

CLASSIFIED PERSONNEL

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

(cf. 0200 - Goals for the School District)

(cf. 4211 - Recruitment and Selection)

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

(cf. 4215 - Evaluation/Supervision)

Classification of Employees

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

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

(cf. 4211 - Recruitment and Selection)

(cf. 4212 - Appointment and Conditions of Employment)

Before employing a short-term classified employee, the Board, at a regularly scheduled meeting, shall specify the service required to be performed by the employee and shall certify the ending date of the service. The Board may shorten or extend the ending date, but the date shall not be extended beyond 75 percent of the school year, as defined. (Education Code 45103)

Each position shall have a designated title and regular minimum number of assigned hours per day, days per week and months per year. A job description shall be established for each position.

Assignment

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

(cf. 4141/4241 - Collective Bargaining Agreement)

Legal Reference: (see next page)

CLASSIFIED PERSONNEL (continued)

Legal Reference:

EDUCATION CODE

45100-45139 *Employment of classified staff*

45160-45169 *Salaries and differential compensation*

45190-45210 *Resignation and leaves of absence*

45220-45320 *Merit system*

49406 *Examination for tuberculosis*

51760-51769.5 *Work experience education*

Management Resources:

WEB SITES

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

CLASSIFIED PERSONNEL

Exemption from Classified Service

Individuals hired solely for the following purposes are exempt from the classified service: (Education Code 45103)

1. Substitute or short-term employees, as defined, who are employed and paid for less than 75 percent of the school year

Substitute employee means any person employed to replace any classified employee who is temporarily absent from duty. In addition, if the district is then engaged in a procedure to hire a permanent employee to fill a vacancy in any classified position, the Board of Trustees may fill the vacancy through the employment, for not more than 60 calendar days, of one or more substitute employees, except to the extent that a collective bargaining agreement then in effect provides for a different period of time.

Short term employee means any person who is employed to perform a service for the district, upon the completion of which the service required or similar services will not be extended or needed on a continuing basis.

Seventy-five percent of the school year means 195 working days, including holidays, sick leave, vacation and other leaves of absences, irrespective of the number of hours worked per day.

2. Part-time playground positions (noon duty aides), when the employees are not otherwise employed in classified positions in the district
3. Apprentices and professional experts employed on a temporary basis for a specific project regardless of length of employment
4. Full-time students employed part time
5. Part-time students employed part time in any college work study program, or in a work experience education program conducted by a community college district, and which is financed by state or federal funds

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

CLASSIFIED PERSONNEL (continued)

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

APPOINTMENT AND CONDITIONS OF EMPLOYMENT

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

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

1. Submit to fingerprinting as required by law (Education Code 45125)
2. Not have been convicted of a violent or serious felony (Education Code 45122.1)
(cf. 4212.5 - Criminal Record Check)
3. Not have been convicted of any sex offense as defined in Education Code 44010 (Education Code 45123)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)
4. Not have been determined to be a sexual psychopath pursuant to Welfare and Institutions Code 6300-6332 (Education Code 45124)
5. If the individual will be working directly and in an unaccompanied setting with minor children on a more than incidental and occasional basis or will have supervision or disciplinary power over minor children, not be required to register as a sex offender pursuant to Penal Code 290 because of a conviction for a crime where the victim was a minor under the age of 16 (Penal Code 290.95)
(cf. 3515.5 - Sex Offender Notification)
6. Not have been convicted of any controlled substance offense as defined in Education Code 44011 (Education Code 45123)
7. Submit to a physical examination or provide proof thereof as required by law and Board policy (Education Code 45122, 49406)
(cf. 4112.4/4212.4/4312.4 - Health Examinations)
8. File the oath or affirmation of allegiance required by Government Code 3100-3109
(cf. 4112.3/4212.3/4312.3 - Oath or Affirmation)
9. Submit to drug and alcohol testing as required by Board policy
(cf. 4112.41/4212.41/4312.41 - Employee Drug Testing)

APPOINTMENT AND CONDITIONS OF EMPLOYMENT (continued)

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

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

Notification of Classification and Compensation

When first employed and upon each subsequent change in classification, classified employees other than short-term, limited-term or provisional employees shall be given two copies of their class specification, salary data, assignment or work location, duty hours and prescribed work week. Salary data shall specify pay period (monthly, semimonthly or other) and applicable rates of compensation (daily, hourly, overtime and differential rates). Employees shall keep one copy of this information and shall sign and date the other copy and return it to their supervisor. (Education Code 45169)

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

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

Legal Reference:

EDUCATION CODE

35161 Powers and duties

44010 Sex offense - definitions

44011 Controlled substance offense - definitions

44066 Limitation on certification requirements

45103 Classified service in districts not incorporating the merit system

45104 Positions not requiring certification qualifications

45105 Positions under various acts not requiring certification qualifications

45108 Restricted positions

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

45122 Physical examinations

45122.1 Classified employees, conviction of a violent or serious felony

45123 Employment after conviction of sex offense or controlled substance offense

45125 Use of personal identification cards to ascertain conviction of crime

45169 Employee salary data

49406 Examination for tuberculosis

60850-60856 High school exit exam

GOVERNMENT CODE

3100-3109 Oaths or affirmations

12940-12950 Unlawful employment practices

PENAL CODE

290 Registration of sex offenders

290.95 Disclosure by person required to register as sex offenders

667.5 Prior prison terms, enhancement of prison terms

1192.7 Plea bargaining limitation

1203.4 Discharged petitioner, change of plea

WELFARE AND INSTITUTIONS CODE

6300-6332 Sexual psychopaths

CRIMINAL RECORD CHECK

Applicants for Employment

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

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

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

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

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

(cf. 4212 - Appointment and Conditions of Employment)

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

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

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

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

CRIMINAL RECORD CHECK (continued)

Subsequent Arrest Notification

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

Current Employees

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

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

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

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

Legal Reference: (see next page)

CRIMINAL RECORD CHECK (continued)

Legal Reference:

EDUCATION CODE

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

GOVERNMENT CODE

6200-6203 *Crimes related to public records*

PENAL CODE

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

CODE OF REGULATIONS, TITLE 11

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

Management Resources:

WEB SITES

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

EVALUATION/SUPERVISION

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

(cf. 4141/4241 - Collective Bargaining Agreement)

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

(cf. 4119.21/4219.21/4319.21 - Code of Ethics)

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

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

(cf. 4231 - Staff Development)

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

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

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

Legal Reference:

EDUCATION CODE

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

45261 Subjects of rules (merit system districts)

45262 Distribution of rules

GOVERNMENT CODE

3543.2 Scope of representation

Management Resources:

WEB SITES

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

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

PROBATIONARY/PERMANENT STATUS

Employees newly hired for regular positions in the classified service shall be considered probationary employees until they have satisfactorily completed one year of probationary service. Upon satisfactorily completing this period, they shall become permanent classified employees of the district.

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

(cf. 4215 - Evaluation/Supervision)

The Superintendent or designee may dismiss an employee during the initial probationary period.

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

Permanent employees promoted to a higher classification shall be considered probationary in their new position until they have satisfactorily completed one year of service in that position.

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

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

Legal Reference:

EDUCATION CODE

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

45240-45320 Merit system

Management Resources:

WEB SITES

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

PRERETIREMENT PART-TIME EMPLOYMENT

District employees may reduce their workload from full-time to part-time for a period not to exceed five years.

Regulations allowing employees to reduce their workload include but are not limited to the following (Education Code 45139):

1. Employees must be 55 years of age before they may reduce their workload.
2. Employees must have completed at least 10 years of full-time service to the district.
3. Employees must have completed five years of full-time service immediately prior to requesting a reduction in workload.
4. The five years required in #3 must have passed without a break in service.
5. The part-time employment option is available at the employee's request and may be revoked only with the mutual consent of the employee and the Board of Trustees.
6. Employees will be paid a pro rata share of their full-time salary.
7. Minimum part-time employment shall be the equivalent of one-half of the number of days of service required by the employee's contract during the final year of full-time service.
8. The employee shall receive the same health benefits as those received by full-time employees.
9. The employee shall retain all other rights and benefits as long as he/she makes the payments for them that would be required if he/she still worked full time.
10. The period of part-time employment shall not extend beyond the end of the school year during which the employee reaches his/her 70th birthday.

Legal Reference:

EDUCATION CODE

45139 Reduced workload for classified employees

LAYOFF/REHIRE

Classified employees shall be subject to layoff for lack of work or lack of funds. (Education Code 45114, 45308)

A classified employee shall not be laid off if a short-term employee is retained to render a service that the classified employee is qualified to render. (Education Code 45117)

(cf. 4121 - Temporary/Substitute Personnel)

Order of Layoff Within a Classification/Determination of Seniority

Within each class, the order of layoff shall be determined by length of service. (Education Code 45114, 45308)

"Length of service" means all hours in paid status, whether during the school year, a holiday, recess, or during any period that school is in session or closed. However, length of service shall not include hours compensated solely on an overtime basis, as provided in Education Code 45128, and shall not include hours for any service performed prior to entering into probationary or permanent status, except for service in a restricted position pursuant to Education Code 45105. The employee who has been employed the shortest time in the class, plus higher classes, shall be laid off first. (Education Code 45308)

For an employee who is a member of the Military Reserve or the National Guard, length of service credit shall be granted for military leave of absence, including voluntary or involuntary active duty during a period of national emergency or war. (Education Code 45297, 45308)

(cf. 4161.5/4261.5/4361.5 - Military Leave)

Length of service credit may be granted for time spent on unpaid illness or maternity leave, unpaid family care leave, or unpaid industrial accident leave. Length of service credit shall not be granted for other types of unpaid leaves. (Education Code 45308)

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

(cf. 4261.1 - Personal Illness/Injury Leave)

(cf. 4261.11 - Industrial Accident/Illness Leave)

Notice of Layoff

Whenever a classified employee is to be laid off for lack of work or lack of funds, written notice shall be given to the employee, informing him/her of the layoff, the date the layoff goes into effect, any displacement rights, and reemployment rights. The notice shall be given: (Education Code 45117)

LAYOFF/REHIRE (continued)

1. At least 60 days prior to the effective date of the layoff, if the layoff is for lack of work resulting from a bona fide reduction or elimination of service being performed.
2. No later than April 29, if the layoff is for lack of funds due to the expiration of a specially funded program at the end of any school year. However, if the termination date of the specially funded program is other than June 30, the employee shall be given notice at least 60 days from the effective date of the layoff.

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

The district is not required to provide the 60-day notice in the event of an actual and existing financial inability to pay the salaries of classified employees or if the layoff is due to a lack of work resulting from conditions not foreseeable or preventable by the district. (Education Code 45117)

The district also is not required to provide the 60-day notice to any person hired as a short-term employee for a period not exceeding 60 days whose service may not be extended or renewed. (Education Code 45117)

Reemployment

Classified employees laid off because of lack of work or lack of funds shall be eligible for reemployment for a period of 39 months and shall be reemployed in preference to new applicants. Reemployment shall be in order of seniority. Persons so laid off also have the right to apply and establish their qualification for vacant promotional positions within the district during the 39-month period. (Education Code 45114, 45298, 45308)

When a vacancy occurs, the district shall give the employee with the most seniority an opportunity to accept or reject the position, by first calling the employee at his/her last known telephone number to notify him/her of the vacancy and then sending written notice by certified and standard mail to his/her last known address. The employee shall advise the district of his/her decision by any means no later than 10 calendar days from the date the notice was sent. If the employee accepts, he/she shall report to work no later than two calendar weeks from the vacancy notification date or on a later date specified by the district.

In order to be reemployed, the employee must be capable of performing the essential duties of the job with or without reasonable accommodations. When an otherwise eligible employee is unable to perform the essential duties of the job, he/she shall be kept on the reemployment list until another opportunity becomes available or the period of reemployment eligibility expires, whichever occurs first.

LAYOFF/REHIRE (continued)

(cf. 4032 - Reasonable Accommodation)

Upon rejecting two offers of reemployment, the employee's name shall be removed from the reemployment list and he/she will forfeit all reemployment rights to which he/she would otherwise be entitled.

When an employee is notified of a vacancy and fails to respond or report to work within time limits specified by district procedures, his/her name shall be removed from the reemployment list and all reemployment rights to which he/she would otherwise be entitled shall be forfeited.

If an employee is employed in a new position and fails to complete the probationary period in the new position, he/she shall be returned to the reemployment list for the remainder of the 39-month period. The remaining time period shall be calculated as the time remaining in the 39-month period as of the date of reemployment. (Education Code 45114, 45298)

Reinstatement of Benefits

When a laid-off employee is reemployed, all accumulated sick leave credit shall be restored.

A laid-off permanent employee shall be reemployed with all rights and benefits accorded to him/her at the time of layoff.

A laid-off probationary employee shall be reemployed as a probationary employee, and the previous time served toward the completion of the required probationary period shall be counted. He/she shall also be reemployed with all rights and benefits accorded to a probationary employee at the time of layoff.

A laid-off employee, when reemployed, shall be placed on the salary step held at the time of layoff. An employee who was bumped into a lower class shall, when reinstated to the previous class, be placed on the salary step to which he/she would have progressed had he/she remained there. An adjusted anniversary date shall be established for step increment purposes so as to reflect the actual amount of time served in the district.

Voluntary Demotion or Reduction of Hours

Classified employees who take voluntary demotion or voluntary reduction in assigned time in lieu of layoff, or in order to remain in their present position rather than be reclassified or reassigned, shall be granted the same rights as employees who are laid off. In addition, such employees shall retain eligibility to be considered for reemployment in their previously held class or position with increased assigned time, for an additional period of time up to 24 months as determined by the Board of Trustees on a class-by-class basis, provided that the same test of fitness under which they qualified for appointment to that class shall still apply. (Education Code 45114, 45298)

LAYOFF/REHIRE (continued)

Employees who take voluntary demotion or voluntary reduction in assigned time in lieu of layoff shall have the option of returning to a position in their former class or to positions with increased assigned time as vacancies become available and without limitation of time. If there is a valid reemployment list, they shall be ranked on that list in accordance with their proper seniority. (Education Code 45114, 45298)

Legal Reference:

EDUCATION CODE

45101 Definitions

45103 Classified service in districts not incorporating the merit system

45105 Positions under various acts not requiring certification qualifications; classification

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

45114 Layoff and reemployment procedures; definitions

45115 Layoff: Reinstatement from service retirement

45117 Notice of layoff

45286 Limited term employees

45297 Right to take equivalent examination while employee in military service

45298 Reemployment of persons laid off; voluntary demotions or reductions in time; districts adopting merit system

45308 Order of layoff and reemployment; length of service

45309 Reinstatement of permanent noncertified employees after resignation

UNITED STATES CODE, TITLE 38

4301-4307 Veterans' Reemployment Rights

COURT DECISIONS

Tucker v. Grossmont Union High School District (2008) 168 Cal.App.4th 640

San Mateo City School District v. Public Employment Relations Board (1983) 33 Cal.3d 850, 866

Management Resources:

WEB SITES

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

DISMISSAL/SUSPENSION/DISCIPLINARY ACTION

Termination of Probationary Employment

At any time prior to the expiration of the probationary period, the Superintendent or designee may, at his/her discretion, dismiss a probationary classified employee from district employment. A probationary employee shall not be entitled to a hearing.

Involuntary Suspension Without Pay, Demotion, Reduction of Pay Step in Class, or Dismissal of Permanent Classified Employees

Permanent classified employees shall be subject to personnel action (suspension without pay, demotion, reduction of pay step in class, dismissal) only for cause. The Board's determination of the sufficiency of the cause for disciplinary action shall be conclusive.

1. Causes

In addition to any disqualifying or actionable causes otherwise provided for by statute or by policy or regulation of this district, each of the following constitutes cause for personnel action against a permanent classified employee:

- a. Falsifying any information supplied to the school district, including, but not limited to, information supplied on application forms, employment records, or any other school district records.
- b. Incompetency.
- c. Inefficiency.
- d. Neglect of duty.
- e. Insubordination.
- f. Dishonesty.
- g. Drinking alcoholic beverages while on duty or in such close time proximity thereto as to cause any detrimental effect upon the employee or upon employees associated with him/her.

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

- h. Possessing or being under the influence of a controlled substance at work or away from work, or furnishing a controlled substance to a minor.

DISMISSAL/SUSPENSION/DISCIPLINARY ACTION (continued)

- i. Conviction of a felony, conviction of any sex offense made relevant by provisions of law, or conviction of a misdemeanor which is of such a nature as to adversely affect the employee's ability to perform the duties and responsibilities of his/her position. A plea or verdict of guilty, or a conviction following a plea of nolo contendere, is deemed to be a conviction for this purpose.
- j. Absence without leave.
- k. Immoral conduct.
- l. Discourteous treatment of the public, students, or other employees.
- m. Improper political activity.
- n. Willful disobedience.
- o. Misuse of district property.
- p. Violation of district, Board or departmental rule, policy, or procedure.
- q. Failure to possess or keep in effect any license, certificate, or other similar requirement specified in the employee's class specification or otherwise necessary for the employee to perform the duties of the position.
- r. Refusal to take and subscribe any oath or affirmation which is required by law in connection with his/her employment.
- s. A physical or mental disability which precludes the employee from the proper performance of his/her duties and responsibilities as determined by competent medical authority, except as otherwise provided by a contract or by law regulating the retirement of employees.
- t. Unlawful discrimination, including harassment, on the basis of race, religious creed, color, national origin, ancestry, physical handicap, marital status, sex, or age against the public or other employees while acting in the capacity of a district employee.
- u. Unlawful retaliation against any other district officer or employee or member of the public who, in good faith, reports, discloses, divulges, or otherwise brings to the attention of any appropriate authority any information relative to an actual or suspected violation of state or federal law occurring on the job or directly related thereto.

DISMISSAL/SUSPENSION/DISCIPLINARY ACTION (continued)

- v. Any other failure of good behavior either during or outside of duty hours which is of such nature that it causes discredit to the district or his/her employment.

Except as defined in item "s" above, no personnel action shall be taken for any cause which arose before the employee became permanent, nor for any cause which arose more than two years before the date of the filing of the notice of cause unless this cause was concealed or not disclosed by the employee when it could be reasonably assumed that the employee would have disclosed the facts to the district.

2. Initiation and Notification of Charges

The Superintendent or designee may initiate a personnel action as defined herein against a permanent classified employee.

In all cases involving a personnel action, the person initiating the action shall file a written recommendation of personnel action with the Board. A copy of the recommendation shall be served upon the employee either personally or by registered or certified mail, return receipt requested, at the employee's last known address. The recommendation shall include:

- a. A statement of the nature of the personnel action (suspension without pay, demotion, reduction of pay step in class, or dismissal).
- b. A statement of the cause or causes for the personnel action, as set forth above.
- c. A statement of the specific acts or omissions upon which the causes are based. If a violation of rule, policy, or regulation of the district is alleged, the rule, policy, or regulation violated shall be stated in the recommendation.
- d. A statement of the employee's right to appeal the recommendation and the manner and time within which the appeal must be filed.
- e. A card or paper, the signing and filing of which shall constitute a demand for hearing and a denial of all charges.

3. Employment Status Pending Appeal or Waiver

Except as provided herein, any employee against whom a recommendation of personnel action has been issued shall remain on active duty status and responsible for fulfilling the duties of the position pending his/her appeal or waiver thereof.

If the Superintendent or designee determines that a permanent classified employee should be dismissed and that his/her continuing in active duty status would present an

DISMISSAL/SUSPENSION/DISCIPLINARY ACTION (continued)

unreasonable risk of harm to students, staff, or property while proceedings are pending, the Superintendent or designee may order the employee immediately suspended from duty without pay in conjunction with the recommendation of personnel action. This suspension order shall be in writing and shall state the reasons that the suspension is deemed necessary. The suspension order shall be served upon the employee either personally or by registered or certified mail, return receipt requested, immediately after issuance. Except in cases of emergency when the employee must be removed from the premises immediately, the Superintendent or designee shall give the employee written notice of the proposed recommendation of dismissal at least five calendar days before the effective date of any order of suspension issued in conjunction with a recommendation involving dismissal. This notice shall state that immediate suspension without pay is being considered, the reasons for the proposed dismissal and proposed immediate suspension without pay, materials upon which the proposed action is based, and the employee's right to respond to the Superintendent or designee orally or in writing before the final recommendation and order are issued.

4. Time Limit of Suspension

Except for a suspension imposed under #3 above, any suspension invoked under these rules against any one person for one or more periods shall not aggregate more than 90 calendar days in any 12-month period; however, this time limitation shall not apply to cases in which a personnel action of dismissal is modified by the Board to a suspension.

5. Right to Appeal

Within five calendar days after receiving the recommendation of personnel action described above, the employee may appeal by signing and filing the card or paper included with the recommendation. Any other written document signed and appropriately filed within the specified time limit by the employee shall constitute a sufficient notice of appeal. A notice of appeal is filed only by delivering the notice of appeal to the office of the Superintendent or designee during normal work hours of that office. A notice of appeal may be mailed to the office of the Superintendent or designee but must be received or postmarked no later than the time limit stated herein. In cases where an order of suspension without pay has been issued in conjunction with a recommendation of dismissal, any appeal of the recommendation of dismissal shall also constitute an appeal of the suspension order, and the necessity of the order shall be an issue in the appeal hearing.

If the employee fails to file a notice of appeal within the time specified in these rules, he/she shall be deemed to have waived his/her right to appeal, and the Board may order the recommended personnel action into effect immediately.

DISMISSAL/SUSPENSION/DISCIPLINARY ACTION (continued)6. Amended/Supplemental Charges

At any time before an employee's appeal is finally submitted to the Board or to a hearing officer for decision, the complainant may, with the consent of the Board or hearing officer, serve on the employee and file with the Board an amended or supplemental recommendation of personnel action.

If the amended or supplemental recommendation presents new causes or allegations, the employee shall be afforded a reasonable opportunity to prepare his/her defense. Any new causes or allegations shall be deemed controverted and any objections to the amended or supplemental causes or allegation may be made orally at the hearing and shall be noted on the record.

7. Hearing Procedures

- a. The hearing shall be held at the earliest convenient date, taking into consideration the established schedule of the Board or hearing officer and the availability of counsel and witnesses. The parties shall be notified of the time and place of the hearing. The employee shall be entitled to appear personally, produce evidence, and have counsel. The employee shall be entitled to a public hearing if he/she demands it when the Board is hearing the appeal. The complainant may also be represented by counsel. The procedure entitled "Administrative Adjudication" commencing with Government Code 1150 shall not apply to any such hearing before the Board or a hearing officer. Neither the Board nor a hearing officer shall be bound by rules of evidence used in California courts. Informality in any such hearing shall not invalidate any order or decision made or approved by the hearing officer or the Board.
- b. All hearings shall be heard by a hearing officer (who shall be an attorney licensed in the State of California) except in those cases where the Board determines to hear the appeal itself. In any case in which the Board hears the appeal, the Board may use the services of its counsel or a hearing officer in ruling upon procedural questions, objections to evidence, and issues of law. If the appeal is heard by the Board, the Board shall affirm, modify or revoke the recommended personnel action.
- c. If the appeal is heard by a hearing officer, he/she shall prepare a proposed decision in a form that may be adopted by the Board as the decision in the case. A copy of the proposed decision shall be received and filed by the Board and furnished to each party within 10 days after the proposed decision is filed by the Board. The Board may:
 - (1) Adopt the proposed decision in its entirety.

DISMISSAL/SUSPENSION/DISCIPLINARY ACTION (continued)

- (2) Reduce the personnel action set forth in the proposed decision and adopt the balance of the proposed decision.
 - (3) Reject a proposed reduction in personnel action, approve the personnel action sought by the complainant or any lesser penalty, and adopt the balance of the proposed decision.
 - (4) Reject the proposed decision in its entirety.
- d. If the Board rejects the proposed decision in its entirety, each party shall be notified of such action and the Board may decide the case upon the record including the transcript, with or without the taking of additional evidence, or may refer the case to the same or another hearing officer to take additional evidence. If the case is so assigned to a hearing officer, he/she shall prepare a proposed decision, as provided in item "c" above, upon the additional evidence and the transcript and other papers which are part of the record of the prior hearing. A copy of this proposed decision shall be furnished to each party within 10 days after the proposed decision is filed by the Board.
- e. In arriving at a decision or a proposed decision on the propriety of the proposed personnel action, the Board or the hearing officer may consider the records of any prior personnel action proceedings against the employee in which a personnel action was ultimately sustained and any records that were contained in the employee's personnel files and introduced into evidence at the hearing.

8. Hearing Decision

The decision of the Board shall be in writing and shall contain findings of fact and the personnel action approved, if any. The findings may reiterate the language of the pleadings or simply refer to them.

The decision of the Board shall be certified to the Superintendent or designee who recommended the personnel action, and he/she shall enforce and follow this decision. A copy of the decision shall be delivered to the appellant or his/her designated representative personally or by registered mail. The decision of the Board shall be final.

9. Compulsory Dismissal

DISMISSAL/SUSPENSION/DISCIPLINARY ACTION (continued)

The district shall not employ or retain in employment any person who has been convicted of any sex offense as defined in Education Code 44010 or any controlled substance offense as defined in Education Code 44011. However, the district may employ a person convicted of a controlled substance offense if the Board determines from the evidence it requires that the person has been rehabilitated for at least five years. If any such conviction is reversed and the person acquitted or charges dismissed except as otherwise provided below, the employee may be reemployed by the district, although reemployment is not a guarantee. (Education Code 45123)

The district reserves the right to dismiss an employee for any acts upon which the original criminal charges were based, despite the disposition by the courts. If dismissal is recommended and upheld, an employee will not be reemployed or compensated for the time he/she was suspended unless otherwise required by law. An employee shall be given notice of the possibility of not being reimbursed during mandatory suspension if he/she is ultimately dismissed for the acts upon which the original charges were based.

10. Extension of Compulsory Leave

The Board may extend an employee's compulsory leave of absence by giving him/her notice, within 10 days after the entry of judgment in the proceedings, that he/she will be dismissed in 30 days unless he/she demands a hearing. Employee compensation during the period of compulsory leave shall be made in accordance with law. (Education Code 44940.5)

Legal Reference: (see next page)

DISMISSAL/SUSPENSION/DISCIPLINARY ACTION (continued)

Legal Reference:

EDUCATION CODE

35161 *Delegation of powers and duties*

44009 *Conviction of specified crimes*

44010 *Sex offense*

44011 *"Controlled substance offense" defined*

44940 *Leave of absence; employee charged with mandatory or optional leave of absence offense*

44940.5 *Compulsory leave of absence; procedures; extension; compensation; bond or security; reports*

45101 *Definitions (including "disciplinary action," "cause")*

45109 *Fixing of duties*

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

45123 *Employment after conviction of sex or narcotics offense*

45302 *Demotion and removal from permanent classified service*

45303 *Additional cause for suspension or dismissal of employees in classified service*

45304 *Suspension for reasonable cause; filing of charges; employee charged with mandatory or optional leave of absence offense*

VEHICLE CODE

1808.8 *School bus drivers; dismissal for safety-related cause*

UNITED STATES CODE, TITLE 42

12101 -12213 *Americans With Disabilities Act*

COURT DECISIONS

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

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

**CODE OF ETHICS
CLASSIFIED EMPLOYEES**

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

AS A SCHOOL EMPLOYEE I WILL:

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

SOURCE: CALIFORNIA SCHOOL EMPLOYEES' ASSOCIATION

TEACHER AIDES/PARAPROFESSIONALS

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

(cf. 1240 - Volunteer Assistance)

(cf. 4200 - Classified Personnel)

(cf. 6171 - Title I Programs)

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

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

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

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

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

(cf. 4131 - Staff Development)

(cf. 4212 - Appointment and Conditions of Employment)

(cf. 4215 - Evaluation/Supervision)

(cf. 4231 - Staff Development)

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

(cf. 4112.2 - Certification)

(cf. 4112.21 - Interns)

Legal Reference: (see next page)

TEACHER AIDES/PARAPROFESSIONALS (continued)

Legal Reference:

EDUCATION CODE

44390-44393 *California School Paraprofessional Teacher Training Program*

44833 *Postsecondary students as nonteaching aides*

44835 *Duties of nonteaching work study aides*

45330 *Paraprofessionals*

45340-45349 *Instructional aides*

45350-45354 *Teacher assistants*

45360-45367 *Teacher aides*

54480-54486 *Special Teacher Employment Programs*

CODE OF REGULATIONS, TITLE 5

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

UNITED STATES CODE, TITLE 20

6311 *State plans*

6314 *Schoolwide programs*

6315 *Targeted assistance schools*

6318 *Parent involvement*

6319 *Qualifications for teachers and paraprofessionals*

CODE OF FEDERAL REGULATIONS, TITLE 34

200.58-200.59 *Qualifications and duties of paraprofessionals*

Management Resources:

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

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

Roles for Education Paraprofessionals in Effective Schools, 1997

WEB SITES

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

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

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

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

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

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

National Clearinghouse for Paraeducator Resources:

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

TEACHER AIDES/PARAPROFESSIONALS

Qualifications and Duties of Paraprofessionals

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

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

Additional Qualifications and Duties of Paraprofessionals in Title I Programs

All paraprofessionals working in a program supported by federal Title I funds shall have received a high school diploma or its equivalent. (20 USC 6319; 34 CFR 200.58; Education Code 45330)

(cf. 6171 - Title I Programs)

In addition, at least one of the following criteria shall be met immediately by paraprofessionals hired on or after January 8, 2002, and by the end of the 2005-06 school year by paraprofessionals hired before January 8, 2002: (20 USC 6319; 34 CFR 200.58; Education Code 45330)

1. Completion of at least two years of study at an institution of higher education

In accordance with the definition adopted by the State Board of Education, "two years of study" shall be equal to 48 semester units or equivalent quarter units.
2. Possession of an associate's degree or higher
3. Knowledge of and ability to assist in instructing reading, writing, and mathematics, as demonstrated through a local or state assessment

A paraprofessional who was hired on or before January 1, 2003, shall be deemed to have met the proficiency exam requirements of item #3 above if he/she has previously demonstrated, through a local assessment, knowledge of and an ability to assist in instructing reading, writing, and mathematics. (Education Code 45330)

When a paraprofessional has previously worked in another district, the Superintendent or designee may determine whether any assessments conducted by the previous district satisfy the proficiency criteria of item #3 above.

Items #1-3 above shall not apply to any paraprofessional: (20 USC 6319; 34 CFR 200.58; Education Code 45330)

TEACHER AIDES/PARAPROFESSIONALS (continued)

1. Who is proficient in English and a language other than English and who provides services primarily to enhance the participation of children in Title I programs by acting as a translator
2. Whose duties consist solely of conducting parental involvement activities consistent with 20 USC 6318

Paraprofessionals working in a program supported by Title I funds may be assigned to: (20 USC 6319; 34 CFR 200.59)

1. Provide one-on-one tutoring for eligible students, if the tutoring is scheduled at a time when a student would not otherwise receive instruction from a teacher
2. Assist with classroom management, such as organizing instructional and other materials
3. Provide assistance in a computer laboratory
4. Conduct parental involvement activities
5. Provide support in a library or media center
6. Act as a translator
7. Provide instructional services to students, provided that the paraprofessional is working under the direct supervision of a teacher

Title I paraprofessionals may assume limited duties that are assigned to similar personnel in non-Title I programs, including duties beyond classroom instruction or that do not benefit Title I students, in the same proportion of total work time as non-Title I paraprofessionals. (20 USC 6319; 34 CFR 200.59)

The principal of each school operating a Title I program shall annually attest in writing as to whether the school is in compliance with federal requirements regarding qualifications and duties of paraprofessionals listed above. Copies of attestations shall be maintained at the school and district office and shall be available to the public upon request. (20 USC 6319)

Parental Notification

At the beginning of each school year, a parent/guardian shall be notified that he/she may request information regarding whether his/her child is provided services by paraprofessionals and, if so, their qualifications. (20 USC 6311)

(cf. 5145.6 - Parental Notifications)

TEACHER AIDES/PARAPROFESSIONALS

ATTESTATION REGARDING TITLE I PARAPROFESSIONALS

School: _____ Principal: _____

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

2. All paraprofessionals working in a Title I program are performing duties consistent with 20 USC 6319.

Signature: _____

Date: _____

STAFF DEVELOPMENT

Cautionary Notice: AB 97 (Ch. 47, Statutes of 2013) repealed Education Code 42605, which provided temporary flexibility for specified "Tier 3" categorical programs, and instead redirects the funding for those categorical programs into the Local Control Funding Formula (LCFF) (Education Code 42238.01-42251). The supplemental and concentration grant portions of the LCFF may be used for any schoolwide or districtwide educational purpose in accordance with state regulations to be adopted by January 31, 2014, with a goal of increasing or improving services for English learners, foster youth, and students eligible for free and reduced-price meals. Certain requirements related to Tier 3 categorical program(s) in the following policy or regulation are no longer applicable.

Classified staff shall have opportunities to participate in staff development activities in order to improve job skills, retrain to meet changing conditions in the district, and/or enhance personal growth.

(cf. 4261.3 - Professional Leaves)

The Superintendent or designee shall develop a program of ongoing staff development which may include, but not be limited to, activities related to:

1. General workplace skills and/or skills and knowledge specific to the duties of each classified position

(cf. 1340 - Access to District Records)
(cf. 3515.3 - District Police/Security Department)
(cf. 3542 - School Bus Drivers)
(cf. 4200 - Classified Personnel)
(cf. 4222 - Teacher Aides/Paraprofessionals)
(cf. 5148 - Child Care and Development)
(cf. 5148.3 - Preschool/Early Childhood Education)

2. The role of classified staff in achieving district goals and promoting student achievement

(cf. 0000 - Vision)
(cf. 0200 - Goals for the School District)

3. The use of technologies to improve job performance

(cf. 0440 - District Technology Plan)

4. Effective communication and interaction with other staff, students, parents/guardians, and community members

(cf. 6020 - Parent Involvement)
(cf. 6171 - Title I Programs)

STAFF DEVELOPMENT (continued)

5. Topics related to student health, safety, and welfare

(cf. 0450 - Comprehensive Safety Plan)
(cf. 3515.5 - Sex Offender Notification)
(cf. 5131.6 - Alcohol and Other Drugs)
(cf. 5131.63 - Steroids)
(cf. 5141.4 - Child Abuse Prevention and Reporting)
(cf. 5145.3 - Nondiscrimination/Harassment)
(cf. 5145.9 - Hate-Motivated Behavior)
(cf. 5145.7 - Sexual Harassment)
(cf. 5149 - At-Risk Students)

6. Topics related to employee health, safety, and security

(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)
(cf. 4119.43/4219.43/4319.43 - Universal Precautions)
(cf. 4157/4257/4357 - Employee Safety)
(cf. 4158/4258/4358 - Employee Security)

7. For classroom instructional aides, staff development activities may also include academic content of the core curriculum; teaching strategies; classroom management; or other training designed to improve student performance, conflict resolution, and intolerance and hatred prevention

(cf. 4131 - Staff Development)

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

(cf. 0000 - Vision)
(cf. 0200 - Goals for the School District)
(cf. 0420 - School Plans/Site Councils)
(cf. 0420.1 - School-Based Program Coordination)
(cf. 0520.2 - Title I Program Improvement Schools)
(cf. 0520.3 - Title I Program Improvement Districts)

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

(cf. 4215 - Evaluation/Supervision)

The Board of Trustees may budget for actual and reasonable expenses incurred by classified staff who participate in staff development activities.

(cf. 3350 - Travel Expenses)

STAFF DEVELOPMENT (continued)

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

(cf. 0500 - Accountability)
(cf. 9000 - Role of the Board)

Legal Reference:

EDUCATION CODE

41530-41532 Professional Development Block Grant

44032 Travel expense payment

44390-44393 California School Paraprofessional Teacher Training Program

45380-45387 Retraining and study leave (classified)

56240-56245 Staff development; service to persons with disabilities

REPEALED EDUCATION CODE FOR CATEGORICAL PROGRAMS

44579-44579.6 Instructional Time and Staff Development Reform Program

GOVERNMENT CODE

3543.2 Scope of representation of employee organization

PUBLIC EMPLOYMENT RELATIONS BOARD DECISIONS

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

Management Resources:

WEB SITES

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

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

STAFF DEVELOPMENT

Upon approval of the Superintendent or designee, classified staff members may participate in staff development opportunities which may include, but are not limited to:

1. Orientation and support for new employees
2. Visits to other schools and school districts
3. Attendance at professional conferences or committee meetings
4. Classes and workshops offered by the district, county office of education, institutions of higher education, private organizations, or other appropriate agencies

(cf. 4261.3 - Professional Leaves)

5. Joint staff preparation time and staff meetings
6. Follow-up activities that help staff implement newly acquired skills

PERSONAL ILLNESS/INJURY LEAVE

Purposes of Leave

A classified employee may use personal illness or injury leave granted by the district for the following purposes:

1. Absences caused by accident or illness, whether or not the absence arises out of or in the course of employment, or by quarantine which results from contact during the performance of the employee's duties with other persons having a contagious disease (Education Code 45199)

2. Absences due to pregnancy, childbirth, and recovery (Education Code 45193)

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

3. Cases of personal necessity as specified in Education Code 45207

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

4. Medical or dental appointments, in increments of not less than one hour

5. Cases of industrial accident or illness when leave granted specifically for that purpose has been exhausted (Education Code 45192)

(cf. 4261.11 - Industrial Accident/Illness Leave)

6. Illness of the employee's child, parent, spouse, registered domestic partner, or domestic partner's child, up to the amount of leave that would be accrued during six months for personal illness or injury (Labor Code 233)

Notification of Absence

An employee shall notify the Superintendent or the designated manager or supervisor of his/her need to be absent as soon as such need is known so that the services of a substitute may be secured as necessary. This notification shall include an estimate of the expected duration of absence. If the absence becomes longer than estimated, the employee shall so notify the district. If the duration of absence becomes shorter than estimated, the employee shall notify the district not later than 3 p.m. of the day preceding the day on which he/she intends to return to work.

Verification Requirements

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

PERSONAL ILLNESS/INJURY LEAVE (continued)

The Superintendent or designee may, at any time, require additional written verification by the employee's physician or medical practitioner. Such verification shall be required whenever an employee's absence record shows chronic absenteeism or a pattern of absences immediately before or after weekends and/or holidays or whenever clear evidence indicates that an absence is not related to illness or injury.

The Superintendent or designee may require an employee to visit a physician selected by the district and at district expense in order to receive a statement as to the employee's need for further leave of absence and a prognosis as to when the employee will be able to return to work. If the statement concludes that the employee's condition does not warrant continued absence, the Superintendent or designee, after giving notice to the employee, may deny further leave.

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

(cf. 4032 - Reasonable Accommodation)
(cf. 4113.4/4213.4/4313.4 - Temporary Modified/Light-Duty Assignment)

Verification requirements shall not discriminate against any employee on the basis of his/her religious practice.

(cf. 4030 - Nondiscrimination in Employment)
(cf. 4031 - Complaints Concerning Discrimination in Employment)

Accrual of Leave

Any classified employee employed five days a week is entitled to 12 days leave of absence, with full pay, for personal illness or injury per fiscal year. An employee who serves less than a full fiscal year or fewer than five days a week shall be granted comparable leave in proportion to the time he/she works. (Education Code 45191)

(cf. 4161/4261/4361 - Leaves)
(cf. 4161.9/4261.9/4361.9 - Catastrophic Leave Program)

An employee may take leave for personal illness or injury at any time during the year, even if credit for such leave has not yet been accrued. However, a new employee shall not be entitled to more than six days of such leave until he/she has completed six months of active service with the district. (Education Code 45191)

Unused days of personal illness or injury leave shall be accumulated from year to year without limitation. (Education Code 45191)

PERSONAL ILLNESS/INJURY LEAVE (continued)

At the beginning of each school year, each employee shall be notified of the amount of leave which he/she has accumulated.

Upon employment with the district, a new classified employee shall receive credit for any personal illness or injury leave accumulated in a previous school district, county office of education, or community college district if he/she left employment with that district within the previous year and had been employed by the previous district for at least one year. If the employee's previous employment had been terminated for cause, the Board of Trustees may determine whether to accept the transfer of the accumulated leave. (Education Code 45202)

An employee who does not complete a given year of service shall be charged for any unearned personal illness or injury leave used as of the date of termination.

Extension of Leave

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

(cf. 4216 - Probationary/Permanent Status)

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

Compensation

A classified employee who has exhausted all paid leave, including personal illness or injury leave shall receive his/her salary, minus the actual amount paid a substitute employed to fill the position during the employee's absence for the remaining days within a total five-month period of absence. (Education Code 45196)

PERSONAL ILLNESS/INJURY LEAVE (continued)

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

Legal Reference:

EDUCATION CODE

45103 *Substitute employees*

45190 *Leaves of absence and vacations*

45191 *Leaves of absence for illness and injury*

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

45195 *Additional leave for nonindustrial accident or illness; reemployment preference*

45196 *Salary; deductions during sick leave*

45202 *Transfer of accumulated sick leave and other benefits*

LABOR CODE

233 *Illness of child, parent, spouse or domestic partner*

COURT DECISIONS

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

ATTORNEY GENERAL OPINIONS

53 *Ops.Cal.Atty.Gen. 111 (1970)*

INDUSTRIAL ACCIDENT/ILLNESS LEAVE

Leave of absence for industrial accidents or illnesses shall be provided to classified employees who have served in the district continuously for at least three years.

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

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

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

(cf. 4157.2/4257.2/4357.2 - Ergonomics)

(cf. 4161/4261/4361 - Leaves)

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

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

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

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

(cf. 4261.1 - Personal Illness/Injury Leave)

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

INDUSTRIAL ACCIDENT/ILLNESS LEAVE (continued)

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

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

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

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

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

Legal Reference:

EDUCATION CODE

45191 Leave of absence for illness or injury

45192 Industrial accident and illness leaves for classified employees

PROFESSIONAL LEAVES

The Board of Trustees may grant a leave of absence of up to one year to classified employees for the purpose of permitting study or retraining the employee to meet changing conditions within the district. (Education Code 45381)

(cf. 4161/4261/4361 - Leaves)

(cf. 4231 - Staff Development)

To be eligible for a leave for study purposes, the employee must have served in the district for at least seven consecutive years preceding the leave, unless the leave is for purposes of retraining, in which case the employee must have served in the district for at least three consecutive years. Sick leave shall not be deemed a break in service, except if it will not be included as service in computing service for the granting of any subsequent professional leave. (Education Code 45382)

No more than one such leave of absence shall be granted in each seven or three-year period. (Education Code 45382)

The Board may require that such leaves of absence be taken in separate six-month periods or in any other appropriate periods as long as the total leave is completed within three years. Any period of service by the employee between the separate periods of leave shall comprise a part of the service required for qualifying for a subsequent leave of absence. (Education Code 45381)

Every employee granted a leave of absence for these purposes may be required to perform such services during the leave as the Board and employee may agree upon in writing. (Education Code 45383)

The employee shall receive such compensation during the leave as the Board and employee agree upon in writing, which shall be not less than the difference between the employee's salary and the salary of a substitute employee. In lieu of such a difference, the Board may pay one-half of the salary of the employee or any additional amount up to and including the full salary of the employee. (Education Code 45383)

Compensation during the leave shall be paid in the manner authorized by Education Code 45384.

The Board may grant reimbursement of the costs, including tuition fees, to any permanent classified employee who satisfactorily completes approved training to improve his/her job knowledge, ability or skill. Programs eligible for reimbursement include, but are not limited to, courses of study at approved academic institutions, seminars and training institutes conducted by recognized professional associations, conferences, meetings and other training programs designed to upgrade the classified service and encourage the retraining of employees who may otherwise be subject to layoff as the result of technological changes. (Education Code 45387)

PROFESSIONAL LEAVES (continued)

Legal Reference:

EDUCATION CODE

45380-45387 Leaves of absence for study or retraining, classified personnel