

**SERIES 4000**

**PERSONNEL**

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**CONCEPTS AND ROLES**

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

As the legal representative of the district in negotiations with employee representatives, the Board shall set goals for collective bargaining, maintain communications during the bargaining process, and adopt the negotiated contract. Terms and conditions of employment which have been negotiated and stated in employee contracts shall have the force of policy. The Board shall hear employee complaints and appeals when such hearings are in accordance with Board policy or negotiated agreements. The Board shall also adopt wage and salary schedules.

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

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

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

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

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

**CONCEPTS AND ROLES** (continued)

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

*Legal Reference:*

EDUCATION CODE

*35020 Duties of employees fixed by governing board*

*35035 Powers and duties of superintendent*

*35160 Powers of governing board*

GOVERNMENT CODE

*3540-3549.3 Public education employer-employee relations*

**DRUG AND ALCOHOL-FREE WORKPLACE**

The Board of Trustees believes that the maintenance of drug- and alcohol-free workplaces is essential to school and district operations.

No employee shall unlawfully manufacture, distribute, dispense, possess, use or be under the influence of any alcoholic beverage, drug or controlled substance as defined in 21 USC 81 at any school district workplace. These prohibitions apply before, during and after school hours. A school district workplace is any place where school district work is performed, any school-owned or school-approved vehicle used to transport students to and from school or school activities; any off-school sites when accommodating a school-sponsored or school-approved activity or function where students are under district jurisdiction; or during any period of time when an employee is supervising students on behalf of the district or otherwise engaged in district business.

*(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)*

The Superintendent or designee shall notify employees of these prohibitions. (Government Code 8355; 41 USC 702)

An employee shall abide by the terms of this policy and notify the district, within five days, of any criminal drug or alcohol statute conviction which he/she receives for a violation occurring in the workplace. (41 USC 702)

The Superintendent or designee shall notify the appropriate federal granting or contracting agencies within 10 days after receiving notification, from an employee or otherwise, of any conviction for a violation occurring in the workplace. (41 USC 701)

The Board may not employ or retain in employment persons convicted of a controlled substance offense as defined in Education Code 44011. If any such conviction is reversed and the person acquitted in a new trial or the charges dismissed, his/her employment is no longer prohibited. A plea or verdict of guilty, a finding of guilt by a court in a trial without a jury, or a conviction following a plea of nolo contendere shall be deemed to be a conviction. (Education Code 44836, 45123)

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

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

A classified employee may be reemployed after conviction of such an offense if the Board determines, from the evidence presented, that the person has been rehabilitated for at least five years. (Education Code 45123)

The Board may take appropriate disciplinary action, up to and including termination, or require the employee to satisfactorily participate in and complete a drug assistance or rehabilitation program approved by a federal, state or local health, law enforcement or other appropriate agency.

**DRUG AND ALCOHOL-FREE WORKPLACE** (continued)

*(cf. 4117.4 - Dismissal)*

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

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

The Superintendent or designee shall establish a drug- and alcohol-free awareness program to inform employees about: (Government Code 8355)

1. The dangers of drug and alcohol abuse in the workplace
2. The district policy of maintaining drug- and alcohol-free workplaces
3. Any available drug and alcohol counseling, rehabilitation, and employee assistance programs

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

4. The penalties that may be imposed on employees for drug and alcohol abuse violations

*Legal Reference:*

EDUCATION CODE

44011 *Controlled substance offense*

44425 *Conviction of controlled substance offenses as grounds for revocation of credential*

44836 *Employment of certificated persons convicted of controlled substance offenses*

44940 *Compulsory leave of absence for certificated persons*

44940.5 *Procedures when employees are placed on compulsory leave of absence*

45123 *Employment after conviction of controlled substance offense*

45304 *Compulsory leave of absence for classified persons*

GOVERNMENT CODE

8350-8357 *Drug-free workplace*

UNITED STATES CODE, TITLE 20

7111-7117 *Safe and Drug Free Schools and Communities Act*

UNITED STATES CODE, TITLE 21

812 *Schedule of controlled substances*

CODE OF FEDERAL REGULATIONS, TITLE 21

1308.01-1308.49 *Schedule of controlled substances*

**NONDISCRIMINATION IN EMPLOYMENT**

The Board of Education prohibits unlawful discrimination against and/or harassment of district employees and job applicants on the basis of actual or perceived race, color, national origin, ancestry, religion, age, marital status, pregnancy, physical or mental disability, medical condition, veteran status, gender, sex or sexual orientation at any district site and/or activity. The Board also prohibits retaliation against any district employee or job applicant who complains, testifies or in any way participates in the district's complaint procedures instituted pursuant to this policy.

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

*(cf. 4032 - Reasonable Accommodation)*

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

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

Any district employee who engages or participates in unlawful discrimination, or who aids, abets, incites, compels or coerces another to discriminate, is in violation of this policy and is subject to disciplinary action, up to and including dismissal.

*(cf. 4117.4 - Dismissal)*

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

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

Any district employee who observes or has knowledge of an incident of unlawful discrimination or harassment shall report the incident to the principal, district administrator or Superintendent as soon as practical after the incident. Failure of a district employee to report discrimination or harassment may result in disciplinary action.

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

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

The Board designates the following position as Compliance Officer for Nondiscrimination in Employment:

Assistant Superintendent of Human Resources  
294 Green Valley Road  
Watsonville, CA 95076  
(831) 786-2100

**NONDISCRIMINATION IN EMPLOYMENT** (continued)

**Other Remedies**

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

1. To file a valid complaint with DFEH, the employee must file his/her complaint within one year of the alleged discriminatory act(s), unless an exception exists pursuant to Government Code 12960. (Government Code 12960)
2. To file a valid complaint directly with EEOC, the employee must file his/her complaint within 180 days of the alleged discriminatory act(s). To file a valid complaint with EEOC after filing a complaint with DFEH, the employee must file the complaint within 300 days of the alleged discriminatory act(s) or within 30 days after the termination of proceedings by DFEH, whichever is earlier. (42 USC 2000e-5)

Employees wishing to file complaints with the DFEH and EEOC should contact the nondiscrimination coordinator for more information.

*Legal Reference: (see next page)*

## NONDISCRIMINATION IN EMPLOYMENT (continued)

### Legal Reference:

#### CIVIL CODE

51.7 Freedom from violence or intimidation

#### GOVERNMENT CODE

11135 Unlawful discrimination

12900-12996 Fair Employment and Housing Act

#### PENAL CODE

422.56 Definitions, hate crimes

#### CODE OF REGULATIONS, TITLE 2

7287.6 Terms, conditions and privileges of employment

#### CODE OF REGULATIONS, TITLE 5

4900-4965 Nondiscrimination in elementary and secondary education programs receiving state financial assistance

#### UNITED STATES CODE, TITLE 20

1681-1688 Discrimination based on sex or blindness, Title IX

#### UNITED STATES CODE, TITLE 29

794 Section 504 of the Rehabilitation Act of 1973

#### UNITED STATES CODE, TITLE 42

2000d-2000d-7 Title VI, Civil Rights Act of 1964

2000e-2000e-17 Title VII, Civil Rights Act of 1964 as amended

2000h-2-2000h-6 Title IX, 1972 Education Act Amendments

12101-12213 Americans with Disabilities Act

#### CODE OF FEDERAL REGULATIONS, TITLE 28

35.101-35.190 Americans with Disabilities Act

#### CODE OF FEDERAL REGULATIONS, TITLE 34

100.6 Compliance information

104.8 Notice

106.8 Designation of responsible employee and adoption of grievance procedures

106.9 Dissemination of policy

#### COURT DECISIONS

Carter v. California Department of Veterans Affairs (2003) 2003 Cal.LEXIS 5694

Shepard v. Loyola Marymount (2002) 102 CalApp.4<sup>th</sup> 837

### Management Resources:

#### EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors, June 1999

Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act, March, 1999

#### U.S. DEPARTMENT OF EDUCATION, OFFICE OF CIVIL RIGHTS

Notice of Non-Discrimination, January, 1999

#### WEB SITES

EEOC: <http://www.eeoc.gov>

OCR: <http://www.ed.gov/offices/OCR>

DFEH: <http://www.dfeh.ca.gov>

**NONDISCRIMINATION IN EMPLOYMENT**

Unlawful discrimination or harassment of an individual includes:

1. Slurs, epithets, threats or verbal abuse
2. Derogatory or degrading comments, descriptions, drawings, pictures or gestures
3. Unwelcome jokes, stories, teasing or taunting
4. Any other verbal, written, visual or physical conduct against the individual which:
  - a. Adversely affects his/her employment opportunities, or
  - b. Has the purpose or effect of unreasonably interfering with his/her work performance or creating an intimidating, hostile or offensive work environment

Any employee or job applicant who feels that he/she has been or is being unlawfully discriminated against or harassed should immediately contact his/her supervisor, the nondiscrimination coordinator or the Superintendent in order to obtain procedures for reporting a complaint. Such complaints shall be filed in accordance with AR 4031 - Complaints Concerning Discrimination in Employment. An employee may bypass his/her supervisor when the supervisor is the alleged offender.

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

Any supervisor who receives a discrimination/harassment complaint shall immediately notify the nondiscrimination coordinator or the Superintendent, who shall ensure that the complaint is appropriately investigated in accordance with district policy and regulations.

The Superintendent or designee shall ensure that annual training is provided to all employees regarding the issues of discrimination.

**COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT**

The following procedures shall be used when a district employee or job applicant has a complaint alleging that a specific action, policy, procedure or practice discriminates against him/her on any basis specified in the district's nondiscrimination policies.

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

*(cf. 4030 - Nondiscrimination in Employment)*

*(cf. 4032 - Reasonable Accommodation)*

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

1. The complaint should be initiated promptly after a complainant knew, or should have known, of the alleged discrimination.
2. All parties involved in allegations of discrimination shall be notified when a complaint is filed, when a complaint meeting or hearing is scheduled, and when a decision or ruling is made. The parties also shall be notified of their right to appeal the decision to the next level.
3. When a complaint is brought against the individual responsible for the complaint process at any level, the complainant may address the complaint directly to the next appropriate level.
4. Meetings related to a complaint shall be held at times the district determines appropriate to the circumstances.
5. For the protection of all the parties involved, complaint proceedings shall be kept confidential insofar as appropriate.
6. All documents, communications and records dealing with the investigation of the complaint shall be placed in a confidential district personnel complaint file and not in the employee's individual personnel file.

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

*(cf. 3580 - District Records)*

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

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

7. Time limits specified in these procedures may be revised only by written agreement of all parties involved. If the district fails to respond within a specified or adjusted time limit, a complainant may proceed to the next level. If a complainant fails to take the complaint to the next step within the prescribed time, the complaint shall be considered settled at the preceding step.

**COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT** (continued)

**Level I**

The complainant shall first meet informally with his/her supervisor or the administrator of the school where the alleged discriminatory act occurred. A complaint regarding discrimination away from the school site should be discussed informally with the complainant's supervisor. If the complainant's concerns are not clear or cannot be resolved through informal discussion, the supervisor or other administrator shall prepare, within 10 working days, a written summary of his/her meeting(s) with the complainant. This report shall be made available to the nondiscrimination compliance officer designated by the Board of Trustees in BP 4030 - Nondiscrimination in Employment.

**Level II**

If a complaint cannot be resolved to the satisfaction of the complainant at Level I, he/she may submit a formal written complaint to the compliance officer within 10 working days of his/her attempt to resolve the complaint informally. The written complaint shall include the following:

1. The complainant's name, address and telephone number
2. The name and work location of the district staff member who committed the alleged violation
3. A description of the alleged discriminatory act(s) or omission(s)
4. The discriminatory basis alleged
5. A specific description of the time, place, nature, participants in and witnesses to the alleged violation
6. Other pertinent information which may assist in investigating and resolving the complaint
7. The complainant's signature or that of his/her representative

The compliance officer shall assign a staff member to assist the complainant with this writing if such help is needed. The coordinator shall respond to the complaint in writing within 10 working days.

The compliance officer shall conduct any investigation necessary to respond to the complaint, including discussion with the complainant, person(s) involved, appropriate staff members and students, and review of the Level I report and all other relevant documents. If a response from third parties is necessary, the compliance officer may designate up to 10 additional working days for investigation of the complaint.

## **COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT** (continued)

### **Level III**

If the complaint cannot be resolved at Level II, either party may present the complaint to the Superintendent or designee within 10 working days. The Superintendent or designee shall review the Level II investigation file, including the written complaint and all responses from district staff. The Superintendent or designee shall respond to the complaint in writing within 10 working days.

If the Superintendent or designee finds it necessary to conduct further investigation, he/she may designate up to 10 additional working days for such investigation and shall respond to the complaint in writing within 10 working days of completing the investigation.

### **Level IV**

If the matter is not resolved at Level III, either party may file a written appeal to the Board within 10 working days after receiving the Level III response. The Superintendent or Assistant Superintendent of Human Resources shall provide the Board with all information presented at previous levels.

The Board shall grant the hearing request for the next regular Board meeting for which the matter can be placed on the agenda. Any complaint against a district employee shall be addressed in closed session in accordance with law. The Board shall render its decision within 10 working days.

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

The Board may appoint a hearing panel to review the complaint and previous decisions and make recommendations to the Board. The panel shall hear the appeal and render its decision within 10 working days.

### **Other Remedies**

Complainants may appeal the Board's action to the California Department of Education. The Superintendent or designee shall ensure that complainants are informed that injunctions, restraining orders and other civil law remedies may also be available to them. This information shall be published with the district's nondiscrimination complaint procedures and included in any related notices. (Education Code 262.3)

*Legal Reference: (see next page)*

**COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT** (continued)

*Legal Reference:*

EDUCATION CODE

200-262.4 *Prohibition of discrimination*

GOVERNMENT CODE

12920-12921 *Nondiscrimination*

12940-12948 *Discrimination prohibited; unlawful practices, generally*

UNITED STATES CODE, TITLE 29

621-634 *Age Discrimination in Employment Act*

794 *Section 504 of the Rehabilitation Act of 1973*

UNITED STATES CODE, TITLE 42

2001d-2001d-7 *Title VI, Civil Rights Act of 1964*

2001e-2001e-17 *Title VII, Civil Rights Act of 1964 as amended*

2001h-2-2001h-6 *Title IX, 1972 Education Act Amendments*

12101-12213 *Americans with Disabilities Act*

CODE OF FEDERAL REGULATIONS, TITLE 28

35.101-35.190 *Americans with Disabilities Act*

*Management Resources:*

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

*Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act, March, 1999*

OFFICE OF CIVIL RIGHTS AND NATIONAL ASSOCIATION OF ATTORNEYS GENERAL

*Protecting Students from Harassment and Hate Crime, January, 1999*

WEB SITES

EEOC: <http://www.eeoc.gov>

OCR: <http://www.ed.gov/offices/OCR>

**EMPLOYEE TECHNOLOGY ACCEPTABLE USE POLICY**

The district is dedicated to the use of technology as a tool to enhance learning, increase productivity and promote creativity. The internet and use of technology communication tools are extremely valuable for collaboration, publishing, and interacting with peers, experts, and other audiences. Specifically, the use of the internet provides opportunities to access a wide variety of information, reference materials, and educational resources previously inaccessible. However by its very nature, the free-flowing, uncensored exchange of information and communication that characterizes the internet has forced the issue of how and by whom the network should be used. As a result, the district has created an acceptable user policy to ensure safe and legitimate uses of the internet and the district's network and computers. This policy will be sent home in the opening school packet with a section that must be filled out and signed by students and parents each year and will be kept at their schools site. Employees must fill out and sign the policy once. It will then be kept on file in the Human Resources Department. This policy is to be regularly reviewed by the Superintendent or designee to ensure its effectiveness.

**Internet Safety Guidelines**

All staff, students and parents should be aware of the potential dangers that the use of the internet may bring. These are some example guidelines to ensure student safety when using the internet:

1. All students should have adult supervision when using the internet.
2. Users should not reveal personal information about themselves or others on the internet.
3. Students should not place photos of themselves or others on the internet.
4. Users should never meet with a person or persons they have met only on the internet.

The purpose of the district's Acceptable Use Policy (AUP) is to comply with the Children's Internet Protection Act (CIPA) by preventing unlawful and malicious activities by users on the district network, and securing confidential information from unauthorized access. The use of the district network is a privilege, not a right. All students will submit a signed and completed AUP every academic year to their site's administration before using district computers and network. Staff members must sign an AUP, which will be kept on file at their site, before using district computers and network. All users, with or without a signed AUP must comply with every aspect of this policy. Any violation of this AUP may result in disciplinary and/or criminal action. Users are expected to report any security problems or misuse of district technology.

The district utilizes an internet filter to block access to content that is obscene, pornographic, or detrimental in general. The district reserves the right to monitor users' network activities.

## **EMPLOYEE TECHNOLOGY ACCEPTABLE USE POLICY (continued)**

Therefore, users should have no expectation of privacy concerning the use of the district network. This includes, but is not limited to, all electronic communication such as e-mail, chatting, blogging, etc.

### **Acceptable Uses of the PVUSD Network**

The district network is to be used for educational purposes and district business, such as: class assignments, career development activities, educational research, extra-curricular activities, communication activities and access to network resources.

### **Unacceptable Uses of the District Network**

Any unlawful or malicious use of the district network, such as, but not limited to:

1. Accessing, posting, submitting, publishing, displaying or transmitting any of the following:
  - a. Pornographic or sexually explicit material
  - b. Material that could be construed as harassment or disparagement of others based on race/ethnicity, national origin, gender, sexual orientation, age, disability, religion, or political beliefs
  - c. Obscene depictions
  - d. Materials that are threatening or encourage illegal activities
2. Selling or purchasing illegal items or substances
3. Selling anything using the district network
4. Accessing and/or spreading malicious files, such as viruses, worms, spam, etc.
5. Violation of copyright laws or plagiarism of any kind.
6. Causing harm to others or damage to property, such as, but not limited to:
  - a. The use or distribution of profane, abusive, or offensive language; threatening, harassing, or making damaging or false statements about others.
  - b. Using, deleting, copying, modifying or forging other users' names, emails, files, or data.

**EMPLOYEE TECHNOLOGY ACCEPTABLE USE POLICY (continued)**

- c. Using another person's network account name, information or credentials.
  - d. Disclosing information that could potentially lead to unauthorized access of network account name, information or credentials.
7. Accessing the district network, either internally or externally, to pursue "hacking."
  8. Using the network to encourage the use of drugs, alcohol, or tobacco.
  9. Using the network for commercial, political, religious or gambling purposes.

**Penalties for Violation of the AUP:**

Any intentional violation of this AUP may result in the loss of the user's network access, disciplinary and/or legal action for both students and employees, including suspension or expulsion from district schools, or dismissal from district employment and/or criminal prosecution by government authorities. The district will attempt to tailor disciplinary action to the severity of the violation.

**Disclaimer and Waiver**

The district makes no guarantees about the quality of the services provided and is not responsible for any claims, losses, damages, costs, or other obligations arising from use of its network, computers or accounts. Any additional charges a user accrues due to the use of the district's computers or network are to be borne by the user; the user hereby waives any and all claims against the district and further agrees to indemnify and defend the district for and against any claims arising out of the use of the district's network, computers or accounts. The district is not responsible for the accuracy or quality of any information obtained through user access. Any statement, accessible on the computer network or the internet, is understood to be the author's individual point of view and not that of the district, its affiliates, or employees.

**Use of Cellular Phone or Mobile Communication**

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

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

*Legal Reference: (see next page)*

## **EMPLOYEE TECHNOLOGY ACCEPTABLE USE POLICY (continued)**

*Legal Reference:*

EDUCATION CODE

51870-51874 Education technology

GOVERNMENT CODE

3543.1 Rights of employee organizations

PENAL CODE

502 Computer crimes, remedies

632 Eavesdropping on or recording confidential communications

UNITED STATES CODE, TITLE 47

254 Universal service discounts (E-rate)

CODE OF FEDERAL REGULATIONS, TITLE 47

54.520 Internet safety policy and technology protection measures, E-rate discounts

UNITED STATES CODE, TITLE 20

6751-6777 Education Through Technology Act, No Child Left Behind Act, Title II, Part D

6777 Internet Safety

*Management Resources:*

CDE PUBLICATIONS

K-12 Network Technology Planning Guide: Building the Future, 1994

CDE PROGRAM ADVISORIES

1223.94 Acceptable Use of Electronic Information Resources

WEB SITES

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

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

Federal Communications Commission: <http://www.fcc.gov>

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

American Library Association: <http://www.ala.org>

**EMPLOYEE TECHNOLOGY ACCEPTABLE USE POLICY FORM**

The district is dedicated to the use of technology as a tool to enhance learning, increase productivity and promote creativity. The internet and use of technology communication tools are extremely valuable for collaboration, publishing, and interacting with peers, experts, and other audiences. Specifically the use of the internet provides opportunities to access a wide variety of information, reference materials, and educational resources previously inaccessible. However by its very nature, the free-flowing, uncensored exchange of information and communication that characterizes the internet has forced the issue of how and by whom the network should be used. As a result, the district has created an acceptable user policy to ensure safe and legitimate uses of the internet and the district's network and computers. Employees must fill out and sign this policy once. This policy is to be regularly reviewed by the Superintendent or designee to ensure its effectiveness.

**Internet Safety Guidelines**

All staff, students and parents/guardians should be aware of the potential dangers that the use of the internet may bring. These are some example guidelines to ensure student safety when using the internet:

1. All students should have adult supervision when using the internet.
2. Users should not reveal personal information about themselves or others on the internet.
3. Students should not place photos of themselves or others on the internet.
4. Users should never meet with a person or persons they have met only on the internet.

The purpose of the district's Acceptable Use Policy (AUP) is to comply with the Children's Internet Protection Act (CIPA) by preventing unlawful and malicious activities by users on the district network, and securing confidential information from unauthorized access. The use of the district network is a privilege, not a right. All students will submit a signed and completed AUP every academic year to their site's administration before using district computers and network. Staff members must sign an AUP, which will be kept on file at their site, before using district computers and network. All users, with or without a signed AUP must comply with every aspect of this policy. Any violation of this AUP may result in disciplinary and/or criminal action. Users are expected to report any security problems or misuse of district technology.

The district utilizes an internet filter to block access to content that is obscene, pornographic, or detrimental in general. The district reserves the right to monitor users' network activities. Therefore, users should have no expectation of privacy concerning the use of the district network. This includes, but is not limited to, all electronic communication such as e-mail, chatting, blogging, etc.

**EMPLOYEE TECHNOLOGY ACCEPTABLE USE POLICY FORM** (continued)

**Acceptable Uses of the District Network**

The district network is to be used for educational purposes and district business, such as: class assignments, career development activities, educational research, extra-curricular activities, communication activities and access to network resources.

**Unacceptable Uses of the District Network**

Any unlawful or malicious use of the district network, such as, but not limited to:

1. Accessing, posting, submitting, publishing, displaying or transmitting any of the following:
  - a. Pornographic or sexually explicit material
  - b. Material that could be construed as harassment or disparagement of others based on race/ethnicity, national origin, gender, sexual orientation, age, disability, religion, or political beliefs
  - c. Obscene depictions
  - d. Materials that are threatening or encourage illegal activities
2. Selling or purchasing illegal items or substances
3. Selling anything using the district network
4. Accessing and/or spreading malicious files, such as viruses, worms, spam, etc.
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  - c. Using another person's network account name, information or credentials.
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7. Accessing the district network, either internally or externally, to pursue "hacking."
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**EMPLOYEE TECHNOLOGY ACCEPTABLE USE POLICY FORM** (continued)

9. Using the network for commercial, political, religious or gambling purposes.

**Penalties for Violation of the AUP:**

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I have read, understand, and agree to abide by the provisions of the Acceptable Use Policy of the Pajaro Valley Unified School District.

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

Student Name: \_\_\_\_\_ Student Signature: \_\_\_\_\_

Parent/  
Guardian Name: \_\_\_\_\_ Parent/  
Guardian Signature \_\_\_\_\_

Employee Name: \_\_\_\_\_ Employee Signature: \_\_\_\_\_

Last four digits of SSN: \_\_\_\_\_

Please return this form to the school or office where it will be kept on file. It is required for all students and employees that will be using a computer, the network and/or Internet access.

**EMPLOYEE/STUDENT USE OF TECHNOLOGY**

Pajaro Valley Unified School District is dedicated to the use of technology as a tool to enhance learning, increase productivity and promote creativity. The Internet and use of technology communication tools are extremely valuable for collaboration, publishing, and interacting with peers, experts, and other audiences.

Specifically the use of the Internet provides opportunities to access a wide variety of information, reference materials, and educational resources previously inaccessible. However by its very nature, the free-flowing, uncensored exchange of information and communication that characterizes the Internet has forced the issue of how and by whom the network should be used. As a result, the district has created an acceptable user policy to ensure safe and legitimate uses of the Internet and the district's network and computers. This policy is to be regularly reviewed by the Superintendent or designee to ensure its effectiveness.

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**EMPLOYEE/STUDENT USE OF TECHNOLOGY (continued)**

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5. Violation of copyright laws or plagiarism of any kind.
6. Causing harm to others or damage to property, such as, but not limited to:
  - a. The use or distribution of profane, abusive, or offensive language; threatening, harassing, or making damaging or false statements about others.

**EMPLOYEE/STUDENT USE OF TECHNOLOGY (continued)**

- b. Using, deleting, copying, modifying or forging other users' names, emails, files, or data.
  - c. Using another person's network account name, information or credentials.
  - d. Disclosing information that could potentially lead to unauthorized access of network account name, information or credentials.
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I have read, understand, and agree to abide by the provisions of the Acceptable Use Policy of the Pajaro Valley Unified School District.

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

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

Student Name: \_\_\_\_\_

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

Parent/  
Guardian Name: \_\_\_\_\_

Parent/  
Guardian Signature \_\_\_\_\_

**EMPLOYEE/STUDENT USE OF TECHNOLOGY (continued)**

Employee Name: \_\_\_\_\_

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

Last four digits of SSN: \_\_\_\_\_

Please return this form to the school or office where it will be kept on file. It is required for all students and employees that will be using a computer, the network and/or Internet access.

**CERTIFICATED PERSONNEL**

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

*(cf. 4119.3/4219.3/4319.3 - Duties of Personnel)*

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

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

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

*(cf. 4131 - Staff Development)*

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

*Legal Reference:*

- EDUCATION CODE
- 90 Definition, certificated and certified
- 44006 Certificated person
- 44490-44497 Mentor teacher program
- GOVERNMENT CODE
- 3543.2 Scope of representation

## All Personnel

BP 4111(a)

4211

## RECRUITMENT AND SELECTION

4311

The Board of Trustees desires to employ the most highly qualified and appropriate person available for each open position in order to improve student achievement and efficiency in district operations.

*(cf. 4000 - Concepts and Roles)*

*(cf. 4100 - Certificated Personnel)*

*(cf. 4200 - Classified Personnel)*

*(cf. 4300 - Management, Supervisory and Confidential Personnel)*

The Superintendent or designee shall recruit candidates for open positions based on an assessment of the district's needs for specific skills, knowledge and abilities. He/she shall develop job descriptions that accurately describe all essential and marginal functions and duties of each position, and shall disseminate job announcements to ensure a wide range of candidates.

*(cf. 4119.3/4219.3/4319.3 - Duties of Personnel)*

The Superintendent or designee shall develop selection procedures that identify the best possible candidate for each position based on screening processes, interviews, observations and recommendations from previous employers. He/she may establish an interview committee, as appropriate, to rank candidates and recommend finalists. All discussions and recommendations shall be confidential in accordance with law.

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

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

*(cf. 4030 - Nondiscrimination in Employment)*

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

*(cf. 4032 - Reasonable Accommodation)*

*(cf. 4111.2/4211.2/4311.2 - Legal Status Requirement)*

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

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

*(cf. 4112.2 - Certification)*

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

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

*(cf. 4312.1 - Contracts)*

## RECRUITMENT AND SELECTION (continued)

### Recruiting Incentives for Teachers

Contingent upon available funding, the Superintendent or designee may provide incentives to recruit credentialed teachers to teach in any district school ranked in the bottom half of the state Academic Performance Index. Such incentives may include, but are not limited to, signing bonuses, improved work conditions, teacher compensation or housing subsidies. (Education Code 44735). Any incentives would need to be negotiated with current bargaining unit.

#### *Legal Reference:*

##### EDUCATION CODE

200-262.4 Prohibition of discrimination on the basis of sex  
44066 Limitations on certification requirement  
44259 Teaching credential; exception; designated subjects; minimum requirements  
44735 Incentive grants for recruiting teachers for low-performing schools  
44750-44754.5 Regional teacher recruitment centers  
44830-44831 Employment of certificated persons  
44858 Age or marital status in certificated positions  
44859 Prohibition against certain rules and regulations re residency  
45103-45138 Employment (classified employees)  
49406 Examination for tuberculosis  
52051 Academic Performance Index

##### GOVERNMENT CODE

12900-12996 Fair Employment and Housing Act, including:  
12940-12956 Discrimination prohibited; unlawful practices

##### UNITED STATES CODE, TITLE 8

1324a Unlawful employment of aliens  
1324b Unfair immigration related practices

##### UNITED STATES CODE, TITLE 42

2000d-2000d-7 Title VI, Civil Rights Act of 1964  
2000e-2000e-17 Title VII, Civil Rights Act of 1964 as amended  
2000h-2-2000h-6 Title IX, 1972 Education Act Amendments  
12101-12213 Americans with Disabilities Act

##### CODE OF FEDERAL REGULATIONS, TITLE 28

35.101-35.190 Americans with Disabilities Act

#### *Management Resources:*

##### CSBA PUBLICATIONS

Maximizing School Board Leadership: Human Resources, 1996

##### WEB SITES

Equal Employment Opportunity Commission: <http://www.eeoc.gov>  
Department of Fair Employment and Housing: <http://www.dfeh.ca.gov>  
CalTeach: <http://www.calteach.org>  
Education Job Opportunities Information Network: <http://www.edjoin.org>

**All Personnel**

BP 4111.2

4211.2

**LEGAL STATUS REQUIREMENT**

4311.2

The district shall hire only citizens and aliens who are lawfully authorized to work in the United States. The Superintendent or designee shall ensure that district employment practices do not unlawfully discriminate on the basis of citizenship status or national origin, including but not limited to, discrimination against any refugees, grantees of asylum, or persons qualified for permanent or temporary residency.

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

*(cf. 4030 - Nondiscrimination in Employment)*

*(cf. 4111 - Recruitment and Selection)*

*(cf. 4211 - Recruitment and Selection)*

*(cf. 4311 - Recruitment and Selection)*

All new employees shall show appropriate documents which certify that they are legally eligible to work in the United States, as required by law and in accordance with administrative regulation.

*Legal Reference:*

UNITED STATES CODE, TITLE 8

*1324(a)(b) Immigration and Nationality Act, as amended by Immigration Reform and Control Act of 1986 and Immigration Act of 1990*

CODE OF FEDERAL REGULATIONS, TITLE 8

*274a.1-a.14 Control of Employment of Aliens*

*Management Resources:*

WEB SITES

*Immigration and Naturalization Service: <http://www.ins.usdoj.gov>*

**CONTRACTS**

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

*(cf. 4121 - Temporary/Substitute Personnel)*

*Legal Reference:*

EDUCATION CODE

*44832 Teachers; notice of intent to return*

*44842 Failure to provide notice or to report to work*

*44843 Notice of employment (to county superintendent)*

*44916 Time of classification; statement of employment status*

*44929.20 Continuing contract-districts w/less than 250 ADA*

*44955 Reduction in number of employees*

**CERTIFICATION**

The Superintendent or designee shall ensure that persons employed in positions requiring certification qualifications possess the appropriate credential or permit from the Commission on Teacher Credentialing (CTC) authorizing their employment in such positions.

- (cf. 4111 - Recruitment and Selection)*
- (cf. 4112.21 - Interns)*
- (cf. 4112.22 - Staff Teaching Students of Limited English Proficiency)*
- (cf. 4112.23 - Special Education Staff)*
- (cf. 4113 - Assignment)*
- (cf. 4116 - Probationary/Permanent Status)*
- (cf. 4121 - Temporary/Substitute Personnel)*
- (cf. 5148 - Child Care and Development)*

When a fully credentialed teacher is not available, the district may employ a person with a short-term staff permit or provisional internship permit under the conditions and limitations provided in state and federal law.

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

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

**National Board for Professional Teaching Standards Certification**

The Board of Education encourages district teachers to voluntarily seek additional certification from the National Board for Professional Teaching Standards which demonstrates advanced knowledge and teaching skills.

*Legal Reference:*

EDUCATION CODE

- 8360-8370 Qualifications of child care personnel*
- 32340-32341 Unlawful issuance of a credential*
- 35186 Complaints regarding teacher vacancy or misassignment*
- 42647 Drawing of warrants*
- 44066 Limitations on certification requirements*
- 44200-44405 Teacher credentialing, especially:*
- 44225.6 CTC annual report on availability of teachers*
- 44251 Period of credentials*
- 44252 Standards and procedures for issuance; proficiency testing of basic skills*
- 44252.5 State basic skills assessment required for certificated personnel*
- 44258.9 Monitoring of teacher assignments by county superintendent*
- 44259 Minimum requirements for teaching credential*
- 44259.5 Standards for teachers of all students, including English language learners*

**CERTIFICATION (continued)**

*Legal Reference: (continued)*

EDUCATION CODE (continued)

44270.3-44270.4 Out-of-state credentials, administrative services

44274-44274.5 Out-of-state credentials

44275.3 Employment of teachers with out-of-state credentials

44277 Requirements for maintaining valid credentials

44278 Credential appeal

44325-44329 District interns

44330-44355 Certificates and credentials

44395-44399 National Board for Professional Teaching Standards

44464 Period of validity of internship credential

44468 Early completion of internship program

44500-44508 Peer Assistance and Review Program for Teachers

44662 Performance evaluation; Stull Act review

44735 Teaching as a priority block grant

44830-44929 Employment of certificated persons; requirement of proficiency in basic skills

56060-56063 Substitute teachers in special education

90530 Recruitment Centers

CODE OF REGULATIONS, TITLE 5

6100-6125 Teacher qualifications, No Child Left Behind Act

80001-80674.6 Commission on Teacher Credentialing

UNITED STATES CODE, TITLE 20

6311 Parental notifications

6312 District Title I plan

6319 Highly qualified teachers

7801 Definitions, highly qualified teacher

CODE OF FEDERAL REGULATIONS, TITLE 34

200.55-200.57 Highly qualified teachers

200.61 Parent notification regarding teacher qualifications

COURT DECISIONS

Association of Mexican-American Educators et. al. v. State of California and the Commission on Teacher Credentialing, (1993) 836 F.Supp. 1534

*Management Resources:*

CSBA POLICY ADVISORIES

Teacher Credentialing Commission Eliminates Emergency Permits, August 2003

COMMISSION ON TEACHER CREDENTIALING CODED CORRESPONDENCE

03-0021 Alignment of Emergency Permits and Credential Waivers with No Child Left Behind

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

Standards of Quality and Effectiveness for Professional Teacher Induction Programs, March 2002

Standards of Quality and Effectiveness for Professional Teacher Preparation Programs, September 2001

California Standards for the Teaching Profession, July 1997

U.S. DEPARTMENT OF EDUCATION GUIDANCE

Improving Teacher Quality State Grants, December 19, 2002

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>

**All Personnel**

E 4112.3

4212.3

**OATH OR AFFIRMATION**

4312.3

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

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

\_\_\_\_\_  
(Signature)

Certified by:

\_\_\_\_\_  
(Person who administers the oath)

**All Personnel**

AR 4112.4(a)

4212.4

**HEALTH EXAMINATIONS**

4312.4

**Tuberculosis Tests**

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

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

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

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

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

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

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

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

## **HEALTH EXAMINATIONS** (continued)

### **Medical Certification for Communicable Diseases for Certificated Employees**

When a new employee in a position requiring certification has not previously been employed in such a position in California or a retirant has not previously been employed as a retirant, he/she shall have a medical certificate on file with the district stating that he/she is free from any disabling disease which would render him/her unfit to instruct or associate with children. The certificate shall be completed by a licensed physician and returned to the district by the physician. The medical examination referred to in the certificate must have been conducted within six months of the time when the certificate is filed. (Education Code 44839, 44839.5; 5 CCR 5503)

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

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

The Board may require a certificated employee or retirant to undergo a periodic medical examination by a physician to determine that the employee is free from any communicable disease making him/her unfit to instruct or associate with children. This periodic medical examination shall be at district expense. (Education Code 44839, 44839.5)

### **Mental Examination for Certificated Employees**

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

*(cf. 4032 - Reasonable Accommodation)*

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

*Legal Reference: (see next page)*

AR 4112.4(c)  
4212.4  
4312.4

## **HEALTH EXAMINATIONS (continued)**

### *Legal Reference:*

#### EDUCATION CODE

44839 *Medical certificate; periodic medical examination*

44839.5 *Requirements for employment of retirant*

44932 *Grounds for dismissal of permanent employee*

44942 *Suspension or transfer of certificated employee on ground of mental illness, psychiatric examination; mandatory sick leave*

45122 *Physical examinations*

49406 *Examination for tuberculosis*

#### CODE OF REGULATIONS, TITLE 5

5502 *Filing of notice of physical examination for employment of retired persons*

5503 *Physical examination for employment of retired persons*

5504 *Medical certification procedures*

#### COURT DECISIONS

*Raven v. Oakland Unified School District, (1989) 213 Cal.App.3d 1347*

### *Management Resources:*

#### WEB SITES

*California Department of Public Health: <http://www.cdph.ca.gov>*

*Centers for Disease Control and Prevention: <http://www.cdc.gov>*

*Public Health Institute: <http://www.phi.org>*

*U.S. Food and Drug Administration: <http://www.fda.gov>*

**All Personnel**

BP 4112.42(a)  
4212.42  
4312.42

**DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS**

The Governing Board desires to ensure that district-provided transportation is safe for students, staff, and the public. To that end, the Superintendent or designee shall establish a drug and alcohol testing program for all district drivers and other employees who hold a commercial driver's license which is necessary to perform duties related to their employment with the district. This program shall be designed to fulfill the requirements of state and federal law.

*(cf. 3540 - Transportation)*  
*(cf. 3543 - Transportation Safety and Emergencies)*

The district's testing program shall include pre-employment drug testing and reasonable suspicion, random, post-accident, return-to-duty, and follow-up drug and alcohol testing of drivers. (49 USC 31306)

The Superintendent or designee shall contract for testing services and shall ensure that testing contractors and procedures are certified by the U.S. Department of Health and Human Services to conduct drug specimen analysis and to conform to the requirements of federal law.

*(cf. 3542 - School Bus Drivers)*  
*(cf. 4020 - Drug and Alcohol-Free Workplace)*

No driver may operate a district vehicle when his/her blood alcohol content is found to be .01 percent or greater. A driver shall not consume alcohol while on duty or for four hours prior to on-duty time and up to eight hours following an accident or until he/she undergoes a post-accident test, whichever occurs first. A driver shall not report for duty or remain on duty that requires performing safety-sensitive functions when the driver uses a controlled substance, unless so instructed by a physician. (49 CFR 382.205, 382.207, 382.209; Vehicle Code 34520.3; 13 CCR 1213.1)

Any driver who tests positive for alcohol or drugs or who refuses to submit to a test shall be removed from safety-sensitive functions and may be subject to disciplinary action up to and including dismissal in accordance with law, administrative regulations, and the district's collective bargaining agreement.

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

The Superintendent or designee shall ensure that each driver receives an explanation of the federal regulations and the district's policy and procedure in accordance with law. In addition, each driver shall sign a statement certifying that he/she has received a copy of the above materials. Representatives of employee organizations shall be notified of the availability of this information. (49 CFR 382.601)

BP 4112.42(b)  
4212.42  
4312.42

## **DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)**

*(cf. 4112.9 - Employee Notifications)*

### *Legal Reference:*

#### EDUCATION CODE

35160 Authority of governing boards

#### VEHICLE CODE

34500-34520.5 Safety regulations

#### CODE OF REGULATIONS, TITLE 13

1200-1293 Motor carrier safety, especially:

1213.1 Placing drivers out-of-service

#### UNITED STATES CODE, TITLE 49

31306 Alcohol and controlled substances testing

41501-41507 Transportation Employee Testing Act

#### CODE OF FEDERAL REGULATIONS, TITLE 49

40.1-40.413 Part 40, Procedures for transportation workplace drug and alcohol testing programs

382.101-382.605 Controlled substance and alcohol use and testing; especially:

382.205 On-duty use

382.207 Pre-duty use

382.209 Use following an accident

### *Management Resources:*

#### WEB SITES

California Highway Patrol: <http://www.chp.ca.gov>

U.S. Department of Transportation, Office of Drug and Alcohol Policy and Compliance:

<http://www.dot.gov/ost/dapc>

## **Certificated Personnel**

AR 4112.5(a)  
4312.5

## **CRIMINAL RECORD CHECK**

### **Applicants for Employment**

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

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

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

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

*(cf. 4121 - Temporary/Substitute Personnel)*

### **Temporary Certificate of Clearance**

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

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

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

**CRIMINAL RECORD CHECK** (continued)

**Subsequent Arrest Notification**

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

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

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

**Current Employees**

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

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

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

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

*Legal Reference: (see next page)*

**CRIMINAL RECORD CHECK (continued)**

*Legal Reference:*

EDUCATION CODE

44010 Sex offense

44332 Temporary certificate

44332.5 Registering certificates by certain districts

44332.6 Criminal record check, county board of education

44346.1 Applicants for credential, conviction of a violent or serious felony

44830.1 Certificated employees, conviction of a violent or serious felony

44830.2 Certificated employees; interagency agreement

44836 Conviction of a sex offense

45122.1 Classified employees, conviction of a violent or serious felony

45125 Use of personal identification cards to ascertain conviction of crime

45125.01 Classified employees; interagency agreements

45125.5 Automated records check

45126 Duty of Department of Justice to furnish information

PENAL CODE

667.5 Prior prison terms, enhancement of prison terms

1192.7 Plea bargaining limitation

11105.2 Subsequent arrest notification

CODE OF REGULATIONS, TITLE 11

703 Release of criminal offender record information

708 Destruction of criminal offender record information

*Management Resources:*

WEB SITES

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

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

**All Personnel**

AR 4112.6(a)

4212.6

**PERSONNEL FILES**

4312.6

The Superintendent or designee shall maintain personnel files for all current employees. All personnel files are confidential and shall be available only to the employee, persons authorized by the employee and those authorized by the Superintendent or designee. Official employee files shall be maintained at the district's central office. The Superintendent or designee shall determine the types of information to be included and shall process all material to be placed in a personnel file.

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

The contents of all personnel files shall be kept in strict confidence by any authorized reviewer.

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

*(cf. 9011 - Disclosure of Confidential/Privileged Information)*

*(cf. 9321 - Closed Session Purposes and Agendas)*

*(cf. 9321.1 - Closed Session Actions and Reports)*

Personnel files shall be reviewed and replaced within the shortest time possible. In no case shall a personnel file be left unattended or left unfiled overnight.

**Files for District Police/Security Officers**

Personnel files for district police or security officers shall be maintained and accessed in accordance with Board of Trustees policy and Government Code 3305-3306.

*(cf. 3515.3 - District Police/Security Department)*

**Placement of Material in Personnel Files**

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

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

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

A certificated employee may initiate a written reaction or response to his/her performance evaluation and that response shall become a permanent attachment to the employee's personnel file. (Education Code 44663)

*(cf. 4115 - Evaluation/Supervision)*

## **PERSONNEL FILES** (continued)

### **Derogatory Information**

Information of a derogatory nature shall not be entered into an employee's personnel file unless and until the employee is given notice and an opportunity to review and comment on that information. Such a review shall take place during normal business hours. The employee shall be released from duty for this purpose without a salary reduction. The employee may enter his/her own comments and have them attached to the derogatory statement. (Education Code 44031)

*(cf. 1312.1 - Complaints Concerning District Employees)*

*(cf. 4117.4 - Dismissal)*

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

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

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

### **File Review by Employee**

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

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

1. Keep a copy of each employee's personnel records at the place where the employee reports to work
2. Make the employee's personnel records available at the place where the employee reports to work within a reasonable period of time following an employee's request
3. Permit the employee to inspect the personnel records at the location where the district stores the personnel records, with no loss of compensation to the employee

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

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

**PERSONNEL FILES** (continued)

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

1. Records relating to the investigation of a possible criminal offense
2. Letters of reference
3. Ratings, reports or records that were obtained prior to the employee's employment, prepared by identifiable examination committee members, or obtained in connection with a promotional examination

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

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

The employee may be accompanied by a representative of the employee's choice while reviewing the record.

Inspection shall take place in the presence of the Superintendent or designee. All reviews of personnel records shall be recorded, including the date and time the file was reviewed and the name and title of the person(s) present during the review.

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

**File Review by Management and Board**

Management personnel or district legal counsel with a valid "right to know" or "need to know" may, with the Superintendent or designee's authorization, review an employee's personnel file.

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

Board members are not individually allowed to request and access personnel files but the Board may request pertinent information from an employee's file in cases of personnel action.

*Legal Reference: (see next page)*

AR 4112.6(d)  
4212.6  
4312.6

**PERSONNEL FILES** (continued)

*Legal Reference:*

EDUCATION CODE

35253 Regulations to destroy records

44031 Personnel file contents and inspection

44663 Performance appraisals and related materials

GOVERNMENT CODE

3305-3306 District police officers; personnel files

6254.3 Disclosure of home address and phone number

LABOR CODE

1198.5 Inspection of personnel files

PENAL CODE

11165.14 Report of investigation of child abuse complaint

CODE OF REGULATIONS, TITLE 5

16020-16022 Records, general provisions

16023-16027 Retention of records

ATTORNEY GENERAL OPINIONS

Cal. Atty. Gen., Indexed Letter, no. IL 75-73 (June 6, 1975)

**All Personnel**

BP 4112.61

4212.61

**EMPLOYMENT REFERENCES**

4312.61

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

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

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

*(cf. 4117.5/4217.5/4317.5 - Termination Agreements)*

*Legal Reference:*

LABOR CODE

*1050-1054 Reemployment privileges*

CIVIL CODE

*47 Privileged communication*

CODE OF CIVIL PROCEDURE

*527.3 Labor disputes*

CODE OF REGULATIONS, TITLE 5

*80332 Professional candor and honesty in letters or memoranda of employment recommendation*

COURT DECISIONS

*Randi W. v. Muroc Joint Unified School District et al., (1997) 14 Cal. 4th 1066*

**All Personnel**

AR 4112.61

4212.61

**EMPLOYMENT REFERENCES**

4312.61

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

**All Personnel**

AR 4112.62(a)

4212.62

**MAINTENANCE OF CRIMINAL OFFENDER RECORDS**

4312.62

**Maintenance of Criminal Offender Records**

All information received from the Department of Justice is confidential. (Education Code 44830.1, 45125)

The Superintendent shall designate an employee as record custodian of all confidential fingerprint and criminal record history who shall be responsible for the administration of the information. Any questions regarding Criminal Offender Record Information shall be resolved by the record custodian.

*(cf. 1240 - Volunteer Assistance)*

*(cf. 3515.6 - Criminal Background Checks for Contractors)*

*(cf. 4112.5/4312.5 - Criminal Record Check)*

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

*(cf. 4212.5 - Criminal Record Check)*

Criminal Offender Record Information shall be accessible only to the record custodian and shall be kept in a locked file separate from other files. The contents of these records shall not be disclosed and shall not be reproduced. (Education Code 44830.1, 45125)

The record custodian shall be fingerprinted and processed through the California Department of Justice. He/she shall sign an Employee Statement Form, acknowledging an understanding of the laws regarding Criminal Offender Record Information.

These records shall be used only for the purpose for which they were requested.

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

Violation of this administrative regulation may result in suspension, dismissal and/or criminal or civil prosecution.

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

*(cf. 9011 - Disclosure of Confidential/Privileged Information)*

The record custodian shall ensure that the district complies with destruction, storage, dissemination, auditing, backgrounding and training requirements as set forth in 11 CCR 700-708 and the rules regarding use and security of these records as set forth in Penal Code 11077. (Education Code 44830.1, 45125)

**MAINTENANCE OF CRIMINAL OFFENDER RECORDS** (continued)

**Interagency Agreements**

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

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

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

The designated district shall submit an interagency agreement to the Department of Justice to establish authorization to submit and receive this information. (Education Code 44830.2, 45125.01)

*Legal Reference: (see next page)*

AR 4112.62(c)  
4212.62  
4312.62

**MAINTENANCE OF CRIMINAL OFFENDER RECORDS** (continued)

*Legal Reference:*

EDUCATION CODE

44332 Temporary certificate

44332.6 Criminal record check, county board of education

44346.1 Applicants for credential, conviction of a violent or serious felony

44830.1 Certificated employees, conviction of a violent or serious felony

44830.2 Interagency agreements

45122.1 Classified employees, conviction of a violent or serious felony

45125 Use of personal identification cards to ascertain conviction of crime

45125.01 Interagency agreements

45125.5 Automated records check

45126 Duty of Department of Justice to furnish information

PENAL CODE

667.5 Prior prison terms, enhancement of prison terms

1192.7 Plea bargaining limitation

11075-11081 Criminal record dissemination

11105 State criminal history information; furnishing to authorized persons

11105.3 Record of conviction involving sex crimes, drug crimes or crimes of violence; availability to employer for applicants for positions with supervisory or disciplinary power over minors

11140-11144 Furnishing of state criminal history information

13300-13305 Local summary criminal history information

CODE OF REGULATIONS, TITLE 11

700-708 Criminal offender record information

**All Personnel**

E 4112.62

4212.62

**MAINTENANCE OF CRIMINAL OFFENDER RECORDS**

4312.62

**SAMPLE EMPLOYEE STATEMENT FORM  
USE OF CRIMINAL JUSTICE INFORMATION**

As an employee of Pajaro Valley Unified School District, you may have access to confidential criminal record information which is controlled by statute. Misuse of such information may adversely affect the individual's civil rights and violates the law. Penal Code 502 prescribes the penalties related to computer crimes. Penal Code 11105 and 13300 identify who has access to criminal history information and under what circumstances it may be released. Penal Code 11140-11144 and 13301-13305 prescribe penalties for misuse of criminal history information. Government Code 6200 prescribes the felony penalties for misuse of public record and CLETS (California Law Enforcement Telecommunication System) information. Penal Code 11142 and 13303 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.

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

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

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

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

**All Personnel**

AR 4112.9(a)

4212.9

**EMPLOYEE NOTIFICATIONS**

4312.9

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 - Promotion/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)*

*(cf. 4317.3 - Personnel Reduction)*

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

**EMPLOYEE NOTIFICATIONS** (continued)

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

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 Board of Education authorizes the Superintendent or designee to assign certificated personnel to positions for which their preparation, certification, experience, and aptitude qualify them. All district actions will be consistent with the terms of the current contract with the certificated bargaining unit.

*(cf. 4112.2 - Certification)*

*(cf. 4112.21 - Interns)*

*(cf. 4112.22 - Staff Teaching Students of Limited English Proficiency)*

*(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.

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

The Board encourages the assignment of experienced and fully credentialed teachers, including those who have attained National Board for Professional Teaching Standards certification, to schools with the greatest need to improve student achievement.

Teachers shall be assigned to teach core academic subjects in Title I and non-Title I programs in accordance with the requirements of the No Child Left Behind Act pertaining to teacher qualifications. (20 USC 6319, 7801; 5 CCR 6100-6126)

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

*(cf. 6171 - Title I Programs)*

The Superintendent or designee may assign holders of a credential other than an emergency permit, with their consent, to teach subjects outside their credential authorization in departmentalized classes. The Superintendent or designee shall, with the assistance of subject matter specialists, develop procedures to verify the subject matter knowledge of the teacher before any such assignment is made. (Education Code 44258.3)

The Superintendent or designee shall periodically report to the Board on any teacher misassignments or vacancies. He/she shall report to the Board the results of the County Superintendent's review of district misassignments and vacancies, and shall provide recommendations for remedying any identified issues.

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

*Legal Reference: (see next page)*

**ASSIGNMENT** (continued)

*Legal Reference:*

EDUCATION CODE

33126 School accountability report card

35035 Additional powers and duties of superintendent

35186 Complaint process

37616 Assignment of teachers to year-round schools

44225.6 Commission report to the legislature re: teachers

44250-44279 Credentials and assignments of teachers

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

44824 Assignment of teachers to weekend classes

44955 Reduction in number of employees

GOVERNMENT CODE

3543.2 Scope of representation

CODE OF REGULATIONS, TITLE 5

6100-6126 Teacher qualifications, No Child Left Behind Act

UNITED STATES CODE, TITLE 20

6319 Highly qualified teachers

7801 Definitions, highly qualified teacher

CODE OF FEDERAL REGULATIONS, TITLE 34

200.55-200.57 Highly qualified teachers

*Management Resources:*

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>

**EVALUATION/SUPERVISION**

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

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

*Legal Reference:*

EDUCATION CODE

33039 *State guidelines for teacher evaluation procedures*

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

44500-44508 *Peer assistance and review program for teachers*

44660-44665 *Evaluation and assessment of performance of certificated employees (the Stull Act)*

GOVERNMENT CODE

3543.2 *Scope of representation*

UNITED STATES CODE, TITLE 20

6319 *Highly qualified teachers*

7801 *Definition of highly qualified teacher*

*Management Resources:*

CTC PUBLICATIONS

*Standards for the Quality and Effectiveness for Beginning Teacher Support and Assessment Programs, 1997*

*California Standards for the Teaching Profession, 1997*

WEB SITES

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

California Department of Education: <http://www.CDE.ca.gov>

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

National Board for Professional Teaching Standards: <http://www.nbpts.org>

**All Personnel**

BP 4117.2

4217.2

**RESIGNATION**

4317.2

Any district employee who desires to resign his/her position shall submit, in writing, a letter of resignation which indicates the date which the employee intends as his/her last day at work. The Board of Education 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. The employee may request that the resignation be rescinded at the discretion of the Board.

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

**PERSONNEL REDUCTION**

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

1. Average daily attendance (ADA) in all of the schools in the district during the first six months of the school year has declined below the level for the same period in either of the previous two school years. (Education Code 44955)
2. A particular kind of service is to be reduced or discontinued not later than the beginning of the following school year. (Education Code 44955)
3. Attendance in the district will decline in the following year as a result of the termination of an interdistrict tuition agreement. (Education Code 44955)
4. An amendment of state law requires modification of the curriculum. (Education Code 44955)
5. The state Budget Act reveals that the district's total revenue limit per ADA for the fiscal year of that Budget Act has not increased by at least two percent. (Education Code 44955.5)

**Seniority**

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

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

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

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

**PERSONNEL REDUCTION** (continued)

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)

*(cf. 4113 - Assignment)*

*(cf. 4115 - Evaluation/Supervision)*

*(cf. 4117.4 - Dismissal)*

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

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

**Notice and Hearing Rights**

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

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

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

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

**PERSONNEL REDUCTION** (continued)

**Special Procedure Based Upon Late Adoption of the State Budget**

When the Board, during the time period between five days after enactment of the Budget Act and August 15, determines that the total revenue limit per ADA has not increased by at least two percent and that the district therefore needs to reduce the number of certificated staff pursuant to Education Code 44955.5, the Board shall adopt a schedule of notice and hearings and the district shall otherwise proceed pursuant to Education Code 44949 and 44955. (Education Code 44955.5)

**Reappointment**

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

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

*(cf. 4112.2 - Certification)*

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

*(cf. 4113 - Assignment)*

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

*Legal Reference: (see next page)*

**PERSONNEL REDUCTION** (continued)

*Legal Reference:*

EDUCATION CODE

44830 *Employment of certificated persons*  
44949 *Dismissal of probationary employees*  
44955 *Reduction in number of permanent employees*  
44955.5 *Termination of certificated employees*  
44956-44959.5 *Rights of employees*

GOVERNMENT CODE

3543.2 *Scope of representation*

COURT DECISIONS

*California Teachers Association v. Vallejo City Unified School District*, (2007) 149 Cal.App.4th 135  
*Bakersfield Elementary Teachers Association v. Bakersfield City School District*, (2006) 145 Cal.App.4th 1260  
*Cousins v. Weaverville Elementary School District*, (1994) 24 Cal.App.4th 1846  
*Forker v. Board of Trustees*, (1984) 160 Cal.App.3d 13  
*Moreland Teachers Assoc. v. Kurze*, (1980) 109 Cal.App.3d 648  
*King v. Berkeley Unified School District*, (1979) 89 Cal.App.3d 1016

*Management Resources:*

WEB SITES

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

**SUSPENSION/DISCIPLINARY ACTION**

The Board of Education desires that all employees exhibit professional and appropriate conduct and serve as positive role models at school and in the community. Unacceptable conduct shall be subject to disciplinary action in accordance with law, collective bargaining agreement, Board policy and administrative regulations.

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

The Superintendent or designee shall develop administrative regulations that identify types of misconduct and possible consequences. Disciplinary actions may include, but not be limited to, verbal warnings, written warnings, reassignment, suspension, freezing or reduction of wages, compulsory leave and dismissal.

The Superintendent or designee may take disciplinary action as he/she deems appropriate in light of the particular facts and circumstances involved. He/she 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. 4032 - Complaints Concerning Discrimination in Employment)*

*(cf. 4117.4 - Dismissal)*

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

*Legal Reference: (see next page)*

**SUSPENSION/DISCIPLINARY ACTION (continued)**

*Legal Reference:*

EDUCATION CODE

- 44009 Conviction of specified crimes
- 44010 Sex offense - definitions
- 44011 Controlled substance offense - definitions
- 44660-44665 Evaluation and assessment of performance of certificated employees
- 44830.1 Criminal record summary certificated employees
- 44932 Grounds for dismissal of permanent employee
- 44933 Other grounds for dismissal
- 44938 Unprofessional conduct or unsatisfactory performance; notice of charges
- 44940 Sex offenses and narcotic offenses; compulsory leave of absence
- 44940.5 Compulsory leave of absence; procedures; extension; compensation; bond or security; reports
- 44942 Suspension or transfer of certificated employee on grounds of mental illness
- 44944 Conduct of hearing
- 44948.3 Dismissal of employees on probation
- 45055 Drawing of warrants for teachers
- 51530 Advocacy or teaching of communism

GOVERNMENT CODE

- 3543.2 Scope of representation

HEALTH AND SAFETY CODE

- 11054 Schedule I; substances included
- 11055 Schedule II, substances included
- 11056 Schedule III, substances included
- 11357-11361 Marijuana
- 11363 Peyote
- 11364 Opium
- 11370.1 Possession of controlled substances with a firearm

PENAL CODE

- 667.5 Prior prison terms, enhancement of prison terms
- 1192.7 Plea bargaining limitation

COURT DECISIONS

- Crowl v. Commission on Professional Competence (1990) 225 Cal. App. 3d 334 (275 Cal.Rptr. 86)

**All Personnel**

BP 4119.1(a)  
4219.1  
4319.1

**CIVIL AND LEGAL RIGHTS**

The Governing Board 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 religious or political activities, or lack thereof, shall not be grounds for any discrimination or disciplinary action by the district, provided that these 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)

Employees do not have a reasonable expectation of privacy with regards to district property under an employee's control including, but not limited to, desks, classrooms, offices, file cabinets, computers, or phones. As necessary to protect the health, welfare, or safety of students and staff, school officials may search such items in order to uncover evidence that the employee is violating the law, Board policy, administrative regulation, or other rules of the district or school.

*(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 the harmed person's right to safety.
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.

*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>*

**All Personnel**

BP 4119.21

4219.21

**PROFESSIONAL STANDARDS**

4319.21

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

*(cf. 0000 - Vision)*

*(cf. 4112.2 - Certification)*

*(cf. 4131 - Staff Development)*

*(cf. 4231 - Staff Development)*

*(cf. 4331 - Staff Development)*

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

*(cf. 2111 - Superintendent Governance Standards)*

*(cf. 9005 - Governance Standards)*

*Legal Reference:*

CODE OF REGULATIONS, TITLE 5

80331-80338 Rules of conduct for professional educators

*Management Resources:*

CDE PUBLICATIONS

California Professional Standards for Educational Leaders, 2001

COUNCIL OF CHIEF STATE SCHOOL OFFICERS PUBLICATIONS

Standards for School Leaders, 1996

NATIONAL EDUCATION ASSOCIATION PUBLICATIONS

Code of Ethics of the Education Profession, 1975

WEB SITES

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

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

Association of California School Administrators: <http://www.acsa.org>

California School Leadership Academy: <http://www.csla.org>

Council of Chief State School Officers: <http://www.ccsso.org>

California Teachers Association: <http://www.cta.org>

California Federation of Teachers: <http://www.cft.org>

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

**Certificated Personnel**

BP 4119.22

4219.22

**DRESS AND GROOMING**

4319.22

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

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

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

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

*(cf. 5132 - Dress and Grooming)*

*Legal Reference:*

EDUCATION CODE

35160 Authority of governing boards

35160.1 Broad authority of school districts

GOVERNMENT CODE

3543.2 Scope of representation

12949 Dress standards, consistency with gender identity

COURT DECISIONS

San Mateo City School District v. PERB (1983) 33 Cal. 3d 850

Domico v. Rapides Parish School Board (5th Cir. 1982) 675 F.2d 100

East Hartford Education Assn. v. Board of Education (2d Cir. 1977) 562 F. 2d 856

Finot v. Pasadena Board of Education (1967) 250 Cal.App.2d 189

PUBLIC EMPLOYMENT RELATIONS BOARD DECISIONS

Santa Ana Unified School District (1998) 22 PERC P29, 136

Inglewood Unified School District (1985) 10 PERC P17, 000

*Management Resources:*

WEB SITES

Public Employment Relations Board: <http://www.perb.org>

**All Personnel**

BP 4119.23(a)  
4219.23  
4319.23

**UNAUTHORIZED RELEASE OF CONFIDENTIAL/  
PRIVILEGED INFORMATION**

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

**Disclosure of Closed Session Information**

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

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

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

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

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

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

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

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

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

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

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

3. Disclosing information that is not confidential

**Other Disclosures**

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

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

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

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

*(cf. 4143/4243 - Negotiations/Consultation)*

*(cf. 5125 - Student Records)*

*(cf. 5125.1 - Release of Directory Information)*

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

*(cf. 6164.2 - Guidance/Counseling Services)*

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

*Legal Reference: (see next page)*

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

*Legal Reference:*

EDUCATION CODE

35010 *Control of district; prescription and enforcement of rules*

35146 *Closed sessions*

35160 *Authority of governing boards*

44031 *Personnel file contents and inspection*

44932 *Grounds for dismissal of permanent employees*

44933 *Other grounds for dismissal*

45113 *Rules and regulations for classified service*

49060-49079 *Pupil records*

GOVERNMENT CODE

1098 *Public officials and employees: confidential information*

6250-6270 *Inspection of public records*

54950-54963 *Brown Act*

UNITED STATES CODE, TITLE 20

1232g *Family Education Rights and Privacy Act*

*Management Resources:*

WEB SITES

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

**All Personnel**

BP 4119.25

4219.25

**POLITICAL ACTIVITIES OF EMPLOYEES**

4319.25

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

*(cf. 1160 - Political Processes)*

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

*(cf. 1330 - Use of School Facilities)*

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

*(cf. 1325 - Advertising and Promotion)*

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

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

*Legal Reference:*

EDUCATION CODE

7050-7057 Political activities of school officers and employees

38130-38139 Civic Center Act

51520 Prohibited solicitations on school premises

GOVERNMENT CODE

3543.1 Rights of employee organizations

COURT DECISIONS

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

California Teachers Association v. Governing Board of San Diego Unified School District, (1996) 45 Cal.App. 4th 1333

L.A. Teachers Union v. L.A. City Board of Education, (1969) 71 Cal.2d 551

ATTORNEY GENERAL OPINIONS

84 Ops.Cal.Atty.Gen. 106 (2001)

84 Ops.Cal.Atty.Gen. 52 (2001)

77 Ops.Cal.Atty.Gen. 56 (1994)

PERB RULINGS

California Federation of Teachers, Local 1931 v. San Diego Community College District (2001) PERB Order #1467 (26 PERC 33014)

*Management Resources:*

CSBA PUBLICATIONS

Political Activities of School Districts: Legal Issues, 1998, revised 2001

WEB SITES

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

Office of the Attorney General, Dept. of Justice: <http://caag.state.ca.us/>

Public Employment Relations Board: <http://www.perb.ca.gov>

**All Personnel**

AR 4119.25(a)

4219.25

**POLITICAL ACTIVITIES OF EMPLOYEES**

4319.25

District employees shall not:

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

*(cf. 1160 - Political Processes)*

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

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

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

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

*(cf. 3512 - Equipment)*

6. Post or distribute political campaign materials on district property

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

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

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

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

*(cf. 6144 - Controversial Issues)*

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

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

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

AR 4119.25(b)  
4219.25  
4319.25

**POLITICAL ACTIVITIES OF EMPLOYEES** (continued)

**Employee Organizations**

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

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

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

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

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

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

**All Personnel**

BP 4119.41(a)

4219.41

**EMPLOYEES WITH INFECTIOUS DISEASE**

4319.41

The Board of Education 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.

BP 4119.41(b)  
4219.41  
4319.41

## **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

**EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS**

4319.42

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

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

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

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

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

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

*Legal Reference:*

LABOR CODE

142.3 Authority of Cal/OSHA to adopt standards

144.7 Requirement to amend standards

CODE OF REGULATIONS, TITLE 8

3204 Access to employee exposure and medical records

5193 California bloodborne pathogens standards

CODE OF FEDERAL REGULATIONS, TITLE 29

1910.1030 OSHA bloodborne pathogens standards

*Management Resources:*

CDE ADVISORIES

1016.89 Guidelines for Informing School Employees about Preventing the Spread of Infectious Diseases, including Hepatitis B and AIDS/HIV Infections and Policies for Dealing with HIV-Infected Persons in School Settings

WEB SITES

OSHA: <http://www.osha.gov>

Cal/OSHA: [http://www.dir.ca.gov/occupational\\_safety.html](http://www.dir.ca.gov/occupational_safety.html)

Centers for Disease Control and Prevention: <http://www.cdc.gov>

**All Personnel**

BP 4119.43

4219.43

**UNIVERSAL PRECAUTIONS**

4319.43

In order to protect employees from contact with potentially infectious blood or other body fluids, the Board of Education 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. 5141.23 - Infectious Disease Prevention)*
- (cf. 5141.24 - Specialized Health Care Services)*
- (cf. 5141.6 - Student Health and Social Services)*
- (cf. 6145.2 - Athletic Competition)*

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

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

*Legal Reference:*

HEALTH AND SAFETY CODE

117600-118360 Handling and disposal of regulated waste

120875 Providing information to school districts on AIDS, AIDS-related conditions and Hepatitis B

120880 Information to employees of school district

CODE OF REGULATIONS, TITLE 8

5193 California bloodborne pathogens standard

CODE OF FEDERAL REGULATIONS, TITLE 29

1910.1030 OSHA bloodborne pathogens standards

*Management Resources:*

CDE PROGRAM ADVISORIES

1016.89 Guidelines for Informing School Employees about Preventing the Spread of Infectious Diseases, including Hepatitis B and AIDS/HIV Infections and Policies for Dealing with HIV-Infected Persons in School Settings

WEB SITES

Centers for Disease Control and Prevention: <http://www.cdc.gov>

**All Personnel**

BP 4127(a)  
4227  
4327

**TEMPORARY ATHLETIC TEAM COACHES**

The Board of Education recognizes the importance of qualified temporary athletic team coaches to the district's sports program and to the success of students in sports and interscholastic athletic activities.

The Superintendent or designee shall establish qualification criteria for all athletic coaches in accordance with law and with district standards and priorities. These criteria shall ensure that all coaches possess an appropriate level of competence, knowledge, and skill.

Prior consideration shall be given to district employees applying for extra pay assignments.

Any certificated teacher employed by the district who applies for a position as a temporary athletic team coach and who satisfies the qualification criteria established for the position shall first be offered the position. (Education Code 44919)

By December 31, 2008, all district coaches, including volunteer coaches, shall have completed a coaching education program that meets the standards developed by the California Interscholastic Federation (CIF). Program expenses shall be paid as outlined in Education Code 49032.

*(cf. 5131.63 - Steroids)*

All coaches shall be subject to Board policy and administrative regulation, as well as CIF bylaws and codes of ethical conduct.

*(cf. 5131.1 - Bus Conduct)*

*(cf. 6145.2 - Athletic Competition)*

**Volunteer Coaches**

Volunteer athletic team coaches who do not meet the district qualification criteria shall serve only under the supervision of a fully qualified coach and shall not be given charge of an athletic program.

*Legal Reference: (see next page)*

**TEMPORARY ATHLETIC TEAM COACHES** (continued)

*Legal Reference:*

EDUCATION CODE

35179-35179.7 Interscholastic athletics

44010 Sex offense

44011 Controlled substance offense

44424 Conviction of a crime

44808 Liability when students are not on school property

44919 Classification of temporary employees

49030-39033 Performance-enhancing substances

CODE OF REGULATIONS, TITLE 5

5531 Supervision of extracurricular activities of pupils

5590-5596 Duties of temporary athletic team coaches

COURT DECISIONS

CTA v. Rialto Unified School District, (1997 )14 Cal. 4th 627

San Jose Teachers Association, CTA, NEA v. Barozzi, (1991) 230 Cal. App. 3d 1376

*Management Resources:*

CSBA POLICY BRIEFS

Steroids and Students: What Boards Need to Know, July 2005

WEB SITES

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

California Department of Education: <http://www.cde.ca.gov>

California Interscholastic Federation: <http://www.cifstate.org>

**All Personnel**

AR 4127(a)  
4227  
4327

**TEMPORARY ATHLETIC TEAM COACHES**

At the first regular Board of Education meeting or within 30 days after selection of a temporary athletic team coach, whichever is sooner, the Superintendent or designee shall certify to the Board that all temporary athletic team coaches meet the qualifications and competencies required by law. (5 CCR 5594)

Upon the recommendation of the Superintendent or designee, the Board shall certify to the State Board of Education, by April 1 of each year, that the district conforms with state requirements governing the employment of temporary athletic team coaches. (5 CCR 5594)

**Competencies**

The Superintendent or designee shall determine whether a temporary athletic team coach is knowledgeable and competent in the areas of: (5 CCR 5593)

1. Care and prevention of athletic injuries, basic sports injury first aid, and emergency procedures

The Superintendent or designee shall establish qualifications in this competency area as evidenced by one or more of the following:

- a. Completion of a college-level course in the care and prevention of athletic injuries and possession of a valid cardiopulmonary resuscitation (CPR) card
  - b. A valid sports injury certificate or first aid card, and a valid cardiopulmonary resuscitation (CPR) card
  - c. A valid Emergency Medical Technician (EMT) I or II card
  - d. A valid trainer's certification issued by the National or California Athletic Trainers' Association (NATA/CATA)
  - e. Practical experience under the supervision of an athletic coach or trainer or experience assisting in team athletic training and conditioning and both valid CPR and first aid cards
2. Coaching techniques

The Superintendent or designee shall establish qualifications in coaching theory and techniques in the sport or game being coached as evidenced by one or more of the following:

- a. Completion of a college course in coaching theory and techniques

**TEMPORARY ATHLETIC TEAM COACHES** (continued)

- b. Completion of inservice programs arranged by a school district or county office of education
  - c. Prior service as a student coach or assistant athletic coach in the sport or game being coached
  - d. Prior coaching in community youth athletic programs in the sport being coached
  - e. Prior participation in organized competitive athletics at high school level or above in the sport being coached
3. Rules and regulations in the athletic activity being coached

The Superintendent or designee shall establish knowledge of the rules and regulations pertaining to the sport or game being coached, the league rules and, at the high school level, regulations of the California Interscholastic Federation.

4. Child or adolescent psychology, whichever is appropriate to the grade level of the involved activity

The Superintendent or designee shall establish competency in knowledge of child or adolescent psychology as it relates to sport participation as evidenced by one or more of the following:

- a. Completion of a college-level course in child psychology for elementary school positions and adolescent or sports psychology for secondary school positions
- b. Completion of a seminar or workshop on human growth and development of youth
- c. Prior active involvement with youth in school or community sports program

The Superintendent or designee may waive competency requirements for persons enrolled in appropriate training courses leading to acquisition of the competency, provided such persons serve under the direct supervision of a fully qualified coach until the competencies are met. (5 CCR 5593)

## **TEMPORARY ATHLETIC TEAM COACHES** (continued)

### **Additional Competencies for Noncertificated Personnel**

In addition to the competencies listed above, the Superintendent or designee shall determine that a noncertificated person employed as a temporary athletic team coach: (5 CCR 5592)

1. Has not been convicted of any offense referred to in Education Code 44010, 44011 or 44424, or any offense involving moral turpitude or evidencing unfitness to associate with children.

*(cf. 4212.5 - Criminal Record Check)*

2. Is free from tuberculosis and any other contagious disease that would prohibit certificated teachers from teaching, as verified by a written statement, renewable every four years, from a licensed physician or other person approved by the district.

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

Noncertificated coaches have no authority to give grades to students. (5 CCR 5591)

### **Code of Ethical Conduct**

Employees providing supervisory or instructional services in interscholastic athletic programs and activities shall: (5 CCR 5596)

1. Show respect for players, officials and other coaches
2. Respect the integrity and judgment of game officials
3. Establish and model fair play, sportsmanship and proper conduct
4. Establish player safety and welfare as the highest priority
5. Provide proper supervision of students at all times
6. Use discretion when providing constructive criticism and when reprimanding players
7. Maintain consistency in requiring all players to adhere to the established rules and standards of the game
8. Properly instruct players in the safe use of equipment

**TEMPORARY ATHLETIC TEAM COACHES** (continued)

9. Avoid exerting undue influence on a student's decision to enroll in an athletic program at any public or private postsecondary educational institution
10. Avoid exerting undue influence on students to take lighter academic course(s) in order to be eligible to participate in athletics
11. Avoid suggesting, providing or encouraging any athlete to use nonprescriptive drugs, anabolic steroids or any substance to increase physical development or performance that is not approved by the U.S. Food and Drug Administration, U.S. Surgeon General or the American Medical Association
12. Avoid recruitment of athletes from other schools
13. Follow the rules of behavior and the procedures for crowd control as established by the Board and the league in which the district participates

**PUBLICATION OR CREATION OF MATERIALS**

The Board of Education recognizes that district employees may create copyrightable materials at work, at home, or both at work and at home. The development of copyrightable materials during, or in part during, the work day shall be approved by the Superintendent or designee. However, the Superintendent or designee's approval or lack of approval shall not affect the district's ownership of copyrights for materials developed during work hours.

Materials written or developed by an employee during the normal school day are considered district property. (Education Code 60076, 17 USC 201)

Materials developed during both school and leisure hours are owned jointly by the employee and the district. In such cases, the Superintendent or designee shall ensure that a contractual agreement is made prior to the development of the copyright material, clarifying the joint ownership. A partnership entity may be created to hold the copyright on behalf of both parties.

The Board may secure copyrights in the name of the district for all copyrightable works developed by the district. All royalties or revenues from these copyrights shall be used for the benefit of the district. (Education Code 35170)

The Board may market or license any noneducational mainframe electronic software developed by the district. Proceeds from this marketing or licensing shall be used exclusively for educational purposes. (Education Code 35182)

*Legal Reference:*

EDUCATION CODE

32360 Copyrights; use of funds

32361 Copyrights; use of employee work time

35170 Authority to secure copyrights

35182 Marketing or licensing noneducational mainframe electronic data-processing software

60076 Royalties or other compensation

LABOR CODE

2870-2872 Inventions made by an employee

UNITED STATES CODE, TITLE 17

201 Copyright Law

201(a) Copyright Law

**All Personnel**

BP 4136

4236

**NONSCHOOL EMPLOYMENT**

4336

The Board of Education recognizes that district employees may receive compensation for outside activities as long as these activities are not inconsistent, incompatible, in conflict with or inimical to the employee's duties or to the duties, functions or responsibilities of the district.

Outside paid activities are incompatible with district employment if they require time periods that interfere with the proper, efficient discharge of the employee's duties, if they entail compensation from an outside source for activities which are part of the employee's regular duties, or if they involve using for private gain the district's name, prestige, time, facilities, equipment or supplies.

*(cf. 1321 - Solicitation of Funds from and by Students)*  
*(cf. 4119.21/4219.21/4319.21 - Professional Standards)*  
*(cf. 4135/4235/4335 - Soliciting and Selling)*  
*(cf. 4137 - Tutoring)*

District employees shall not perform, without prior Board approval, any outside paid service which will be wholly or in part subject to the approval or control of another district employee or a district officer.

*(cf. 4132/4232/4332 - Publication or Creation of Materials)*  
*(cf. 6161.1 - Selection and Evaluation of Instructional Materials)*  
*(cf. 9270 - Conflict of Interest)*

Upon determining that an employee's outside job is incompatible with district employment, the Superintendent or designee shall so inform the employee. An employee who continues to pursue an incompatible activity may be subject to disciplinary action. Appeals shall be addressed in accordance with law, Board policy and administrative regulations.

*(cf. 4118 - Suspension/Disciplinary Action)*  
*(cf. 4119.1/4219.1/4319.1 - Civil and Legal Rights)*  
*(cf. 4144/4244/4344 - Complaints)*  
*(cf. 4218 - Dismissal/Suspension/Disciplinary Action)*

*Legal Reference:*

EDUCATION CODE

35160 Authority of governing boards

35160.1 Broad authority of school districts

51520 Prohibited solicitation on school premises

GOVERNMENT CODE

1126 Incompatible activities of employees

Policy  
adopted: June 25, 2008

**PAJARO VALLEY UNIFIED SCHOOL DISTRICT**  
Watsonville, California

**TUTORING**

The Board of Education expects teachers and other members of the instructional staff to make every effort to resolve students' learning problems at school before recommending that parents/guardians engage a tutor or other professional help. By maintaining a competent, dedicated staff and adequate instructional resources, the Board seeks to minimize the need for individual tutoring.

To preclude conflicts of interest, teachers may not accept any kind of remuneration for tutoring a student enrolled in any of their classes. Teachers who tutor other students must perform this service outside of school facilities and make their own arrangements with parents/ guardians for the fees to be charged. The Board encourages teachers to tutor only in subjects or grade levels for which they are certificated.

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

*(cf. 4135 - Soliciting and Selling)*

*Legal Reference:*

GOVERNMENT CODE

*1126 Incompatible activities of employees*

**BARGAINING UNITS**

The Governing Board recognizes the right of public school employees to form bargaining units, select an employee organization as the exclusive representative of their unit, and be represented by that organization in their employment relationship with the district. The Board is committed to negotiating in good faith with the employee organizations and respecting the rights of employees and employee organizations.

*(cf. 4141/4241 - Collective Bargaining Agreement)*  
*(cf. 4143/4243 - Negotiations/Consultation)*

The Board shall negotiate only with the exclusive representative of each bargaining unit. (Government Code 3543.3)

Certificated and classified employees shall not be included in the same bargaining unit. (Government Code 3545)

The district shall not dominate or interfere with the formation or administration of any employee organization or contribute financial or other support to it. (Government Code 3543.5)

Neither the district nor the employee organization shall impose or threaten to impose reprisals on employees, discriminate or threaten to discriminate against employees, or otherwise interfere with, restrain, or coerce employees because of their membership or nonmembership in an employee organization. (Government Code 3543.5, 3543.6)

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

**Management and Supervisory Employees**

Employees serving in a management, senior management, or confidential position shall not be represented by an exclusive representative. Such employees may represent themselves individually or may be represented by an employee organization whose membership is composed entirely of employees designated as holding those positions, but that organization shall not meet and negotiate with the district. (Government Code 3543.4)

However, the district may recognize a bargaining unit of supervisors if that unit includes all supervisory employees and if the unit does not represent the employee whom the supervisors supervise. (Government Code 3545)

Management, supervisory, and confidential positions shall be classified as follows: (Government Code 3540.1)

1. *Management employee* means any employee who has significant responsibilities for formulating district policies or administering district programs, and whose position is designated as a management position by the Board.

**BARGAINING UNITS** (continued)

2. *Supervisory employee* means any employee, regardless of job description, having the authority, in the interest of the district, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, discipline, assign work, direct, adjust grievance of other employees, or effectively recommend that action. The exercise of this authority shall not be merely routine or clerical in nature, but shall require the use of independent judgment.

(cf. 2220 - *Administrative Staff Organization*)

3. *Confidential employee* means any employee who is required to develop or present management positions with respect to employer-employee relations or whose duties normally require access to confidential information that is used to contribute significantly to the development of management positions.

*Legal Reference:*

EDUCATION CODE

45060-45061.5 *Deduction of fees from salary or wage payment, certificated employees*

45168 *Deduction of fees from salary or wage payment, classified employees*

45220-45320 *Merit system, classified employees*

GOVERNMENT CODE

3540-3549.3 *Educational Employment Relations Act*

CODE OF REGULATIONS, TITLE 8

33015-33490 *Recognition of exclusive representative; proceedings*

33700-33710 *Severance of established unit*

34020 *Petition to rescind organizational security arrangement*

34055 *Reinstatement of organizational security arrangement*

*Management Resources:*

CSBA PUBLICATIONS

*Collective Bargaining DVD-ROM*

*Maximizing School Board Governance: Collective Bargaining*

*Before the Strike: Planning Ahead in Difficult Negotiations, 1996*

WEB SITES

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

California Federation of Teachers: <http://www.cft.org>

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

California Teachers Association: <http://www.cta.org>

Public Employment Relations Board: <http://www.perb.ca.gov>

**COLLECTIVE BARGAINING AGREEMENT**

The Governing Board recognizes that collective bargaining agreements are legally binding, bilateral agreements with the exclusive representatives of employees pertaining to terms and conditions of employment. The Board is committed to carrying out the provisions of each agreement and expects the agreements to be consistently and uniformly administered.

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

*(cf. 4143/4243 - Negotiations/Consultation)*

Following adoption of the collective bargaining agreement, the Superintendent or designee shall review related Board policies and recommend to the Board any action needed to maintain consistency with the agreement. Whenever a Board policy conflicts with a provision in the collective bargaining agreement, the agreement shall be binding for those employees covered by the terms of the agreement.

*(cf. 9310 - Board Policies)*

Upon request by the Public Employment Relations Board, the Superintendent or designee shall provide, within 15 days of the request, a copy of the written agreement and any amendments. (8 CCR 32120)

*Legal Reference:*

EDUCATION CODE

35035 Additional powers and duties of superintendent, transfer authority

35036 Voluntary transfers

35160 Authority of governing boards

35160.1 Broad authority of school districts

45220-45320 Merit system, classified employees

GOVERNMENT CODE

3540-3549.3 Educational Employment Relations Act

CODE OF REGULATIONS, TITLE 8

31001-32997 Regulations of employee relations boards

*Management Resources:*

CSBA PUBLICATIONS

Collective Bargaining DVD-ROM

Maximizing School Board Governance: Collective Bargaining

WEB SITES

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

California Public Employee Relations: <http://cper.berkeley.edu>

Center for Collaborative Solutions: <http://www.csccenter.org>

Public Employment Relations Board: <http://www.perb.ca.gov>

State Mediation and Conciliation Service (SMCS): <http://www.dir.ca.gov/csmcs/smcs.html>

**CONCERTED ACTION/WORK STOPPAGE**

The Governing Board recognizes the importance of maintaining ongoing positive relations with employees and engaging in fair, respectful negotiations with employee organizations. The Board desires to reach agreement on employment contracts in a manner that does not disrupt school operations or impact student achievement.

*(cf. 4141/4241 - Collective Bargaining Agreement)*  
*(cf. 4143/4243 - Negotiations/Consultation)*

The Board recognizes that advance planning is necessary to ensure that students receive the education to which they are entitled in the event of a work slowdown, sickout, strike, or other concerted activity by employees. The Superintendent or designee shall develop a written plan which shall include strategies for the provision of internal and external communications, preservation of student and staff safety, maintenance of district operations, and appropriate student instruction and supervision during a work slowdown or stoppage.

*(cf. 0450 - Comprehensive Safety Plan)*  
*(cf. 1100 - Communications with the Public)*  
*(cf. 1112 - Media Relations)*  
*(cf. 9000 - Role of the Board)*

If an employee organization gives notice that it intends to strike, the Superintendent or designee shall notify the Public Employment Relations Board, Employment Development Department, employees in the striking unit, employees in the nonstriking unit, parents/guardians, students, law enforcement, the media, and others as appropriate.

Employees should be held accountable for their behavior during any labor dispute. The district may take disciplinary action against any employee who engages in an unlawful concerted action or in unlawful behavior in an otherwise protected activity, taking into account the seriousness of the behavior and the district's efforts to rebuild relations following the withholding of services by employees.

*(cf. 4118 - Suspension/Disciplinary Action)*  
*(cf. 4119.25/4219.25/4319.25 - Political Activities of Employees)*  
*(cf. 4218 - Suspension/Disciplinary Action)*

*Legal Reference: (see next page)*

**CONCERTED ACTION/WORK STOPPAGE** (continued)

*Legal Reference:*

EDUCATION CODE

35204 *Contract with attorney in private practice*

35205 *Contract for legal services*

37200-37202 *Instructional days*

GOVERNMENT CODE

3540-3549.3 *Educational Employment Relations Act, especially:*

3543.5-3543.6 *Unfair labor practices*

3548-3548.8 *Impasse procedures*

INSURANCE CODE

10116 *Employee continuation of insurance coverage*

UNITED STATES CODE, TITLE 29

1161-1169 *Continuation coverage and additional standards for group health plan*

PUBLIC EMPLOYMENT RELATIONS BOARD DECISIONS

Fresno Unified School District, 1982, PERB Dec. No. 208, 6 PERC 13110

Konocti Unified School District, 1982, PERB Dec. No. 217, 6 PERC 13152

*Management Resources:*

CSBA PUBLICATIONS

*Collective Bargaining DVD-ROM*

*Maximizing School Board Governance: Collective Bargaining*

*Political Activities of School Districts: Legal Issues, rev. 2001*

*Before the Strike: Planning Ahead in Difficult Negotiations, 1996*

WEB SITES

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

Public Employment Relations Board: <http://www.perb.ca.gov>

State Mediation and Conciliation Service (SMCS): <http://www.dir.ca.gov/csmcs/smcs.html>

**NEGOTIATIONS/CONSULTATION**

The Governing Board recognizes its responsibility to represent the public's interests in the collective bargaining process. In negotiating agreements on employee contracts, the Board shall balance the needs of staff and the priorities of the district in order to provide students with a high-quality instructional program based on a sound, realistic budget.

*(cf. 0200 - Goals for the School District)*  
*(cf. 3100 - Budget)*  
*(cf. 4140/4240 - Bargaining Units)*  
*(cf. 4141/4241 - Collective Bargaining Agreement)*

The Board shall negotiate in good faith with exclusive employee representatives on wages, hours of employment, and other terms and conditions of employment identified in law as being within the scope of representation. (Government Code 3543.2)

The Board believes that effective negotiations require the input of all levels of the administration. The Board shall establish a bargaining team to assist in analyzing contract provisions and conducting contract negotiations.

The Board and Superintendent shall provide its negotiator(s) with expected outcomes and clear parameters for acceptable contract provisions which promote the realization of district goals and priorities.

In consultation with the Superintendent and employee organization, the Board shall determine the collective bargaining approach or method to be used.

The Board with its bargaining team shall establish standards of conduct pertaining to the negotiations process for individual Board members and members of the bargaining team. Certain meetings related to negotiations shall be held in closed session in accordance with Government Code 3549.1 when not required by state open meeting laws (the Brown Act) to be held in public. Matters discussed in these meetings shall be kept in strict confidence.

*(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)*  
*(cf. 9010 - Public Statements)*  
*(cf. 9011 - Disclosure of Confidential/Privileged Information)*  
*(cf. 9321 - Closed Session Purposes and Agendas)*

The Board and its negotiator(s) shall not knowingly provide the employee organization with inaccurate information regarding the financial resources of the district. (Government Code 3543.5)

The Board shall closely monitor the progress of negotiations and carefully consider how proposed contract provisions would affect the district's short- and long-term fiscal, programmatic, instructional, and personnel goals.

*(cf. 3100 - Budget)*

## **NEGOTIATIONS/CONSULTATION (continued)**

The Board and/or Superintendent shall keep the public informed about the progress of negotiations and the ways in which negotiations may affect district goals.

*(cf. 4143.1/4243.1- Public Notice - Personnel Negotiations)*

Whenever the district has a qualified or negative certification on an interim fiscal report, it shall allow the county office of education at least 10 working days to review and comment on any proposed agreement with exclusive representatives of employees. The district shall provide the County Superintendent of Schools with all information relevant to gain an understanding of the financial impact of any final collective bargaining agreement. (Government Code 3540.2)

*(cf. 3460 - Financial Reports and Accountability)*

Once the final terms of the agreement have been ratified by the membership of the employee organization, the contract shall be presented to the Board at a public meeting for acceptance.

Any agreement adopted by the Board may be for a term not to exceed three years. (Government Code 3540.1)

In the event of an impasse in negotiations, the Board shall participate in good faith in state mediation and fact-finding procedures pursuant to Government Code 3548-3548.8. (Government Code 3543.5)

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

Following adoption of the collective bargaining agreement, any subsequent amendments shall be executed in writing by the Board and the employees' exclusive representative.

### **Consultation**

The exclusive representative of certificated staff may consult with the Board on the definition of educational objectives, the determination of the content of courses and curriculum, and the selection of textbooks.

*(cf. 6011 - Academic Standards)*

*(cf. 6141 - Curriculum Development and Evaluation)*

*(cf. 6161.1 - Selection and Evaluation of Instructional Materials)*

*(cf. 9310 - Board Policies)*

*Legal Reference: (see next page)*

**NEGOTIATIONS/CONSULTATION (continued)**

*Legal Reference:*

GOVERNMENT CODE

3540-3549.3 *Educational Employment Relations Act*

*Management Resources:*

CSBA PUBLICATIONS

*Collective Bargaining DVD-ROM*

*Maximizing School Board Governance: Collective Bargaining  
Before the Strike: Planning Ahead in Difficult Negotiations, 1996*

WEB SITES

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

California Public Employee Relations: <http://cper.berkeley.edu>

Center for Collaborative Solutions: <http://www.ccscenter.org>

Public Employment Relations Board: <http://www.perb.ca.gov>

State Mediation and Conciliation Service (SMCS): <http://www.dir.ca.gov/csmcs/smcs.html>

**PUBLIC NOTICE - PERSONNEL NEGOTIATIONS**

The Superintendent or designee shall prepare a summary of the proposed agreement which shall include, but may not necessarily be limited to:

1. Major provisions of the agreement that affect compensation, such as:
  - a. Direct increases in salaries and percentage change in on-schedule salaries
  - b. Changes in health and welfare benefits
  - c. Changes in health and welfare benefit dollar contributions by the district
  - d. Changes in step and column or longevity provisions
  - e. Changes in overtime, differential, callback, and standby pay provisions
  - f. Changes in staffing ratios
  - g. One-time bonuses or off-the-schedule increases
2. Other provisions that will result in increased costs to the district even if they do not involve an increase in employee compensation, such as class-size reduction or increased number of staff development days
3. Costs of the proposed agreement, for the current and subsequent fiscal years, categorized for salaries, benefits, other compensation, and other noncompensation costs, including percent increase of total compensation (salaries, benefits, and other compensation provisions) for the average represented employee as a result of the settlement and the approximate cost to the district of providing a one percent increase in total compensation
4. Proposed source(s) of funding for the current and subsequent fiscal years including the assumptions used to determine available resources to meet the obligations of the proposed agreement
5. Other major provisions that do not directly affect the district's costs, such as binding arbitration or grievance procedures

A copy of the summary shall be provided to the County Superintendent of Schools.

A copy of the Board policy implementing the public notice requirements shall be available in the district office. (8 CCR 32900)

**All Personnel**

BP 4144

4244

**COMPLAINTS**

4344

The Board of Education recognizes the need for providing employees with a complaint process.

The Board expects that employees and supervisors will make every effort to resolve employee complaints and disagreements informally before resorting to formal complaint procedures.

The Superintendent or designee shall establish complaint procedures which allow employees to appeal to the Board.

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

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

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

*Legal Reference:*

GOVERNMENT CODE

3543 *Public school employees' rights*

3543.1 *Rights of employee organizations*

53296 *Definitions*

53297 *Filing complaint*

53298 *Reprisals*

53298.5 *Violations; punishment*

## EMPLOYEE COMPENSATION

In order to secure and hold staff committed to student learning, the Board of Education recognizes the importance of an attractive compensation package which includes salaries, health benefits and other amenities.

The Board shall adopt separate salary schedules for certificated, classified, and management/supervisory/confidential personnel. These schedules shall comply with law and negotiated agreements and shall be printed and made available for inspection at the district office. Salary schedules for staff who are not a part of a bargaining unit shall be determined by the Board at the recommendation of the Superintendent or designee.

*(cf. 4121 - Temporary/Substitute Personnel)*  
*(cf. 4141/4241 - Collective Bargaining Agreement)*

### Confidential Employees

Per agreement entered on July 25, 1980, confidential employees shall receive the fringe benefit package as classified employees.

Confidential employees shall receive two non-work days between Christmas and New Year's Day.

#### *Legal Reference:*

##### EDUCATION CODE

- 44492-44494 Mentor teacher stipends*
- 44977 Salary deductions during absence*
- 45022-45061 Salaries, especially:*
  - 45023 Availability of salary schedule*
  - 45028 Salary schedule for certificated employees*
  - 45030 Salary schedule for substitutes*
  - 45032 Power of governing board to increase salaries*
  - 45160-45169 Salaries for classified employees*
  - 45268 Salary schedule for classified service in merit system districts*

##### GOVERNMENT CODE

- 3540-3549 Meeting and negotiating, especially:*
  - 3543.2 Scope of representation*
  - 3543.7 Duty to meet and negotiate in good faith*

**All Personnel**

BP 4157(a)  
4257  
4357

**EMPLOYEE SAFETY**

The Board of Education is committed to maximizing employee safety and believes that safety is every employee's responsibility. Working conditions and equipment shall be maintained in compliance with standards prescribed by federal, state and local laws and regulations.

No employee shall be required or permitted to be in any place of employment which is unsafe or unhealthful. (Labor Code 6402)

The Board expects all employees to use safe work practices and to correct any unsafe conditions which may occur. If an employee is unable to correct an unsafe condition, he/she shall immediately report the problem to the Superintendent or designee.

The Superintendent or designee shall promote safety and correct any unsafe work practice through education, training and enforcement.

The Superintendent or designee shall establish and implement a written injury and illness prevention program in accordance with law. (Labor Code 6401.7)

*(cf. 3514 - Environmental Safety)*

*(cf. 3514.1 - Hazardous Substances)*

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

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

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

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

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

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

The Board shall ensure that the Superintendent or designee provides eye protective devices as specified in law and administrative regulation.

No employee shall be discharged or discriminated against for making complaints, instituting proceedings or testifying with regard to employee safety or health, or for participating in any occupational health and safety committee established pursuant to Labor Code 6401.7. (Labor Code 6310)

*Legal Reference: (see next page)*

## **EMPLOYEE SAFETY (continued)**

### *Legal Reference:*

#### EDUCATION CODE

32066 *Safety: public and private institutions*

#### LABOR CODE

6305 *Occupational safety and health standards; special order*

6310 *Retaliation for filing complaint prohibited*

6401.7 *Injury prevention programs*

6400-6413.5 *Responsibilities and duties of employers and employees*

#### CODE OF REGULATIONS, TITLE 8

3203 *Injury and illness prevention program*

5095-5100 *Control of noise exposure*

#### CODE OF FEDERAL REGULATIONS, TITLE 29

1910.95 *Noise standards*

### *Management Resources:*

#### CAL/OSHA PUBLICATIONS

*Guide to Developing Your Workplace Injury and Illness Prevention Program, revised April 1998*

#### DHHS PUBLICATIONS

*Preventing Occupational Hearing Loss - A Practical Guide, June 1996, Department of Health and Human Services (National Institute for Occupational Safety and Health)*

#### WEB SITES

OSHA: <http://www.osha.gov>

Cal/OSHA: [http://www.dir.ca.gov/occupational\\_safety.html](http://www.dir.ca.gov/occupational_safety.html)

Centers for Disease Control and Prevention: <http://www.cdc.gov>

National Institute for Occupational Safety and Health: <http://www.cdc.gov/niosh>

National Hearing Conservation Association: <http://www.hearingconservation.org>

**All Personnel**

BP 4157.1

4257.1

**WORK-RELATED INJURIES**

4357.1

The Board of Education desires to provide its employees with insurance and workers' compensation benefits in accordance with law. The Superintendent or designee shall develop an efficient claims handling process in order to reduce costs and facilitate employee recovery.

- (cf. 3320 - Claims and Actions Against the District)*
- (cf. 4032 - Reasonable Accommodation)*
- (cf. 4113.4/4213.4/4313.4 - Temporary Modified/Light-Duty Assignment)*
- (cf. 4154/4254/4354 - Health and Welfare Benefits)*
- (cf. 4157/4257/4357 - Employee Safety)*
- (cf. 4157.2/4257.2/4357.2 - Ergonomics)*
- (cf. 4161.11/4361.11 - Industrial Accident/Illness Leave)*
- (cf. 4261.11 - Industrial Accident/Illness Leave)*

An employee shall report any work-related injury or illness to his/her supervisor as soon as practicable. Upon learning of an injury, a supervisor shall promptly report the incident to the Superintendent or designee and the insurance carrier as appropriate.

The Superintendent or designee shall ensure that every new employee is notified of his/her right to receive workers' compensation if injured at work and that injured employees are given notice of rights in accordance with law.

The Superintendent or designee shall ensure that notifications regarding workers' compensation are posted in accordance with law.

*Legal Reference:*

EDUCATION CODE

*44984 Industrial accident and illness leaves, certificated employees*

*45192 Industrial accident and illness leaves, classified employees*

LABOR CODE

*3200-4855 Workers' compensation, especially:*

*3550-3553 Employee notice*

*3600-3605 Conditions of liability*

*3760 Report of injury to insurer*

*4600 Provision of medical and hospital treatment by employer*

*4906 Disclosures and statements*

*5400-5413 Notice of injury or death*

*6409.1 Reports*

CODE OF REGULATIONS, TITLE 8

*15596 Notice of employee rights*

*Management Resources:*

WEB SITES

*California Department of Industrial Relations: <http://www.dir.ca.gov>*

**EVALUATION/SUPERVISION**

The Board of Education 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:*

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>

**ADMINISTRATIVE AND SUPERVISORY PERSONNEL**

The Governing Board recognizes that effective management is vital to the success of district students and programs. Management personnel are expected to demonstrate initiative and good judgment in the development, implementation, and oversight of district programs. Supervisors shall promote the productivity, professional growth, and teamwork of district staff.

*(cf. 4000 - Concepts and Roles)*

The Board shall adopt policies related to administrative and supervisory personnel insofar as they are needed to comply with law and describe terms of employment within the district.

The Board may, by resolution, establish or abolish any or all positions of the senior management of the classified service. Any employee occupying a senior management position abolished by Board action shall become a member of the classified or certificated service in a position to which he/she would otherwise be entitled if he/she had not been in a senior management position. (Education Code 45104.5)

*Legal Reference:*

EDUCATION CODE

35031 *Term of employment*

45100.5 *Senior management positions*

45104.5 *Abolishment of senior classified management positions*

45108.5 *Definitions of senior classified management employees*

45108.7 *Waiver of provisions of 45108.5*

45128 *Overtime*

45130 *Exclusion from overtime provisions*

45256.5 *Designation of certain positions*

GOVERNMENT CODE

3540 *Purpose*

3540.1 *Definitions*

3543.4 *Management position; representation*

3545 *Appropriateness of unit; basis*

COURT DECISIONS

*Auer v. Robbins, (1997) 117 S.Ct. 905*

**ADMINISTRATIVE STAFF ORGANIZATION**

The Governing Board authorizes the Superintendent to organize the administrative and supervisory staff in a manner that best supports student achievement, the educational program, and efficient operations.

*(cf. 2110 - Superintendent Responsibilities and Duties)*  
*(cf. 4300 - Administrative and Supervisory Personnel)*

The Superintendent shall establish and define job responsibilities for supervisory and administrative personnel. (Education Code 44662)

*(cf. 4000 - Concepts and Roles)*  
*(cf. 4315 - Evaluation/Supervision)*

The Superintendent or designee may adjust staff responsibilities temporarily or permanently as needed to accommodate the workload and/or individual capabilities.

*(cf. 4032 - Reasonable Accommodation)*

The Superintendent shall maintain a current district organization chart which designates lines of primary responsibility and the relationships among all district positions. Lines of responsibility shall in no way prevent staff members at all levels from collaborating, communicating, and cooperating to develop the best possible programs and provide efficient services.

*Legal Reference:*

EDUCATION CODE

35010 *Control of district; prescription and enforcement of rules*

35020 *Duties of employees fixed by governing board*

35035 *Powers and duties of superintendent*

44662 *Job responsibilities and evaluation*

*Management Resources:*

CSBA PUBLICATIONS

*Maximizing School Board Governance: The Board's Relationship to District Staff, 2007*

WEB SITES

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

Association of California School Administrators: <http://www.acsa.org>

**CONTRACTS**

In order to attract and retain qualified staff, the Governing Board may employ certificated administrators and supervisors and senior management of the classified staff on a contract basis.

Contracts with the Superintendent, and, if any, the deputy, assistant or associate superintendent shall be ratified at an open Board meeting and reflected in the Board's minutes. Copies of the contracts shall be available to the public upon request. Contracts with these administrators may not be for more than four years.

The Board shall not offer multi-year contracts to certificated supervisors or administrators other than the Superintendent or deputy, assistant or associate superintendent.

*(cf. 0000 - Vision)*  
*(cf. 2121 - Superintendent's Contract)*  
*(cf. 3460 - Financial Reports and Accountability)*  
*(cf. 4111/4211/4311 - Recruitment and Selection)*  
*(cf. 4300 - Administrative and Supervisory Personnel)*  
*(cf. 4313.2 - Demotion/Reassignment)*  
*(cf. 4314 - Transfers)*

The Board may offer a deputy, associate, or assistant superintendent, a continuing contract for a period longer than one year but not to exceed four years. (Education Code 35031, 44929.20)

All contracts shall be ratified by the Board during an open session of a Board meeting and reflected in the Board's minutes. Copies of the contracts shall be available to the public upon request. (Education Code 35031; Government Code 53262)

*(cf. 1340 - Access to District Records)*  
*(cf. 9322 - Agenda/Meeting Materials)*  
*(cf. 9324 - Minutes and Recordings)*

A contract shall be extended only by Board action and subsequent to a satisfactory evaluation of the employee's performance.

*(cf. 4315 - Evaluation/Supervision)*

During the term of the contract and with the consent of the employee, the Board may reemploy, effective on the next succeeding first day of July, a deputy, associate, or assistant superintendent and reelect/reemploy him/her on those terms and conditions mutually agreed upon by the Board and the employee for a new term to begin on the effective date of the termination of the existing term of employment. (Education Code [35031](#))

**CONTRACTS** (continued)

If the Board decides not to reelect or reemploy a deputy, associate, or assistant superintendent or a senior manager of the classified service upon the expiration of his/her term, it shall notify the employee in writing 45 days prior to the expiration of the term of the contract. (Education Code 35031)

Employee contracts shall include a provision specifying the legal maximum cash settlement that the employee may receive upon termination of the contract. (Government Code 53260)

*(cf. 4117.5/4217.5/4317.5 - Termination Agreements)*

*Legal Reference:*

EDUCATION CODE

35030 *Title of deputy, associate or assistant superintendent for certain positions*

35031 *Term of employment*

44842 *Automatic declining of employment*

44843 *Notice of employment to county superintendent*

44929.20 *Continuing contract*

44951 *Continuation in position unless notified*

GOVERNMENT CODE

53260-53264 *Employment contracts*

[54954](#) *Time and place of regular meetings*

[54957](#) *Closed session, personnel matters*

*Management Resources:*

CSBA PUBLICATIONS

*Maximizing School Board Governance: The Board's Relationship to District Staff, 2007*

WEB SITES

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

Association of California School Administrators: <http://www.acsa.org>

**DEMOTION/REASSIGNMENT**

The Governing Board may authorize the demotion or reassignment of any administrative or supervisory employee upon the recommendation of the Superintendent or designee and when such action is determined to be in the best interest of the district.

*(cf. 0520 - Intervention for Underperforming Schools)*  
*(cf. 0520.1 - High Performing Schools Grant Program)*  
*(cf. 0520.2 - Title I Program Improvement Schools)*  
*(cf. 0520.3 - Title I Program Improvement Districts)*  
*(cf. 4300 - Administrative and Supervisory Personnel)*  
*(cf. 4312.1 - Contracts)*  
*(cf. 4314 - Transfers)*

The Superintendent or designee shall ensure that the district complies with all applicable statutory deadlines and due process procedures when an employee is to be demoted or reassigned.

*Legal Reference:*

EDUCATION CODE

*35031 Senior management employee in the classified service: nonreelection*  
*44660-44665 Evaluation and assessment of performance of certificated employees*  
*44850.1 No tenure in administrative or supervisory positions*  
*44896 Transfer of administrator or supervisor to teaching position*  
*44897 Classification of administrator or supervisor to a teaching position*  
*44951 Continuation in position unless notified*  
*45101 Definitions (including disciplinary action, cause)*  
*45113 Rules for classified service in districts not incorporating the merit system*  
*52055.5 Meeting or exceeding growth requirements*  
*52055.650 Review by state board*  
*52055.57 Districts identified or at risk of identification for program improvement*

UNITED STATES CODE, TITLE 20

*6316 School and district improvement*

COURT DECISIONS

*Jefferson v. Compton Unified School District, (1993) 14 Cal. App. 4th 32*  
*Schultz v. Regents of the University of California, (1984) 160 Cal. App. 3d 768*  
*Ellerbroek v. Saddleback Valley Unified School District, (1981) 125 Cal. App 3d 348*  
*Skelly v. California Personnel Board, (1975) 15 Cal.3d 194*  
*Hentschke v. Sink, (1973) 34 Cal. App. 3d 19*

**DEMOTION/REASSIGNMENT**

**Certificated Administrative Employees**

Permanent certificated management staff are not entitled to seniority rights in their administrative positions. However, such staff shall earn and/or retain any seniority earned in service as a classroom teacher or site administrator pursuant to Education Code 44893, 44894, or 44956.5.

*(cf. 4117.3 - Personnel Reduction)*

*(cf. 4117.6 - Decision Not to Rehire)*

**End of Year Release/Reassignment of Certificated Administrators**

By March 15, an employee shall be notified by either registered mail or in person that he/she may be released or reassigned from his/her position for the following school year. If the notice is presented to the employee in person, the district shall obtain his/her signature acknowledging receipt of the notice on the district's copy of the written notice. (Education Code 44951)

If the March 15 notice indicates that release or reassignment is only a possibility, the Governing Board shall take additional action to release/reassign the employee before the new school year and shall send the employee a second notice by June 30 indicating that he/she has been released or reassigned.

If the employee is to be released or reassigned to a teaching position, the Board shall give the employee, upon his/her request, a written statement of the reasons for the release/reassignment. If the reasons include incompetence as an administrator or supervisor, the district shall have completed an evaluation of the employee within the 60-day period immediately preceding the notice date. (Education Code 44896)

**TRANSFERS**

The Governing Board recognizes the importance of placing employees in positions that best utilize their skills and talents, help improve student achievement, and provide the most benefit to the district.

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

*(cf. 4312.1 - Contracts)*

*(cf. 4313.2 - Demotion/Reassignment)*

Upon the recommendation of the Superintendent or designee, the Board shall approve the transfer or rotation of administrative or supervisory personnel to the same position at another location for reasons including, but not limited to, the need to improve student achievement and operational efficiency, utilize the skills and talents of the employee more effectively, provide opportunities for professional growth, provide an opportunity for evaluating employees in different school settings or locations, and best accommodate the overall needs of the district.

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

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

The Superintendent or designee shall establish procedures to enable administrative or supervisory personnel to request a transfer to a vacant position.

*Legal Reference:*

EDUCATION CODE

*35031 Senior management employee in the classified service: nonreelection*

*35035 Additional powers and duties of superintendent*

*44850.1 No tenure in administrative or supervisory positions*

*44896 Transfer of administrator or supervisor to teaching position*

*44897 Classification of administrator or supervisor to a teaching position*

*44951 Continuation in position unless notified*

*45101 Definitions (including disciplinary action, cause)*

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

*52055.57 Districts identified or at risk of identification for program improvement*

UNITED STATES CODE, TITLE 20

*6316 School and district improvement*

COURT DECISIONS

*Henschke v. Sink, (1973) 34 Cal.App. 3d 19*

**TRANSFERS**

**Involuntary Transfer**

Before recommending the transfer or lateral rotation of an employee, the Superintendent or designee shall confer with the affected employee and notify him/her of the intent to recommend the transfer. For transfers effective at the beginning of the school year, this conference shall take place before May 30. Affected employees shall be notified of the final decision, in writing, as soon as practicable.

**Voluntary Transfer**

The employee shall submit a transfer request to the Superintendent or designee at the time of the known vacancy. The employee shall be notified in writing of the decision whether or not to grant the transfer request.

Transfer requests may be withdrawn by the employee at any time prior to the final decision.

**EVALUATION/SUPERVISION**

The Governing Board recognizes the importance of regular and comprehensive evaluations of administrative and supervisory personnel to provide ongoing feedback for continuous improvement of employee performance. Evaluations shall be linked to the district's vision, strategic plan, school improvement goals, professional development plan, and goals for student achievement.

*(cf. 0000 - Vision)*  
*(cf. 0200 - Goals for the School District)*  
*(cf. 0500 - Accountability)*  
*(cf. 2140 - Evaluation of the Superintendent)*  
*(cf. 4300 - Administrative and Supervisory Personnel)*

**Certificated Administrative and Supervisory Personnel**

The Superintendent shall develop objective evaluation guidelines and standards for use in the district's evaluation system for certificated administrative and supervisory personnel. Such standards may include those of the California Professional Standards for Education Leaders as well as other standards and criteria developed by the Board and Superintendent.

Each certificated administrative and supervisory employee shall be evaluated every other year. However, an employee may be evaluated every five years provided that he/she has been employed by the district for at least 10 years, his/her previous evaluation rated him/her as meeting or exceeding standards, and the evaluator and the employee agree to this schedule. Either the evaluator or the employee may withdraw consent for this schedule at any time. (Education Code 44664)

*(cf. [4112.24](#) - Teacher Qualifications Under the No Child Left Behind Act)*  
*(cf. [4116](#) - Probationary/Permanent Status)*

Any certificated administrative and supervisory employee who is new to a position may be evaluated each year for the first two years in the position. Evaluation is a continuous process and may occur between scheduled periods at the request of the employee, his/her supervisor, or the Superintendent or designee.

Evaluations shall be conducted within the timelines specified in law, Board policy, and administrative regulation. The evaluation process for certificated administrative and supervisory personnel shall be the same as for other certificated instructional personnel, as detailed in AR 4115 - Evaluation/Supervision.

*(cf. 4115 - Evaluation/Supervision)*  
*(cf. 4312.1 - Contracts)*

## **EVALUATION/SUPERVISION (continued)**

### **Classified Senior Management and Supervisory Employees**

Classified senior management and supervisory employees shall be evaluated in accordance with the procedures developed by the Superintendent or designee and approved by the Board.

*(cf. 4215 - Evaluation/Supervision)*

Evaluations shall be used to recognize the exemplary skills and accomplishments of classified senior management and supervisory employees and to identify areas needing improvement. When the evaluation indicates areas needing improvement, the Board expects such staff to take the initiative to improve their performance and for their supervisors to assist them in obtaining needed job skills.

*(cf. 4331 - Staff Development)*

The evaluation shall be dated and signed by the classified senior manager or supervisory employee and his/her supervisor. The manager or supervisory employee may respond in writing to the evaluation within a reasonable time after receiving a copy of the evaluation. The response shall be attached to the evaluation and placed in his/her personnel file.

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

#### *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*

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

##### 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

*Standards of Quality and Effectiveness for Administrative Services Credentials, 2001*

##### WEB SITES

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

Association of California School Administrators: <http://www.acsa.org>

California Department of Education: <http://www.cde.ca.gov>

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

National Board for Professional Teaching Standards: <http://www.nbpts.org>