

**PERSONNEL
(CLASSIFIED PERSONNEL)**

Series 4000 contains policies, regulations and exhibits on all school employees. The category is divided into three subdivisions: **4000** contains policies applying to all employees or to general personnel matters; **4100** refers to certificated/teaching personnel; **4200** refers to classified personnel; **4300** refers to management personnel; and **4400** refers to personnel designated as confidential.

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**PERSONNEL
(CLASSIFIED PERSONNEL)**

CODE

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**ABC UNIFIED SCHOOL DISTRICT
Board Policy**

CLASSIFIED PERSONNEL

CLASSIFIED PERSONNEL

The Governing Board shall fill each of its classified positions with 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)

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

(cf. 4215 - Evaluation/Supervision)

Classification of Employees

The Board shall classify all employees and positions not requiring certification qualifications as the classified service, except for those employees and positions specifically exempt from classified service. (Education Code 45103)

Individuals who possess certification qualifications shall not be prohibited from being employed in a classified position. (Education Code 45104)

(cf. 4211 - Recruitment and Selection)

(cf. 4212 - Appointment and Conditions of Employment)

Before employing a short-term classified employee, the Board, at a regularly scheduled meeting, shall specify the service required to be performed by the employee and shall certify the ending date of the service. The Board may shorten or extend the ending date, but the date shall not be extended beyond 75 percent of the school year, as defined. (Education Code 45103)

Each position shall have a designated title and regular minimum number of assigned hours per day, days per week and months per year. A job description shall be established for each position.

Assignment

Classified employees shall be assigned by their immediate supervisors with the approval of the Superintendent or designee. They shall be required to perform those duties prescribed by the Board for the position the employee holds, in accordance with applicable job descriptions and collective bargaining agreements.

(cf. 4141/4241 - Collective Bargaining Agreement)

CLASSIFIED PERSONNEL (Continuing)

Legal Reference:

EDUCATION CODE

45100-45139 Employment of classified staff

45160-45169 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

Management Resources:

WEB SITES

California School Employees Association: <http://www.csea.com>

Policy adopted

by the board: 04.02.79

revised: 11.15.88

revised: 05.19.09

**ABC UNIFIED SCHOOL DISTRICT
Administrative Regulation**

CLASSIFIED PERSONNEL

CLASSIFIED PERSONNEL

Individuals hired solely for the following purposes are exempt from the classified service:
(Education Code 45103)

1. Substitute or short-term employees, as defined, who are employed and paid for less than 75 percent of the school year

Substitute employee means any person employed to replace any classified employee who is temporarily absent from duty. In addition, if the district is then engaged in a procedure to hire a permanent employee to fill a vacancy in any classified position, the Governing Board may fill the vacancy through the employment, for not more than 60 calendar days, of one or more substitute employees, except to the extent that a collective bargaining agreement then in effect provides for a different period of time.

Short term employee means any person who is employed to perform a service for the district, upon the completion of which the service required or similar services will not be extended or needed on a continuing basis.

Seventy-five percent of the school year means 195 working days, including holidays, sick leave, vacation and other leaves of absences, irrespective of the number of hours worked per day.

2. Noontime Supervisors, when the employees are not otherwise employed in classified positions in the district
3. Apprentices and professional experts employed on a temporary basis for a specific project regardless of length of employment
4. Full-time students employed part time
5. Part-time students employed part time in any college work study program, or in a work experience education program conducted by a community college district and which is financed by state or federal funds

**ABC UNIFIED SCHOOL DISTRICT
Board Policy**

CLASSIFIED PERSONNEL

EMPLOYMENT OF PERMANENT PERSONNEL

The superintendent of schools shall establish work schedules, provisions for absences and other conditions of work in keeping with the policies and employment agreements of the governing board. Working conditions shall be designed to promote excellent physical and mental health of all employees. (Education Code 45109, 45110)

General employment policies regarding the scheduling of vacations, approval of leaves of absence, resignation, reemployment, duties, hours and assignment and other matters related to the nature of the position are determined by the governing board upon recommendation of the administrator of the department, the personnel office and the superintendent. These will be in accordance with state law.

All of the rights, privileges, and duties specifically provided in Education Code beginning with Section 45100, and applicable provisions beginning with Section 44000 are hereby granted to and required of such classified employees. Determination of any benefits not specifically granted shall be made by the governing board.

Legal Reference: *Education Code*
 44000-44069 *Employees*
 45100-45138 *Employment*

Policy adopted
by the board: 04.02.79

**ABC UNIFIED SCHOOL DISTRICT
Board Policy**

CLASSIFIED PERSONNEL

RECRUITMENT AND SELECTION

It shall be the policy of the district to seek the kind of classified personnel needed through an effective recruitment program based upon alertness to good candidates, initiative that results in prompt action, and good personnel practices in dealing with applicants.

It is the responsibility of the superintendent of schools and of persons delegated by the superintendent to determine the personnel needs of the school district and to locate suitable candidates to recommend for employment to the governing board.

No inquiry in regard to race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex shall be made of a person proposed for or seeking employment unless such inquiry is based upon a bona fide occupational qualification.

It shall be the duty of the superintendent of schools to see that persons nominated for employment shall meet all qualifications established by law and by the governing board for the type of position for which nomination is made.

Legal Reference: Education Code
 44066 Limitations on certification requirements
 45103-45138 Employment

Title VII, Civil Rights Act as amended by Title IX,
 Equal Employment Opportunity Act

California Administrative Code
 Title 5
 3036 Affirmative Action Employment Programs

Labor Code
 1420 Unlawful employment practices

Policy adopted
 by the board: 04.02.79

**ABC UNIFIED SCHOOL DISTRICT
Administrative Regulation**

CLASSIFIED PERSONNEL

RECRUITMENT AND SELECTION

Filing of Applications

All applications shall be made upon official forms furnished by the personnel office, filled out as therein directed, and filed in accordance with instructions contained on the vacancy announcement. Separate applications shall be filed for each position sought.

General Qualifications of Applicants

Applicants must have a legal right to remain permanently in the United States and must meet all entrance requirements as specified in the minimum qualifications established for the class which are set forth in the class specifications (job description).

Disqualification of Applicants, Candidates, and Eligible

An applicant, candidate, or eligible may be refused examination, disqualified from an examination or interview, or removed from an eligibility list for any of the following reasons:

1. Failure to report for duty after an assignment has been offered and accepted.
2. Failure, after due notice, to report promptly for review of any of the reasons for rejection contained in this section.
3. Conviction of, or pleading guilty in court to, a sex offense as defined in Education Code Section 44010 or a narcotics offense as defined in Education Code Section 44011 or a charge of mistreatment of children.
4. Criminal, infamous, dishonest, immoral or notoriously disgraceful conduct.
5. Making a false statement or omitting a statement as to any material fact on the application form(s).
6. Filing an incomplete application with significant facts omitted.
7. Practicing any deception or fraud in connection with examinations and interviews or in securing employment.
8. Evidence of the use of intoxicating beverages, dangerous drugs or narcotics to excess or while employed and on duty.
10. Dismissal from a previous employment for cause if the cause would have subjected the applicant to dismissal from employment in the district.
11. Separation from the district due to unsatisfactory service or a record of unsatisfactory service with the district.
12. Membership in the Communist Party, or advocating the overthrow of the government of the United States or the State of California by force, violence, or other unlawful means.

RECRUITMENT AND SELECTION (continued)

13. Discharge other than honorable from the armed forces of the United States.
14. Any other reason determined to be cause for dismissal of a regular classified employee.
15. Failure to meet the general qualifications as specified above.

Confidentiality of Information

All documents, such applications, references, resumes and the like shall be considered confidential information and the property of the district and shall not be returned.

The names of applicants, candidates, or eligible for any position in the district shall not be made public, nor open to inspection.

Examination After Demotion

An employee with permanent status in a class who has been demoted from a higher class during probation or who has been demoted after attaining permanent status in a higher class shall not be admitted to an examination for the class from which demotion occurred for one (1) year after the effective date of the demotion.

**ABC UNIFIED SCHOOL DISTRICT
Administrative Regulation**

CLASSIFIED PERSONNEL

QUALIFICATIONS APPRAISAL

Appraisals of applicants' qualifications for employment in the classified service shall be the responsibility of the personnel office. All qualifying tests, measurements, performance demonstrations and qualification appraisal interviews will be conducted under the direction of the director - personnel services (or designee).

The director - personnel services (or designee) shall be responsible for:

1. Determining the type, format, distribution and content of vacancy notices.
2. Determining the applicant eligibility status for all vacancy notices (open, selective or restricted).
3. Verifying applicant qualifications in keeping with class specifications.
4. Determining applicants' suitability for employment, including personal reference checks.
5. Appointing qualified personnel to serve on qualification appraisal panels.

District personnel within the first and second level of direct and indirect supervision may not serve on qualification appraisal panels, except when a particular position or classification presents special recruitment or selection problems which necessitate the use of timely qualifications appraisal techniques or which require the technical expertise of supervisory personnel to appropriately appraise applicants' qualifications. Personnel services staff may serve on any qualifications appraisal panel.

6. Scheduling selection interviews.
7. Official communication, either verbal or written, to applicants regarding job offers, eligibility status, test results, availability of positions, and selection procedures.

Selection Interviews

Selection interviews are interviews held by a management employee for the purpose of selecting a candidate to fill a vacant position. Selection shall be made from candidates identified from an eligibility list by the personnel office.

Selection interviews shall not include questions which tend to limit an applicant's employment opportunity because of his/her race, religion, color, national origin, ancestry, sex, physical handicap, or age.

Written, performance and oral testing is a part of the qualification process performed exclusively under the direction of the personnel office. Such testing shall not be repeated after the establishment of an eligibility list or during selection interviews.

QUALIFICATIONS APPRAISAL (continued)

Employment and personal reference checks shall be initiated only by the personnel office, unless the selecting supervisor has been given authorization by the director - personnel services (or designee) to contact a previous employer of a candidate under consideration for a position.

**ABC UNIFIED SCHOOL DISTRICT
Administrative Regulation**

CLASSIFIED PERSONNEL

ELIGIBILITY LISTS

After examination (written, performance, oral) candidates shall be placed on eligibility lists in the ranking order of their qualifications rating scores. Candidates who receive a rating score below the minimum qualifying score shall not be placed on an eligibility list.

Selection shall be made from the top three (3) candidates certified by the director - personnel services (or designee) to the selecting supervisor unless a reemployment list takes precedence or a transfer or demotion candidate is selected. Only the top three (3) candidates who are available, willing and able to serve shall be identified to the selecting supervisor.

Unless authorized as open and continuous lists, eligibility lists shall be in effect for six (6) months from the date of certification by the director - personnel services (or designee), or until fewer than three (3) eligible candidates who are available, willing and able to serve remain on the list. Exception: If an eligibility list is reduced to fewer than three (3) eligible candidates during the certification period of six (6) months and a vacancy occurs in the class during that period, the selecting supervisor may select from the remaining candidate(s) on the list, if so desired.

Eligibility lists may be extended for a period not to exceed an additional six (6) months provided that the director - personnel services (or designee) certifies that at least three (3) eligible candidates who are available, willing and able to serve remain on the list.

Open and Continuous Qualification Eligibility Lists

Eligibility lists for the classes of bus driver, accompanist, children's center housekeeper, clerk, clerical assistant, custodian, food services assistant I, all instructional aide classes, teacher assistant-TMR and any other so designated will remain open continuously. Qualified candidates may be placed on the eligibility lists whenever they receive qualifying scores. Exception: Eligibility lists shall not be required for three (3) hour per day positions within instructional aide classes.

The rating score shall be used to place qualified candidates on open and continuous eligibility lists in accordance with their numerical ratings. Once placed on an eligibility list, the date of a candidate's rating shall not affect his/her consideration for vacant positions, except as provided below.

Candidates on open and continuous eligibility lists who have not been selected for positions in the district shall remain on such lists for one (1) year. Candidates who wish to be reinstated on an open and continuous eligibility list shall file new applications and may be required to submit to all or part of the selection procedure in order to establish new qualifying scores for the eligibility list.

Selection of candidates for three (3) hour per day instructional aide positions shall be made from an unranked pool of candidates listed on selection lists maintained in the personnel office.

ELIGIBILITY LISTS (continued)

Management employees responsible for selection may recommend qualified candidates for three (3) hour per day instructional aide positions by placing the candidate's name on a personnel requisition. Such candidates will be exempted from other phases of the selection process. When a personnel requisition submitted to fill a three (3) hour per day instructional aide position does not contain the name of a candidate recommended for the position, the personnel office shall select and assign a candidate to fill the position.

Refusals of Employment and Withholding of Names

An eligible candidate may refuse to be considered for a given position and retain eligibility. However, a third refusal of consideration for regular employment will result in removal from the eligibility list.

Names of eligible candidates may be withheld from consideration for vacant positions for any of the following reasons:

1. Refusal to consider selection interview appointment or unavailable for selection interview appointment.
2. Refusal to respond, or unable to be reached within three (3) days for confirmation of candidacy.
3. Failure to keep established appointments, or to present papers, licenses, or other required credentials.

**ABC UNIFIED SCHOOL DISTRICT
Board Policy**

CLASSIFIED PERSONNEL

APPOINTMENT AND CONDITIONS OF EMPLOYMENT

Persons who have been selected for classified and other positions which do not require certification qualifications shall report to the personnel office prior to the first day of service to complete the following:

1. Oath of allegiance form.
2. Federal and state income tax forms.
3. Warrant recipient designation form.
4. Two fingerprint cards as directed within ten (10) working days of date of employment.
5. Fringe benefit selection forms, if eligible.
6. Physical examination, if required for the position.

An employment authorization card will be issued by the personnel office on completion of the above employment forms and submission of required information.

**ABC UNIFIED SCHOOL DISTRICT
Administrative Regulation**

CLASSIFIED PERSONNEL

CRIMINAL RECORDS 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 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 and a 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)

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 45122.1)

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)

CRIMINAL RECORDS CHECK (continuing)

Current Employees

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:

EDUCATION CODE

44332.6 Criminal record check, county board of education

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>

**ABC UNIFIED SCHOOL DISTRICT
Administrative Regulation**

CLASSIFIED PERSONNEL

REINSTATEMENT

A former permanent employee who voluntarily resigned in good standing from a permanent classified position may be reinstated in a vacant position in his/her former classification and status within thirty-nine (39) months of the last date of paid service and without further competitive examination.

Reinstatement may be made to a vacant position in a related lower classification, if the former employee is qualified, or to a lower classification in which the employee formerly had permanent status.

Reinstatement action is discretionary with the appointing authority (selecting supervisor).

Reinstatement of a former employee shall have the following effects:

1. Restoration to the former step of the current salary range for the classification. If reinstated in a lower classification, the employee shall be paid a rate closest to the step to which he/she would be assigned if reinstated in the former classification.
2. Restoration of accumulated sick leave and seniority as of the date of separation.
3. Restoration of former anniversary date, but without step-advancement credit for the off-duty period.
4. Restoration of all rights, benefits and burdens of a permanent employee in the classification to which assigned.

Reinstatement of Demoted Employees

An employee who has taken a voluntary demotion may be restored to a vacant position in his/her former classification within thirty-nine (39) months after demotion. Except when demotion was chosen in lieu of layoff, restoration is discretionary with the appointing authority.

An employee who has accepted demotion in lieu of layoff has the right to be reemployed, in accordance with seniority, in a vacant position in his/her former classification within thirty-nine (39) months. If not reemployed in the former classification within thirty-nine (39) months, the employee shall retain eligibility to be considered for reemployment in a vacant position in the former classification for an additional period of up to twenty-four (24) months provided that the same qualification standards under which the employee qualified for appointment to the class still apply.

**ABC UNIFIED SCHOOL DISTRICT
Board Policy****CLASSIFIED PERSONNEL****DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS**

This policy is implemented pursuant to and in compliance with requirements of the Omnibus Transportation Employee Testing Act of 1991, and Title 49 of the Code of Federal Regulations (CFR).

The Governing Board desires to ensure that district-provided transportation is safe for students, staff, and the public. To that end, the Superintendent or designee shall establish a drug and alcohol testing program designed to prevent the operation of buses or the performance of other safety-sensitive functions by a driver who is under the influence of drugs or alcohol, including a driver of a school bus, School/Pupil Activity Bus (SPAB), or other school transportation vehicle or any other employee who holds a commercial driver's license which is necessary to perform duties related to District employment.

(cf. 3540 - Transportation)

(cf. 3542 - School Bus Drivers)

(cf. 3543 - Transportation Safety and Emergencies)

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

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

A driver shall not report for duty or remain on duty when he/she has used any drug listed in 21 CFR 1308.11. A driver is also prohibited from reporting for duty or remaining on duty when he/she has used any drug listed in 21 CFR 1308.12-1308.15, unless he/she is using the drug under the direction of a physician who has advised him/her that the substance will not adversely affect the driver's ability to safely operate a bus. In addition, a driver shall not consume alcohol while on duty or for four hours prior to on-duty time. (49 CFR 382.201-382.209, 382.213)

The District's testing program for drivers 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; 49 CFR 382.301-382.311)

The Board shall contract for testing services upon verifying that the personnel are appropriately qualified and/or certified and that testing procedures conform to federal regulations.

Except as otherwise provided by law, the Superintendent or designee shall not release individual test results or medical information about a driver to a third party without the driver's specific written consent. (49 CFR 40.321)

Any driver who refuses to take a required drug or alcohol test, tests positive for drugs, or is found to have a blood alcohol concentration level that exceeds the levels specified in law shall be removed from performing safety-sensitive functions in accordance with 49 CFR 40.23 and 382.211.

Consequences Based on Test Results

In accordance with Title 49, no driver shall be temporarily removed from the performance of safety-sensitive functions based only on a laboratory report of a confirmed positive test before the certified medical review officer has completed verification of the test results, unless the District has obtained a waiver. (49 CFR 40.21, 382.107, 382.119)

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

Not later than five days after receiving notification of the test result or refusal to comply, the Superintendent or designee shall report any refusal, failure to comply, or positive test result to the California Department of Motor Vehicles (DMV) using a form approved by the DMV. (Vehicle Code 13376)

Any driver who refuses, fails to comply, or has a positive test result may be referred to an education and treatment program that meets the requirements of 49 CFR 40.281-40.313. If the substance abuse professional recommends that ongoing services are needed to assist the driver to maintain sobriety or abstinence from drug use, the Superintendent or designee shall require the driver to participate in the recommended services as part of a return-to-duty agreement and shall monitor his/her compliance. Any drop from a rehabilitation or return-to-duty program or a subsequent positive test result shall be reported to the DMV. (Vehicle Code 13376; 49 CFR 40.285, 40.287, 40.303, 382.605)

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

(cf. 4161/4261 - Leaves)

(cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)

(cf. 4161.9/4261.9/4361.9 - Catastrophic Leave Program)

(cf. 4261.1 - Personal Illness/Injury Leave)

A driver who has violated federal drug and alcohol regulations may be subject to disciplinary action up to and including dismissal in accordance with law, administrative regulations, and the district's collective bargaining agreement.

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

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

Voluntary Self-Identification

Whenever a driver admits to alcohol or drug misuse under the District's voluntary self-identification program, the Superintendent or designee shall ensure all of the following: (49 CFR 382.121)

1. No adverse action shall be taken against the driver by the District.
2. The driver shall be allowed sufficient opportunity to seek evaluation, education, or treatment to establish control over his/her drug or alcohol problem.
3. The driver shall be permitted to participate in safety-sensitive functions only after:
 - a. Successfully completing an education or treatment program, as determined by a drug and alcohol abuse evaluation expert, such as an employee assistance professional, substance abuse professional, or qualified drug and alcohol counselor
 - b. Undergoing a return-to-duty test with a result indicating an alcohol concentration of less than 0.02 and/or a verified negative result for drug use

A driver who admits to alcohol or drug misuse shall not be subject to federal requirements related to referral, evaluation, and treatment, provided that he/she does not self-identify in order to avoid drug or alcohol testing, makes the admission prior to performing a safety-sensitive function, and does not perform a safety-sensitive function until he/she has been evaluated and has successfully completed education or treatment requirements in accordance with program guidelines. (49 CFR 382.121)

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

Legal Reference:

EDUCATION CODE

35160 Authority of governing boards

GOVERNMENT CODE

8355 Drug-free workplace; employee notification

VEHICLE CODE

13376 Driver certificates; revocation or suspension

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 41

8101-8106 Drug-Free Workplace Act

UNITED STATES CODE, TITLE 49

31306 Alcohol and drug testing

CODE OF FEDERAL REGULATIONS, TITLE 21

1308.11-1308.15 Controlled substances

CODE OF FEDERAL REGULATIONS, TITLE 49

40.1-40.413 Procedures for transportation workplace drug and alcohol testing programs

382.101-382.605 Drug and alcohol use and testing; especially:

382.205 On-duty use

382.207 Pre-duty use

382.209 Use following an accident

Management Resources:

CALIFORNIA HIGHWAY PATROL PUBLICATIONS

Controlled Substances and Alcohol Testing Compliance Checklist, 2007

What is CSAT? Controlled Substances and Alcohol Testing, 2005

WEB SITES

California Highway Patrol: <http://www.chp.ca.gov>

Federal Motor Carrier Safety Administration: <http://www.fmcsa.dot.gov>

*U.S. Department of Transportation, Office of Drug and Alcohol Policy and Compliance:
<http://www.dot.gov/ost/dapc>*

Policy adopted

by the Board: 05.05.98

Revised: 05.16.17

**ABC UNIFIED SCHOOL DISTRICT
Administrative Regulation**

CLASSIFIED PERSONNEL

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS

This regulation implements uniform policies and procedures as established by the Federal Department of Transportation regulations pursuant to the Omnibus Transportation Employee Testing Act of 1991, and Title 49, Part 40 of the Code of Federal Regulations. (CFR)

Definitions

For purposes of drug testing required by the U.S. Department of Transportation (DOT), drugs included in the tests are marijuana, cocaine, amphetamines, phencyclidine (PCP), and opiates. (49 CFR 40.3, 40.85, 382.107)

Alcohol concentration or level means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath. For purposes of the DOT alcohol testing program, an alcohol level between 0.02 and 0.04 requires removal of the bus driver for a 24-hour period following the test. An alcohol level of 0.04 or higher requires immediate removal of the driver from performing safety-sensitive functions until the driver has successfully completed the return-to-duty process. (49 CFR 382.107, 382.201, 382.505)

Safety-sensitive function means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions include, but are not limited to, all time driving or otherwise in the bus; waiting at a District facility to be dispatched; inspecting, servicing, or conditioning the bus or bus equipment; loading or unloading the bus; supervising or assisting in the loading or unloading of the bus; and repairing, obtaining assistance, or remaining in attendance upon a disabled bus. (49 CFR 382.107)

(cf. 3540 - Transportation)

(cf. 3542 - School Bus Drivers)

(cf. 3543 - Transportation Safety and Emergencies)

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

Designated Employer Representative

The Superintendent or designee shall identify a designated employer representative and shall provide his/her name and telephone number to the testing contractor to contact about any problems or issues that may arise during the testing process. (49 CFR 40.35, 40.215)

The designated employer representative shall be responsible for receiving test results and other communications, taking immediate action(s) to remove drivers from safety-sensitive functions, and making other required decisions in the testing and evaluation processes. (49 CFR 40.3)

Pre-employment Testing

When hiring a new driver, the Superintendent or designee shall, with the driver's written consent, request the driver's past drug and alcohol testing record, as specified in 49 CFR 40.25, from any employer who has employed the driver at any time during the previous two years. In

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

addition, the Superintendent or designee shall ask the driver if he/she tested positive, or refused to test, on any pre-employment drug or alcohol test that was administered during the past two years in the course of applying for another safety-sensitive transportation position that he/she did not obtain. The driver shall not be permitted to perform safety-sensitive functions if he/she refuses to provide consent to obtain the information from previous employers, the information from previous employers is not received within 30 days of the date on which the driver first performed safety-sensitive functions for the District, or the driver or a previous employer reports a violation of a drug or alcohol regulation without subsequent completion of the return-to-duty process. (49 CFR 40.25, 382.413)

Upon making a contingent offer of employment to a driver and prior to the first time the driver performs safety-sensitive functions for the District, the Superintendent or designee shall require the driver to undergo testing for drugs and to receive a verified negative test result. Job applicants who refuse to submit to the pre-employment drug/alcohol test will be disqualified from consideration for employment. If applicant agrees to testing, the testing requirement may be waived if all of the following conditions exist: (49 CFR 382.301)

1. The driver has participated in a qualified drug testing program within the previous 30 days.
2. While participating in the program, the driver either was tested within the past six months or participated in a random drug testing program for the previous 12 months.
3. The Superintendent or designee has contacted the testing program(s) in which the driver has participated and has obtained information about the program and the driver's participation as specified in 49 CFR 382.301.
4. No prior employer of the driver of whom the District has knowledge has records of the driver's violation of federal drug testing regulations within the previous six months.

In addition, the Superintendent or designee shall require the driver to undergo pre-employment alcohol testing in accordance with the procedures in 49 CFR 40.1-40.605 and to receive a test result indicating an alcohol concentration level of less than 0.04. (49 CFR 382.301)

Post-Accident Testing

As soon as practicable following an accident involving a school bus or student activity bus, the Superintendent or designee shall ensure that the driver involved is tested for alcohol and/or drugs under either of the following conditions: (49 CFR 382.303)

1. The accident involved loss of human life.
2. The driver receives a citation for a moving violation and the accident involved bodily injury to a person who required immediate medical treatment away from the scene of the accident and/or disabling damage to one or more vehicles requiring towing.

The Superintendent or designee shall attempt to administer a required alcohol test up to eight hours following the accident and/or a drug test up to 32 hours following the accident. The results of an alcohol or drug test conducted by federal, state, or local officials having independent authority for the test shall be considered to meet this requirement. If the alcohol test is not administered within two hours following the accident, or the test for drugs is not administered within 32 hours following the accident, the Superintendent or designee shall make a record stating the reasons the test was not promptly administered. (49 CFR 382.303)

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)**Random Testing**

The Superintendent or designee shall ensure that random, unannounced drug and alcohol tests of bus drivers are conducted on testing dates reasonably spread throughout the year. Such tests shall be conducted during, immediately before, or immediately after the performance of safety-sensitive functions. (49 CFR 382.305)

The Superintendent or designee shall ensure that the percentage of District drivers randomly tested for drugs and alcohol meets or exceeds the minimum annual percentage rates specified in 49 CFR 382.305 or subsequently published in the Federal Register.

Each driver selected for random testing shall have an equal chance of being tested each time selections are made. (49 CFR 382.305)

Each driver who is selected for testing shall proceed to the test site immediately or, if performing a safety-sensitive function other than driving a bus, then as soon as possible after ceasing that function. (49 CFR 382.305)

Reasonable Suspicion Testing

A driver shall be required to submit to a drug or alcohol test whenever the Superintendent or designee has reasonable suspicion that the driver has violated the prohibitions against the use of drugs or alcohol. Such reasonable suspicion shall be based on specific, contemporaneous, articulable observations, conducted during, immediately before, or immediately after the performance of safety-sensitive functions, concerning the driver's appearance, behavior, speech, and/or body odors. Reasonable suspicion of drug use may also include indications of the chronic and withdrawal effects of drugs. (49 CFR 382.307)

The person who makes the required observations for reasonable suspicion testing for drugs or alcohol shall be trained in accordance with 49 CFR 382.603. The person who makes the determination that reasonable suspicion exists to conduct an alcohol test shall not be the same person who conducts the alcohol test. (49 CFR 382.307)

Within 24 hours of the observed behavior or before the results of the drug or alcohol test are released, whichever is earlier, the Superintendent or designee shall prepare and sign a written record of the observations leading to a reasonable suspicion test. (49 CFR 382.307)

An alcohol test required as a result of reasonable suspicion shall be administered within eight hours following the determination of reasonable suspicion. If the test is not administered within two hours, the Superintendent or designee shall prepare and maintain on file a record stating the reasons the test was not promptly administered. (49 CFR 382.307)

In the absence of a reasonable suspicion alcohol test, the District shall take no action against a driver based solely on the driver's behavior and appearance, except that the driver shall not be allowed to report for or remain on safety-sensitive functions until an alcohol test is administered and the results show a concentration less than 0.02 or 24 hours have elapsed following the determination of reasonable suspicion. (49 CFR 382.307)

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)**Return-to-Duty Testing**

The Superintendent or designee may permit a driver who has violated federal drug or alcohol regulations to return to safety-sensitive functions after the driver has successfully complied with the education and treatment services prescribed by a substance abuse professional and has taken a return-to-duty drug or alcohol test. The driver shall not resume performance of safety-sensitive functions unless the drug test shows a negative result and/or the alcohol test shows a concentration of less than 0.02. (49 CFR 40.305, 382.309)

Follow-Up Testing

Upon receiving a written follow-up testing plan from a substance abuse professional, the Superintendent or designee shall determine the actual dates for follow-up testing consistent with those recommendations and shall ensure that such tests are unannounced and follow no discernable pattern as to their timing. No additional tests beyond those included in the plan shall be imposed by the District. (49 CFR 40.307-40.309, 382.111)

Notifications

The Superintendent or designee shall provide each driver with materials explaining the federal regulations and the District's policy and procedure related to drug and alcohol testing and shall notify representatives of employee organizations of the availability of this information. This information shall include a detailed discussion of at least the following: (49 CFR 382.303, 382.113, 382.601)

1. The identity of the person designated by the District to answer driver questions about the materials
2. The categories of drivers who are subject to drug and alcohol testing
3. Sufficient information about the safety-sensitive functions performed by those drivers to make clear what period of the workday the driver is required to be in compliance
4. Specific information concerning prohibited driver conduct
5. The circumstances under which a driver will be tested for drugs and/or alcohol, including post-accident testing
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 the test results, and ensure that those results are attributed to the correct driver
7. The requirement that a driver submit to drug and alcohol tests
8. An explanation of what constitutes a refusal to submit to a drug or alcohol test and the attendant consequences
9. The consequences for drivers found to have violated the prohibitions against drug or alcohol use, including the circumstances under which drivers will be removed immediately from safety-sensitive functions and the requirements for education, treatment, and return-to-duty testing

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

10. The consequences for drivers found to have a blood alcohol concentration between 0.02 and 0.04
11. Information concerning the effects of drug and alcohol use on an individual's health, work, and personal life; signs and symptoms of a drug or alcohol problem (the driver's or a co-worker's); and available methods of intervening when a drug or alcohol problem is suspected, including confrontation, referral to any employee assistance program, and/or referral to management

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

Each driver shall sign a statement certifying that he/she has received a copy of the above materials. The Superintendent or designee shall maintain the original of the signed certificate and may provide a copy of the certificate to the driver. (49 CFR 382.601)

In addition, prior to administering each alcohol or drug test, the driver shall be notified that the test is required pursuant to Title 49, Part 382, of the Code of Federal Regulations. (49 CFR 382.113)

The driver shall be notified of the results of drug and alcohol tests in accordance with 49 CFR 382.411.

Enforcement

An employee covered by this regulation who has a drug or alcohol problem, shall be accommodated by the ABC Unified School District, provided the employee takes the initiative to acknowledge his/her problem. The District shall grant a leave when requested of up to sixty (60) working days, as long as such accommodation does not cause an undue hardship to the District. This shall be on a one-time basis only. The employee need not indicate the specific type of drug or alcoholic drink abused in order to receive this leave. The District shall treat such leaves with strict confidentiality. The employee shall have the option of using all or part of sick or vacation leave and may supplement same with necessary unpaid leave, or the employee may take the entire leave as an unpaid leave.

Any driver who violates the 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 driver shall be evaluated by a substance professional who shall determine what assistance, if any, the driver needs in resolving such a problem.

A driver identified as needing help in resolving a drug or alcohol problem shall be evaluated by a substance abuse professional to determine that he//she properly followed the prescribed rehabilitation program and shall be subject to unannounced follow-up tests after returning to duty.

The substance abuse professional required by the Act shall jointly be selected by the District and AFSCME.

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)**Consequences for Violations**

Any driver who is alleged by the District to have violated this policy may be subject to discipline in accordance with Board Policy and the AFSCME collective bargaining agreements. The standard for such discipline shall be just cause. The employer reserves the right to conclude that just cause exists if the employee violates Board Policy, and the employee through his or her union representative reserves the right to conclude that just cause does not exist.

Records

The Superintendent or designee shall maintain records of the district's drug and alcohol testing program in accordance with 49 CFR 40.333 and 382.401. Such records shall be maintained in a secure location with controlled access and shall be disclosed only in accordance with 49 CFR 382.405.

(cf. 3580 - District Records)

Regulation
approved: 05.05.98
Revised: 05.16.17

ABC UNIFIED SCHOOL DISTRICT
Administrative Regulation

CLASSIFIED PERSONNEL

TEMPORARY ASSIGNMENT TO A HIGHER CLASSIFICATION

An employee may be required to perform duties that are inconsistent with the duties assigned to his/her regular position and are normally duties assigned to a higher classification. If such assignment continues for a period of five (5) working days or more within a fifteen (15) calendar day period, additional compensation shall be provided to the employee for working in the higher class. The amount of compensation shall be determined in accordance with regulation 4241 - Placement on the Salary Schedule.

A temporary assignment to a higher classification shall not be continuous for a period of more than six (6) calendar months unless the assignment is necessitated by the absence of a regular employee who is scheduled to return to his/her assignment. Selection of an employee to be temporarily assigned to a higher classification shall be determined with regard to work location convenience and qualifications of available regular employees. Whenever possible, an assignment shall be made from employees who volunteer for the assignment, if the assignment of a volunteer will have the least deleterious effect on work location and/or district operations.

Legal Reference: Education Code
45110 Inconsistent duties; compensation

**ABC UNIFIED SCHOOL DISTRICT
Administrative Regulation**

CLASSIFIED PERSONNEL

ASSIGNMENT OF INSTRUCTIONAL AIDES

All instructional aide positions in the district shall be three (3), three and one-half (3½), or six (6) hour per day assignments. Persons employed as instructional aides shall not, in the course of their employment, have their regular work schedules changed to assignments other than those specified in this regulation.

Positions established within the classification of instructional aide - adult education shall be considered separate from the regular school program, and persons employed in the classification shall not have seniority rights in the regular school program.

Regulation
approved: 04.02.79
revised: 12.06.88

**ABC UNIFIED SCHOOL DISTRICT
Board Policy**

CLASSIFIED PERSONNEL

PROBATIONARY/PERMANENT STATUS

Employees newly hired in regular positions or promoted to higher level positions within the classified service shall be considered probationary employees until having satisfactorily completed the designated probationary period.

Regular classified employees who have satisfactorily completed the designated probationary period shall become permanent classified employees of the district.

*Legal Reference: Education Code
45113 Rules and regulations for classified service in districts not
incorporating the merit system*

**ABC UNIFIED SCHOOL DISTRICT
Administrative Regulation**

CLASSIFIED PERSONNEL

PROBATIONARY/PERMANENT STATUS

Regular classified employees shall serve a probationary period of six (6) calendar months before obtaining permanency in the classified service. An employee must have actually provided service during some portion of each day for at least 120 working days during the six (6) calendar month probationary period before obtaining permanent status. Any number of days actual service less than 120 shall extend the probationary period an equal number of working days. An employee who has been promoted, including reclassification, shall serve a new probationary period of the appropriate length in the higher classification.

Evaluation Reports

Every probationary classified employee shall receive formal written performance evaluations on official district forms at least twice during the probationary period, normally at the end of the second and fifth months of service.

If the evaluator evaluates the performance of a probationary employee as unsatisfactory, it shall be indicated on the evaluation form prior to the employee's acknowledgment signature. If disciplinary action is contemplated following an unsatisfactory evaluation, the evaluator shall notify the appropriate director or division administrator and shall submit written documentation of the unsatisfactory performance to the director-personnel services (or designee) for review and concurrence.

An evaluation indicating overall unsatisfactory performance of a permanent classified employee shall be followed by another evaluation no less than two (2) calendar months nor more than six (6) calendar months after the time of the original unsatisfactory evaluation. If a second consecutive evaluation indicates overall unsatisfactory performance, the evaluator may recommend that disciplinary action be taken, subject to the review and concurrence of the appropriate director or division administrator and the director-personnel services (or designee).

Every permanent classified employee shall receive a formal written performance evaluation on an official district form at least once every two years. Evaluation reports may be prepared at any time other than that stipulated in this regulation whenever the evaluator deems it necessary or appropriate. Evaluation reports are confidential and shall be viewed only by those who have a need to know the contents thereof.

If an employee believes that his/her evaluation report is not an accurate account of the work performance, he/she may appeal to the appropriate director or division administrator after notifying his/her immediate supervisor of the appeal. Such appeal may not be made later than thirty (30) days after the date of the evaluation.

**ABC UNIFIED SCHOOL DISTRICT
Administrative Regulation**

CLASSIFIED PERSONNEL

PROBATIONARY/PERMANENT STATUS

Appeal of Evaluation Reports

If the employee is not satisfied with the results of an appeal to the director or division administrator, he/she may appeal in writing to the superintendent. The decision of the superintendent as to whether or not the evaluation report shall remain a permanent record of work performance shall be final.

Regulation
approved: 04.02.79
revised: 12.06.88

ABC UNIFIED SCHOOL DISTRICT
Administrative Regulation

CLASSIFIED PERSONNEL

SENIORITY

A regular classified employee shall earn seniority in the district according to the length of service within the classification to which he/she is assigned, plus higher classifications in which he/she has been employed as a regular employee prior to assignment in the current classification, as long as there has been no break in service. An employee whose employment has been reinstated by the district shall not be considered to have had a break in service, but the time during which the employee was not employed by the district shall not count towards seniority.

Seniority shall include:

1. All regular hours of employment in a classification plus higher classifications.
2. All hours spent on approved leaves of absence with pay. Hours spent on leaves of absence without pay shall not be included.

Definitions:

1. "Length of service." For purposes of this regulation, for service commencing and continuing after July 1, 1971, "length of service" means all hours in paid status as a regular employee whether during the school year, a holiday, recess, or during any period that a school is in session or closed, but does not include any hours compensated solely on an overtime basis as provided for in Education Code Section 45128, nor any hours compensated for as a limited-term, substitute, short-term or other position outside of the classified service.
2. "Classification" means that each position in the classified service is assigned a designated title, a regular minimum number of assigned hours per day, days per week, and months per year, a specific statement of the duties required to be performed by the employees in each such position, and a regular monthly salary range. A "higher classification" is any regular assignment of work which has more hours per day and/or days per week and/or months per year and/or a higher salary range or rate of pay than the current assignment.

Legal Reference: *Education Code*
 45101 *Definitions*
 45128 *Overtime*
 45308 *Order of layoff and reemployment; length of service*

**ABC UNIFIED SCHOOL DISTRICT
Board Policy**

CLASSIFIED PERSONNEL

TERMINATION/DISCIPLINARY ACTION

The termination of employment of all persons assigned to positions not requiring certification qualifications shall be subject to approval by the Board of Education. A termination shall be defined as any separation from service with the district, whether voluntary or involuntary, including but not limited to dismissal, layoff, resignation or retirement.

Disciplinary action may be taken against any regular classified employee as prescribed by district regulations. Disciplinary action shall be defined as any dismissal, demotion, suspension or any reassignment reducing the employee's pay rate, without his/her voluntary consent, except for layoff for lack of work or lack of funds.

*Legal Reference: Education Code
45101 Definition
45113 Rules and regulations for classified service in districts not
incorporating the merit system*

**ABC UNIFIED SCHOOL DISTRICT
Board Policy**

CLASSIFIED PERSONNEL

RETIREMENT

All regular classified employees who wish to retire from the district and who qualify for retirement under the Public Employees Retirement System (PERS) regulations shall comply with all applicable PERS regulations in applying for retirement. Retirement shall be considered as resignation from the district.

Disability Retirement

The district shall not separate an employee for disability if he/she is otherwise eligible for disability retirement under PERS. If it is believed that an employee is disabled, a request for disability retirement will be made to PERS unless the employee waives the right to retire for disability and elects to withdraw contributions or to permit contributions to remain in the fund with rights to service retirement.

Early Retirement

Classified employees may opt for early retirement with the district continuing to make a full or pro rata contribution to medical insurance provided eligibility requirements are met.

*Legal Reference: Education Code
45134 Age limits
Government Code
21023.5 Employer not to separate for disability members eligible to retire;
waiver by member*

Policy adopted
by the board: 04.02.79
revised: 12.21.81

**ABC UNIFIED SCHOOL DISTRICT
Administrative Regulation**

CLASSIFIED PERSONNEL

EARLY RETIREMENT BENEFIT

A classified employee may continue to participate in the health insurance portion of the fringe benefit program upon retirement from the district subject to the following eligibility requirements:

1. The employee must have reached age 55 but must be less than age 65.
2. The employee must have rendered fifteen (15) or more years of service to the district.
3. The district's contribution toward health insurance coverage shall be at the same level of benefit the employee held in the year immediately preceding early retirement.
4. The employee's health premiums will only be paid by the district for a maximum of seven (7) years or until such time as he/she becomes eligible for Medicare or reaches age 65.

The payment of the full cost of health insurance coverage by the district shall be subject to contractual agreement by the insurance companies providing service to the district.

**ABC UNIFIED SCHOOL DISTRICT
Board Policy****CLASSIFIED PERSONNEL****REDUCTION IN FORCE/REEMPLOYMENT**

Classified employees may be laid off due to lack of work or lack of funds. In the event of layoff, the order of layoff within the class shall be determined by seniority (see regulation 4216.1 Seniority). The employee who has the least seniority in the class plus higher classes shall be laid off first. Classified employees who have been laid off shall have the right of preferential reemployment. Reemployment shall be in the reverse order of layoff. In effecting layoffs the following rules shall apply:

1. When the governing board must lay off classified employees due to lack of work or lack of funds, other than in cases of an emergency, the affected employees shall be entitled to written notice not less than thirty (30) days prior to the effective date of the layoff.

In cases of emergency, when the district has an actual and existing financial inability to pay salaries of classified employees resulting from causes not foreseeable or preventable by the Board of Education, the affected employees shall be given notice of layoff any reasonable length of time prior to the effective date of the layoff.

2. In the event of equal seniority, preference shall be given to the employee with the longest total service in the district, determined by date of hire. If a tie still exists, the employees will draw lots to determine preference.
3. No regular employee shall be laid off from any position while employees serving under limited-term appointments are retained in positions under the same classification title, unless the regular employee declines the limited-term position.

Displacement Rights (Bumping)

A regular classified employee who is to be laid off may exercise displacement rights (bumping) within his/her classification or in any lower class in which they hold seniority credit greater than an incumbent. The employee to be displaced shall be the one with the least seniority in the class plus higher classes.

In determining displacement rights, the following rules shall apply:

1. An employee may displace that person employed under his/her classification title who has the least seniority in an equal work schedule.
2. If the employee has no displacement rights in an equal work schedule under his/her classification title, he/she may displace an employee who has the least seniority in a lesser work schedule and be placed on a reemployment list for his/her former work schedule for a period of sixty-three (63) months.
3. If an employee has no displacement rights under his/her classification title, he/she may follow these procedures for any lower classification title in which he/she holds seniority credit and be placed on a reemployment list for his/her former class title and work schedule for a period of sixty-three (63) months. An employee exercising displacement rights under a lower classification title may not displace an employee working in a higher work schedule than that in which the senior employee worked while assigned that title.

REDUCTION IN FORCE/REEMPLOYMENT (continued)

4. An employee may not displace any employee assigned a higher work schedule.
5. If an employee waives the opportunity to exercise displacement rights, he/she may accept layoff from his/her current classification and be placed on a reemployment list for his/her former classification for a period of thirty-nine (39) months.
6. If an employee waives the opportunity to exercise displacement rights, he/she may accept assignment into an equal or lower classification for which he/she is qualified and be placed on a reemployment list for his/her former classification for a period of sixty-three (63) months.

Reemployment

An employee, after having had the opportunity to exercise all rights guaranteed under this regulation, who must be laid off and placed on a preferential re-employment list, will be selected first in reverse order of layoff for the first opening occurring in the classification in which he/she had seniority. The following rules shall also apply:

1. An employee on a preferential reemployment list may decline two (2) offers of reemployment in his/her former classification. After a second refusal, no additional offers will be made and the employee's name will be removed from the list.
2. If an employee is on an eligibility list and is laid off, he/she shall retain that position on the list until he/she is placed or the list is abolished.
3. Employees on preferential reemployment lists shall be eligible to compete in promotional examinations for which they qualify.
4. Laid off employees do not accumulate seniority credit while on reemployment lists.

Definitions:

1. "Preferential reemployment list" means a list of names of persons who have been laid off from regular positions by reason of lack of work or lack of funds, and who are eligible for reemployment without examination in their former class, arranged in order of their rights to reemployment.
2. "Higher work schedule" means any regular assignment of work which has more hours per day and/or days per week and/or months per year than the current assignment.

<i>Legal Reference:</i>	<i>Education Code</i>
	45114 <i>Layoff and reemployment procedures: definition</i>
	45117 <i>Notice of layoff due to expiration of specially funded program or bona fide reduction or elimination of service</i>
	45298 <i>Reemployment and promotional examination preference of persons laid off; voluntary demotions or reduction in time</i>
	45308 <i>Order of layoff and reemployment; length of service</i>

**ABC UNIFIED SCHOOL DISTRICT
Board Policy**

CLASSIFIED PERSONNEL

DISMISSAL/DEMOTION/SUSPENSION

A permanent classified employee of the district shall not be dismissed, demoted, or suspended except for reasonable cause as determined by the Board of Education.

No dismissal, demotion, or suspension shall be taken against any permanent employee for any cause which arose prior to the date upon which the employee became permanent, nor for any cause which arose more than two (2) years preceding the date of the filing of the notice of cause, unless such cause was concealed or not disclosed by such employee when it could reasonably be assumed that the employee should have disclosed the facts to the appropriate authority in the district.

Probationary employees may be dismissed or demoted for reasonable cause prior to completion of the probationary period. Such disciplinary action may be taken by the appropriate management employee subject to review and concurrence by the director - personnel services (or designee) and approval by the board.

A permanent or probationary employee shall not be considered to have been dismissed or demoted until final action is taken by the board.

*Legal Reference: Education Code
45113 Rules and regulations for classified service in districts not
incorporating the merit system*

Policy adopted
by the board: 04.02.79
Revised: 05.02.06

**ABC UNIFIED SCHOOL DISTRICT
Administrative Regulation**

PERSONNEL - CLASSIFIED

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 Board's determination of the sufficiency of the cause for disciplinary action shall be conclusive.

1. Causes

In addition to any disqualifying or actionable causes otherwise provided for by statute or by policy or regulation of this district, each of the following constitutes cause for personnel action against a permanent classified employee:

- a. Falsifying any information supplied to the school district, including, but not limited to, information supplied on application forms, employment records, or any other school district records.
- b. Incompetency.
- c. Inefficiency.
- d. Neglect of duty.
- e. Insubordination.
- f. Dishonesty.
- g. Drinking alcoholic beverages while on duty or in such close time proximity thereto as to cause any detrimental effect upon the employee or upon employees associated with him/her.
- h. Possessing or being under the influence of a controlled substance at work or furnishing a controlled substance to a minor.

DISMISSAL/SUSPENSION/DISCIPLINARY ACTION (continued)

- i. Conviction of a felony, conviction of any sex offense made relevant by provisions of law, or conviction of a misdemeanor which is of such a nature as to adversely affect the employee's ability to perform the duties and responsibilities of his/her position. A plea or verdict of guilty, or a conviction following a plea of nolo contendere, is deemed to be a conviction for this purpose.
- j. Absence without leave.
- k. Immoral conduct.
- l. Discourteous treatment of the public, students, or other employees.
- m. Improper political activity.
- n. Willful disobedience.
- o. Misuse of district property.
- p. Violation of district, Board or departmental rule, policy, or procedure.
- q. Failure to possess or keep in effect any license, certificate, or other similar requirement specified in the employee's class specification or otherwise necessary for the employee to perform the duties of the position.
- r. Refusal to take and subscribe any oath or affirmation which is required by law in connection with his/her employment.
- s. A physical or mental disability which precludes the employee from the proper performance of his/her duties and responsibilities as determined by competent medical authority, except as otherwise provided by a contract or by law regulating the retirement of employees.
- t. Unlawful discrimination, including harassment, on the basis of race, religious creed, color, national origin, ancestry, physical handicap, marital status, sex, or age against the public or other employees while acting in the capacity of a district employee.
- u. Unlawful retaliation against any other district officer or employee or member of the public who, in good faith, reports, discloses, divulges, or otherwise brings to the attention of any appropriate authority any information relative to an actual or suspected violation of state or federal law occurring on the job or directly related thereto.
- v. Any other failure of good behavior which is of such nature that it causes discredit to the district or his/her employment.
Except as defined in item "s" above, no personnel action shall be taken for any cause which arose before the employee became permanent, nor for any cause which arose more than two years before the date of the filing of the notice of cause unless this cause was concealed or not disclosed by the employee when it could be reasonably assumed that the employee would have disclosed the facts to the district.

DISMISSAL/SUSPENSION/DISCIPLINARY ACTION (continued)

2. Initiation and Notification of Charges

The Superintendent or designee may initiate a personnel action as defined herein against a permanent classified employee.

In all cases involving a personnel action, the person initiating the action shall file a written recommendation of personnel action with the Board. A copy of the recommendation shall be served upon the employee either personally or by registered or certified mail, return receipt requested, at the employee's last known address. The recommendation shall include:

- a. A statement of the nature of the personnel action (suspension without pay, demotion, reduction of pay step in class, or dismissal).
- b. A statement of the cause or causes for the personnel action, as set forth above and all relevant written materials supporting the facts.
- c. A statement of the specific acts or omissions upon which the causes are based. If a violation of rule, policy, or regulation of the district is alleged, the rule, policy, or regulation violated shall be stated in the recommendation.
- d. A statement of the employee's right to appeal the recommendation and the manner and time within which the appeal must be filed.
- e. A card or paper, the signing and filing of which shall constitute a demand for hearing and a denial of all charges.

For purposes of this regulation if a notice is mailed, the postmark date of the notice shall be the official date of notification. Five (5) calendar days after the postmark date shall be the official date of receipt of the notification.

3. Employment Status Pending Appeal or Waiver

Except as provided herein, any employee against whom a recommendation of personnel action has been issued shall remain on active duty status and responsible for fulfilling the duties of the position pending his/her appeal or waiver thereof.

If the Superintendent or designee determines that a permanent classified employee should be dismissed and that his/her continuing in active duty status would present an unreasonable risk of harm to students, staff, or property while proceedings are pending, the Superintendent or designee may order the employee immediately suspended from duty without pay in conjunction with the recommendation of personnel action. This suspension order shall be in writing and shall state the reasons that the suspension is deemed necessary. The suspension order shall be served upon the employee either personally or by registered or certified mail, return receipt requested, immediately after issuance. Except in cases of emergency when the employee must be removed from the premises immediately, the Superintendent or designee shall give the employee written notice of the proposed recommendation of dismissal at least five calendar days before the effective date of any order of suspension issued in conjunction with a recommendation involving dismissal. This notice shall state that immediate suspension without pay is being considered, the reasons for the proposed dismissal and proposed immediate suspension without pay, materials upon which the proposed action is based,

DISMISSAL/SUSPENSION/DISCIPLINARY ACTION (continued)

and the employee's right to respond to the Superintendent or designee orally or in writing before the final recommendation and order are issued.

4. Suspension

Suspension means an involuntary absence from work, either with pay or without pay, imposed by the employee's immediate supervisor or the superintendent subject to the following conditions:

- a. An employee may be suspended with pay by management for up to three (3) working days. The management employee may not impose such suspension until having verbally informed the employee of the specific act(s) or omission(s) causing the suspension. The Assistant Superintendent - Human Resources or designee shall immediately be notified of the suspension.
- b. A permanent employee may be suspended without pay by the superintendent or designee for up to three (3) working days without referring the action to the board for approval. The employee shall be notified in writing of the specific act(s) or omission(s) causing the suspension and shall be provided the right to a hearing with the superintendent or designee.
- c. A permanent employee may be suspended without pay by the superintendent or designee for up to ten (10) working days, exclusive of days of suspension with pay. Any such suspension shall be referred to the board for approval at the earliest possible time, but not later than thirty (30) calendar days after the beginning date of the suspension. All legal requirements and district regulations regarding notice of the affected employee, appeal and hearing rights shall apply.

5. Demotion

Demotion means an involuntary change in the employee's classification resulting in a reduction in pay rate, either rate per month or rate per hour.

Demotion due to a reclassification when the employee is performing satisfactorily shall not be considered disciplinary action.

6. Time Limit of Suspension

Except for a suspension imposed under #3 above, any suspension invoked under these rules against any one person for one or more periods shall not aggregate more than 90 calendar days in any 12-month period; however, this time limitation shall not apply to cases in which a personnel action of dismissal is modified by the Board to a suspension.

7. Right to Appeal

Within five calendar days after receiving the recommendation of personnel action described above, the employee may appeal by signing and filing the card or paper included with the recommendation. Any other written document signed and appropriately filed within the specified time limit by the employee shall constitute a sufficient notice of appeal. A notice of appeal is filed only by delivering the notice of

DISMISSAL/SUSPENSION/DISCIPLINARY ACTION (continued)

appeal to the office of the Superintendent or designee during normal work hours of that office. A notice of appeal may be mailed to the office of the Superintendent or designee but must be received or postmarked no later than the time limit stated herein. In cases where an order of suspension without pay has been issued in conjunction with a recommendation of dismissal, any appeal of the recommendation of dismissal shall also constitute an appeal of the suspension order, and the necessity of the order shall be an issue in the appeal hearing.

If the employee fails to file a notice of appeal within the time specified in these rules, he/she shall be deemed to have waived his/her right to appeal, and the Board may order the recommended personnel action into effect immediately.

8. Hearing Procedures

After an employee has made and filed an appeal in answer to charges against him/her, the Board of Education shall order a hearing. If a hearing is to be conducted, the Board shall then fix the time and place of the hearing which shall be within a reasonable length of time from the receipt of the appeal, but in no event will the hearing be held less than five (5) days after service of the notice of disciplinary action to the employee.

The Board may appoint a hearing officer to conduct any hearing and report findings and recommendations to the Board. Such recommendations shall not be binding on the Board.

Hearings shall be conducted in the manner most conducive to determination of the truth, and neither the Board nor its hearing officers shall be bound by technical rules of evidence. Decisions made by the Board shall not be invalidated by an informality in the proceedings.

The Board or its hearing officer shall determine the relevancy, weight and credibility of testimony and evidence. It shall base its findings on a preponderance of evidence. It shall base its findings on a preponderance of evidence.

The Board and the employee may be represented by separate legal counsel or other designated representatives.

A hearing shall be conducted in the following order:

1. Opening statement by the board or its designated representatives.*
2. Opening statement by the employee or the employee's designated representative.*
3. The Board's presentation of witnesses and evidence.
4. The employee's presentation of witnesses and evidence.*
5. Closing argument by the Board or the its designated representative.*
6. Closing argument by the employee or the employee's designated representatives.*

(*) Indicates an optional step in the procedure.

DISMISSAL/SUSPENSION/DISCIPLINARY ACTION (continued)

Each party will be allowed to examine and cross-examine witnesses.

The Board or its hearing officer may, prior to or during a hearing, grant a continuance for any reason believed to be important to reaching a fair and proper decision.

A hearing shall be held in closed session unless an open hearing is requested by the employee. The Board or its hearing office may, at their discretion, exclude witnesses not under examination except the employee and the party attempting to substantiate the charges against the employee and their respective counsel.

If a hearing officer has been appointed, a written report of the hearing officer's findings and recommendations shall be submitted to the Board with copies sent to both parties involved. When the Board meets to decide a matter using a hearing officer's report in making its decision, involved parties may come before the Board to challenge significant errors or omissions reflected in the report, and the Board may amend the report in the interests of fairness and accuracy; however the hearing shall not be reopened.

The Board shall render its judgment as soon after the conclusion of the hearing as possible and in no event later than twenty-one (21) calendar days after the Board hearing or after receipt of the hearing officer's report. The Board may deliberate its decision in closed session and exclude all persons other than members of the board and its staff or counsel.

The Board may sustain or reject any or all of the charges filed against the employee.

9. **Compulsory Dismissal**

The district shall not employ or retain in employment any person who has been convicted of any sex offense as defined in Education Code 44010 or any controlled substance offense as defined in Education Code 44011. However, the district may employ a person convicted of a controlled substance offense if the Board determines from the evidence it requires that the person has been rehabilitated for at least five years. If any such conviction is reversed and the person acquitted or charges dismissed except as otherwise provided below, the employee may be reemployed by the district, although reemployment is not a guarantee. (Education Code 45123)

The district reserves the right to dismiss an employee for any acts upon which the original criminal charges were based, despite the disposition by the courts. If dismissal is recommended and upheld, an employee will not be reemployed or compensated for the time he/she was suspended unless otherwise required by law. An employee shall be given notice of the possibility of not being reimbursed during mandatory suspension if he/she is ultimately dismissed for the acts upon which the original charges were based.

Despite the disposition of criminal charges, the Board reserves the right to dismiss an employee for the facts upon which the criminal charges were based. 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)

10. Extension of Compulsory Leave

The Board may extend an employee's compulsory leave of absence by giving him/her notice, within ten 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 CODE35161 *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 CODE1808.8 *School bus drivers; dismissal for safety-related cause*UNITED STATES CODE, TITLE 4212101 - 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) ("Conduct unbecoming an employee" too vague)

Policy adopted

By the Board: 04.01.79

Revised: 11.15.88

05.01.01

06.5.01

05.02.06

**ABC UNIFIED SCHOOL DISTRICT
Board Policy****CLASSIFIED PERSONNEL****SUBSTITUTES**

A substitute is an employee who is working in place of an identified regular employee, who is temporarily absent from work. Substitutes are to be sought from the following sources: reemployment lists, eligibility lists, former employees and applicants. Persons on reemployment lists who are interested in substitute employment shall be given preferential consideration for assignments.

Duration of Assignments

A substitute assignment shall be considered a day-to-day, on-call assignment normally of one (1) calendar month or less in duration. If the absence of the regular employee is known to exceed one (1) calendar month in duration when the original assignment is made, a limited-term employee shall be appointed.

A substitute assignment may be terminated at any time upon one (1) day's notice.

Successive Substitute Assignments

A substitute employee may be employed in any number of substitute assignments in one (1) fiscal year as long as the total number of working days during the year, including days worked on limited-term appointments, does not exceed 194.

Compensation

Substitute employees shall be paid an hourly rate equal to Step A of the salary range approved for the classification to which they are assigned, unless they were formerly employed in good standing in the same or a related higher classification, in which case they shall be paid a rate on the appropriate salary range no higher than the rate paid upon termination of regular employment.

Benefits

Substitute employees shall not be eligible for any benefits granted to regular classified employees, including but not limited to paid vacation and holidays, paid and unpaid leaves of absence, and fringe benefits (health and welfare benefits).

Paid Sick Leave

Except for a retired annuitant who is not reinstated to the retirement system, any temporary or substitute employee who works for 30 or more days within a year of his/her employment shall be entitled to one hour of paid sick leave for every 30 hours worked. Accrued paid sick days shall carry over to the following year of employment, up to a maximum of 48 hours. (Labor Code 246)

SUBSTITUTES (continued)

Any temporary or substitute employee may begin to use accrued paid sick days on the 90th day of his/her employment, after which he/she may use the sick days as they are accrued. (Labor Code 246)

A temporary or substitute employee may use accrued sick leave for absences due to: (Labor Code 246.5)

1. His/her own need or the need of a family member, as defined in Labor Code 245.5, for the diagnosis, care, or treatment of an existing health condition or for preventive care
2. Need of the employee to obtain or seek any relief or medical attention specified in Labor Code 230(c) and 230.1(a) for the health, safety, or welfare of the employee, or his/her child, when the employee has been a victim of domestic violence, sexual assault, or stalking

(cf. 4161.1/4361.1 - Personal Illness/Injury Leave)

(cf. 4261.1 - Personal Illness/Injury Leave)

No employee shall be denied the right to use accrued sick days and the District shall not in any manner discriminate or retaliate against an employee for using or attempting to use sick leave, filing a complaint with the Labor Commissioner, or alleging district violation of Labor Code 245-249. The Superintendent or designee shall display a poster containing required information, provide notice to eligible employees of their sick leave rights, keep records of employees' use of sick leave for three years, and comply with other requirements specified in Labor Code 245-249 and in AR 4161.1/4361.1 - Personal Illness/Injury Leave.

Policy adopted
by the board: 04.02.79
Revised: 08.15.17

**ABC UNIFIED SCHOOL DISTRICT
Board Policy****CLASSIFIED PERSONNEL****LIMITED-TERM EMPLOYMENT**

A limited-term appointment is the appointment of a person for a known, fixed, limited period of time for any of the following reasons:

1. Replacement of an absent employee for a period not exceeding either the authorized absence of said employee or 194 working days, whichever comes first.
2. Provision of extra services for a period not exceeding 194 working days within a school year.
3. A provisional assignment to a vacant position for a period not exceeding sixty (60) calendar days while efforts are being made to fill the vacancy with a regular employee. This type of assignment may be made only when a valid eligibility list is not in effect.

Successive Limited-Term Appointments

Successive limited-term appointments may be made as specified above, and any person employed in successive limited-term assignments in the same classification may be employed in such capacity, including days of substitute employment, for a total of not more than 194 working days in any fiscal year.

Seniority

Limited-term employees will accrue no tenure or seniority for reduction in force purposes as a result of their limited-term appointments.

Should a limited-term employee be appointed as a regular classified employee subsequent to a limited-term appointment in the same classification and without a break in service, seniority for the purpose of salary step advancement and reduction in force will accrue from the date of the original limited-term appointment. The probationary status of such employee shall begin as of the date of the appointment to the regular position.

Compensation

Limited-term employees shall be paid a rate no higher than Step A of the salary range approved for the classification to which they are assigned, unless they were formerly employed in good standing in the same or a related higher classification, in which case they shall be paid a rate on the appropriate salary range no higher than the rate paid upon termination of regular employment.

Benefits

Limited-term employees shall not be eligible for any benefits granted regular classified employees, including but not limited to paid vacation and holidays, paid and unpaid leaves of absence, and fringe benefits (health and welfare benefits). Exception: When a legal or local holiday occurs during the limited-term assignment, the limited-term employee will be paid for the holiday, provided he/she works on the working days immediately preceding and succeeding the holiday.

LIMITED-TERM EMPLOYMENT (continued)

A regular ten or eleven-month employee who works during the summer in a limited-term assignment in the same classification as that to which he/she is regularly assigned during the academic year shall be entitled to receive, on a pro rata basis, the following benefits:

Holidays	Personal Necessity Leave
Vacation	Bereavement Leave
Sick Leave	Maternity Leave
Industrial Accident & Illness Leave	Jury Duty Leave

In order to earn additional vacation and sick leave credit for a summer limited-term assignment, a regular employee must be in paid status for at least one-half of the work days in a calendar month.

Legal Reference: Education Code
 45102 *Assignments at times other than regular academic year*
 45103 *Classified service in districts not incorporating the merit system*

Policy adopted
 by the board: 04.02.79
 revised: 01.22.92

**ABC UNIFIED SCHOOL DISTRICT
Administrative Regulation**

CLASSIFIED PERSONNEL

PLACEMENT ON THE SALARY SCHEDULE

Definitions:

New classified employees shall, unless otherwise provided in this regulation, be appointed at the first step of the salary range for the class in which appointed.

If unusual difficulty is experienced in obtaining an employee for a particular class at the minimum rate, or if the prospective employee has unusual or exceptional qualifications and has been earning a salary in excess of the minimum rate, advanced salary placement may be recommended to the Board of Education.

It is the intention of the district to hire new employees, whenever possible, at the first step of the appropriate salary range. The determination as to whether or not a candidate qualifies for advanced salary placement shall be made by the director - personnel services (or designee) subject to approval by the Board of Education.

Salary Placement Upon Promotion

Employees receiving a promotion to a classification title with a higher salary range shall receive the first step on the appropriate salary range for the higher class or the step on the new salary range which provides a step placement increase of at least five percent (5%), unless the highest step on the new range is less than five percent (5%) above the previous step placement.

Temporary Assignment to a Higher Classification

Any assignment to work temporarily under a class title higher in salary level than the regular classification shall be compensated for the duration of the assignment as if a promotion had taken place. If the employee temporarily assigned to a higher class is due for salary step advancement in his/her regular classification, he/she shall receive step advancement on the range for the higher class to which temporarily assigned, unless the initial step placement in the higher class is equal to or exceeds a five percent (5%) increase over the new step placement due the employee for his/her regular classification.

Legal Reference: *Education Code*
 45110 *Inconsistent duties; compensation*
 45160 *Power of governing board to fix compensation*