

**CLASSIFIED PERSONNEL**

The Board of Trustees recognizes that classified personnel provide essential services that support and enhance the district's educational program. The Board shall fill each of its classified positions with qualified persons, consistent with position requirements.

*(cf. 0200 - Goals for the School District)*  
*(cf. 4211 - Recruitment and Selection)*

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

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

*(cf. 4211 - Recruitment and Selection)*  
*(cf. 4212 - Appointment and Conditions of Employment)*

Each classified position shall have a designated title and regular minimum number of assigned hours per day, days per week, and months per year.

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

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

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

*(cf. 4215 - Evaluation/Supervision)*

**Substitute and Short-Term Employees**

The district may employ a substitute employee to replace a classified employee who is temporarily absent from duty. (Education Code 45103)

If the district is in the process of hiring a permanent employee to fill a classified position, the Board may fill the vacancy with one or more substitute employees for no more than 60 calendar days, unless the applicable collective bargaining agreement provides for a different period of time. (Education Code 45103)

**CLASSIFIED PERSONNEL** (continued)

The district may employ a short-term employee to perform a service for the district when that service or similar services will not be extended or needed on a continuing basis. Before employing a short-term employee, the Board, at a regularly scheduled meeting, shall specify the service required to be performed by the employee and shall certify the ending date of the service. The Board may shorten or extend the ending date, but the date shall not be extended beyond 195 work days per year, including holidays, sick leave, vacation, and other leaves of absence, irrespective of the number of hours worked per day. (Education Code 45103)

*Legal Reference:*

EDUCATION CODE

45100-45139 *Employment of classified staff*

45160-45169 *Salaries and differential compensation*

45190-45210 *Resignation and leaves of absence*

45220-45320 *Merit system*

49406 *Examination for tuberculosis*

51760-51769.5 *Work experience education*

*Management Resources:*

WEB SITES

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

(10/96 11/02) 12/17

**CLASSIFIED PERSONNEL**

**Exemption from Classified Service**

Persons hired solely for purposes which are exempted from the classified service shall nevertheless fulfill the obligations of classified employees related to physical examinations pursuant to Education Code 45122, fingerprinting pursuant to Education Code 45125, and tuberculosis tests pursuant to Education Code 49406. (Education Code 45106)

*(cf. 4112.4/4212.4/4312.4 - Health Examinations)*  
*(cf. 4112.5/4212.5/4312.5 - Criminal Record Check)*  
*(cf. 4212 - Appointment and Conditions of Employment)*  
*(cf. 4218 - Dismissal/Suspension/Disciplinary Action)*

**Merit System Districts**

Individuals hired solely for the following purposes shall not be part of the classified service: (Education Code 45256)

1. Apprentices
2. Professional experts employed by the Governing Board or the personnel commission on a temporary basis for a specific project
3. Full-time students employed part time
4. Part-time students employed part time in any college work study program, or in a work experience education program conducted by a community college district pursuant to Education Code 51760-51769.5 that is financed by state or federal funds

**Restricted Positions**

Persons employed in restricted positions pursuant to Education Code 45105 or 45108 shall be classified employees for all purposes except that they shall not be subject to the provisions of Education Code 45272 and 45273 related to promotional examinations and the filling of vacancies, and shall not acquire permanent status or seniority credit. Such persons shall be eligible for promotion into the regular classified service only after completing six months of satisfactory service and satisfactorily completing the qualifying examinations required of all other persons serving in the same class in the regular classified service. (Education Code 45105, 45108)

*(11/02 12/17) 12/18*

Regulation  
approved: January 4, 2012  
revised: February 7, 2018  
revised: February 6, 2019

**BIGGS UNIFIED SCHOOL DISTRICT**  
Biggs, California

**APPOINTMENT AND CONDITIONS OF EMPLOYMENT**

Upon recommendation of the Superintendent, the Board of Trustees shall approve the appointment of all classified employees. The position shall be reported to the Board at a regular meeting.

Individuals appointed to the classified staff shall, at a minimum:

1. Submit to fingerprinting as required by law (Education Code 45125)
2. Not have been convicted of a violent or serious felony (Education Code 45122.1)

*(cf. 4212.5 - Criminal Record Check)*

3. Not have been convicted of any sex offense as defined in Education Code 44010 (Education Code 45123)

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

4. Not have been determined to be a sexual psychopath pursuant to Welfare and Institutions Code 6300-6332 (Education Code 45124)
5. If the individual will be working directly and in an unaccompanied setting with minor children on a more than incidental and occasional basis or will have supervision or disciplinary power over minor children, not be required to register as a sex offender pursuant to Penal Code 290 because of a conviction for a crime where the victim was a minor under the age of 16 (Penal Code 290.95)

*(cf. 3515.5 - Sex Offender Notification)*

6. Not have been convicted of any controlled substance offense as defined in Education Code 44011 (Education Code 45123)
7. File the oath or affirmation of allegiance required by Government Code 3100-3109

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

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

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

**Notification of Classification and Compensation**

When first employed and upon each subsequent change in classification, classified employees other than short-term, limited-term or provisional employees shall be given two copies of their class specification, salary data, assignment or work location, duty hours and

**APPOINTMENT AND CONDITIONS OF EMPLOYMENT** (continued)

prescribed work week. Salary data shall specify pay period (monthly, semimonthly or other) and applicable rates of compensation (daily, hourly, overtime and differential rates). Employees shall keep one copy of this information and shall sign and date the other copy and return it to their supervisor. (Education Code 45169)

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

(cf. 4151/4251/4351 - *Employee Compensation*)

*Legal Reference:*

EDUCATION CODE

35161 Powers and duties

44010 Sex offense - definitions

44011 Controlled substance offense - definitions

44066 Limitation on certification requirements

45103 Classified service in districts not incorporating the merit system

45104 Positions not requiring certification qualifications

45105 Positions under various acts not requiring certification qualifications

45108 Restricted positions

45113 Rules and regulations for classified service in districts not incorporating the merit system

45122 Physical examinations

45122.1 Classified employees, conviction of a violent or serious felony

45123 Employment after conviction of sex offense or controlled substance offense

45125 Use of personal identification cards to ascertain conviction of crime

45169 Employee salary data

49406 Examination for tuberculosis

60850-60856 High school exit exam

GOVERNMENT CODE

3100-3109 Oaths or affirmations

12940-12950 Unlawful employment practices

PENAL CODE

290 Registration of sex offenders

290.95 Disclosure by person required to register as sex offenders

667.5 Prior prison terms, enhancement of prison terms

1192.7 Plea bargaining limitation

1203.4 Discharged petitioner, change of plea

WELFARE AND INSTITUTIONS CODE

6300-6332 Sexual psychopaths

**CRIMINAL RECORD CHECK**

**Applicants for Employment**

Each person to be employed in a classified position, including temporary, substitute and part-time positions, shall be required to submit fingerprint identification data. However, secondary school students attending a district school who are to be employed in a temporary or part-time position shall not be required to submit fingerprint identification data. (Education Code 45125)

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

The Superintendent or designee shall request the Department of Justice to forward one copy of the applicant's fingerprint identification data to the Federal Bureau of Investigation for the purpose of obtaining any record of previous convictions if the applicant: (Education Code 45125)

1. Has not resided in the State of California for at least one year immediately preceding the application for employment
2. Has resided for more than one year, but less than seven years, in the State of California and the Department of Justice has ascertained that the person was convicted of a sex offense where the victim was a minor or a drug offense where an element of the offense is either the distribution to or the use of a controlled substance by a minor

The Board of Trustees shall not employ an applicant until the Department of Justice completes its check of the state criminal history files. (Education Code 45125)

*(cf. 4212 - Appointment and Conditions of Employment)*

The Superintendent or designee shall ensure that no person is hired who has been convicted of a violent or serious felony as listed in Penal Code 667.5(c) or 1192.7(c), unless that person has obtained a certificate of rehabilitation and a pardon. (Education Code 45122.1)

The Superintendent or designee may hire a classified employee without waiting for the disposition of the employee's criminal history files upon a determination that an emergency or exceptional situation exists and that a delay in filling the position would endanger student health or safety. (Education Code 45125)

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

*(cf. 4112.62/4212.62/4312.62 - Maintenance of Criminal Offender Records)*

**CRIMINAL RECORD CHECK** (continued)

**Subsequent Arrest Notification**

The Superintendent or designee shall request subsequent arrest notification from the Department of Justice as provided under Penal Code 11105.2. (Education Code 45125)

**Current Employees**

Upon notification by telephone from the Department of Justice that a current temporary, substitute or probationary classified employee has been convicted of a violent or serious felony, the Superintendent or designee shall immediately place that employee on leave without pay, unless the employee has received a certificate of rehabilitation and a pardon. (Education Code 45122.1)

Upon receipt of written notification of the fact of conviction from the Department of Justice, the Superintendent or designee shall terminate the temporary, substitute or probationary employee without regard to any other procedure for termination specified in the Education Code or district procedures, unless that employee has received a certificate of rehabilitation and a pardon. (Education Code 45122.1)

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

If the employee challenges the Department of Justice record and the Department of Justice withdraws in writing its notification, the Superintendent or designee shall immediately reinstate the employee with full restoration of salary and benefits. (Education Code 45122.1)

*Legal Reference: (see next page)*

**CRIMINAL RECORD CHECK (continued)**

*Legal Reference:*

EDUCATION CODE

44332.6 *Criminal record check, county board of education*  
44346.1 *Applicants for credential, conviction of a violent or serious felony*  
44830.1 *Certificated employees, conviction of a violent or serious felony*  
44830.2 *Certificated employees; Interagency agreements*  
45122.1 *Classified employees, conviction of a violent or serious felony*  
45125 *Use of personal identification cards to ascertain conviction of crime*  
45125.01 *Classified employees; interagency agreements*  
45125.1 *Fingerprint for contractors*  
45125.5 *Automated records check*  
45126 *Duty of Department of Justice to furnish information*

GOVERNMENT CODE

6200-6203 *Crimes related to public records*

PENAL CODE

502 *Unauthorized access to computers*  
667.5 *Violent felonies*  
1192.7 *Serious felonies*  
11075-11081 *Criminal record dissemination*  
11105-11105.75 *Criminal identification*  
11140-11144 *Furnishing of state criminal history information*  
13300-13305 *Local summary criminal history information*

CODE OF REGULATIONS, TITLE 11

703 *Release of criminal offender record information*  
708 *Destruction of criminal offender record information*

*Management Resources:*

WEB SITES

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

**CRIMINAL RECORD CHECK**

**USE OF CRIMINAL JUSTICE INFORMATION**

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

Penal Code 11142 and 13300 state:

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

Civil Code 1798.53, Invasion of Privacy, states:

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

**CIVIL, CRIMINAL, AND ADMINISTRATIVE PENALTIES:**

- \*Penal Code 11141: DOJ furnishing to unauthorized person (misdemeanor)
- \*Penal Code 11142: Authorized person furnishing to other (misdemeanor)
- \*Penal Code 11143: Unauthorized person in possession (misdemeanor)
- \*California Constitution, Article I, Section 1 (Right to Privacy)
- \* Civil Code 1798.53, Invasion of Privacy
- \*Title 18 USC 641, 1030, 1951, and 1952

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

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

Signature \_\_\_\_\_ Date \_\_\_\_\_  
 Printed Name \_\_\_\_\_ Title \_\_\_\_\_  
 Name of District \_\_\_\_\_

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

(10/97 7/10) 2/14

**EVALUATION/SUPERVISION**

The Board of Trustees recognizes that appropriate supervision and regular, comprehensive evaluations can help employees to continually improve in the performance of their responsibilities. Evaluations shall be made in accordance with procedures specified in negotiated contracts and based on job-specific standards of performance.

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

The Board expects supervisors to gauge employees' on-the-job effectiveness and skills in a fair, objective, and consistent manner. Evaluations shall address the competence and care with which the employee executes his/her assigned responsibilities. As appropriate, evaluations also may address the extent to which the employee works cooperatively with others and observes school or district rules and regulations.

*(cf. 4219.21 - Code of Ethics)*

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

Evaluations shall be used to recognize the exemplary skills and accomplishments of staff and to identify areas needing improvement. When the evaluation indicates areas needing improvement, the Board expects employees to accept responsibility and take initiative to improve their performance. The Superintendent or designee shall assist employees in obtaining needed job skills.

*(cf. 4231 - Staff Development)*

The evaluation shall be dated and signed by both the employee and the supervisor.

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

The Superintendent or designee shall ensure that classified employees have access to rules and procedures related to performance evaluations.

*Legal Reference: (see next page)*

**EVALUATION/SUPERVISION (continued)**

*Legal Reference:*

EDUCATION CODE

45113 *Rules and regulations for the classified service in districts not incorporating the merit system*

45261 *Subjects of rules (merit system districts)*

45262 *Distribution of rules*

GOVERNMENT CODE

3543.2 *Scope of representation*

*Management Resources:*

WEB SITES

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

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

**PROBATIONARY/PERMANENT STATUS**

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

A probationary employee who has been employed by the district for six months or 130 days of paid service, whichever is longer, shall be classified as a permanent employee of the district. (Education Code [45113](#), [45301](#))

Probationary employees shall receive written performance evaluations by their supervisor during the probationary period. These evaluations shall indicate whether the evaluator is satisfied or not satisfied with the employee's ability, performance, and compatibility with the job.

*(cf. [4215](#) - Evaluation/Supervision)*

The district may, without cause, dismiss a new employee during the probationary period.

*(cf. [4218](#) - Dismissal/Suspension/Disciplinary Action)*

Permanent employees promoted to a higher classification shall be considered probationary in their new position until they have satisfactorily completed the probationary period.

A permanent employee who accepts a promotion and fails to complete the probationary period for that promotional position shall be employed in the classification from which the employee was promoted. (Education Code [45113](#))

This policy shall be made available to classified employees and the public. (Education Code [45113](#))

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

*Legal Reference:*

*EDUCATION CODE*

*[45113](#) Rules and regulations for classified service in districts not incorporating the merit system*

*[45240-45320](#) Merit system*

*Management Resources:*

*WEB SITES*

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

*(6/96 7/02) 10/19*

Policy  
adopted: January 4, 2012  
revised: December 4, 2019

**BIGGS UNIFIED SCHOOL DISTRICT**  
Biggs, California

**DISMISSAL/SUSPENSION/DISCIPLINARY ACTION**

The Board of Trustees expects all employees to perform their jobs satisfactorily and to exhibit professional and appropriate conduct. A classified employee may be disciplined for unprofessional conduct or unsatisfactory performance in accordance with law or any applicable collective bargaining agreement, Board policy, or administrative regulation.

(cf. [1312.1](#) - *Complaints Concerning District Employees*)  
(cf. [4000](#) - *Concepts and Roles*)  
(cf. [4112.5/4212.5/4312.5](#) - *Criminal Record Check*)  
(cf. [4119.11/4219.11/4319.11](#) - *Sexual Harassment*)  
(cf. [4119.24/4219.24/4319.24](#) - *Maintaining Appropriate Adult-Student Interactions*)  
(cf. [4119.21/4219.21/4319.21](#) - *Professional Standards*)  
(cf. [4141/4241](#) - *Collective Bargaining Agreement*)  
(cf. [4200](#) - *Classified Personnel*)

Disciplinary actions shall be based on the particular facts and circumstances involved and the severity of the employee's conduct or performance. The Superintendent or designee shall ensure that disciplinary actions are taken in a consistent, nondiscriminatory manner and are appropriately documented.

(cf. [4030](#) - *Nondiscrimination in Employment*)  
(cf. [4112.6/4212.6/4312.6](#) - *Personnel Files*)  
(cf. [4119.1/4219.1/4319.1](#) - *Civil and Legal Rights*)

Disciplinary actions may include, but are not limited to, verbal and written warnings, involuntary reassignment, demotion, suspension without pay, reduction of pay step in class, compulsory leave, and dismissal.

A probationary classified employee may be dismissed by the Superintendent or designee at any time prior to the expiration of the probationary period.

(cf. [4216](#) - *Probationary/Permanent Status*)

Permanent classified employees shall be subject to disciplinary action only for cause as specified in the accompanying administrative regulation. (Education Code [45113](#))

**Procedures for Serious Disciplinary Proceedings**

The Superintendent or designee shall develop disciplinary procedures for use when dismissal, suspension, demotion, involuntary reassignment, or other serious disciplinary action is contemplated against an employee. The procedures for such discipline shall include an opportunity for an employee for whom any such disciplinary action is recommended to meet with, or respond in writing to, a designated district official ("Skelly officer") who will determine whether the recommended discipline should proceed further or be modified or withdrawn.

**DISMISSAL/SUSPENSION/DISCIPLINARY ACTION - *Continued***

After meeting with the employee or considering the employee's written response, if the Skelly officer determines that the recommended discipline should proceed, the Superintendent or designee shall send the employee a notice of the recommended disciplinary action, a statement of charges, and the results of the Skelly hearing. The notice shall include a statement advising the employee of the right to request a Board hearing on the matter.

If the employee fails to request a hearing within the time specified in the notice, the employee is deemed to have waived the right to do so, and the Board may order the recommended disciplinary action into effect immediately.

If a timely request is submitted, a hearing shall be conducted by the Board. (Education Code [45113](#), [45312](#))

The hearing shall be held at the earliest convenient date, taking into consideration the established schedule of the Board and the availability of legal counsel and witnesses. The employee shall be notified of the time and place of the hearing.

The hearing shall be held in closed session, unless the employee requests that the matter be heard in an open session meeting. (Government Code [54957](#))

(*cf.* [9321](#) - *Closed Session*)

The employee shall be entitled to appear personally, produce evidence, and be represented by legal counsel.

The Board may use the services of its legal counsel in ruling upon procedural questions, objections to evidence, and issues of law. The Board may review and consider the records of any prior personnel action proceedings against the employee in which a disciplinary action was ultimately sustained and any records contained in the employee's personnel files and introduced into evidence at the hearing. The Board shall not be bound by rules of evidence used in California courts. Informality in any such hearing shall not invalidate any order or decision made by the Board.

At any time before a matter is submitted to the Board for decision, the Superintendent or designee may, with the consent of the Board, serve on the employee and file with the Board an amended or supplemental recommendation of disciplinary action. If the amended or supplemental recommendation includes new causes or allegations, the employee shall be afforded a reasonable opportunity to prepare a defense. Any new causes or allegations shall be deemed controverted and any objections to the amended or supplemental causes or allegations may be made orally at the hearing and shall be noted on the record.

**DISMISSAL/SUSPENSION/DISCIPLINARY ACTION - *Continued***

Following the hearing or, if the employee has not requested a hearing, after reviewing the Superintendent or designee's recommendation for disciplinary action, the Board shall affirm, modify, or reject the recommended disciplinary action. The decision of the Board shall be in writing and shall contain findings of fact and the disciplinary action approved, if any. The decision of the Board shall be final.

Within 10 working days of the Board's final decision, a copy of the decision shall be delivered to the employee and/or designated representative personally or by registered mail.

In lieu of holding a Board hearing on the sufficiency of the causes for disciplinary action, the Board may delegate its authority to an impartial third-party hearing officer. When the matter is heard by a third-party hearing officer, the Board retains the authority to review the determination and to adopt or reject the recommended decision. (Education Code [45113](#))

If the matter involves an allegation of egregious misconduct as defined in Education Code [44932](#) and involves a minor, the matter shall be referred to an administrative law judge to determine whether sufficient cause exists for disciplinary action against the employee. In such cases, the ruling of the administrative law judge shall be binding on the district and the employee. (Education Code [45113](#))

*Legal Reference:*EDUCATION CODE[35161](#) Delegation of powers and duties[44009](#) Conviction of specified crimes[44010](#) Sex offense[44011](#) "Controlled substance offense" defined[44031](#) Personnel file[44940](#) Leave of absence; employee charged with mandatory or optional leave of absence offense[44940.5](#) Compulsory leave of absence; procedures; extension; compensation; bond or security[44990-44994](#) Testimony of minor witnesses at dismissal or suspension hearings[45101](#) Definitions (including "disciplinary action," "cause")[45109](#) Fixing of duties[45113](#) Rules and regulations for classified service in districts not incorporating the merit system[45123](#) Employment after conviction of sex or narcotics offense[45124](#) Dismissal of sexual psychopath[45202](#) Transfer of accumulated sick leave and other benefits following dismissal[45240-45320](#) Merit system, classified employeesCODE OF CIVIL PROCEDURE[1286.2](#) Grounds for vacating decision of arbitratorGOVERNMENT CODE[11500-11529](#) Administrative adjudication[12900-12996](#) Fair Employment and Housing Act[54957](#) Brown Act open meeting laws; closed session

*Legal Reference: continued on next page*

**DISMISSAL/SUSPENSION/DISCIPLINARY ACTION – *Continued***

*Legal Reference: continued*

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

667.5 Sex offenders

830.32 Peace officers employed by district

1192.7 Violent or serious felony

11165.2-11165.6 Child abuse or neglect, definitions

VEHICLE CODE

1808.8 School bus drivers; dismissal for safety-related cause

UNITED STATES CODE, TITLE 42

12101-12213 Americans with Disabilities Act

COURT DECISIONS

*California School Employees Association v. Bonita Unified School District (2008) No. B200141*

*California School Employees v. Livingston Union School District (2007) 149 Cal.App 4th 391*

*CSEA v. Foothill Community College District (1975) 52 Cal.App. 3rd 150, 155-156, 124 Cal. Rptr 830*

*Skelly v. State Personnel Board (1975) 15 Cal. 3d 194*

(7/19) 10/19

**DISMISSAL/SUSPENSION/DISCIPLINARY ACTION**

**Causes for Disciplinary Action**

A permanent classified employee may be subject to suspension, demotion, involuntary reassignment, or dismissal for one or more of the following causes:

1. Immoral conduct, including, but not limited to, egregious misconduct that is the basis for a sex offense as defined in Education Code [44010](#), a controlled substance offense as defined in Education Code [44011](#), or child abuse and neglect as described in Penal Code [11165.2-11165.6](#)

(cf. [4112.5/4212.5/4312.5](#) - *Criminal Record Check*)

(cf. [4119.24/4219.24/4319.24](#) - *Maintaining Appropriate Adult-Student Interactions*)

(cf. [5141.4](#) - *Child Abuse Prevention and Reporting*)

2. Conduct that constitutes a violent or serious felony as defined in Penal Code [667.5\(c\)](#) or 1192.7(c)
3. Unlawful discrimination, including harassment, against any student or other employee

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

(cf. [5145.3](#) - *Nondiscrimination/Harassment*)

(cf. [5145.7](#) - *Sexual Harassment*)

4. Violation of or refusal to obey state or federal law or regulation, Board policy, or district or school procedure
5. Falsification of any information supplied to the district, including, but not limited to, information supplied on application forms, employment records, or any other school district records
6. Unsatisfactory performance
7. Unprofessional conduct
8. Dishonesty
9. Neglect of duty or absence without leave
10. Insubordination
11. Use of alcohol or a controlled substance while on duty or in such close time proximity thereto as to affect the employee's performance

**DISMISSAL/SUSPENSION/DISCIPLINARY ACTION** (continued)

- (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*)  
(cf. [4159/4259/4359](#) - *Employee Assistance Program*)

12. Destruction or misuse of district property

(cf. [4040](#) - *Employee Use of Technology*)

13. Failure to fulfill any ongoing condition of employment including, but not limited to, maintenance of any license, certificate, or other similar requirement specified in the employee's class specification or otherwise necessary for the employee to perform the duties of the position

(cf. [4112.4/4212.4/4312.4](#) - *Health Examinations*)  
(cf. [4212](#) - *Appointment and Conditions of Employment*)

14. A physical or mental condition which precludes the employee from the proper performance of duties and responsibilities as determined by competent medical authority, except as otherwise provided by a contract or by law

(cf. [4030](#) - *Nondiscrimination in Employment*)  
(cf. [4032](#) - *Reasonable Accommodation*)

15. Retaliation against any person who, in good faith, reports, discloses, divulges, or otherwise brings to the attention of any appropriate authority any information relative to an actual or suspected violation of state or federal law occurring on or directly related to the job

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

16. Violation of Education Code [45303](#) or Government Code 1028 (advocacy of communism)

17. Any other misconduct which is of such nature that it causes discredit or injury to the district or the employee's position

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 free speech or press rights pursuant to Education Code [48907](#) or [48950](#). (Education Code [48907](#), [48950](#))

(cf. [5145.2](#) - *Freedom of Speech/Expression*)

No disciplinary action shall be taken for any cause which arose before the employee became permanent, nor for any cause which arose more than two years before the date of the filing of

**DISMISSAL/SUSPENSION/DISCIPLINARY ACTION** (continued)

the notice of cause unless this cause was concealed or not disclosed by the employee when it could be reasonably assumed that the employee would have disclosed the facts to the district. (Education Code [45113](#))

(cf. [4216](#) - Probationary/Permanent Status)

**Initiation and Notification of Charges**

The Superintendent or designee shall provide notice to the employee of a recommendation for discipline, which includes the charges and materials upon which the recommendation is based. The notification shall identify an impartial district official ("Skelly officer") with whom the employee may meet at a specified time and place or to whom the employee may provide a written response to the recommendation of discipline. After meeting with the employee or considering any response from the employee, the Skelly officer shall recommend to the Superintendent or designee whether to proceed with the recommendation for discipline.

The Superintendent or designee shall file any final recommendation for a disciplinary action in writing with the Governing Board. A copy of the recommendation shall be served upon the employee either personally or by registered or certified mail, return receipt requested, at the employee's last known address.

The notice shall, in ordinary and concise language, inform the employee of the specific charge(s) or cause(s) for the disciplinary action, the specific acts and omissions upon which the action is based, and, if applicable, the district rule or regulation that the employee has allegedly violated. In addition, the notice shall include the employee's right to a hearing on those charges, the time within which the hearing may be requested which shall be not less than five days after service of the notice to the employee, and a card or paper which the employee may sign and file to deny the charges and request a hearing. (Education Code [45113](#), [45116](#))

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

**Request for Board Hearing**

Within the time specified in the notice of the recommendation of disciplinary action, the employee may request a hearing on the charges by signing and filing the card or paper included with the notice. (Education Code [45113](#))

Any other written document signed and appropriately filed within the specified time limit by the employee shall constitute a sufficient notice of the request for a hearing. The request shall be delivered to the office of the Superintendent or designee during normal work hours of that office. If mailed to the office of the Superintendent or designee, it must be received or postmarked no later than the time limit specified by the district. In cases where an order of suspension without pay has been issued in conjunction with a recommendation of dismissal,

**DISMISSAL/SUSPENSION/DISCIPLINARY ACTION** (continued)

any request for a hearing on the dismissal shall also constitute a request to hear the suspension order, and the necessity of the suspension order shall be an issue in the hearing.

**Employment Status Pending a Hearing**

A classified employee against whom a recommendation of disciplinary action has been issued shall remain on active duty status pending any hearing on the charges, unless the Superintendent or designee determines that the employee's continuance in active duty would present an unreasonable risk of harm to students, staff, or property. The Superintendent or designee may, in writing, order the employee immediately suspended from duty without pay and shall state the reasons that the suspension is deemed necessary. The suspension order shall be served upon the employee either personally or by registered or certified mail, return receipt requested, immediately after issuance.

**Compulsory Leave of Absence**

Upon being informed by law enforcement that a classified 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:

1. Any sex offense as defined in Education Code [44010](#)
2. Violation or attempted violation of Penal Code [187](#) (murder or attempted 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](#)

The Superintendent or designee may place on an immediate compulsory leave of absence a classified 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.

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 the employee demands a hearing on the dismissal.

*(6/94 7/19) 10/19*

Regulation  
approved: January 4, 2012  
revised: December 4, 2019

**BIGGS UNIFIED SCHOOL DISTRICT**  
Biggs, California

**CODE OF ETHICS  
CLASSIFIED EMPLOYEES**

School employees who are in daily contact with many phases of educational work should be persons whose conduct is beyond reproach and who sincerely believe in the advancement of education and the betterment of working conditions; therefore, the California School Employees' Association proposes this Code of Ethics as a standard for its members.

**AS A SCHOOL EMPLOYEE I WILL:**

1. Be proud of my vocation in order that I may use my best endeavors to elevate the standards of my position so that I may merit a reputation for high quality of service -- to the end that others may emulate my example.
2. Be a person of integrity, clean speech, desirable personal habits, and physical fitness.
3. Be just in my criticism and be generous in my praise; to improve and not destroy.
4. At all times be courteous in my relations with students, parents, teachers and others.
5. Be a resourceful person who readily adapts himself to different kinds of work and changed conditions and finds better ways to do things.
6. Conduct myself in a spirit of friendly helpfulness to my fellow employees to the end that I will consider no personal success legitimate or ethical which is secured by taking unfair advantage of another.
7. Associate myself with employees of other districts for the purpose of discussing school problems and cooperating in the improvement of public school conditions.
8. Always uphold my obligations as a citizen to my nation, my state, my school district and my community, and give them unswerving loyalty.
9. Always bear in mind that the purpose of CSEA is to promote the efficiency and raise the standards of all school employees and that I shall be equally obligated to assist all my fellow workers.

**SOURCE: CALIFORNIA SCHOOL EMPLOYEES' ASSOCIATION**

**TEACHER AIDES/PARAPROFESSIONALS**

The Board of Trustees recognizes that paraprofessionals support student learning by providing valuable assistance to teachers and other certificated personnel and enabling greater individualized instruction and supervision of students. Such employees may perform instructional and/or administrative tasks in accordance with law, Board policy and administrative regulation.

*(cf. 1240 - Volunteer Assistance)*

*(cf. 4200 - Classified Personnel)*

*(cf. 6171 - Title I Programs)*

The Superintendent or designee shall ensure that paraprofessionals possess the qualifications required by law for their positions.

Paraprofessionals shall be under the immediate supervision and direction of certificated personnel.

In determining the assignment of paraprofessionals, the Superintendent or designee shall consider the greatest benefit to students based on such factors as class size, grade levels, student needs, subject matter and teacher workload.

Each paraprofessional shall be provided with a clear definition of his/her roles and responsibilities.

The Superintendent or designee shall ensure that all paraprofessionals receive ongoing support and regular performance assessments. Teachers may receive training in how to collaborate effectively with an assistant and are expected to assign duties consistent with written job descriptions for paraprofessionals.

*(cf. 4131 - Staff Development)*

*(cf. 4212 - Appointment and Conditions of Employment)*

*(cf. 4215 - Evaluation/Supervision)*

*(cf. 4231 - Staff Development)*

The Board encourages qualified paraprofessionals to pursue opportunities that lead to attainment of a teaching credential and enable them to increase their skills and experience in the classroom.

*(cf. 4112.2 - Certification)*

*(cf. 4112.21 - Interns)*

*Legal Reference: (see next page)*

**TEACHER AIDES/PARAPROFESSIONALS** (continued)

*Legal Reference:*

EDUCATION CODE

44390-44393 *California School Paraprofessional Teacher Training Program*

44833 *Postsecondary students as nonteaching aides*

44835 *Duties of nonteaching work study aides*

45330 *Paraprofessionals*

45340-45349 *Instructional aides*

45350-45354 *Teacher assistants*

45360-45367 *Teacher aides*

54480-54486 *Special Teacher Employment Programs*

CODE OF REGULATIONS, TITLE 5

12065-12070 *Teacher aides for Special Teacher Employment Programs*

UNITED STATES CODE, TITLE 20

6311 *State plans*

6314 *Schoolwide programs*

6315 *Targeted assistance schools*

6318 *Parent involvement*

6319 *Qualifications for teachers and paraprofessionals*

CODE OF FEDERAL REGULATIONS, TITLE 34

200.58-200.59 *Qualifications and duties of paraprofessionals*

*Management Resources:*

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

*Title I Paraprofessionals, Non-Regulatory Guidance, March 1, 2004*

*Roles for Education Paraprofessionals in Effective Schools, 1997*

WEB SITES

*CTC Paraprofessional Teacher Training Program: <http://www.ctc.ca.gov/para>*

*CDE: <http://www.cde.ca.gov>*

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

*U.S. Department of Education: <http://www.ed.gov>*

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

*National Resource Center for Paraprofessionals: <http://www.nrcpara.org>*

*National Clearinghouse for Paraeducator Resources:*

*<http://www.usc.edu/dept/education/CMMR/Clearinghouse.html>*

**TEACHER AIDES/PARAPROFESSIONALS**

**Qualifications**

No person shall be initially assigned to assist in instruction as a paraprofessional unless he/she has demonstrated proficiency in reading, writing, and mathematics skills up to or exceeding that required for local high school seniors pursuant to Education Code 51220(a) and (f). (Education Code 45330, 45344.5, 45361.5)

A paraprofessional who has passed a proficiency test in another district and was employed in the same capacity shall be considered to have met the district's proficiency standards, unless the district determines that the other district's test is not comparable. (Education Code 45344.5, 45361.5)

**Duties**

A paraprofessional shall perform only such duties as, in the judgment of the certificated personnel to whom the paraprofessional is assigned, may be performed by a person not licensed as a classroom teacher. These duties shall not include assignment of grades to students. (Education Code 45330)

*(cf. 4112.2 - Certification)*  
*(cf. 5121 - Grades/Evaluation of Student Achievement)*  
*(cf. 6171 - Title I Programs)*

Instructional aides need not perform their duties only in the physical presence of the teacher, but the teacher shall retain responsibility for the instruction and supervision of the students in his/her charge. (Education Code 45344)

**Parental Notification**

At the beginning of each school year, parents/guardians shall be notified that they may request information regarding whether their child is provided services by a paraprofessional and, if so, the paraprofessional's qualifications. (20 USC 6312)

*(cf. 5145.6 - Parental Notifications)*

*(11/03 11/05) 7/16*

**TEACHER AIDES/PARAPROFESSIONALS**

**ATTESTATION REGARDING TITLE I PARAPROFESSIONALS**

School: \_\_\_\_\_ Principal: \_\_\_\_\_

1. I certify that every paraprofessional hired after January 8, 2002, and working in a program supported by Title I funds, unless he/she is exempted by law, has received a high school diploma or its equivalent and has met at least one of the following criteria pursuant to 20 USC 6319:
  - a. Completed at least two years of study at an institution of higher education
  - b. Obtained an associate's or higher degree
  - c. Met a rigorous standard of quality and demonstrated, through a locally determined academic assessment, knowledge of and the ability to assist in instructing either reading, writing and mathematics or reading readiness, writing readiness and mathematics readiness
  
2. All paraprofessionals working in a Title I program are performing duties consistent with 20 USC 6319.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**STAFF DEVELOPMENT**

The Board of Trustees recognizes that classified staff does essential work that supports a healthy school environment and the educational program. Classified staff shall have opportunities to participate in staff development activities in order to improve job skills, learn best practices, retrain as appropriate in order to meet changing conditions in the district, and/or enhance personal growth.

*(cf. [3100](#) - Budget)*

*(cf. [3350](#) - Travel Expenses)*

*(cf. [4200](#) - Classified Personnel)*

*(cf. [4261.3](#) - Professional Leaves)*

The Superintendent or designee shall involve classified staff, site and district administrators, and others, as appropriate, in the development of the district's staff development program. He/she shall ensure that the district's staff development program is aligned with district goals, school improvement objectives, the local control and accountability plan, and other district and school plans.

*(cf. [0000](#) - Vision)*

*(cf. [0200](#) - Goals for the School District)*

*(cf. [0420](#) - School Plans/Site Councils)*

*(cf. [0460](#) - Local Control and Accountability Plan)*

*(cf. [0520.2](#) - Title I Program Improvement Schools)*

*(cf. [0520.3](#) - Title I Program Improvement Districts)*

Staff development may address general workplace skills and/or skills and knowledge specific to the duties of each classified position, including, but not limited to, the following topics: (Education Code [45391](#))

1. Student learning and achievement
  - a. How paraprofessionals can assist teachers and administrators to improve the academic achievement of students
  - b. Alignment of curriculum and instructional materials with Common Core State Standards
  - c. The management and use of state and local student data to improve student learning
  - d. Best practices in appropriate interventions and assistance to at-risk students

*(cf. [4222](#) - Teacher Aides/Paraprofessionals)*

*(cf. [5121](#) - Grades/Evaluation of Student Achievement)*

*(cf. [5123](#) - Promotion/Acceleration/Retention)*

## STAFF DEVELOPMENT (continued)

- (cf. [6011](#) - Academic Standards)
- (cf. [6141](#) - Curriculum Development and Evaluation)
- (cf. [6143](#) - Courses of Study)
- (cf. [6161.1](#) - Selection and Evaluation of Instructional Materials)
- (cf. [6162.5](#) - Student Assessment)
- (cf. [6162.51](#) - State Academic Achievement Tests)

### 2. Student and campus safety

- (cf. [0450](#) - Comprehensive Safety Plan)
- (cf. [3515.3](#) - District Police/Security Department)
- (cf. [3515.5](#) - Sex Offender Notification)
- (cf. [4119.11/4219.11/4319.11](#) - Sexual Harassment)
- (cf. [4157/4257/4357](#) - Employee Safety)
- (cf. [4158/4258/4358](#) - Employee Security)
- (cf. [5131](#) - Conduct)
- (cf. [5131.2](#) - Bullying)
- (cf. [5137](#) - Positive School Climate)
- (cf. [5138](#) - Conflict Resolution/Peer Mediation)
- (cf. [5145.9](#) - Hate-Motivated Behavior)
- (cf. [5145.3](#) - Nondiscrimination/Harassment)
- (cf. [5145.7](#) - Sexual Harassment)

### 3. Education technology, including management strategies and best practices regarding the use of education technology to improve student performance

- (cf. [0440](#) - District Technology Plan)
- (cf. [4040](#) - Employee Use of Technology)
- (cf. [6163.4](#) - Student Use of Technology)

### 4. School facility maintenance and operations, including best practices in the operation and maintenance of school facilities, such as green technology and energy efficiency, that help reduce the use and cost of energy at school sites

- (cf. [3510](#) - Green School Operations)
- (cf. [3511](#) - Energy and Water Management)

### 5. Special education, including best practices to meet the needs of special education students and to comply with any new state and federal mandates

- (cf. [6159](#) - Individualized Education Program)
- (cf. [6159.1](#) - Procedural Safeguards and Complaints for Special Education)
- (cf. [6164.4](#) - Identification and Evaluation of Individuals for Special Education)
- (cf. [6164.6](#) - Identification and Education Under Section 504)

### 6. School transportation and bus safety

- (cf. [3540](#) - Transportation)
- (cf. [3541](#) - Transportation for School-Related Trips)
- (cf. [3541.2](#) - Transportation for Students with Disabilities)

## STAFF DEVELOPMENT (continued)

(cf. [3542](#) - *Bus Drivers*)

(cf. [3543](#) - *Transportation Safety and Emergencies*)

7. Parent involvement, including ways to increase parent involvement at school sites

(cf. [1240](#) - *Volunteer Assistance*)

(cf. [6020](#) - *Parent Involvement*)

8. Food service, including food preparation to provide nutritional meals, food safety, and food management

(cf. [3550](#) - *Food Service/Child Nutrition Program*)

(cf. [3551](#) - *Food Service Operations/Cafeteria Fund*)

(cf. [3555](#) - *Nutrition Program Compliance*)

(cf. [5030](#) - *Student Wellness*)

9. Health, counseling, and nursing services

(cf. [5141](#) - *Health Care and Emergencies*)

(cf. [5141.21](#) - *Administering Medication and Monitoring Health Conditions*)

(cf. [5141.22](#) - *Infectious Diseases*)

(cf. [5141.23](#) - *Asthma Management*)

(cf. [5141.24](#) - *Specialized Health Care Services*)

(cf. [5141.26](#) - *Tuberculosis Testing*)

(cf. [5141.27](#) - *Food Allergies/Special Dietary Needs*)

(cf. [5141.3](#) - *Health Examinations*)

(cf. [5141.52](#) - *Suicide Prevention*)

(cf. [5141.6](#) - *School Health Services*)

(cf. [6164.2](#) - *Guidance/Counseling Services*)

10. Environmental safety, including pesticides and other possibly toxic substances so that they may be safely used at school sites

(cf. [3514](#) - *Environmental Safety*)

(cf. [3514.1](#) - *Hazardous Substances*)

(cf. [3514.2](#) - *Integrated Pest Management*)

(cf. [6161.3](#) - *Toxic Art Supplies*)

For classroom instructional aides or other classified staff involved in direct instruction of students, staff development activities may also include academic content of the core curriculum, teaching strategies, classroom management, or other training designed to improve student performance, conflict resolution, and relationships among students. Such professional learning opportunities shall be evaluated based on criteria specified in Education Code [44277](#) and BP 4131 - Staff Development.

The district's staff evaluation process may be used to recommend additional individualized staff development for individual employees.

(cf. [4215](#) - *Evaluation/Supervision*)

**STAFF DEVELOPMENT** (continued)

The Superintendent or designee shall provide a means for continual evaluation of the benefit of staff development activities to staff and students and shall regularly report to the Board regarding the effectiveness of the staff development program.

(cf. [0500](#) - Accountability)

*Legal Reference:*

*EDUCATION CODE*

[44277](#) Professional growth programs for individual teachers

[44032](#) Travel expense payment

[45380-45387](#) Retraining and study leave (classified employees)

[45390-45392](#) Professional development for classified school employees

[52060-52077](#) Local control and accountability plan

[56240-56245](#) Staff development; service to persons with disabilities

*GOVERNMENT CODE*

[3543.2](#) Scope of representation of employee organization

*PUBLIC EMPLOYMENT RELATIONS BOARD DECISIONS*

*United Faculty of Contra Costa Community College District v. Contra Costa Community College District, (1990) PERB Order No. 804, 14 PERC P21, 085*

*Management Resources:*

*WEB SITES*

California Association of School Business Officials: <http://www.casbo.org>

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

(7/05 12/13) 7/15

**PERSONAL ILLNESS/INJURY LEAVE**

Classified employees employed five days a week are entitled to 12 days' leave of absence with full pay for personal illness or injury (sick leave) per fiscal year. Employees who work less than a full fiscal year or fewer than five days a week (part-time employees) shall be granted sick leave in proportion to the time they work. However, part-time employees who are entitled to less than 24 hours of paid sick leave per fiscal year due to the amount of time worked shall be granted sick leave pursuant to Labor Code 246, if they are eligible. (Education Code 45191; Labor Code 245-249)

*(cf. 4161/4261/4361 - Leaves)*

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

**Use of Sick Leave**

A classified employee may use sick leave for absences due to:

1. Accident or illness, whether or not the absence arises out of or in the course of employment, or by quarantine which results from contact in the course of employment with other persons having a contagious disease (Education Code 45199)
2. Pregnancy, childbirth, and recovery (Education Code 45193)

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

3. Personal necessity as specified in Education Code 45207

*(cf. 4161.2/4261.2/4361.2 - Personal Leaves)*

4. Medical and dental appointments, in increments of not less than one hour
5. Industrial accident or illness when leave granted specifically for that purpose has been exhausted (Education Code 45192)

*(cf. 4161.11/4261.11/4361.11 - Industrial Accident/Illness Leave)*

6. Need of an employee to bond with a child within one year of the child's birth, adoption, or foster care placement (parental leave) (Education Code 45196.1; Government Code 12945.2, 12945.6; 29 USC 2612; 29 CFR 825.112)
7. Need of the employee or the employee's family member, as defined in Labor Code 245.5, for the diagnosis, care, or treatment of an existing health condition or for preventive care (Labor Code 233, 246.5)
8. Need of the employee to seek or obtain any relief or medical attention specified in Labor Code 230(c) and 230.1(a) for the health, safety, or welfare of the employee or

**PERSONAL ILLNESS/INJURY LEAVE** (continued)

the employee's child, when the employee has been a victim of domestic violence, sexual assault, or stalking (Labor Code 233, 246.5)

For the purposes specified in items #7-8, an employee may use, in any calendar year, the amount of sick leave that would be accrued during six months at the employee's then current rate of entitlement. (Labor Code 233)

An employee may take leave for personal illness or injury at any time during the year, even if credit for such leave has not yet been accrued. However, a new full-time classified employee shall not be entitled to more than six days of sick leave, or the proportionate amount to which the employee may be entitled, until the first day of the month after the employee has completed six months of active service with the district. (Education Code 45191)

Unused days of sick leave shall be accumulated from year to year without limitation. (Education Code 45191)

An employee shall reimburse the district for any unearned sick leave used as of the date of termination.

The district shall not require newly employed classified employees to waive leave accumulated in a previous district. However, if the employee's previous employment was terminated for cause, the transfer of the accumulated leave shall be made only if approved by the Governing Board. (Education Code 45202)

The Superintendent or designee shall notify any classified employee whose employment with the district is terminated after at least one calendar year for reasons other than for cause that, if the employee accepts employment in another district, county office of education, or community college district within one year of the termination of employment, the employee may request that the district transfer any accumulated sick leave to the new employer. (Education Code 45202)

**Additional Leave for Disabled Military Veterans**

In addition to any other entitlement for sick leave with pay, a classified employee who is a former active duty member of the U.S. Armed Forces or a former or current member of the California National Guard or a federal reserve component shall be entitled to sick leave with pay of up to 12 days for the purpose of undergoing medical treatment, including mental health treatment, for a military service-connected disability rated at 30 percent or higher by the U.S. Department of Veterans Affairs. An eligible employee who works less than five days per week shall be entitled to such leave in proportion to the time worked. (Education Code 45191.5)

The amount of leave shall be credited to the employee either on the date the employee receives confirmation of the submission of the disability application to the U.S. Department of Veterans Affairs or on the first day the employee begins or returns to employment after

**PERSONAL ILLNESS/INJURY LEAVE** (continued)

active duty, whichever is later. When the employee receives the disability rating decision, the employee shall report that information to the Superintendent or designee. If the disability rating decision makes the employee eligible for the leave, the time used before the decision shall be counted toward the 12-day maximum leave. If the disability rating decision makes the employee ineligible for the leave, the district may change the sick leave time used before the disability rating decision to an alternative leave balance. (Education Code 45191.5)

The Superintendent or designee may require verification, in accordance with the section "Verification Requirements" below, that the employee used the leave to obtain treatment of a military service-connected disability.

Leave for military-service connected disability shall be available for 12 months following the first date that the leave was credited. Leave not used during the 12-month period shall not be carried over and shall be forfeited. (Education Code 45191.5)

**Notification of Absence**

An employee shall notify the Superintendent or the designated manager or supervisor of the need to be absent as soon as such need is known so that the services of a substitute may be secured as necessary. This notification shall include an estimate of the expected duration of absence. If the absence becomes longer than estimated, the employee shall so notify the district. If the duration of absence becomes shorter than estimated, the employee shall notify the district not later than three o'clock in the afternoon of the day preceding the day on which the employee intends to return to work. If the employee fails to notify the district and the failure results in a substitute being secured, the cost of the substitute shall be deducted from the employee's pay.

**Continued Absence After Available Sick Leave Is Exhausted/Differential Pay**

When a classified employee has exhausted all paid leaves, including sick leave, and continues to be absent on account of illness or injury for a period of five months or less, the district shall deduct from the employee's regular salary for that period an amount that does not exceed the actual cost of a substitute to fill the position. (Education Code 45196)

The five-month period shall commence on the first day of the leave of absence and shall run concurrently with any other paid leave.

**Parental Leave**

During each school year, a classified employee may use all available sick leave, including accumulated sick leave, for the purpose of parental leave for a period of up to 12 work weeks. The 12-week period shall be reduced by any period of sick leave, including accumulated sick leave, taken during a period of such parental leave. (Education Code 45196.1)

**PERSONAL ILLNESS/INJURY LEAVE** (continued)

Eligibility for such leave shall not require 1,250 hours of service with the district during the previous 12 months. (Education Code 45196.1)

An employee who has exhausted all available sick leave, including accumulated sick leave, and continues to be absent on account of parental leave shall receive differential pay of at least 50 percent of the employee's regular salary for the remainder of the 12 work weeks. (Education Code 45196.1)

Parental leave taken pursuant to Education Code 45196.1 shall run concurrently with the parental leave taken pursuant to Government Code 12945.2 or 12945.6, and the aggregate amount of parental leave shall not exceed 12 work weeks in a 12-month period. (Education Code 45196.1; Government Code 12945.2, 12945.6)

**Extension of Leave**

A permanent employee who is absent because of a personal illness or injury and who has exhausted all available sick leave, vacation, compensatory overtime, and any other paid leave shall be so notified, in writing, and offered an opportunity to request additional leave. The Board may grant the employee additional leave, paid or unpaid, for a period not to exceed six months and may renew this leave for two additional six-month periods or for lesser periods. The total additional leave granted shall not exceed 18 months. (Education Code 45195)

*(cf. 4216 - Probationary/Permanent Status)*

If the employee is still unable to return to work after all available paid and unpaid leaves have been exhausted, the employee shall be placed on a reemployment list for a period of 39 months. If during this time the employee becomes medically able, the employee shall be offered reemployment in the first vacancy in the classification of the employee's previous assignment. During the 39 months, the employee's reemployment shall take preference over all other applicants except those laid off for lack of work or lack of funds, in which case the employee shall be ranked according to seniority. (Education Code 45195)

**Verification Requirements**

After any absence due to illness or injury, the employee shall submit a completed and signed district absence form to the employee's immediate supervisor.

The Superintendent or designee may require verification whenever an employee's absence record shows chronic absenteeism or a pattern of absences immediately before or after weekends and/or holidays or whenever available evidence clearly indicates that an absence is not related to illness or injury.

In addition, the Superintendent or designee may require an employee to visit a physician selected by the district, at district expense, in order to receive a report on the medical condition of the employee. The report shall include a statement as to the employee's need for

**PERSONAL ILLNESS/INJURY LEAVE** (continued)

additional leave of absence and a prognosis as to when the employee will be able to return to work. If the report concludes that the employee's condition does not warrant continued absence, the Superintendent or designee may, after giving notice to the employee, deny the request for additional leave.

Any district request for additional verification by an employee's physician or a district-selected physician shall be in writing and shall specify that the report to be submitted to the district should not contain the employee's genetic information. Any genetic information received by the district on behalf of an employee shall be treated as a confidential medical record, maintained in a file separate from the employee's personnel file, and shall not be disclosed except in accordance with 29 CFR 1635.9.

Before returning to work, an employee who has been absent for surgery, hospitalization, or extended medical treatment may be asked to submit a letter from a physician stating that the employee is able to return to work and stipulating any necessary restrictions or limitations.

*(cf. 4032 - Reasonable Accommodation)*

*(cf. 4113.4/4213.4/4313.4 - Temporary Modified/Light-Duty Assignment)*

**Short-Term and Substitute Employees**

Except for a retired annuitant who is not reinstated to the retirement system, short-term or substitute employees who work for 30 or more days within a year of their employment shall be credited with 24 hours or three days of paid sick leave for that year. Unused sick leave shall not carry over to the following year of employment. (Labor Code 246)

Short-term or substitute employees may begin to use accrued paid sick days on the 90th day of their employment, after which they may use the sick days as they are accrued. (Labor Code 246)

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

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

**Healthy Workplaces, Healthy Families Act Requirements**

No employee, including a short-term or substitute employee, shall be denied the right to use

**PERSONAL ILLNESS/INJURY LEAVE** (continued)

accrued sick days and the district shall not in any manner discriminate or retaliate against an employee for using or attempting to use sick leave, filing a complaint with the Labor Commissioner, or alleging district violation of Labor Code 245-249.

To ensure the district's compliance with Labor Code 245-249, the Superintendent or designee shall:

1. At a conspicuous location in each workplace, display a poster on paid sick leave that includes the following information:
  - a. That an employee is entitled to accrue, request, and use paid sick days
  - b. The number of sick days provided by Labor Code 245-249
  - c. The terms of use of paid sick days
  - d. That discrimination or retaliation against an employee for requesting and/or using sick leave is prohibited by law and that an employee has the right to file a complaint with the Labor Commissioner if the district discriminates or retaliates against the employee
2. Provide at least 24 hours or three days of paid sick leave to each eligible employee to use per year and allow eligible employees to use accrued sick leave upon reasonable request
3. Provide eligible employees written notice, on their pay stub or other document issued with their pay check, of the amount of paid sick leave they have available

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

4. Keep a record documenting the hours worked and paid sick days accrued and used by each eligible employee for three years

**PERSONAL ILLNESS/INJURY LEAVE (continued)**

*Legal Reference:*

EDUCATION CODE

45103 Substitute employees

45190 Leaves of absence and vacations

45191 Leaves of absence for illness and injury

45191.5 Leave for military service connected disability

45193 Leave of absence for pregnancy (re use of sick leave under certain circumstances)

45195 Additional leave for nonindustrial accident or illness; reemployment preference

45196 Salary; deductions during sick leave

45196.1 Differential pay during parental leave up to 12 weeks after sick leave is exhausted

45202 Transfer of accumulated sick leave and other benefits

GOVERNMENT CODE

12945.1-12945.2 California Family Rights Act

12945.6 Parental leave

LABOR CODE

230 Jury duty; legal actions by domestic violence, sexual assault and stalking victims, right to time off

230.1 Employers with 25 or more employees; domestic violence, sexual assault and stalking victims, right to time off

233 Illness of child, parent, spouse or domestic partner

245-249 Healthy Workplaces, Healthy Families Act of 2014

UNITED STATES CODE, TITLE 29

2601-2654 Family and Medical Leave Act of 1993, as amended

UNITED STATES CODE, TITLE 42

2000ff-2000ff-11 Genetic Information Nondiscrimination Act of 2008

CODE OF FEDERAL REGULATIONS, TITLE 29

825.100-825.702 Family and Medical Leave Act of 1993

1635.1-1635.12 Genetic Information Nondiscrimination Act of 2008

COURT DECISIONS

California School Employees Association v. Colton Joint Unified School District, (2009) 170

Cal.App.4th 957

California School Employees Association v. Tustin Unified School District, (2007) 148 Cal.App.4th 510

(3/17 3/18) 3/19

Regulation

approved: January 4, 2012

revised: 06/2016; 04/2017; 04/2018

revised: May 1, 2019

**BIGGS UNIFIED SCHOOL DISTRICT**

Biggs, California

**INDUSTRIAL ACCIDENT/ILLNESS LEAVE**

In each fiscal year, allowable leave for any single industrial accident or illness shall be for 60 working days. (Education Code 45192)

*(cf. 4113.4/4213.4/4313.4 - Temporary/Modified Light-Duty Assignment)*

*(cf. 4157.1/4257.1/4357.1 - Work-Related Injuries)*

*(cf. 4157.2/4257.2/4357.2 - Ergonomics)*

*(cf. 4161/4261/4361 - Leaves)*

Allowable leave shall not accumulate from year to year. (Education Code 45192)

When a classified employee is absent from his/her duties because of an industrial accident or illness: (Education Code 45192)

1. Industrial accident or illness leave shall start on the first day of absence.
2. Payment for wages lost on any day shall not, when added to an award granted the employee under the workers' compensation laws of this state, exceed the normal wage for the day.
3. Industrial accident or illness leave shall be reduced by one day for each day of authorized absence, regardless of a compensation award made under workers' compensation.
4. If an industrial accident or illness leave overlaps into the next fiscal year, the employee is entitled to only that amount remaining at the end of the fiscal year in which the injury or illness occurred, for the same illness or injury.

Upon expiration of allowable leave for an industrial accident or illness, the employee shall use personal illness and injury leave as provided by Education Code 45191. If the employee continues to receive workers' compensation, he/she shall be entitled to use only as much of his/her accumulated or available sick leave, accumulated compensating time, vacation or other available leave as, when added to the employee's workers' compensation award, will provide for a full day's wage or salary. (Education Code 45192)

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

During any paid leave of absence, the employee shall endorse to the district the workers' compensation checks received on account of his/her industrial accident or illness. In those cases, the district shall issue appropriate salary warrants for payment of the employee's salary and shall deduct normal retirement and other authorized contributions. (Education Code 45192)

When available paid leave has been exhausted, the employee shall be so notified in writing and shall be offered an opportunity to request additional leave. (Education Code 45192)

**INDUSTRIAL ACCIDENT/ILLNESS LEAVE** (continued)

When all available leaves of absence, paid or unpaid, have been exhausted and the employee is not medically able to assume the duties of his/her position, the employee shall be placed either in another position or on a reemployment list for a period of 39 months. If during this time the employee becomes medically able, he/she shall be employed in a vacant position in the class of his/her previous assignment over all other available candidates, except for a reemployment list established because of lack of work or lack of funds, in which case the employee shall be listed in accordance with appropriate seniority regulations. An employee who has been placed on a reemployment list and has been medically released for return to duty, but fails to accept an appropriate assignment, shall be dismissed. (Education Code 45192)

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

Any employee receiving benefits under this leave shall, during periods of injury or illness, remain within the State of California unless the Board of Trustees authorizes travel outside the state. (Education Code 45192)

During this leave, the employee may return to his/her position without suffering any loss of status or benefits. Periods of leave of absence, paid or unpaid, shall not be considered to be a break in service of the employee. (Education Code 45192)

*Legal Reference:*

EDUCATION CODE

*45191 Leave of absence for illness or injury*

*45192 Industrial accident and illness leaves for classified employees*