

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

All Personnel

AR 4112.61

4212.61

EMPLOYMENT REFERENCES

4312.61

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

All Personnel

BP 4112.8(a)

4212.8

EMPLOYMENT OF RELATIVES

4312.8

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)

BP 4112.8(b)
4212.8
4312.8

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>

Board Policy

All Personnel

BP 4112.9(a)

4212.9

EMPLOYEE NOTIFICATIONS

4312.9

The Governing Board 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)

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

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*

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*

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*

All PersonnelE 4112.9(a)
4212.9
4312.9**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 11023	AR 4119.11 4219.11 4319.11	The district's policy on sexual harassment, legal remedies, complaints
Annually to all employees and 72 hours before pesticide application	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	BP 6117	Public hearing on year-round implementing year-round program schedule
To all employees, prior to implementing alternative schedule	46162	AR 6112	Public hearing on alternative schedule
To all employees	49013; 5 CCR 4622	AR 1312.3 BP 3260 BP 0460	Uniform complaint procedures, appeals, civil law remedies, coordinator, complaints about student fees and local control and accountability plan
To all employees	49414	AR 5141.21	Request for volunteers to be trained to administer epinephrine auto-injectors
To all employees	49414.7	AR 5141.21	Request for volunteers to administer emergency antiseizure medication; training to be provided
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 1797.796	AR 5141	Proper use of AED; location of all AEDs on campus, sudden cardiac arrest, school's emergency response plan

E 4112.9(b)
4212.9
4312.9

EMPLOYEE NOTIFICATIONS (continued)

Education or When/Whom to Notify	Board Policy/ Other Legal Code	Administrative Regulation #	Subject
I. To All Employees (continued)			
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
Annually to all employees	Health and Safety 120875, 120880	AR 4119.43 4219.43 4319.43	AIDS and hepatitis B, methods to prevent exposure
To all employees, with each paycheck	Labor Code 246	AR 4161.1 4261.1 4361.1	Amount of sick leave available
To covered employees and former employees	Labor Code e2800.2	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 2 CCR 11096	AR 4161.8 4261.8 4361.8	Benefits through Family and Medical Leave Act (FMLA) and California Family Rights Act (CFRA); obligation to provide 30 days' notice of need for leave when possible
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

E 4112.9(c)
4212.9
4312.9

EMPLOYEE NOTIFICATIONS (continued)

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
II. To Certificated Employees			
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
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 earnings limitation or employment restriction; monthly report of compensation
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; once per year for probationary employee or at least once every other year for permanent employee	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 and to nonpermanent employees in July of each school year	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	44929.21	AR 4117.6	Whether or not employee is reelected for next school year

year of employment

E 4112.9(d)
4212.9
4312.9

EMPLOYEE NOTIFICATIONS (continued)

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
II. To Certificated Employees (continued)			
When certificated employee is subject to disciplinary action for cause, at any time of year or, for charge on unsatisfactory performance, during instructional year	44934 44934.1 44936	BP 4118 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, at least 45 days prior to suspension/ dismissal notice	44938	AR 4118	Notice of deficiency and opportunity to correct
To certificated employee charged with unsatisfactory performance, at least 90 days prior to suspension/ dismissal notice or prior to last quarter of school year	44938	BP 4118	Notice of deficiency and opportunity to correct
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 unless employee demands hearing
To probationary employees 30 days prior to dismissal, or not later than March 15 for second-year probationary employees	44948.3	AR 4118	Reasons for dismissal and opportunity to appeal
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 or	5 CCR 80303	AR 4117.7 4317.7	Contents of state regulation re: report to Commission on Teacher Credentialing

while allegation is pending

E 4112.9(e)
4212.9
4312.9

EMPLOYEE NOTIFICATIONS (continued)

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
III. To Classified Employees (continued)			
To teachers when school is identified for Title I program improvement restructuring	20 USC 6316	AR 0520.2	School identified for restructuring opportunity to comment and participate
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
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 drivers and school activity bus drivers prior to expiration of specified documents	13 CCR 1234	AR 3542	Expiration date of driver's license, driver's certificate and medical certificate need to be renewed
To school bus and school activity bus drivers upon employment and at least once per year thereafter	13 CCR 2480	AR 3542	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

E 4112.9(f)
4212.9
4312.9

EMPLOYEE NOTIFICATIONS (continued)

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
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
V. To Individual Employees Under Special Circumstances			
In the event of a breach of security of District records to affected employees	Civil Code 1798.21	BP 3580	Types of records affected, date of breach, description of incident, and, as applicable, contact information for credit reporting agencies.
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
To employees who volunteer to administer epinephrine auto-injector	49414	AR 5141.21	Defense and indemnification from civil liability by the district
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
When taking disciplinary action against employee for disclosure of 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	Labor Code 3553, 5401	BP 4157.1 4257.1 4357.1	Potential eligibility for workers' compensation benefits, claim form
When adverse employment action is based on DOJ criminal history information or subsequent arrest notification	Penal Code 11105 11105.2	AR 4112.5 4212.5 4312.5	Copy of DOJ notification

E 4112.9(g)
4212.9
4312.9

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, receipt of supporting information, or district's knowledge that the requested leave may qualify as FMLA leave	29 CFR 825.300 2 CCR 11049	AR 4161.8 4261.8 4361.8	Designation of leave as FMLA or non-FMLA; if not eligible, reason no eligible; requirement to use paid leave; any requirement for fitness-for-duty certification; any subsequent changes in designation notice
To any employee with exposure to blood or potentially infectious materials, 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
Whenever notice of eligibility for FMLA is provided to employee	29 CFR 825.300	AR 4161.8 4261.8 4361.8	Rights and responsibilities re: use of FMLA; consequence of failure to meet obligations

Exhibit
Approved: November 7, 2012
Revised: June 5, 2013
Revised: August 6, 2014
Revised: August 12, 2015
Revised: June 29, 2016

BIGGS UNIFIED SCHOOL DISTRICT
Biggs, California

EMPLOYEE NOTIFICATIONS

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

Acknowledgments Required by Law

1. Legal obligation to report known or suspected instances of child abuse
(cf. 5141.4 - Child Abuse Prevention and Reporting)
2. Oath or affirmation of allegiance required of public employees
(cf. 4112.3/4212.3/4312.3 - Oath or Affirmation)
3. Hepatitis B vaccine declination
(cf. 4119.42/4219.42/4319.42 - Exposure Control Plan for Bloodborne Pathogens)
4. The district's school bus driver drug and alcohol testing policy, regulations and related information
(cf. 4112.42/4212.42/4312.42 - Drug and Alcohol Testing for School Bus Drivers)
5. Notice of release from position requiring an administrative or supervisory credential
(cf. 4313.2 - Demotion/Reassignment)
6. The classified employee's class specification, salary data, assignment or work location, duty hours and prescribed workweek
(cf. 4212 - Appointment and Conditions of Employment)
7. Information about certificated employee membership in the State Teachers' Retirement System

Acknowledgments Not Required by Law

1. The district's drug- and alcohol-free workplace
(cf. 4020 - Drug and Alcohol-Free Workplace)
2. The district's nonsmoking policy
(cf. 3513.3 - Tobacco-Free Schools)

EMPLOYEE NOTIFICATIONS (continued)

3. Prohibition of sexual harassment

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

4. The certificated employee's employment status and salary

(cf. 4112.1 - Contracts)

5. State disability insurance rights and benefits

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

6. Certificated employee evaluations

(cf. 4115 - Evaluation/Supervision)

(cf. 4315 - Evaluation/Supervision)

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

(cf. 4112.2 - Certification)

8. Notice of layoff

(cf. 4117.3 - Personnel Reduction)

(cf. 4217.3 - Layoff/Rehire)

9. Derogatory information to be placed in personnel file

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

10. Exhaustion of classified employee's paid leave

(cf. 4261.1 - Personal Illness/Injury Leave)

(cf. 4261.11 - Industrial Accident/Illness Leave)

11. Notice of charges related to disciplinary action

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

12. Notice of intention to dismiss

(cf. 4118 - Suspension/Disciplinary Action)

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

EMPLOYEE NOTIFICATIONS (continued)

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

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

Legal Reference:

EDUCATION CODE

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

GOVERNMENT CODE

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

PENAL CODE

11166.5 Employment; statement of knowledge of duty to report

UNEMPLOYMENT INSURANCE CODE

2613 Notice of rights and benefits

CODE OF REGULATIONS, TITLE 5

80026.1 Information to applicants

CODE OF REGULATIONS, TITLE 8

5193 California bloodborne pathogens standard

CODE OF FEDERAL REGULATIONS, TITLE 49

382.601 Controlled substance and alcohol use and testing notifications

ASSIGNMENT

Cautionary Notice: As added and amended by SBX3 4 (Ch. 12, Third Extraordinary Session, Statutes of 2009), ABX4 2 (Ch. 2, Fourth Extraordinary Session, Statutes of 2009), and SB 70 (Ch. 7, Statutes of 2011), Education Code 42605 grants districts flexibility in "Tier 3" categorical programs. The Biggs Unified School District has accepted this flexibility and thus is deemed in compliance with the statutory or regulatory program and funding requirements for these programs for the 2008-09 through 2014-15 fiscal years. As a result, the district may temporarily suspend certain provisions of the following policy or regulation that reflect these requirements. For further information, please contact the Superintendent or designee.

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

(cf. 1312.4 - Williams Uniform Complaint Procedures)

ASSIGNMENT (continued)

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 unless a suitable fully-prepared teacher is not available after a diligent search.
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)

The Superintendent or designee shall annually report to the Board and the California Department of Education (CDE) comparisons of teacher qualifications across district schools. When required by the CDE, the Superintendent or designee shall develop an equitable distribution plan to identify strategies for recruiting, developing, and retaining highly qualified teachers in low-performing schools. As needed, the Board may direct the Superintendent to transfer teachers to high-need schools in accordance with law and the collective bargaining agreement, and/or may align district resources to improve the skills and qualifications of teachers at those schools.

(cf. 4114 - Transfers)

(cf. 4131 - Staff Development)

(cf. 4131.1 - Beginning Teacher Support/Induction)

(cf. 4138 - Mentor Teachers)

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
- 44395-44398 Incentives for assigning NBPTS-certified teachers to high-priority schools
- 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 - Bargaining Units)

ASSIGNMENT (continued)

Assignment to Special Schedules

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

(cf. 6176 - Weekend/Saturday Classes)

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)

BP 4113.4(b)
4213.4
4313.4

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 Students of Limited English Proficiency)
(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

44395-44398 Incentives for assigning NBPTS-certified teachers to high-priority schools

GOVERNMENT CODE

3543.2 Scope of representation

EVALUATION/SUPERVISION

The Board of Trustees believes that regular, comprehensive evaluations designed to hold instructional staff accountable for their performance are key to improving their teaching skills and raising students' levels of achievement.

(cf. 4141/4241 - Collective Bargaining Agreement)
(cf. 4315 - Evaluation/Supervision)

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 and encourages them to take initiative to request assistance as necessary, including participation in appropriate staff development and/or individualized teacher support and guidance programs.

(cf. 4117.4 - Dismissal)
(cf. 4117.6 - Decision Not to Rehire)
(cf. 4131 - Staff Development)
(cf. 4131.1 - Teacher Support and Guidance)

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)
(cf. 6162.51 - State Academic Achievement Tests)

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

With the agreement of the exclusive representative of the certificated staff when applicable, the Superintendent or designee may incorporate objective standards from the National Board for Professional Teaching Standards and/or the California Standards for the Teaching Profession into district evaluation standards.

(cf. 4119.21/4219.21/4319.21 - Professional Standards)
(cf. 4140/4240/4340 - Bargaining Units)

EVALUATION/SUPERVISION (continued)

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

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

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

Legal Reference:

EDUCATION CODE

33039 *State guidelines for teacher evaluation procedures*

35171 *Availability of rules and regulations for evaluation of performance*

44660-44665 *Evaluation and assessment of performance of certificated employees (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:

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

California Standards for the Teaching Profession, 2009

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>

(7/00 11/03) 8/14

EVALUATION/SUPERVISION

Evaluation of certificated employees shall be conducted in accordance with the procedures established in this administrative regulation and applicable collective bargaining agreements. To the extent that any of those provisions conflict, the procedures in the collective bargaining agreement shall be implemented.

(cf. 4141/4241 - Collective Bargaining Agreement)

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. 4112.9 - Employee Notifications)

Frequency of Evaluations

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

(cf. 4116 - Probationary/Permanent Status)

(cf. 4117.6 - Decision Not to Rehire)

Each certificated employee with permanent status shall be evaluated and assessed at least every other year. If the employee receives an unsatisfactory evaluation, he/she shall be annually evaluated until he/she achieves a positive evaluation or is separated from the district. (Education Code 44664)

(cf. 4117.4 - Dismissal)

Alternatively, if the evaluator and employee agree, a permanent employee shall be evaluated at least every five years provided he/she has been employed by the district at least 10 years, was rated in his/her previous evaluation as meeting or exceeding standards, and meets the qualifications of a highly qualified teacher as defined in 20 USC 7801, if his/her position requires such qualifications. Either the evaluator or the employee may withdraw consent for the alternative schedule at any time. (Education Code 44664)

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

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 Governing Board 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. 4131.1 - Teacher Support and Guidance)

Qualifications of Evaluators

The Superintendent or designee shall assign the principal or other appropriate supervisory personnel to evaluate certificated staff. He/she shall ensure that the evaluator:

1. Possesses a valid administrative credential
2. Is competent in the instructional methodologies used by the teachers being evaluated
3. Is skilled in the supervision of instruction and in techniques and procedures related to the evaluation of instruction
4. Is familiar with district curriculum priorities and practices, district standards for student progress, and district policies and procedures related to personnel supervision, performance evaluation, and staff development

EVALUATION/SUPERVISION (continued)

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)

EARLY RETIREMENT OPTION

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

Two Years of Service Credit Retirement Incentive

As an incentive to early retirement for certificated employees participating in the State Teachers' Retirement System (STRS), the Board may offer such employees an additional two years of service credit. (Education Code [22714](#), [44929](#))

Before taking formal action to approve this service incentive, the Board shall determine that encouraging early retirement would be in the best interest of the district due to the curtailment of services or changes in the manner in which services are performed and that the retirement will result in a net savings to the district. The Board shall demonstrate and certify to the County Superintendent of Schools that the formal action taken would result in a net savings to the district. (Education Code [22714](#), [44929](#))

The Board may also consider the impact of the early retirement option on the staffing needs of district schools.

To be eligible for the two years of service credit option, the employee must have five or more years of service credit and must retire during a period of 60 to 120 days after the Board takes formal action to implement the option. (Education Code [22714](#))

In providing the early retirement option, the district shall meet all conditions as specified in Education Code [22714](#) and [44929](#).

Two + Two Retirement Incentive: 2 Years of Service Credit + 2 Years of Age Credit

As an incentive to early retirement for certificated employees participating in the State Teachers' Retirement System, the Board may offer an additional two years of service credit and two years of age credit to employees who retire within the "window period" established by the Board in a Memorandum of Understanding or by Board action prior to January 1, 2005 pursuant to repealed Education Code [22714.5](#).

Legal Reference:

EDUCATION CODE

[22714](#) Service credit under STRS; additional two years

[44929](#) Service credit under STRS; additional two years

COURT DECISIONS

United Teacher of Los Angeles v. Los Angeles Unified School District (1994) 24 Cal.App. 4th 1510

EARLY RETIREMENT OPTION (continued)

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>

(3/04 7/06) 5/16

POSTRETIREMENT EMPLOYMENT

When necessary, the Board of Trustees may hire a qualified retired certificated individual who possesses the knowledge and experience needed to perform creditable service for the district as an employee, the employee of a third party, or an independent contractor/consultant, provided that all applicable restrictions specified by the California State Teachers' Retirement System (CalSTRS) are met. Applicable CalSTRS restrictions include, but are not limited to, a requirement that a retired member be paid compensation comparable to that for active employees for comparable duties and prohibitions against the hiring of a retired member within 180 days of his/her retirement and for the classified service, except as an aide pursuant to Education Code [45134](#). Additional restrictions and rules may apply to other employment situations, such as when CalSTRS retired members are employed as employees of third parties, independent contractors, or consultants. The Superintendent or designee should consult legal counsel when dealing with such employment situations. (Education Code [22119.5](#), [22164.5](#), [24214](#), [24214.5](#))

(cf. [3600](#) - *Consultants*)

(cf. [4111/4211/4311](#) - *Recruitment and Selection*)

(cf. [4112](#) - *Appointment and Conditions of Employment*)

Any retired member of the defined benefit program of CalSTRS who is hired by the district to perform retired member activities as defined pursuant to Education Code [22164.5](#) shall be paid at an annualized rate of pay that shall not be below the minimum or exceed the maximum paid to other district employees performing comparable duties. However, such a retired individual shall not make contributions to the CalSTRS retirement fund or accrue service credit based on compensation earned from the retired member activity. (Education Code [24214](#))

No retired member of the CalSTRS defined benefit program shall be hired by the district for at least 180 calendar days after his/her retirement from service, unless he/she has attained the normal retirement age and qualifies for an exemption to the 180-day waiting period. To seek this exemption, the Board shall, during the open session of a Board meeting, adopt a resolution which shall include the following information and findings: (Education Code [24214.5](#))

1. A statement expressing the Board's intent to seek an exemption to the 180-day waiting period
2. A description of the nature of the employment of the retiree
3. A finding that the retiree has reached the normal retirement age
4. A finding that the appointment of the retiree is necessary to fill a critically needed position before the 180-day waiting period has passed
5. A finding that the retired individual did not receive additional service credit pursuant to

POSTRETIREMENT EMPLOYMENT (continued)

Education Code [22714](#) or [22715](#) or any financial inducement to retire. Financial inducement to retire shall include, but is not limited to, cash or any form of compensation or other payment directly or indirectly paid by any public employer to the retired individual before or after his/her retirement, if the individual retires for service on or before a specific date or range of dates established by the public employer on or before the date the inducement is offered

6. A finding that 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

The resolution shall not be adopted through the Board's consent agenda. (Education Code [24214.5](#))

(*cf.* [9320](#) - *Meetings and Notices*)

When employing a retired individual who is eligible for exemption from the 180-day waiting period, the Superintendent or designee shall submit all required documentation to substantiate eligibility for the exemption to CalSTRS before the retired member begins performing any retired member activities. The Superintendent or designee may contact CalSTRS to request information as to whether the retired member qualifies for the exemption after 30 days of submitting the required documentation to CalSTRS. (Education Code [24214.5](#))

Postretirement Compensation Limitation, Notice, and Report

All CalSTRS retirees performing creditable service for the district shall be subject to the applicable CalSTRS earnings limit. Monies earned in excess of the limit may subject the CalSTRS retiree to a reduction in his/her retirement allowance. Compensation subject to the earnings limitation includes, but is not limited to, salary or wages, deferred compensation plans, purchase of an annuity contract, tax-deferred retirement plan or insurance program, and other plans or contributions when the cost is covered by a district. (Education Code [22119.5](#), [22164.5](#), [24214](#))

Whenever the district retains the services of a CalSTRS retiree 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 earnings limitation or employment restriction set forth in Education Code [22714](#), [24214](#), or [24214.5](#) or any other applicable law

(*cf.* [4112.9/4212.9/4312.9](#) - *Employee Notifications*)

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

POSTRETIREMENT EMPLOYMENT (continued)

Legal Reference:

EDUCATION CODE

22119.5 Creditable service, definition

22131 Employer; employing agency, definition

22164.5 Retired member activities, definition

22461 Notice of earnings limitation

22714 Encouragement of retirement

22715 Additional service credit

22716 Unpaid services

24214 Creditable service by retiree

24214.5 Postretirement compensation limit; members below normal retirement age

26113 Creditable service, definition

35046 Consultancy contracts

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

45134 Age limits

CODE OF REGULATIONS, TITLE 5

27000-27009 Penalties and interests for late remittances and late and unacceptable reporting by employers

Management Resources:

WEB SITES

California State Teachers' Retirement System: <http://www.calstrs.com>

(11/10 4/13) 4/14

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*)

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

RECOGNITION FOR LENGTH OF SERVICE ON RESIGNATION OR RETIREMENT

Upon recommendation from the Superintendent or designee, the Board of Trustees may direct the following special recognition of staff members retiring or resigning following long periods of service as follows:

1. Five to nine years: Letter of appreciation from the Superintendent or designee.
2. Ten to nineteen years: Resolution of appreciation from the Board.
3. Twenty or more years: Presentation of a plaque.

PERSONNEL REDUCTION

The Board of Trustees may reduce the number of probationary and permanent certificated employees when, in its opinion, any 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. During the time period between five days after the enactment of the Budget Act and August 15 of that fiscal year, the Board determines 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)

Determination of the Order of Layoffs

When it is necessary to reduce the number of certificated employees for any of the reasons listed above, the services of employees shall be terminated in the inverse of the order in which they were employed by the district in probationary status, except as otherwise authorized by law. (Education Code 44844, 44955)

The Superintendent or designee shall maintain the seniority list for this purpose and shall make it available upon request.

Unless otherwise provided by law, a permanent employee shall have the right to be retained over a probationary employee or any employee with less seniority if the position is one for which he/she is certificated and competent to render service. (Education Code 44955)

(cf. 4112.2 - Certification)

(cf. 4112.22 - Staff Teaching English Language Learners)

(cf. 4112.23 - Special Education Staff)

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

(cf. 4113 - Assignment)

(cf. 4116 - Probationary/Permanent Status)

To determine the order of termination between employees who first rendered paid service on the same date, the Board shall rank order those employees solely on the basis of the needs of

PERSONNEL REDUCTION (continued)

the district and students. Upon the request of an employee whose order of termination is to be determined based on such ranking, the Board shall furnish the employee, no later than five days prior to the commencement of the administrative hearing on the layoff, a written 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)

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 to reduce the number of permanent and/or probationary employees pursuant to Education Code 44955 as specified in items #1-4 above, the district shall give notice to the affected employees, no later than March 15, stating the reasons for the action and the employees' right to a hearing. The district shall adhere to the notice, hearing, and layoff procedures in Education Code 44949, 44955, and other applicable provisions of law.

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

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 administrative law judge's proposed decision, refer the case back to the administrative law judge for additional evidence, or reject or modify the proposed decision and make its own determination based upon its review of the record.

Following the Board's decision, the Superintendent or designee shall give final notice, in the manner specified, to the affected employees before May 15 unless the parties agree otherwise in accordance with procedures required by law. (Education Code 44955)

PERSONNEL REDUCTION (continued)

When layoffs become necessary pursuant to Education Code 44955.5 as specified in item #5 above, layoff proceedings shall be carried out as required by law but in accordance with a schedule of notice and hearing adopted by the Board. (Education Code 44955.5)

Reappointment

If the number of employees is increased or the discontinued service reestablished, permanent certificated employees shall have the right to reappointment, in order of seniority, for 39 months from the date of termination. Probationary certificated employees shall have the same right for 24 months after being terminated, subject to the prior reappointment rights of permanent employees. (Education Code 44846, 44956, 44957)

During the period of the preferred right to reappointment, permanent certificated employees shall, in the order of original employment, be offered first opportunity for substitute service during the absence of any employee who has been granted a leave of absence or who is temporarily absent from duty. Such substitute service may be terminated upon the return to duty of the other employee. Such substitute service shall not affect the retention of the employees' previous classification and rights. Probationary certificated employees shall have the same right to substitute service during the period of preferred right to reappointment to the extent required by law, subject to the rights of permanent certificated employees. (Education Code 44918, 44956, 44957)

(cf. 4121 - Temporary/Substitute Employees)

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 44956)

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:*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*

UNEMPLOYMENT INSURANCE CODE

PERSONNEL REDUCTION (continued)

Legal Reference: (continued)

1089 Notification of unemployment insurance benefits

CODE OF REGULATIONS, TITLE 22

1089-1 Notification of unemployment insurance benefits

COURT DECISIONS

Vergara v. State of California, (2014) Superior Court State of California, County of Los Angeles, Case. No. BC 484642

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>

(10/94 7/07) 8/14

All Personnel

AR 4117.5

4217.5

TERMINATION AGREEMENTS

4317.5

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

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

The Superintendent shall report to the Commission on Teacher Credentialing (CTC) any change in the employment status of a certificated employee who, while working in a position requiring a credential and as a result of an allegation of misconduct or while an allegation of misconduct is pending: (Education Code 44030.5, 44242.5; 5 CCR 80303)

1. Is dismissed or nonreelected

(cf. 4116 - Probationary/Permanent Status)

(cf. 4117.4 - Dismissal)

(cf. 4117.6 - Decision Not to Rehire)

2. Resigns

(cf. 4117.2 - Resignation)

3. Is suspended or placed on unpaid administrative leave for more than 10 days as a final adverse employment action

(cf. 4118 - Suspension/Disciplinary Action)

4. Retires

5. Is otherwise terminated by a decision not to employ or reemploy

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

(cf. 5141.4 - Child Abuse Prevention and Reporting)

This report is not required when the change in employment status is due solely to unsatisfactory performance pursuant to Education Code 44932 or a reduction in force pursuant to Education Code 44955-44958. (Education Code 44030.5, 44242.5; 5 CCR 80303)

(cf. 4115 - Evaluation/Supervision)

(cf. 4117.3 - Personnel Reduction)

When required, the report of a change in employment status shall be submitted not later than 30 days after the employment action. The report shall be made using a form provided by the CTC and shall include all known information about each alleged act of misconduct by the employee. The report shall contain the name and current address of the certificated employee, name of the district, last school or district assignment, an explanation of the allegation of misconduct or pending allegation of misconduct, current contact information for all persons who may have information relating to the alleged misconduct, and any and all documentation related to the case. (Education Code 44030.5; 5 CCR 80303)

Upon a change in employment status as a result of alleged misconduct or while an allegation of misconduct is pending, the Superintendent shall, in writing, inform the employee of the contents of 5 CCR 80303. (5 CCR 80303)

EMPLOYMENT STATUS REPORTS (continued)

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

Additional Reports of Employee Misconduct

The Superintendent or designee shall submit a report to the CTC, using a form provided by the CTC and attaching all relevant documents, whenever:

1. An employee, by complaint, information, or indictment filed in court, is charged with a "mandatory leave of absence offense," defined as a sex or drug offense specified in Education Code 44940. (Education Code 44242.5, 44940, 44940.5) Not later than 10 days after receipt of such a complaint, information, or indictment regarding an employee, 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)

If the offense results in a change in employment status, the Superintendent shall submit an employment status report in addition to the report of the mandatory leave of absence offense.

2. An employee refuses, without good cause, to fulfill a valid employment contract, or departs from district service without the consent of the Superintendent or Governing Board. (Education Code 44242.5, 44420)

As appropriate, the Superintendent or designee also shall notify the CTC of any of the following:

1. A complaint filed with the district regarding a certificated employee's alleged sexual misconduct (Education Code 44242.5)

The notice to the CTC 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 knowing and willful use of school records of student data in connection with, or in implicit or explicit attempts to recruit a student to be a customer for, any business owned by the certificated employee or in which the certificated employee is an employee (Education Code 44242.5, 44421.1)

EMPLOYMENT STATUS REPORTS (continued)

(cf. 5125 - Student Records)

3. An employee's knowing and willful reporting of false fiscal expenditure data relative to the conduct of any educational program (Education Code 44242.5, 44421.5)
4. An employee's subversion or attempt to subvert any licensing examination or the administration of an examination (Education Code 44242.5, 44439)

Legal Reference:

EDUCATION CODE

44009 Conviction of specified crimes

44010 Sex offense, definitions

44011 Controlled substance offense, definitions

44030.5 Employment status reports

44225 Powers and duties of the CTC

44242.5 Reports and review of alleged misconduct

44420-44440 Adverse actions by CTC against credential holder

44932 Causes for dismissal

44940 Sex offenses and narcotic offenses; compulsory leave of absence

44940.5 Compulsory leave of absence

44955-44958 Reduction in force

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, 2013

WEB SITES

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

Commission on Teacher Credentialing: <http://www.ctc.ca.gov>

(3/02 11/08) 4/14

SUSPENSION/DISCIPLINARY ACTION

The Board of Trustees expects all employees to perform their jobs satisfactorily, exhibit professional and appropriate conduct, and serve as positive role models both at school and in the community. A certificated employee may be disciplined for conduct or performance in accordance with law, the applicable collective bargaining agreement, Board policy, and administrative regulation.

(cf. 4000 - Concepts and Roles)
(cf. 4112.5/4212.5/4312.5 - Criminal Record Check)
(cf. 4119.21/4219.21/4319.21 - Professional Standards)
(cf. 4141/4241 - Collective Bargaining Agreement)

Disciplinary action shall be based on the particular facts and circumstances involved and the severity of the conduct or performance. Disciplinary actions may include, but are not limited to, verbal warnings, written warnings, reassignment, suspension, freezing or reduction of wages, compulsory leave, or dismissal.

(cf. 4114 - Transfers)

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

(cf. 1312.1 - Complaints Concerning District Employees)
(cf. 4030 - Nondiscrimination in Employment)
(cf. 4031 - 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)

Suspension/Dismissal Procedures

The Superintendent shall notify the Board whenever he/she believes that there is cause to suspend or dismiss an employee pursuant to Education Code 44932 or 44933.

When the Board finds that there is cause to suspend or dismiss an employee pursuant to Education Code 44932 or 44933, it may formulate a written statement of charges specifying instances of behavior and the acts or omissions constituting the charge, the statutes and rules that the employee is alleged to have violated when applicable, and the facts relevant to each charge. The Board shall also review any duly signed and verified written statement of charges filed by any other person. (Education Code 44934, 44934.1)

Based on the written statement of charges, the Board may, upon majority vote, give notice to the employee of its intention to suspend or dismiss him/her at the expiration of 30 days from the date the notice is served. (Education Code 44934, 44934.1)

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

SUSPENSION/DISCIPLINARY ACTION (continued)

Prior to serving a suspension or dismissal notice that includes a charge of unsatisfactory performance, the district shall give the employee written notice of the unsatisfactory performance that specifies the nature of the unsatisfactory performance with such specific instances of behavior and with such particularity as to furnish the employee an opportunity to correct his/her faults and overcome the grounds for any unsatisfactory performance charges and, if applicable, that includes the evaluation made pursuant to Education Code 44660-44665. The written notice of the unsatisfactory performance shall be provided at least 90 days prior to the filing of the suspension or dismissal notice or prior to the last one-fourth of the school days in the year. (Education Code 44938)

(cf. 4115 - Evaluation/Supervision)

Prior to serving a suspension or dismissal notice that includes a charge of unprofessional conduct, the district shall give the employee written notice that describes the nature of the unprofessional conduct with such specific instances of behavior and with such particularity as to furnish the employee an opportunity to correct his/her faults and overcome the grounds for any unprofessional conduct charges and, if applicable, that includes the evaluation made pursuant to Education Code 44660-44665. The written notice of the unprofessional conduct shall be provided at least 45 days prior to the filing of the suspension or dismissal notice. (Education Code 44938)

Except for notices that only include charges of unsatisfactory performance, the written suspension or dismissal notice may be served at any time of year. Such notice shall be served upon the employee personally if given outside of the instructional year or, if given during the instructional year, may be served personally or by registered mail to the employee's last known address. Notices with a charge of unsatisfactory performance shall be given only during the instructional year of the school site where the employee is physically employed, and may be served personally or by registered mail to the employee's last known address. (Education Code 44936)

If an employee has been served notice and demands a hearing pursuant to Government Code 11505 and 11506, the Board shall either rescind its action or schedule a hearing on the matter. (Education Code 44941, 44941.1, 44943, 44944)

Pending suspension or dismissal proceedings for an employee who is charged with egregious misconduct, immoral conduct, conviction of a felony or of any crime involving moral turpitude, incompetency due to mental disability, or willful refusal to perform regular assignments without reasonable cause as prescribed by district rules and regulations, the Board may, if it deems it necessary, immediately suspend the employee from his/her duties. If the employee files a motion with the Office of Administrative Hearings for immediate reversal of the suspension based on a cause other than egregious misconduct, the Board may file a written response before or at the time of the hearing. (Education Code 44939, 44939.1, 44940)

SUSPENSION/DISCIPLINARY ACTION (continued)

When a suspension or dismissal hearing is to be conducted by a Commission on Professional Competence, the Board shall, no later than 45 days before the date set for the hearing, select one person with a currently valid credential to serve on the Commission. The appointee shall not be an employee of the district and shall have at least three years' experience within the past 10 years at the same grade span or assignment as the employee, as defined in Education Code 44944. (Education Code 44944)

*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*
 44929.21 *Notice of reelection decision; districts with 250 ADA or more*
 44929.23 *Reelection and dismissal of probationary employees; districts with ADA less than 250*
 44930-44988 *Resignations, dismissal, and 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

1028 *Advocacy of communism*
 3543.2 *Scope of representation*
 11505-11506 *Hearing*

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*
 11165.2-11165.6 *Child abuse or neglect; definitions*

CODE OF REGULATIONS, TITLE 5

80303 *Reports of change in employment status*
 80304 *Notice of sexual misconduct*

Legal Reference: continued on next page

SUSPENSION/DISCIPLINARY ACTION (continued)

Legal Reference: (continued)

COURT DECISIONS

Vergara v. California (Los Angeles Super.Ct.) BC484642

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

Morrison v. State Board of Education (1969) 1 Cal.3d 214

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>

(7/00 11/08) 12/14

SUSPENSION/DISCIPLINARY ACTION

Causes for Suspension or Dismissal

A certificated employee with permanent status may be suspended without pay or dismissed only for one or more of the following causes: (Education Code 44932)

1. Immoral conduct including, but not limited to, egregious misconduct that is the basis for a sex offense or controlled substance offense described in Education Code 44010 or 44011 or child abuse and neglect as described in Penal Code 11165.2-11165.6
2. Unprofessional conduct
3. Commission, aiding, or advocating the commission of acts of criminal syndicalism
4. Dishonesty
5. Unsatisfactory performance
6. Evident unfitness for service
7. Physical or mental condition unfitting the employee to instruct or associate with children

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

8. Persistent violation of or refusal to obey the school laws or regulations of the state or district
9. Conviction of a felony or of any crime involving moral turpitude
10. Violation of Education Code 51530 or Government Code 1028 (advocacy of communism)
11. Alcoholism or other drug abuse that makes the employee unfit to instruct or associate with children

(cf. 4115 - Evaluation/Supervision)

An employee may be suspended or dismissed on grounds of unprofessional conduct consisting of acts or omissions not listed above if the charge specifies instances of behavior deemed to constitute unprofessional conduct. (Education Code 44933)

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

SUSPENSION/DISCIPLINARY ACTION (continued)

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)

Suspension/Dismissal of Permanent Employees

When a permanent certificated employee is charged with one or more of the offenses specified in the section "Causes for Suspension or Dismissal" above, the following procedures shall apply:

1. The person preparing a written statement of charges that there is cause to suspend or dismiss an employee shall submit the signed statement to the Governing Board. (Education Code 44934, 44934.1)
2. Upon receiving notice of the Board's intent to suspend or dismiss him/her, the employee may request a hearing on the matter. The hearing shall be conducted by the Commission on Professional Competence, except that any case involving only egregious misconduct shall be heard instead by an administrative law judge and, in any other case, the hearing may be conducted by an administrative law judge when both the district and employee so stipulate. (Education Code 44943, 44944, 44944.05, 44944.1, 44944.3)
3. Except when an employee is charged solely with egregious misconduct, the district may amend the charges less than 90 days before the hearing only upon showing of good cause and upon approval of the administrative law judge. (Education Code 44934)
4. The employee shall be suspended or dismissed when the Commission on Professional Competence or administrative law judge has issued its decision supporting suspension or dismissal or, if the employee did not request a hearing, at the expiration of 30 days after service of the notice of intent to suspend or dismiss. (Education Code 44941, 44943, 44944)

The Superintendent or designee shall notify the Commission on Teacher Credentialing when the employment status of a certificated employee has been changed as a result of alleged misconduct or while an allegation of misconduct is pending. (Education Code 44030.5, 44242.5, 44940; 5 CCR 80303)

(cf. 4117.7/4317.7 - Employment Status Reports)

SUSPENSION/DISCIPLINARY ACTION (continued)

Suspension/Dismissal of Probationary Employees

The district may choose not to rehire probationary employees for the following school year without giving a statement of reasons provided that it is done in accordance with AR 4117.6 - Decision Not to Rehire and proper notice is provided by March 15. (Education Code 44929.21, 44929.23)

(cf. 4116 - Probationary/Permanent Status)

(cf. 4117.6 - Decision Not to Rehire)

During the school year, probationary employees in their first or second year of service may be dismissed only for one or more of the causes listed in items #1-11 in the section "Causes for Suspension or Dismissal" above or for unsatisfactory performance determined pursuant to Education Code 44660-44665. (Education Code 44948.2, 44948.3)

Whenever a first- or second-year probationary employee is so charged, the following procedures shall apply for dismissing the employee: (Education Code 44948.3)

1. The Superintendent or designee shall give 30 days' prior written notice of dismissal, not later than March 15 in the case of second-year probationary employees. The notice shall include a statement of the reasons for the dismissal, notice of the opportunity to appeal, and, if the cause is unsatisfactory performance, a copy of the evaluation conducted pursuant to Education Code 44664.

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

2. Upon receipt of the notice of dismissal, the employee may be dismissed if no request for a hearing is submitted to the Board within 15 days.
3. If a hearing is requested, the district may arrange for the appointment of an administrative law judge to conduct the hearing and to recommend a decision to the Board.

A probationary employee may be suspended without pay for a specified period of time as an alternative to dismissal. (Education Code 44948.3)

Compulsory Leave of Absence

Upon being informed by law enforcement 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

SUSPENSION/DISCIPLINARY ACTION (continued)

2. Violation or attempted violation of Penal Code 187 (murder)
3. 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

(cf. 4117.7/4317.7 - Employment Status Reports)

The Superintendent or designee may place on an immediate compulsory leave of absence a certificated employee who is charged with an "optional leave of absence offense," defined as a controlled substance offense specified in Education Code 44011 and Health and Safety Code 11357-11361, 11363, 11364, and 11370.1 except as it relates to marijuana, mescaline, peyote, or tetrahydrocannabinols. (Education Code 44940)

If an employee is charged with an offense that falls into both the mandatory and optional leave of absence definitions, the offense shall be treated as a mandatory leave of absence offense. (Education Code 44940)

An employee's compulsory leave for a mandatory or optional leave of absence offense may extend for not more than 10 days after the entry of judgment in the criminal proceedings. However, the compulsory leave may be extended if the Board gives 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)

During the period of compulsory leave, the employee shall be compensated in accordance with Education Code 44940.5.

Upon receipt of telephone or electronic notification from the Department of Justice that a current temporary, substitute, or probationary employee serving before March 15 of his/her second probationary year has been convicted of a violent or serious felony, the Superintendent or designee shall immediately place the employee on leave without pay. Upon receipt of 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. 4112.5/4212.5/4312.5 - Criminal Record Check)

(7/00 11/08) 12/14

Regulation
approved: January 4, 2012
revised: April 8, 2015

BIGGS UNIFIED SCHOOL DISTRICT
Biggs, California

All Personnel

BP 4119.1(a)

4219.1

CIVIL AND LEGAL RIGHTS

4319.1

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)

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

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

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.

(cf. 3515 - Campus Security)

(cf. 4040 - Employee Use of Technology)

Whistleblower Protection

An employee shall have the right to disclose to a Board member, a school administrator, a member of the County Board of Education, County Superintendent of Schools, or the Superintendent of Public Instruction any improper governmental activity by the district or a district employee that violates state or federal law, is economically wasteful, or involves gross misconduct, incompetency, or inefficiency. When the employee has reasonable cause to believe that the information discloses a violation of state or federal statute or a violation or noncompliance with a state or federal rule or regulation, he/she has the right to disclose such information to a government or law enforcement agency or to refuse to participate in any such activity. (Education Code 44112, 44113; Labor Code 1102.5)

The Superintendent or designee shall prominently display in lettering larger than size 14 point type a list of employees' rights and responsibilities under the whistleblower laws, including the telephone number of the whistleblower hotline maintained by the office of the California Attorney General. (Labor Code 1102.8)

CIVIL AND LEGAL RIGHTS (continued)

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

(cf. 4118 - Suspension/Disciplinary Action)

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

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

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 4144/4244/4344 - Complaints)

Protection Against Liability

No employee shall be liable for harm caused by his/her act or omission when acting within the scope of employment or district responsibilities. For the protection against liability to apply, the act or omission must be in conformity with federal, state, and local laws and must be in furtherance of an effort to control, discipline, expel, or suspend a student, or to maintain order or control in the classroom or school. (20 USC 6736)

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

(cf. 9260 - Legal Protection)

The protection against liability shall not apply when: (20 USC 6736)

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.

CIVIL AND LEGAL RIGHTS (continued)

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:

EDUCATION CODE

200-262.4 Prohibition of discrimination on the basis of sex

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

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

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

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://caag.state.ca.us>

BP 4119.1(d)
4219.1
4319.1

CIVIL AND LEGAL RIGHTS (continued)

Policy
adopted: January 4, 2012
revised: November 7, 2012

BIGGS UNIFIED SCHOOL DISTRICT
Biggs, California

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 4030 – Nondiscrimination 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>

Policy
adopted: January 4, 2012
revised: March 2, 2016

BIGGS UNIFIED SCHOOL DISTRICT
Biggs, California

All Personnel

AR 4119.11(a)

4219.11

SEXUAL HARASSMENT

4319.11

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](#); Government Code [12940](#); 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. Regardless of whether or not the alleged harasser was motivated by sexual desire, the conduct is sufficiently severe, persistent, pervasive, or objectively offensive 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

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 such newly hired or promoted employees shall receive training within six months of their assumption of the new position. (Government Code [12950.1](#))

A supervisory employee is any employee with the authority to hire, transfer, suspend, lay off, promote, discharge, assign, reward, or discipline other employees, or to effectively recommend such action.

The district's sexual harassment training and education program for supervisory employees shall include the provision of: (Government Code [12950.1](#); 2 CCR [11023](#))

1. Information and practical guidance regarding 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
2. Practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation
3. A component on the prevention of abusive conduct that addresses the use of derogatory remarks, insults, or epithets, other verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, and the gratuitous sabotage or undermining of a person's work performance
4. A copy of the district's sexual harassment policy and administrative regulation, which each participant shall acknowledge in writing that he/she has received
5. All other contents of mandated training specified in 2 CCR [11023](#)

The Superintendent or designee shall retain for at least two years the records of any training provided to supervisory employees. Such records shall include the names of trained employees, date of the training, the type of training, and the name of the training provider. (2 CCR [11023](#))

Notifications

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

SEXUAL HARASSMENT (continued)

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 every district employee 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](#))

1. The illegality of sexual harassment
2. The definition of sexual harassment under applicable state and federal law
3. A description of sexual harassment, with examples
4. The district's complaint process available to the employee
5. The legal remedies and complaint process available through 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 [11021](#) 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](#))

(7/05 3/08) 10/15

All Personnel

BP 4119.21(a)
4219.21
4319.21

PROFESSIONAL STANDARDS

The Board of Trustees expects district employees to maintain the highest ethical standards, exhibit professional behavior, follow district policies and regulations, and abide by state and federal laws. Employee conduct should enhance the integrity of the district and advance the goals of the district's educational programs. Each employee should make a commitment to acquire the knowledge and skills necessary to fulfill his/her responsibilities and should focus on his/her contribution to the learning and achievement of district students.

(cf. 0200 - Goals for the School District)
(cf. 4112.2 - Certification)
(cf. 4119.1/4219.1/4319.1 - Civil and Legal Rights)
(cf. 4131 - Staff Development)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)

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)

Staff Conduct with Students

The Board expects all employees to exercise good judgment and maintain professional standards and boundaries when interacting with students both on and off school property. Inappropriate employee conduct shall include, but not be limited to, engaging in harassing or discriminatory behavior; engaging in inappropriate socialization or fraternization with a student; soliciting, encouraging, or establishing an inappropriate written, verbal, or physical relationship with a student; furnishing tobacco, alcohol, or other illegal or unauthorized substances to a student; or engaging in child abuse.

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 4040 - Employee Use of Technology)
(cf. 5131 - Conduct)
(cf. 6163.4 - Student Use of Technology)

An employee who observes or has evidence of inappropriate conduct between another employee and a student shall immediately report such conduct to the principal or Superintendent or designee. An employee who has knowledge of or suspects child abuse 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. 5141.4 - Child Abuse Prevention and Reporting)
(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

PROFESSIONAL STANDARDS (continued)

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)

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)

PROFESSIONAL STANDARDS (continued)

(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)

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)

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.

PROFESSIONAL STANDARDS (continued)

(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.

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, 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>

All Personnel

BP 4119.23(a)

4219.23

**UNAUTHORIZED RELEASE OF CONFIDENTIAL/
PRIVILEGED INFORMATION**

4319.23

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(a)

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: (see next page)

POLITICAL ACTIVITIES OF EMPLOYEES (continued)

Legal Reference:

EDUCATION CODE

7050-7057 *Political activities of school officers and employees*

38130-38139 *Civic Center Act*

51520 *Prohibited solicitations on school premises*

GOVERNMENT CODE

3543.1 *Rights of employee organizations*

COURT DECISIONS

Downs v. Los Angeles Unified School District, (9th Cir. 2000) 228 F.3d 1003

California Teachers Association v. Governing Board of San Diego Unified School District, (1996) 45 Cal.App. 4th 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>

All Personnel

AR 4119.25(a)

4219.25

POLITICAL ACTIVITIES OF EMPLOYEES

4319.25

District employees shall not:

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

AR 4119.25(b)
4219.25
4319.25

POLITICAL ACTIVITIES OF EMPLOYEES (continued)

Employee Organizations

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

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

(cf. 4140/4240 - Bargaining Units)

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

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

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

All Personnel

BP 4119.41(a)

4219.41

EMPLOYEES WITH INFECTIOUS DISEASE

4319.41

The Board of Trustees encourages each employee to inform the district as soon as possible if he/she contracts an infectious disease which creates a physical or mental disability. The Board will reasonably accommodate the needs of such individuals.

The Board may reassign or grant disability leave to an employee who is unable to perform his/her job responsibilities because of illness or because the employee's illness significantly endangers his/her health or safety or the health or safety of others.

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

(cf. 4261.1 - Personal Illness/Injury Leave)

No employee will be discriminated against because of his/her disability. Legal protections established for disabled persons extend to individuals significantly impaired by infectious diseases.

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

(cf. 4030 - Nondiscrimination in Employment)

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

When informed that an employee has a disabling infectious disease, the Superintendent or designee may request that the employee sign a release form to provide confidential medical information and records.

In determining a reasonable accommodation of the employee's condition, the Superintendent or designee may consult with public health officials or physicians with expertise in the diagnosis and treatment of infectious disease. The Superintendent or designee may also communicate with the employee's physician regarding the employee's ability to perform the essential requirements of the job with reasonable accommodation and without posing significant health or safety risks to the employee or others.

The Superintendent or designee shall prepare a confidential report which includes his/her recommendation and the medical information upon which it is based. These recommendations shall take into consideration:

1. The nature of the disease and the probability of its being transmitted, including the duration and severity of the risk
2. The physical condition of the employee, including diagnosis, treatment, and prognosis of the condition
3. The actual requirements of the employee's job and the expected type of interaction with others in the school setting

This report shall be forwarded to the Board for confidential review and action.

EMPLOYEES WITH INFECTIOUS DISEASE (continued)

The job assignment of an employee with a disabling infectious disease shall be reevaluated whenever there is a change in medical knowledge or in the employee's medical regimen or health which might affect his/her assignment.

Confidentiality

The Board and the Superintendent or designee shall ensure that employee rights to confidentiality are strictly observed. The district shall disclose medical record information only to the extent required or permitted by law. The medical records of any employee with a disabling infectious disease shall be held in strict confidence.

Legal Reference:

CIVIL CODE

56-56.37 Confidentiality of medical information

GOVERNMENT CODE

12900-12996 Fair Employment and Housing Act

HEALTH AND SAFETY CODE

120975-121020 Mandated blood testing and confidentiality to protect public health

CODE OF REGULATIONS, TITLE 2

7293.5 et seq.

UNITED STATES CODE, TITLE 29

701 et seq. Rehabilitation Act

UNITED STATES CODE, TITLE 42

12101-12213 Americans With Disabilities Act

COURT DECISIONS

School Board of Nassau County, Fla. v. Arline, 408 U.S. 273 (1987)

All Personnel

BP 4119.42

4219.42

EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS

4319.42

As part of its commitment to provide a safe and healthful work environment, the 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>

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
5. Provide for counseling and evaluation of reported illnesses

EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS (continued)

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

AR 4119.42(g)
4219.42
4319.42

EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS (continued)

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

All Personnel

E 4119.42

4219.42

EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS

4319.42

Hepatitis B Vaccine Declination

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

Signature

Employee Name (Please print)

Date

All Personnel

BP 4119.43

4219.43

UNIVERSAL PRECAUTIONS

4319.43

In order to protect employees from contact with potentially infectious blood or other body fluids, the 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>

All Personnel

AR 4119.43(a)

4219.43

UNIVERSAL PRECAUTIONS

4319.43

Definitions

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

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

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

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

Employee Information

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

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

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

Infection Control Practices

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

Where occupational exposure remains after the institution of engineering and work practice controls, the Superintendent or designee shall provide appropriate personal protective equipment at no cost to the employee. Such equipment may include gloves, gowns, masks,

UNIVERSAL PRECAUTIONS (continued)

eye protection, and other devices that do not permit blood or other potentially infectious materials to pass through or reach the employee's clothes, skin, eyes, mouth or other mucous membranes under normal conditions of use. The Superintendent or designee shall maintain, repair, make accessible and require employees to use and properly handle protective equipment. (8 CCR 5193(d))

The Superintendent or designee shall provide 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 decontaminated for reuse. Utility gloves may be decontaminated for reuse if

UNIVERSAL PRECAUTIONS (continued)

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)