All Personnel BP 4112.61
4212.61
EMPLOYMENT REFERENCES 4312.61

The Superintendent or designee shall process all requests for references, letters of recommendation, or information about the reasons for separation regarding all district employees other than himself/herself. All letters of recommendation to be issued on behalf of the district for current or former employees must be approved by the Superintendent or designee.

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

(cf. 4112.6/4212.6/4312.6 - Personnel Files)
(cf. 4117.5/4217.5/4317.5 - Termination Agreements)

Legal Reference:

LABOR CODE
1050-1054 Reemployment privileges
CIVIL CODE
47 Privileged communication
CODE OF CIVIL PROCEDURE
527.3 Labor disputes
CODE OF REGULATIONS, TITLE 5
80332 Professional candor and honesty in letters or memoranda of employment recommendation
COURT DECISIONS
Randi W. v. Muroc Joint Unified School District et al., (1997) 14 Cal. 4th 1066

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

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

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

The Superintendent or designee shall ensure that criminal record background checks on employees or prospective employees are conducted through the Department of Justice (DOJ) and that any Criminal Offender Record Information (CORI) received is maintained in accordance with law.

(cf. 1240 - Volunteer Assistance)
(cf. 3515.6 - Criminal Background Checks for Contractors)
(cf. 4112.5/4312.5 - Criminal Record Check)
(cf. 4112.6/4212.6/4312.6 - Personnel Records)
(cf. 4212.5 - Criminal Record Check)

To ensure its confidentiality, CORI shall be accessible only to the custodian of records and shall be kept in a locked file separate from other files. CORI shall be used only for the purpose for which it is requested and its contents shall not be disclosed or reproduced. (Education Code 44830.1, 45125)

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

Any unauthorized release or reproduction of any criminal offender record or other violation of this administrative regulation may result in suspension, dismissal, and/or criminal or civil legal action.

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)
(cf. 9011 - Disclosure of Confidential/Privileged Information)

Custodian of Records

The Superintendent shall designate an employee as custodian of records. Beginning July 1, 2011, any employee designated as custodian of records shall receive a criminal background check clearance from the DOJ prior to serving in that capacity. (Penal Code 11102.2)

The custodian of records shall sign and return to the DOJ the Employee Statement Form acknowledging an understanding of the laws prohibiting misuse of CORI. In addition, the custodian of records shall ensure that any individual with access to CORI has on file a signed Employee Statement Form.

The custodian of records shall be responsible for the security, storage, dissemination, and destruction of all CORI furnished to the district. He/she also shall serve as the primary contact for the DOJ for any related issues. (Penal Code 11102.2)

By March 1, 2012, and by March 1 of every year thereafter, the Superintendent or designee shall notify the DOJ of the district's designated custodian of records. In addition, the Superintendent or designee shall immediately notify the DOJ whenever a designated custodian of records ceases to serve in that capacity. (Penal Code 11102.2)

MAINTENANCE OF CRIMINAL OFFENDER RECORDS (continued)

Interagency Agreements

The district shall submit an interagency agreement to the DOJ to establish authorization to submit and receive CORI on behalf of all participating districts. (Education Code 44830.2, 45125.01)

Upon receipt from the DOJ of a report of conviction of a serious or violent felony, the district shall communicate that fact to participating districts and shall remove the affected employee from the common list of persons eligible for employment. (Education Code 44830.2, 45125.01)

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

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

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

Legal Reference: (see next page)

MAINTENANCE OF CRIMINAL OFFENDER RECORDS (continued)

Legal Reference:

EDUCATION CODE
44332 Temporary certificate
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 Interagency agreements
45122.1 Classified employees, conviction of a violent or serious felony
45125 Use of personal identification cards to ascertain conviction of crime
45125.01 Interagency agreements
45125.5 Automated records check
45126 Duty of Department of Justice to furnish information
49024 Activity Supervisor Clearance Certificates
PENAL CODE
667.5 Prior prison terms, enhancement of prison terms
1192.7 Plea bargaining limitation
11075-11081 Criminal record dissemination
11102.2 Criminal records: custodian
11105 State criminal history information; furnishing to authorized persons
11105.3 Record of conviction involving sex crimes, drug crimes or crimes of violence; availability to employer for applicants for positions with supervisory or disciplinary power over minors
11140-11144 Furnishing of state criminal history information
13300-13305 Local summary criminal history information
CODE OF REGULATIONS, TITLE 11
701-708 Criminal offender record information

Management Resources:

WEB SITES
Office of the Attorney General, Department of Justice, Background Checks: http://www.ag.ca.gov/fingerprints

SAMPLE EMPLOYEE STATEMENT FORM
USE OF CRIMINAL JUSTICE INFORMATION

As an employee/volunteer of _____, you may have access to confidential criminal record information which is controlled by state and federal statutes. Misuse of such information may adversely affect the individual's civil rights and violate constitutional rights of privacy. Penal Code 502 prescribes the penalties relating to computer crimes. Penal Code 11105 and 13300 identify who has access to criminal history information and under what circumstances it may be disseminated. Penal Code 11140-11144 and 13301-13305 prescribe penalties for misuse of criminal history information. Government Code 6200 prescribes felony penalties for misuse of public records. Penal Code 11142 and 13300 state:

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

Civil Code 1798.53, Invasion of Privacy, states:

> **"Any person who intentionally discloses information, not otherwise public, which they know or should reasonably know was obtained from personal or confidential information maintained by a state agency or from records within a system of records maintained by a federal government agency, shall be subject to a civil action, for invasion of privacy, by the individual. "**

CIVIL, CRIMINAL, AND ADMINISTRATIVE PENALTIES:

*Penal Code 11141: DOJ furnishing to unauthorized person (misdemeanor)

*Penal Code 11142: Authorized person furnishing to other (misdemeanor)

*Penal Code 11143: Unauthorized person in possession (misdemeanor)

*California Constitution, Article I, Section 1 (Right to Privacy)

* Civil Code 1798.53, Invasion of Privacy

*Title 18 USC 641, 1030, 1951, and 1952

MAINTENANCE OF CRIMINAL OFFENDER RECORDS (continued)

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

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

Signature _____ Date _____
Printed Name _____ Title _____
Name of District _____

PLEASE NOTE: Do not return this form to the DOJ. Your Custodian of Records should maintain these forms.

All Personnel BP 4112.8(a)
4212.8
4312.8

EMPLOYMENT OF RELATIVES

The Board of Trustees desires to maximize staff and community confidence in district hiring, promotion, and other employment decisions by promoting practices that are free of conflicts of interest or the appearance of impropriety.

(cf. 4030 - Nondiscrimination in Employment)
(cf. 9270 - Conflict of Interest)

The Board prohibits the appointment of any person to a position for which his/her relative maintains management, supervisory, evaluation, or promotion responsibilities and prohibits an employee from participating in any decision that singularly applies to any of his/her relatives.

(cf. 4111/4211/4311 - Recruitment and Selection)
(cf. 4115 - Evaluation/Supervision)
(cf. 4215 - Evaluation/Supervision)
(cf. 4315 - Evaluation/Supervision)

For purposes of this policy, *relative* includes the individual's spouse, domestic partner, parents, grandparents, great-grandparents, children, grandchildren, great-grandchildren, brothers, sisters, aunts, uncles, nieces, nephews, and the similar family of the individual's spouse or domestic partner.

In addition, the Superintendent or designee may determine, on a case-by-case basis, whether to appoint a person to a position in the same department or facility as an employee with whom he/she maintains a personal relationship when that relationship has the potential to create (1) an adverse impact on supervision, safety, security, or morale of other district employees or (2) a conflict of interest for the individuals involved which is greater because of their relationship than it would be for another person.

(cf. 4031 - Complaints Concerning Discrimination in Employment)

An employee shall notify his/her supervisor within 30 days of any change in his/her circumstances that may constitute a violation of this policy.

Legal Reference: (see next page)

EMPLOYMENT OF RELATIVES (continued)

Legal Reference:
EDUCATION CODE
35107 School district employees
FAMILY CODE
297-297.5 Rights, protections, benefits under the law; registered domestic partners
GOVERNMENT CODE
1090-1098 Prohibitions applicable to specified officers
12940 Unlawful employment practices
CODE OF REGULATIONS, TITLE 2
7292.0-7292.6 Marital status discrimination, especially:
7292.5 Employee selection

Management Resources:
WEB SITES
California Department of Fair Employment and Housing: http://www.dfeh.ca.gov
Institute for Local Government: http://www.cacities.org/index.jsp?zone=ilsg

The Board of Trustees believes that providing clear communications to staff is essential to establishing a professional, positive work environment and enhancing their job performance. The Superintendent or designee shall provide district employees all notifications required by law and any other notifications he/she believes will promote staff knowledge of the district's policies, programs, activities, and operations.

When required by law, Board policy, or administrative regulation, district employees shall be asked to sign an acknowledgment indicating receipt of the notification. Such acknowledgments shall be retained in each employee's personnel file.

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

Legal Reference:

EDUCATION CODE
231.5 Sexual harassment policy
17612 Notification of pesticide use
22455.5 STRS information to potential members
22461 Postretirement compensation limitation
35031 Nonreelection of superintendent, assistant superintendent, or manager of classified services
35171 Notice of regulations pertaining to certificated employee evaluations
37616 Notice of public hearing on year-round schedule
44031 Personnel file contents, inspection
44663-44664 Evaluation of certificated employees
44842 Reemployment notices, certificated employees
44896 Transfer of administrator or supervisor to teaching position
44916 Written statement of employment status
44929.21 Reelection or nonreelection of probationary employee after second year
44934 Notice of disciplinary action for cause
44938 Notice of unprofessional conduct and opportunity to correct
44940.5-44941 Notification of suspension and intent to dismiss
44948.3-44948.5 Dismissal of probationary employees
44949 Cause, notice and right to hearing
44951 Continuation in position unless notified, administrative or supervisory personnel
44954 Nonreelection of temporary employees
44955 Reduction in number of employees
45113 Notification of charges, classified employees
45117 Notice of layoff, classified employees
45169 Employee salary data, classified employees
45192 Industrial and accident leave
45195 Additional leave
46162 Notice of public hearing on block schedule

Legal Reference continued: (see next page)

EMPLOYEE NOTIFICATIONS (continued)

Legal Reference: (continued)

EDUCATION CODE (continued)
49013 Complaints regarding student fees
49079 Notification to teacher; student who has engaged in acts re: grounds suspension or expulsion
GOVERNMENT CODE
1126 Incompatible activities of employees
3100-3109 Oath or affirmation of allegiance
8355 Certification of drug-free workplace, including notification
12950 Sexual harassment
54957 Complaints against employees; right to open session
54963 Unauthorized disclosure of confidential information
HEALTH AND SAFETY CODE
1797.196 Automated external defibrillators; notification of use and locations
104420 Tobacco-free schools
120875 Information on AIDS, AIDS-related conditions, and hepatitis B
120880 Notification to employees re AIDS, AIDS-related conditions, and hepatitis B
LABOR CODE
2800.2 Notification of availability of continuation health coverage
3550-3553 Notifications re: workers' compensation benefits
5401 Workers' compensation; claim form and notice of potential eligibility
PENAL CODE
11165.7 Child Abuse and Neglect Reporting Act; notification requirement
11166.5 Employment; statement of knowledge of duty to report child abuse or neglect
UNEMPLOYMENT INSURANCE CODE
2613 Disability insurance; notice of rights and benefits
CODE OF REGULATIONS, TITLE 2
7288.0 Sexual harassment training, provision of district policy
CODE OF REGULATIONS, TITLE 5
4622 Uniform complaint procedures
80303 Reports of change in employment status, alleged misconduct
CODE OF REGULATIONS, TITLE 8
3204 Employees exposed to bloodborne pathogens, access to exposure and medical records
5193 California bloodborne pathogens standard
CODE OF REGULATIONS, TITLE 13
2480 Vehicle idling, limitations
UNITED STATES CODE, TITLE 38
4344 Uniformed Services Employment and Reemployment Rights Act, notice requirement
UNITED STATES CODE, TITLE 41
8101-8106 Drug-Free Workplace Act
CODE OF FEDERAL REGULATIONS, TITLE 29
825.300 Family and Medical Leave Act; notice requirement

Legal Reference continued: (see next page)

EMPLOYEE NOTIFICATIONS (continued)

Legal Reference: (continued)
CODE OF FEDERAL REGULATIONS, TITLE 34
104.8 Nondiscrimination
106.9 Dissemination of policy, nondiscrimination on basis of sex
CODE OF FEDERAL REGULATIONS, TITLE 40
763.84 Asbestos inspections, response actions and post-response actions
763.93 Asbestos management plans
CODE OF FEDERAL REGULATIONS, TITLE 49
382.601 Controlled substance and alcohol use and testing notifications

EMPLOYEE NOTIFICATIONS

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
I. To All Employees			
At the beginning of school year or upon employment	231.5, Government Code 12950, 2 CCR 7288.0	AR 4119.11 4219.11 4319.11	The district's policy on sexual harassment, legal remedies, complaints
Annually to all employees	17612	AR 3514.2	Use of pesticide product, active ingredients, Internet address to access information
To all employees, prior to implementing year-round schedule	37616	AR 6112	Public hearing on year-round program
To all employees, prior to implementing block schedule	46162	AR 6112	Public hearing on block schedule
Annually to all employees	49013; 5 CCR 4622	AR 1312.3 BP 3260	Uniform complaint procedures, available appeals, civil law remedies, identity of coordinator, complaints about student fees
To all employees	Government Code 1126	BP 4136 4236 4336	Prohibition of activities that are inconsistent, incompatible, in conflict with, or inimical to duties; discipline; appeal
Prior to beginning employment	Government Code 3102	AR 4112.3 4212.3 4312.3	Oath or affirmation of allegiance required of public employees
To all employees	Government Code 8355; 41 USC 8102	BP 4020 BP 4159 4259 4359	District's drug- and alcohol-free workplace; actions to be taken if violated; available employee assistance programs
Upon placement of automated external defibrillator (AED) in school, and annually thereafter	Health and Safety Code 1797.196	AR 5141	Proper use of AED; location of all AEDs on campus
To all employees, if the district receives Tobacco-Use Prevention Education funds	Health and Safety Code 104420	AR 3513.3	District's tobacco-free schools policy and enforcement procedures

EMPLOYEE NOTIFICATIONS (continued)

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
I. To All Employees (continued)			
Annually to all employees	Health and Safety Code 120875, 120880	AR 4119.43 4219.43 4319.43	AIDS and hepatitis B, methods to prevent exposure
To covered employees and former employees	Labor Code 2800.2	AR 4154 4254 4354	Availability of COBRA/ Cal-COBRA continuation and conversion coverage; statement encouraging careful examination of options before declining coverage
Upon employment or by end of first pay period	Labor Code 3551	BP 4157.1 4257.1 4357.1	Workers' compensation benefits, how to obtain medical care, role of primary physician, form for reporting personal physician/chiropractor
Prior to beginning employment	Penal Code 11165.7, 11166.5	AR 5141.4	Status as a mandated reporter of child abuse, reporting obligations, confidentiality rights, copy of law
Upon employment, and when employee goes on leave for specified reasons	Unemployment Insurance Code 2613	AR 4154 4254 4354	Disability insurance rights and benefits
To all employees via employee handbook, or to each new employee	29 CFR 825.300	AR 4161.8 4261.8 4361.8	Benefits through Family and Medical Leave Act
To all employees and job applicants	34 CFR 104.8, 106.9	BP 0410 BP 4030	District's policy on nondiscrimination and related complaint procedures
Annually to all employees	40 CFR 763.84, 763.93	AR 3514	Availability of asbestos management plan; any inspections, response actions or post-response actions planned or in progress

EMPLOYEE NOTIFICATIONS (continued)

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
II. To Certificated Employees			
To eligible certificated employees in a timely manner, and to part-time and substitute certificated employees within 30 days of hire	22455.5	AR 4121	Criteria for membership in retirement system; right to elect membership at any time
Upon employment of a retired certificated individual	22461	AR 4117.14 4317.14	Postretirement compensation limitation
To certificated employees	35171	AR 4115 BP 4315	District regulations related to performance evaluations
30 days before last day of school year for instructional staff, or by June 30 for noninstructional certificated staff, in any year in which employee is evaluated	44663	AR 4115	Copy of employee's evaluation
To a certificated employee with unsatisfactory evaluation	44664	AR 4115	Notice and description of the unsatisfactory performance
By May 30, if district elects to issue reemployment notices to certificated employees	44842	AR 4112.1	Request to notify district of intent to remain in service for the following school year; copy of law
To certificated employees upon employment	44916	AR 4112.1 AR 4121	Employment status and salary
To probationary employees in district with ADA of 250 or more, by March 15 of employee's second consecutive year of employment	44929.21	AR 4117.6	Whether or not employee is reelected for next school year
When certificated employee is subject to disciplinary action for cause	44934	AR 4117.4 AR 4118	Notice of charges, procedures, and employee rights; intent to dismiss or suspend 30 days after notice
To certificated employee charged with unprofessional conduct	44938	AR 4118	Notice of deficiency and opportunity to correct

EMPLOYEE NOTIFICATIONS (continued)

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
II. To Certificated Employees (continued)			
To certificated employee charged with mandatory leave of absence offense, within 10 days of entry of judgment in proceedings	44940.5	AR 4118	Notice of intent to dismiss 30 days from notice
To probationary employees 30 days prior to dismissal, or not later than March 15 for second-year probationary employees	44948.3	AR 4117.4	Reasons for dismissal and opportunity to appeal
To probationary employees in districts with less than 250 ADA, before notice of nonreelection but no later than March 15, with final notice by May 15	44948.5	AR 4117.4	Recommendation of nonreelection notice for reason other than personnel reduction; statement of reasons upon request
By March 15 when necessary to reduce certificated personnel, with final notice by May 15	44949, 44955	BP 4117.3	Reasons for personnel reduction and employees' right to hearing; final notice of Board decision re: termination
On or before June 30, to temporary employee who served 75 percent of school year but will be released	44954	BP 4121	District's decision not to reelect employee for following school year
To teacher, when student engages in or is reasonably suspected of specified acts	49079	AR 4158 4258 4358	Student has committed specified act that constitutes ground for suspension or expulsion
To certificated employee upon change in employment status due to alleged misconduct	5 CCR 80303	AR 4117.7	Contents of state regulation re: report to Commission on Teacher Credentialing
III. To Classified Employees			
To classified employee charged with mandatory leave of absence offense, in merit system district	44940.5	AR 4218	Notice of intent to dismiss in 30 days

EMPLOYEE NOTIFICATIONS (continued)

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
III. To Classified Employees (continued)			
When classified employee is subject to disciplinary action for cause, in nonmerit district	45113	AR 4218	Notice of charges, procedures, and employee rights
To classified employees, at least 60 days prior to layoff, or by April 29 if specially funded program is expiring at end of school year	45117	AR 4217.3	Notice of layoff and reemployment rights
To classified employees upon employment and upon each change in classification	45169	AR 4212	Employee's class specification, salary data, assignment or work location, duty hours, prescribed workweek
To classified permanent employee whose leave is exhausted	45192, 45195	AR 4261.1 AR 4261.11	Exhaustion of leave, opportunity to request additional leave
To school bus and school activity bus drivers upon employment and at least once per year thereafter	13 CCR 2480	AR 3514	Limitations on vehicle idling; consequences of not complying
To school bus drivers, prior to district drug testing program and thereafter upon employment	49 CFR 382.601	BP 4112.42 4212.42 4312.42	Explanation of federal requirements for drug testing program and district's policy
IV. To Administrative/Supervisory Personnel			
To deputy, associate, or assistant superintendent or senior manager of classified service, at least 45 days before expiration of contract	35031	BP 4312.1	Decision not to reelect or reemploy upon expiration of contract or term
Upon request by administrative or supervisory employee transferred to teaching position	44896	AR 4313.2	Statement of the reasons for the release or reassignment
By March 15 to employee who may be released/reassigned the following school year	44951	AR 4313.2	Notice that employee may be released or reassigned the following school year

EMPLOYEE NOTIFICATIONS (continued)

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
V. To Individual Employees Under Special Circumstances			
Prior to placing derogatory information in personnel file	44031	AR 4112.6 4212.6 4312.6	Notice of derogatory information, opportunity to review and comment
24 hours before Board meets in closed session to hear complaints or charges against employee	Government Code 54957	BB 9321	Employee's right to have complaints/charges heard in open session
Notice or training to employee with access to confidential information	Government Code 54963	BP 4119.23 4219.23 4319.23	Law prohibiting disclosure of confidential information obtained in closed session
Within one working day of work-related injury or victimization of crime at workplace	Labor Code 3553, 5401	BP 4157.1 4257.1 ` 4357.1	Potential eligibility for workers' compensation benefits, claim form
To any employee with exposure to bloodborne pathogens, upon initial employment and at least annually thereafter	8 CCR 3204, 5193	AR 4119.42 4219.42 4319.42	The existence, location, and availability of exposure and medical records; person responsible for maintaining and providing access to records; right to access records
To any employee assigned to a work area where hazardous chemicals are present, upon initial assignment and upon new exposure situation	8 CCR 5191	AR 3514.1	Location and availability of chemical hygiene plan, exposure limits, signs and symptoms of exposure, location of reference material
To any employee who may be exposed to hazardous substances in the work area, upon initial assignment and when new hazard is introduced into work area	8 CCR 5194	AR 3514.1	Any presence of hazardous substances in the work area, location and availability of hazard communication program, new safety data sheet, employee rights
To employee eligible for military leave	38 USC 4334	AR 4161.5 4261.5 4361.5	Notice of rights, benefits, and obligations under military leave

EMPLOYEE NOTIFICATIONS (continued)

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
V. To Individual Employees Under Special Circumstances (continued)			
Within five days of employee's request for family care and medical leave	29 CFR 825.300	AR 4161.8 4261.8 4361.8	Whether or not employee is eligible for FMLA leave, rights and obligations; consequences of failure to meet obligations

ASSIGNMENT

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

(cf. 4112.2 - Certification)
(cf. 4112.21 - Interns)
(cf. 4112.22 - Staff Teaching English Language Learners)
(cf. 4112.23 - Special Education Staff)
(cf. 4112.8/4212.8/4312.8 - Employment of Relatives)

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

(cf. 4141/4241 - Collective Bargaining Agreement)

Assignment to Courses/Classes

The Superintendent or designee shall assign teachers to courses based on the grade level and subject matter authorized by their credentials.

When there is no credential authorization requirement for teaching an elective course, the Superintendent or designee shall select the credentialed teacher whose knowledge and skills best prepare him/her to provide instruction in that subject.

Teachers who are assigned to teach core academic subjects shall meet the requirements of the No Child Left Behind Act (NCLB) pertaining to qualifications of highly qualified teachers. (20 USC 6319, 7801; 5 CCR 6100-6126)

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

The Superintendent or designee may assign a teacher, with his/her consent, to a position outside his/her credential authorization when specifically authorized by law or regulation, and in accordance with the local teaching assignment options described in the Commission on Teacher Credentialing's Administrator's Assignment Manual. Assignments made pursuant to Education Code 44256, 44258.2, and 44263 shall be annually approved by Board resolution. In such cases, the Superintendent or designee shall reference in district records the statute or regulation under which the assignment is authorized.

(cf. 3580 - District Records)

The Superintendent or designee shall periodically report to the Board on teacher assignments and vacancies, including the number and type of assignments made outside a teacher's credential authorization through a local teaching assignment option. Whenever district misassignments and vacancies are reviewed by the County Superintendent of Schools or Commission on Teacher Credentialing, as applicable, the Superintendent or designee shall

ASSIGNMENT (continued)

report the results to the Board and shall provide recommendations for remedying any identified issues.

(cf. 1312.4 - Williams Uniform Complaint Procedures)

Equitable Distribution of Qualified Teachers

In order to ensure that highly qualified and experienced teachers are equitably distributed among district schools, including those with higher than average levels of low-income, minority, and/or academically underperforming students, the Superintendent or designee shall:

1. Verify that all teachers of core academic subjects possess the qualifications of highly qualified teachers as required by NCLB or develop immediate and long-term solutions for ensuring that all core academic classes will be taught by highly qualified teachers

2. Not assign teachers with provisional internship permits, short-term staffing permits, or credential waivers to schools that have 40 percent or higher poverty or are ranked in deciles 1-3 on the statewide Academic Performance Index

3. Not place interns in high-poverty, low-performing schools in greater numbers than in schools with low poverty or higher academic achievement

4. Compare teacher retention rates across district schools and develop strategies to recruit and retain experienced and effective teachers in hard-to-staff schools

(cf. 4111 - Recruitment and Selection)

Legal Reference: (see next page)

ASSIGNMENT (continued)

Legal Reference:

EDUCATION CODE
33126 School accountability report card
35035 Additional powers and duties of superintendent
35186 Complaint process
37616 Assignment of teachers to year-round schools
44225.6 Commission report to the legislature re: teachers
44250-44277 Credentials and assignments of teachers
44314 Subject matter programs, approved subjects
44824 Assignment of teachers to weekend classes
44955 Reduction in number of employees
GOVERNMENT CODE
3543.2 Scope of representation
CODE OF REGULATIONS, TITLE 5
6100-6126 Teacher qualifications, No Child Left Behind Act
80003-80005 Credential authorizations
80020-80020.5 Additional assignment authorizations
80335 Performance of unauthorized professional services
80339-80339.6 Unauthorized certificated employee assignment
UNITED STATES CODE, TITLE 20
6311 State plan
6319 Highly qualified teachers
6601-6651 Teacher and Principal Training and Recruiting Fund
7801 Definitions, highly qualified teacher
CODE OF FEDERAL REGULATIONS, TITLE 34
200.55-200.57 Highly qualified teachers

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS
Revised State Plan for the No Child Left Behind Act, rev. September 2008
COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS
The Administrator's Assignment Manual, rev. September 2007
U.S. DEPARTMENT OF EDUCATION GUIDANCE
Improving Teacher Quality State Grants: ESEA Title II, Part A, rev. October 5, 2006
WEB SITES
CSBA: http://www.csba.org
California Department of Education: http://www.cde.ca.gov
Commission on Teacher Credentialing: http://www.ctc.ca.gov
Santa Clara County Office of Education, Personnel Management Assistance Team: http://www.sccoe.org/depts/pmat
U.S. Department of Education: http://www.ed.gov

ASSIGNMENT

Assignment to Departmentalized Classes Outside Credential Authorization

Any holder of a credential other than an emergency permit may be assigned, with his/her consent, to teach departmentalized classes in grades K-12 regardless of the designations on his/her teaching credential, provided that their subject matter knowledge is verified prior to the assignment. (Education Code 44258.3)

Procedures for verifying a teacher's subject matter knowledge shall be developed and implemented by the Superintendent or designee with the involvement of appropriate subject matter specialists, including curriculum specialists, resource teachers, classroom teachers certified to teach the subject, staff assigned to regional subject matter projects or curriculum institutes, or college faculty. (Education Code 44258.3)

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

1. One or more of the following ways in which subject matter competence shall be assessed:

   a. Observation by subject matter specialists

   b. Oral interviews

   c. Demonstration lessons

   d. Presentation of curricular portfolios

   e. Written examinations

2. Specific criteria and standards for verifying subject matter knowledge by any of the above methods. These criteria shall include, but need not be limited to, evidence of the individual's knowledge of the subject matter to be taught, including demonstrated knowledge of the curriculum framework for the subject and the specific content of the district's course of study for the subject at the grade level to be taught.

(cf. 4115 - Evaluation/Supervision)

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

(cf. 4140/4240/4340 - Bargaining Units)

All Personnel BP 4113.4(a)
4213.4
TEMPORARY MODIFIED/LIGHT-DUTY ASSIGNMENT 4313.4

The Board of Trustees recognizes that, when employees have temporarily disabling medical conditions, temporary modified or light-duty assignments can allow the district to continue to use their valuable knowledge, skills, and abilities while minimizing time away from work. Temporary modified/light-duty assignments may also serve to facilitate the employee's transition back to his/her regular duties or full-time work.

(cf. 3530 - Risk Management/Insurance)
(cf. 4157.1/4257.1/4357.1 - Work-Related Injuries)
(cf. 4161.1/4361.1 - Industrial Accident/Illness Leave)
(cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)
(cf. 4261.8 - Industrial Accident/Illness Leave)

Any employee may request a modified or light-duty assignment when he/she has a temporary medical condition which prevents the performance of the essential functions of his/her current assignment or position. The Superintendent or designee shall determine, on a case-by-case basis, whether a suitable temporary position currently exists to accommodate the physical restrictions specified by the employee's medical provider.

(cf. 4032 - Reasonable Accommodation)

An employee's initial assignment to a temporary modified or light-duty position shall be for a limited duration, not to exceed 30 days. At the end of the initial assignment, the employee may request that the Superintendent or designee extend the assignment. When requesting any such extension, the employee shall submit documentation from his/her medical provider verifying that the employee is still temporarily disabled and is not medically able to return to his/her regular assignment. Temporary assignments generally shall not exceed 90 days, but may be extended at the discretion of the Superintendent or designee for an additional 90 days upon verification by the employee's medical provider that such an extension will allow the employee to return to unrestricted regular duties.

An employee who rejects a temporary modified/light-duty assignment may be subject to a loss of workers' compensation benefits in accordance with district's insurance policy.

Legal Reference: (see next page)

TEMPORARY MODIFIED/LIGHT-DUTY ASSIGNMENT (continued)

Legal Reference:

EDUCATION CODE
44984 Required rules for industrial accident and illness leave
45192 Industrial accident and illness leave for classified employees
GOVERNMENT CODE
12900-12996 Fair Employment and Housing Act
12945.1-12945.2 California Family Rights Act
UNITED STATES CODE, TITLE 29
2601-2654 Family Care and Medical Leave Act
UNITED STATES CODE, TITLE 42
12101-12213 Americans with Disabilities Act
COURT DECISIONS
Raine v. City of Burbank, (2006) 135 Cal.App.4th 1215

Management Resources:

WEB SITES
California Department of Fair Employment and Housing: http://www.dfeh.ca.gov
Equal Employment Opportunity Commission: http://www.eeoc.gov

TRANSFERS

Subject to the approval of the Board of Trustees, the Superintendent or designee may transfer a teacher from one district school to another when he/she determines the transfer is in the best interest of the district. (Education Code 35035)

(cf. 4030 - Nondiscrimination in Employment)
(cf. 4113 - Assignment)

Such transfers shall be determined in accordance with the district's collective bargaining agreement with certificated employees.

(cf. 4141/4241- Collective Bargaining Agreement)

Voluntary Transfers

The Superintendent or designee may establish processes and deadlines for the submission of transfer requests to facilitate staff assignments with minimal disruption to the educational program.

Upon receipt of a written transfer request by a teacher, the Superintendent or designee may consider the input of the principals at the current school and the requested school, alignment of the teacher's qualifications with needs of the school(s), and opportunities for the professional growth of the teacher.

(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)

However, if the principal of a school ranked in deciles 1-3 on the Academic Performance Index refuses to accept a transfer request, the Superintendent or designee shall not transfer the teacher. (Education Code 35036)

(cf. 0500 - Accountability)
(cf. 0520.2 - Title I Program Improvement Schools)
(cf. 0520.4 - Quality Education Investment Schools)

After April 15 prior to the school year that a transfer would become effective, no teacher who requests to be transferred to another school shall have priority over other qualified teachers who have applied for positions requiring certification qualifications at that school. (Education Code 35036)

Involuntary Transfers

Involuntary transfers may become necessary when programs are reduced or cancelled, when schools are closed, or when otherwise required in order to accommodate the school's staffing needs.

TRANSFERS (continued)

(cf. 4117.3 - Personnel Reduction)

If a teacher objects to a transfer, he/she may request a meeting with the Superintendent or designee and the principal. If dissatisfied with the results of this meeting, the teacher may appeal to the Board. The Board's decision shall be final.

Legal Reference:

EDUCATION CODE
35035 Additional powers and duties of superintendent, transfer authority
35036 Voluntary transfers
35186 Complaint process, teacher vacancy or misassignment
37616 Assignment of teachers to year-round schools
GOVERNMENT CODE
3543.2 Scope of representation

EVALUATION/SUPERVISION

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

(cf. 4141/4241 - Collective Bargaining Agreement)
(cf. 4119.21/4219.21/4319.21 - Professional Standards)
(cf. 4140/4240/4340 - Bargaining Units)
(cf. 4315.1 - Staff Evaluating Teachers)

Evaluation procedures may include observation of teacher performance in the classroom.

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

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

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

Legal Reference: (see next page)

EVALUATION/SUPERVISION (continued)

Legal Reference:

EDUCATION CODE
33039 State guidelines for teacher evaluation procedures
35171 Availability of rules and regulations for evaluation of performance
44500-44508 Peer assistance and review program for teachers
44660-44665 Evaluation and assessment of performance of certificated employees (the Stull Act)
GOVERNMENT CODE
3543.2 Scope of representation
UNITED STATES CODE, TITLE 20
6319 Highly qualified teachers
7801 Definition of highly qualified teacher

Management Resources:

CTC PUBLICATIONS
Standards for the Quality and Effectiveness for Beginning Teacher Support and Assessment Programs, 1997
California Standards for the Teaching Profession, 1997
WEB SITES
CSBA: http://www.csba.org
California Department of Education: http://www.cde.ca.gov
California Commission on Teacher Credentialing: http://www.ctc.ca.gov
National Board for Professional Teaching Standards: http://www.nbpts.org

EVALUATION/SUPERVISION

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

(cf. 4100 - Certificated Personnel)
(cf. 4141/4241 - Collective Bargaining Agreement)

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

(cf. 4112.21 - Interns)
(cf. 4131.1 - Beginning Teacher Support/Induction)
(cf. 4315.1 - Staff Evaluating Teachers)

Frequency of Evaluations

Each probationary certificated employee shall be evaluated at least once each school year. (Education Code 44664)

(cf. 4116 - Probationary/Permanent Status)

The performance of each certificated employee with permanent status shall be evaluated and assessed on a continuing basis as follows: (Education Code 44664)

1. At least every other year

2. At least every five years if all of the following conditions are met:

   a. The employee has been employed by the district at least 10 years.

   b. The employee meets the qualifications of a highly qualified teacher as defined in 20 USC 7801 of the federal No Child Left Behind Act, if 20 USC 6319 requires that his/her position be filled by a highly qualified teacher.

   c. The employee's previous evaluation rated him/her as meeting or exceeding standards.

EVALUATION/SUPERVISION (continued)

d. The evaluator and the employee agree to this schedule. Either the evaluator or the employee may withdraw consent at any time.

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

3. Annually, if the permanent employee has received an unsatisfactory evaluation until he/she receives a satisfactory evaluation or is separated from the district

(cf. 4117.4 - Dismissal)

Evaluation Criteria

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

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

(cf. 6011 - Academic Standards)
(cf. 6162.5 - Student Assessment)

2. The instructional techniques and strategies used by the employee

3. The employee's adherence to curricular objectives

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

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

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

Evaluation Results

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

EVALUATION/SUPERVISION (continued)

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

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

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

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

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

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

PROBATIONARY/PERMANENT STATUS

Probationary Status

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

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

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

Permanent Status

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

(cf. 4117.4 - Dismissal)
(cf. 4117.6 - Decision Not to Rehire)

Legal Reference:

EDUCATION CODE
44466 Status of university interns
44850.1 No tenure in administrative or supervisory position
44885.5 Status of district interns
44908 Complete year for probationary employees
44911-44913 Service not computed in eligibility for permanent status
44915 Classification of probationary employees
44917-44921 Status of substitute or temporary employees
44929.20 Continuing contracts (not to exceed four years - ADA under 250)
44929.21 Districts of 250 ADA or more
44929.23 Districts with less than 250 ADA
44929.28 Employment by another district
44930-44988 Resignations, dismissals and leaves of absence, especially:
44948.2 Election to use provisions of Section 44948.3
44948.3 Dismissal of probationary employees

PROBATIONARY/PERMANENT STATUS

Permanent Status

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

Interns

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

(cf. 4112.21 - Interns)

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

PRERETIREMENT PART-TIME EMPLOYMENT

When the Board of Trustees has adopted the reduced workload program, any certificated employee may reduce his/her workload from full time to part time in accordance with applicable law, district regulations, and collective bargaining agreement.

Any such certificated employee who is a member of the defined benefit program of the California State Teachers' Retirement System (STRS) may continue to receive the service credits and maintain the retirement and health and welfare benefits that he/she would have received if employed on a full-time basis, provided the following conditions exist: (Education Code 22713, 44922)

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

1. Any Unit Member age 55 or older interested in participating in the program shall notify the principal and the Human Resources Office of that decision no later than February 20th. The principal and/or the district designee shall meet with that Unit Member prior to March 15th to see if a mutually agreeable assignment can be developed. When such assignment has been developed, the Unit Member shall be notified within a reasonable length of time.

2. The option to reduce the employee's workload shall be exercised at the request of the employee and the agreement to reduce the workload shall be in effect at the beginning of the school year.

3. Prior to the reduction in workload, the employee shall have a minimum of 10 years of credited service, of which the immediately preceding five years shall be full-time employment.

4. The employee shall not have had a break in service during the five years immediately preceding the reduction in workload. Sabbaticals, other approved leaves of absence, and unpaid absences from full-time employment for personal reasons shall not constitute a break in service. However, any period of time during which an employee is retired shall constitute a break in service and the employee shall be required to be employed to perform creditable service on a full-time basis for at least five school years preceding the workload reduction if he/she reinstates from retirement.

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

5. The employee shall have reached the age of 55 years prior to the workload reduction.

6. The employee shall not hold a position with a salary above that of a school principal.

7. The reduced workload shall be equal to at least one-half of the time the district requires for full-time employment, in accordance with Education Code 22138.5, pursuant to the employee's contract of employment during his/her last year of full-time employment preceding the reduction in workload.

PRERETIREMENT PART-TIME EMPLOYMENT (continued)

8. The employee shall be paid compensation that is the pro rata share of the creditable compensation he/she would have earned had he/she not reduced his/her workload.

9. For each school year that the employee's workload is reduced, the district and/or employee shall make any payment or contribution necessary for the employee's retention of a benefit to which he/she is entitled if employed full time, in the same manner as if the employee were employed full time.

10. The agreement may be revoked only by mutual consent of the employee and the district.

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

    a. Terminating his/her service

    b. Retiring from service under the defined benefit program

    c. Continuing to perform creditable service under a new reduced workload arrangement for at least one-half of the time the district requires for full-time employment in accordance with Education Code 22138.5

    d. Returning to full-time employment

11. The period of the reduced workload shall not exceed 10 years. The contract automatically terminates on June 30 of the year after the Unit Member reaches age 65.

Prior to the reduction of an employee's workload, the Superintendent or designee shall verify the employee's eligibility in conjunction with the administrative staff of STRS and/or the Public Employees' Retirement System. (Education Code 22713)

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

Legal Reference: (see next page)

PRERETIREMENT PART-TIME EMPLOYMENT (continued)

Legal Reference:

EDUCATION CODE
22119.5 Creditable service, definition
22138.5 Full-time, definition
22713 Part-time employment; reduction of workload from full-time; credit
22903 Payment of contributions by employer for tax deferred purposes
44922 Regulations; reduction to part-time employment
44924 Regulations; prohibition against waiver of benefits
GOVERNMENT CODE
21110-21120 Reduced workload, partial service retirement under PERS
53201 Health and welfare benefits: election by officers and employees
COURT DECISIONS
Praiser v. Biggs Unified School District (2001) 87 Cal.App.4th 398
United Teachers-Los Angeles v. Los Angeles Unified School District (1994) 24 Cal.App.4th 1510

Management Resources:

WEB SITES
California Public Employees' Retirement System: http://www.calpers.ca.gov
California State Teachers' Retirement System: http://www.calstrs.com

EARLY RETIREMENT OPTION

When it is beneficial to the district, the Board of Trustees may offer certificated employees the option to retire early in accordance with law.

Legal Reference:

EDUCATION CODE
22714 Service credit under STRS; additional two years
44929 Service credit under STRS; additional two years
UNITED STATES CODE, TITLE 20
6319 Highly qualified teachers
COURT DECISIONS
United Teacher of Los Angeles v. Los Angeles Unified School District (1994) 24 Cal.App. 4th 1510

Management Resources:

CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM PUBLICATIONS
Retirement Incentive Program, Frequently Asked Questions
WEB SITES
California State Teachers' Retirement System: http://www.calstrs.com

POSTRETIREMENT EMPLOYMENT

When necessary, the district may, subject to specific legal requirements, hire a qualified retired certificated individual who possesses the knowledge and experience needed to perform specialized work or service for the district, as an employee, the employee of a third party, or an independent contractor/consultant.

(cf. 3600 - Consultants)
(cf. 4111/4211/4311 - Recruitment and Selection)
(cf. 4112 - Appointment and Conditions of Employment)

Any retired certificated individual who is a member of the defined benefit program of the State Teachers' Retirement System (STRS) and who is hired by the district to perform any service pursuant to Education Code 22119.5 or 26113 shall be paid at a rate commensurate with that of other district employees performing comparable duties. However, such a retired individual shall not make contributions to the retirement fund or accrue service credits based on compensation earned from that service. (Education Code 24214)

No retired certificated individual who is a member of STRS shall be hired by the district for at least six calendar months after his/her retirement from service unless he/she has attained the normal retirement age. Such hiring shall only be made with Board of Trustees approval in a public meeting, as reflected in a resolution that shall include information about the nature of the appointment and the following findings: (Education Code 24214.5)

1. The appointment is necessary to fill a critically needed position before 180 days have passed.

2. The retired individual is eligible for this exemption because he/she did not receive additional service credit pursuant to Education Code 22714 or 22715 or a financial inducement to retire.

3. The retired individual's termination of employment with the district is not the basis for the need to acquire the services of the retired individual.

(cf. 9320 - Meetings and Notices)

Postretirement Compensation Limitation

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

1. Advise the retired individual of the postretirement compensation limitation set forth in Education Code 24214 or 24214.5 or any other applicable law

POSTRETIREMENT EMPLOYMENT (continued)

2. Maintain accurate records of the retired individual's compensation and report it monthly to STRS and the individual, regardless of the method of payment or the fund from which the payments are made

When employing a retired individual who is eligible for any exemption from the postretirement compensation limitation, the Superintendent or designee shall submit to STRS all required documentation to substantiate eligibility for the exemption. (Education Code 24214, 24214.5)

Legal Reference:

EDUCATION CODE
22119.5 Creditable service, definition
22461 Notice of earnings limitation
22714 Encouragement of retirement
22715 Additional service credit
22716 Unpaid services
24116 Service at California State University
24214 Creditable service by retiree
24214.5 Postretirement compensation limit; members below normal retirement age
24215 Service at California State University
26113 Creditable service, definition
35046 Consultancy contracts
41320.1 Appointment of trustee
42120-42129 Budget completion
44830 Employment of certificated employees
44830.3 Employment of district interns
44929 Service credit under STRS; additional two years
44929.1 2+2 service and year credit option under STRS
52055.57-52055.60 Local Educational Agency Intervention program

Management Resources:

WEB SITES
California State Teachers' Retirement System: http://www.calstrs.com

All Personnel BP 4117.2
4217.2
RESIGNATION 4317.2

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

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

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

(cf. 4117.7 - Employment Status Reports)

If a certificated employee leaves district service during the school year without obtaining acceptance of his/her resignation, or if he/she leaves before the effective date of the resignation, the Superintendent or designee shall report this fact, with supporting evidence, to the Commission on Teacher Credentialing.

Legal Reference:

EDUCATION CODE
35161 Board delegation of any powers or duties
44242.5 Reports of change in employment status, alleged misconduct
44420 Failure to fulfill contract as ground for suspension of diplomas and certificates
44433 Unauthorized departure from service as unprofessional conduct
44930 Acceptance and date of resignation
45201 Power to accept resignation
CODE OF REGULATIONS, TITLE 5
80303 Reports of change in employment status
80304 Notice of sexual misconduct
COURT DECISIONS
American Federation of Teachers, Local #1050 v. Board of Education of Pasadena Unified School District, (1980) 107 Cal.App.3d 829

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

PERSONNEL REDUCTION

The Board of Trustees may reduce the number of probationary and permanent certificated employees when, in the opinion of the Board, one or more of the following conditions makes such reduction necessary:

1. Average daily attendance (ADA) in all of the schools in the district during the first six months of the school year has declined below the level for the same period in either of the previous two school years. (Education Code 44955)

2. A particular kind of service is to be reduced or discontinued not later than the beginning of the following school year. (Education Code 44955)

3. Attendance in the district will decline in the following year as a result of the termination of an interdistrict tuition agreement. (Education Code 44955)

4. An amendment of state law requires modification of the curriculum. (Education Code 44955)

5. The state Budget Act reveals that the district's total revenue limit per ADA for the fiscal year of that Budget Act has not increased by at least two percent. (Education Code 44955.5)

Seniority

Except as otherwise provided by law, a permanent employee who is certificated and competent to render a service shall not be terminated or given a reduction in hours and wages while a probationary employee, or other employee with less seniority, is retained to render the service. (Education Code 44955)

Prior to determining the seniority of employees, the Superintendent or designee shall require certificated employees to provide verification, in writing, of their employment date and credentials, as well as any documentation supporting an employment or credential(s) different from that shown in the district's records.

The Superintendent or designee shall prepare a master seniority list on the basis of district records and evidence presented. (Education Code 44846)

When two or more employees first rendered paid service on the same date, the Board shall adopt a resolution specifying the criteria based on the needs of the district and students for the order of termination among those employees. Upon the request of any employee whose order of termination is so determined, the Board shall furnish, in writing, no later than five days prior to the commencement of the administrative hearing on the layoff, a statement of the specific criteria used in determining the order of termination and the application of the criteria in ranking the employee relative to the other employees in the group. (Education Code 44955)

PERSONNEL REDUCTION (continued)

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

The district may deviate from terminating certificated employees in order of seniority for either of the following reasons: (Education Code 44955, 44956)

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

2. To maintain or achieve compliance with constitutional requirements related to equal protection of the law

Notice and Hearing Rights

When it becomes necessary, as the result of a reduction or discontinuation of services, to reduce the number of permanent and/or probationary employees, the district shall give notice to the affected employees stating the reasons for the action and the employees' right to a hearing, no later than March 15. The district shall adhere to the notice, hearing, and layoff procedures in Education Code 44949 and 44955.

When an employee has requested a hearing before an administrative law judge regarding the reduction or discontinuation of services, the Board shall make a final decision regarding the sufficiency of the cause and disposition of the layoff upon receipt of the administrative law judge's proposed decision. None of the findings, recommendations, or determinations of the administrative law judge shall be binding on the Board. (Education Code 44949)

The Board may conduct its own hearing, adopt the judge's proposed decision, refer the case back to the judge for additional evidence, or reject or modify the proposed decision and make its own determination based upon its review of the record.

Upon adoption of the Board's decision, the Superintendent or designee shall give final notice, in the manner specified, to the affected employees before May 15. (Education Code 44955)

Special Procedure Based Upon Late Adoption of the State Budget

When the Board, during the time period between five days after enactment of the Budget Act and August 15, determines that the total revenue limit per ADA has not increased by at least

PERSONNEL REDUCTION (continued)

two percent and that the district therefore needs to reduce the number of certificated staff pursuant to Education Code 44955.5, the Board shall adopt a schedule of notice and hearings and the district shall otherwise proceed pursuant to Education Code 44949 and 44955. (Education Code 44955.5)

Reappointment

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

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

(cf. 4112.2 - Certification)
(cf. 4112.24 - Teacher Qualifications Under the No Child Left Behind Act)
(cf. 4113 - Assignment)

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

Legal Reference: (see next page)

PERSONNEL REDUCTION (continued)

Legal Reference:

EDUCATION CODE
44830 Employment of certificated persons
44949 Dismissal of probationary employees
44955 Reduction in number of permanent employees
44955.5 Termination of certificated employees
44956-44959.5 Rights of employees
GOVERNMENT CODE
3543.2 Scope of representation
COURT DECISIONS
California Teachers Association v. Vallejo City Unified School District, (2007) 149 Cal.App.4th 135
Bakersfield Elementary Teachers Association v. Bakersfield City School District, (2006) 145 Cal.App.4th 1260
Cousins v. Weaverville Elementary School District, (1994) 24 Cal.App.4th 1846
Forker v. Board of Trustees, (1984) 160 Cal.App.3d 13
Moreland Teachers Assoc. v. Kurze, (1980) 109 Cal.App.3d 648
King v. Berkeley Unified School District, (1979) 89 Cal.App.3d 1016

Management Resources:

WEB SITES
CSBA: http://www.csba.org

DISMISSAL

Permanent Employees

Permanent employees shall not be dismissed from their position except when cause for dismissal can be shown. Cause and procedures for dismissal are defined by provisions of Education Code 44932-44947.

(cf. 4116 - Probationary/Permanent Status)

Probationary Employees

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

(cf. 4115 - Evaluation/Supervision)

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

(cf. 4117.6 - Decision Not to Rehire)

Legal References:

EDUCATION CODE
44660-44665 Evaluation and assessment of performance
44842 Automatic declining of employment
44918 Substitute or temporary employee; reemployment rights
44929.21 Districts with 250 ADA or more; notice of reelection decision.
44929.23 Districts with daily attendance less than 250
44932-44947 Suspension and/or dismissal of permanent employees
44948 Dismissal or suspension of probationary employees during school year
44948.2 Election to use provisions of Education Code 44948.3
44948.3 Dismissal of probationary employees (over 250 ADA)
44948.5 Dismissal of probationary employees (under 250 ADA)
44949 Cause, notice and right to hearing for dismissal of probationary employee
44953 Dismissal of substitute employees
44955 Reduction in number of permanent employees
GOVERNMENT CODE
3543.2 Scope of representation (re duty of district to meet and negotiate regarding causes and procedures for discipline less than dismissal)

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

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

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

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

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

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

Legal Reference:

CIVIL CODE
47 Privileged communication
GOVERNMENT CODE
53260-53264 Employment contracts
LABOR CODE
1198.5 Inspection of personnel files by employees
CODE OF REGULATIONS, TITLE 5
80303 Reports of dismissal, resignation and other terminations for cause
80332 Professional honesty in letters of employment recommendation
COURT DECISIONS
Randi W. v. Muroc Joint Unified School District, (1997) 14 Cal.4th 1066
Board of Trustees of Leland Stanford Junior University v. Superior Court, (1981) 119 Cal. App. 3d 516

Regulation approved: **SAN LEANDRO UNIFIED SCHOOL DISTRICT**
San Leandro, California

DECISION NOT TO REHIRE

The Superintendent or designee shall provide the Board of Trustees with his/her recommendations regarding the rehiring of probationary certificated personnel.

The Board may decide not to rehire a probationary employee for a second school year and give written notice of its decision to the employee at any time during his/her first year of employment. If the Board does not give written notice, the employee shall be deemed reelected for the next succeeding school year.

The Board may decide not to rehire a probationary employee for a third year and give written notice to the employee on or before March 15 of his/her second complete consecutive school year of employment. If the Board does not give written notice on or before March 15, the employee shall be deemed reelected for the next succeeding school year. (Education Code 44929.21, 44929.23)

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

Legal Reference:

EDUCATION CODE
44885.5 District interns
44929.21 Districts with 250 ADA or more; notice of reelection decision
44929.23 Districts with daily attendance less than 250
44948.2 Election to use provisions of Education Code 44948.3
44948.3 Dismissal of probationary employees (over 250 ADA)
44949 Cause, notice and right to hearing required for dismissal of probationary employee
44955 Reduction in number of permanent employees
COURT DECISIONS
Hoschler v. Sacramento City Unified School District, (2007) 149 Cal. App. 4th 258
Fischer v. Los Angeles Unified School District (1999) 70 Cal.App.4th 87
Bellflower Education Assn. v. Bellflower Unified School District (1991) 228 Cal.App.3d 805
Fontana Teachers Assn. v. Fontana Unified School District (1988) 201 Cal.App.3d 1517
Grimsley v. Board of Trustees (1987) 189 Cal.App.3d 1440

EMPLOYMENT STATUS REPORTS

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

1. Dismissal

(cf. 4117.4 - Dismissal)

2. Nonreelection/nonreemployment

(cf. 4117.6 - Decision Not to Rehire)

3. Suspension for more than 10 days

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

5. Resignation, retirement, or other departure from employment

(cf. 4117.2 - Resignation)

6. Termination by a decision not to employ or reemploy

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

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

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

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

Within 10 days after receipt of a complaint, information, or indictment regarding an employee who has been charged with a "mandatory leave of absence offense" (defined as a sex or drug offense specified in Education Code 44940), the Superintendent or designee shall forward a copy of the received documents to the CTC. In addition, he/she shall report to the CTC any action taken in connection with extending the employee's mandatory leave beyond the initial period. (Education Code 44940, 44940.5)

(cf. 4118 - Suspension/Disciplinary Action)

EMPLOYMENT STATUS REPORTS (continued)

Notice of Other Violations

The Superintendent or designee may notify the CTC of any of the following: (Education Code 44242.5)

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

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

   a. Name of the employee alleged to have engaged in the sexual misconduct

   b. Name, age, and address of each victim of the alleged sexual misconduct

   c. A summary of all information known to the district regarding the alleged sexual misconduct

   d. A summary of the action, if any, taken at the district level in response to the complaint of sexual misconduct

(cf. 1312.1 - Complaints Concerning District Employees)
(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)
(cf. 5145.7 - Sexual Harassment)

2. An employee's refusal, without good cause, to fulfill a valid employment contract, or departure from district service without the consent of the Superintendent or Board of Trustees (Education Code 44420)

3. An employee's knowing and willful use of student records in connection with, or in implicit or explicit attempts to recruit a student to be a customer for, any business owned by the credential holder or in which the credential holder is an employee (Education Code 44421.1)

4. An employee's knowing and willful reporting of false fiscal expenditure data relative to the conduct of any educational program (Education Code 44421.5)

Legal Reference: (see next page)

EMPLOYMENT STATUS REPORTS (continued)

Legal Reference:

EDUCATION CODE
44009 Conviction of specified crimes
44010 Sex offense - definitions
44011 Controlled substance offense - definitions
44225 Powers and duties of the CTC
44242.5 Reports and review of alleged misconduct
44420-44440 Adverse actions by CTC against credential holder
44940 Sex offenses and narcotic offenses; compulsory leave of absence
44940.5 Compulsory leave of absence
CODE OF REGULATIONS, TITLE 5
80303 Reports of change in employment status, alleged misconduct
80304 Notice of sexual misconduct

Management Resources:

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS
California's Laws and Rules Pertaining to the Discipline of Professional Certificated Personnel, 2007
WEB SITES
CSBA: http://www.csba.org
Commission on Teacher Credentialing: http://www.ctc.ca.gov

SUSPENSION/DISCIPLINARY ACTION

The Board of Trustees expects all employees to exhibit professional and appropriate conduct and serve as positive role models both at school and in the community. An employee may be suspended or disciplined for unprofessional or inappropriate conduct in accordance with law, the district's collective bargaining agreement, Board policy, and administrative regulation.

(cf. 4000 - Concepts and Roles)
(cf. 4112.5/4312.5 - Criminal Record Check)
(cf. 4117.4 - Dismissal)
(cf. 4119.21/4219.21/4319.21 - Professional Standards)
(cf. 4141/4241 - Collective Bargaining Agreement)

The Superintendent or designee may take disciplinary action as he/she deems appropriate in light of the particular facts and circumstances involved and based on the severity of the misconduct. Disciplinary actions may include, but not be limited to, verbal warnings, written warnings, reassignment, suspension, freezing or reduction of wages, compulsory leave, or dismissal.

The Superintendent or designee shall ensure that, consistent with law, disciplinary actions are taken in a consistent, nondiscriminatory manner and are appropriately documented.

(cf. 1312.1 - Complaints Concerning District Employees)
(cf. 4030 - Nondiscrimination in Employment)
(cf. 4032 - Complaints Concerning Discrimination in Employment)
(cf. 4112.6/4212.6/4312.6 - Personnel Files)
(cf. 4119.1/4219.4319.1 - Civil and Legal Rights)
(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

In accordance with law, the Superintendent or designee shall notify the Commission on Teacher Credentialing when the status of a credentialed employee has been changed as a result of alleged misconduct.

(cf. 4117.7 - Employment Status Reports)

Legal Reference: (see next page)

SUSPENSION/DISCIPLINARY ACTION (continued)

Legal Reference:

EDUCATION CODE
44008 Effect of termination of probation
44009 Conviction of specified crimes
44010 Sex offense - definitions
44011 Controlled substance offense - definitions
44242.5 Reports and review of alleged misconduct
44425 Conviction of a sex or narcotic offense
44660-44665 Evaluation and assessment of performance of certificated employees
44830.1 Criminal record summary certificated employees
44930-44988 Resignations, dismissal, and leave of absence, especially:
44940 Sex offenses and narcotic offenses; compulsory leave of absence
44940.5 Compulsory leave of absence
45055 Drawing of warrants for teachers
48907 Exercise of free speech, expression
48950 Speech and other communication
51530 Advocacy or teaching of communism
GOVERNMENT CODE
3543.2 Scope of representation
HEALTH AND SAFETY CODE
11054 Schedule I; substances included
11055 Schedule II, substances included
11056 Schedule III, substances included
11357-11361 Marijuana
11363 Peyote
11364 Opium
11370.1 Possession of controlled substances with a firearm
PENAL CODE
187 Murder
291 School employees arrest for sex offense
667.5 Prior prison terms, enhancement of prison terms
1192.7 Plea bargaining limitation
CODE OF REGULATIONS, TITLE 5
80303 Reports of change in employment status
80304 Notice of sexual misconduct
COURT DECISIONS
Crowl v. Commission on Professional Competence, (1990) 225 Cal. App. 3d 334

Management Resources:

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS
California's Laws and Rules Pertaining to the Discipline of Professional Certificated Personnel, 2007
WEB SITES
CSBA: http://www.csba.org
Commission on Teacher Credentialing: http://www.ctc.ca.gov

SUSPENSION/DISCIPLINARY ACTION

Suspension Without Pay

When a permanent certificated employee's unprofessional conduct is not considered serious enough to warrant dismissal, he/she may be suspended without pay on grounds of unprofessional conduct, following procedures designated in Education Code 44932-44938.

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

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

1. Indicate the nature of the employee's unprofessional conduct

2. Cite specific instances of unprofessional behavior

3. Give the employee a 45-day opportunity to correct the misconduct and overcome the ground(s) for the charge(s)

4. Include the evaluation made pursuant to Education Code 44660-44665, if applicable

(cf. 4115 - Evaluation/Supervision)

Mandatory Leave of Absence

Upon being informed that a certificated employee has been charged with a "mandatory leave of absence offense," the Superintendent or designee shall immediately place the employee on a leave of absence. A mandatory leave of absence offense includes: (Education Code 44830.1, 44940)

1. Any sex offense as defined in Education Code 44010

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

(cf. 4117.7 - Employee Status Reports)

Upon receipt of notification from the Department of Justice by telephone that a current temporary, substitute, or probationary employee serving before March 15 of the his/her second probationary year has been convicted of a violent or serious felony, that employee

SUSPENSION/DISCIPLINARY ACTION (continued)

shall be immediately placed on leave without pay. Upon receipt of written electronic notification of the conviction from the Department of Justice, such employee shall be automatically terminated and without regard to any other termination procedure. (Education Code 44830.1)

(cf. 4112.5/4312.5 - Criminal Record Check)

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

(cf. 4117.4 - Dismissal)

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

Optional Leave of Absence

The Board may require an immediate compulsory leave of absence when a certificated employee is charged with an "optional leave of absence offense" as specified in law. Such employees shall be subject to the same requirements specified in Education Code 44940.5 regarding extension of the leave, furnishing of a bond, and payment of salaries for employees charged with mandatory leave of absence offenses. (Education Code 44940, 44940.5)

Protection of a Student's Free Speech or Press Rights

An employee shall not be suspended, disciplined, reassigned, transferred, dismissed, or otherwise retaliated against solely for acting to protect a student, or for refusing to infringe on a student's protected conduct, when that student is exercising his/her free speech or press rights pursuant to Education Code 48907 or 48950. (Education Code 48907, 48950)

(cf. 4119.1/4219.1/4319.1 - Civil and Legal Rights)
(cf. 5145.2 - Freedom of Speech/Expression)

The Board of Trustees believes that the personal life of an employee is not an appropriate concern of the district, except as it may directly relate to the employee's performance of his/her duties.

An employee's personal beliefs and activities, including religious, political, cultural, social, or other beliefs or activities, or lack thereof, shall not be grounds for disciplinary action against the employee, provided that the beliefs or activities do not violate law, Board policy, or administrative regulation.

(cf. 4030 - Nondiscrimination in Employment)
(cf. 4119.21/4219.21/4319.21 - Professional Standards)
(cf. 4119.25/4219.25/4319.25 - Political Activities of Employees)

The district shall make no inquiry concerning the personal values, attitudes, and beliefs of district employees or their sexual orientation or political or religious affiliations, beliefs, or opinions except when authorized by law. In addition, no district employee shall be required to provide critical appraisals of other individuals with whom the employee has a familial relationship. However, the district reserves the right to access any publicly available information about any employee.

No employee shall be disciplined or retaliated against solely for acting to protect a student engaged in conduct authorized under Education Code 48907 or 48950.

When necessary to protect the health, welfare, or safety of students and staff, school officials may search district property under an employee's control.

(cf. 3515 - Campus Security)
(cf. 4040 - Employee Use of Technology)

Protection Against Liability

No employee shall be liable for harm caused by his/her act or omission when he/she is acting within the scope of employment or district responsibilities; when the employee's act or omission is in conformity with federal or state law, district policy, or administrative regulation; or when the employee's act or omission is in furtherance of an effort to control, discipline, expel, or suspend a student or to maintain order or control in the classroom or school.

(cf. 3320 - Claims and Actions Against the District)
(cf. 9260 - Legal Protection)

CIVIL AND LEGAL RIGHTS (continued)

The protection against liability shall not apply when:

1. The employee acted with willful or criminal misconduct, gross negligence, recklessness, or a conscious, flagrant indifference to rights or safety of the individual harmed.

2. The employee caused harm by operating a motor vehicle or other vehicle requiring license or insurance.

3. The employee was not properly licensed, if required, by state law for such activities.

4. The employee was found by a court to have violated a federal or state civil rights law.

5. The employee was under the influence of alcohol or any drug at the time of the misconduct.

6. The misconduct constituted a crime of violence pursuant to 18 USC 16 or an act of terrorism for which the employee has been convicted in a court.

7. The misconduct involved a sexual offense for which the employee has been convicted in a court.

8. The misconduct occurred during background investigations, or other actions, involved in the employee's hiring.

Legal Reference: (see next page)

CIVIL AND LEGAL RIGHTS (continued)

Legal Reference:

EDUCATION CODE
200-262.4 Prohibition of discrimination
7050-7058 Political activities of school officers and employees
44040 Discrimination based on employee's appearance before certain boards or committees
44110-44114 Reporting by school employees of improper governmental activity
48907 Student freedom of expression; employee's protection of student rights
48950 Speech and other communication
49091.24 Teacher rights to refuse evaluation/survey of personal life
CIVIL CODE
51 Unruh Civil Rights Act
GOVERNMENT CODE
815.3 Intentional torts
820-823 Tort claims act
825.6 Indemnification of public entity
3540.1 Public employment definitions
3543.5 Interference with employee's rights prohibited
12650-12656 False claims actions
12940-12951 Discrimination prohibited; unlawful practices
LABOR CODE
1102.5-1106 Whistleblower protections
UNITED STATES CODE, TITLE 18
16 Crime of violence defined
UNITED STATES CODE, TITLE 20
6731-6738 Teacher liability protection
UNITED STATES CODE, TITLE 42
2000d-2000d-7 Title VI, Civil Rights Act
2000e-2000e-17 Title VII, Civil Rights Act of 1964 as amended
2000h-2000h-6 Title IX, 1972 Education Act Amendments
12101-12213 Americans with Disabilities Act
COURT DECISIONS
Hartnett v. Crosier, (2012) 205 Cal.App.4th 685
Johnson v. Poway Unified School District, (2011) 658 F.3d 954
Ohton v. CSU San Diego, (2007) 56 Cal.Rptr.3d 111
Garcetti v. Ceballos, (2006) 543 U.S. 1186
O'Conner v. Ortega, (1987) 480 U.S. 709
New Jersey v. T.L.O., (1985) 468 U.S. 325

Management Resources:

WEB SITES
California Attorney General: http://www.oag.ca.gov

All Personnel BP 4119.11(a)
4219.11
SEXUAL HARASSMENT 4319.11

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

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

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

1. Providing training to employees in accordance with law and administrative regulation

2. Publicizing and disseminating the district's sexual harassment policy to staff

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

3. Ensuring prompt, thorough, and fair investigation of complaints

4. Taking timely and appropriate corrective/remedial action(s), which may require interim separation of the complainant and the alleged harasser and subsequent monitoring of developments

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

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

A supervisor, principal or other district administrator who receives a harassment complaint shall promptly notify the Superintendent or designee.

Complaints of sexual harassment shall be filed in accordance with AR 4031 - Complaints Concerning Discrimination in Employment. An employee may bypass his/her supervisor in filing a complaint where the supervisor is the subject of the complaint.

(cf. 4031 - Complaints Concerning Discrimination in Employment)

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

SEXUAL HARASSMENT (continued)

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

Legal Reference:

EDUCATION CODE
200-262.4 Prohibition of discrimination on the basis of sex
GOVERNMENT CODE
12900-12996 Fair Employment and Housing Act, especially:
12940 Prohibited discrimination
12950.1 Sexual harassment training
LABOR CODE
1101 Political activities of employees
1102.1 Discrimination: sexual orientation
CODE OF REGULATIONS, TITLE 2
7287.8 Retaliation
7288.0 Sexual harassment training and education
CODE OF REGULATIONS, TITLE 5
4900-4965 Nondiscrimination in elementary and secondary education programs receiving state financial assistance
UNITED STATES CODE, TITLE 42
2000d-2000d-7 Title VI, Civil Rights Act of 1964
2000e-2000e-17 Title VII, Civil Rights Act of 1964, as amended
2000h-2-2000h-6 Title IX, 1972 Education Act Amendments
CODE OF FEDERAL REGULATIONS, TITLE 34
106.9 Dissemination of policy
COURT DECISIONS
Department of Health Services v. Superior Court of California, (2003) 31 Cal.4th 1026
Faragher v. City of Boca Raton, (1998) 118 S.Ct. 2275
Burlington Industries v. Ellreth, (1998) 118 S.Ct. 2257
Gebser v. Lago Vista Independent School District, (1998) 118 S.Ct. 1989
Oncale v. Sundowner Offshore Serv. Inc., (1998) 118 S.Ct. 998
Meritor Savings Bank, FSB v. Vinson et al., (1986) 447 U.S. 57

Management Resources:

OFFICE OF CIVIL RIGHTS AND NATIONAL ASSOCIATION OF ATTORNEYS GENERAL
Protecting Students from Harassment and Hate Crime, January, 1999
WEB SITES
California Department of Fair Employment and Housing: http://www.dfeh.ca.gov
Equal Employment Opportunity Commission: http://www.eeoc.gov
U.S. Department of Education, Office for Civil Rights: http://www.ed.gov/about/offices/list/ocr/index.html

Definitions

Prohibited sexual harassment includes, but is not limited to, unwelcome sexual advances, unwanted requests for sexual favors, or other unwanted verbal, visual, or physical conduct of a sexual nature made against another person of the same or opposite sex in the work or educational setting when: (Education Code 212.5; 5 CCR 4916)

1. Submission to the conduct is made explicitly or implicitly a term or condition of the individual's employment.

2. Submission to or rejection of such conduct by the individual is used as the basis for an employment decision affecting him/her.

3. The conduct has the purpose or effect of having a negative impact upon the individual's work or has the purpose or effect of creating an intimidating, hostile, or offensive work environment. The conduct is sufficiently severe, persistent, pervasive, or objectively offensive so as to create a hostile or abusive working environment or to limit the individual's ability to participate in or benefit from an education program or activity.

4. Submission to or rejection of the conduct by the other individual is used as the basis for any decision affecting him/her regarding benefits, services, honors, programs, or activities available at or through the district.

Other examples of actions that might constitute sexual harassment, whether committed by a supervisor, a co-worker, or a non-employee, in the work or educational setting, include, but are not limited to:

1. Unwelcome verbal conduct such as sexual flirtations or propositions; graphic comments about an individual's body; overly personal conversations or pressure for sexual activity; sexual jokes or stories; unwelcome sexual slurs, epithets, threats, innuendoes, derogatory comments, sexually degrading descriptions, or the spreading of sexual rumors

2. Unwelcome visual conduct such as drawings, pictures, graffiti, or gestures; sexually explicit emails; displaying sexually suggestive objects

3. Unwelcome physical conduct such as massaging, grabbing, fondling, stroking, or brushing the body; touching an individual's body or clothes in a sexual way; cornering, blocking, leaning over, or impeding normal movements

Prohibited sexual harassment may also include any act of retaliation against an individual who reports a violation of the district's sexual harassment policy or who participates in the investigation of a sexual harassment complaint.

SEXUAL HARASSMENT (continued)

Training

Every two years, the Superintendent or designee shall ensure that supervisory employees receive at least two hours of classroom or other effective interactive training and education regarding sexual harassment. All newly hired or promoted supervisory employees shall receive training within six months of their assumption of the supervisory position. (Government Code 12950.1)

The district's training and education program for supervisory employees shall include information and practical guidance regarding the federal and state laws on the prohibition against and the prevention and correction of sexual harassment, and the remedies available to the victims of sexual harassment in employment. The training shall also include all of the content specified in 2 CCR 7288.0 and practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation. (Government Code 12950.1; 2 CCR 7288.0)

Notifications

A copy of the Board policy and this administrative regulation shall: (Education Code 231.5)

1. Be displayed in a prominent location in the main administrative building, district office, or other area of the school where notices of district rules, regulations, procedures, and standards of conduct are posted

2. Be provided to each faculty member, all members of the administrative staff, and all members of the support staff at the beginning of the first quarter or semester of the school year or whenever a new employee is hired

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

3. Appear in any school or district publication that sets forth the school's or district's comprehensive rules, regulations, procedures, and standards of conduct

All employees shall receive either a copy of information sheets prepared by the California Department of Fair Employment and Housing (DFEH) or a copy of district information sheets that contain, at a minimum, components on: (Government Code 12950)

SEXUAL HARASSMENT (continued)

1. The illegality of sexual harassment

2. The definition of sexual harassment under applicable state and federal law

3. A description of sexual harassment, with examples

4. The district's complaint process available to the employee

(cf. 4031 - Complaints Concerning Discrimination in Employment)

5. The legal remedies and complaint process available through DFEH and the Equal Employment Opportunity Commission (EEOC)

6. Directions on how to contact DFEH and the EEOC

7. The protection against retaliation provided by 2 CCR 7287.8 for opposing harassment prohibited by law or for filing a complaint with or otherwise participating in an investigation, proceeding, or hearing conducted by DFEH and the EEOC

In addition, the district shall post, in a prominent and accessible location, DFEH's poster on discrimination in employment and the illegality of sexual harassment. (Government Code 12950)

The Board of Trustees expects district employees to maintain the highest ethical standards, exhibit professional behavior, follow district policies and regulations, abide by state and federal laws, and exercise good judgment when interacting with students and other members of the school community. Employee conduct should enhance the integrity of the district, advance the goals of the district's educational programs, and contribute to a positive school climate.

(cf. 0200 - Goals for the School District)
(cf. 4119.1/4219.1/4319.1 - Civil and Legal Rights)
(cf. 5131 - Conduct)
(cf. 5137 - Positive School Climate)

The Board encourages district employees to accept as guiding principles the professional standards and codes of ethics adopted by educational or professional associations to which they may belong.

(cf. 2111 - Superintendent Governance Standards)
(cf. 9005 - Governance Standards)

Each employee should make a commitment to acquire the knowledge and skills necessary to fulfill his/her responsibilities and should focus on his/her contribution to the learning and achievement of district students.

(cf. 4112.2 - Certification)
(cf. 4131 - Staff Development)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)

Inappropriate employee conduct includes, but is not limited to:

1. Engaging in any conduct that endangers students, staff, or others, including, but not limited to, physical violence, threats of violence, or possession of a firearm or other weapon

(cf. 0450 - Comprehensive Safety Plan)
(cf. 4158/4258/4358 - Employee Security)

2. Engaging in harassing or discriminatory behavior towards students, parents/guardians, staff, or community members, or failing or refusing to intervene when an act of discrimination, harassment, intimidation, or bullying against a student is observed

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)
(cf. 5131.2 - Bullying)
(cf. 5145.3 - Nondiscrimination/Harassment)
(cf. 5145.7 - Sexual Harassment)

PROFESSIONAL STANDARDS (continued)

3. Physically abusing, sexually abusing, neglecting, or otherwise willfully harming or injuring a child

4. Engaging in inappropriate socialization or fraternization with a student or soliciting, encouraging, or maintaining an inappropriate written, verbal, or physical relationship with a student

5. Possessing or viewing any pornography on school grounds, or possessing or viewing child pornography or other imagery portraying children in a sexualized manner at any time

6. Using profane, obscene, or abusive language against students, parents/guardians, staff, or community members

7. Willfully disrupting district or school operations by loud or unreasonable noise or other action

8. Using tobacco, alcohol, or an illegal or unauthorized substance, or possessing or distributing any controlled substance, while in the workplace or at a school-sponsored activity

(cf. 3513.3 - Tobacco-Free Schools)
(cf. 4020 - Drug and Alcohol Free Workplace)
(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)

9. Dishonesty with students, parents/guardians, staff, or members of the public, including, but not limited to, falsification of information in employment records or other school records

10. Divulging confidential information about students, district employees, or district operations to persons not authorized to receive the information

(cf. 3580 - District Records)
(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)
(cf. 5125 - Student Records)
(cf. 5125.1 - Release of Directory Information)

11. Using district equipment or other district resources for the employee's own commercial purposes or for political activities

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

PROFESSIONAL STANDARDS (continued)

12. Using district equipment or communications devices for personal purposes while on duty, except in an emergency, during scheduled work breaks, or for personal necessity

    Employees shall be notified that computer files and all electronic communications, including, but not limited to, email and voice mail, are not private. To ensure proper use, the Superintendent or designee may monitor employee usage of district technological resources at any time without the employee's consent.

(cf. 4040 - Employee Use of Technology)

13. Causing damage to or engaging in theft of property belonging to students, staff, or the district

14. Wearing inappropriate attire

(cf. 4119.22/4219.22/4319.22 - Dress and Grooming)

An employee who observes or has evidence of another employee's inappropriate conduct shall immediately report such conduct to the principal or Superintendent or designee. An employee who has knowledge of or suspects child abuse or neglect shall file a report pursuant to the district's child abuse reporting procedures as detailed in AR 5141.4 - Child Abuse Prevention and Reporting.

(cf. 1312.1 - Complaints Concerning District Employees)
(cf. 5141.4 - Child Abuse Prevention and Reporting)

Any reports of employee misconduct shall be promptly investigated. Any employee who is found to have engaged in inappropriate conduct in violation of law or Board policy shall be subject to disciplinary action and, in the case of a certificated employee, may be subject to a report to the Commission on Teacher Credentialing. The Superintendent or designee shall notify local law enforcement as appropriate.

(cf. 4117.4 - Dismissal)
(cf. 4117.7 - Employment Status Reports)
(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

An employee who has knowledge of but fails to report inappropriate employee conduct may also be subject to discipline.

PROFESSIONAL STANDARDS (continued)

The district prohibits retaliation against anyone who files a complaint against an employee or reports an employee's inappropriate conduct. Any employee who retaliates against any such complainant, reporter, or other participant in the district's complaint process shall be subject to discipline.

Legal Reference:

EDUCATION CODE
200-262.4 Prohibition of discrimination
44242.5 Reports and review of alleged misconduct
PENAL CODE
11164-11174.4 Child Abuse and Neglect Reporting Act
CODE OF REGULATIONS, TITLE 5
80303 Reports of dismissal, resignation and other terminations for alleged misconduct
80331-80338 Rules of conduct for professional educators

Management Resources:

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS
California Standards for the Teaching Profession, 2009
COUNCIL OF CHIEF STATE SCHOOL OFFICERS PUBLICATIONS
Educational Leadership Policy Standards: ISLLC 2008, 2008
NATIONAL EDUCATION ASSOCIATION PUBLICATIONS
Code of Ethics of the Education Profession, 1975
WESTED PUBLICATIONS
Moving Leadership Standards into Everyday Work: Descriptions of Practice, 2003
WESTED AND ASSOCIATION OF CALIFORNIA SCHOOL ADMINISTRATORS PUBLICATIONS
California Professional Standards for Educational Leaders, 2001
WEB SITES
CSBA: http://www.csba.org
Association of California School Administrators: http://www.acsa.org
California Department of Education: http://www.cde.ca.gov
California Federation of Teachers: http://www.cft.org
California School Employees Association: http://www.csea.com
California Teachers Association: http://www.cta.org
Commission on Teacher Credentialing: http://www.ctc.ca.gov
Council of Chief State School Officers: http://www.ccsso.org
WestEd: http://www.WestEd.org

PROFESSIONAL STANDARDS

CODE OF ETHICS OF THE EDUCATION PROFESSION

Preamble

The educator, believing in the worth and dignity of each human being, recognizes the supreme importance of the pursuit of truth, devotion to excellence, and the nurturing of democratic principles. Essential to these goals is the protection of freedom to learn and to teach and the guarantee of equal educational opportunity for all. The educator accepts the responsibility to adhere to the highest ethical standards.

The educator recognizes the magnitude of the responsibility inherent in the teaching process. The desire for the respect and confidence of one's colleagues, of students, of parents/guardians, and of the members of the community provides the incentive to attain and maintain the highest possible degree of ethical conduct. The Code of Ethics of the Education Profession indicates the aspiration of all educators and provides standards by which to judge conduct.

Principle I. Commitment to the Student

The educator strives to help each student realize his/her potential as a worthy and effective member of society. The educator therefore works to stimulate the spirit of inquiry, the acquisition of knowledge and understanding, and the thoughtful formulation of worthy goals.

In fulfillment of the obligation to the student, the educator:

1. Shall not unreasonably restrain the student from independent action in the pursuit of learning

2. Shall not unreasonably deny the student access to varying points of view

3. Shall not deliberately suppress or distort subject matter relevant to the student's progress

4. Shall make reasonable effort to protect the student from conditions harmful to learning or to health and safety

5. Shall not intentionally expose the student to embarrassment or disparagement

6. Shall not on the basis of race, color, creed, gender, national origin, marital status, political or religious beliefs, family, social, or cultural background, or sexual orientation, unfairly:

    a. Exclude any student from participation in any program

    b. Deny benefits to any student

PROFESSIONAL STANDARDS (continued)

c. Grant any advantage to any student

7. Shall not use professional relationships with students for private advantage

8. Shall not disclose information in the course of professional service unless disclosure serves a compelling professional purpose or is required by law

Principle II. Commitment to the Profession

The education profession is vested by the public with a trust and responsibility requiring the highest ideals of professional service.

In the belief that the quality of the services of the education profession directly influences the nation and its citizens, the educator shall exert every effort to raise professional standards, to promote a climate that encourages the exercise of professional judgment, to achieve conditions that attract persons worthy of the trust to careers in education, and to assist in preventing the practice of the profession by unqualified persons.

In fulfillment of the obligation of the profession, the educator:

1. Shall not in any application for a professional position deliberately make a false statement or fail to disclose a material fact related to competency and qualifications

2. Shall not misrepresent his/her professional qualifications

3. Shall not assist any entry into the profession of a person known to be unqualified in respect to character, education, or other relevant attribute

4. Shall not knowingly make a false statement concerning the qualifications of a candidate for a professional position

5. Shall not assist a noneducator in the unauthorized practice of teaching

6. Shall not disclose information about colleagues obtained in the course of professional service unless disclosure serves a compelling professional purpose or is required by law

7. Shall not knowingly make false or malicious statements about a colleague

8. Shall not accept any gratuity, gift, or favor that might impair or appear to influence professional decisions or action

Source: National Education Association, 1975

All Personnel BP 4119.22
4219.22
DRESS AND GROOMING 4319.22

The Board of Trustees believes that appropriate dress and grooming by district employees contribute to a productive learning environment and model positive behavior. During school hours and at school activities, employees shall maintain professional standards of dress and grooming that demonstrate their high regard for education, present an image consistent with their job responsibilities and assignment, and not endanger the health or safety of employees or students. All employees shall be held to the same standards unless their assignment provides for modified dress as approved by their supervisor.

(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4119.25/4219.25/4319.25 - Political Activities of Employees)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)
(cf. 5132 - Dress and Grooming)

Legal Reference:

EDUCATION CODE
35160 Authority of governing boards
35160.1 Broad authority of school districts
GOVERNMENT CODE
3543.2 Scope of representation
12949 Dress standards, consistency with gender identity
COURT DECISIONS
San Mateo City School District v. PERB (1983) 33 Cal. 3d 850
Domico v. Rapides Parish School Board (5th Cir. 1982) 675 F.2d 100
East Hartford Education Assn. v. Board of Education (2d Cir. 1977) 562 F. 2d 856
Finot v. Pasadena Board of Education (1967) 250 Cal.App.2d 189
PUBLIC EMPLOYMENT RELATIONS BOARD DECISIONS
Santa Ana Unified School District (1998) 22 PERC P29, 136
Inglewood Unified School District (1985) 10 PERC P17, 000

Management Resources:

WEB SITES
Public Employment Relations Board: http://www.perb.ca.gov

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

All Personnel BP 4119.23(a)
4219.23
4319.23

UNAUTHORIZED RELEASE OF CONFIDENTIAL/ PRIVILEGED INFORMATION

The Board of Trustees recognizes the importance of keeping confidential information confidential. Staff shall maintain the confidentiality of information acquired in the course of their employment. Confidential/privileged information shall be released only to the extent authorized by law.

Disclosure of Closed Session Information

An employee shall not disclose confidential information acquired by being present during a closed session to a person not entitled to receive such information, unless the Board authorizes disclosure of that information. (Government Code 54963)

Confidential information means a communication made in a closed session that is specifically related to the basis for the Board to meet lawfully in closed session. (Government Code 54963)

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

An employee who willfully discloses confidential information acquired during a closed session may be subject to disciplinary action if he/she has received training or notice as to the requirements of this policy. (Government Code 54963)

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

The Superintendent or designee shall provide all employees who attend closed sessions a copy of this policy. New employees who may attend closed sessions shall also receive a copy of this policy.

The district shall not take disciplinary action against any employee for disclosing confidential information acquired in a closed session, nor shall the disclosure be considered a violation of the law or Board policy, when the employee is: (Government Code 54963)

1. Making a confidential inquiry or complaint to a district attorney or grand jury concerning a perceived violation of law, including disclosing facts necessary to establish the illegality or potential illegality of a Board action that has been the subject of deliberation during a closed session

(cf. 4119.1/4219.1/4319.1 - Civil and Legal Rights)

2. Expressing an opinion concerning the propriety or legality of Board action in closed session, including disclosure of the nature and extent of the illegal or potentially illegal action

UNAUTHORIZED RELEASE OF CONFIDENTIAL/ PRIVILEGED INFORMATION (continued)

3. Disclosing information that is not confidential

Other Disclosures

An employee who willfully releases confidential/privileged information about the district, students or staff shall be subject to disciplinary action.

No employee shall disclose confidential information acquired in the course of his/her official duties. Confidential information includes information that is not a public record subject to disclosure under the Public Records Act, information that by law may not be disclosed, or information that may have a material financial effect on the employee.

(cf. 4112.6/4212.6/4312.6 - Personnel Files)
(cf. 4112.62/4212.62/4312.62 - Maintenance of Criminal Offender Records)
(cf. 4143/4243 - Negotiations/Consultation)
(cf. 5125 - Student Records)
(cf. 5125.1 - Release of Directory Information)
(cf. 5141.4 - Child Abuse Prevention and Reporting)
(cf. 6164.2 - Guidance/Counseling Services)

Any action by an employee which inadvertently or carelessly results in release of confidential/privileged information shall be recorded, and the record shall be placed in the employee's personnel file. Depending on the circumstances, the Superintendent or designee may deny the employee further access to any privileged information and shall take any steps necessary to prevent any further unauthorized release of such information.

Legal Reference: (see next page)

UNAUTHORIZED RELEASE OF CONFIDENTIAL/ PRIVILEGED INFORMATION (continued)

Legal Reference:

EDUCATION CODE
35010 Control of district; prescription and enforcement of rules
35146 Closed sessions
35160 Authority of governing boards
44031 Personnel file contents and inspection
44932 Grounds for dismissal of permanent employees
44933 Other grounds for dismissal
45113 Rules and regulations for classified service
49060-49079 Pupil records
GOVERNMENT CODE
1098 Public officials and employees: confidential information
6250-6270 Inspection of public records
54950-54963 Brown Act
UNITED STATES CODE, TITLE 20
1232g Family Education Rights and Privacy Act

Management Resources:

WEB SITES
CSBA: http://www.csba.org

All Personnel BP 4119.25
4219.25
POLITICAL ACTIVITIES OF EMPLOYEES 4319.25

The Board of Trustees respects the right of school employees to engage in political discussions and activities on their own time and at their own expense. On such occasions, employees shall make it clear that they are acting as individuals and not as representatives of the district.

(cf. 1160 - Political Processes)

Like other community members, employees may use school facilities for meetings under the Civic Center Act.

(cf. 1330 - Use of School Facilities)

Employees shall refrain from prohibited activities identified in law and administrative regulations. Employees who engage in these activities shall be subject to disciplinary action and/or criminal penalties.

(cf. 1325 - Advertising and Promotion)
(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

Legal Reference:

EDUCATION CODE
7050-7057 Political activities of school officers and employees
38130-38139 Civic Center Act
51520 Prohibited solicitations on school premises
GOVERNMENT CODE
3543.1 Rights of employee organizations
COURT DECISIONS
Downs v. Los Angeles Unified School District, (9th Cir. 2000) 228 F.3d 1003
California Teachers Association v. Governing Board of San Diego Unified School District, (1996) 45 Cal.App. 4th 1383
L.A. Teachers Union v. L.A. City Board of Education, (1969) 71 Cal.2d 551
ATTORNEY GENERAL OPINIONS
84 Ops.Cal.Atty.Gen. 106 (2001)
84 Ops.Cal.Atty.Gen. 52 (2001)
77 Ops.Cal.Atty.Gen. 56 (1994)
PERB RULINGS
California Federation of Teachers, Local 1931 v. San Diego Community College District (2001) PERB Order #1467 (26 PERC 33014)

Management Resources:

CSBA PUBLICATIONS
Political Activities of School Districts: Legal Issues, 1998, revised 2001
WEB SITES
CSBA: http://www.csba.org
Office of the Attorney General, Dept. of Justice: http://caag.state.ca.us/
Public Employment Relations Board: http://www.perb.ca.gov

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

District employees shall not:

1. Use district funds, services, supplies or equipment to urge the passage or defeat of any ballot measure or candidate, including any candidate for election to the Board of Trustees (Education Code 7054)

(cf. 1160 - Political Processes)

2. During working hours and on district property, solicit or receive any political funds or contributions to promote the passage or defeat of a ballot measure that would affect the rate of pay, hours of work, retirement, civil service or other working conditions (Education Code 7056)

3. During working hours and on district property, solicit or receive any political funds or contributions to promote the passage or defeat of other types of ballot measures

4. Use district time to urge the passage or defeat of any ballot measure or candidate

5. Use district equipment for the preparation or reproduction of political campaign materials, even if the district is reimbursed

(cf. 3512 - Equipment)

6. Post or distribute political campaign materials on district property

7. Disseminate political campaign materials through the district's mail service, e-mail or staff mailboxes

(cf. 4040 - Employee Use of Technology)

8. Use students to write, address or distribute political campaign materials

9. Present viewpoints on particular candidates or ballot measures in the classroom without giving equal time to the presentation of opposing views

(cf. 6144 - Controversial Issues)

10. Wear buttons or articles of clothing that express political opinions on ballot measures or candidates during instructional time

    However, teachers shall not be prohibited from wearing political buttons during noninstructional time, such as Back-to-School Night.

Nothing in Board policy or administrative regulation shall be construed to prevent employees from soliciting or receiving funds or contributions for political purposes during nonworking time, including before and after school, the lunch period or other scheduled work intermittency during the school day. (Education Code 7056)

POLITICAL ACTIVITIES OF EMPLOYEES (continued)

Employee Organizations

Employee organizations may use district mailboxes and other means to communicate with employees, subject to reasonable regulation. Employee organizations may have access at reasonable times to areas in which employees work; may use institutional bulletin boards, mailboxes, and other means of communication and may use district facilities at reasonable times for the purpose of meetings. (Government Code 3543.1)

However, employee organizations shall not use district funds, services, supplies or equipment, such as the district mail system, to urge the passage or defeat of any ballot measure or candidate, including any candidate for election to the Board. (Education Code 7054)

(cf. 4140/4240/4340 - Bargaining Units)

Access to district communication channels shall be limited in cases where such access would be disruptive to district operations.

In the event of a concerted action or work stoppage, political activities by employee organizations and individual employees shall be restricted to peaceful informational picketing and other activities allowed by law.

(cf. 4141.6/4241.6 - Concerted Action/Work Stoppage)

All Personnel BP 4119.41(a)
4219.41
EMPLOYEES WITH INFECTIOUS DISEASE 4319.41

The Board of Trustees desires to promote the health of district students and staff in order to reduce absenteeism and enhance employee and student performance. The Superintendent or designee shall develop strategies to prevent the outbreak or spread of infectious diseases at district schools.

(cf. 4161.1/4361.1 - Personal Illness/Injury Leave)
(cf. 4261.1 - Personal Illness/Injury Leave)
(cf. 5113 - Absences and Excuses)
(cf. 5113.1 - Chronic Absence and Truancy)

An *infectious disease* is one that is caused by a microorganism and is potentially transmittable to another individual, whether through airborne transmission, bloodborne transmission, skin-to-skin contact, foodborne transmission, or other casual or noncasual means. A *communicable infectious disease*, such as influenza or chicken pox, is contagious and can be readily transmitted by infectious bacteria or viral organisms.

In accordance with law, job applicants shall be required to provide evidence that they are free of tuberculosis or any other communicable infectious disease prior to beginning employment.

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

To prevent the outbreak or spread of infectious diseases, the Superintendent or designee may provide infection prevention supplies and information to employees, including information about recommended vaccinations. Employees also shall observe universal precautions to avoid contact with potentially infectious blood or other bodily fluids.

(cf. 4119.42/4219.42/4319.42 - Exposure Control Plan for Bloodborne Pathogens)
(cf. 4119.43/4219.43/4319.43 - Universal Precautions)
(cf. 4131 - Staff Development)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)

Plans for addressing a communicable infectious disease outbreak, including, but not limited to, plans for addressing employee shortages during such an outbreak, shall be included in the district's emergency preparedness plan.

(cf. 3516 - Emergencies and Disaster Preparedness Plan)
(cf. 5112.2 - Exclusions from Attendance)
(cf. 5141.22 - Infectious Diseases)
(cf. 5141.31 - Immunizations)

The Superintendent or designee shall immediately report to the local health officer the presence or suspected presence of any communicable infectious disease. In addition, a school nurse or other health care provider who knows of or is in attendance on a case or suspected

EMPLOYEES WITH INFECTIOUS DISEASE (continued)

case of any of the diseases or conditions listed in 17 CCR 2500 shall make a report to the local health officer. If no health care provider is in attendance, any individual having knowledge of a person who is suspected to be suffering from one of the specified diseases or conditions may make a report to the local health officer. (17 CCR 2500, 2508)

(cf. 5141.6 - School Health Services)

Nondiscrimination/Reasonable Accommodation

The district shall not discriminate against any employee or job applicant who has an infectious disease that meets the federal or state definition of a disability under the Americans with Disabilities Act, California Fair Employment and Housing Act, or Section 504 of the Federal Rehabilitation Act. (Government Code 12900-12996; 29 USC 794; 42 USC 12101-12213)

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

Upon request, any qualified person with a disability shall be provided reasonable accommodation to perform the essential duties of his/her position in accordance with the criteria and processes described in AR 4032 - Reasonable Accommodation.

(cf. 4032 - Reasonable Accommodation)

Legal Reference: (see next page)

EMPLOYEES WITH INFECTIOUS DISEASE (continued)

Legal Reference:

EDUCATION CODE
44839 Medical certificate; periodic medical examination
44839.5 Requirements for employment of retirant
49406 Examination for tuberculosis (employees)
CIVIL CODE
56-56.37 Confidentiality of medical information
GOVERNMENT CODE
12900-12996 Fair Employment and Housing Act
HEALTH AND SAFETY CODE
120975-121020 Mandated blood testing and confidentiality to protect public health
CODE OF REGULATIONS, TITLE 2
7293.5-7294.2 Discrimination based on disability
CODE OF REGULATIONS, TITLE 5
5502-5504 Medical certification
CODE OF REGULATIONS, TITLE 17
2500 Reportable diseases and conditions
2508 Reporting of communicable diseases; duty of schools
UNITED STATES CODE, TITLE 29
794 Section 504 of the Rehabilitation Act of 1973
UNITED STATES CODE, TITLE 42
12101-12213 Americans with Disabilities Act
COURT DECISIONS
Chevron USA v. Echazabal, (2002) 536 U.S. 73, 122 S.Ct. 2045
School Board of Nassau County, Florida v. Arline, (1987) 408 U.S. 273

Management Resources:

CSBA PUBLICATIONS
H1N1 Influenza (Swine Flu), Fact Sheet, April 2009
Pandemic Influenza, Fact Sheet, September 2007
CALIFORNIA DEPARTMENT OF PUBLIC HEALTH PUBLICATIONS
California HIV/AIDS Laws, 2009, January 2010
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONS
Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act, October 2002
WEB SITES
CSBA: http://www.csba.org
California Department of Public Health: http://www.cdph.ca.gov
California School Nurses Organization: http://www.csno.org
Centers for Disease Control and Prevention: http://www.cdc.gov
Equal Employment Opportunity Commission: http://www.eeoc.gov
U.S. Department of Health and Human Services: http://www.hhs.gov

All Personnel BP 4119.42
4219.42
EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS 4319.42

As part of its commitment to provide a safe and healthful work environment, the Board of Trustees recognizes the importance of developing an exposure control plan. The Superintendent or designee shall establish a written exposure control plan in accordance with state and federal standards for dealing with potentially infectious materials in the workplace to protect employees from possible infection due to contact with bloodborne pathogens, including but not limited to hepatitis B virus, hepatitis C virus and human immunodeficiency virus (HIV).

(cf. 4119.43/4219.43/4319.43 - Universal Precautions)
(cf. 4157/4257/4357 - Employee Safety)

The Superintendent or designee shall determine which employees have occupational exposure to bloodborne pathogens and other potentially infectious materials. In accordance with the district's exposure control plan, employees having occupational exposure shall be offered the hepatitis B vaccination.

The Superintendent or designee may exempt designated first aid providers from pre-exposure hepatitis B vaccination under the conditions specified by state regulations. (8 CCR 5193(f))

Any employee not identified by the Superintendent or designee as having occupational exposure may submit a request to the Superintendent or designee to be included in the training and hepatitis B vaccination program. The Superintendent or designee may deny a request when there is no reasonable anticipation of contact with any infectious material.

Legal Reference:
LABOR CODE
142.3 Authority of Cal/OSHA to adopt standards
144.7 Requirement to amend standards
CODE OF REGULATIONS, TITLE 8
3204 Access to employee exposure and medical records
5193 California bloodborne pathogens standards
CODE OF FEDERAL REGULATIONS, TITLE 29
1910.1030 OSHA bloodborne pathogens standards

Management Resources:
CDE ADVISORIES
1016.89 Guidelines for Informing School Employees about Preventing the Spread of Infectious Diseases, including Hepatitis B and AIDS/HIV Infections and Policies for Dealing with HIV-Infected Persons in School Settings
WEB SITES
OSHA: http://www.osha.gov
Cal/OSHA: http://www.dir.ca.gov/occupational_safety.html
Centers for Disease Control and Prevention: http://www.cdc.gov

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

All Personnel AR 4119.42(a)
4219.42
EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS 4319.42

Definitions

Occupational exposure means reasonably anticipated skin, eye, mucous membrane, or parenteral contact with blood or other potentially infectious materials that may result from the performance of an employee's duties. (8 CCR 5193(b))

Exposure incident means a specific eye, mouth, other mucous membrane, nonintact skin, or parenteral contact with blood or other potentially infectious materials that result from the performance of an employee's duties. (8 CCR 5193 (b))

Parenteral contact means piercing mucous membranes or the skin barrier through such events as needlesticks, human bites, cuts, and abrasions. (8 CCR 5193(b))

A *sharp* is any object that can be reasonably anticipated to penetrate the skin or any other part of the body and to result in an exposure incident. (8 CCR 5193(b))

A *sharps injury* is any injury caused by a sharp, including but not limited to cuts, abrasions or needlesticks. (8 CCR 5193(b))

Work practice controls are controls that reduce the likelihood of exposure by defining the manner in which a task is performed. (8 CCR 5193(b))

Engineering controls are controls, such as sharps disposal containers, needleless systems, and sharps with engineered sharps injury protection, that isolate or remove the bloodborne pathogens hazard from the workplace. (8 CCR 5193(b))

Engineered sharps injury protection is a physical attribute built into a needle device or into a non-needle sharp which effectively reduces the risk of an exposure incident. (8 CCR 5193(b))

Exposure Control Plan

The district's exposure control plan shall contain at least the following components: (8 CCR 5193(c))

1. A determination of which employees have occupational exposure to blood or other potentially infectious materials

   The district's exposure determination shall be made without regard to the use of personal protective equipment and shall include a list of:

   a. All job classifications in which all employees have occupational exposure

   b. Job classifications in which some employees have occupational exposure

EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS (continued)

c. All tasks and procedures, or groups of closely related tasks and procedures, in which occupational exposure occurs and which are performed by employees listed in item #b above

2. The schedule and method of implementing:

a. Methods of compliance required by 8 CCR 5193(d), such as universal precautions, general and specific engineering and work practice controls, and personal protective equipment

(cf. 4119.43/4219.43/4319.43 - Universal Precautions)

b. Hepatitis B vaccination

c. Bloodborne pathogen post-exposure evaluation and follow-up

d. Communication of hazards to employees, including labels, signs, information and training

e. Recordkeeping

3. The district's procedure for evaluating circumstances surrounding exposure incidents

4. An effective procedure for gathering information about each exposure incident involving a sharp, as required for the log of sharps injuries

5. An effective procedure for periodically determining the frequency of use of the types and brands of sharps involved in exposure incidents documented in the sharps injury log

6. An effective procedure for identifying currently available engineering controls and selecting such controls as appropriate for the procedures performed by employees in their work areas or departments

7. An effective procedure for documenting instances when a licensed healthcare professional directly involved in a patient's care determines, in the reasonable exercise of clinical judgment, that the use of an engineering control would jeopardize an individual's safety or the success of a medical, dental or nursing procedure involving the individual

EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS (continued)

8. An effective procedure for obtaining the active involvement of employees in reviewing and updating the exposure control plan with respect to the procedures performed by employees in their respective work areas or departments

The exposure control plan shall be reviewed and updated at least annually and whenever necessary to: (8 CCR 5193(c))

1. Reflect new or modified tasks and procedures affecting occupational exposure

2. To the extent that sharps are used in the district, reflect progress in implementing the use of needleless systems and sharps with engineered sharps injury protection

3. Include new or revised employee positions with occupational exposure

4. Review and evaluate the exposure incidents which occurred since the previous update

5. Review and respond to information indicating that the exposure control plan is deficient in any area

The district's exposure control plan shall be accessible to employees upon request. (8 CCR 3204(e))

Preventive Measures

The Superintendent or designee shall use engineering and work practice controls to eliminate or minimize employee exposure, and shall regularly examine and update controls to ensure their effectiveness. (8 CCR 5193(d))

Hepatitis B Vaccination

The hepatitis B vaccination and vaccination series shall be made available at no cost to all employees who have occupational exposure. The hepatitis B vaccination shall be made available after an employee with occupational exposure has received the required training and within 10 working days of initial assignment, unless the employee has previously received the complete hepatitis B vaccination series, or antibody testing has revealed that the employee is immune, or vaccination is contraindicated by medical reasons. (8 CCR 5193(f))

Employees who decline to accept the vaccination shall sign the hepatitis B declination statement. (8 CCR 5193(f))

EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS (continued)

The Superintendent or designee may exempt designated first aid providers from the pre-exposure hepatitis B vaccine in accordance with 8 CCR 5193 (f).

Information and Training

The Superintendent or designee shall ensure that all employees with occupational exposure participate in a training program containing the elements required by state regulations, during working hours and at no cost to the employee. This program shall be offered at the time of initial assignment to tasks where occupational exposure may take place, at least annually thereafter, and whenever a change of tasks or procedures affects the employee's exposure. (8 CCR 5193(g))

Designated first aid providers shall receive training that includes the specifics of reporting first-aid incidents which involve blood or body fluids which are potentially infectious. (8 CCR 5193(g))

Reporting Incidents

All exposure incidents shall be reported as soon as possible to the Superintendent or designee.

Unvaccinated designated first aid providers must report any first aid incident involving the presence of blood or other potentially infectious material, regardless of whether an exposure incident occurred, by the end of the work shift. The full hepatitis B vaccination series shall be made available to such employees no later than 24 hours after the first aid incident. (8 CCR 5193(f))

Sharps Injury Log

The Superintendent or designee shall establish and maintain a log recording each exposure incident involving a sharp. The exposure incident shall be recorded within 14 working days of the date the incident is reported to the district. (8 CCR 5193(c))

The information recorded shall include the following, if known or reasonably available: (8 CCR 5193(c))

1. Date and time of the exposure incident

2. Type and brand of sharp involved in the exposure incident

3. A description of the exposure incident, including:

EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS (continued)

a. Job classification of the exposed employee

b. Department or work area where the exposure incident occurred

c. The procedure that the exposed employee was performing at the time of the incident

d. How the incident occurred

e. The body part involved in the incident

f. If the sharp had engineered sharps injury protection, whether the protective mechanism was activated and whether the injury occurred before, during or after the protective mechanism was activated

g. If the sharp had no engineered sharps injury protection, the injured employee's opinion as to whether and how such a mechanism could have prevented the injury

h. The employee's opinion about whether any other engineering, administrative or work practice could have prevented the injury

Post-Exposure Evaluation and Follow-up

Following a report of an exposure incident, the Superintendent or designee shall immediately make available to the exposed employee, at no cost, a confidential medical evaluation, post-exposure evaluation and follow-up. The Superintendent or designee shall, at a minimum: (8 CCR 5193(f))

1. Document the route(s) of exposure and the circumstances under which the exposure incident occurred

2. Identify and document the source individual, unless that identification is infeasible or prohibited by law

3. Provide for the collection and testing of the employee's blood for hepatitis B, hepatitis C and HIV serological status

4. Provide for post-exposure prophylaxis, when medically indicated, as recommended by the U.S. Public Health Service

EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS (continued)

5. Provide for counseling and evaluation of reported illnesses

The Superintendent or designee shall provide the health care professional with a copy of 8 CCR 5193; a description of the employee's duties as they relate to the exposure incident; documentation of the route(s) of exposure and circumstances under which exposure occurred; results of the source individual's blood testing, if available; and all medical records maintained by the district relevant to the appropriate treatment of the employee, including vaccination status. (8 CCR 5193(f))

The district shall maintain the confidentiality of the affected employee and the exposure source during all phases of the post-exposure evaluation. (8 CCR 5193(f))

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)
(cf. 9011 - Disclosure of Confidential/Privileged Information)

Records

Upon an employee's initial employment and at least annually thereafter, the Superintendent or designee shall inform employees with occupational exposure of the existence, location and availability of related records; the person responsible for maintaining and providing access to records; and the employee's right of access to these records. (8 CCR 3204)

(cf. 1340 - Access to District Records)
(cf. 3580 - District Records)

Medical records for each employee with occupational exposure shall be kept confidential and not disclosed or reported without the employee's written consent to any person within or outside the workplace except as required by law. (8 CCR 5193(h))

Upon request by an employee, or a designated representative with the employee's written consent, the Superintendent or designee shall provide access to a record in a reasonable time, place and manner, no later than 15 days after the request is made. (8 CCR 3204(e))

Records shall be maintained as follows: (8 CCR 3204(d), 5193(h))

1. Medical records shall be maintained for the duration of employment plus 30 years.

2. Training records shall be maintained for three years from the date of training.

3. The sharps injury log shall be maintained five years from the date the exposure incident occurred.

EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS (continued)

4. Exposure records shall be maintained for at least 30 years.

5. Each analysis using medical or exposure records shall be maintained for at least 30 years.

Hepatitis B Vaccine Declination

I understand that due to my occupational exposure to blood or other potentially infectious materials I may be at risk of acquiring hepatitis B virus (HBV) infection. I have been given the opportunity to be vaccinated with hepatitis B vaccine, at no charge to myself. However, I decline hepatitis B vaccination at this time. I understand that by declining this vaccine, I continue to be at risk of acquiring hepatitis B, a serious disease. If in the future I continue to have occupational exposure to blood or other potentially infectious materials and I want to be vaccinated with hepatitis B vaccine, I can receive the vaccination series at no charge to myself.

_____
Signature

_____
Employee Name (Please print)

_____
Date

All Personnel BP 4119.43
4219.43
UNIVERSAL PRECAUTIONS 4319.43

In order to protect employees from contact with potentially infectious blood or other body fluids, the Board of Trustees requires that universal precautions be observed throughout the district.

Universal precautions are appropriate for preventing the spread of all infectious diseases and shall be used regardless of whether bloodborne pathogens are known to be present.

(cf. 4157/4257/4357 - Employee Safety)
(cf. 5141 - Health Care and Emergencies)
(cf. 5141.22 - Infectious Diseases)
(cf. 5141.24 - Specialized Health Care Services)
(cf. 5141.6 - School Health Services)
(cf. 6145.2 - Athletic Competition)

Employees shall immediately report any exposure incident or first aid incident in accordance with the district's exposure control plan or other safety procedures.

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

Legal Reference:

HEALTH AND SAFETY CODE
117600-118360 Handling and disposal of regulated waste
120875 Providing information to school districts on AIDS, AIDS-related conditions and Hepatitis B
120880 Information to employees of school district
CODE OF REGULATIONS, TITLE 8
5193 California bloodborne pathogens standard
CODE OF FEDERAL REGULATIONS, TITLE 29
1910.1030 OSHA bloodborne pathogens standards

Management Resources:

CDE PROGRAM ADVISORIES
1016.89 Guidelines for Informing School Employees about Preventing the Spread of Infectious Diseases, including Hepatitis B and AIDS/HIV Infections and Policies for Dealing with HIV-Infected Persons in School Settings
WEB SITES
Centers for Disease Control and Prevention: http://www.cdc.gov

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

Definitions

Universal precautions are an approach to infection control. All human blood and certain human body fluids, including but not limited to semen, vaginal secretions and any body fluid that is visibly contaminated with blood, are treated as if known to be infectious for human immunodeficiency virus (HIV), hepatitis B virus (HBV), hepatitis C virus (HCV) and other bloodborne pathogens. (8 CCR 5193(b))

Personal protective equipment includes specialized clothing or equipment worn or used for protection against a hazard. General work clothes such as uniforms, pants, shirts or blouses not intended to function as protection against a hazard are not considered to be personal protective equipment. (8 CCR 5193(b))

A *sharp* is any object that can be reasonably anticipated to penetrate the skin or any other part of the body and to result in an exposure incident. (8 CCR 5193(b))

Engineered sharps injury protection is a physical attribute built into a needle device or into a non-needle sharp which effectively reduces the risk of an exposure incident. (8 CCR 5193(b))

Employee Information

The Superintendent or designee shall distribute to employees information provided by the California Department of Education regarding acquired immune deficiency syndrome (AIDS), AIDS-related conditions, and hepatitis B. This information shall include, but not be limited to, any appropriate methods employees may use to prevent exposure to AIDS and hepatitis B, including information concerning the availability of a vaccine to prevent contraction of hepatitis B, and that the cost of this vaccination may be covered by the health plan benefits of the employees. Information shall be distributed at least annually, or more frequently if there is new information supplied by the California Department of Education. (Health and Safety Code 120875, 120880)

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)
(cf. 4119.42/4219.42/4319.42 - Exposure Control Plan for Bloodborne Pathogens)

Infection Control Practices

The Superintendent or designee shall ensure that the worksite is effectively maintained in a clean and sanitary condition, and shall implement an appropriate written schedule for cleaning and decontamination of the worksite. (8 CCR 5193(d))

Where occupational exposure remains after the institution of engineering and work practice controls, the Superintendent or designee shall provide appropriate personal protective

UNIVERSAL PRECAUTIONS (continued)

equipment at no cost to the employee. Such equipment may include gloves, gowns, masks, eye protection, and other devices that do not permit blood or other potentially infectious materials to pass through or reach the employee's clothes, skin, eyes, mouth or other mucous membranes under normal conditions of use. The Superintendent or designee shall maintain, repair, make accessible and require employees to use and properly handle protective equipment. (8 CCR 5193(d))

The Superintendent or designee shall provide handwashing facilities which are readily accessible to employees. When provision of handwashing facilities is not feasible, the Superintendent or designee shall provide an appropriate antiseptic hand cleanser in conjunction with clean cloth or paper towels, or antiseptic towelettes. (8 CCR 5193(d))

For the prevention of infectious disease, employees shall routinely: (8 CCR 5193(d))

1. Perform all procedures involving blood or other potentially infectious materials in such a manner as to minimize splashing, spraying, spattering, and generating droplets of these substances.

2. Use personal protective equipment as appropriate.

    a. Appropriate clothing, including but not limited to, gowns, aprons, lab coats, clinic jackets or similar outer garments, shall be worn in occupational exposure situations.

        If a garment becomes penetrated by blood or other potentially infectious materials, the employee shall remove the garment immediately or as soon as feasible. All personal protective equipment shall be removed prior to leaving the work area. When removed, it shall be placed in an appropriately designated area or container for storage, washing, decontamination or disposal.

    b. Gloves shall be worn when it can be reasonably anticipated that the employee may have hand contact with blood, other potentially infectious materials, mucous membranes and nonintact skin, and when handling or touching contaminated items or surfaces.

        Disposable gloves shall be replaced as soon as practical when contaminated, or as soon as feasible if they are torn, punctured, or when their ability to function as a barrier is compromised. They shall not be washed or

UNIVERSAL PRECAUTIONS (continued)

decontaminated for reuse. Utility gloves may be decontaminated for reuse if the integrity of the gloves is not compromised, but must be discarded if they are cracked, peeling, torn, punctured, or exhibit other signs of deterioration or when their ability to function as a barrier is compromised.

c. Masks in combination with eye protection devices or face shields shall be worn whenever splashes, spray, spatter, or droplets of blood or other potentially infectious materials may be generated and eye, nose or mouth contamination can be reasonably anticipated.

3. Wash hands and other skin surfaces thoroughly with soap and running water:

a. Immediately or as soon as feasible following contact of hands or any other skin or mucous membranes with blood or other potentially infectious materials

b. Immediately after removing gloves or other personal protective equipment

When handwashing facilities are not available, the employee shall use antiseptic hand cleanser in conjunction with clean cloth or paper towels, or antiseptic towelettes. In such instances, hands shall be washed with soap and running water as soon as feasible.

4. Refrain from eating, drinking, smoking, applying cosmetics or lip balm, or handling contact lenses in work areas with a reasonable likelihood of occupational exposure.

5. Clean and decontaminate all equipment and environmental and work surfaces after contact with blood or other potentially infectious material, no later than the end of the shift or more frequently as required by state regulations.

6. Rather than using the hands directly, use mechanical means such as a brush and dust pan, tongs or forceps to clean up broken glassware which may be contaminated.

7. Use effective patient-handling techniques and other methods designed to minimize the risk of a sharps injury in all procedures involving the use of sharps in patient care.

(cf. 5141.21 - Administering Medication and Monitoring Health Conditions)
(cf. 5141.24 - Specialized Health Care Services)

a. Needleless systems shall be used to administer medication or fluids, withdraw body fluids after initial venous or arterial access is established, and conduct any other procedure involving the potential for an exposure incident for which a needleless system is available as an alternative to the use of needle devices. If needleless systems are not used, needles or non-needle sharps with engineered sharps injury protection shall be used.

UNIVERSAL PRECAUTIONS (continued)

b. Contaminated needles or other sharps shall not be broken, bent, recapped, removed from devices, or stored or processed in a manner that requires employees to reach by hand into the containers where these sharps have been placed.

c. Disposable sharps shall not be reused.

8. Handle, store, treat and dispose of regulated waste in accordance with Health and Safety Code 117600-118360 and other applicable state and federal regulations.

a. Immediately or as soon as possible after use, contaminated sharps shall be placed in containers meeting the requirements of 8 CCR 5193(d)(3)(D). Containers shall be easily accessible, maintained upright throughout use where feasible, and replaced as necessary to avoid overfilling.

b. Specimens of blood or other potentially infectious material shall be placed in a container which prevents leakage during collection, handling, processing, storage, transport or shipping.

(cf. 4157/4257/4357 - Employee Safety)
(cf. 5141 - Health Care and Emergencies)
(cf. 5141.22 - Infectious Diseases)
(cf. 5141.6 - School Health Services)
(cf. 6145.2 - Athletic Competition)