

**CLASSIFIED PERSONNEL**

The Governing Board shall fill each of its classified positions with qualified persons selected from the top three ranks of an eligibility list provided by the Personnel Commission. 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 Personnel Commission shall classify all employees and positions not requiring certification qualifications as the classified service, except for those employees and positions specifically exempt from classified service. (Education Code 45103)

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

*(cf. 4211 - Recruitment and Selection)*

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

Each 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 Personnel Commission 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****Merit System Districts**

Individuals hired solely for the following purposes are exempt from the classified service:

1. Part-time playground positions (noon duty aides), when the employees are not otherwise employed in classified positions in the district (Education Code 45256)
2. Apprentices (Education Code 45256)
3. Professional experts employed on a temporary basis for a specific project (Education Code 45256)
4. Full-time students employed part time (Education Code 45256)
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 pursuant to Education Code 51760 et seq. and which is financed by state or federal funds (Education Code 45256)
6. Positions established for the employment of community representatives in advisory or consulting capacities for not more than 90 working days or 720 hours in a fiscal year, provided the authorized duties are not those normally assigned to a class of positions in the classified service, are approved by the personnel commission in advance of employment, and a regular classified district employee does not receive a concurrent appointment to such a position (Education Code 45258)

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

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

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

*(cf. 4212.5 - Criminal Record Check)*

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

**PERSONNEL COMMISSION**

Provisions of this policy are governed by the merit system rules established by the Personnel Commission and by provisions of the Education Code.

District policies and regulations related to classified employees apply only to the extent that they are not in conflict with existing law, the merit system rules, and the classified employee agreement.

*Legal Reference:*EDUCATION CODE*45220 et seq. Merit system inclusion**45240 et seq. Merit system**45260 Power of personnel commission to prescribe and amend rules**45261 Subject of rules*

**APPOINTMENT AND CONDITIONS OF EMPLOYMENT**

Upon recommendation of the Superintendent, the Governing Board 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 tuberculosis examination and provide proof of clearance of active tuberculosis within the past 60 days or past four years if transferring from another school district (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. 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)*

## APPOINTMENT AND CONDITIONS OF EMPLOYMENT (continued)

### 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, part-time, and walk-on coaching positions, shall be required to submit fingerprint identification data. However, secondary school students attending a district school who are to be employed in a temporary or part-time position shall not be required to submit fingerprint identification data. (Education Code 45125)

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

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

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

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

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

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

*(cf. 4219.21 - Code of Ethics)*

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

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

*(cf. 4231 - Staff Development)*

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

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

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

*Legal Reference: (see next page)*

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

*Legal Reference:*

**EDUCATION CODE**

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

*45261 Subjects of rules (merit system districts)*

*45262 Distribution of rules*

**GOVERNMENT CODE**

*3543.2 Scope of representation*

*Management Resources:*

**WEB SITES**

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

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

**PROBATIONARY/PERMANENT STATUS**

Employees newly hired for regular positions in the classified service shall be considered probationary employees until they have satisfactorily completed six months of probationary service. Positions designated as senior management, management, supervisory, and confidential shall serve a probationary period of one year. 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. The employee shall not have the right of appeal.

*(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 six months of service in that position. Senior management, management, supervisory, and confidential employees promoted to higher classification shall be considered probationary in their new positions 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 Governing Board.
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 CODE45139 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)

**Order of Layoff/Determination of Seniority**

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

Length of service shall be determined by the date of hire. The employee who has been employed the shortest time by the district shall be laid off first.

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 as a member of the Military Reserve or the National Guard. (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, 45114)

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

Persons employed under Education Code Section 45105(b) or 45259 in "restricted" positions do not acquire permanent status under Education Code 45113 or 45301 and do not acquire seniority credits for the purpose of layoff for lack of work or lack of funds. However, after completing six months of satisfactory service, persons hired into these positions shall be given the opportunity to take qualifying examinations that are required for all other persons serving in the same class in the classified service. If they successfully complete the examination, they shall be entitled to the full rights, benefits and burdens of regular classified employees, and his/her service for layoff purposes shall be counted from the original date of employment in the "restricted" position. (Education Code 45105)

**Notice of Layoff**

Classified employees subject to layoff because of lack of work in the event of a bona fide reduction or elimination of service being performed shall receive notice of the layoff 45 days before the effective date. They shall be informed of their displacement rights, if any, and their reemployment rights. (Education Code 45117)

In cases where positions in specially funded programs expire at the end of any school year, classified employees subject to layoff for lack of funds shall receive written notice on or before April 29. The notice shall inform them of the layoff effective at the end of the school

## **LAYOFF/REHIRE (continued)**

year, their displacement rights, if any, and reemployment rights. If the termination date of the specially funded program is other than June 30, the notice shall be given at least 45 days before the effective date of the layoff. (Education Code 45117)

The district is not bound to provide 45 days' 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)

### **Voluntary Demotion or Voluntary Reduction of Hours**

Employees who take voluntary demotions or voluntary reductions 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 persons laid off. (Education Code 45114, 45298)

### **Reemployment Eligibility**

Classified employees laid off because of lack of work or lack of funds are eligible for reemployment within a period of 39 months and shall be reemployed in preference to new applicants. 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)

Employees who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff, reclassification or reassignment shall retain eligibility to be considered for reemployment in a position of the previously held class or positions with increased assigned time, provided that the same tests of fitness under which they qualified for appointment to the class are still applicable. The length of this additional period of time shall be determined by the Governing Board on a class-by-class basis and shall not exceed 24 months. (Education Code 45114, 45298)

Employees who take voluntary demotions or voluntary reductions 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)

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

## **LAYOFF/REHIRE (continued)**

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 will be removed from the reemployment list and he/she will forfeit all reemployment rights to which he/she would otherwise be entitled.

### **Reemployment Procedures**

Reemployment shall be in reverse order of layoff. (Education Code 45114, 45298, 45308)

In order to be reinstated, an employee must be fully capable of performing the normal and customary duties of the job. Employees whose physical condition is such that they cannot be reinstated at the time called for reemployment will be kept on the reemployment list until physically capable of returning to work or for a period not to exceed 39 calendar months.

*(cf. 4032 - Reasonable Accommodation)*

When a vacancy occurs, the senior employee who has held prior permanency in the position shall be so notified by certified U.S. mail at his/her last known address and given the opportunity to accept or reject appointment into the vacant position. The employee shall advise the district of his/her decision no later than 48 hours following notification. If the employee accepts, he/she shall report to work no later than 10 working days from the vacancy notification date.

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 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 him/her 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 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.

*Legal Reference: (see next page)*

## **LAYOFF/REHIRE (continued)**

*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 and promotional examination preference of persons laid off; voluntary demotions or reductions in time*

*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

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.

**Causes for Disciplinary Action**

1. Fraud or misrepresentation of material facts.
2. Gambling on school property and/or during work hours.
3. Incompetence.
4. Inefficiency.
5. Continuing illness/disability to a degree manifesting an adverse impact on work required to be performed.
6. Conviction of a serious crime by a court of law which conviction has a demonstrable adverse impact upon the district's ability to continue employment; failure to disclose material facts regarding a criminal conviction; presenting false or misleading information on application forms or other employment records.
7. Inattention to or dereliction of duties.
8. Abandonment of positions.
9. Willful and persistent violation of rules, regulations or procedures adopted by the district.
10. Possession of an alcoholic beverage container on district property or in district equipment; consuming an alcoholic beverage on district property or in district equipment; being under the influence of an intoxicant, controlled substance or other drug to a degree sufficient to impair an ability to work safely and efficiently.

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

11. Possession of illegal controlled substance or other drug or "look alike" under circumstances indicating an intent to use, give away or sell same to others.
12. Arrest and being formally charged with a sex offense as defined in Education Code 44010.
13. Arrest for a sex or narcotics or controlled substance offense, as reflected in Education Code 45304.
14. Engaging in political activities during assigned hours of duty.
15. Conviction of a crime of moral turpitude.
16. Making an unprovoked physical or verbal attack on a student, district employee, or member of the public.
17. Repeated unexcused absence and/or tardiness.
18. Failure to maintain any license or certificate which is a condition of employment.
19. Dishonesty, theft, misappropriation, or willful misuse of district property for personal gain; willful destruction of district property or the property of others lawfully on district property.
20. Ethnic, racial, religious, or sexual harassment of another.
21. Advocacy of the overthrow of the federal, state, or local government by force, violence or other unlawful means, including conduct in violation of Government Code 1028.
22. Any other cause or causes for disciplinary action set forth in the Education Code or other applicable Code.

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:

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

- 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 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, the maximum time during which an employee may be suspended without pay is 30 working days; however, this time limitation shall not apply to cases in which a personnel action of dismissal is modified by the Board to a suspension.

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

### **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.

Should the proposed disciplinary action be affected, a written notice shall be promptly served upon the employee, either personally or by certified mail, stating the action taken, and advising the employee of his/her right to appeal the disciplining action to the Personnel Commission. Within three working days following the taking of disciplinary action by the Board, the district shall notify the Personnel Commission. Within 10 working days following the receipt of this notification, the Personnel Commission Director shall notify the affected employee of their right to appeal the disciplinary action, in accordance with the Personnel Commission Rules and Regulations.

### **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.

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

**7. Hearing Procedures**

- a. The hearing shall be held at the earliest convenient date, taking into consideration the established schedule of the Personnel Commission 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 Personnel Commission 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 Personnel Commission or a hearing officer. Neither the Personnel Commission 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 Personnel Commission.
- b. The Personnel Commission may, in its sole discretion, elect to conduct the hearing itself or may appoint a hearing officer to conduct the hearing and report finding and recommendations to the Commission.

The hearing shall be conducted in accordance with the Personnel Commission's Rules and Regulations. The Commission shall render its decision as soon after the conclusion of the hearing as practicable, and, in no event, later than 15 working days following the formal closing of the hearing.

**8. Hearing Decision**

A copy of the Personnel Commission's decision shall be filed with the Board of Education and a copy delivered to the employee. The commission decision shall be final and shall not be subject to review, modification, or reversal by the district's Board.

**9. Compulsory Leave of Absence**

Employees charged with a mandatory leave of absence offense as defined in Education Code 44940 shall be placed immediately on compulsory leave of absence for not more than 10 days after entry of judgment in the criminal proceedings, unless the leave is extended as provided below. (Education Code 45304)

Employees charged with an optional leave of absence offense as defined in Education Code 44940 may be placed immediately on compulsory leave of absence under the terms and conditions stated below. (Education Code 45304)

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

Despite the disposition of criminal charges, the Board reserves the right to dismiss an employee for the facts upon which the criminal charges were based. An employee ultimately found guilty by the Personnel Commission to have committed the acts upon which the original charges were based may be dismissed. If so dismissed, the employee is not entitled to compensation during the time of his/her suspension, unless otherwise required by law.

An employee shall be given notice of the possibility of being dismissed without pay during the compulsory suspension if he/she is ultimately found guilty of the acts leading to the criminal charges, despite the disposition of the charges by the court.

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:*

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 4<sup>th</sup> 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 Governing Board 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)*

## 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 1 Paraprofessionals, Non-Regulatory Guidance, March 1, 2004*

*Roles for Education Paraprofessionals in Effective Schools, 1997*

#### WEB SITES

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

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

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

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

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

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

*National Clearinghouse for Paraeducator Resources:*

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

**TEACHER AIDES/PARAPROFESSIONALS****Qualifications 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)

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

Instructional aides shall perform only such duties as, in the judgment of the certificated personnel to whom the instructional aide is assigned, may be performed by a person not licensed as a classroom teacher. These duties shall not include assignment of grades to students. (Education Code 45344)

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

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

**TEACHER AIDES/PARAPROFESSIONALS** (continued)

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)

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:** As added and amended by SBX3 4 (Ch. 12, Third Extraordinary Session, Statutes of 2009) and ABX4 2 (Ch. 2, Fourth Extraordinary Session, Statutes of 2009), Education Code 42605 grants district flexibility in "Tier 3" categorical programs. The Centinela Valley Union High 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 2008-2009 through 2012-2013 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.

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)*

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

## STAFF DEVELOPMENT (continued)

(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. 0520.1 - *High Priority Schools Grant Program*)  
(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 Governing Board 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**

The district shall provide for paid and unpaid leaves of absences in accordance with law, Education Code, and collective bargaining agreements.

**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.

**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.

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)*

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

### **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)*

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

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 Governing Board may determine whether to accept the transfer of the accumulated leave. (Education Code 45202)

### **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, as stated in the Personnel Commission Rules and Regulations. (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)

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

### **Compensation**

Each year, each regular classified employee shall be credited with no fewer than 100 working days of paid leave for personal illness or injury, including current-year and accumulated days of leave. When the current-year and accumulated days at full pay are exhausted, the remainder of the 100 days shall be compensated at 50 percent of the employee's regular salary. Any such days of leave not used during the year in which they are credited shall be forfeited and shall not accumulate from year to year. This paid leave shall be exclusive of any other paid leave, holidays, vacation, or compensatory time to which the employee may be entitled.

#### *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 one year.

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 Governing Board 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*