CONCEPTS AND ROLES

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

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

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

The Superintendent has primary responsibility for overseeing the district's personnel system. To support this effort, the Board shall approve a framework for sound hiring practices. The Superintendent shall nominate all personnel for employment, and the Board shall approve only those persons so recommended. Individuals who approach Board members regarding prospective employment shall be referred to the Superintendent or designee.

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

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

(cf. 4115 - Evaluation/Supervision)
(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4215 - Evaluation/Supervision)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)
(cf. 4315 - Evaluation/Supervision)

CONCEPTS AND ROLES (continued)

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

Legal Reference:

EDUCATION CODE
35020 Duties of employees fixed by governing board
35035 Powers and duties of superintendent
35160 Powers of governing board
GOVERNMENT CODE
3540-3549.3 Public education employer-employee relations

DRUG AND ALCOHOL-FREE WORKPLACE

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

(cf. 4112.41/4212.41/4312.41 - Employee Drug Testing)
(cf. 4112.42/4212.42/4312.42 - Drug and Alcohol Testing for School Bus Drivers)

An employee shall not unlawfully manufacture, distribute, dispense, possess, or use any controlled substance in the workplace. (Government Code 8355; 41 USC 8103)

Employees are prohibited from being under the influence of controlled substances or alcohol while on duty. For purposes of this policy, *on duty* means while an employee is on duty during both instructional and noninstructional time in the classroom or workplace, at extracurricular or cocurricular activities, or while transporting students or otherwise supervising them. *Under the influence* means that the employee's capabilities are adversely or negatively affected, impaired, or diminished to an extent that impacts the employee's ability to safely and effectively perform his/her job.

(cf. 4032 - Reasonable Accommodation)

The Superintendent or designee shall notify employees of the district's prohibition against drug use and the actions that will be taken for violation of such prohibition. (Government Code 8355; 41 USC 8103)

An employee shall abide by the terms of this policy and shall notify the district, within five days, of his/her conviction for violation in the workplace of any criminal drug statute. (Government Code 8355; 41 USC 8103)

The Superintendent or designee shall notify the appropriate federal granting or contracting agency within 10 days after receiving notification, from an employee or otherwise, of any conviction for a violation occurring in the workplace. (41 USC 8103)

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

(cf. 4112 - Appointment and Conditions of Employment)
(cf. 4117.4 - Dismissal)
(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4212 - Appointment and Conditions of Employment)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

DRUG AND ALCOHOL-FREE WORKPLACE (continued)

Drug-Free Awareness Program

The Superintendent or designee shall establish a drug-free awareness program to inform employees about: (Government Code 8355; 41 USC 8103)

1. The dangers of drug abuse in the workplace
2. The district's policy of maintaining a drug-free workplace
3. Available drug counseling, rehabilitation, and employee assistance programs

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

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

Legal Reference:

EDUCATION CODE
44011 Controlled substance offense
44425 Conviction of controlled substance offenses as grounds for revocation of credential
44836 Employment of certificated persons convicted of controlled substance offenses
44940 Compulsory leave of absence for certificated persons
44940.5 Procedures when employees are placed on compulsory leave of absence
45123 Employment after conviction of controlled substance offense
45304 Compulsory leave of absence for classified persons
GOVERNMENT CODE
8350-8357 Drug-free workplace
UNITED STATES CODE, TITLE 20
7111-7117 Safe and Drug Free Schools and Communities Act
UNITED STATES CODE, TITLE 21
812 Schedule of controlled substances
UNITED STATES CODE, TITLE 41
8101-8106 Drug-Free Workplace Act
CODE OF FEDERAL REGULATIONS, TITLE 21
1308.01-1308.49 Schedule of controlled substances
COURT DECISIONS
Cahoon v. Governing Board of Ventura USD, (2009) 171 Cal.App.4th 381
Ross v. RagingWire Telecommunications, Inc., (2008) 42 Cal.4th 920

Management Resources:

WEB SITES
California Department of Alcohol and Drug Programs: http://www.adp.ca.gov
California Department of Education: http://www.cde.ca.gov
U.S. Department of Labor: http://www.dol.gov

Policy adopted: **SAN LEANDRO UNIFIED SCHOOL DISTRICT**
San Leandro, California

NONDISCRIMINATION IN EMPLOYMENT

The Board of Trustees desires to provide a positive work environment where employees and job applicants are assured of equal access and opportunities and are free from harassment in accordance with law. The Board prohibits district employees from discriminating against or harassing any other district employee or job applicant on the basis of the person's actual or perceived race, religious creed, color, national origin, ancestry, age, marital status, pregnancy, physical or mental disability, medical condition, genetic information, veteran status, gender, gender identity, gender expression, sex, or sexual orientation.

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

Prohibited discrimination consists of the taking of any adverse employment action against a person, including termination or denial of promotion, job assignment, or training, or in discriminating against the person in compensation, terms, conditions, or other privileges of employment based on any of the prohibited categories of discrimination listed above.

The prohibition against discrimination based on the religious creed of an employee or job applicant includes any discrimination based on the person's religious dress or grooming practices or any conflict between the person's religious belief, observance, or practice and an employment requirement. The prohibition against discrimination based on the sex of an employee or job applicant shall include any discrimination based on the person's pregnancy, childbirth, breastfeeding, or any related medical conditions. (Government Code 12926, 12940)

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

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

Any district employee who engages in prohibited discrimination, harassment, or retaliation or who aids, abets, incites, compels, or coerces another to engage or attempt to engage in such behavior in violation of this policy shall be subject to disciplinary action, up to and including dismissal.

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

NONDISCRIMINATION IN EMPLOYMENT (continued)

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

The following position is designated as Coordinator for Nondiscrimination in Employment:

Assistant Superintendent - Human Resources
14735 Juniper Street
San Leandro, CA 94579-1222
(510) 667-3523

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

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

(cf. 4031 - Complaints Concerning Discrimination in Employment)

Any supervisory or management employee who observes or has knowledge of an incident of prohibited discrimination or harassment shall report the incident to the Coordinator or Superintendent as soon as practical after the incident. All other employees are encouraged to report such incidents to their supervisor immediately.

Training and Notifications

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

(cf. 4131- Staff Development)
(cf. 4231- Staff Development)
(cf. 4331- Staff Development)

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

NONDISCRIMINATION IN EMPLOYMENT (continued)

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

Legal Reference:

EDUCATION CODE
200-262.4 Prohibition of discrimination
CIVIL CODE
51.7 Freedom from violence or intimidation
GOVERNMENT CODE
11135 Unlawful discrimination
12900-12996 Fair Employment and Housing Act
PENAL CODE
422.56 Definitions, hate crimes
CODE OF REGULATIONS, TITLE 2
7287.6 Terms, conditions and privileges of employment
CODE OF REGULATIONS, TITLE 5
4900-4965 Nondiscrimination in elementary and secondary education programs
UNITED STATES CODE, TITLE 20
1681-1688 Title IX of the Education Amendments of 1972
UNITED STATES CODE, TITLE 29
621-634 Age Discrimination in Employment Act
794 Section 504 of the Rehabilitation Act of 1973
UNITED STATES CODE, TITLE 42
2000d-2000d-7 Title VI, Civil Rights Act of 1964, as amended
2000e-2000e-17 Title VII, Civil Rights Act of 1964, as amended
2000ff-2000ff-11 Genetic Information Nondiscrimination Act of 2008
2000h-2-2000h-6 Title IX of the Civil Rights Act of 1964
6101-6107 Age discrimination in federally assisted programs
12101-12213 Americans with Disabilities Act
CODE OF FEDERAL REGULATIONS, TITLE 28
35.101-35.190 Americans with Disabilities Act
CODE OF FEDERAL REGULATIONS, TITLE 34
100.6 Compliance information
104.7 Designation of responsible employee for Section 504
104.8 Notice
106.8 Designation of responsible employee and adoption of grievance procedures
106.9 Dissemination of policy
110.1-110.39 Nondiscrimination on the basis of age

Legal Reference continued: (see next page)

NONDISCRIMINATION IN EMPLOYMENT (continued)

Legal Reference (continued):

COURT DECISIONS
Thompson v. North American Stainless LP, (2011) 131 S.Ct. 863
Shephard v. Loyola Marymount, (2002) 102 Cal.App.4th 837

Management Resources:

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS
Notice of Non-Discrimination, August 2010
U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONS
Questions and Answers: Religious Discrimination in the Workplace, 2008
Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act, October 2002
Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors, June 1999
WEB SITES
California Department of Fair Employment and Housing: http://www.dfeh.ca.gov
U.S. Department of Education, Office for Civil Rights: http://www.ed.gov/about/offices/list/ocr
U.S. Equal Employment Opportunity Commission: http://www.eeoc.gov

COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT

Complaint Procedure

Any complaint by an employee or job applicant alleging discrimination or harassment shall be addressed in accordance with the following procedures:

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

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

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

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

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 4030 - Nondiscrimination in Employment)
(cf. 4032 - Reasonable Accommodation)
(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

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

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

(cf. 3580 - District Records)
(cf. 4112.6/4212.6/4312.6 - Personnel Files)
(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)

COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT (continued)

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

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

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

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

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

   The report shall be presented to the complainant, the person accused, and the Superintendent or designee.

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

(cf. 1312.1 - Complaints Concerning District Employees)
(cf. 9321 - Closed Session Purposes and Agendas)

COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT (continued)

Other Remedies

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

1. To file a valid complaint with DFEH, within one year of the alleged discriminatory act(s), unless an exception exists pursuant to Government Code 12960 (Government Code 12960)

2. To file a valid complaint directly with EEOC, within 180 days of the alleged discriminatory act(s) (42 USC 2000e-5)

3. To file a valid complaint with EEOC after first filing a complaint with DFEH, within 300 days of the alleged discriminatory act(s) or within 30 days after the termination of proceedings by DFEH, whichever is earlier (42 USC 2000e-5)

Legal Reference: (see next page)

COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT (continued)

Legal Reference:

EDUCATION CODE
200-262.4 Prohibition of discrimination
GOVERNMENT CODE
12920-12921 Nondiscrimination
12940-12948 Discrimination prohibited; unlawful practices, generally
UNITED STATES CODE, TITLE 20
1681-1688 Title IX of the Education Amendments of 1972
UNITED STATES CODE, TITLE 29
621-634 Age Discrimination in Employment Act
794 Section 504 of the Rehabilitation Act of 1973
UNITED STATES CODE, TITLE 42
2001d-2001d-7 Title VI, Civil Rights Act of 1964
2001e-2001e-17 Title VII, Civil Rights Act of 1964, as amended
2000ff-2000ff-11 Genetic Information Nondiscrimination Act of 2008
2001h-2-2001h-6 Title IX of the Civil Rights Act of 1964
12101-12213 Americans with Disabilities Act
CODE OF FEDERAL REGULATIONS, TITLE 28
35.101-35.190 Americans with Disabilities Act
CODE OF FEDERAL REGULATIONS, TITLE 34
106.8 Designation of responsible employee for Title IX

Management Resources:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONS
Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act, October 2002
Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors, June 1999
WEB SITES
California Department of Fair Employment and Housing: http://www.dfeh.ca.gov
U.S. Equal Employment Opportunity Commission: http://www.eeoc.gov

REASONABLE ACCOMMODATION

Except when undue hardship would result to the district, the Superintendent or designee shall provide reasonable accommodation:

1. In the job application process, to any qualified job applicant with a disability

2. To enable any qualified employee with a disability to perform the essential functions of the position he/she holds or desires to hold or to enjoy equal benefits or other terms, conditions, and privileges of employment as other similarly situated employees without disabilities

The district designates the position specified in BP 4030 - Nondiscrimination in Employment as the coordinator of its efforts to comply with the Americans with Disabilities Act (ADA) and to investigate any and all related complaints.

(cf. 4030 - Nondiscrimination in Employment)
(cf. 4031 - Complaints Concerning Discrimination in Employment)

Definitions

Disability, with respect to an individual, is defined as any of the following: (Government Code 12926; 20 CFR 1630.2)

1. A physical or mental impairment that limits one or more of the major life activities

2. A record of such an impairment

3. Being regarded as having such an impairment

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

Essential functions are the fundamental job duties of the position the individual with a disability holds or desires. The term does not include the marginal functions of the position. (Government Code 12926; 29 CFR 1630.2)

Reasonable accommodation means: (Government Code 12926; 29 CFR 1630.2)

1. For a qualified job applicant with a disability, modifications or adjustments to the job application process that enable him/her to be considered for the position he/she desires

REASONABLE ACCOMMODATION (continued)

2. For a qualified employee with a disability, modifications or adjustments to the work environment, or to the manner or circumstances under which the position the employee holds or desires is customarily performed, that enable him/her to perform the essential functions of that position or to enjoy equal benefits and privileges of employment as are enjoyed by the district's other similarly situated employees without disabilities

Qualified individual with a disability means a job applicant or employee with a disability who: (29 CFR 1630.15, 1630.2)

1. Satisfies the requisite skill, experience, education, and other job-related requirements of the employment position he/she holds or desires

2. Can perform the essential functions of the position with or without reasonable accommodation

3. Would not pose a significant risk of substantial harm, which cannot be eliminated or reduced by reasonable accommodation, to himself/herself or others in the job he/she holds or desires

Undue hardship is a determination based on an individualized assessment of current circumstances that shows that the provision of a specific accommodation would cause significant difficulty or expense to the district. (29 CFR 1630.2)

Request for Reasonable Accommodation

When requesting reasonable accommodation, an employee or his/her representative shall inform the employee's supervisor that he/she needs a change at work for a reason related to a medical condition. The supervisor shall inform the coordinator of the employee's request as soon as practicable.

When requesting reasonable accommodation for the hiring process, a job applicant shall inform the coordinator that he/she will need a reasonable accommodation during the process.

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

REASONABLE ACCOMMODATION (continued)

If the documentation submitted by the employee does not indicate the existence of a qualifying disability or explain the need for reasonable accommodation, the coordinator shall request additional documentation that specifies the missing information. If the employee does not submit such additional documentation in a timely manner, the coordinator may require him/her to submit to an examination by a health care professional selected and paid for by the district.

The district may make a medical or psychological inquiry of a job applicant or require him/her to submit to a medical or psychological examination after he/she has been given a conditional offer of employment but before the commencement of his/her job duties, provided the inquiry or examination is job-related, consistent with business necessity, and required for all incoming employees in the same job classification. (Government Code 12940)

The coordinator shall not request any job applicant's or employee's genetic information except as authorized by law. (42 USC 2000ff-1, 2000ff-5)

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

In accordance with law, the coordinator shall take steps to ensure the confidentiality of information related to medical conditions or history. As applicable, he/she shall notify the supervisor or manager of the qualified individual of any reasonable accommodation granted the individual and may notify first aid and safety personnel when the disability of the qualified individual may require emergency treatment. (42 USC 12112)

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

Granting Reasonable Accommodation

Upon receiving a request for reasonable accommodation from a qualified individual with a disability, the coordinator shall:

1. Determine the essential functions of the job involved

2. Engage in an informal, interactive process with the individual to review the request for accommodation, identify the precise limitations resulting from the disability, identify potential accommodations, and assess their effectiveness

3. Develop a plan for reasonable accommodation which will enable the individual to perform the essential functions of the job or gain equal access to a benefit or privilege of employment without imposing undue hardship on the district

REASONABLE ACCOMMODATION (continued)

A determination of undue hardship should be based on several factors, including: (29 CFR 1630.2)

a. The nature and net cost of the accommodation needed, taking into consideration the availability of tax credits and deductions and/or outside funding

b. The overall financial resources of the facility making the accommodation, the number of persons employed at this facility, and the effect on expenses and resources of the facility

c. The overall financial resources, number of employees, and the number, type, and location of facilities of the district

d. The type of operation of the district, including the composition, structure, and functions of the workforce and the geographic separateness and administrative or fiscal relationship of the facility making the accommodation to other district facilities

e. The impact of the accommodation on the operation of the facility, including the impact on the ability of other employees to perform their duties and the impact on the facility's ability to conduct business

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

Appeal Process

Any qualified individual with a disability who is not satisfied with the decision of the coordinator may appeal in writing to the Superintendent or designee. This appeal shall be made within 10 working days of receiving the decision and shall include:

1. A clear, concise statement of the reasons for the appeal

2. A statement of the specific remedy sought

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

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

Legal Reference: (see next page)

REASONABLE ACCOMMODATION (continued)

Legal Reference:

CIVIL CODE
51 Unruh Civil Rights Act
GOVERNMENT CODE
12900-12996 Fair Employment and Housing Act
UNITED STATES CODE, TITLE 29
701-794e Vocational Rehabilitation Act
UNITED STATES CODE, TITLE 42
2000ff-1-2000ff-11 Genetic Information Nondiscrimination Act of 2008
12101-12213 Americans with Disabilities Act
CODE OF FEDERAL REGULATIONS, TITLE 28
35.101-35.190 Americans with Disabilities Act, especially:
35.107 Designation of employee
36.101-36.608 Nondiscrimination on the basis of disability by public facilities
CODE OF FEDERAL REGULATIONS, TITLE 29
1630.2 Definitions
COURT DECISIONS
A.M. v. Albertsons, LLC, (2009) Cal.App.4th 455
Colmenares v. Braemar Country Club, Inc., (2003) 29 Cal.4th 1019
Chevron USA v. Echazabal, (2002) 536 U.S. 73, 122 S.Ct. 2045
US Airways, Inc. v. Barnett, (2002) 535 U.S. 391, 122 S.Ct. 1516

Management Resources:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONS
Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act, October 2002
WEB SITES
Department of Fair Employment and Housing: http://www.dfeh.ca.gov
Equal Employment Opportunity Commission: http://www.eeoc.gov
U.S. Department of Education, Office for Civil Rights: http://www.ed.gov/about/offices/list/ocr

LACTATION ACCOMMODATION

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

(cf. 4030 - Nondiscrimination in Employment)
(cf. 4031 - Complaints Concerning Discrimination in Employment)

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

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

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

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

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

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

Legal Reference: (see next page)

LACTATION ACCOMMODATION (continued)

Legal Reference:

EDUCATION CODE
200-262.4 Prohibition of discrimination on the basis of sex
CIVIL CODE
43.3 Right of mothers to breastfeed in any public or private location
GOVERNMENT CODE
12940 Discriminatory employment practices
12945 Discrimination based on pregnancy, childbirth, or related medical conditions
LABOR CODE
1030-1033 Lactation accommodation
CODE OF REGULATIONS, TITLE 2
7291.2-7291.16 Sex discrimination; pregnancy and related medical conditions
UNITED STATES CODE, TITLE 29
207 Fair Labor Standards Act; lactation accommodation
FAIR EMPLOYMENT AND HOUSING COMMISSION DECISIONS
Department of Fair Employment and Housing v. Acosta Tacos (Chavez),FEHC Precedential Decision 09-03P, 2009

Management Resources:

CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS PUBLICATIONS
Rest Periods/Lactation Accommodation, Frequently Asked Questions
CALIFORNIA DEPARTMENT OF PUBLIC HEALTH PUBLICATIONS
Minimum Requirements of the California Lactation Accommodation Law
CENTERS FOR DISEASE CONTROL AND PREVENTION PUBLICATIONS
Lactation Support Program Toolkit
FEDERAL REGISTER
Reasonable Break Time for Nursing Mothers, December 21, 2010, Vol. 75, No. 244, pages 80073-80079
OFFICE OF THE SURGEON GENERAL PUBLICATIONS
The Surgeon General's Call to Action to Support Breastfeeding, 2011
HEALTH RESOURCES AND SERVICES ADMINISTRATION PUBLICATIONS
The Business Case for Breastfeeding: Steps for Creating a Breastfeeding Friendly Worksite, Toolkit, 2008
U.S. DEPARTMENT OF LABOR, WAGE AND HOUR DIVISION, PUBLICATIONS
Fact Sheet #3: Break Time for Nursing Mothers under the FLSA, rev. December 2010
WEB SITES
California Department of Industrial Relations, Division of Labor and Standards Enforcement: http://www.dir.ca.gov/dlse
California Department of Public Health: http://www.cdph.ca.gov
California Women, Infants and Children: http://www.wicworks.ca.gov
Centers for Disease Control and Prevention: http://www.cdc.gov
Health Resources and Services Administration: http://www.hrsa.gov
Office of the Surgeon General: http://www.surgeongeneral.gov
U.S. Department of Labor, Wage and Hour Division, Break Time for Nursing Mothers: http://www.dol.gov/whd/nursingmothers

EMPLOYEE USE OF TECHNOLOGY

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

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

Employees shall be responsible for the appropriate use of technology and shall use the district's technological resources primarily for purposes related to their employment.

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

Employees shall be notified that computer files and electronic communications, including email and voice mail, are not private. Technological resources shall not be used to transmit confidential information about students, employees, or district operations without authority.

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)
(cf. 5125 - Student Records)
(cf. 5125.1 - Release of Directory Information)

Online/Internet Services

The Superintendent or designee shall ensure that all district computers with Internet access have a technology protection measure that prevents access to visual depictions that are obscene or child pornography and that the operation of such measures is enforced. The Superintendent or designee may disable the technology protection measure during use by an adult to enable access for bona fide research or other lawful purpose. (20 USC 6777; 47 USC 254)

To ensure proper use, the Superintendent or designee may monitor employee usage of technological resources, including the accessing of email and stored files. Monitoring may occur at any time without advance notice or consent. When passwords are used, they must be known to the Superintendent or designee so that he/she may have system access.

The Superintendent or designee shall establish administrative regulations and an Acceptable Use Agreement which outline employee obligations and responsibilities related to the use of

EMPLOYEE USE OF TECHNOLOGY (continued)

district technology. He/she also may establish guidelines and limits on the use of technological resources. Inappropriate use may result in a cancellation of the employee's user privileges, disciplinary action, and/or legal action in accordance with law, Board policy, and administrative regulation.

District will tailor any disciplinary action to appropriately match the extent of the violation. Disciplinary action may include but not be limited to financial compensation for internal or negligent damages and/or dismissal from employment from the District. Legal action may involve criminal and/or civil prosecution.

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

The district is not responsible for any claims, losses, damages, costs, or other obligations arising from the unauthorized uses of the district computer technology or its network.

The district is not responsible for the accuracy or quality of the information obtained on the Internet. Any statement, accessible on the computer network or the Internet, is understood to be the author's individual point of view and may not be that of the district, its affiliates, or employees.

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

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

Use of Cellular Phone or Mobile Communications Device

An employee shall not use a cellular phone or other mobile communications device for personal business while on duty, except in emergency situations and/or during scheduled work breaks.

Any employee that uses a cell phone or mobile communications device in violation of law, Board policy, or administrative regulation shall be subject to discipline and may be referred to law enforcement officials as appropriate.

(cf. 3513.1 - Cellular Phone Reimbursement)
(cf. 3542 - School Bus Drivers)
(cf. 4156.3/4256.3/4356.3 - Employee Property Reimbursement)

Legal Reference: (see next page)

EMPLOYEE USE OF TECHNOLOGY (continued)

Legal Reference:

EDUCATION CODE
52295.10-52295.55 Implementation of Enhancing Education Through Technology grant program
GOVERNMENT CODE
3543.1 Rights of employee organizations
PENAL CODE
502 Computer crimes, remedies
632 Eavesdropping on or recording confidential communications
VEHICLE CODE
23123 Wireless telephones in vehicles
23123.5 Mobile communication devices; text messaging while driving
23125 Wireless telephones in school buses
UNITED STATES CODE, TITLE 20
6751-6777 Enhancing Education Through Technology Act, Title II, Part D, especially:
6777 Internet safety
UNITED STATES CODE, TITLE 47
254 Universal service discounts (E-rate)
CODE OF FEDERAL REGULATIONS, TITLE 47
54.520 Internet safety policy and technology protection measures, E-rate discounts

Management Resources:

WEB SITES
CSBA: http://www.csba.org
American Library Association: http://www.ala.org
California Department of Education: http://www.cde.ca.gov
Federal Communications Commission: http://www.fcc.gov
U.S. Department of Education: http://www.ed.gov

EMPLOYEE USE OF TECHNOLOGY

User Obligations and Responsibilities

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

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

2. Employees shall use the system responsibly and primarily for work related purposes. Use of district resources and equipment for commercial, illegal, or political use is strictly prohibited. The district has the right to monitor its computer technology and networks for improper, inappropriate and/or unauthorized use.

(cf. 6162.7 – Use of Technology in Instruction)

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

(cf. 4030 - Nondiscrimination in Employment)
(cf. 4031 - Complaints Concerning Discrimination in Employment)
(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

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

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

(cf. 6162.6 - Use of Copyrighted Materials)

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

7. Employees shall not invade the privacy of others by attempting to access other users’ accounts or by releasing others’ personal information. They shall not attempt to interfere with other users’ ability to access their accounts, nor shall they attempt to read, delete, copy, modify, or forge other users’ mail, files or data.

EMPLOYEE USE OF TECHNOLOGY

User Obligations and Responsibilities (continued)

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

(cf. 6163.4 - Student Use of Technology)

9. No one shall provide access to the district's Internet to unauthorized individuals without prior consent from the Superintendent, Principal or their designee(s).

10. Vandalism, attempted or otherwise, will result in the immediate cancellation of user privileges in addition to fines, disciplinary actions and possible criminal or civil prosecution. Vandalism includes, but is not limited to, hacking into computer technology and/or networks, attempting to gain access or gaining access to student records, grades or files, transmitting of viruses, "Trojan horses," or any other harmful data, and/or the intentional damage of equipment.

11. Employees shall not purposefully use district technology equipment to produce or distribute multiple copies of messages, documents, or files in a manner which is illegal or cause degradation or damage to its hardware, software, data, or network performance.

12. Employees shall not attempt to impersonate or represent another person, nor may employees use the district's name, the name of district school sites or other facilities, or district or school logos or symbols without prior approval from the Superintendent or designee. The district reserves the right to control the unauthorized use of its names, symbols, logos, or any other proprietary materials to the extent permitted by law.

13. Employees may not use or alter any passwords, recognition codes, security devices or methods, data encryption, or physical locking devices, such as locks on any part of the district's computer technology and/or network, without the district's prior express written consent.

14. Employees may encounter material they interpret as controversial, inappropriate, or offensive. The district has implemented filtering and/or blocking software to restrict access to Internet sites containing pornography, or other obscene depictions. It is the responsibility of the Employee not to intentionally search for or access such material. Employees agree to hold the district and its Board Members and agents harmless in the event the Employee obtains access to controversial or inappropriate materials while using the computer technology and/or network.

EMPLOYEE USE OF TECHNOLOGY

User Obligations and Responsibilities (continued)

15. Employees are prohibited from using district computer technology or network to engage in activities that would subject the district, school or individual to criminal, civil or administrative liability.

16. Employees shall not obtain, send or access information which could be used to make destructive devices such as guns, weapons, bombs, explosives, or fireworks.

17. Employees are responsible for any losses sustained by the district or its affiliates, resulting from their intentional misuse of the district's computer technology or network.

18. Employees with district email accounts are to check their email frequently and delete unwanted messages and other files or data that take up excessive storage space. The system administrator may delete old messages from user accounts should the need arise.

19. Employees shall not develop any classroom or work-related web sites, blogs, forums or similar online communications representing the district or using district equipment or resources without permission of the Superintendent or designee. Such sites shall be subject to rules and guidelines established for district online publishing activities including, but not limited to, copyright laws, privacy rights, and prohibitions against obscene, libelous, and slanderous content. Because of the unfiltered nature of blogs, any such site shall include a disclaimer that the district is not responsible for the content of the messages. The district retains the right to delete material on any such online communications.

EMPLOYEE USE OF TECHNOLOGY

SAN LEANDRO UNIFIED SCHOOL DISTRICT
EMPLOYEE USE OF TECHNOLOGY

User Obligations and Responsibilities Signature Form

I have read, understand, and agree to abide by the San Leandro Unified School District's "Employee Use of Technology" Policy. I authorize the district to monitor all user files, email messages and any data transmitted or received under my district account. I am aware that all such data is not private and is the property of the district.

I understand the district will not be held liable in the event a third party makes a claim against the district as a result of my use of the computer network or the Internet provided by the district. The district reserves its right to respond to such claims accordingly and to hold all offending parties, including myself, responsible.

I will not hold the District responsible for any claims or damages of any nature arising from my access or use of the computer network or the Internet provided by the district. I understand I may be required to provide financial reimbursement (at market rates) for any intentional or negligent damage or intentional or negligent loss of district technology equipment under my care or use.

Name (please print) _____

Date: _____ Employee Signature: _____

Date: _____ Supervisor/Designee Signature: _____

CERTIFICATED PERSONNEL

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

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

(cf. 4115 - Evaluation/Supervision)
(cf. 4141/4241 - Collective Bargaining Agreement)

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

(cf. 4131 - Staff Development)

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

Legal Reference:
EDUCATION CODE
90 Definition, certificated and certified
44006 Certificated person
GOVERNMENT CODE
3543.2 Scope of representation

The Board of Trustees is committed to employing suitable, qualified individuals to carry out the district's mission to provide high-quality education to its students and to ensure the efficiency of district operations.

(cf. 0100 - Goals for the School District)
(cf. 4000 - Concepts and Roles)
(cf. 4100 - Certificated Personnel)
(cf. 4200 - Classified Personnel)
(cf. 4300 - Administrative and Supervisory Personnel)

The Superintendent or designee shall develop fair, open, and transparent recruitment and selection processes and procedures which ensure that individuals are selected based on demonstrated knowledge, skills, and competence and not on any bias, personal preference, or unlawful discrimination.

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 4030 - Nondiscrimination in Employment)
(cf. 4031 - Complaints Concerning Discrimination in Employment)
(cf. 4032 - Reasonable Accommodation)
(cf. 4111.2/4211.2/4311.2 - Legal Status Requirement)

When a vacancy occurs, the Superintendent or designee shall review the job description for the position to ensure that it accurately describes the major functions and duties of the position. He/she also shall disseminate job announcements to ensure a wide range of candidates.

With Board approval, the Superintendent or designee may provide incentives to recruit teachers, administrators, or other employees to work in low-performing schools or in hard-to-fill positions.

(cf. 4113 - Assignment)

The district's selection procedures may include screening processes, interviews, observations, and recommendations from previous employers as necessary to identify the best possible candidate for a position. The Superintendent or designee may establish an interview committee, as appropriate, to rank candidates and recommend finalists. All discussions and recommendations shall be confidential in accordance with law.

(cf. 2230 - Representative and Deliberative Groups)

During job interviews, applicants may be asked to describe or demonstrate how they will be able to perform the duties of the job. No inquiry shall be made with regard to any category of discrimination prohibited by state or federal law.

RECRUITMENT AND SELECTION (continued)

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

(cf. 4112 - Appointment and Conditions of Employment)
(cf. 4112.2 - Certification)
(cf. 4112.22 - Staff Teaching English Language Learners)
(cf. 4112.23 - Special Education Staff)
(cf. 4112.24 - Teacher Qualifications Under the No Child Left Behind Act)
(cf. 4112.8/4212.8/4312.8 - Employment of Relatives)
(cf. 4212 - Appointment and Conditions of Employment)
(cf. 4312.1 - Contracts)

Legal Reference: (see next page)

RECRUITMENT AND SELECTION (continued)

Legal Reference:

EDUCATION CODE
200-262.4 Prohibition of discrimination
41530-41533 Professional Development Block Grant
44066 Limitations on certification requirement
44259 Teaching credential; exception; designated subjects; minimum requirements
44735 Teaching as a Priority block grant
44740-44741 Personnel management assistance teams
44750 Teacher recruitment resource center
44830-44831 Employment of certificated persons
44858 Age or marital status in certificated positions
44859 Prohibition against certain rules and regulations re: residency
45103-45139 Employment (classified employees)
49406 Examination for tuberculosis
GOVERNMENT CODE
815.2 Liability of public entities and public employees
12900-12996 Fair Employment and Housing Act, including:
12940-12956 Discrimination prohibited; unlawful practices
UNITED STATES CODE, TITLE 8
1324a Unlawful employment of aliens
1324b Unfair immigration related practices
UNITED STATES CODE, TITLE 42
2000d-2000d-7 Title VI, Civil Rights Act of 1964
2000e-2000e-17 Title VII, Civil Rights Act of 1964 as amended
2000h-2-2000h-6 Title IX, 1972 Education Act Amendments
12101-12213 Americans with Disabilities Act
CODE OF FEDERAL REGULATIONS, TITLE 28
35.101-35.190 Americans with Disabilities Act
COURT DECISIONS
C.A. v William S. Hart Union High School District et al., (2012) 138 Cal.Rptr.3d 1

Management Resources:

WEB SITES
California Department of Fair Employment and Housing: http://www.dfeh.ca.gov
Education Job Opportunities Information Network: http://www.edjoin.org
Teach USA: http://www.calteach.org
U.S. Equal Employment Opportunity Commission: http://www.eeoc.gov

All Personnel BP 4111.2
4211.2
LEGAL STATUS REQUIREMENT 4311.2

The Board of Trustees shall ensure that the district employs only those individuals who are lawfully authorized to work in the United States.

The Superintendent or designee shall verify the employment eligibility of all persons hired by completing the U.S. Citizenship and Immigration Services Form I-9, Employment Eligibility Verification, for each individual hired and ensure that the district does not knowingly hire or continue to employ any person not authorized to work in the United States. (8 USC 1324a)

In accordance with law, the Superintendent or designee shall ensure that district employment practices do not unlawfully discriminate on the basis of citizenship status or national origin, including, but not limited to, discrimination against any refugees, grantees of asylum, or persons qualified for permanent or temporary residency.

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 4030 - Nondiscrimination in Employment)
(cf. 4111/4211/4311 - Recruitment and Selection)

Legal Reference:
UNITED STATES CODE, TITLE 8
1324a Unlawful employment of aliens
1324b Unfair immigrant-related employment practices
CODE OF FEDERAL REGULATIONS, TITLE 8
274a.1-274a.14 Control of Employment of Aliens

Management Resources:
U.S. CITIZENSHIP AND IMMIGRATION SERVICES PUBLICATIONS
Handbook for Employers: Instructions for Completing Form I-9, April 2009
WEB SITES
U.S. Citizenship and Immigration Services: http://www.uscis.gov

Policy adopted: **SAN LEANDRO UNIFIED SCHOOL DISTRICT**
San Leandro, California

The Superintendent or designee shall physically examine the documentation presented by the employee establishing his/her identity and employment authorization as set forth in U.S. Citizenship and Immigration Services Form I-9. The employee may present either an original document which establishes both employment authorization and identity or two separate original documents which establish authorization and identity. Only unexpired documents are acceptable. (8 CFR 274a.2)

(cf. 4030 - Nondiscrimination in Employment)
(cf. 4032 - Reasonable Accommodation)

The Superintendent or designee shall: (8 CFR 274a.2)

1. Ensure that the documents presented appear to be genuine and relate to the individual

2. Complete the "Employer Review and Verification" section and sign the attestation with a handwritten signature or electronic signature on Form I-9

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

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

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

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

(cf. 3580 - District Records)

The Superintendent or designee shall copy documents presented by an individual for verification and shall retain them with the individual's Form I-9. The documents shall be kept confidential and used only as needed to help justify the district's past decision to accept the documents as valid.

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

APPOINTMENT AND CONDITIONS OF EMPLOYMENT

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

(cf. 4111/4211/4311 - Recruitment and Selection)
(cf. 4121 - Temporary/Substitute Personnel)

Individuals appointed to the certificated staff shall:

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

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

2. Demonstrate proficiency in basic skills as required by law and Board policy (Education Code 44252.5, 44830)

3. When required by the federal No Child Left Behind Act for teachers of core academic subjects, possess the qualifications of "highly qualified" teachers as defined in law, Board policy and administrative regulations (20 USC 6319)

(cf. 4112.24 - Teacher Qualifications Under the No Child Left Behind Act)
(cf. 6171 - Title I Programs)

4. Submit to fingerprinting as required by law (Education Code 44830.1)

5. Not have been convicted of a violent or serious felony as defined in Penal Code 667.5 or 1192.7, unless the individual has received a certificate of rehabilitation and pardon (Education Code 44830.1)

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

6. Not have been convicted of any sex offense as defined in Education Code 44010 (Education Code 44836)

7. Not have been required to register as a sex offender pursuant to Penal Code 290 because of a conviction for a crime where the victim was a minor under the age of 16 (Penal Code 290.95)

(cf. 3515.5 - Sex Offender Notification)

8. Not have been determined to be a sexual psychopath pursuant to Welfare and Institutions Code 6300-6332 (Education Code 44837)

APPOINTMENT AND CONDITIONS OF EMPLOYMENT (continued)

9. Not have been convicted of any controlled substance offense as defined in Education Code 44011 (Education Code 44836)

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

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

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

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

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

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

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

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

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

Legal Reference: (see next page)

APPOINTMENT AND CONDITIONS OF EMPLOYMENT (continued)

Legal Reference:

EDUCATION CODE
35161 Powers and duties
44008 Effect of termination of probation
44009 Conviction of specified crimes; definitions
44010 Sex offense
44011 Controlled substance offense
44066 Limitation on certification requirements
44250-44277 Credential types
44330 Effect of registration of certification document
44830.1 Felons; certificated positions; criminal record summary; fingerprints
44836 Employment of person convicted of sex offenses or controlled substance offenses
44837 Employment of sexual sociopath
44838 Statement of military service
44839 Medical certificate
44839.5 Medical certificate for retirant
49406 Examination for tuberculosis
GOVERNMENT CODE
3100-3109 Oaths or affirmations of allegiance for disaster service workers and public employees
12940-12950 Unlawful employment practices
PENAL CODE
290 Registration of sex offenders
290.95 Disclosure by persons required to register as sex offenders
667.5 Prior prison terms, enhancement of prison terms
1192.7 Plea bargaining limitation
WELFARE AND INSTITUTIONS CODE
6300-6332 Sexual psychopaths
CODE OF REGULATIONS, TITLE 5
6100-6125 Teacher qualifications, No Child Left Behind Act
UNITED STATES CODE, TITLE 20
6319 Highly qualified teachers
7801 Definitions, highly qualified teacher
CODE OF FEDERAL REGULATIONS, TITLE 34
200.55-200.57 Highly qualified teachers

CONTRACTS

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

(cf. 4121 - Temporary/Substitute Personnel)

Legal Reference:

EDUCATION CODE
44832 Teachers; notice of intent to return
44842 Failure to provide notice or to report to work
44843 Notice of employment (to county superintendent)
44916 Time of classification; statement of employment status
44929.20 Continuing contract-districts w/less than 250 ADA
44955 Reduction in number of employees

CERTIFICATION

Cautionary Notice: AB 97 (Ch. 47, Statutes of 2013) repealed Education Code 42605, which provided temporary flexibility for specified "Tier 3" categorical programs, and instead redirects the funding for those categorical programs into the Local Control Funding Formula (LCFF) (Education Code 42238.01-42251). The supplemental and concentration grant portions of the LCFF may be used for any schoolwide or districtwide educational purpose in accordance with state regulations to be adopted by January 31, 2014, with a goal of increasing or improving services for English learners, foster youth, and students eligible for free and reduced-price meals. Certain requirements related to Tier 3 categorical program(s) in the following policy or regulation are no longer applicable.

The Board of Trustees recognizes that the district's ability to provide a high-quality educational program is dependent upon the employment of certificated staff who are adequately prepared and have demonstrated proficiency in basic skills and in the subject matter to be taught. The Superintendent or designee shall ensure that persons employed in positions requiring certification qualifications possess the appropriate credential or permit from the Commission on Teacher Credentialing (CTC) authorizing their employment in such positions.

(cf. 4111/4211/4311 - Recruitment and Selection)
(cf. 4112.21 - Interns)
(cf. 4112.22 - Staff Teaching English Language Learners)
(cf. 4112.23 - Special Education Staff)
(cf. 4112.5/4312.5 - Criminal Record Check)
(cf. 4113 - Assignment)
(cf. 4121 - Temporary/Substitute Personnel)
(cf. 5148 - Child Care and Development)
(cf. 6178 - Career Technical Education)
(cf. 6178.2 - Regional Occupational Center/Program)
(cf. 6200 - Adult Education)

All teachers of core academic subjects shall meet the requirements of the No Child Left Behind Act. (20 USC 6319, 7801; 5 CCR 6100-6125)

(cf. 4112.24 - Teacher Qualifications Under the No Child Left Behind Act)

When a credentialed teacher or intern is not available, the district may request that the CTC issue a short-term staff permit, provisional internship permit (PIP), visiting faculty permit, emergency permit, or credential waiver under the conditions and limitations provided in state or federal law.

When requesting a PIP, the Board shall approve, as an action item at a public Board meeting, a notice of intent to employ the applicant in the identified position. (5 CCR 80021.1)

Before requesting a visiting faculty permit or emergency permit, the Board shall annually approve a Declaration of Need for Fully Qualified Educators as an action item at a regularly scheduled public Board meeting. (Education Code 44300.1; 5 CCR 80026)

CERTIFICATION (continued)

The Superintendent or designee shall provide support and guidance to noncredentialed teachers in accordance with law to ensure the quality of the instructional program. He/she also may provide assistance and support to staff holding preliminary credentials to help them meet the qualifications required for the professional clear credential.

(cf. 4131 - Staff Development)
(cf. 4131.1 - Beginning Teacher Support/Induction)
(cf. 4138 - Mentor Teachers)

Legal Reference:

EDUCATION CODE
8360-8370 Qualifications of child care personnel
32340-32341 Unlawful issuance of a credential
35186 Complaints regarding teacher vacancy or misassignment
41520-41522 Teacher Credentialing Block Grant
42647 Eligibility to issue warrants
44066 Limitations on certification requirements
44200-44399 Teacher credentialing, especially:
44250-44277 Credential types; minimum requirements
44279.1-44279.7 Beginning Teacher Support and Assessment Program
44300-44302 Emergency permits and visiting faculty permits
44320.2 Teachers' performance assessment
44325-44328 District interns
44330-44355 Certificates and credentials
44380-44387 Alternative certification program
44395-44399 National Board for Professional Teaching Standards
44420-44440 Revocation and suspension of credentials
44450-44468 University internship program
44560-44562 Certificated Staff Mentoring Program
44735 Teaching as a Priority Block Grant
44830-44929 Employment of certificated persons; requirement of proficiency in basic skills
56060-56063 Substitute teachers in special education
CODE OF REGULATIONS, TITLE 5
6100-6125 Teacher qualifications, No Child Left Behind Act
80001-80674.6 Commission on Teacher Credentialing
UNITED STATES CODE, TITLE 20
6311 Parental notifications
6312 Title I local educational agency plan
6319 Highly qualified teachers
7801 Definitions, highly qualified teacher
CODE OF FEDERAL REGULATIONS, TITLE 34
200.55-200.57 Highly qualified teachers
200.61 Parent notification regarding teacher qualifications
COURT DECISIONS
Association of Mexican-American Educators et al. v. State of California and the Commission on Teacher Credentialing, (1993) 836 F.Supp. 1534

Management Resources: (see next page)

CERTIFICATION (continued)

Management Resources:

COMMISSION ON TEACHER CREDENTIALING CODED CORRESPONDENCE
08-11 Approval of Amendments to Title 5 Regulations Pertaining to Multiple Subject, Single Subject or Education Specialist Short-Term Staff Permit, July 18, 2008
08-09 New Online Credential View and Print Process, July 3, 2008
07-23 Visiting Faculty Permit, December 14, 2007
07-19 Designated Subjects Career Technical Education Teaching Credential, December 14, 2007
COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS
CL-667 Basic Skills Requirement, January 2011
Teacher Supply in California: A Report to the Legislature, April 2008
Standards of Quality and Effectiveness for Professional Teacher Induction Programs, June 2008
The Administrator's Assignment Manual, rev. September 2007
Standards of Quality and Effectiveness for Professional Teacher Preparation Programs, rev. March 2007
California Standards for the Teaching Profession, July 1997
U.S. DEPARTMENT OF EDUCATION GUIDANCE
Improving Teacher Quality State Grants, rev. October 5, 2006
WEB SITES
CSBA: http://www.csba.org
California Department of Education: http://www.cde.ca.gov
California Teacher Credentialing Examinations: http://www.ctcexams.nesinc.com
Commission on Teacher Credentialing: http://www.ctc.ca.gov
Commission on Teacher Credentialing, Commission's Information Guide (for employers' use only): http://www.ctc.ca.gov/credentials/cig
National Board for Professional Teaching Standards: http://www.nbpts.org
U.S. Department of Education: http://www.ed.gov

CERTIFICATION

Verification of Credentials

The Superintendent or designee shall verify that each employee in a position requiring certification qualifications possesses a valid credential or permit issued by the Commission on Teacher Credentialing (CTC). Such verification shall occur not later than 60 days after the commencement of employment or the renewal of a credential. (Education Code 44857)

(cf. 4112.21 - Interns)
(cf. 4112.22 - Staff Teaching English Language Learners)
(cf. 4112.23 - Special Education Staff)
(cf. 4112.24 - Teacher Qualifications Under the No Child Left Behind Act)
(cf. 4121 - Temporary/Substitute Personnel)
(cf. 5148 - Child Care and Development)
(cf. 6178 - Career Technical Education)
(cf. 6178.2 - Regional Occupational Center/Program)
(cf. 6200 - Adult Education)

The Superintendent or designee shall maintain records of the appropriate certification of all employees serving in certificated positions.

(cf. 3580 - District Records)
(cf. 4112.6/4212.6/4312.6 - Personnel Records)

Basic Skills Proficiency

The district shall not initially hire, on a permanent, temporary, or substitute basis, a certificated person seeking employment in the capacity designated in his/her credential unless that person has demonstrated basic skills proficiency in reading, writing, and mathematics or is specifically exempted from the requirement by law. (Education Code 44252, 44252.6, 44830)

The district may hire a certificated teacher who has not taken a test of basic skills proficiency if he/she has not yet been afforded the opportunity to take the test. The employee shall take the test at the earliest opportunity and may remain employed by the district pending the receipt of his/her test results. (Education Code 44830)

An out-of-state prepared teacher shall meet the basic skills requirement within one year of being issued a California preliminary credential by the CTC unless he/she has completed a basic skills proficiency test in another state or is otherwise exempted by law. An out-of-state prepared teacher applying to the CTC for a one-year nonrenewable credential pending completion of the basic skills requirement shall pass the district's basic skills proficiency test which is at least equivalent to the district test required for high school graduation. (Education Code 44252, 44274.2; 5 CCR 80071.4, 80413.3)

(cf. 6146.1 - High School Graduation Requirements)
(cf. 6146.2 - Certificate of Proficiency)
(cf. 6162.5 - High School Exit Examination)

CERTIFICATION (continued)

Any person holding or applying for a designated subjects special subjects credential which does not require possession of a bachelor's degree shall pass the district proficiency test in lieu of meeting the state basic skills requirement. (Education Code 44252, 44830)

The district shall charge a fee to cover the costs of developing, administering, and grading the district proficiency test.

Short-Term Staff Permit

The district may request that the CTC issue a short-term staff permit (STSP) to an applicant who meets the qualifications specified in 5 CCR 80021 whenever there is a need to immediately fill a classroom based on unforeseen circumstances, including, but not limited to: (5 CCR 80021)

1. Enrollment adjustments requiring the addition of another teacher

2. Inability of the teacher of record to finish the school year due to approved leave or illness

3. The applicant's need for additional time to complete preservice requirements for enrollment into an approved internship program

4. Inability of the applicant to enroll in an approved internship program due to timelines or lack of space in the program

5. Unavailability of a third-year extension of an internship program or the applicant's withdrawal from an internship program

When requesting issuance of an STSP, the district shall submit to the CTC: (5 CCR 80021)

1. Verification that it has conducted a local recruitment for the permit being requested

2. Verification that it has provided the permit holder with orientation to the curriculum and to instruction and classroom management techniques and has assigned a mentor teacher for the term of the permit

(cf. 4131 - Staff Development)

3. Written justification for the permit signed by the Superintendent or designee

The holder of an STSP may be assigned to provide the same service as a holder of a multiple subject, single subject, or education specialist credential in accordance with the authorizations specified on the permit. (5 CCR 80021)

CERTIFICATION (continued)

Provisional Internship Permit

The district may request that the CTC issue a provisional internship permit (PIP) to an applicant who meets the qualifications specified in 5 CCR 80021.1 whenever a suitable credentialed teacher cannot be found after a diligent search. The district shall verify all of the following: (5 CCR 80021.1, 80026.5)

1. A diligent search has been conducted for a suitable credentialed teacher or suitable qualified intern as evidenced by documentation of the search.

   The search shall include, but not be limited to, distributing job announcements, contacting college and university placement centers, and advertising in print or electronic media.

(cf. 4111/4211/4311 - Recruitment and Selection)

2. Orientation, guidance, and assistance shall be provided to the permit holder as specified in 5 CCR 80026.5.

   The orientation shall include, but not be limited to, an overview of the curriculum the permit holder is expected to teach and effective instruction and classroom management techniques at the permit holder's assigned level. The Superintendent or designee shall assign an experienced educator to guide and assist the permit holder.

3. The district shall assist the permit holder in developing a personalized plan through a district-selected assessment that would lead to subject-matter competence related to the permit.

4. The district shall assist the permit holder to seek and enroll in subject-matter training, such as workshops or seminars and site-based courses, along with training in test-taking strategies, and shall assist the permit holder in meeting the credential subject-matter competence requirement related to the permit.

5. A notice of intent to employ the applicant in the identified position has been made public.

   The district shall submit a copy of the agenda item presented at a public Board of Trustees meeting which shall state the name of the applicant, the assignment in which the applicant will be employed including the name of the school, subject(s), and grade(s) that he/she will be teaching, and that the applicant will be employed on the basis of a PIP. The district also shall submit a signed statement from the Superintendent or designee that the agenda item was acted upon favorably.

CERTIFICATION (continued)

6. The candidate has been apprised of steps to earn a credential and enroll in an internship program.

The holder of a PIP may be assigned to provide the same service as a holder of a multiple subject, single subject, or education specialist credential in accordance with the authorizations specified on the permit. (5 CCR 80021.1)

Visiting Faculty Permits

The district may request that the CTC issue a visiting faculty permit authorizing an individual to teach in departmentalized classes if he/she has at least three years full-time teaching experience at an accredited postsecondary institution, possesses a master's degree in a subject area closely related to the subject he/she proposes to teach, and meets other qualifications specified in law. In such cases, the district shall provide the CTC with both of the following: (Education Code 44300.1)

1. Annual documentation that the district has implemented a process for conducting a diligent search that includes, but is not limited to, distributing job announcements, contacting college and university placement centers, advertising in local newspapers, and participating in job fairs in California, but has been unable to recruit a sufficient number of certificated teachers to teach the subject matter that the visiting faculty member proposes to teach

2. The Board-adopted Declaration of Need for Fully Qualified Educators based on the documentation set forth in item #1

Credential Waiver/Long-Term Emergency Permits

If a teacher who has completed a teacher preparation program is unavailable for an assignment, the district shall make reasonable efforts to recruit an individual for the assignment in the following order: (Education Code 44225.7)

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

2. A candidate who is scheduled to complete preliminary credential requirements within six months and who is provided orientation, guidance, and assistance by the district

If an individual who meets the criteria specified in item #1 or 2 above is not available to the district, the district may, as a last resort, request from the CTC a credential waiver or an emergency permit for the assignment of an individual who does not meet those criteria. (Education Code 44225.7; 5 CCR 80023-80023.2, 80026)

CERTIFICATION (continued)

The district may request an emergency permit authorizing resource specialist, Crosscultural, Language and Academic Development (CLAD), bilingual, or teacher librarian services.

In order to request an emergency permit, the district shall annually submit a Board-approved Declaration of Need for Fully Qualified Educators on a form provided by the CTC. The declaration shall include certification that the district has made reasonable efforts to recruit a fully prepared teacher for the assignment. (Education Code 44225.7; 5 CCR 80023.2, 80026)

The Superintendent or designee shall provide any first-time recipient of an emergency teaching permit with an orientation to teaching which, to the extent reasonably feasible, shall occur before he/she begins a teaching assignment. The orientation shall include, but not be limited to, the curriculum the teacher is expected to teach and effective techniques of classroom instruction at the assigned grade-level span. The emergency permit holder also shall receive guidance and assistance from an experienced educator who is a certificated district employee or a certificated retiree from a California district or county office of education and who has completed at least three years of full-time classroom teaching experience. (5 CCR 80026.5)

(cf. 4117.14/4317.14 - Postretirement Employment)

Emergency Substitute Teaching Permits

The district may employ for day-to-day substitute teaching, at any grade level, a person with an emergency substitute permit issued by the CTC with the following restrictions:

1. A person holding an emergency 30-day substitute permit, or any valid teaching or services credential that requires at least a bachelor's degree and completion of the CBEST, shall not serve as a substitute for more than 30 days for any one teacher during the school year. He/she shall not serve as a substitute in a special education classroom for more than 20 days for any one teacher during the school year. (5 CCR 80025, 80025.3, 80025.4)

2. A person with an emergency career substitute teaching permit shall not serve as a substitute for more than 60 days for any one teacher during the school year. (5 CCR 80025.1)

3. A person with an emergency substitute permit for prospective teachers shall not serve as a substitute for more than 30 days for any one teacher during the school year and not more than 90 days total during the school year. (5 CCR 80025.2)

CERTIFICATION (continued)

4. A person with an emergency substitute permit for career technical education shall teach only in a program of technical, trade, or vocational education and not serve as a substitute for more than 30 days for any one teacher during the school year. (5 CCR 80025.5)

Before employing a person with an emergency substitute permit pursuant to item #1 or 4 above, the Superintendent or designee shall prepare and keep on file a signed Statement of Need for the school year. The Statement of Need shall describe the situation or circumstances that necessitate the use of a 30-day substitute permit holder and state either that a credentialed person is not available or that the available credentialed person does not meet the district's specified employment criteria. (5 CCR 80025, 80025.5)

INTERNS

The Board of Trustees may employ interns to fulfill the district's need for additional instructional resources and to assist future teachers in meeting state credentialing requirements by linking teaching theory with practice.

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

(cf. 4111/4211/4311 - Recruitment and Selection)

The Superintendent or designee shall ensure that interns employed by the district possess an appropriate internship credential from the Commission on Teacher Credentialing (CTC) and that their prior experiences and personal qualifications adequately prepare them for the responsibilities of the position.

(cf. 4112.2 - Certification)
(cf. 4112.22 - Staff Teaching English Language Learners)
(cf. 4112.23 - Special Education Staff)

An intern may be assigned to provide the same service as a holder of a regular credential in accordance with the authorizations specified on the internship credential. (Education Code 44454, 44325, 44326, 44830.3)

(cf. 4113 - Assignment)

To be assigned to teach core academic subjects, as defined in law, an intern must meet the definition of a "highly qualified" teacher adopted by the State Board of Education. (20 USC 6319, 7801; 5 CCR 6100-6112)

(cf. 4112.24 - Teacher Qualifications Under the No Child Left Behind Act)

Terms of employment for interns shall be consistent with law and the district's collective bargaining agreement, as applicable. Interns shall not displace certificated district employees.

(cf. 4116 - Probationary/Permanent Status)
(cf. 4141/4241 - Collective Bargaining Agreement)

Interns shall receive systematic supervision and guidance by qualified personnel in order to enhance their instructional skills and knowledge. The Superintendent or designee shall ensure that district staff serving as supervisors, mentor teachers, or other support providers receive appropriate training to fulfill their responsibilities and maintain frequent communication with the interns they are assigned to assist.

(cf. 4131 - Staff Development)
(cf. 4138 - Mentor Teachers)

INTERNS (continued)

Interns shall be provided with ongoing feedback regarding their performance and shall be formally evaluated at least once every year in accordance with Board policy and the district's collective bargaining agreement.

(cf. 4115 - Evaluation/Supervision)

When an intern has successfully completed the program, the Board may recommend to the CTC that the intern be awarded a preliminary or professional clear credential commensurate with his/her qualifications. (Education Code 44328, 44468, 44830.3)

The Board shall regularly evaluate the effectiveness of the program to determine whether changes are needed in the support and/or assignment of interns. The Board's evaluation shall be based on a report by the Superintendent or designee, including, but not limited to, data on student performance in classes taught by interns, feedback from interns and supervisors, and the number of interns who successfully complete the program and obtain teaching or education specialist credentials.

(cf. 0500 - Accountability)

Legal Reference: (see next page)

INTERNS (continued)

Legal Reference:

EDUCATION CODE
300-340 English language education for immigrant children
44253.3-44253.4 Certificate to provide services to limited-English-proficient students
44253.10 Qualifications to provide specially designed academic instruction in English
44259 Minimum requirements for teaching credential
44314 Diversified or liberal arts program
44321 CTC approval of internship programs
44325-44328 District interns
44339-44341 Teacher fitness
44380-44387 Alternative certification program; increased funding for internship programs
44450-44468 Teacher Education Internship Act of 1967 (university interns)
44560-44562 Certificated Staff Mentoring Program
44830.3 Employing district interns
44885.5 District interns classified as probationary employees
52055.605 Identification of high priority schools, High Priority Schools Grant Program
CODE OF REGULATIONS, TITLE 5
6100-6126 No Child Left Behind teacher requirements
13000-13017 New Careers Program
80021.1 Provisional internship permit
80055 Internship credential
UNITED STATES CODE, TITLE 20
6319 Highly qualified teachers
7801 Definitions, highly qualified teacher

Management Resources:

COMMISSION ON TEACHER CREDENTIALING CORRESPONDENCE
08-03 Preparation of Intern Credential Holders Prior to Service as Teacher of Record as an Intern, March 3, 2008
03-0028 Changes in District Intern Programs as a Result of Senate Bill 187, December 22, 2003
Implementation of SB 57, Early Completion Internship Option, March 10, 2003
COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS
Administrator's Assignment Manual, 2008
CTC Credential Handbook, revised 1997
California Standards for the Teaching Profession, 1997
Standards of Quality and Effectiveness for Teacher Preparation Programs for Preliminary Multiple and Single Subject Teaching Credentials (including internship programs), rev. April 2008
Standards of Quality and Effectiveness for Education Specialist Credential Programs (Including University Internship Options) and Clinical Rehabilitative Services Credential Programs, December 1996
U.S. DEPARTMENT OF EDUCATION GUIDANCE
Improving Teacher Quality State Grants, rev. January 16, 2004
WEB SITES
CSBA: http://www.csba.org
Commission on Teacher Credentialing: http://www.ctc.ca.gov

INTERNS

University Internship Program

The Superintendent or designee shall cooperate with a college or university in the development, implementation, and coordination of the university internship program. (Education Code 44452, 44465, 44467)

(cf. 4112.2 - Certification)

The Superintendent or designee may enter into an agreement with a college or university for the employment of competent and qualified college or university staff members to supervise and guide interns as they pursue their district responsibilities. (Education Code 44461)

(cf. 4151/4251 - Employee Compensation)

Before an intern enrolls in any college or university program to renew his/her internship credential, the Superintendent or designee shall counsel the intern and plan a program for the first and subsequent renewals. (Education Code 44457)

(cf. 4115 - Evaluation/Supervision)
(cf. 4131 - Staff Development)

District Internship Program

The Superintendent or designee shall, in consultation with a college or university, develop and implement a professional development plan for district interns. This plan shall include, but not necessarily be limited to, the components described in Education Code 44830.3, including provisions for mandatory preservice training tailored to the grade level or class to be taught, additional instruction during the first year of service when required, and an annual evaluation of the district intern. (Education Code 44830.3)

(cf. 4115 - Evaluation/Supervision)
(cf. 4131 - Staff Development)

Each district intern shall be assisted and guided by either of the following: (Education Code 44326, 44830.3)

1. A certificated employee who possesses valid certification at the same level or the same type of credential as the district intern he/she serves, and who is selected through a competitive process adopted by the Board of Trustees after consultation with the exclusive teacher representative unit

(cf. 4112.2 - Certification)
(cf. 4138 - Mentor Teachers)
(cf. 4140/4240/4340 - Bargaining Units)

INTERNS (continued)

2. Personnel employed by a college or university to supervise student teachers

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

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

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

Early Completion Option

An intern may choose an early completion option leading to a five-year preliminary credential by completing the following requirements: (Education Code 44468)

1. Passing the CTC-approved assessment of knowledge of teaching foundations

2. Passing the CTC-approved Teaching Performance Assessment (TPA)

   a. The intern shall first pass the assessment of teaching foundations described in item #1 before qualifying to take the TPA.

   b. The intern may take the TPA only one time as part of the early completion option. An intern who is not successful on the TPA may complete his/her internship program and his/her scores shall be used to provide an individualized professional development plan that emphasizes preparation in areas where additional growth is warranted and waiving preparation in areas where the intern has demonstrated competence. The intern shall be required to retake and pass the TPA at the end of the internship in order to be considered for recommendation to the CTC.

3. For interns pursuing a preliminary multiple subjects credential, passing the reading instruction competence assessment described in Education Code 44283

4. Meeting the requirements for teacher fitness as set forth in Education Code 44339, 44340, and 44341

STAFF TEACHING ENGLISH LANGUAGE LEARNERS

Definitions

English learner means a student who does not speak English or whose native language is not English and who is not currently able to perform ordinary classroom work in English. (Education Code 306)

Instruction for English language development (ELD) means instruction designed specifically for English learners to develop their listening, speaking, reading, and writing skills in English. (Education Code 44253.2)

Specially designed academic instruction in English (SDAIE) means instruction in a subject area, delivered in English, that is specially designed to meet the needs of English learners. (Education Code 44253.2)

Primary language instruction includes both *primary language development* designed to develop English learners' listening, speaking, reading, and writing skills in their primary language and *content instruction delivered in the primary language* in any subject area. (Education Code 44253.2)

(cf. 6174 - Education for English Language Learners)

Teacher Qualifications

The Superintendent or designee shall ensure that any teacher with one or more English learners in his/her class possesses an English learner authorization issued by the Commission on Teacher Credentialing (CTC) authorizing ELD and/or SDAIE, as appropriate. A teacher possessing a bilingual authorization may be assigned to provide ELD, SDAIE, and/or primary language instruction.

(cf. 1312.4 - Williams Uniform Complaint Procedures)
(cf. 4112.2 - Certification)
(cf. 4112.21 - Interns)
(cf. 4112.24 - Teacher Qualifications Under the No Child Left Behind Act)
(cf. 4113 - Assignment)
(cf. 4222 - Teacher Aides/Paraprofessionals)

A teacher with a designated subjects teaching credential or a service credential with a special class authorization may enroll in a CTC-approved staff development program and, upon successful completion, may apply to the CTC for a Certificate of Completion of Staff Development authorizing instruction in SDAIE. (Education Code 44253.11)

(cf. 4131 - Staff Development)

STAFF TEACHING ENGLISH LANGUAGE LEARNERS (continued)

The Board of Trustees may, for the purpose of providing primary language instruction, hire bilingual teachers who are employed in public or private schools of a foreign country, state, territory, or possession, provided such teachers speak English fluently and hold the necessary sojourn credential issued by the CTC. After the initial two-year sojourn credential expires, the teacher may annually apply to the CTC for an extension for a total period of not more than five years. Any application for renewal shall include verification by the Superintendent or designee that termination of the employment would adversely affect an existing bilingual program and that attempts to secure the employment of a qualified certificated California teacher have been unsuccessful. (Education Code 44856)

Legal Reference: (see next page)

STAFF TEACHING ENGLISH LANGUAGE LEARNERS (continued)

Legal Reference:

EDUCATION CODE
306 Definition, English learner
44253.1-44253.11 Certification for bilingual-crosscultural competence
44258.9 County superintendent review of teacher assignments
44259.5 Standards for teachers of all students, including English language learners
44380-44386 Alternative certification
44856 Employment of teachers from foreign countries
52160-52178 Bilingual-Bicultural Act of 1976
62001-62005. 5 Evaluation and sunsetting of programs
CODE OF REGULATIONS, TITLE 5
6100-6125 Teacher qualifications, No Child Left Behind Act
80015 Requirements for the CLAD certification or English learner authorization
80015.1-80015.4 Requirements for CLAD, English learner authorization or bilingual authorization
80021 Short-Term Staff Permit
80021.1 Provisional Internship Program
80024.7-80024.8 Emergency CLAD and bilingual permits
UNITED STATES CODE, TITLE 20
6319 Highly qualified teachers
6601-6651 Training and recruiting high-quality teachers
6801-7014 Language instruction for English learners and immigrant students
7801 Definitions, highly qualified teacher
CODE OF FEDERAL REGULATIONS, TITLE 34
200.55-200.57 Highly qualified teachers
COURT DECISIONS
Teresa P. et al v. Berkeley Unified School District et al (1989) 724 F.Supp. 698

Management Resources:

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS
CL-622 Serving English Learners, December 2010
CL-626B Bilingual Authorizations, November 2010
CL-626C Crosscultural, Language and Academic Development (CLAD) Certificate, November 2010
CL-568 The Sojourn Certificated Employee Credential, August 2009
WEB SITES
CSBA: http://www.csba.org
California Association for Bilingual Education: http://www.bilingualeducation.org
California Department of Education, English Learners: http://www.cde.ca.gov/sp/el
California Teachers of English to Speakers of Other Languages: http://www.catesol.org
Commission on Teacher Credentialing: http://www.ctc.ca.gov
U.S. Department of Education: http://www.ed.gov

SPECIAL EDUCATION STAFF

Qualifications/Assignment of Special Education Teachers

Any teacher assigned to serve students with disabilities shall possess an appropriate credential or other authorization that specifically authorizes him/her to teach students with that primary disability within the program placement recommended in the students' individualized education programs (IEP). (5 CCR 80046.5, 80048.7)

(cf. 4112.2 - Certification)
(cf. 4113 - Assignment)
(cf. 6159 - Individualized Education Program)
(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)

Special education teachers who teach core academic subjects shall possess the qualifications required by the No Child Left Behind Act. (5 CCR 6100-6126; 20 USC 1401, 6319, 7801; 34 CFR 200.55-200.57, 300.18)

(cf. 4112.24 - Teacher Qualifications Under the No Child Left Behind Act)

The Superintendent or designee may request the Commission on Teacher Credentialing (CTC) to issue a special education limited assignment teaching permit to authorize a qualified special education teacher, with his/her written consent, to serve outside the specialty area of his/her credential. In so doing, the district shall submit a Declaration of Need for Fully Qualified Educators that satisfies the requirements of 5 CCR 80026. If the teacher has not yet obtained permanent status, the Superintendent or designee shall assign one or more experienced educators in the special education subject area(s) of the permit, who have at least three years of full-time teaching experience in each of the subject area(s) of the permit, to provide guidance and assistance to the permit holder. (5 CCR 80027.1)

The district may employ a person with an appropriate district internship credential to provide classroom instruction to students with disabilities, provided he/she has met the subject matter requirement specified in Education Code 44325 and receives guidance, supervision, and professional development through an established district internship program. (Education Code 44325, 44326, 44830.3)

(cf. 4112.21 - Interns)

Resource Specialists

The district's resource specialist program shall provide, but not be limited to: (Education Code 56362)

1. Resource specialist(s) to provide instruction and services for students whose needs have been identified in their IEPs and who are assigned to regular classroom teachers for a majority of the school day

SPECIAL EDUCATION STAFF (continued)

A student shall not be enrolled in a resource specialist program for a majority of a school day without approval by the student's IEP team.

2. Information and assistance for students with disabilities and their parents/guardians

3. Consultation, resource information, and material regarding students with disabilities to their parents/guardians and regular education staff members

4. Coordination of special education services with the regular school program for each student with disabilities enrolled in the resource specialist program

5. Monitoring of student progress on a regular basis, participation in the review and revision of IEPs as appropriate, and referral of students who do not demonstrate sufficient progress to the IEP team

6. At the secondary school level, emphasis on academic achievement, career and vocational development, and preparation for adult life

Resource specialists shall not simultaneously be assigned to serve as resource specialists and to teach regular classes. (Education Code 56362)

The district's resource specialist program shall be under the direction of a resource specialist who possesses the qualifications specified in Education Code 56362 and 5 CCR 80070.8. (Education Code 56362)

Teachers of Students with Autism

A teacher may be assigned to provide instruction to students with autism if he/she meets the qualifications described above in the section entitled "Qualifications/Assignment of Special Education Teachers."

In addition, a teacher whose education specialist credential or other previously issued credential authorizes him/her to provide instruction to students with mild and moderate disabilities may be assigned to provide instruction to students with autism, provided that the teacher consents to the assignment and satisfies either of the following criteria prior to the assignment: (Education Code 44265.1)

1. He/she has provided full-time instruction for at least one year prior to September 1, 2007, in a special education program that serves students with autism in accordance with their IEP and received a favorable evaluation or recommendation from the district or school to teach students with autism.

SPECIAL EDUCATION STAFF (continued)

2. He/she has completed a minimum of three semester units of coursework in the subject of autism offered by a regionally accredited institution of higher education.

(cf. 5148.3 - Preschool/Early Childhood Education)

The Superintendent or designee shall report teacher assignments under the criteria specified in items #1 and #2 above to the county office of education as part of the annual assignment monitoring pursuant to Education Code 44258.9. (Education Code 44265.1)

Verification of experience or coursework for any teacher of autistic students shall be maintained on file in the district or school office. (Education Code 44265.1, 44265.2)

Caseloads

The Superintendent or designee shall ensure that caseloads for special education teachers are within the maximum caseloads established by law, the collective bargaining agreement, and/or the comprehensive plan of the Special Education Local Plan Area (SELPA) in which the district participates.

(cf. 0430 - Comprehensive Local Plan for Special Education)
(cf. 1312.3 - Uniform Complaint Procedures)
(cf. 4141/4241 - Collective Bargaining Agreement)

No resource specialist shall have a caseload which exceeds 28 students. As necessary and with the agreement of the resource specialist, the Board of Trustees may request a waiver from the State Board of Education to increase the caseload to no more than 32 students, provided that an individual resource specialist does not have a caseload exceeding 28 students for more than two school years and has the assistance of an instructional aide at least five hours daily during the period of the waiver. (Education Code 56362, 56362.1; 5 CCR 3100)

(cf. 1431 - Waivers)

The average caseload for language, speech, and hearing specialists shall not exceed 55 cases unless otherwise specified and reasons stated in the SELPA plan. The maximum caseload for speech and language specialists exclusively serving children with disabilities age 3-5 shall not exceed 40. (Education Code 56363.3, 56441.7)

Legal Reference: (see next page)

SPECIAL EDUCATION STAFF (continued)

Legal Reference:

EDUCATION CODE
44250-44279 Credentials, especially:
44256 Credential types, specialist instruction
44258.9 Assignment monitoring
44265-44265.9 Special education credential
44325-44328 District interns
44830.3 District interns, supervision and professional development
56000-56865 Special education, especially:
56195.8 Adoption of policies
56361 Program options
56362-56362.5 Resource specialist program
56363.3 Maximum caseload; language, speech, and hearing specialists
56441.7 Maximum caseload; language, speech, and hearing specialists serving children ages 3-5
CODE OF REGULATIONS, TITLE 5
3051.1 Language, speech and hearing development and remediation; appropriate credential
3100 Waivers of maximum caseload for resource specialists
6100-6126 Teacher qualifications, No Child Left Behind Act
80021 Short-term staffing permit
80021.1 Provisional internship permit
80025.4 Substitute teaching, special education
80026 Declaration of need for fully qualified educators
80027.1 Special education limited assignment teaching permit
80046.1 Adapted physical education specialist
80046.5 Credential holders authorized to serve students with disabilities
80047-80047.9 Credentials to provide instructional services to students with disabilities
80048-80048.9.3 Credential requirements and authorizations
80070.1-80070.8 Resource specialist certificate of competence
UNITED STATES CODE, TITLE 20
1400-1482 Individuals with Disabilities Education Act, especially:
1401 Definition of highly qualified special education teacher
6319 Highly qualified teachers
7801 Definitions, highly qualified teacher

Legal Reference continued: (see next page)

SPECIAL EDUCATION STAFF (continued)

Legal Reference: (continued)

CODE OF FEDERAL REGULATIONS, TITLE 34
200.55-200.57 Highly qualified teachers
300.8 Definition of autism
300.18 Highly qualified special education teachers
300.156 Special education personnel requirements

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS
Handbook on Developing and Implementing Early Childhood Special Education Programs and Services, 2001
COMMISSION ON TEACHER CREDENTIALING CODED CORRESPONDENCE
10-15 Alternative Route to Provide Special Education Services to Students with Autism, September 7, 2010
10-13 Approval of Title 5 Regulations Pertaining to Special Education Services Credentials, July 21, 2010
10-12 Approval of Title 5 Regulations Pertaining to Special Education Teaching Credentials Requirements, July 21, 2010
09-16 Approval of Additions to Title 5 Regulations Pertaining to Added Authorizations in Special Education, July 23, 2009
09-15 Approval of Amendments to Title 5 Regulations Pertaining to General and Special Education Limited Assignment Teaching Permits, July 23, 2009
08-13 Alternative Route to Provide Special Education Services to Students with Autism Ages Three and 4, October 9, 2008
COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS
Education Specialist Teaching and Other Related Services Credential Program Standards, September 2010
WEB SITES
California Association of Resource Specialists and Special Education Teachers: http://www.carsplus.org
California Department of Education, Special Education: http://www.cde.ca.gov/sp/se
California Speech-Language-Hearing Association: http://www.csha.org
Commission on Teacher Credentialing: http://www.ctc.ca.gov

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

(cf. 3516 - Emergencies and Disaster Preparedness Plan)
(cf. 9224 - Oath or Affirmation)

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

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

The Superintendent, deputy or assistant superintendent, principal or other person authorized in Education Code 60 shall administer the oath or affirmation when a district employee is hired.

In the case of intermittent, temporary, emergency or successive employments, the Superintendent or designee may determine that the oath shall be effective for all successive periods of employment which begin within one calendar year from the date that the oath was subscribed. (Government Code 3102)

(cf. 4121 - Temporary/Substitute Personnel)

The Superintendent or designee shall file the executed oath or affirmation within 30 days of the date on which it is taken and subscribed. An employee's oath or affirmation may be destroyed five years after the termination of employment. (Government Code 3105)

Reimbursement of Expenses for Disaster Service Workers

Whenever an employee seeks compensation or reimbursement of expenses as a disaster service worker, the Superintendent or designee shall ascertain and certify that the employee has taken the oath or affirmation. (Government Code 3107)

Legal Reference: (see next page)

OATH OR AFFIRMATION (continued)

Legal Reference:

EDUCATION CODE
60 Persons authorized to administer and certify oaths
44334 Oath or affirmation required for credential
44354 Administration of oath required for credential
GOVERNMENT CODE
3100-3109 Oath or affirmation of allegiance
CALIFORNIA CONSTITUTION
Article 20, Section 3 Oath of office
COURT DECISIONS
Chilton v. Contra Costa Community College District 55 Cal. App. 3d 544 (1976)
Vogel v. County of Los Angeles (1967) 68 Cal. 2d 18, 22

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

I understand that as a public employee I am a disaster service worker pursuant to Government Code 3100 and 3102 and that I am required to take this oath before entering the duties of my employment. In the event of natural, manmade or war-caused emergencies which result in conditions of disaster or extreme peril to life, property and resources, I am subject to disaster services activities assigned to me by my supervisor.

_____
(Signature)

Certified by:

_____
(Person who administers the oath)

Tuberculosis Tests

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

The cost of the pre-employment tuberculosis examination shall be paid by the applicant.

An applicant who was previously employed in another California school district or private or parochial school may fulfill the tuberculosis examination requirement either by producing a certificate showing that he/she was examined within the last four years and found to be free of active tuberculosis or by having his/her previous employer verify that it has on file a certificate which contains that evidence. (Education Code 49406)

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

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

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

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

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

HEALTH EXAMINATIONS (continued)

Medical Certification for Communicable Diseases for Certificated Employees

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

(cf. 4117.14/4317.14 - Postretirement Employment)

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

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

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

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

Mental Examination for Certificated Employees

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

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

Legal Reference: (see next page)

HEALTH EXAMINATIONS (continued)

Legal Reference:

EDUCATION CODE
44839 Medical certificate; periodic medical examination
44839.5 Requirements for employment of retirant
44932 Grounds for dismissal of permanent employee
44942 Suspension or transfer of certificated employee on ground of mental illness
45122 Physical examinations
49406 Examination for tuberculosis
BUSINESS AND PROFESSIONS CODE
2700-2838 Nurses
3500-3546 Physician assistants
HEALTH AND SAFETY CODE
121525 Private and parochial school employees, examination for tuberculosis
CODE OF REGULATIONS, TITLE 5
5502 Filing of notice of physical examination for employment of retired persons
5503 Physical examination for employment of retired persons
5504 Medical certification procedures
COURT DECISIONS
Doe v. Lincoln Unified School District, (2010) 188 Cal.App.4th 758
Leonel v. American Airlines, Inc., (2005) 400 F.3d. 702
Raven v. Oakland Unified School District, (1989) 213 Cal.App.3d 1347

Management Resources:

WEB SITES
California Department of Public Health: http://www.cdph.ca.gov
Centers for Disease Control and Prevention: http://www.cdc.gov
Public Health Institute: http://www.phi.org
U.S. Food and Drug Administration: http://www.fda.gov

All Personnel BP 4112.41(a)
4212.41

EMPLOYEE DRUG TESTING 4312.41

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

(cf. 0450 - Comprehensive Safety Plan)
(cf. 4020 - Drug and Alcohol-Free Workplace)
(cf. 4030 - Nondiscrimination in Employment)
(cf. 4032 - Reasonable Accommodation)
(cf. 4112.42/4212.42/4312.42 - Drug and Alcohol Testing for School Bus Drivers)
(cf. 5131.61 - Drug Testing)

Pre-Employment Drug/Alcohol Testing for Safety-Sensitive Positions

Because students and staff have the right to a safe and secure campus where they are free from physical and psychological harm, the Board authorizes the testing of prospective employees in safety-sensitive positions for drug and alcohol use. The following positions are safety-sensitive and are subject to the district's program:

Position	**Safety-Sensitive Duties**
_____	_____
_____	_____
_____	_____

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

Final selection of a job applicant for a position shall not be made until the applicant has successfully completed the screening.

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

(cf. 4112.4/4212.4/4312.4 - Health Examinations)
(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)

Legal Reference: (see next page)

EMPLOYEE DRUG TESTING (continued)

Legal Reference:

EDUCATION CODE
44011 Controlled substance offense
44455 Conviction for controlled substance offenses as grounds for revocation of credential
44836 Employment of certificated persons convicted of controlled substance offenses
44940 Compulsory leave of absence for certificated persons
44940.5 Procedures when employees are placed on compulsory leave of absence
45123 Employment after conviction for controlled substance offense
45304 Compulsory leave of absence for classified persons
44839 Medical certificate; periodic medical examination
45122 Physical examinations
GOVERNMENT CODE
8350-8357 Drug-free workplace
12940 Unlawful employment practices
CODE OF REGULATIONS, TITLE 5
5504 Medical certification procedures
CALIFORNIA CONSTITUTION
Article 1, Section 28(c) Right to Safe Schools
UNITED STATES CODE, TITLE 20
7101-7184 Safe and Drug-Free Schools and Communities Act
UNITED STATES CODE, TITLE 41
701-707 Drug-Free Workplace Act
COURT DECISIONS
Lanier v. City of Woodburn, (2008, 9th Circuit) 518 F.3d 1147
Knox County Education Association v. Knox County Board of Education, (1998, 6th Circuit) 158 F.3d 361
Loder v. City of Glendale, (1997) 14 Cal. 4th 846
Vernonia School District 47J v. Acton, (1995) 115 S.Ct. 2386
International Brotherhood of Teamsters v. Department of Transportation, (1991) 932 F.2d 1292
Skinner v. Railway Labor Executives' Assn, (1989) 489 U.S. 602
National Treasury Employees Union v. Von Raab, (1989) 489 U.S. 456

Pre-Employment Drug/Alcohol Screening for Safety-Sensitive Positions

Applicants shall sign a form consenting to the drug and alcohol testing. The consent form shall authorize release of the test results to the district. To ensure an individual's privacy, the district shall not use test results for any purpose other than those stated in Board policy and administrative regulation, shall maintain the confidentiality of screening records, and shall not disclose such records unless the applicant consents or the Superintendent or designee is presented with a court order requiring the disclosure.

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)
(cf. 4112.4/4212.4/4312.4 - Health Examinations)

All initial screening tests shall be conducted at the district's expense. If an applicant's initial test is positive, a second test, at the district's expense, shall be administered as soon as possible to confirm the results. Upon obtaining a second positive result, the applicant may seek an independent drug and alcohol screening from a recognized medical laboratory at his/her own expense. Any applicant who fails to provide the district with a negative drug and alcohol screening report within five working days of a confirmed positive result shall be determined to have failed the screening and shall not be employed.

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

CRIMINAL RECORD CHECK

Applicants for Employment

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

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

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

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

(cf. 4121 - Temporary/Substitute Personnel)

Temporary Certificate of Clearance

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

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

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

CRIMINAL RECORD CHECK (continued)

Subsequent Arrest Notification

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

(cf. 4112.6/4212.6/4312.6 - Personnel Files)
(cf. 4112.62/4212.62/4312.62 - Maintenance of Criminal Offender Records)

Current Employees

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

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

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

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

Legal Reference: (see next page)

CRIMINAL RECORD CHECK (continued)

Legal Reference:

EDUCATION CODE
44010 Sex offense
44332 Temporary certificate
44332.5 Registering certificates by certain districts
44332.6 Criminal record check, county 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 agreement
44836 Conviction of a sex offense
45122.1 Classified employees, conviction of a violent or serious felony
45125 Use of personal identification cards to ascertain conviction of crime
45125.01 Classified employees; interagency agreements
45125.5 Automated records check
45126 Duty of Department of Justice to furnish information
PENAL CODE
667.5 Prior prison terms, enhancement of prison terms
1192.7 Plea bargaining limitation
11105.2 Subsequent arrest notification
CODE OF REGULATIONS, TITLE 11
703 Release of criminal offender record information
708 Destruction of criminal offender record information

Management Resources:

WEB SITES
Department of Justice/Attorney General's Office: http://www.caag.state.ca.us/app
CSBA: http://www.csba.org

The Superintendent or designee shall maintain personnel files for all current employees at the district's central office or at the location where the employee works.

The Superintendent or designee shall determine the types of information to be included in personnel files, including, but not limited to, records required by law, and shall process all material to be placed in such files.

Personnel files for district police or security officers shall be maintained and accessed in accordance with Government Code 3305-3306.5 and AR 3515.3 - District Police/Security Department.

(cf. 3515.3 - District Police/Security Department)

Personnel records for current and former employees shall be retained in accordance with 5 CCR 16023.

(cf. 3580 - District Records)

Placement of Material in Personnel Files

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

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

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

An employee may initiate a written reaction or response to his/her performance evaluation. The response shall be permanently attached to the evaluation and placed in the employee's personnel file.

(cf. 4115 - Evaluation/Supervision)
(cf. 4215 - Evaluation/Supervision)
(cf. 4315 - Evaluation/Supervision)

Derogatory Information

Information of a derogatory nature shall not be entered into an employee's personnel file unless and until the employee is given notice and an opportunity to review and comment on

PERSONNEL FILES (continued)

that information. Such a review shall take place during normal business hours. The employee shall be released from duty for this purpose without a salary reduction. The employee may enter his/her own comments and have them attached to the derogatory statement. (Education Code 44031)

(cf. 1312.1 - Complaints Concerning District Employees)
(cf. 4112.9 - Employee Notifications)
(cf. 4117.4 - Dismissal)
(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)
(cf. 5141.4 - Child Abuse Prevention and Reporting)

Persons with Authorized Access

The Superintendent or designee shall maintain the confidentiality of any personnel records which, if inappropriately disclosed, would constitute an unwarranted invasion of the employee's privacy.

Access to an employee's personnel file shall be granted only to the employee, persons authorized by the employee, district personnel, and others with a valid "right to know" or "need to know" who are authorized access by the Superintendent or designee.

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

Individual Board of Trustees members shall not be allowed to access personnel files, but the Board may request pertinent information from an employee's file in cases of personnel action.

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

Any authorized reviewer shall maintain strict confidence of the contents of a personnel file. Personnel files shall be reviewed and replaced within the shortest time possible. In no case shall a personnel file be left unattended or left unsecured overnight.

File Review by Employee

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

PERSONNEL FILES (continued)

With the exceptions noted below, all personnel records related to the employee's performance or to any grievance concerning the employee shall be made available for inspection by the employee. Noncredentialed employees shall have access to any numerical scores obtained as a result of written examinations. (Education Code 44031; Labor Code 1198.5)

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

1. Records related to the investigation of a possible criminal offense

2. Letters of reference

3. Ratings, reports, or records that were obtained prior to the employee's employment, prepared by identifiable examination committee members, or obtained in connection with a promotional examination

(cf. 4112.41/4212.41/4312.41 - Employee Drug Testing)
(cf. 4112.62/4212.62/4312.62 - Maintenance of Criminal Offender Records)

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

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

1. Keep a copy of each employee's personnel records at the place where the employee reports to work

2. Make the employee's personnel records available at the place where the employee reports to work within a reasonable period of time following the employee's request

3. Permit the employee to inspect the personnel records at the location where the district stores the personnel records, with no loss of compensation to the employee

The employee may be accompanied by a representative of his/her choice while reviewing his/her personnel records.

PERSONNEL FILES (continued)

Inspection shall take place in the presence of the Superintendent or designee. The Superintendent or designee shall keep a record of the date and time the file was reviewed and the name and title of the person(s) present during the review.

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

Legal Reference:

EDUCATION CODE
35253 Regulations to destroy records
44031 Personnel file contents and inspection
44663 Performance appraisals and related materials
GOVERNMENT CODE
3305-3306.5 District police officers; personnel files
6250-6270 California Public Records Act, especially:
6254 Exemption for personnel records if invasion of personal privacy
6254.3 Disclosure of home address and phone number
LABOR CODE
1198.5 Inspection of personnel files
PENAL CODE
11165.14 Report of investigation of child abuse complaint
CODE OF REGULATIONS, TITLE 5
16020-16022 Records, general provisions
16023-16027 Retention of records
COURT DECISIONS
Marken v. Santa Monica-Malibu Unified School District, (2012) 202 Cal.App.4th 1250
Bakersfield City School District v. Superior Ct. (2004) 118 Cal.App.4th 1041
ATTORNEY GENERAL OPINIONS
Cal. Atty. Gen., Indexed Letter, no. IL 75-73 (June 6, 1975)