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*

The Superintendent or designee shall be responsible for processing requests for employment 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 shall be approved by the Superintendent or designee. At his/her discretion, the Superintendent or designee may refuse to give a recommendation.

The Superintendent or designee may communicate information about the job performance or qualifications of a current or former district employee when such information is based upon credible evidence and is given to a prospective employer without malice and at the prospective employer's request. (Civil Code 47)

Any reference, letter of recommendation, or information provided about the reasons for separation issued on behalf of the district shall provide a truthful and accurate 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)*

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)

*Legal Reference:*
*LABOR CODE*
*1050-1054 Reemployment privileges*
*CIVIL CODE*
*47 Privileged communication*
*CODE OF CIVIL PROCEDURE*
*527.3 Labor disputes*
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*(9/89 10/96) 7/17*

# EMPLOYMENT OF RELATIVES

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

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

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

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

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

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

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

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

*Legal Reference: (see next page)*

**EMPLOYMENT OF RELATIVES** (continued)

*Legal Reference:*

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

*Management Resources:*

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

# Board Policy

**All Personnel** BP 4112.9(a)
4212.9
**EMPLOYEE NOTIFICATIONS** 4312.9

The Board of Trustees believes that providing clear communications to staff is essential to establishing a professional, positive work environment and enhancing their job performance. The Superintendent or designee shall provide district employees all notifications required by law and any other notifications the Superintendent or designee 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*
*44929.23 Reelection notice, districts with less than 250 ADA*
*44934 Notice of disciplinary action for cause*
*44934.1 Suspension or dismissal for egregious misconduct*
*44936 Notice of suspension or dismissal*
*44938 Notice of unprofessional conduct and opportunity to correct*
*44940.5-44941 Notification of suspension and intent to dismiss*
*44948.3 Dismissal of probationary employees*
*44948.5 Nonreelection procedures, districts under 250 ADA*
*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)*

*49013 Complaints regarding student fees*
*49079 Notification to teacher; student who has engaged in acts re: grounds suspension or expulsion*
*49414 Epinephrine auto-injectors*
*49414.3 Administration of opioid antagonist*
*CIVIL CODE*
*1798.29 District records, breach of security*
*GOVERNMENT CODE*
*1126 Incompatible activities of employees*
*8355 Certification of drug-free workplace, including notification*
*12950 Sexual harassment*
*21029 Retirement credit for period of military service*
*54957 Complaints against employees; right to open session*
*54963 Unauthorized disclosure of confidential information*
*HEALTH AND SAFETY CODE*
*1797.196 Automated external defibrillators; notification of use and locations*
*104420 Tobacco-free schools*
*120875 Information on AIDS, AIDS-related conditions, and hepatitis B*
*120880 Notification to employees re AIDS, AIDS-related conditions, and hepatitis B*
*LABOR CODE*
*245-249 Healthy Workplaces, Healthy Families Act of 2014*
*1034 Lactation accommodation*
*2800.2 Notification of availability of continuation health coverage*
*2810.7 Notice to participate in flexible spending account*
*3550-3553 Notifications re: workers' compensation benefits*
*5401 Workers' compensation; claim form and notice of potential eligibility*
*PENAL CODE*
*11105 Access to criminal history information*
*11105.2 Subsequent arrest notification*
*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*
*11023 Nondiscrimination in employment*
*11049 Notice of right to request pregnancy disability leave or transfer*
*11091 California Family Rights Act, designation notice*
*11096 Notice of right to request family care leave*
*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*
*5191 Chemical hygiene plan*
*5194 Hazard communication program*
*CODE OF REGULATIONS, TITLE 13*
*1234 Reports regarding school buses and bus drivers*
*2480 Vehicle idling, limitations*

*Legal Reference continued: (see next page)*

**EMPLOYEE NOTIFICATIONS** (continued)

*Legal Reference: (continued)*

*UNITED STATES CODE, TITLE 38*
*4334 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*
*84.205-84.210 Drug-free workplace statement*
*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*
*382.113 Controlled substance and alcohol use and testing notifications*
*382.303 Post-accident information, procedures, and instructions*
*382.601 Controlled substance and alcohol use and testing notifications*

*(2/95 7/12) 5/20*

## I. To All Employees

When/Whom to Notify: At the beginning of school year or upon employment
Education or Other Legal Code: Education Code 231.5, Government Code 12950,
Board Policy/Administrative Regulation #: AR 4119.11/4219.11/4319.11
Subject: The district's policy on sexual harassment, legal remedies, complaints

When/Whom to Notify: Annually to all employees and 72 hours before pesticide application
Education or Other Legal Code: Education Code 17612
Board Policy/Administrative Regulation #: AR 3514.2
Subject: Use of pesticide product, active ingredients, Internet address to access information

When/Whom to Notify: To all employees, prior to implementing year-round schedule
Education or Other Legal Code: Education Code 37616
Board Policy/Administrative Regulation #: BP 6117
Subject: Public hearing on year-round implementing year-round program schedule

When/Whom to Notify: To all employees, prior to implementing alternative schedule
Education or Other Legal Code: Education Code 46162
Board Policy/Administrative Regulation #: BP 6112
Subject: Public hearing on alternative schedule in secondary grades

When/Whom to Notify: To all employees
Education or Other Legal Code: Education Code 49013; 5 CCR 4622
Board Policy/Administrative Regulation #: AR 1312.3; BP 0460; BP 3260
Subject: Uniform complaint procedures, appeals, civil law remedies, coordinator, complaints about student fees and local control accountability plan

When/Whom to Notify: To all employees
Education or Other Legal Code: Education Code 49414
Board Policy/Administrative Regulation #: AR 5141.21
Subject: Request for volunteers to be trained to administer epinephrine auto-injectors

When/Whom to Notify: At least once per year
Education or Other Legal Code: Education Code 49414.3
Board Policy/Administrative Regulation #: AR 5141.21
Subject: Request for volunteers to be trained to administer opioid antagonist

When/Whom to Notify: To all employees
Education or Other Legal Code: Government Code 1126
Board Policy/Administrative Regulation #: BP 4136/4236/4336
Subject: Prohibition of activities that are inconsistent, incompatible, in conflict with, or inimical to duties; discipline; appeal

When/Whom to Notify: To all employees
Education or Other Legal Code: Government Code 8355; 41 USC 8102; 34 CFR 84.205, 84.210
Board Policy/Administrative Regulation #: BP 4020, BP 4159/4259/4359
Subject: District's drug- and alcohol-free workplace; actions that will be taken if violated; available employee assistance programs

**EMPLOYEE NOTIFICATIONS** (continued)

When/Whom to Notify: Upon employment
Education or Other Legal Code: Government Code 21029
Board Policy/Administrative Regulation #: None
Subject: Right to purchase PERS service credit for military service performed prior to public employment

When/Whom to Notify: Upon placement of automated external defibrillator (AED) in school, annually thereafter
Education or Other Legal Code: Health and Safety Code 1797.196
Board Policy/Administrative Regulation #: AR 5141
Subject: Proper use of AED; location of all AEDs on campus, sudden cardiac arrest, school's emergency response plan

When/Whom to Notify: To all employees, if the district receives Tobacco-Use Prevention Education funds
Education or Other Legal Code: Health and Safety Code 104420
Board Policy/Administrative Regulation #: AR 3513.3
Subject: District's tobacco-free schools policy and enforcement procedures

When/Whom to Notify: Annually to all employees, or more frequently if there is new information
Education or Other Legal Code: Health and Safety Code 120875, 120880
Board Policy/Administrative Regulation #: BP 4119.43/4219.43/4319.43
Subject: AIDS and hepatitis B, methods to prevent exposure

When/Whom to Notify: To all employees, with each paycheck
Education or Other Legal Code: Labor Code 246
Board Policy/Administrative Regulation #: AR 4161.1/4261.1/4361.1
Subject: Amount of sick leave available

When/Whom to Notify: Upon hire, in employee handbook, and upon request for parental leave
Education or Other Legal Code: Labor Code 1034
Board Policy/Administrative Regulation #: BP 4033
Subject: The district's policy on lactation accommodation

When/Whom to Notify: To covered employees and former employees
Education or Other Legal Code: Labor Code 2800.2
Board Policy/Administrative Regulation #: AR 4154/4254/4354
Subject: Availability of COBRA/Cal-COBRA continuation and conversion coverage; statement encouraging careful examination of options before declining coverage

When/Whom to Notify: To employees participating in a flexible spending account
Education or Other Legal Code: Labor Code 2810.7
Board Policy/Administrative Regulation #: None
Subject: Deadline to withdraw funds from account before the end of the plan year

When/Whom to Notify: To every new employee, either at the time employee is hired or by end of first pay period
Education or Other Legal Code: Labor Code 3551
Board Policy/Administrative Regulation #: AR 4157.1/4257.1/4357.1
Subject: Workers' compensation benefits, how to obtain medical care, role of primary physician, form for reporting personal physician/chiropractor

**EMPLOYEE NOTIFICATIONS** (continued)

When/Whom to Notify: Prior to beginning employment
Education or Other Legal Code: Penal Code 11165.7, 11166.5
Board Policy/Administrative Regulation #: AR 5141.4
Subject: Status as a mandated reporter of child abuse, reporting obligations, confidentiality rights, copy of law

When/Whom to Notify: Upon employment, and when employee goes on leave for specified reasons
Education or Other Legal Code: Unemployment Insurance Code 2613
Board Policy/Administrative Regulation #: AR 4154/4254/4354
Subject: Disability insurance rights and benefits

When/Whom to Notify: To all employees and job applicants
Education or Other Legal Code: 2 CCR 11023; 34 CFR 104.8, 106.9
Board Policy/Administrative Regulation #: BP 0410, AR 4030
Subject: District's policy on nondiscrimination and related complaint procedures

When/Whom to Notify: To all employees via employee handbook, or to each new employee
Education or Other Legal Code: 2 CCR 11091, 11095; 29 CFR 825.300
Board Policy/Administrative Regulation #: AR 4161.8/4261.8/4361.8
Subject: 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

When/Whom to Notify: Annually to all employees
Education or Other Legal Code: 40 CFR 763.84, 763.93
Board Policy/Administrative Regulation #: AR 3514
Subject: Availability of asbestos management plan; any inspections, response actions or post-response actions planned or in progress

## II. To Certificated Employees

When/Whom to Notify: To eligible certificated employees in a timely manner, and to part-time and substitute certificated employees within 30 days of hire
Education or Other Legal Code: Education Code 22455.5
Board Policy/Administrative Regulation #: AR 4121
Subject: Criteria for membership in retirement system; right to elect membership at any time

When/Whom to Notify: Upon employment of a retired certificated individual
Education or Other Legal Code: Education Code 22461
Board Policy/Administrative Regulation #: AR 4117.14/4317.14
Subject: Postretirement earnings limitation or employment restriction; monthly report of compensation

When/Whom to Notify: To certificated employees
Education or Other Legal Code: Education Code 35171
Board Policy/Administrative Regulation #: AR 4115, BP 4315
Subject: District regulations related to performance evaluations

When/Whom to Notify: 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
Education or Other Legal Code: Education Code 44663
Board Policy/Administrative Regulation #: AR 4115
Subject: Copy of employee's evaluation

**EMPLOYEE NOTIFICATIONS** (continued)

When/Whom to Notify: To a certificated employee with unsatisfactory evaluation, once per year for probationary employee or at least once every other year for permanent employee
Education or Other Legal Code: Education Code 44664
Board Policy/Administrative Regulation #: AR 4115
Subject: Notice and description of the unsatisfactory performance

When/Whom to Notify: By May 30, if district elects to issue reemployment notices to certificated employees
Education or Other Legal Code: Education Code 44842
Board Policy/Administrative Regulation #: AR 4112.1
Subject: Request that the employee notify district of intent to remain in service next year

When/Whom to Notify: To certificated employees upon employment and to nonpermanent employees in July of each school year
Education or Other Legal Code: Education Code 44916
Board Policy/Administrative Regulation #: AR 4112.1, AR 4121
Subject: Employment status and salary

When/Whom to Notify: To probationary employee, by March 15
Education or Other Legal Code: Education Code 44929.21,44929.23,44948.5
Board Policy/Administrative Regulation #: BP 4116
Subject: Whether or not employee is reelected for next school year

When/Whom to Notify: When certificated employee is subject to disciplinary action for cause, at any time of year or, for charge of unsatisfactory performance, during instructional year
Education or Other Legal Code: Education Code 44934, 44934.1, 44936
Board Policy/Administrative Regulation #: BP 4118; AR 4118
Subject: Notice of charges, procedures, and employee rights; intent to dismiss or suspend 30 days after notice

When/Whom to Notify: To certificated employee charged with unprofessional conduct, at least 45 days prior to suspension/dismissal notice
Education or Other Legal Code: Education Code 44938
Board Policy/Administrative Regulation #: BP 4118
Subject: Notice of deficiency and opportunity to correct

When/Whom to Notify: To certificated employee charged with unsatisfactory performance, at least 90 days prior to suspension/dismissal notice or prior to last quarter of school year
Education or Other Legal Code: Education Code 44938
Board Policy/Administrative Regulation #: BP 4118
Subject: Notice of deficiency and opportunity to correct

When/Whom to Notify: To certificated employee charged with mandatory leave of absence offense, within 10 days of entry of judgment in proceedings
Education or Other Legal Code: Education Code 44940.5
Board Policy/Administrative Regulation #: AR 4118
Subject: Notice of intent to dismiss 30 days from notice unless employee demands hearing

When/Whom to Notify: To probationary employees 30 days prior to dismissal during school year, but not later than March 15 for second- year probationary employees
Education or Other Legal Code: Education Code 44948.3
Board Policy/Administrative Regulation #: AR 4118
Subject: Reasons for dismissal and opportunity to appeal

**EMPLOYEE NOTIFICATIONS** (continued)

When/Whom to Notify: By March 15 when necessary to reduce certificated personnel, with final notice by May 15
Education or Other Legal Code: Education Code 44949, 44955
Board Policy/Administrative Regulation #: BP 4117.3
Subject: Reasons for personnel reduction and employees' right to hearing; final notice of Board decision re: termination

When/Whom to Notify: On or before June 30, to temporary employee who served 75 percent of school year but will be released
Education or Other Legal Code: Education Code 44954
Board Policy/Administrative Regulation #: BP 4121
Subject: District's decision not to reelect employee for following school year

When/Whom to Notify: To teacher, when a student engages in or is reasonably suspected of specified acts
Education or Other Legal Code: Education Code 49079
Board Policy/Administrative Regulation #: AR 4158/4258/4358
Subject: Student has committed specified act that constitutes ground for suspension or expulsion

When/Whom to Notify: To certificated employee upon change in employment status due to alleged misconduct
Education or Other Legal Code: 5 CCR 80303
Board Policy/Administrative Regulation #: AR 4117.7/4317.7
Subject: Contents of state regulation re: report to Commission on Teacher Credentialing

### III. To Classified Employees

When/Whom to Notify: When classified employee is subject to disciplinary action for cause, in nonmerit district
Education or Other Legal Code: Education Code 45113
Board Policy/Administrative Regulation #: AR 4218
Subject: Notice of charges, right to hearing, timeline for requesting hearing

When/Whom to Notify: To classified employees at least 60 days prior to layoff, or by April 29 if specially funded program that expires at end of school year
Education or Other Legal Code: Education Code 45117
Board Policy/Administrative Regulation #: AR 4217.3
Subject: Notice of layoff and reemployment rights

When/Whom to Notify: To classified employees upon employment and upon each change in classification
Education or Other Legal Code: Education Code 45169
Board Policy/Administrative Regulation #: AR 4212
Subject: Employee's class specification, salary data, assignment or work location, duty hours, prescribed workweek

When/Whom to Notify: To classified permanent employee whose leave is exhausted
Education or Other Legal Code: Education Code 45192, 45195
Board Policy/Administrative Regulation #: AR 4261.1, AR 4261.11
Subject: Exhaustion of leave, opportunity to request additional leave

**EMPLOYEE NOTIFICATIONS** (continued)

When/Whom to Notify: To school bus drivers and school activity bus drivers prior to expiration of specified documents
Education or Other Legal Code: 13 CCR 1234
Board Policy/Administrative Regulation #: AR 3542
Subject: Expiration date of driver's license, driver's certificate and medical certificate; need to renew

When/Whom to Notify: To school bus drivers and school activity bus drivers upon employment and at least once per year thereafter
Education or Other Legal Code: 13 CCR 2480
Board Policy/Administrative Regulation #: AR 3542
Subject: Limitations on vehicle idling; consequences of not complying

When/Whom to Notify: To school bus drivers, prior to district drug testing program and thereafter upon employment
Education or Other Legal Code: 49 CFR 382.113, 382.601
Board Policy/Administrative Regulation #: AR 4112.42/4212.42/4312.42
Subject: Explanation of federal requirements for drug testing program and district's policy

When/Whom to Notify: To school bus drivers, prior to operating school bus
Education or Other Legal Code: 49 CFR 382.303
Board Policy/Administrative Regulation #: AR 4112.42/4212.42/4312.42
Subject: Post accident information, procedures, and instruction

## IV. To Administrative/Supervisory Personnel

When/Whom to Notify: To superintendent, deputy, associate, or assistant superintendent or senior manager of classified service, at least 45 days before expiration of contract
Education or Other Legal Code: Education Code 35031
Board Policy/Administrative Regulation #: BP 2121, BP 4312.1
Subject: Decision not to reelect or reemploy upon expiration of contract or term

When/Whom to Notify: Upon request by administrative or supervisory employee transferred to teaching position
Education or Other Legal Code: Education Code 44896
Board Policy/Administrative Regulation #: AR 4313.2
Subject: Statement of the reasons for the release or reassignment

When/Whom to Notify: By March 15 to employee who may be released/reassigned the following school year
Education or Other Legal Code: Education Code 44951
Board Policy/Administrative Regulation #: AR 4313.2
Subject: Notice that employee may be released or reassigned the following school year

## V. To Individual Employees Under Special Circumstances

When/Whom to Notify: In the event of a breach of security of district records to affected employees
Education or Other Legal Code: Civil Code 1798.29
Board Policy/Administrative Regulation #: BP 3580
Subject: Types of records affected, date of breach, description of incident, and, as applicable, contact information for credit reporting agencies

**EMPLOYEE NOTIFICATIONS** (continued)

When/Whom to Notify: Prior to placing derogatory information in personnel file
Education or Other Legal Code: Education Code 44031
Board Policy/Administrative Regulation #: AR 4112.6/4212.6/4312.6
Subject: Notice of derogatory information, opportunity to review and comment

When/Whom to Notify: To employees who volunteer to administer epinephrine auto-injector
Education or Other Legal Code: Education Code 49414
Board Policy/Administrative Regulation #: AR 5141.21
Subject: Defense and indemnification from civil liability by the district

When/Whom to Notify: To employees returning from military leave of absence, within 30 days of return
Education or Other Legal Code: Government Code 20997
Board Policy/Administrative Regulation #: AR 4161.5/4261.5/4361.5
Subject: Right to receive PERS service credit for military service; application form

When/Whom to Notify: 24 hours before Board meets in closed session to hear complaints or charges against employee
Education or Other Legal Code: Government Code 54957
Board Policy/Administrative Regulation #: BB 9321
Subject: Employee's right to have complaints/charges heard in open session

When/Whom to Notify: When taking disciplinary action against employee for disclosure of confidential information
Education or Other Legal Code: Government Code 54963
Board Policy/Administrative Regulation #: BP 4119.23/4219.23/4319.23
Subject: Law prohibiting disclosure of confidential information obtained in closed session

When/Whom to Notify: Within one working day of work-related injury or victimization of crime
Education or Other Legal Code: Labor Code 3553, 5401
Board Policy/Administrative Regulation #: AR 4157.1/4257.1/4357.1
Subject: Potential eligibility for workers' compensation benefits, claim form

When/Whom to Notify: When adverse employment action is based on DOJ criminal history information or subsequent arrest notification
Education or Other Legal Code: Penal Code 11105, 11105.2
Board Policy/Administrative Regulation #: AR 4112.5/4212.5/4312.5
Subject: Copy of DOJ notification

When/Whom to Notify: To any employee with exposure to blood or potentially infectious materials, upon initial employment and at least annually thereafter
Education or Other Legal Code: 8 CCR 3204
Board Policy/Administrative Regulation #: AR 4119.42/4219.42/4319.42
Subject: The existence, location, and availability of exposure and medical records; person responsible for maintaining and providing access to records; right to access records

When/Whom to Notify: To any employee assigned to a work area where hazardous chemical are present, upon initial assignment and upon new exposure situation
Education or Other Legal Code: 8 CCR 5191
Board Policy/Administrative Regulation #: AR 3514.1
Subject: Location and availability of chemical hygiene plan, exposure limits, signs and symptoms of exposure, location of reference material

**EMPLOYEE NOTIFICATIONS** (continued)

When/Whom to Notify: 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
Education or Other Legal Code: 8 CCR 5194
Board Policy/Administrative Regulation #: AR 3514.1
Subject: Any presence of hazardous substances in the work area, location and availability of hazard communication program, new material safety data sheet, employee rights

When/Whom to Notify: To employee eligible for military leave
Education or Other Legal Code: 38 USC 4334
Board Policy/Administrative Regulation #: AR 4161.5/4261.5/4361.5
Subject: Notice of rights, benefits, and obligations under military leave

When/Whom to Notify: 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
Education or Other Legal Code: 29 CFR 825.300; 2 CCR 11049, 11091
Board Policy/Administrative Regulation #: AR 4161.8/4261.8/4361.8
Subject: Designation of leave as FMLA or non-FMLA; if not eligible, reason not eligible; requirement to use paid leave; any requirement for fitness-for-duty certification; any subsequent changes in designation notice

When/Whom to Notify: Whenever notice of eligibility for FMLA is provided to employee
Education or Other Legal Code: 29 CFR 825.300
Board Policy/Administrative Regulation #: AR 4161.8/4261.8/4361.8
Subject: Rights and responsibilities re: use of FMLA; consequences of failure to meet obligations

*(3/17 3/20) 5/20*

# 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

In order to serve the best interests of students and the educational program, the Governing Board authorizes the Superintendent or designee to assign certificated personnel to positions for which they are qualified pursuant to their certification, preparation, professional experience, and aptitude.

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

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

*(cf. 4141/4241 - Collective Bargaining Agreement)*

### Assignment to Courses/Classes

The Superintendent or designee shall assign teachers 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 the teacher to provide instruction in that subject.

When specifically authorized by law or regulation, the Superintendent or designee may, with the teacher's consent, assign a teacher to a position outside the teacher's credential authorization in accordance with the local teaching assignment options described in the Commission on Teacher Credentialing's (CTC) Administrator's Assignment Manual. Such assignments 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)*

If at any time a certificated employee is required by the district to accept an assignment which the employee believes is not legally authorized by the employee's credential, the employee shall notify the Superintendent or designee, in writing, of the misassignment. Within 15 working days, the Superintendent or designee shall notify the employee of the legality of the assignment. If no action is taken by the district, the employee shall provide written notification to the County Superintendent of Schools. No adverse action shall be taken against an employee who files a notice of misassignment. (Education Code 44258.9)

## Vacancies and Misassignments

Annually, the district shall review potential misassignments and vacant positions throughout the district. Upon receiving notification from CTC of the availability of data regarding potential misassignments and vacant positions in the district, the Superintendent shall review the data within 60 days. When necessary, the Superintendent or designee may respond by submitting additional documentation to the County Superintendent showing that an employee is legally authorized for an assignment and/or that a position identified as vacant was miscoded and a legally authorized employee is assigned to the position. (Education Code 44258.9)

If the district subsequently receives, within 90 days of CTC's initial notification, a notification from the County Superintendent indicating that a certificated employee in the district is assigned to a position for which the employee has no legal authorization, the district shall correct the assignment within 30 calendar days. (Education Code 44258.9)

The district shall serve as the monitoring authority for teacher assignments in any charter school it has authorized, in accordance with Education Code 44258.9-44258.10.

*(cf. 0420.41 - Charter School Oversight)*

Any complaint alleging teacher misassignment or vacancy shall be filed and addressed through the district's procedures specified in AR 1312.4 - Williams Uniform Complaint Procedures.

*(cf. 1312.4 - Williams Uniform Complaint Procedures)*

The school accountability report card for each school shall include any assignment of teachers outside their subject areas of competence, misassignments, including misassignments of teachers of English learners, and the number of vacant teacher positions for the most recent three-year period. (Education Code 33126)

*(cf. 0510 - School Accountability Report Card)*

## Equitable Distribution of Qualified and Experienced Teachers

The Superintendent or designee shall identify and address the equitable distribution of highly qualified and experienced teachers among district schools, including those with higher than average levels of low-income, minority, and/or academically underperforming students. The Superintendent or designee shall annually report to the Board comparisons of teacher qualifications across district schools, including the number of teachers serving under a provisional internship permit, short-term staff permit, intern credential, emergency permit, or credential waiver.

**ASSIGNMENT** (continued)

Strategies for ensuring equitable access to experienced teachers may include, but are not limited to, incentives for voluntary transfers, provision of professional development, and/or programs to recruit and retain effective teachers.

*(cf. 0460 - Local Control and Accountability Plan)*
*(cf. 4111/4211/4311 - Recruitment and Selection)*
*(cf. 4114 - Transfers)*
*(cf. 4131 - Staff Development)*
*(cf. 4131.1 - Teacher Support and Guidance)*
*(cf. 6171 - Title I Programs)*

*Legal Reference:*

*EDUCATION CODE*
*33126 School accountability report card*
*35035 Additional powers and duties of superintendent*
*35186 Complaint process*
*37616 Assignment of teachers to year-round schools*
*44225.6 Commission report to the legislature re: teachers*
*44250-44277 Credentials and assignments of teachers*
*44314 Subject matter programs, approved subjects*
*44824 Assignment of teachers to weekend classes*
*44955 Reduction in number of employees*
*GOVERNMENT CODE*
*3543.2 Scope of representation*
*CODE OF REGULATIONS, TITLE 5*
*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*
*6312 Local educational agency plans*
*6601-6651 Teacher and Principal Training and Recruiting Fund*

*Management Resources:*

*CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS*
*California State Plan to Ensure Equitable Access to Excellent Educators*
*Every Student Succeeds Act 2016-17 School Year Transition Plan, April 2016*
*COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS*
*Administrator's Assignment Manual - Updates and Revisions, May 2014*
*The Administrator's Assignment Manual, rev. September 2007*
*U.S. DEPARTMENT OF EDUCATION GUIDANCE*
*Transitioning to the Every Student Succeeds Act (ESSA): Frequently Asked Questions, rev. May 4, 2016*
*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*
*U.S. Department of Education: http://www.ed.gov*

**ASSIGNMENT** (continued)

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## ASSIGNMENT

### Assignment to Departmentalized Classes Outside Credential Authorization

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

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

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

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

    a. Observation by subject matter specialists

    b. Oral interviews

    c. Demonstration lessons

    d. Presentation of curricular portfolios

    e. Written examinations

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

*(cf. 4115 - Evaluation/Supervision)*

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

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

**ASSIGNMENT** (continued)

**Assignment to Elective Courses Outside Credential Authorization**

A full-time teacher with special skills and preparation outside the credential authorization may, with the teacher's consent and the prior approval of a district committee on assignments, be assigned to teach an elective course in the area of the special skills or preparation, excluding a course in English, mathematics, science, or social studies. (Education Code 44258.7)

The Superintendent or designee shall establish a committee on assignments, consisting of an equal number of teachers selected by teachers and school administrators selected by school administrators, to approve such assignments. (Education Code 44258.7)

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# TEMPORARY MODIFIED/LIGHT-DUTY ASSIGNMENT

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

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

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

*(cf. 4032 - Reasonable Accommodation)*

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

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

*Legal Reference: (see next page)*

**TEMPORARY MODIFIED/LIGHT-DUTY ASSIGNMENT** (continued)

*Legal Reference:*

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

*Management Resources:*

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

## WORKING REMOTELY

The Board of Trustees recognizes that working remotely at home or at another alternative location may be necessary at times when widespread illness, natural disaster, or other emergency condition makes the school or worksite unsafe or otherwise interrupts the district's ability to effectively conduct operations at the school or worksite. A full-time, part-time, or short-term remote work arrangement may also be granted by the Superintendent or designee to an individual employee, upon request, provided that the position is suitable for remote work, the employee has consistently demonstrated the ability to work independently and meet performance expectations, and the work arrangement does not hinder district operations.

*(cf. 3516 - Emergencies and Disaster Preparedness Plan)*
*(cf. 3516.5 - Emergency Schedules)*
*(cf. 4030 - Nondiscrimination in Employment)*
*(cf. 4032 - Reasonable Accommodation)*
*(cf. 4113 - Assignment)*
*(cf. 4157/4257/4357 - Employee Safety)*
*(cf. 6157 - Distance Learning)*

The opportunity to work remotely shall be entirely at the district's discretion, and no grievance or appeal right may arise from district denial of any employee request for remote work.

Employees approved for remote work shall comply with all district policies, administrative regulations, work schedules, and job assignments. Except when specifically agreed, approval of remote work shall not change the compensation, benefits, or other terms and conditions of employment of an employee.

*(cf. 4141/4241 - Collective Bargaining Agreement)*
*(cf. 4151/4251/4351 - Employee Compensation)*
*(cf. 4154/4254/4354 - Health and Welfare Benefits)*

Unless otherwise approved in advance by the Superintendent or designee, employees working remotely shall do so within regular work hours established for the position. Employees are entitled and expected to take appropriate, uninterrupted meal and rest breaks, and shall keep accurate records of the hours they work. Employees shall notify their supervisor when unable to perform work assignments due to illness, equipment failure, or other unforeseen circumstances.

*(cf. 4161.1/4361.1 - Personal Illness/Injury Leave)*
*(cf. 4261.1 - Personal Illness/Injury Leave)*

Employees working remotely are expected to conduct their work in a location that is safe and free of obstructions, hazards, and distractions.

**WORKING REMOTELY continued**

*(cf. 4157.1/4257.1/4357.1 - Work-Related Injuries)*
*(cf. 4157.2/4257.2/4357.2 - Ergonomics)*

Employees shall use caution in accessing the Internet from public locations and in accessing information from networks outside of the district in order to safeguard confidential information. Employees shall be responsible for maintaining and protecting equipment on loan from the district and shall adhere to the district's Acceptable Use Agreement.

*(cf. 4040 - Employee Use of Technology)*
*(cf. 4156.3/4256.3/4356.3 - Employee Property Reimbursement)*

Work done at a remote work location is considered official public business. District records and communications shall be retained and safeguarded against damage or loss, and shall be kept confidential or made accessible to the public in accordance with law.

*(cf. 1340 - Access to District Records)*
*(cf. 3580 - District Records)*
*(cf. 4119.21/4219.21/4319.21 - Professional Standards)*
*(cf. 5125 - Student Records)*

Any employee working remotely shall be available during work hours to the employee's supervisor and other staff, students, parents/guardians, and members of the public, as appropriate, via email, phone, or other means. Lack of responsiveness on the part of the employee may result in discipline and/or termination of remote work responsibilities. Employees shall be required to attend virtual or in-person meetings when directed by their supervisor.

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

Employee productivity shall be evaluated on the basis of time spent on tasks and projects, task completion, and quality of job performance in the same manner as all employees in the same position at the assigned school or office.

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

Remote work arrangements may be discontinued at any time at the discretion of the Superintendent or designee.

**WORKING REMOTELY continued**

*Legal Reference:*
*GOVERNMENT CODE*
*6250-6270 California Public Records Act*
*12900-12996 Fair Employment and Housing Act*
*LABOR CODE*
*226.7 Mandated meal, rest, or recovery periods*
*6400 Safe and healthful employment and place of employment*
*6401 Unsafe workplace*
*UNITED STATES CODE, TITLE 42*
*12101-12213 Americans with Disabilities Act*

*Management Resources:*
*WEB SITES*
*California Department of Industrial Relations: http://www.dir.ca.gov*

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# TRANSFERS

The Board of Trustees desires that certificated staff be assigned in a manner that equitably distributes highly qualified and experienced teachers, meets the needs of district students, and satisfies staffing requirements at each school. The Superintendent or designee is authorized to assign certificated staff in accordance with district policy and/or the collective bargaining agreement as applicable.

*(cf. 0415 - Equity)*
*(cf. 4030 - Nondiscrimination in Employment)*
*(cf. 4113 - Assignment)*
*(cf. 4141/4241- Collective Bargaining Agreement)*

Subject to the approval of the Board, 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)

## 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 students and the school(s), the academic performance of the requested school, and opportunities for the professional growth of the teacher.

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

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.

*(cf. 4117.3 - Personnel Reduction)*

**TRANSFERS** (continued)

*Legal Reference:*

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

*(11/06) 10/18*

## 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*

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## 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. 4118 - Dismissal/Suspension/Disciplinary Action)*

Alternatively, a permanent employee who has been employed by the district at least 10 years and who was rated in his/her previous evaluation as meeting or exceeding standards shall be evaluated at least every five years, if he/she and the evaluator so agree. Either the evaluator or the employee may withdraw consent for the alternative schedule at any time. (Education Code 44664)

### 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)

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

**EVALUATION/SUPERVISION** (continued)

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

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

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

*(11/07 8/14) 7/16*

## PROBATIONARY/PERMANENT STATUS

The Board of Trustees desires to employ and retain highly qualified certificated personnel to implement the district's educational program. Newly hired certificated personnel shall serve a probationary period during which the Board shall determine their suitability for long-term district employment.

Certificated employees who satisfactorily complete the probationary period shall be granted permanent status.

A probationary employee who has been employed by the district in position(s) requiring certification for two complete consecutive school years and is then reelected for the next succeeding school year shall become a permanent employee at the beginning of the third year. (Education Code 44929.21, 44929.23)

During the probationary period, employees shall receive professional development and assistance which 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.

*(cf. 4131 - Staff Development)*

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

*(cf. 4115 - Evaluation/Supervision)*

### Dismissal/Nonreelection of Probationary Employees

During the school year, a probationary employee may be suspended or dismissed only for cause and in accordance with district procedures. (Education Code 44948.3)

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

With proper notice, the Board may, without cause, elect not to reemploy a probationary employee for the subsequent year. (Education Code 44929.21, 44929.23)

*(cf. 4117.3 - Personnel Reduction)*

The Superintendent or designee shall annually provide the Board with recommendations regarding the reelection or nonreelection of probationary certificated personnel for the ensuing school year.

At any time during a probationary employee's first year of employment in the district, the Board may give written notice to the employee of the Board's decision not to reelect the

**PROBATIONARY/PERMANENT STATUS** *continued*

employee for a second school year. If the Board does not give written notice, the employee shall be deemed reelected for the next succeeding school year.

During the final year of the probationary period, the Board may decide not to reelect the employee for the following year, and shall so notify the employee in writing on or before March 15. 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, 44948.5)

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

Such notices shall be delivered through personal service upon the employee, certified mail with return receipt, email, or another method which documents actual receipt of the notice by the employee.

*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*
*44909 Classification of certificated employees in categorically funded projects*
*44910-44913 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*
*44948.5 Nonreelection procedures, districts under 250 ADA*
*44949 Cause, notice and right to hearing required for dismissal of probationary employee*
*44955 Reduction in number of permanent employees*
*COURT DECISIONS*
*Grace v. Beaumont Unified School District (2013) 216 Cal. App. 4th 1325*
*Stockton Teachers Association CTA/NEA v. Stockton Unified School District (2012) 203 Cal. App. 4th 1552*
*Sullivan v. Centinela Valley Union High School District (2011) 194 Cal. App. 4th 69*
*California Teachers Assn. v. Vallejo City Unified School District (2007) 149 Cal. App. 4th 135, 146*
*Hoschler v. Sacramento City Unified School District (2007) 149 Cal. App. 4th 258*
*Bakersfield Elementary Teachers Assn. v. Bakersfield City School District (2006) 145 Cal. App. 4th 1260, 1280*
*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*

**PROBATIONARY/PERMANENT STATUS** *continued*

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# PROBATIONARY/PERMANENT STATUS

## Eligibility for Permanent Status

A probationary employee who, in any one school year, has served for at least 75 percent of the number of days maintained by regular district schools shall be deemed to have served a complete school year. (Education Code 44908)

The following shall not be included for purposes of computing the service required as a prerequisite to classification as a permanent employee:

1. Service as an instructor in classes conducted at regional occupational centers or programs (Education Code 44910)

2. Service under a provisional credential other than a one-year emergency credential (Education Code 44911)

3. Service only as a teacher of basic military drill in high school cadet companies (Education Code 44912)

4. Employment in summer school (Education Code 44913)

## Interns

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

*(cf. 4112.21 - Interns)*

An employee 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 the employee is reelected for the next succeeding school year to a position requiring certification qualifications. (Education Code 44466, 44885.5)

*(10/95 2/98) 10/19*

# 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*

*Management Resources: Next page*

**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*

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*

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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*

## 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*

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## 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*
*MorrisonÂ v. State Board of Education (1969) 1Â 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*

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## 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)*

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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*

**CIVIL AND LEGAL RIGHTS** (continued)

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The following policy shall apply to all district employees, interns, volunteers, contractors, job applicants, and other persons with an employment relationship with the district.

The Board of Trustees is committed to providing a safe work environment that is free of harassment and intimidation. The Board prohibits sexual harassment against district employees and retaliatory behavior or action against any person who complains, testifies, or otherwise participates in the complaint process established for the purpose of this policy.

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

Sexual harassment includes, but is not limited to, harassment that is based on the sex, gender, gender identity, gender expression, or sexual orientation of the victim and harassment based on pregnancy, childbirth, or related medical conditions.

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 employees and others to whom the policy may apply

3. Ensuring prompt, thorough, fair, and equitable 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

The Superintendent or designee shall periodically evaluate the effectiveness of the district's strategies to prevent and address harassment. Such evaluation may involve conducting regular anonymous employee surveys to assess whether harassment is occurring or is perceived to be tolerated, partnering with researchers or other agencies with the needed expertise to evaluate the district's prevention strategies, and using any other effective tool for receiving feedback on systems and/or processes. As necessary, changes shall be made to the harassment policy, complaint procedures, or training.

**Sexual Harassment Reports and Complaints**

District employees who feel that they have been sexually harassed in the performance of their district responsibilities or who have knowledge of any incident of sexual harassment by or against another employee shall immediately report the incident to their direct supervisor, a district administrator, or the district's Title IX Coordinator. Employees may bypass their

**SEXUAL HARASSMENT** (continued)

supervisor in filing a complaint if the supervisor is the subject of the complaint. A supervisor or administrator who receives a harassment complaint shall promptly notify the Title IX Coordinator.

Once notified, the Title IX Coordinator shall ensure the complaint is addressed through either AR 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures for complaints meeting the Title IX definition of sexual harassment or AR 4030 - Nondiscrimination in Employment for complaints meeting the state definition, as applicable, and shall offer supportive measures to the complainant.

*(cf. 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaints)*

Upon investigation of a sexual harassment complaint, any district employee found to have engaged or participated in sexual harassment or to have aided, abetted, incited, compelled, or coerced another to commit sexual harassment in violation of this policy shall be subject to disciplinary action, up to and including dismissal, in accordance with law and the applicable collective bargaining agreement.

*(cf. 4117.7/4317.7 - Employment Status Reports)*
*(cf. 4118 - Dismissal/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 Sexual harassment; distribution of information*
*12950.1 Sexual harassment training*
*LABOR CODE*
*1101 Political activities of employees*
*1102.1 Discrimination: sexual orientation*
*CODE OF REGULATIONS, TITLE 2*
*11009 Employment discrimination*
*11021 Retaliation*
*11023 Harassment and discrimination prevention and correction*
*11024 Sexual harassment training and education*
*11034 Terms, conditions, and privileges of employment*
*CODE OF REGULATIONS, TITLE 5*
*4900-4965 Nondiscrimination in elementary and secondary education programs*
*UNITED STATES CODE, TITLE 20*
*1681-1688 Title IX of the Education Amendments of 1972*
*UNITED STATES CODE, TITLE 42*
*2000e-2000e-17 Title VII, Civil Rights Act of 1964, as amended*

*Legal Reference: continued next page*

**SEXUAL HARASSMENT** (continued)

*Legal Reference: continued*

*CODE OF FEDERAL REGULATIONS, TITLE 34*
*106.1-106.9 Nondiscrimination on the basis of sex in education programs or activities*
*106.51-106.82 Nondiscrimination on the basis of sex in employment in education programs or activities*
*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:*

*U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONS*
*Promising Practices for Preventing Harassment, November 2017*
*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*

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The following administrative regulation shall apply to all allegations of sexual harassment involving employees, interns, volunteers, and job applicants, but shall not be used to resolve any complaint by or against a student.

## Title IX Coordinator

The district designates the following individual(s) as the responsible employee(s) to coordinate its efforts to comply with Title IX of the Education Amendments of 1972, as well as to investigate and resolve sexual harassment complaints under AR 4030 - Nondiscrimination in Employment. The Title IX Coordinator(s) may be contacted at:

Superintendent
300 B Street
Biggs, CA 95917
530-868-1281

*(cf. 4030 - Nondiscrimination in Employment)*
*(cf. 5145.7 - Sexual Harassment)*
*(cf. 5145.71 - Title IX Sexual Harassment Complaint Procedures)*

The district shall notify employees, bargaining units, and applicants for employment of the name or title, office address, email address, and telephone number of the district's Title IX Coordinator. (34 CFR 106.8)

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

## Prohibited Conduct

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, regardless of whether or not the conduct is motivated by sexual desire. Conduct is considered to be sexual harassment when made against another person of the same or opposite sex in the work or educational setting under any of the following conditions: (Education Code 212.5; Government Code 12940; 2 CCR 11034)

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 the conduct is used as the basis for an employment decision affecting the individual.

3. The conduct has the purpose or effect of having a negative impact upon the individual's work performance or of creating an intimidating, hostile, or offensive work environment.

**SEXUAL HARASSMENT** (continued)

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

Examples of actions that might constitute sexual harassment in the work or educational setting, whether committed by a supervisor, a co-worker, or a non-employee, 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

**Training**

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

A supervisory employee is any employee having the authority, in the interest of the district, to hire, transfer, suspend, lay off, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct them, adjust their grievances, or effectively recommend such action, when the exercise of the authority is not of a merely routine or clerical nature, but requires the use of independent judgment. (Government Code 12926)

*(cf. 4300 - Administrative and Supervisory Personnel)*

Such training may be completed by employees individually or as part of a group presentation, may be completed in shorter segments as long as the applicable hourly requirement is met, and may be provided in conjunction with other training provided to the employees. The training shall be presented by trainers or educators with knowledge and

**SEXUAL HARASSMENT** (continued)

expertise in the prevention of harassment, discrimination, and retaliation. (Government Code 12950.1)

The district's sexual harassment training and education program shall include, but is not limited to, the following: (Government Code 12950.1; 2 CCR 11024)

1. Information and practical guidance regarding federal and state laws concerning the prohibition, prevention, and correction of sexual harassment

2. The types of conduct that constitute sexual harassment

3. Remedies available for victims in civil actions, and potential employer/individual exposure/liability

4. Strategies to prevent harassment in the workplace

5. Supervisors' obligation to report sexual harassment, discrimination, and retaliation of which they become aware

6. Practical examples which illustrate sexual harassment, discrimination, and retaliation using training modalities such as role plays, case studies, and group discussions, based on factual scenarios taken from case law, news and media accounts, and hypotheticals based on workplace situations and other sources

7. The limited confidentiality of the complaint process

8. Resources for victims of unlawful harassment, such as to whom they should report any alleged harassment

9. Steps necessary to take appropriate remedial measures to correct harassing behavior, which includes the district's obligation to conduct an effective workplace investigation of a harassment complaint

10. What to do if the supervisor is personally accused of harassment

11. The essential elements of the district's anti-harassment policy, and how to use the policy if a harassment complaint is filed

Employees shall receive a copy of the district's sexual harassment policy and administrative regulations, which they shall read and acknowledge that they have received.

12. Information, including practical examples, of harassment based on gender identity, gender expression, and sexual orientation

**SEXUAL HARASSMENT** (continued)

13. Prevention of abusive conduct, including a review of the definition and elements of abusive conduct pursuant to Government Code 12950.1, the negative effects that abusive conduct has on the victim and other in the workplace, the detrimental consequences of this conduct on employee productivity and morale, and that a single act does not constitute abusive conduct unless the act is severe or egregious

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 11024)

**Notifications**

The Superintendent or designee shall notify employees that the district does not discriminate on the basis of sex as required by Title IX, that the Title IX nondiscrimination requirement extends to employment, and that inquiries about the application of Title IX to the district may be referred to the district's Title IX Coordinator and/or to the Assistant Secretary for Civil Rights, U.S. Department of Education. (34 CFR 106.8)

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

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

2. Be provided to every district employee at the beginning of the first quarter or semester of the school year or whenever a new employee is hired

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 a copy of an information sheet prepared by the California Department of Fair Employment and Housing (DFEH) or the district that contains, 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

**SEXUAL HARASSMENT** (continued)

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, the DFEH poster on discrimination in employment and the illegality of sexual harassment and the DFEH poster regarding transgender rights. (Government Code 12950)

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The complaint procedures described in this administrative regulation shall be used to address any complaint governed by Title IX of the Education Amendments of 1972 alleging that a district employee was subjected to one or more of the following forms of sexual harassment: (34 CFR 106.30)

1. A district employee conditioning the provision of a district aid, benefit, or service on a person's participation in unwelcome sexual conduct

2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the district's education program or activity

3. Sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 or 34 USC 12291

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

All other sexual harassment complaints shall be investigated and responded to pursuant to AR 4030 - Nondiscrimination in Employment.

*(cf. 4030 - Nondiscrimination in Employment)*

A report of sexual harassment shall be submitted directly to or forwarded to the district's Title IX Coordinator using the contact information listed in AR 4119.11/4219.11/4319.11 - Sexual Harassment.

Upon receiving such a report, the Title IX Coordinator shall inform the complainant of the process for filing a formal complaint.

Even if the alleged victim chooses not to file a formal complaint, the Title IX Coordinator shall file a formal complaint in situations in which a safety threat exists. In addition, the Title IX Coordinator may file a formal complaint in other situations as permitted under the Title IX regulations. In such cases, the alleged victim is not a party to the case, but will receive notices as required by the Title IX regulations at specific points in the complaint process.

A formal complaint, with the complainant's physical or digital signature, may be filed with the Title IX Coordinator in person, by mail, by email, or by any other method authorized by the district. (34 CFR 106.30)

The Superintendent or designee shall ensure that the Title IX Coordinator, investigator, decision-maker, or a facilitator of an informal resolution process does not have a conflict of

interest or bias for or against complainants or respondents generally or an individual complainant or respondent, and that such persons receive training in accordance with 34 CFR 106.45. (34 CFR 106.45)

**Supportive Measures**

Upon receipt of a report of Title IX sexual harassment, even if a formal complaint is not filed, the Title IX Coordinator shall promptly contact the complainant to discuss the availability of supportive measures which are nondisciplinary, nonpunitive, and do not unreasonably burden the other party. Such measures may include, but are not limited to, counseling, extensions of deadlines, modifications of work schedules, mutual restrictions on contact, changes in work locations, leaves of absence, increased security, and monitoring of certain areas of the campus.
The Title IX Coordinator shall consider the complainant's wishes with respect to supportive measures. (34 CFR 106.30, 106.44)

**Emergency Removal**

If a district employee is the respondent, the employee may be placed on administrative leave during the pendency of the formal complaint process. (34 CFR 106.44)

If the respondent is a student, the district may, on an emergency basis, remove the student from the district's education program or activity, provided that the district conducts an individualized safety and risk analysis, determines that removal is justified due to an immediate threat to the physical health or safety of any student or other individual arising from the allegations, and provides the student with notice and an opportunity to challenge the decision immediately following the removal. This authority to remove a student does not modify a student's rights under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973. (34 CFR 106.44)

**Dismissal of Complaint**

The Title IX Coordinator shall dismiss a formal complaint if the alleged conduct would not constitute sexual harassment as defined in 34 CFR 106.30 even if proved. The Title IX Coordinator shall also dismiss any complaint that did not occur in the district's education program or activity or did not occur against a person in the United States, and may dismiss a formal complaint if the complainant notifies the district in writing that the complainant would like to withdraw the complaint or any allegations in the complaint, the respondent is no longer employed by the district, or sufficient circumstances prevent the district from gathering evidence sufficient to reach a determination with regard to the complaint. (34 CFR 106.45)

Upon dismissal, the Title IX Coordinator shall promptly, and simultaneously to the parties, send written notice of the dismissal and the reasons for the dismissal. (34 CFR 106.45)

If a complaint is dismissed on the grounds that the alleged conduct does not constitute sexual harassment as defined in 34 CFR 106.30, the conduct may still be addressed pursuant to AR 4030 - Nondiscrimination in Employment as applicable.

**Informal Resolution Process**

When a formal complaint of sexual harassment is filed, the district may offer an informal resolution process, such as mediation, at any time prior to reaching a determination regarding responsibility. The district shall not require a party to participate in the informal resolution process or to waive the right to an investigation and adjudication of a formal complaint. (34 CFR 106.45)

The district may facilitate an informal resolution process provided that the district: (34 CFR 106.45)

1. Provides the parties with written notice disclosing the allegations, the requirements of the informal resolution process, the right to withdraw from the informal process and resume the formal complaint process, and any consequences resulting from participating in the informal resolution process, including that records will be maintained or could be shared.

2. Obtains the parties' voluntary, written consent to the informal resolution process

**Formal Complaint Process**

If a formal complaint is filed, the Title IX Coordinator shall provide the known parties with written notice of the following: (34 CFR 106.45)

1. The district's complaint process, including any informal resolution process

2. The allegations potentially constituting sexual harassment with sufficient details known at the time, including the identity of parties involved in the incident if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident if known. Such notice shall be provided with sufficient time for the parties to prepare a response before any initial interview.

If, during the course of the investigation, the district investigates allegations about the complainant or respondent that are not included in the initial notice, the Title IX Coordinator shall provide notice of the additional allegations to the parties.

**TITLE IX SEXUAL HARASSMENT COMPLAINT PROCEDURES** (continued)

3. A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the complaint process

4. The opportunity for the parties to have an advisor of their choice who may be, but is not required to be, an attorney, and the ability to inspect and review evidence

5. The prohibition against knowingly making false statements or knowingly submitting false information during the complaint process

The above notice shall also include the name of the investigator, facilitator of an informal process, and decision-maker and shall provide either party with no less than three calendar days to raise concerns of conflict of interest or bias regarding any of these persons.

During the investigation process, the district shall: (34 CFR 106.45)

1. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence

2. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence

3. Provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney

4. Not limit the choice or presence of an advisor for either the complainant or respondent in any meeting or grievance proceeding, although the district may establish restrictions regarding the extent to which the advisor may participate in the proceedings as long as the restrictions apply equally to both parties

5. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all investigative interviews or other meetings, with sufficient time for the party to prepare to participate

6. Send in an electronic format or hard copy to both parties and their advisors, if any, the evidence that is directly related to the allegations raised in the complaint, and provide the parties at least 10 days to submit a written response for the investigator to consider prior to the completion of the investigative report

7. Objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence, and determine credibility in a manner that is not based on a person's status as a complainant, respondent, or witness

8. Create an investigative report that fairly summarizes relevant evidence and, at least 10 days prior to the determination of responsibility, send to the parties and their advisors, if any, the investigative report in an electronic format or a hard copy, for their review and written response

9. After sending the investigative report to the parties and before reaching a determination regarding responsibility, afford each party the opportunity to submit written, relevant questions that the party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence are offered to prove that someone other than the respondent committed the conduct alleged by the complainant or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

Privacy rights of all parties to the complaint shall be maintained in accordance with applicable state and federal laws.

If the complaint is against an employee, rights conferred under an applicable collective bargaining agreement shall be applied to the extent they do not conflict with the Title IX requirements.

**Written Decision**

The Superintendent shall designate an employee as the decision-maker to determine responsibility for the alleged conduct, who shall not be the Title IX Coordinator or a person involved in the investigation of the matter. (34 CFR 106.45)

The decision-maker shall issue, and simultaneously provide to both parties, a written decision as to whether the respondent is responsible for the alleged conduct. (34 CFR 106.45)

The written decision shall be issued within 45 calendar days of the receipt of the complaint. The timeline may be temporarily extended for good cause with written notice to the complainant and respondent of the extension and the reasons for the action. (34 CFR 106.45)

In making this determination, the district shall use the "preponderance of the evidence" standard for all formal complaints of sexual harassment. (34 CFR 106.45)

The written decision shall include the following: (34 CFR 106.45)

1. Identification of the allegations potentially constituting sexual harassment as defined in 34 CFR 106.30

2. A description of the procedural steps taken from receipt of the formal complaint through the written decision, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held if the district includes hearings as part of the grievance process

3. Findings of fact supporting the determination

4. Conclusions regarding the application of the district's code of conduct to the facts

5. A statement of, and rationale for, the result as to each allegation, including a decision regarding responsibility, any disciplinary sanctions the district imposes on the respondent, and whether remedies designed to restore or preserve equal access to the district's educational program or activity will be provided by the district to the complainant

6. The district's procedures and permissible bases for the complainant and respondent to appeal

**Appeals**

Either party may appeal the district's decision or dismissal of a formal complaint or any allegation in the complaint, if the party believes that a procedural irregularity affected the outcome, new evidence is available that could affect the outcome, or a conflict of interest or bias by the Title IX Coordinator, investigator(s), or decision-maker(s) affected the outcome. If an appeal is filed, the district shall: (34 CFR 106.45)

1. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties

2. Ensure that the decision-maker(s) for the appeal is trained in accordance with 34 CFR 106.45 and is not the same decision-maker(s) who reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator

3. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome

4. Issue a written decision describing the result of the appeal and the rationale for the result

5. Provide the written decision simultaneously to both parties

An appeal must be filed in writing within 10 calendar days of receiving the determination, stating the grounds for the appeal and including any relevant documentation in support of the appeal. Appeals submitted after this deadline are not timely and shall not be considered. Either party has the right to file a complaint with the U.S. Equal Employment Opportunity Commission.

A written decision shall be provided to the parties within 20 calendar days from the receipt of the appeal.

**Remedies**

When a determination of responsibility for sexual harassment has been made against the respondent, the district shall provide remedies to the complainant. Such remedies may include the same individualized services described above in the section "Supportive Measures," but need not be nondisciplinary or nonpunitive and need not avoid burdening the respondent. (34 CFR 106.45)

**Disciplinary Actions**

The district shall not impose any disciplinary sanctions or other actions against a respondent, other than supportive measures as described above in the section "Supportive Measures," until the complaint procedure has been completed and a determination of responsibility has been made. (34 CFR 106.44)

When an employee is found to have committed sexual harassment or retaliation, the district shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreement.

*(cf. 4117.7/4317.7 - Employment Status Report)*
*(cf. 4118 - Dismissal/Suspension/Disciplinary Action)*
*(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)*
*(cf. 4218 - Dismissal/Suspension/Disciplinary Action)*

**Record-Keeping**

The Superintendent or designee shall maintain for a period of seven years a record of all reported cases and Title IX investigations of sexual harassment, any determinations of responsibility, any audio or audiovisual recording and transcript if applicable, any disciplinary sanctions imposed, any remedies provided to the complainant, any appeal or informal resolution and the results therefrom, and responses made pursuant to 34 CFR 106.44. (34 CFR 106.45)

**TITLE IX SEXUAL HARASSMENT COMPLAINT PROCEDURES** (continued)

The Superintendent or designee shall also maintain for a period of seven years all materials used to train the Title IX Coordinator, investigator(s), decision-maker(s), and any person who facilitates an informal resolution process. The district shall make such training materials publicly available on its web site, or if the district does not maintain a web site, available upon request by members of the public. (34 CFR 106.45)

*(cf. 3580 - District Records)*

*Legal Reference:*

*EDUCATION CODE*
*200-262.4 Prohibition of discrimination on the basis of sex*
*48900 Grounds for suspension or expulsion*
*48900.2 Additional grounds for suspension or expulsion; sexual harassment*
*48985 Notices, report, statements and records in primary language*
*CIVIL CODE*
*51.9 Liability for sexual harassment; business, service and professional relationships*
*1714.1 Liability of parents/guardians for willful misconduct of minor*
*GOVERNMENT CODE*
*12950.1 Sexual harassment training*
*CODE OF REGULATIONS, TITLE 5*
*4600-4670 Uniform complaint procedures*
*4900-4965 Nondiscrimination in elementary and secondary education programs*
*UNITED STATES CODE, TITLE 20*
*1092 Definition of sexual assault*
*1221 Application of laws*
*1232g Family Educational Rights and Privacy Act*
*1681-1688 Title IX of the Education Amendments of 1972*
*UNITED STATES CODE, TITLE 34*
*12291 Definition of dating violence, domestic violence, and stalking*
*UNITED STATES CODE, TITLE 42*
*1983 Civil action for deprivation of rights*
*2000d-2000d-7 Title VI, Civil Rights Act of 1964*
*2000e-2000e-17 Title VII, Civil Rights Act of 1964 as amended*
*CODE OF FEDERAL REGULATIONS, TITLE 34*
*99.1-99.67 Family Educational Rights and Privacy*
*106.1-106.82 Nondiscrimination on the basis of sex in education programs*
*COURT DECISIONS*
*Donovan v. Poway Unified School District, (2008) 167 Cal.App.4th 567*
*Flores v. Morgan Hill Unified School District, (2003, 9th Cir.) 324 F.3d 1130*
*Reese v. Jefferson School District, (2000, 9th Cir.) 208 F.3d 736*
*Davis v. Monroe County Board of Education, (1999) 526 U.S. 629*
*Gebser v. Lago Vista Independent School District, (1998) 524 U.S. 274*
*Oona by Kate S. v. McCaffrey, (1998, 9th Cir.) 143 F.3d 473*
*Doe v. Petaluma City School District, (1995, 9th Cir.) 54 F.3d 1447*

**TITLE IX SEXUAL HARASSMENT COMPLAINT PROCEDURES** (continued)

*Management Resources:*

*WEB SITES*
*CSBA: http://www.csba.org*
*California Department of Education: http://www.cde.ca.gov*
*U.S. Department of Education, Office for Civil Rights: http://www.ed.gov/about/offices/list/ocr*

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The Board of Trustees expects district employees to maintain the highest ethical standards, behave professionally, follow district policies and regulations, abide by state and federal laws, and exercise good judgment when interacting with students and other members of the school community. Employees shall engage in conduct that enhances the integrity of the district, advances the goals of the district's educational programs, and contributes to a positive school climate.

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

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

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

Each employee is expected to acquire the knowledge and skills necessary to fulfill his/her responsibilities and to contribute to the learning and achievement of district students.

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

## Inappropriate Conduct

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. 3515.7 - Firearms on School Grounds)*
*(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

**PROFESSIONAL STANDARDS** (continued)

*(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

*(cf. 3515.2 - Disruptions)*

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

*(cf. 3513.3 - Tobacco-Free Schools)*
*(cf. 3513.4 - Drug and Alcohol Free Schools)*
*(cf. 4020 - Drug and Alcohol-Free Workplace)*
*(cf. 4112.41/4212.41/4312.41 - Employee Drug Testing)*
*(cf. 4112.42/4212.42/4312.42 - Drug and Alcohol Testing for School Bus Drivers)*

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

10. Divulging confidential information about students, district employees, or district operations to persons or entities 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)*

**PROFESSIONAL STANDARDS** (continued)

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)*

**Reports of Misconduct**

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

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

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

*(cf. 4117.7/4317.7 - Employment Status Reports)*
*(cf. 4118 - Dismissal/Suspension/Disciplinary Action)*
*(cf. 4218 - Dismissal/Suspension/Disciplinary Action)*

**PROFESSIONAL STANDARDS** (continued)

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.

**Notifications**

The section(s) of the district's employee code of conduct addressing interactions with students shall be provided to parents/guardians at the beginning of each school year and shall be posted on school and/or district web sites. (Education Code 44050)

*(cf. 1113 - District and School Web Sites)*
*(cf. 5145.6 - Parental Notifications)*

*Legal Reference:*
*EDUCATION CODE*
*200-262.4 Prohibition of discrimination*
*44050 Employee code of conduct; interaction with students*
*44242.5 Reports and review of alleged misconduct*
*48980 Parental notifications*
*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 Professional Standards for Educational Leaders, February 2014*
*California Standards for the Teaching Profession, 2009*
*COUNCIL OF CHIEF STATE SCHOOL OFFICERS PUBLICATIONS*
*Professional Standards for Educational Leaders, 2015*
*NATIONAL EDUCATION ASSOCIATION PUBLICATIONS*
*Code of Ethics of the Education Profession, 1975*
*WESTED PUBLICATIONS*
*Moving Leadership Standards into Everyday Work: Descriptions of Practice, 2003*
*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** (continued)

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**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*

# DRESS AND GROOMING

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 do 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. 0415 - Equity)
(cf. 4118 - Dismissal/Suspension/Disciplinary Action)
(cf. 4119.21/4219.21/4319.21 - Professional Standards)
(cf. 4119.25/4219.25/4319.25 - Political Activities of Employees)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

The district shall allow employees to appear and dress in a manner consistent with their gender identity or gender expression. (Government Code 12949)

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

The district shall not discriminate against employees based on hair texture and protective hairstyles, including, but not limited to, braids, locks, and twists. (Government Code 12926)

The district shall not dismiss an employee, discriminate against an employee in compensation or in terms, conditions, or privileges of employment, or refuse to hire a job applicant on the basis of religious dress or grooming practices. (Government Code 12926, 12940)

This policy shall be presented to employees upon employment, through the employee handbook or other appropriate means, and may be periodically reviewed with all employees as necessary.

*Legal Reference: See next page*

*Legal Reference:*
*EDUCATION CODE*
*35160 Authority of governing boards*
*35160.1 Broad authority of school districts*
*GOVERNMENT CODE*
*3543.2 Scope of representation*
*12926 Definitions*
*12940 Unfair employment practices*
*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 838*
*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:*
*CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING PUBLICATIONS*
*Transgender Rights in the Workplace*
*WEB SITES*
*California Department of Fair Employment and Housing: http://www.dfeh.ca.gov*
*Public Employment Relations Board: http://www.perb.ca.gov*

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# UNAUTHORIZED RELEASE OF CONFIDENTIAL/ PRIVILEGED INFORMATION

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

## Disclosure of Closed Session Information

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

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

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

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

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

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

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

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

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

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

**UNAUTHORIZED RELEASE OF CONFIDENTIAL/ PRIVILEGED INFORMATION** (continued)

3. Disclosing information that is not confidential

**Other Disclosures**

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

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

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

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

*Legal Reference: (see next page)*

**UNAUTHORIZED RELEASE OF CONFIDENTIAL/ PRIVILEGED INFORMATION** (continued)

*Legal Reference:*

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

*Management Resources:*

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

# POLITICAL ACTIVITIES OF EMPLOYEES

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*

**POLITICAL ACTIVITIES OF EMPLOYEES**

District employees shall not:

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

*(cf. 1160 - Political Processes)*

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

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

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

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

*(cf. 3512 - Equipment)*

6. Post or distribute political campaign materials on district property

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

*(cf. 4040 - Employee Use of Technology)*

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

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

*(cf. 6144 - Controversial Issues)*

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

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

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

**POLITICAL ACTIVITIES OF EMPLOYEES** (continued)

**Employee Organizations**

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

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

*(cf. 4140/4240 - 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)*

# EMPLOYEES WITH INFECTIOUS DISEASE

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(a)
4219.42(a)
4319.42(a)

# EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS

As part of its commitment to provide a safe and healthy work environment, the Governing Board recognizes the importance of protecting 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). 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.

*(cf. 4119.43/4219.43/4319.43 - Universal Precautions)*
*(cf. 5141.21 - Administering Medication and Monitoring Health Conditions)*
*(cf. 5141.6 - School Health Services)*

The exposure control plan shall be consistent with the district's injury and illness prevention program established pursuant to Labor Code 6401.7 and 8 CCR 3203. (8 CCR 5193)

*(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 receive training and be offered the hepatitis B vaccination. (8 CCR 5193; 29 CFR 1910.1030)

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.

In the event that an employee has an exposure incident, the district shall implement follow-up procedures in accordance with the exposure control plan. All such incidents shall be evaluated to determine whether changes need to be made in district practices.

*Legal Reference:*
*GOVERNMENT CODE*
*3543.2 Scope of bargaining*
*LABOR CODE*
*142.3 Authority of Cal/OSHA to adopt standards*
*144.7 Requirement to amend standards*
*6401.7 Injury and illness prevention program*
*CODE OF REGULATIONS, TITLE 8*
*3203 Injury and illness prevention program*
*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*

# EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS

*Management Resources:*

*CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS PUBLICATIONS*
*Frequently Asked Questions About the Bloodborne Pathogens Standard*
*A Best Practices Approach for Reducing Bloodborne Pathogens Exposure, 2001*
*Exposure Control Plan for Bloodborne Pathogens, 2001*
*WEB SITES*
*California Department of Industrial Relations, Occupational Safety and Health: http://www.dir.ca.gov/occupational_safety.html*
*Centers for Disease Control and Prevention: http://www.cdc.gov*
*U.S. Department of Labor, Occupational Safety and Health Administration: http://www.osha.gov*

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## 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; 29 CFR 1910.1030)

*Exposure incident* means a specific eye, mouth, other mucous membrane, nonintact skin, or parenteral contact with blood or other potentially infectious materials that results from the performance of an employee's duties. (8 CCR 5193; 29 CFR 1910.1030)

*Parenteral contact* means piercing mucous membranes or the skin barrier through such events as needlesticks, human bites, cuts, and abrasions. (8 CCR 5193; 29 CFR 1910.1030)

*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)

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

*Work practice controls* are controls that reduce the likelihood of exposure by defining the manner in which a task is performed. (8 CCR 5193; 29 CFR 1910.1030)

*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; 29 CFR 1910.1030)

*Engineered sharps injury protection* is a physical attribute, such as a barrier, blunting, encapsulation, withdrawal, or other effective mechanism, built into a needle device or into a non-needle sharp which effectively reduces the risk of an exposure incident. (8 CCR 5193; 29 CFR 1910.1030)

*Personal protective equipment* is specialized clothing or equipment worn or used by an employee for protection against a hazard, such as gloves, gowns, laboratory coats, face shields or masks. (8 CCR 5193)

## Exposure Control Plan

The district's written exposure control plan for bloodborne pathogens shall contain at least the following components: (8 CCR 5193; 29 CFR 1910.1030)

1. A determination of which employees have occupational exposure to blood or other potentially infectious materials, which shall be made without regard to employees' 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

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 #1b above

*(cf. 5141.21 - Administering Medication and Monitoring Health Conditions)*
*(cf. 5141.6 - School Health Services)*

2. The schedule and method of implementing each of the following in accordance with 8 CCR 5193 and this administrative regulation:

a. Methods of compliance required by 8 CCR 5193(d) and 29 CFR 1910.1030, including 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 through information and training

e. Recordkeeping, including medical records, training records, and a log of sharps injuries

3. The district's procedure for documenting the route(s) of exposure and the circumstances under which exposure incidents occurred

4. An effective procedure for gathering information about each exposure incident involving a sharp

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

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 an employee's care determines that the use of an

engineering control would jeopardize the employee's safety or the success of a medical, dental, or nursing procedure involving the employee

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; 29 CFR 1910.1030)

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

2. Reflect changes in technology that eliminate or reduce exposure to bloodborne pathogens and, to the extent that sharps are used in the district, document consideration and implementation of appropriate commercially available needleless systems and needle devices 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), 5193; 29 CFR 1910.1030)

**Preventive Measures**

The Superintendent or designee shall use engineering controls and work practice controls, as defined above, to eliminate or minimize employee exposure to bloodborne pathogens. Engineering controls and work practice controls shall be evaluated on a regular schedule and, as applicable, maintained, replaced, or updated to ensure their effectiveness. (8 CCR 5193; 29 CFR 1910.1030)

Whenever potential occupational exposure continues to exist after institution of engineering and work practice controls, the district shall provide, at no cost to the employee, appropriate personal protective equipment. (8 CCR 5193; 29 CFR 1910.1030)

Employees shall observe universal precautions to prevent contact with blood or other potentially infectious materials, including, but not limited to, handwashing, proper use of personal protective equipment, and proper disposal or washing of contaminated garments or objects. (8 CCR 5193; 29 CFR 1910.1030)

Any use of needleless systems, needle devices, or non-needle sharps shall adhere to the specific requirements of 8 CCR 5193(d) and 29 CFR 1910.1030.

**Pre-Exposure 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, antibody testing has revealed that the employee is immune, or vaccination is contraindicated for medical reasons. (8 CCR 5193; 29 CFR 1910.1030)

Employees who decline to accept the vaccination shall sign the hepatitis B declination statement. (8 CCR 5193; 29 CFR 1910.1030)

The Superintendent or designee may exempt from the pre-exposure hepatitis B vaccine designated first aid providers whose primary job assignment is not the rendering of first aid, provided that the district implements the procedures in its exposure control plan for providing hepatitis B vaccine to all unvaccinated first aid providers who have rendered assistance in any situation involving the presence of blood or other potentially infectious materials and provides appropriate follow-up for those who experience an exposure incident. (8 CCR 5193)

**Training**

The Superintendent or designee shall ensure that all employees with occupational exposure participate in a training program at the time of initial assignment to tasks where occupational exposure may take place and at least annually thereafter. The training shall be offered during working hours and at no cost to the employee. (8 CCR 5193; 29 CFR 1910.1030)

The training shall address, at a minimum: (8 CCR 5193; 29 CFR 1910.1030)

1. The exposure control standard contained in 8 CCR 5193 and 29 CFR 1910.1030

2. The epidemiology and symptoms of bloodborne diseases

3. Modes of transmission of bloodborne pathogens

4. The district's exposure control plan and the means by which employees may obtain a copy of the written plan

**EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS** (continued)

5. Appropriate methods for recognizing tasks and other activities that may involve exposure to blood and other potentially infectious materials

6. The use and limitations of methods to prevent or reduce exposure, including appropriate engineering controls, administrative or work practice controls, and personal protective equipment

7. The types, proper use, location, removal, handling, decontamination, and disposal of personal protective equipment

8. The basis for selecting personal protective equipment

9. The hepatitis B vaccine, including its efficacy, safety, and method of administration; the benefits of being vaccinated; and that the vaccine will be offered free of charge

10. Appropriate actions to take and persons to contact in an emergency or exposure incident involving blood or other potentially infectious materials

11. The post-exposure evaluation and follow-up that the district is required to provide for the employee following an exposure incident

Additional training shall be provided to affected employees whenever a change, such as the introduction or modification of tasks or procedures or the introduction of new engineering, administrative, or work practice controls, affects the employee's exposure. The additional training may be limited to addressing the new exposures created. (8 CCR 5193; 29 CFR 1910.1030)

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)

**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)

**Sharps Injury Log**

The Superintendent or designee shall establish and maintain a log recording each exposure incident involving a sharp. (8 CCR 5193; 29 CFR 1910.1030)

The exposure incident shall be recorded within 14 working days of the date the incident is reported to the district. (8 CCR 5193)

The information recorded shall include the following, if known or reasonably available: (8 CCR 5193; 29 CFR 1910.1030)

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:

    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; 29 CFR 1910.1030)

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 not feasible or is prohibited by law

3. With the consent of the exposed employee, 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

The Superintendent or designee shall provide the health care professional responsible for the employee's hepatitis B vaccination with a copy of 8 CCR 5193 and 29 CFR 1910.1030; 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; 29 CFR 1910.1030)

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)

*(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)*

**EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS** (continued)

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

The district shall maintain a medical record of each employee with occupational exposure, including the employee's hepatitis B vaccination status, the results of any post-exposure medical examinations and follow-up procedures, a copy of the information provided to the health care professional, and a copy of the health care professional's written opinion. The medical record 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; 29 CFR 1910.1030)

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)

Records shall be maintained as follows: (8 CCR 3204, 5193; 29 CFR 1910.1030)

1. The medical records of each employee with occupational exposure 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.

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

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## Hepatitis B Vaccine Declination

In accordance with 8 CCR 5193 and 29 CFR 1910.1030, the district makes the hepatitis B vaccine available to employees who may reasonably be expected to have contact with blood or other potentially infectious materials in the performance of their duties. Any employee who declines this vaccine is required to read and sign the following statement:

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.

_____
Employee Name (Please print)

_____
Signature

_____
Date

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# UNIVERSAL PRECAUTIONS

In order to protect all employees from contact with potentially infectious blood or other body fluids, the Governing Board requires that universal precautions be observed throughout the district. Universal precautions are appropriate for preventing the spread of all infectious diseases and shall be used regardless of whether bloodborne pathogens are known to be present.

*(cf. 4157/4257/4357 - Employee Safety)*
*(cf. 5141 - 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)*

The Superintendent or designee shall distribute to employees information provided by the California Department of Education (CDE) 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 of the employees. Information shall be distributed annually, or more frequently if there is new information supplied by CDE. (Health and Safety Code 120875, 120880)

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

Information regarding universal precautions may be included in employee handbooks. Employees shall immediately report any exposure incident or first aid incident in accordance with the district's exposure control plan for bloodborne pathogens or other safety procedures.

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

*Legal Reference:*

*GOVERNMENT CODE*
*3543.2 Scope of bargaining*
*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*
*LABOR CODE*
*6401.7 Injury and illness prevention program*
*CODE OF REGULATIONS, TITLE 8*
*3203 Injury and illness prevention program*
*5193 California bloodborne pathogens standard*
*CODE OF FEDERAL REGULATIONS, TITLE 29*
*1910.1030 OSHA bloodborne pathogens standards*

**UNIVERSAL PRECAUTIONS (continued)**

*Management Resources:*

*CENTERS FOR DISEASE CONTROL AND PREVENTION PUBLICATIONS*
*Hepatitis B Questions and Answers for the Public*
*WEB SITES*
*American Federation of Teachers: http://www.aft.org*
*California Department of Industrial Relations, Occupational Safety and Health: http://www.dir.ca.gov/occupational_safety.html*
*California Department of Public Health: http://www.cdph.ca.gov*
*Centers for Disease Control and Prevention: http://www.cdc.gov*
*U.S. Department of Labor, Occupational Safety and Health Administration: http://www.osha.gov*

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*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; 29 CFR 1910.1030)

*Occupational exposure* means reasonably anticipated contact with blood or other potentially infectious materials that may result from the performance of an employee's duties. (8 CCR 5193; 29 CFR 1910.1030)

*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)

**Infection Control Practices**

For the prevention of infectious disease, the district shall:

1. Effectively maintain the worksite in a clean and sanitary condition, and implement an appropriate written schedule for cleaning and decontamination of the worksite

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

2. When necessary for employees with occupational exposure to bloodborne pathogens, provide appropriate personal protective equipment, such as gloves, masks, and outer garments, at no cost to the employee (8 CCR 5193)

3. Provide handwashing facilities which are readily accessible to employees, or, if not feasible, provide an appropriate antiseptic hand cleanser in conjunction with clean cloth or paper towels, or antiseptic towelettes

Any employee who has contact with blood or other body fluid, regardless of whether bloodborne pathogens are known to be present, shall:

1. Use personal protective equipment as appropriate.

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

   a. Immediately or as soon as feasible following contact with blood or other potentially infectious materials

   b. Immediately after removing gloves or other personal protective equipment

**UNIVERSAL PRECAUTIONS** (continued)

3. When handwashing facilities are not available, 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 to bloodborne pathogens.

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 techniques designed to minimize the risk of a sharps injury in all procedures involving the use of sharps.

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

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.

   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)*

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