any time up to ____ days after receiving a copy of the evaluation. The response shall be attached to the evaluation and placed in the employee's personnel file.

Confidential Personnel

The Superintendent or designee shall develop appropriate procedures for the evaluation of confidential personnel. Evaluations shall be administered in the same manner and time schedule as classified employees who have similar but nonconfidential positions with the district.

Legal Reference:

EDUCATION CODE

33039 State guidelines for teacher evaluation procedures

35171 Availability of rules and regulations for evaluation of performance

44660-44665 Evaluation and assessment of performance of certificated employees

45113 Rules and regulations for the classified service in districts not incorporating the merit system

GOVERNMENT CODE

3543.2 Scope of representation (re evaluation procedures)

STAFF EVALUATING TEACHERS

The Governing Board expects that administrators assigned to evaluate teachers shall:

1. Possess a valid administrative credential
2. Be competent in the instructional methodologies used by the teachers they evaluate
3. Be skilled in the supervision of instruction and in techniques and procedures related to the evaluation of instruction
4. Be familiar with district curriculum priorities, policies and practices, district standards for student progress, and district policies and procedures related to personnel supervision, performance evaluation and staff development

(cf. 4115 - Evaluation/Supervision)

(cf. 4131 - Staff Development)

(cf. 4131.5 - Professional Growth)

(cf. 4331 - Staff Development)

(cf. 5121 - Grades/Evaluation of Student Achievement)

(cf. 5123 - Promotion/Acceleration/Retention)

(cf. 6011 - Academic Standards)

(cf. 6141 - Curriculum Development and Evaluation)

(cf. 6146.1 - High School Graduation Requirements)

(cf. 6146.5 - Elementary/Middle School Graduation Requirements)

The Superintendent or designee shall ensure that administrators who evaluate teachers meet the above criteria and shall observe each administrator while he/she is conducting a teacher evaluation. This observation shall be a factor in the subsequent evaluation of the administrator. The Superintendent or designee also shall discuss his/her observations with the administrator and may develop and implement an appropriate professional improvement program for the administrator.

(cf. 4315 - Evaluation/Supervision)

Legal Reference:

EDUCATION CODE

33039 Guidelines for teacher evaluation

44660-44665 Evaluation and assessment of performance of certificated employees

44681-44689 Administrator training and evaluation

GOVERNMENT CODE

3543.2 Scope of representation (re evaluation procedures)

PERSONNEL REDUCTION

When the district needs to reduce the kind and/or number of management staff, layoff proceedings shall be initiated at the recommendation of the Superintendent or designee and after consultation with legal counsel.

Certificated Management

When the district needs to reduce the number and/or kind of certificated management staff and also needs to reduce the overall number of certificated employees, the district shall proceed pursuant to the requirements of Education Code 44955. By March 15, affected employees shall be notified of the Governing Board's action by registered mail or in person.

When the district needs to reduce the number and/or kind of certificated management staff and intends to place the displaced personnel in other certificated positions (causing no reduction in the overall number of certificated employees of the district), the district shall proceed pursuant to Education Code 44951. By March 15, affected employees shall be notified of the Governing Board's action by registered mail or in person. If the notice is presented in person, the employee's signature acknowledging receipt of the notice shall be obtained on the district's copy of the notice.

During the time period between five days after enactment of the Budget Act and August 15, the Governing Board may determine that the total revenue limit per ADA has not increased by at least two percent and that the district needs to reduce the number and/or kind of management staff pursuant to Education Code 44955.5. In such a situation, the Governing Board shall adopt a schedule of notice and hearings and shall otherwise proceed pursuant to Education Code 44951 or 44955.

An employee who has served as an administrator in the district for at least two years shall have permanent certificated status in the district as a teacher. (Education Code 44893, 44894, 44929.21) However, the period of employment in the administrative position is not included when calculating seniority related to layoff and reemployment, except for: (Education Code 44956.5)

1. Site administrators who are entitled to earn up to three years' seniority for these purposes.
2. Administrators who were initially employed in an administrative position before July 1, 1983.

Classified Management/Confidential Employees

Classified managers shall be entitled to the same procedure and have the same layoff rights as all other classified employees.

(cf. 4217.3 - Layoff/Rehire)

(cf. 4300 - Management, Supervisory and Confidential Personnel)

PERSONNEL REDUCTION (continued)

Senior Management of the Classified Service

The Governing Board may by resolution abolish any or all positions of the senior management of the classified service. Any employee occupying a senior management position abolished by Governing Board action shall become a member of the classified or certificated service in a position to which he/she would otherwise be entitled if the employee had not been in a senior management position. (Education Code 45104.5)

Legal Reference:

EDUCATION CODE

- 44951 Continuation in position unless notified*
- 44955 Certificated employee layoff*
- 44955.5 Termination of certificated employees; insufficient increase in revenue limits*
- 44956 Reemployment rights of laid-off certificated employees*
- 44956.5 Seniority of certificated administrators*
- 45100.5 Senior management positions*
- 45104.5 Abolition of position*
- 45108.5 Senior management employee*
- 45114 Layoff and reemployment procedures*
- 45117 Notice of layoff*
- 45298 Reemployment and promotional exam*
- 45308 Order of layoff and reemployment*

PROFESSIONAL STANDARDS

**CALIFORNIA PROFESSIONAL STANDARDS FOR
EDUCATIONAL LEADERS**

Preamble

The administrator(s) at a school site have numerous responsibilities that ultimately lead to the improvement of the performance of all students in the school. By acquiring the skills, attitudes and behaviors as outlined in the following Professional Standards for School Leaders, students have the best opportunity to achieve the mission and vision of the district and to meet the expectations of high standards for student learning.

Standards

A school administrator is an educational leader who promotes the success of all students by:

1. Facilitating the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by the school community
2. Advocating, nurturing, and sustaining a school culture and instructional program conducive to student learning and staff professional growth
3. Ensuring management of the organization, operations, and resources for a safe, efficient and effective learning environment
4. Collaborating with families and community members, responding to diverse community interests and needs, and mobilizing community resources
5. Modeling a personal code of ethics and developing professional leadership capacity
6. Understanding, responding to, and influencing the larger political, social, economic, legal, and cultural context

Source: California Professional Standards for Educational Leaders, 2001

STAFF DEVELOPMENT

The Governing Board recognizes that professional development opportunities enhance employee effectiveness and contribute to personal growth. Staff development for management, supervisory and confidential personnel shall be designed to guide instructional improvement, build leadership skills, and enhance overall management efficiency.

(cf. 4119.21/4219.21/4319.21 - Professional Standards)

The Superintendent or designee shall develop a plan for administrator support and development activities based on a systematic assessment of the needs of district students and staff and aligned to the district's vision and goals. The Governing Board desires that all administrators participate in planning activities that are pertinent to their specific areas of responsibility.

(cf. 0000 - Vision)

(cf. 0200 - Goals for the School District)

(cf. 6010 - Goals and Objectives)

Within budget parameters, the Superintendent or designee may approve participation in activities that will benefit individual administrators and enhance their contributions to the district.

(cf. 3350 - Travel Expenses)

The Superintendent or designee shall evaluate the benefit to staff and students of professional development activities.

(cf. 0500 - Accountability)

Legal Reference:

EDUCATION CODE

44510-44517 Principal training program

44670.1-44680.7 Staff development and resource centers

44681-44689.2 Administrator training and evaluation

Management Resources:

CDE PUBLICATIONS

California Professional Standards for Educational Leaders, 2001

WEB SITES

CTC: <http://www.ctc.ca.gov>

CDE: <http://www.cde.ca.gov>

Association of California School Administrators: <http://www.acsa.org>

California School Leadership Academy: <http://www.csla.org>

STAFF DEVELOPMENT

Staff development activities may include but are not limited to:

1. Professional education conferences or committee meetings
2. Courses offered by institutions of higher education
3. Workshops offered by the district, county office of education or state
4. Small-group activities
5. Self-directed learning
6. Observation of other schools
7. Follow-up activities that help staff implement newly acquired skills

(cf. 3350 - Travel Expenses)

(cf. 4361 - Leaves)

Principal Training Program

The Superintendent or designee shall approve a staff development program for principals and vice principals which meet the following conditions:

1. The training shall have a duration of at least 80 hours of intensive individualized support and professional development. An additional 80 hours of intensive individualized support and professional development may be completed over a period of up to two years once the initial 80 hours of training commences. (Education Code 44513)

Training shall be in the following areas: (Education Code 44511)

- a. School financial and personnel management
- b. Core academic standards

(cf. 6011 - Academic Standards)

- c. Curriculum frameworks and instructional materials aligned to the state academic standards

(cf. 6141 - Curriculum Development and Evaluation)

(cf. 6161.1 - Selection and Evaluation of Instructional Materials)

STAFF DEVELOPMENT (continued)

- d. The use of student assessment instruments, specific ways of mastering the use of assessment data from the Standardized Testing and Reporting program, and school management technology to improve student performance

(cf. 6162.5 - Student Assessment)

(cf. 6162.51 - Standardized Testing and Reporting Program)

- e. The provision of instructional leadership and management strategies regarding the use of instructional technology to improve student performance

(cf. 6162.7 - Use of Technology in Instruction)

- f. Extension of the knowledge, skills and abilities acquired in the preliminary administrative preparation program that is designed to strengthen the ability of administrators to serve all students in the school to which they are assigned

2. The training may include additional areas that may impact student learning, such as pedagogies of learning, motivation of student learning, collaboration, conflict resolution, diversity, parental involvement, employee relations, and the creation of effective learning and workplace environments. (Education Code 44511)
3. For purposes of this program, the Superintendent or designee shall select a staff development provider approved by the State Governing Board. (Education Code 44513)

The Superintendent or designee shall give highest priority to training administrators assigned to, and practicing in, low-performing or hard-to-staff schools.

A low-performing school is one in the bottom half of all schools statewide based on Academic Performance Index rankings. A hard-to-staff school is one in which teachers holding emergency permits or credential waivers make up 20 percent or more of the teaching staff. (Education Code 44510)

(cf. 0520 - Intervention for Underperforming Schools)

(cf. 4112.2 - Certification)

LEAVES

The Governing Board recognizes the need to provide for leaves which management and confidential personnel may take for justifiable reasons. Such leaves shall be authorized pursuant to Governing Board policies and/or administrative regulations.

Certificated management and supervisory employees shall be entitled to those leave provisions provided in the certificated agreement unless otherwise specified in Governing Board policy, administrative regulations or individual contract.

Classified management, supervisory and confidential employees shall be entitled to those leave provisions provided in the classified negotiated agreement unless otherwise specified in Governing Board policy, administrative regulations or individual contract.

Legal Reference:

EDUCATION CODE

44036 Leaves of absence for judicial and official appearances

44037 Unlawful to encourage exemption from jury duty

44940 Sex offenses and narcotic offenses; compulsory leave

44962-44988 Leaves of absence (certificated)

45190-45210 Leaves of absence (classified)