

All Personnel

BP 4112.61

4212.61

EMPLOYMENT REFERENCES

4312.61

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

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

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

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

Legal Reference:

LABOR CODE

1050-1054 Reemployment privileges

CIVIL CODE

47 Privileged communication

CODE OF CIVIL PROCEDURE

527.3 Labor disputes

CODE OF REGULATIONS, TITLE 5

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

COURT DECISIONS

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

All Personnel

AR 4112.61

4212.61

EMPLOYMENT REFERENCES

4312.61

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

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

All Personnel

AR 4112.62(a)

4212.62

MAINTENANCE OF CRIMINAL OFFENDER RECORDS

4312.62

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

(cf. 1240 - Volunteer Assistance)

(cf. 3515.6 - Criminal Background Checks for Contractors)

(cf. 4112.5/4312.5 - Criminal Record Check)

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

(cf. 4212.5 - Criminal Record Check)

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

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

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

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

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

Custodian of Records

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

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

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

AR 4112.62(b)
4212.62
4312.62

MAINTENANCE OF CRIMINAL OFFENDER RECORDS (continued)

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

Legal Reference:

EDUCATION CODE

44332 *Temporary certificate*
44332.6 *Criminal record check, county board of education*
44346.1 *Applicants for credential, conviction of a violent or serious felony*
44830.1 *Certificated employees, conviction of a violent or serious felony*
44830.2 *Interagency agreements*
45122.1 *Classified employees, conviction of a violent or serious felony*
45125 *Use of personal identification cards to ascertain conviction of crime*
45125.01 *Interagency agreements*
45125.5 *Automated records check*
45126 *Duty of Department of Justice to furnish information*
49024 *Activity Supervisor Clearance Certificates*

PENAL CODE

667.5 *Prior prison terms, enhancement of prison terms*
1192.7 *Plea bargaining limitation*
11075-11081 *Criminal record dissemination*
11102.2 *Criminal records: custodian*
11105 *State criminal history information; furnishing to authorized persons*
11105.3 *Record of conviction involving sex crimes, drug crimes or crimes of violence; availability to employer for applicants for positions with supervisory or disciplinary power over minors*
11140-11144 *Furnishing of state criminal history information*
13300-13305 *Local summary criminal history information*

CODE OF REGULATIONS, TITLE 11

701-708 *Criminal offender record information*

Management Resources:

WEB SITES

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

All Personnel

E 4112.62(a)
4212.62
4312.62

MAINTENANCE OF CRIMINAL OFFENDER RECORDS

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

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

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

Civil Code 1798.53, Invasion of Privacy, states:

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

CIVIL, CRIMINAL, AND ADMINISTRATIVE PENALTIES:

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

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

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

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

* Civil Code 1798.53, Invasion of Privacy

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

E 4112.62(b)
4212.62
4313.62

MAINTENANCE OF CRIMINAL OFFENDER RECORDS (continued)

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

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

Signature _____ Date _____

Printed Name _____ Title _____

Name of District _____

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

All Personnel

BP 4112.8(a)

4212.8

EMPLOYMENT OF RELATIVES

4312.8

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

(cf. 4030 - Nondiscrimination in Employment)

(cf. 9270 - Conflict of Interest)

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

(cf. 4111/4211/4311 - Recruitment and Selection)

(cf. 4115 - Evaluation/Supervision)

(cf. 4215 - Evaluation/Supervision)

(cf. 4315 - Evaluation/Supervision)

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

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

(cf. 4031 - Complaints Concerning Discrimination in Employment)

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

Legal Reference: (see next page)

BP 4112.8(b)
4212.8
4312.8

EMPLOYMENT OF RELATIVES (continued)

Legal Reference:

EDUCATION CODE

35107 School district employees

FAMILY CODE

297-297.5 Rights, protections, benefits under the law; registered domestic partners

GOVERNMENT CODE

1090-1098 Prohibitions applicable to specified officers

12940 Unlawful employment practices

CODE OF REGULATIONS, TITLE 2

7292.0-7292.6 Marital status discrimination, especially:

7292.5 Employee selection

Management Resources:

WEB SITES

California Department of Fair Employment and Housing: <http://www.dfeh.ca.gov>

Institute for Local Government: <http://www.cacities.org/index.jsp?zone=ilsg>

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 - Demotion/Reassignment)

6. The classified employee's class specification, salary data, assignment or work location, duty hours and prescribed workweek

(cf. 4212 - Appointment and Conditions of Employment)

7. Information about certificated employee membership in the State Teachers' Retirement System

Acknowledgments Not Required by Law

1. The district's drug- and alcohol-free workplace

(cf. 4020 - Drug and Alcohol-Free Workplace)

2. The district's nonsmoking policy

(cf. 3513.3 - Tobacco-Free Schools)

EMPLOYEE NOTIFICATIONS (continued)

3. Prohibition of sexual harassment

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

4. The certificated employee's employment status and salary

(cf. 4112.1 - Contracts)

5. State disability insurance rights and benefits

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

6. Certificated employee evaluations

(cf. 4115 - Evaluation/Supervision)

(cf. 4315 - Evaluation/Supervision)

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

(cf. 4112.2 - Certification)

8. Notice of layoff

(cf. 4117.3 - Personnel Reduction)

(cf. 4217.3 - Layoff/Rehire)

9. Derogatory information to be placed in personnel file

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

10. Exhaustion of classified employee's paid leave

(cf. 4261.1 - Personal Illness/Injury Leave)

(cf. 4261.11 - Industrial Accident/Illness Leave)

11. Notice of charges related to disciplinary action

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

12. Notice of intention to dismiss

(cf. 4118 - Suspension/Disciplinary Action)

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

EMPLOYEE NOTIFICATIONS (continued)

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

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

Legal Reference:

EDUCATION CODE

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

GOVERNMENT CODE

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

PENAL CODE

11166.5 Employment; statement of knowledge of duty to report

UNEMPLOYMENT INSURANCE CODE

2613 Notice of rights and benefits

CODE OF REGULATIONS, TITLE 5

80026.1 Information to applicants

CODE OF REGULATIONS, TITLE 8

5193 California bloodborne pathogens standard

CODE OF FEDERAL REGULATIONS, TITLE 49

382.601 Controlled substance and alcohol use and testing notifications

ASSIGNMENT

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

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

(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 or Board policy.

(cf. 4141/4241 - Collective Bargaining Agreement)

Assignment to Courses/Classes

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

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

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

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

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

ASSIGNMENT (continued)

(cf. 3580 - District Records)

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

(cf. 1312.4 - Williams Uniform Complaint Procedures)

Equitable Distribution of Qualified Teachers

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

1. Verify that all teachers of core academic subjects possess the qualifications of highly qualified teachers as required by NCLB or develop immediate and long-term solutions for ensuring that all core academic classes will be taught by highly qualified teachers
2. Not assign teachers with provisional internship permits, short-term staffing permits, or credential waivers to schools that have 40 percent or higher poverty or are ranked in deciles 1-3 on the statewide Academic Performance Index
3. Not place interns in high-poverty, low-performing schools in greater numbers than in schools with low poverty or higher academic achievement
4. Compare teacher retention rates across district schools and develop strategies to recruit and retain experienced and effective teachers in hard-to-staff schools

(cf. 4111 - Recruitment and Selection)

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

ASSIGNMENT (continued)

(cf. 4114 - Transfers)
(cf. 4131 - Staff Development)
(cf. 4131.1 - Beginning Teacher Support/Induction)
(cf. 4138 - Mentor Teachers)

Legal Reference:

EDUCATION CODE

33126 School accountability report card
35035 Additional powers and duties of superintendent
35186 Complaint process
37616 Assignment of teachers to year-round schools
44225.6 Commission report to the legislature re: teachers
44250-44277 Credentials and assignments of teachers
44314 Subject matter programs, approved subjects
44395-44398 Incentives for assigning NBPTS-certified teachers to high-priority schools
44824 Assignment of teachers to weekend classes
44955 Reduction in number of employees

GOVERNMENT CODE

3543.2 Scope of representation

CODE OF REGULATIONS, TITLE 5

6100-6126 Teacher qualifications, No Child Left Behind Act
80003-80005 Credential authorizations
80020-80020.5 Additional assignment authorizations
80335 Performance of unauthorized professional services
80339-80339.6 Unauthorized certificated employee assignment

UNITED STATES CODE, TITLE 20

6311 State plan
6319 Highly qualified teachers
6601-6651 Teacher and Principal Training and Recruiting Fund
7801 Definitions, highly qualified teacher

CODE OF FEDERAL REGULATIONS, TITLE 34

200.55-200.57 Highly qualified teachers

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Revised State Plan for the No Child Left Behind Act, rev. September 2008

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

The Administrator's Assignment Manual, rev. September 2007

U.S. DEPARTMENT OF EDUCATION GUIDANCE

Improving Teacher Quality State Grants: ESEA Title II, Part A, rev. October 5, 2006

WEB SITES

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

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

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

Santa Clara County Office of Education, Personnel Management Assistance Team:

<http://www.sccoe.org/depts/pmat>

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

Policy
adopted: June 8, 2009
reviewed: May 8, 2012

YREKA UNION SCHOOL DISTRICT
Yreka, California

ASSIGNMENT

Assignment to Departmentalized Classes Outside Credential Authorization

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

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

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

1. One or more of the following ways in which subject matter competence shall be assessed:
 - a. Observation by subject matter specialists
 - b. Oral interviews
 - c. Demonstration lessons
 - d. Presentation of curricular portfolios
 - e. Written examinations
2. Specific criteria and standards for verifying subject matter knowledge by any of the above methods. These criteria shall include, but need not be limited to, evidence of the individual's knowledge of the subject matter to be taught, including demonstrated knowledge of the curriculum framework for the subject and the specific content of the district's course of study for the subject at the grade level to be taught.

(cf. 4115 - Evaluation/Supervision)

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

(cf. 4140/4240 - Bargaining Units)

ASSIGNMENT (continued)

Assignment to Elective Courses Outside Credential Authorization

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

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

Committee members shall serve a two-year term but may be reappointed using the same procedure as the initial appointment.

When determining whether a teacher is qualified for an assignment pursuant to Education Code 44258.7, the committee may consider the teacher's education, prior experience, observation by subject matter specialists, oral interviews, demonstration lessons, presentation of curricular portfolios, and/or written examinations.

Assignments approved by the committee shall be for a maximum of one school year, but may be extended by action of the committee upon application by the principal and teacher. (Education Code 44258.7)

(cf. 6176 - Weekend/Saturday Classes)

All Personnel

BP 4113.4(a)

4213.4

TEMPORARY MODIFIED/LIGHT-DUTY ASSIGNMENT

4313.4

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

(cf. 3530 - Risk Management/Insurance)

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

(cf. 4161.1/4361.1 - Industrial Accident/Illness Leave)

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

(cf. 4261.8 - Industrial Accident/Illness Leave)

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

(cf. 4032 - Reasonable Accommodation)

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

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

Legal Reference: (see next page)

BP 4113.4(b)
4213.4
4313.4

TEMPORARY MODIFIED/LIGHT-DUTY ASSIGNMENT (continued)

Legal Reference:

EDUCATION CODE

44984 *Required rules for industrial accident and illness leave*

45192 *Industrial accident and illness leave for classified employees*

GOVERNMENT CODE

12900-12996 *Fair Employment and Housing Act*

12945.1-12945.2 *California Family Rights Act*

UNITED STATES CODE, TITLE 29

2601-2654 *Family Care and Medical Leave Act*

UNITED STATES CODE, TITLE 42

12101-12213 *Americans with Disabilities Act*

COURT DECISIONS

Raine v. City of Burbank, (2006) 135 Cal.App.4th 1215

Management Resources:

WEB SITES

California Department of Fair Employment and Housing: <http://www.dfeh.ca.gov>

Equal Employment Opportunity Commission: <http://www.eeoc.gov>

TRANSFERS

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

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4113 - Assignment)

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

(cf. 4141/4241- Collective Bargaining Agreement)

Voluntary Transfers

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

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

(cf. 4112.2 - Certification)

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

(cf. 4112.23 - Special Education Staff)

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

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

(cf. 0500 - Accountability)

(cf. 0520.2 - Title I Program Improvement Schools)

(cf. 0520.4 - Quality Education Investment Schools)

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

Involuntary Transfers

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

TRANSFERS (continued)

(cf. 4117.3 - Personnel Reduction)

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

Legal Reference:

EDUCATION CODE

35035 Additional powers and duties of superintendent, transfer authority

35036 Voluntary transfers

35186 Complaint process, teacher vacancy or misassignment

37616 Assignment of teachers to year-round schools

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

GOVERNMENT CODE

3543.2 Scope of representation

EVALUATION/SUPERVISION

The Governing Board 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)

Objective standards from the National Board for Professional Teaching Standards and/or the California Standards for the Teaching Profession shall be reviewed and may be incorporated in district evaluation standards with the agreement of the exclusive representative of the certificated staff.

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

(cf. 4140/4240 - Bargaining Units)

(cf. 4315.1 - Staff Evaluating Teachers)

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

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

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

(cf. 4131 - Staff Development)

(cf. 4139 - Peer Assistance and Review)

Legal Reference: (see next page)

EVALUATION/SUPERVISION (continued)

Legal Reference:

EDUCATION CODE

33039 *State guidelines for teacher evaluation procedures*

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

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

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

GOVERNMENT CODE

3543.2 *Scope of representation*

UNITED STATES CODE, TITLE 20

6319 *Highly qualified teachers*

7801 *Definition of highly qualified teacher*

Management Resources:

CTC PUBLICATIONS

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

California Standards for the Teaching Profession, 1997

WEB SITES

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

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

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

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

EVALUATION/SUPERVISION

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

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

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

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

Frequency of Evaluations

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

(cf. 4116 - Probationary/Permanent Status)

In addition, probationary teachers shall be formally observed and given constructive feedback at least once each semester and more often when necessary, as part of the evaluation process. Within three school days of each formal observation, a conference shall be held between the evaluator and the probationary teacher.

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

1. At least every other year
2. At least every five years if all of the following conditions are met:
 - a. The employee has been employed by the district at least 10 years.
 - b. The employee meets the qualifications of a highly qualified teacher as defined in 20 USC 7801 of the federal No Child Left Behind Act, if 20 USC 6319 requires that his/her position be filled by a highly qualified teacher.
 - c. The employee's previous evaluation rated him/her as meeting or exceeding standards.
 - d. The evaluator and the employee agree to this schedule. Either the evaluator or the employee may withdraw consent at any time.

EVALUATION/SUPERVISION (continued)

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

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

(cf. 4117.4 - Dismissal)

Evaluation Criteria

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

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

(cf. 6011 - Academic Standards)

(cf. 6162.5 - Student Assessment)

2. The instructional techniques and strategies used by the employee
3. The employee's adherence to curricular objectives
4. The establishment and maintenance of a suitable learning environment within the scope of the employee's responsibilities

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

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

Evaluation Results

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

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

EVALUATION/SUPERVISION (continued)

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

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

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

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

(cf. 4131 - Staff Development)

(cf. 4138 - Mentor Teachers)

PROBATIONARY/PERMANENT STATUS

Probationary Status

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

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

(cf. 4115 - Evaluation/Supervision)

(cf. 4131 - Staff Development)

Permanent Status

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

(cf. 4117.4 - Dismissal)

(cf. 4117.6 - Decision Not to Rehire)

Legal Reference:

EDUCATION CODE

44466 Status of university interns

44850.1 No tenure in administrative or supervisory position

44885.5 Status of district interns

44908 Complete year for probationary employees

44911-44913 Service not computed in eligibility for permanent status

44915 Classification of probationary employees

44917-44921 Status of substitute or temporary employees

44929.20 Continuing contracts (not to exceed four years - ADA under 250)

44929.21 Districts of 250 ADA or more

44929.23 Districts with less than 250 ADA

44929.28 Employment by another district

44930-44988 Resignations, dismissals and leaves of absence, especially:

44948.2 Election to use provisions of Section 44948.3

44948.3 Dismissal of probationary employees

PROBATIONARY/PERMANENT STATUS

Permanent Status

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

Permanency Achieved in Other Districts

A person who has achieved permanent status as a certificated employee in another school district may be employed by the Board as a permanent certificated employee. (Education Code 44929.28)

Interns

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

(cf. 4112.21 - Interns)

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

EARLY RETIREMENT OPTION

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

Two Years of Service Credit Retirement Incentive

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

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

The Board may also consider the impact of the early retirement option on the staffing needs of district schools and the ability to satisfy federal requirements for highly qualified teachers pursuant to 20 USC 6319.

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

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

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

Legal Reference: (see next page)

EARLY RETIREMENT OPTION (continued)

Legal Reference:

EDUCATION CODE

22714 *Service credit under STRS; additional two years*

44929 *Service credit under STRS; additional two years*

UNITED STATES CODE, TITLE 20

6319 *Highly qualified teachers*

COURT DECISIONS

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

Management Resources:

CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM PUBLICATIONS

Retirement Incentive Program, Frequently Asked Questions

WEB SITES

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

POSTRETIREMENT EMPLOYMENT

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

The Governing Board may hire retired certificated individuals who possess unique knowledge and experience to perform specialized work of a limited duration.

Any retired certificated individual who is a member of the defined benefit program of the State Teachers' Retirement System (STRS) and who is hired by the district to perform services pursuant to this administrative regulation shall not make contributions to the retirement fund or accrue service credit based on compensation earned from that service. (Education Code 24214)

Any retired individual hired under this administrative regulation shall be paid at a rate commensurate with that of other district employees performing comparable duties. (Education Code 24214)

Beginning July 1, 2010, any certificated individual who is a member of STRS and who retires from service below normal retirement age shall not be hired for service pursuant to this administrative regulation for at least six calendar months after his/her retirement from service. (Education Code 24214.5)

Postretirement Compensation Limitation

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

1. Advise the retired individual of the postretirement compensation limitation set forth in Education Code 24116, 24214, and 24215
2. Maintain accurate records of the retired individual's compensation and report it monthly to STRS and the individual regardless of the method of payment or the fund from which the payments are made

When employing a retired individual eligible for any of the exemptions from the postretirement compensation limitation stated below, the Superintendent or designee shall submit to STRS, no later than June 30 of the school year for which the exemption is to apply, all required documentation to substantiate eligibility for the exemption. (Education Code 24216, 24216.5, 24216.6)

POSTRETIREMENT EMPLOYMENT (continued)

Exemption for Providing Specified Instructional Services

Until June 30, 2012, any retired certificated individual employed by the district shall be exempt from the compensation limitation for members of STRS provided that he/she retired from service with an effective date on or before January 1, 2009, and is employed to provide any of the following services: (Education Code 24216.5, 24216.6)

1. Direct classroom instruction to students in grades K-12
2. Support and assessment for new teachers through the Beginning Teacher Support and Assessment program pursuant to Education Code 44279.1-44279.7

(cf. 4131.1 - Beginning Teacher Support/Induction)

3. Support to individuals completing student teaching assignments
4. Support to individuals participating in an alternative certification program pursuant to Education Code 44380-44386 or a school paraprofessional teacher training program pursuant to Education Code 44390-44393

(cf. 4112.21 - Interns)

(cf. 4222 - Teacher Aides/Paraprofessionals)

5. Instruction and student services to students enrolled in special education programs pursuant to Education Code 56000-56885

(cf. 4112.23 - Special Education Staff)

6. Instruction to students enrolled in English language learner programs pursuant to Education Code 300-340, 400-410, and 430-446

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

7. Direct remedial instruction to students in grades 2-12 for the programs specified in Education Code 37252 and 37252.2

(cf. 5123 - Promotion/Acceleration/Retention)

(cf. 6179 - Supplemental Instruction)

Retired individuals who are exempt from the limitation on compensation shall be treated as part of a distinct class of temporary employees within the existing bargaining unit whose service may not be included in computing the service required as a prerequisite to attainment of or eligibility for classification as a permanent employee of the district. (Education Code 24216.5, 24216.6)

POSTRETIREMENT EMPLOYMENT (continued)

The compensation for the class of retired individuals shall be agreed to in the collective bargaining agreement between the district and the exclusive representative for the bargaining unit. (Education Code 24216.5, 24216.6)

Exemption for Appointment as Trustee/Administrator or for Emergency Situations

Until June 30, 2012, a retired certificated individual shall be exempt from the postretirement compensation limitation for a maximum period of 24 consecutive months if he/she is appointed by the Superintendent of Public Instruction as a trustee or administrator pursuant to Education Code 41320.1, appointed as a trustee by the State Board of Education pursuant to Education Code 52055.57-52055.60 (the Local Educational Agency Intervention program), or assigned to a position by the County Superintendent of Schools pursuant to Education Code 42122-42129. (Education Code 24216)

Until June 30, 2012, a retired individual shall be exempt from the postretirement compensation limitation up to an additional one-half of the full-time position when employed in an emergency situation to fill a vacant administrative position requiring highly specialized skills, provided that all of the following conditions are met: (Education Code 24216)

1. The vacancy occurred due to circumstances beyond the district's control.
2. The recruitment process to fill the vacancy on a permanent basis is expected to extend over several months.
3. The employment is reported in a public meeting of the Board.

(cf. 9320 - Meetings and Notices)

4. The retired individual's termination of employment with the district is not the basis for the vacant administrative position.

The above exemptions shall not apply to any individual who has received additional retirement service credit pursuant to Education Code 22715 or 22716. A retiree who has received an additional service credit pursuant to Education Code 22714 or 22714.5 shall be ineligible for the above exemptions for one year from his/her effective date of retirement for service performed in any California district, community college district, or county office of education. (Education Code 24216)

(cf. 4117.13/4317.13 - Early Retirement Option)

POSTRETIREMENT EMPLOYMENT (continued)

Consultancy Contracts

A retired certificated employee serving as a consultant shall be retained as an employee and his/her service shall be limited in accordance with retirement system rules and regulations. (Education Code 35046)

To be eligible for consideration for a consultancy contract, a retired certificated employee must have served the district or the County Superintendent for at least 10 years and be at least 55 years of age. (Education Code 35046)

Retirement consultancy contracts are renewable annually for up to five years or until the employee reaches age 65, whichever comes first. (Education Code 35046)

Legal Reference: (see next page)

POSTRETIREMENT EMPLOYMENT (continued)

Legal Reference:

EDUCATION CODE

300-340 *English language education*
400-410 *English language acquisition program*
430-446 *English Learner and Immigrant Student Federal Conformity Act*
22119.5 *Creditable service, definition*
22461 *Notice of earnings limitation*
22714 *Encouragement of retirement*
22714.5 *2+2 service and year credit option under STRS*
22715 *Additional service credit*
22716 *Unpaid services*
24116 *Service at California State University*
24214 *Creditable service by retiree*
24214.5 *Postretirement compensation limit; members below normal retirement age*
24215 *Service at California State University*
24216 *Payments to retirants in excess of limitation*
24216.5 *Exemption from earnings limitation*
24216.6 *Exemption from earnings limitation*
35046 *Consultancy contracts*
37252-37254.1 *Supplemental instruction*
41320.1 *Appointment of trustee*
42120-42129 *Budget completion*
44279.1-44279.7 *Beginning Teacher Support and Assessment Program*
44380-44386 *Alternative certification program*
44390-44393 *School paraprofessional teacher training program*
44830 *Employment of certificated employees*
44830.3 *Employment of district interns*
44929 *Service credit under STRS; additional two years*
44929.1 *2+2 service and year credit option under STRS*
52055.57-52055.60 *Local Educational Agency Intervention program*
56000-56885 *Special education*

Management Resources:

WEB SITES

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

All Personnel

BP 4117.2

4217.2

RESIGNATION

4317.2

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

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

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

(cf. 4117.7 - Employment Status Reports)

Legal Reference:

EDUCATION CODE

35161 Board delegation of any powers or duties

44242.5 Reports of change in employment status, alleged misconduct

44420 Failure to fulfill contract as ground for suspension of diplomas and certificates

44433 Unauthorized departure from service as unprofessional conduct

44930 Acceptance and date of resignation

45201 Power to accept resignation

CODE OF REGULATIONS, TITLE 5

80303 Reports of change in employment status

80304 Notice of sexual misconduct

COURT DECISIONS

American Federation of Teachers, Local #1050 v. Board of Education of Pasadena Unified School District, (1980) 107 Cal.App.3d 829

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 the specific criteria used in determining the order of termination and the application of the criteria in ranking the employee relative to the other employees in the group. (Education Code 44955)

PERSONNEL REDUCTION (continued)

(cf. 4113 - Assignment)

(cf. 4115 - Evaluation/Supervision)

(cf. 4117.4 - Dismissal)

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

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

Notice and Hearing Rights

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

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

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

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

Special Procedure Based Upon Late Adoption of the State Budget

When the Board, during the time period between five days after enactment of the Budget Act and August 15, determines that the total revenue limit per ADA has not increased by at least two percent and that the district therefore needs to reduce the number of certificated staff

PERSONNEL REDUCTION (continued)

pursuant to Education Code 44955.5, the Board shall adopt a schedule of notice and hearings and the district shall otherwise proceed pursuant to Education Code 44949 and 44955. (Education Code 44955.5)

Reappointment

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

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

(cf. 4112.2 - Certification)

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

(cf. 4113 - Assignment)

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

Legal Reference: (see next page)

PERSONNEL REDUCTION (continued)

Legal Reference:

EDUCATION CODE

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

GOVERNMENT CODE

3543.2 *Scope of representation*

COURT DECISIONS

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

Management Resources:

WEB SITES

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

DISMISSAL

Permanent Employees

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

(cf. 4116 - Probationary/Permanent Status)

Probationary Employees

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

(cf. 4115 - Evaluation/Supervision)

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

(cf. 4117.6 - Decision Not to Rehire)

Legal References:

EDUCATION CODE

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

GOVERNMENT CODE

- 3543.2 Scope of representation (re duty of district to meet and negotiate regarding causes and procedures for discipline less than dismissal)*

All Personnel

AR 4117.5

4217.5

TERMINATION AGREEMENTS

4317.5

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

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

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

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

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

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

Legal Reference:

CIVIL CODE

47 Privileged communication

GOVERNMENT CODE

53260-53264 Employment contracts

LABOR CODE

1198.5 Inspection of personnel files by employees

CODE OF REGULATIONS, TITLE 5

80303 Reports of dismissal, resignation and other terminations for cause

80332 Professional honesty in letters of employment recommendation

COURT DECISIONS

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

Board of Trustees of Leland Stanford Junior University v. Superior Court, (1981) 119 Cal. App. 3d 516

DECISION NOT TO REHIRE

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

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

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

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

Legal Reference:

EDUCATION CODE

- 44885.5 District interns
- 44929.21 Districts with 250 ADA or more; notice of reelection decision
- 44929.23 Districts with daily attendance less than 250
- 44948.2 Election to use provisions of Education Code 44948.3
- 44948.3 Dismissal of probationary employees (over 250 ADA)
- 44949 Cause, notice and right to hearing required for dismissal of probationary employee
- 44955 Reduction in number of permanent employees

COURT DECISIONS

- Hoschler v. Sacramento City Unified School District, (2007) 149 Cal. App. 4th 258
- Fischer v. Los Angeles Unified School District (1999) 70 Cal.App.4th 87
- Bellflower Education Assn. v. Bellflower Unified School District (1991) 228 Cal.App.3d 805
- Fontana Teachers Assn. v. Fontana Unified School District (1988) 201 Cal.App.3d 1517
- Grimsley v. Board of Trustees (1987) 189 Cal.App.3d 1440

EMPLOYMENT STATUS REPORTS

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

1. Dismissal

(cf. 4117.4 - Dismissal)

2. Nonreelection/nonreemployment

(cf. 4117.6 - Decision Not to Rehire)

3. Suspension for more than 10 days

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

5. Resignation, retirement, or other departure from employment

(cf. 4117.2 - Resignation)

6. Termination by a decision not to employ or reemploy

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

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

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

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

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

EMPLOYMENT STATUS REPORTS (continued)

(cf. 4118 - Suspension/Disciplinary Action)

Notice of Other Violations

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

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

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

- a. Name of the employee alleged to have engaged in the sexual misconduct
- b. Name, age, and address of each victim of the alleged sexual misconduct
- c. A summary of all information known to the district regarding the alleged sexual misconduct
- d. A summary of the action, if any, taken at the district level in response to the complaint of sexual misconduct

(cf. 1312.1 - Complaints Concerning District Employees)

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

(cf. 5145.7 - Sexual Harassment)

2. An employee's refusal, without good cause, to fulfill a valid employment contract, or departure from district service without the consent of the Superintendent or Governing Board (Education Code 44420)
3. An employee's knowing and willful use of student records in connection with, or in implicit or explicit attempts to recruit a student to be a customer for, any business owned by the credential holder or in which the credential holder is an employee (Education Code 44421.1)
4. An employee's knowing and willful reporting of false fiscal expenditure data relative to the conduct of any educational program (Education Code 44421.5)

Legal Reference: (see next page)

EMPLOYMENT STATUS REPORTS (continued)

Legal Reference:

EDUCATION CODE

44009 Conviction of specified crimes

44010 Sex offense - definitions

44011 Controlled substance offense - definitions

44225 Powers and duties of the CTC

44242.5 Reports and review of alleged misconduct

44420-44440 Adverse actions by CTC against credential holder

44940 Sex offenses and narcotic offenses; compulsory leave of absence

44940.5 Compulsory leave of absence

CODE OF REGULATIONS, TITLE 5

80303 Reports of change in employment status, alleged misconduct

80304 Notice of sexual misconduct

Management Resources:

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

California's Laws and Rules Pertaining to the Discipline of Professional Certificated Personnel, 2007

WEB SITES

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

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

SUSPENSION/DISCIPLINARY ACTION

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

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

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

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

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

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

(cf. 4117.7 - Employment Status Reports)

Legal Reference: (see next page)

SUSPENSION/DISCIPLINARY ACTION (continued)

Legal Reference:

EDUCATION CODE

44008 *Effect of termination of probation*
44009 *Conviction of specified crimes*
44010 *Sex offense - definitions*
44011 *Controlled substance offense - definitions*
44242.5 *Reports and review of alleged misconduct*
44425 *Conviction of a sex or narcotic offense*
44660-44665 *Evaluation and assessment of performance of certificated employees*
44830.1 *Criminal record summary certificated employees*
44930-44988 *Resignations, dismissal, and leave of absence, especially:*
44940 *Sex offenses and narcotic offenses; compulsory leave of absence*
44940.5 *Compulsory leave of absence*
45055 *Drawing of warrants for teachers*
48907 *Exercise of free speech, expression*
48950 *Speech and other communication*
51530 *Advocacy or teaching of communism*

GOVERNMENT CODE

3543.2 *Scope of representation*

HEALTH AND SAFETY CODE

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

PENAL CODE

187 *Murder*
291 *School employees arrest for sex offense*
667.5 *Prior prison terms, enhancement of prison terms*
1192.7 *Plea bargaining limitation*

CODE OF REGULATIONS, TITLE 5

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

COURT DECISIONS

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

Management Resources:

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

California's Laws and Rules Pertaining to the Discipline of Professional Certificated Personnel, 2007

WEB SITES

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

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

Policy
adopted: April 14, 2009
reviewed: May 8, 2012

YREKA UNION SCHOOL DISTRICT
Yreka, California

SUSPENSION/DISCIPLINARY ACTION

Suspension Without Pay

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

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

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

1. Indicate the nature of the employee's unprofessional conduct
2. Cite specific instances of unprofessional behavior
3. Give the employee a 45-day opportunity to correct the misconduct and overcome the ground(s) for the charge(s)
4. Include the evaluation made pursuant to Education Code 44660-44665, if applicable

(cf. 4115 - Evaluation/Supervision)

Mandatory Leave of Absence

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

1. Any sex offense as defined in Education Code 44010
2. Any offense involving the unlawful sale, use, or exchange to minors of controlled substances as listed in Health and Safety Code 11054, 11055, and 11056, with the exception of marijuana, mescaline, peyote, or tetrahydrocannabinols

(cf. 4117.7 - Employee Status Reports)

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

SUSPENSION/DISCIPLINARY ACTION (continued)

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

(cf. 4112.5/4312.5 - Criminal Record Check)

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

(cf. 4117.4 - Dismissal)

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

Optional Leave of Absence

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

Protection of a Student's Free Speech or Press Rights

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

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

(cf. 5145.2 - Freedom of Speech/Expression)

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 4119.11(a)

4219.11

SEXUAL HARASSMENT

4319.11

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

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

(cf. 4030 - Nondiscrimination in Employment)

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

1. Providing training to employees in accordance with law and administrative regulation
2. Publicizing and disseminating the district's sexual harassment policy to staff

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

3. Ensuring prompt, thorough, and fair investigation of complaints
4. Taking timely and appropriate corrective/remedial action(s), which may require interim separation of the complainant and the alleged harasser and subsequent monitoring of developments

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

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

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

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

(cf. 4031 - Complaints Concerning Discrimination in Employment)

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

SEXUAL HARASSMENT (continued)

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

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination on the basis of sex

GOVERNMENT CODE

12900-12996 Fair Employment and Housing Act, especially:

12940 Prohibited discrimination

12950.1 Sexual harassment training

LABOR CODE

1101 Political activities of employees

1102.1 Discrimination: sexual orientation

CODE OF REGULATIONS, TITLE 2

7287.8 Retaliation

7288.0 Sexual harassment training and education

CODE OF REGULATIONS, TITLE 5

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

UNITED STATES CODE, TITLE 42

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

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

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

CODE OF FEDERAL REGULATIONS, TITLE 34

106.9 Dissemination of policy

COURT DECISIONS

Department of Health Services v. Superior Court of California, (2003) 31 Cal.4th 1026

Faragher v. City of Boca Raton, (1998) 118 S.Ct. 2275

Burlington Industries v. Ellreth, (1998) 118 S.Ct. 2257

Gebser v. Lago Vista Independent School District, (1998) 118 S.Ct. 1989

Oncale v. Sundowner Offshore Serv. Inc., (1998) 118 S.Ct. 998

Meritor Savings Bank, FSB v. Vinson et al., (1986) 447 U.S. 57

Management Resources:

OFFICE OF CIVIL RIGHTS AND NATIONAL ASSOCIATION OF ATTORNEYS GENERAL

Protecting Students from Harassment and Hate Crime, January, 1999

WEB SITES

California Department of Fair Employment and Housing: <http://www.dfeh.ca.gov>

Equal Employment Opportunity Commission: <http://www.eeoc.gov>

U.S. Department of Education, Office for Civil Rights:

<http://www.ed.gov/about/offices/list/ocr/index.html>

Policy
adopted: September 9, 2008
reviewed: May 8, 2012

YREKA UNION SCHOOL DISTRICT
Yreka, California

All Personnel

AR 4119.11(a)

4219.11

SEXUAL HARASSMENT

4319.11

Definitions

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

1. Submission to the conduct is made explicitly or implicitly a term or condition of the individual's employment.
2. Submission to or rejection of such conduct by the individual is used as the basis for an employment decision affecting him/her.
3. The conduct has the purpose or effect of having a negative impact upon the individual's work or has the purpose or effect of creating an intimidating, hostile, or offensive work environment. The conduct is sufficiently severe, persistent, pervasive, or objectively offensive so as to create a hostile or abusive working environment or to limit the individual's ability to participate in or benefit from an education program or activity.
4. Submission to or rejection of the conduct by the other individual is used as the basis for any decision affecting him/her regarding benefits, services, honors, programs, or activities available at or through the district.

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

1. Unwelcome verbal conduct such as sexual flirtations or propositions; graphic comments about an individual's body; overly personal conversations or pressure for sexual activity; sexual jokes or stories; unwelcome sexual slurs, epithets, threats, innuendoes, derogatory comments, sexually degrading descriptions, or the spreading of sexual rumors
2. Unwelcome visual conduct such as drawings, pictures, graffiti, or gestures; sexually explicit emails; displaying sexually suggestive objects
3. Unwelcome physical conduct such as massaging, grabbing, fondling, stroking, or brushing the body; touching an individual's body or clothes in a sexual way; cornering, blocking, leaning over, or impeding normal movements

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

SEXUAL HARASSMENT (continued)

Training

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

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

In addition, the Superintendent or designee shall ensure that all employees receive periodic training regarding the district's sexual harassment policy, particularly the procedures for filing complaints and employees' duty to use the district's complaint procedures.

Notifications

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

1. Be displayed in a prominent location in the main administrative building, district office, or other area of the school where notices of district rules, regulations, procedures, and standards of conduct are posted
2. Be provided to each faculty member, all members of the administrative staff, and all members of the support staff at the beginning of the first quarter or semester of the school year or whenever a new employee is hired

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

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

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

SEXUAL HARASSMENT (continued)

1. The illegality of sexual harassment
2. The definition of sexual harassment under applicable state and federal law
3. A description of sexual harassment, with examples
4. The district's complaint process available to the employee

(cf. 4031 - Complaints Concerning Discrimination in Employment)

5. The legal remedies and complaint process available through DFEH and the Equal Employment Opportunity Commission (EEOC)
6. Directions on how to contact DFEH and the EEOC
7. The protection against retaliation provided by 2 CCR 7287.8 for opposing harassment prohibited by law or for filing a complaint with or otherwise participating in an investigation, proceeding, or hearing conducted by DFEH and the EEOC

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

All Personnel

BP 4119.23(a)

4219.23

**UNAUTHORIZED RELEASE OF CONFIDENTIAL/
PRIVILEGED INFORMATION**

4319.23

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

Disclosure of Closed Session Information

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

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

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

(cf. 9321 - Closed Session Purposes and Agendas)

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

(cf. 4118 - Suspension/Disciplinary Action)

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

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

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

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

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

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

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

3. Disclosing information that is not confidential

Other Disclosures

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

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

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

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

(cf. 4143/4243 - Negotiations/Consultation)

(cf. 5125 - Student Records)

(cf. 5125.1 - Release of Directory Information)

(cf. 5141.4 - Child Abuse Prevention and Reporting)

(cf. 6164.2 - Guidance/Counseling Services)

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

Legal Reference: (see next page)

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

Legal Reference:

EDUCATION CODE

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

35146 *Closed sessions*

35160 *Authority of governing boards*

44031 *Personnel file contents and inspection*

44932 *Grounds for dismissal of permanent employees*

44933 *Other grounds for dismissal*

45113 *Rules and regulations for classified service*

49060-49079 *Pupil records*

GOVERNMENT CODE

1098 *Public officials and employees: confidential information*

6250-6270 *Inspection of public records*

54950-54963 *Brown Act*

UNITED STATES CODE, TITLE 20

1232g *Family Education Rights and Privacy Act*

Management Resources:

WEB SITES

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

All Personnel

BP 4119.25(a)

4219.25

POLITICAL ACTIVITIES OF EMPLOYEES

4319.25

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

(cf. 1160 - Political Processes)

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

(cf. 1330 - Use of School Facilities)

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

(cf. 1325 - Advertising and Promotion)

(cf. 4118 - Suspension/Disciplinary Action)

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

Legal Reference: (see next page)

POLITICAL ACTIVITIES OF EMPLOYEES (continued)

Legal Reference:

EDUCATION CODE

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

38130-38139 *Civic Center Act*

51520 *Prohibited solicitations on school premises*

GOVERNMENT CODE

3543.1 *Rights of employee organizations*

COURT DECISIONS

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

California Teachers Association v. Governing Board of San Diego Unified School District, (1996) 45 Cal.App. 4th 1383

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

ATTORNEY GENERAL OPINIONS

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

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

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

PERB RULINGS

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

Management Resources:

CSBA PUBLICATIONS

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

WEB SITES

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

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

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

All Personnel

AR 4119.25(a)

4219.25

POLITICAL ACTIVITIES OF EMPLOYEES

4319.25

District employees shall not:

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

Policy
adopted: May 12, 1992
reviewed: May 8, 2012

YREKA UNION SCHOOL DISTRICT
Yreka, California

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 Governing Board 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: (see next page)

BP 4119.42(b)
4219.42
4319.42

EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS (continued)

Legal Reference:

LABOR CODE

142.3 Authority of Cal/OSHA to adopt standards

144.7 Requirement to amend standards

CODE OF REGULATIONS, TITLE 8

3204 Access to employee exposure and medical records

5193 California bloodborne pathogens standards

CODE OF FEDERAL REGULATIONS, TITLE 29

1910.1030 OSHA bloodborne pathogens standards

Management Resources:

CDE ADVISORIES

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

WEB SITES

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

Cal/OSHA: http://www.dir.ca.gov/occupational_safety.html

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

All Personnel

AR 4119.42(a)

4219.42

EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS

4319.42

Definitions

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

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

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

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

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

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

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

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

Exposure Control Plan

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

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

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

- a. All job classifications in which all employees have occupational exposure
- b. Job classifications in which some employees have occupational exposure

EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS (continued)

- c. All tasks and procedures, or groups of closely related tasks and procedures, in which occupational exposure occurs and which are performed by employees listed in item #b above
2. The schedule and method of implementing:
- a. Methods of compliance required by 8 CCR 5193(d), such as universal precautions, general and specific engineering and work practice controls, and personal protective equipment

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

- b. Hepatitis B vaccination
 - c. Bloodborne pathogen post-exposure evaluation and follow-up
 - d. Communication of hazards to employees, including labels, signs, information and training
 - e. Recordkeeping
3. The district's procedure for evaluating circumstances surrounding exposure incidents
4. An effective procedure for gathering information about each exposure incident involving a sharp, as required for the log of sharps injuries
5. An effective procedure for periodically determining the frequency of use of the types and brands of sharps involved in exposure incidents documented in the sharps injury log
6. An effective procedure for identifying currently available engineering controls and selecting such controls as appropriate for the procedures performed by employees in their work areas or departments
7. An effective procedure for documenting instances when a licensed healthcare professional directly involved in a patient's care determines, in the reasonable exercise of clinical judgment, that the use of an engineering control would jeopardize an individual's safety or the success of a medical, dental or nursing procedure involving the individual

EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS (continued)

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

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

1. Reflect new or modified tasks and procedures affecting occupational exposure
2. To the extent that sharps are used in the district, reflect progress in implementing the use of needleless systems and sharps with engineered sharps injury protection
3. Include new or revised employee positions with occupational exposure
4. Review and evaluate the exposure incidents which occurred since the previous update
5. Review and respond to information indicating that the exposure control plan is deficient in any area

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

Preventive Measures

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

Hepatitis B Vaccination

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

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

EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS (continued)

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

Information and Training

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

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

Reporting Incidents

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

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

Sharps Injury Log

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

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

1. Date and time of the exposure incident
2. Type and brand of sharp involved in the exposure incident
3. A description of the exposure incident, including:

EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS (continued)

- a. Job classification of the exposed employee
- b. Department or work area where the exposure incident occurred
- c. The procedure that the exposed employee was performing at the time of the incident
- d. How the incident occurred
- e. The body part involved in the incident
- f. If the sharp had engineered sharps injury protection, whether the protective mechanism was activated and whether the injury occurred before, during or after the protective mechanism was activated
- g. If the sharp had no engineered sharps injury protection, the injured employee's opinion as to whether and how such a mechanism could have prevented the injury
- h. The employee's opinion about whether any other engineering, administrative or work practice could have prevented the injury

Post-Exposure Evaluation and Follow-up

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

1. Document the route(s) of exposure and the circumstances under which the exposure incident occurred
2. Identify and document the source individual, unless that identification is infeasible or prohibited by law
3. Provide for the collection and testing of the employee's blood for hepatitis B, hepatitis C and HIV serological status
4. Provide for post-exposure prophylaxis, when medically indicated, as recommended by the U.S. Public Health Service
5. Provide for counseling and evaluation of reported illnesses

EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS (continued)

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

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

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

Records

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

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

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

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

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

1. Medical records shall be maintained for the duration of employment plus 30 years.
2. Training records shall be maintained for three years from the date of training.
3. The sharps injury log shall be maintained five years from the date the exposure incident occurred.
4. Exposure records shall be maintained for at least 30 years.

AR 4119.42(g)
4219.42
4319.42

EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS (continued)

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

Regulation
approved: October 12, 1999
reviewed: May 8, 2012

YREKA UNION SCHOOL DISTRICT
Yreka, California

All Personnel

E 4119.42

4219.42

EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS

4319.42

Hepatitis B Vaccine Declination

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

Signature

Employee Name (Please print)

Date

All Personnel

BP 4119.43

4219.43

UNIVERSAL PRECAUTIONS

4319.43

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

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

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

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

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

Legal Reference:

HEALTH AND SAFETY CODE

117600-118360 Handling and disposal of regulated waste

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

120880 Information to employees of school district

CODE OF REGULATIONS, TITLE 8

5193 California bloodborne pathogens standard

CODE OF FEDERAL REGULATIONS, TITLE 29

1910.1030 OSHA bloodborne pathogens standards

Management Resources:

CDE PROGRAM ADVISORIES

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

WEB SITES

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

All Personnel

AR 4119.43(a)

4219.43

UNIVERSAL PRECAUTIONS

4319.43

Definitions

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

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

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

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

Employee Information

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

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

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

Infection Control Practices

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

UNIVERSAL PRECAUTIONS (continued)

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

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

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

1. Perform all procedures involving blood or other potentially infectious materials in such a manner as to minimize splashing, spraying, spattering, and generating droplets of these substances.
2. Use personal protective equipment as appropriate.
 - a. Appropriate clothing, including but not limited to, gowns, aprons, lab coats, clinic jackets or similar outer garments, shall be worn in occupational exposure situations.

If a garment becomes penetrated by blood or other potentially infectious materials, the employee shall remove the garment immediately or as soon as feasible. All personal protective equipment shall be removed prior to leaving the work area. When removed, it shall be placed in an appropriately designated area or container for storage, washing, decontamination or disposal.
 - b. Gloves shall be worn when it can be reasonably anticipated that the employee may have hand contact with blood, other potentially infectious materials, mucous membranes and nonintact skin, and when handling or touching contaminated items or surfaces.

UNIVERSAL PRECAUTIONS (continued)

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

- c. Masks in combination with eye protection devices or face shields shall be worn whenever splashes, spray, spatter, or droplets of blood or other potentially infectious materials may be generated and eye, nose or mouth contamination can be reasonably anticipated.
3. Wash hands and other skin surfaces thoroughly with soap and running water:
- a. Immediately or as soon as feasible following contact of hands or any other skin or mucous membranes with blood or other potentially infectious materials
 - b. Immediately after removing gloves or other personal protective equipment

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

- 4. Refrain from eating, drinking, smoking, applying cosmetics or lip balm, or handling contact lenses in work areas with a reasonable likelihood of occupational exposure.
- 5. Clean and decontaminate all equipment and environmental and work surfaces after contact with blood or other potentially infectious material, no later than the end of the shift or more frequently as required by state regulations.
- 6. Rather than using the hands directly, use mechanical means such as a brush and dust pan, tongs or forceps to clean up broken glassware which may be contaminated.

UNIVERSAL PRECAUTIONS (continued)

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

(cf. 5141.21 - Administering Medication and Monitoring Health Conditions)

(cf. 5141.24 - Specialized Health Care Services)

- a. Needleless systems shall be used to administer medication or fluids, withdraw body fluids after initial venous or arterial access is established, and conduct any other procedure involving the potential for an exposure incident for which a needleless system is available as an alternative to the use of needle devices. If needleless systems are not used, needles or non-needle sharps with engineered sharps injury protection shall be used.
 - b. Contaminated needles or other sharps shall not be broken, bent, recapped, removed from devices, or stored or processed in a manner that requires employees to reach by hand into the containers where these sharps have been placed.
 - c. Disposable sharps shall not be reused.
8. Handle, store, treat and dispose of regulated waste in accordance with Health and Safety Code 117600-118360 and other applicable state and federal regulations.
- a. Immediately or as soon as possible after use, contaminated sharps shall be placed in containers meeting the requirements of 8 CCR 5193(d)(3)(D). Containers shall be easily accessible, maintained upright throughout use where feasible, and replaced as necessary to avoid overfilling.
 - b. Specimens of blood or other potentially infectious material shall be placed in a container which prevents leakage during collection, handling, processing, storage, transport or shipping.

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

(cf. 5141 - Health Care and Emergencies)

(cf. 5141.22 - Infectious Diseases)

(cf. 5141.6 - School Health Services)

(cf. 6145.2 - Athletic Competition)