

Personnel

Special Education Staff

Any teacher assigned to serve students with disabilities shall possess a credential that authorizes him/her to teach the primary disability of the students within the program placement recommended in the students' individualized education programs (IEP). (5 CCR 80046.5)

(cf. 4112.2 – Certification)

(cf. 4113 – Assignment)

(cf. 6159 – Individualized Education Program)

(cf. 6164.4 – Identification and Evaluation of Individuals for Special Education)

Special education teachers who teach core academic subjects shall possess the qualifications required by the No Child Left Behind act. (20 USC 1401,6319,7801; 34 CER 200.55-200.57, 300.18; 5 CCR 6100-6126)

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

The Superintendent or designee shall ensure that caseloads for special education teachers are within the maximum caseloads established by law, collective bargaining agreement, and/or the comprehensive plan of the Special Education Local Plan Area (SELPA) in which the district participates.

(cf. 0430 – Comprehensive Local Plan for Special Education)

(cf. 1312.3 – Uniform Complaint Procedures)

(cf. 4141/4241 – Collective Bargaining Agreement)

Resource Specialists

The Board of Trustees shall employ certificated resource specialists to provide services for students with disabilities which shall include, but not be limited to: (Education Code 56362)

1. Providing instruction and services to students whose needs have been identified in an IEP and who are assigned to regular classroom teachers for a majority of the school day
2. Providing information and assistance to students with disabilities and their parents/guardians
3. Providing consultation, resource information, and material regarding students with disabilities to their parents/guardians and regular education staff members
4. Coordinating special education services with the regular school programs for each student with disabilities enrolled in the resource specialist program

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Special Education Staff (continued)

5. Monitoring student progress on a regular basis, participating in the review and revision of IEPs as appropriate, and referring students who do not demonstrate sufficient progress to the IEP team
6. At the secondary school level, emphasizing academic achievement, career and vocational development, and preparation for adult life

The district's resource specialist program shall be under the direction of a resource specialist who possesses: (Education Code 56362)

1. A special education credential or clinical services credential with a special class authorization
2. Three or more years of teaching experience, including both regular and special education teaching experience
3. The demonstrated competencies required for a resource specialist as established by the Commission on Teacher Credentialing in 5 CCR 80070.8

No resource specialist shall have a caseload which exceeds 28 students. As necessary and with the agreement of the resource specialist, the Board may request a waiver from the State Board of Education to increase the caseload to no more than 32 students, provided that an individual resource specialist does not have a caseload exceeding 28 students for more than two school years and has the assistance of an instructional aide at least five hours daily during the period of the waiver. (Education Code 56362,56362.1;5 CCR 3100)

(cf.1431 – Waivers)

Resource specialists shall not simultaneously be assigned to serve as resource specialists and to teach regular classes. (Education Code 56362)

Teachers of Students with Autism

A teacher whose preliminary Level I education specialist credential or other previously issued credential authorizes him/her to provide instruction to students with mild and moderate disabilities may be assigned to provide instruction to students with autism, provided that the teacher consents to the assignment and satisfies either of the following criteria prior to the assignment: (Education Code 44265.1)

1. The teacher has provided full-time instruction for at least one year prior to September 1, 2007, in a special education program that serves students with autism in accordance with their IEP and received a favorable evaluation or recommendation from the district or school to teach students with autism.

Special Education Staff (continued)

2. The teacher has completed a minimum of three semester units of coursework in the subject of autism offered by a regionally accredited institution of higher education.

The Superintendent or designee shall report teachers assigned under the above conditions to the county office of education as part of the annual assignment monitoring pursuant to Education Code 44258.9. (Education Code 44265.1)

Verification of experience or coursework for any teacher of autistic students shall be maintained on file in the district or school office. (Education Code 44265.1, 44265.2)

Legal Reference:

EDUCATION CODE

44250-44279 *Credentials, especially:*

44256 *Credential types, specialist instruction*

44258.9 *Assignment monitoring*

44265-44265.99 *Special Education credential*

44268 *Clinical and rehabilitative services credential*

56000-56865 *Special education, especially:*

56195.8 *Adoption of policies*

56361 *Program options*

56362 *Resource specialist program*

56362.1 *Caseload*

56362.5 *Resource specialist certificate of competence*

56362.7 *Bilingual-crosscultural certificate of assessment competence*

56363.3 *Average caseload limits*

56441.7 *Maximum caseload, students age 3-5*

CODE OF REGULATIONS, TITLE 5

3051.1 *Language, speech and hearing development and remediation; appropriate credential*

3100 *Waivers of maximum caseload for resource specialists*

6100-6126 *Teacher qualifications, No Child Left Behind Act*

80046-80046.1 *Adapted physical education specialist*

80046.5 *Credential holders authorized to serve students with disabilities*

80048-80048.6 *Credential requirements and authorizations*

80070.1-80048.6 *Credential requirements and authorizations*

80070.1-80070.8 *Resource specialist certificate of competence*

UNITED STATES CODE, TITLE 20

1400-1482 *Individuals with Disabilities education act, especially:*

1401 *Definition of highly qualified special education teacher*

6319 *Highly qualified teachers*

7801 *Definitions, highly qualified teacher*

CODE OF FEDERAL REGULATIONS, TITLE 34

200.55-200.57 *Highly qualified teachers*

300.8 *Definition of autism*

300.18 *High qualified special education teachers*

300.156 *Special education personnel requirements*

Special Education Staff (continued)

Management Resources;

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Handbook on Developing and Implementing Early childhood special Education Programs and Services, 2001

COMMISSION ON TEACHER CREDENTIALING CODED CORRESPONDENCE

08-13 Alternative Route to Provide Special Education Services to Students with Autism Ages Three and 4, October 9, 2008

08-10 Alternative Route to Provide Special Education Services to Students with Autism, July 7, 2008

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

Standards of Quality and Effectiveness for Education Specialist Credential Programs (including University Internship Options) and Clinical Rehabilitative Services Programs,

WEB SITES

California association of Resource Specialists and Special Education Teachers:

<http://www.carsplus.org>

California Department of Education, Special Education:<http://www.cde.ca.gov/sp/se>

California speech-Language-Hearing Association: <http://www.csha.org>

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

TEACHER QUALIFICATIONS UNDER THE NO CHILD LEFT BEHIND ACT (NCLB)

Recognizing the importance of teacher effectiveness in improving student achievement, the Governing Board desires to recruit and hire teachers for core academic subjects who possess the subject matter knowledge and teaching skills required by the federal No Child Left Behind act (NCLB).

(cf.4112.2 – Certification)

(cf. 4112.21 – Interns

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

(cf.4112.23 – Special Education Staff)

(cf. 6171- title I Programs)

All teachers employed to teach core academic subjects shall be “high qualified” as defined by federal law and the State Board of Education. 920 USC 6319,7801; 34 CFR 200.55; 5 CCR 6100-6126

The Superintendent or designee shall inform teachers of NCLB requirements and shall identify additional qualifications, if any, that individual teachers need to demonstrate in order to meet the requirements. He/she shall work with individual teachers to develop a plan for attaining full qualifications.

The Superintendent or designee shall monitor the distribution of “highly qualified” teachers among district schools and develop strategies, as needed, to encourage teachers who meet NCLB requirements to teach in schools with the lowest student performance.

(cf.0520.1 – High Priority Schools Grant Program)

(cf.0520.2 – Title I Program Improvement schools)

(cf. 0520.4 – Quality education investment Schools)

(cf.4113 – assignment)

(cf. 4114 – Transfers)

(cf. 4138 – Mentor Teachers)

The Superintendent or designee shall report to the Board on the progress of the district’s teachers toward becoming full qualified. Such reports shall include, but need not be limited to, the percentage of teachers in core academic subjects, district-wide and at each school, who meet the definition of a “highly qualified” teacher in accordance with federal law, and the percentage of teachers who are receiving professional development to enable them to satisfy this definition. (20 USC 6319)

(cf.4131 – Staff Development)

(cf.4131.1 – Beginning Teacher Support/Induction)

Legal Reference: (see next page)

TEACHER QUALIFICATIONS UNDER THE NO CHILD LEFT BEHIND ACT
(continued)

Legal Reference:

EDUCATION CODE

44500-44508 Peer Assistance and Review Program for Teachers

44662 Performance evaluation; Stull Act review

44664 Teacher evaluation; program to improve performance

44865 Alternative programs

CODE OF REGULATIONS, TITLE 5

6100-6126 Teacher qualification, No Child Left Behind act

80021 Short-term staff permit

80021.1 Provisional internship permit

80089.3-80089.4 Subject matter authorizations

UNITED STATES CODE, TITLE 20

1401 Definition of highly qualified special education teacher

6311 Parental notifications

6312 title I local educational agency plan

6314 Schoolwide programs

6315 Targeted assistance schools

6319 Highly qualified teachers

7345-7345b Small rural Schools Achievement Program

7801 Definitions, highly qualified teacher

CODE OF FEDERAL REGULATIONS, TITLE 34

200.55-200.57 Highly qualified teachers

200.61 Parent notification regarding teacher qualifications

300.18 highly qualified special education teachers

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

California's subject matter Verification Process for Middle and High School Level Teachers in Special Settings, January 2007

NCLB Teacher Requirements Resource guide, March 1, 2004

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

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

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

California Standards for the Teaching Profession, July 1997

U.S. DEPARTMENT OF EDUCATION GUIDANCE

Improving Teacher Quality State Grants, ESEA title II, Part A. Non-Regulatory Guidance, revised October 5, 2006

New No Child Left Behind Flexibility: Highly Qualified Teachers, Fact Sheet, March 15, 2004

WEB SITES

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

California Department of Education, NCLB Teacher <http://www.cde.ca.gov/nclb/sr/tq>

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

US Department of Education, No Child Left Behind: <http://www.ed.gov/nclb>

TEACHER QUALIFICATIONS UNDER THE NO CHILD LEFT BEHIND ACT

Definitions

Core academic subjects include English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography. (20 USC 7801)

Hard-to-staff setting means a middle or high school classroom eligible for the federal Small rural Schools Achievement Program, a middle or high school special education classroom, or a middle or high school alternative education program as specified in Education Code 44865, including home teaching, hospital classes, necessary small high schools, continuation schools, alternative schools, opportunity schools, juvenile court schools, county community schools, and district community day schools. (5 CCR 6100)

(cf. 6181 – Alternative Schools)

(cf. 6183 – Home and Hospital Instruction)

(cf. 6184 – Continuation Education)

(cf. 6185 – Community Day School)

High Objective Uniform State Standard Evaluation (HOUSSE) is a method of determining a teacher's subject matter competence using forms developed by the California department of Education (CDE). HOUSSE Part 1 consists of a summation of the teacher's years of experience, coursework, professional development, and service to the profession. HOUSSE Part 2, to be conducted only if Part 1 does not indicate subject matter competency, consists of direct observation and portfolio assessment and, if necessary, completion of the Peer assistance and Review Program for Teachers or other individualized professional development plan. (5 CCR 6104)

(cf. 4139 – Peer Assistance and Review)

Level 1 professional development means training that will provide a teacher with the requisite understanding of each set of state content standards. Level 2 professional development means training that will provide a teacher with more in-depth understanding of the content standards than provided in a Level 1 professional development program. The trainings shall be consistent with state-adopted academic content standards, curriculum frameworks, and adopted texts and shall incorporate the assessment of subject matter competency as outlined in the CDE's document California's Subject Matter Verification Process for Middle and High School Level Teachers in Special Settings. For each type of training, at least 36 hours in the core subject for which the teacher is being certified is required to substantively address the subject matter content. (5 CCR 6100,6105)

Teacher new to the profession is a teacher who either graduated from an accredited institution of higher education and received a credential, or was enrolled in or had completed an approved intern program, on or after July 1, 2002. (5 CCR [6100](#))

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Teacher not new to the profession is a teacher who either graduated from an accredited institution of higher education and received a credential, or was enrolled in or had completed an approved intern program, before July 1, 2002. (5 CCR 6100)

Teacher Qualifications

To meet the teacher qualification requirements of the federal No Child Left Behind Act (NCLB), a teacher of a core academic subject shall meet all of the following conditions: (20 USC 6319,7801; 34 CFR 200.55, 200.56,300.18; 5 CCR 6101,6104,6105,6110)

1. Hold a bachelor's degree
2. Hold a full credential or be currently enrolled in an approved intern program for less than three years

(cf. 4112.2 – Certification)

(cf. 4112.21 – Interns)

3. Demonstrate subject matter competency in accordance with the applicable requirements below

(cf. 6171 – Title I Programs)

A teacher who holds a supplementary authorization or is employed on a local teaching assignment shall meet the teacher qualification requirements of NCLB if he/she holds a a. A validated statewide subject matter examination that the CTC has utilized to determine California teaching credential and has demonstrated subject matter competency for the grade span and subject matter taught. (5CCR 6116)

A teacher shall not meet the teacher qualification requirements of NCLB if hr/she is teaching with a short-term staff permit, a provisional internship permit, or a state or local waiver for the grade or subject taught. (5 CCR6115, 80021, 80021.1)

Demonstration of Subject matter Competency

Subject matter competency shall be demonstrated in accordance with the following requirements based on the grade levels taught and the teacher's length of time in the profession:

1. An elementary teacher who is new to the profession shall pass a validated statewide subject matter examination certified by the Commission on Teacher Credentialing (CTC). (5 CCR 6102)
2. An elementary teacher who is not new to the profession shall complete one of the following: (5 CCR 6103-6104)

TEACHER QUALIFICATIONS UNDER THE NO CHILD LEFT BEHIND ACT

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- a. A validated statewide subject matter examination that the CTC has utilized to determine subject matter competency for credentialing purposes
 - b. The HOUSSE, as defined above, to determine the teacher's subject matter competency in each of the core academic subjects taught by the teacher
3. A middle or high school teacher who is new to the profession shall pass or complete one of the following for every core academic subject currently assigned. (5 CCR 6111)
- a. A validated statewide subject matter examination certified by the CTC
 - b. University subject matter program approved by the CTC
 - c. Undergraduate major in the subject taught
 - d. Graduate degree in the subject taught
 - e. Coursework equivalent to the undergraduate major
4. A middle or high school teacher who is not new to the profession shall pass or complete one of the following for every core subject assigned: (5CCR 6112)
- a. A validated statewide subject matter examination that the CTC has utilized to determine subject matter competency for credentialing purposes
 - b. University subject matter program approved by the CTC
 - c. Undergraduate major in the subject taught
 - d. Graduate degree in the subject taught
 - e. Coursework equivalent to the undergraduate major
 - f. Advanced certification or credential, such as certification from the National Board for Professional Teaching Standards
 - g. The HOUSSE, as defined above, to determine the teacher's subject matter competency in each of the core academic subjects taught by the teacher

TEACHER QUALIFICATIONS UNDER THE NO CHILD LEFT BEHIND ACT

(continued)

5. A middle or high school teacher in a hard-to-staff setting, as defined above, shall complete professional development for the subject matter verification process within three years of the date of assignment to such a setting. (5CCR 6100,6105)
 - a. If the teacher has fewer than 20 total or 10 upper division non remedial college-level semester units, or equivalent quarter units, in a core academic subject, he/she shall complete both Level 1 and Level 2 professional development courses as defined above.
 - b. If the teacher has fewer than 32 semester nonremedial college-level units, but at least 20 total or 10 upper division non remedial semester units, or the equivalent quarter units, in a core academic subject, he/she shall complete a Level 2 professional development course.

(cf. 4131 – Staff Development)

6. An elementary, middle, or high school special education teacher teaching multiple subjects exclusively to students with disabilities may either: 920 USC 1401; 34 CFR 300.18; 5CCR 6111)
 - a. Meet the requirements above for teachers who are new or not new to the profession, as applicable
 - b. In the case of a new special education teacher who has demonstrated subject matter competency in mathematics, language arts, or science, demonstrate competency in the other core academic subject(so he/she teaches through the HOUSSE no later than two years after the date of employment

Satisfaction of Requirements Outside District

A teacher who has been determined by another district in California to have met the teacher qualification requirements for the grade level and/or subject taught shall not be required to demonstrate again that he/she meets those requirements. (5CCR 6120)

A teacher who has been determine to meet subject matter competency requirements outside of California shall be considered to have met those requirements for the particular subject and/or grade span in California. The date of issuance of a valid out-of-state credential shall be used to identify a teacher as new or not new to the profession. (5CCR 6125)

TEACHER QUALIFICATIONS UNDER THE NO CHILD LEFT BEHIND ACT

(continued)

A teacher prepared in a country other than the United States shall be considered to have met NCLB teaching requirements if he/she: (5CCR 6126)

1. Holds a degree from a foreign college or university that is at least equivalent to a bachelor's degree offered by an American institution of higher education
2. Has completed a teacher preparation program that meets CTC requirements for out-of-country trained teachers
3. Demonstrates subject matter competency for the grade span and subjects taught through the same or equivalent processes and methods required of California teachers
4. Holds a California teaching credential

Certification of Compliance

All teachers teaching core academic subjects shall complete and sign a certificate of compliance with NCLB requirements and attach appropriate documentation. The Superintendent or designee shall verify the information and retain the signed original copy.

The principal of each school receiving title I funds shall annually attest in writing as to whether the school is in compliance with NCLB requirements related to teacher qualifications. Copies of the attestation shall be maintained at the school and at the district office and shall be available to any member of the public upon request. (20 USC 6319)

District Plan for Highly Qualified Teachers

Within the Title I local educational agency plan, the Superintendent or designee shall develop a plan for ensuring that all teachers of core academic subjects will meet NCLB requirements in accordance with law. As part of this plan, the Superintendent or designee shall provide high-quality professional development designed to enable teachers to meet NCLB requirements. (20 USC 6312, 6319)

TEACHER QUALIFICATIONS UNDER THE NO CHILD LEFT BEHIND ACT
(continued)

Parental Notifications

At the beginning of each school year, the Superintendent or designee shall notify the parents/guardians of each student attending a school receiving Title I funds that they may request information regarding the professional qualifications of their child's classroom teacher including, but not limited to: 920 USC 6311)

1. Whether the teacher has met state qualification and licensing criteria for the grade levels and subject areas in which the teacher provides instruction
2. Whether the teacher is teaching under emergency or other provisional status through which state qualification or licensing criteria have been waived
3. The baccalaureate degree major of the teacher and any other graduate certification or degree held by the teacher, and the field of discipline of the certification or degree
4. Whether the student is provided services by paraprofessionals and, if so, their qualifications

(cf. 1312.4 – Williams Uniform Complaint Procedures)

(cf. 4222 – Teacher Aides/Paraprofessionals)

(cf. 5145.6 – Parental Notifications)

In addition, the Superintendent or designee shall provide timely notice to individual parents/guardians of students attending a title I school whenever their child has been assigned to or has been taught for four or more consecutive weeks by a teacher of a core academic subject who does not meet NCLB teacher qualification requirements. (20 USC 6311; 34 CFR 200.61)

The Superintendent or designee shall notify teachers, as appropriate, prior to distributing the above notice to parents/guardians.

The notice and information provided to parents/guardians shall be in an understandable and uniform format and, to the extent practicable, be provided in a language that the parents/guardians can understand. (20 USC 6311)

TEACHER QUALIFICATIONS UNDER THE NO CHILD LEFT BEHIND ACT

Attestation Regarding Qualifications Of Title I Teachers

5 CCR 6100-6115, added by Register 2004, No. 9, describe required qualifications for elementary, middle and secondary teachers who are “new” and “not new” to the profession; see AR 4112.24.

Instructions; The following certification must be annually completed and signed by each principal in a school that operates a Title I program pursuant to 20 USC 6314 (schoolwide programs) and 20 USC 6315 (targeted assistance schools).

School: _____ Principal: _____

I certify that all teachers hired after the first day of the 2002-03 school year to teach core academic subjects in a program supported by Title I funds meet the following qualifications:

1. Hold at least a bachelor’s degree
2. Have a credential or are currently enrolled in an approved intern program for less than three years
3. Have demonstrated subject matter competence as required by 5 CCR 6100-6115 for the grade level(s) taught and the teacher’s length of time in the profession

Signature of Principal

Date

TEACHER QUALIFICATIONS UNDER THE NO CHILD LEFT BEHIND ACT

PARENTAL NOTIFICATION OF TEACHER QUALIFICATIONS

To Parents/Guardians:

Your child is attending a school receiving Title I federal funds under the federal No Child Left Behind Act (NCLB)

Under NCLB, teachers of core academic subjects are required to hold state certification and demonstrate subject matter competency for the grade span or subject matter taught. These requirements help us to ensure that all our students receive the best education by teachers who are highly skilled and knowledgeable in their subject areas.

This federal law requires the school to notify you that a teacher who has not yet completed the process for meeting NCLB requirements has taught your child for four or more consecutive weeks. However, the teacher is authorized to teach in California and is working toward completion of the requirements. Our school district continues to monitor teacher qualifications and to provide additional support and training, as necessary, to help teachers meet the requirements.

You may contact (*insert school name*) to request the qualifications of your child's teacher. If you have any questions, please contact (*insert principal name*) at (*insert telephone number*).

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AR 4112.3(a)

4212.3

OATH OR AFFIRMATION

4312.3

This oath or affirmation is different from the oath or affirmation required of certificated employees as a licensing requirement pursuant to Education Code 44334, in which credential candidates must affirm that they support the Constitution of the United States of America, the Constitution of the State of California, and the laws of the United States and the state of California. Thus, the district should require all employees to take the oath or affirmation required by Government Code 3100-3102.

The California Constitution requires that Board members take the same oath; see BB9224-Oath or Affirmation.

All district employees are declared by law to be disaster service workers and thus shall take the oath or affirmation required for disaster service workers before beginning employment with the district. In the event of natural, manmade or war-caused emergencies which result in conditions of disaster or extreme peril to life, property and resources, all district employees are subject to disaster service activities as assigned to them by their supervisors or by law. (Government Code 3100-3102)

(cf. 3516 - Emergencies and Disaster Preparedness Plan)

(cf. 9224 – Oath or Affirmation)

Legally employed non-citizens shall be exempt from taking this oath. (Government Code 3101)

At the advice of legal counsel, the Superintendent or designee may exempt a prospective employee from taking the above oath if he/she raises a valid religious objection.

The Superintendent, deputy or assistant superintendent, principal or other person authorized in Education Code 60 shall administer the oath or affirmation when a district employee is hired.

In the case of intermittent, temporary, emergency or successive employments, the Superintendent or designee may determine that the oath shall be effective for all successive periods of employment which begin within one calendar year from the date that the oath was subscribed. (Government Code 3102)

(cf. 4121 – Temporary/Substitute Personnel)

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AR 4112.3(b)

4212.3

OATH OR AFFIRMATION (continued)

4312.3

The Superintendent or designee shall file the executed oath or affirmation within 30 days of the date on which it is taken and subscribed. An employee's oath or affirmation within 30 days of the date on which it is taken and subscribed. An employee's oath or affirmation may be destroyed five years after the termination of employment. (Government Code 3105)

Reimbursement of Expenses for Disaster Service Workers

Whenever an employee seeks compensation or reimbursement of expenses as a disaster service worker, the Superintendent or designee shall ascertain and certify that the employee has taken the oath or affirmation. (Government Code 3107)

Legal Reference:

EDUCATION CODE

60 Persons authorized to administer and certify oaths

44334 Oath or affirmation

44354 Administration of oath

GOVERNMENT CODE

3100-3109 Oath or affirmation of allegiance

CALIFORNIA CONSTITUTION

Article 20, Section 3 Oath of office

COURT DECISIONS

Chilton v. Contra Costa Community College District 55 Cal. App. 3d 544 (1976)

Vogel v. County of Los Angeles (1967) 68 Cal. 2d 18, 22

All Personnel

E 4112.3

4212.3

OATH OR AFFIRMATION

4312.3

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

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

(Signature)

Certified by:

(Person who administers the oath)

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AR 4112.4(a)
4212.4
4312.4

HEALTH EXAMINATIONS

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

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

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

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

Medical Certification for Communicable Diseases for Certificated Employees

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

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

Applicants and retirants shall pay for the cost of obtaining the medical certification. (Education Code 44839,44839.5)

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AR 4112.4(b)

4212.4

HEALTH EXAMINATIONS (continued)

4312.4

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

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

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

(cf. 4032 – Reasonable Accommodation)

(cf. 4118 – Suspension/Disciplinary Action)

Legal Reference:

EDUCATION CODE

44839 Medical certificate; periodic medical examination

44838.5 Requirements for employment of retirant

44932 Grounds for dismissal of permanent employee

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

45122 physical examinations

49406 Examination for tuberculosis

CODE OF REGULATIONS, TITLE 5

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

5503 Physical examination for employment of retired persons

5504 Medical certification procedures

COURT DECISIONS

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

Management Resources:

WEB SITES

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

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

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

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

Personnel

BP 4112.41

4212.41

EMPLOYEE DRUG TESTING

4312.41

The Board of Trustees maintains a drug and alcohol-free workplace. In accordance with law, all employees shall render service without using, possessing, being impaired by or being under the influence of alcohol or drugs.

- (cf. 0450 – Comprehensive Safety Plan)*
- (cf. 4020 - Drug and Alcohol-Free Workplace)*
- (cf. 4030 – Nondiscrimination in Employment)*
- (cf. 4032 – Reasonable Accommodation)*
- (cf. 4112.42/4212.42/4312.42 - Drug and Alcohol Testing for School Bus Drivers)*
- (cf. 5131.61 – Drug Testing)*

All testing and medical examinations shall be conducted in accordance with state and federal law, Board policy, and administrative regulation.

- (cf. 4112.4 /4212.4/4312.4 - Health Examinations)*
- (cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)*

Legal Reference:

EDUCATION CODE

- 44011 Controlled substance offense*
- 44455 Conviction for controlled substance offenses as grounds for revocation of credential*
- 44836 Employment of certificated persons convicted of controlled substance offenses*
- 44839 Medical certificate; periodic medical examination*
- 44940.5 Procedures when employees are placed on compulsory leave of absence*
- 45122 Physical examinations*
- 45123 Employment after conviction for controlled substance offense*
- 45034 Compulsory leave of absence for classified persons*

GOVERNMENT CODE

- 8350-8357 Drug-free workplace*
- 12940 Unlawful employment practices*

CODE OF REGULATIONS, TITLE 5

- 5504 Medical certification procedures*

CALIFORNIA CONSTITUTION

- Article I, Section 28© Right to Safe Schools*

UNITED STATES CODE, TITLE 20

- 7101-7184 Safe and Drug-Free Schools and Communities Act*

UNITED STATES CODE, TITLE 41

- 701-707 Drug-Free Workplace Act*

COURT DECISIONS

- Lanier v. City of Woodburn, (2008, 9th Circuit) 518 F 3d 1147*
- Knox County Education Association v. Knox County Board of Education, (1998, 6th Circuit) 158 F.3d 361*
- Loder v. City of Glendale, (1997) 14 Cal. 4th 846*
- Vernonia School District 47J v. Acton, (1995) 115 S.Ct. 2386*
- International Brotherhood of Teamsters v. Department of Transportation, (1991) 932 F.2d 1292*
- Skinner v. Railway Labor Executives' Assn, (1989) 489 U.S. 602*
- National Treasury Employees Union v. Von Raab, (1989) 109 S.Ct. 1384*

PUBLIC LAW 107-110

- 4001-4304 Safe and Drug-Free Schools and Communities Act*

Personnel

AR 4112.41

4212.41

EMPLOYEE DRUG TESTING

4312.41

Pre-Employment Drug/Alcohol Screening for Safety-Sensitive Positions

Applicants shall sign a form consenting to the drug and alcohol testing. The consent form shall authorize release of the test results to the district. To ensure an individual's privacy, the district shall not use test results for any purpose other than those stated in Board policy and administrative regulation, shall maintain the confidentiality of screening records, and shall not disclose such records unless the applicant consents or the Superintendent or designee is presented with a court order requiring the disclosure.

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

(cf. 4112.4/4212.4/4312.4 – Health Examinations)

All initial screening tests shall be conducted at the district's expense. If an applicant's initial test is positive, a second test, at the district's expense shall be administered as soon as possible to confirm the results. Upon obtaining a second positive result, the applicant may seek an independent drug and alcohol screening from a recognized medical laboratory at his/her own expense. Any applicant who fails to provide the district with a negative drug and alcohol screening report within five working days of a confirmed positive result shall be determined to have failed the screening and shall not be employed.

Failure to submit to the process or to complete the process shall preclude the applicant from being hired into the position. Disqualified applicants shall not be prohibited from applying for another job within the district.

All Personnel

BP 4112.42(a)

4212.42

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS

4312.42

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

(cf. 3540 – Transportation)

(cf. 3543 – Transportation Safety and Emergencies)

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

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

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

(cf. [4020](#) - Drug and Alcohol-Free Workplace)

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

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

(cf. 4117.4 - Dismissal)

(cf. 4118 - Suspension/Disciplinary Action)

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

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

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

All Personnel

BP 4112.42(b)

4212.42

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS

4312.42

Legal Reference:

EDUCATION CODE

35160 Authority of governing boards

VEHICLE CODE

34500 Applicable vehicles

34501.12 Motor carrier definition

34520 Motor carrier and driver compliance with federal testing requirements

CODE OF REGULATIONS, TITLE 13

1200-1293 MOTOR CARRIER SAFETY, ESPECIALLY:

1213.1 Placing drivers out-of-service

UNITED STATES CODE, TITLE 49

31306 Alcohol and controlled substances testing

41501-41507 Transportation Employee Testing Act

CODE OF FEDERAL REGULATIONS, TITLE 49

40.1-40.413 Part 40 Procedures for Transportation Workplace Drug and Alcohol Testing Programs

3821101-382.605 Controlled substance alcohol use and testing; especially:

382.205 On-duty use

382.207 Pre-duty use

38.209 Use following an accident

395 Hours of Service of Drivers

Management Resources:

WEB SITES

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

US Dept. of Transportation, Office of Drug and Alcohol Policy and Compliance:

<HTTP://WWW.DOT.GOV/OST/DAPC>

Policy adopted: 2003

Revised: 07/09

EL MONTE UNION HIGH SCHOOL DISTRICT

El Monte, California

Certificated Personnel

AR 4112.5(a)
4312.5

CRIMINAL RECORD CHECK

Applicants for Employment

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

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

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

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

(cf. 4121 - Temporary/Substitute Personnel)

Temporary Certificate of Clearance

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

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

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

CRIMINAL RECORD CHECK (continued)

Subsequent Arrest Notification

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

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

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

Current Employees

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

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

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

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

Legal Reference: (see next page)

CRIMINAL RECORD CHECK (continued)

Legal Reference:

EDUCATION CODE

44010 Sex offense

44332 Temporary certificate

44332.5 Registering certificates by certain districts

44332.6 Criminal record check, county board of education

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

44830.1 Certificated employees, conviction of a violent or serious felony

44830.2 Certificated employees; interagency agreement

44836 Conviction of a sex offense

45122.1 Classified employees, conviction of a violent or serious felony

45125 Use of personal identification cards to ascertain conviction of crime

45125.01 Classified employees; interagency agreements

45125.5 Automated records check

45126 Duty of Department of Justice to furnish information

PENAL CODE

667.5 Prior prison terms, enhancement of prison terms

1192.7 Plea bargaining limitation

11105.2 Subsequent arrest notification

CODE OF REGULATIONS, TITLE 11

703 Release of criminal offender record information

708 Destruction of criminal offender record information

Management Resources:

WEB SITES

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

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

All Personnel

AR 4112.6(a)
4212.6
4312.6

PERSONNEL FILES

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

(cf. 4141/4241 - Collective Bargaining Agreement)

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

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)
(cf. 9011 - Disclosure of Confidential/Privileged Information)
(cf. 9321 - Closed Session Purposes and Agendas)
(cf. 9321.1 - Closed Session Actions and Reports)

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

Placement of Material in Personnel Files

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

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

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

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

(cf. 4115 - Evaluation/Supervision)

PERSONNEL FILES (continued)

Derogatory Information

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

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 4117.4 - Dismissal)

(cf. 4118 - Suspension/Disciplinary Action)

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

(cf. 5141.4 - Child Abuse Reporting Procedures)

File Review by Employee

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

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

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

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

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

PERSONNEL FILES (continued)

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

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

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

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

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

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

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

File Review by Management and Board

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

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

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

Legal Reference: (see next page)

AR 4112.6(d)
4212.6
4312.6

PERSONNEL FILES (continued)

Legal Reference:

EDUCATION CODE

35253 Regulations to destroy records

44031 Personnel file contents and inspection

44663 Performance appraisals and related materials

GOVERNMENT CODE

3305-3306 District police officers; personnel files

6254.3 Disclosure of home address and phone number

LABOR CODE

1198.5 Inspection of personnel files

PENAL CODE

11165.14 Report of investigation of child abuse complaint

CODE OF REGULATIONS, TITLE 5

16020-16022 Records, general provisions

16023-16027 Retention of records

ATTORNEY GENERAL OPINIONS

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

All Personnel

BP 4112.61

4212.61

EMPLOYMENT REFERENCES

4312.61

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

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

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

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

Legal Reference:

LABOR CODE

1050-1054 Reemployment privileges

CIVIL CODE

47 Privileged communication

CODE OF CIVIL PROCEDURE

527.3 Labor disputes

CODE OF REGULATIONS, TITLE 5

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

COURT DECISIONS

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

All Personnel

AR 4112.61

4212.61

EMPLOYMENT REFERENCES

4312.61

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

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

All Personnel

AR 4112.62(a)

4212.62

MAINTENANCE OF CRIMINAL OFFENDER RECORDS

4312.62

Maintenance of Criminal Offender Records

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

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

(cf. 1240 - Volunteer Assistance)

(cf. 3515.6 - Criminal Background Checks for Contractors)

(cf. 4112.5/4312.5 - Criminal Record Check)

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

(cf. 4212.5 - Criminal Record Check)

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

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

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

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

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

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

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

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

MAINTENANCE OF CRIMINAL OFFENDER RECORDS (continued)

Interagency Agreements

Legal Reference:

EDUCATION CODE

44332 Temporary certificate

44332.6 Criminal record check, county board of education

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

44830.1 Certificated employees, conviction of a violent or serious felony

44830.2 Interagency agreements

45122.1 Classified employees, conviction of a violent or serious felony

45125 Use of personal identification cards to ascertain conviction of crime

45125.01 Interagency agreements

45125.5 Automated records check

45126 Duty of Department of Justice to furnish information

PENAL CODE

667.5 Prior prison terms, enhancement of prison terms

1192.7 Plea bargaining limitation

11075-11081 Criminal record dissemination

11105 State criminal history information; furnishing to authorized persons

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

11140-11144 Furnishing of state criminal history information

13300-13305 Local summary criminal history information

CODE OF REGULATIONS, TITLE 11

700-708 Criminal offender record information

All Personnel

E 4112.62

4212.62

MAINTENANCE OF CRIMINAL OFFENDER RECORDS

4312.62

SAMPLE EMPLOYEE STATEMENT FORM

USE OF CRIMINAL JUSTICE INFORMATION

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

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

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

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

Signature: _____

Date: _____

Personnel

BP 4112.8

4212.8

EMPLOYMENT OF RELATIVES

4312.8

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

(cf. 4030 – Nondiscrimination in Employment)

(cf. 9270 – Conflict of Interest)

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

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

(cf. 4115 – Evaluation/Supervision)

(cf. 4215 – Evaluation/Supervision)

(cf. 4315 – Evaluation/Supervision)

(cf. 4031 – Complaints Concerning Discrimination in Employment)

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

Legal Reference:

EDUCATION CODE

35107 School district employees

FAMILY CODE

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

GOVERNMENT CODE

1090-1098 Prohibitions applicable to specified officers

12940 Unlawful employment practices

CODE OF REGULATIONS, TITLE 2

7292.0-7292.6 Marital status discrimination, especially:

7292.5 Employee selection

Management Resources:

WEB SITES

California Department of Fair Employment and Housing:

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

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

Personnel

AR 4112.9(a)
4212.9
4312.9

EMPLOYEE NOTIFICATIONS

The district shall provide employees with the following notifications and shall obtain signed acknowledgments that the notifications were received when so required by law or by district policy or regulations.

Acknowledgments Required by Law

1. Legal obligation to report known or suspected instances of child abuse

(cf. 5141.4 - Child Abuse Reporting Procedures)

2. Oath or affirmation of allegiance required of public employees

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

3. Hepatitis B vaccine declination

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

4. The district's school bus driver drug and alcohol testing policy, regulations and related information

(cf. 4112.42/4212.42/4312.42 - Drug and Alcohol Testing for School Bus Drivers)

5. Notice of release from position requiring an administrative or supervisory credential

(cf. 4313.2 – Demotion/Reclassification)

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

(cf. 4212 - Appointment and Conditions of Employment)

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

Acknowledgments Not Required by Law

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

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

2. The district's nonsmoking policy

(cf. 3513.3 - Tobacco-Free Schools)

EMPLOYEE NOTIFICATIONS (continued)

3. Prohibition of sexual harassment

(cf. 4119.11- Sexual Harassment)

4. The certificated employee's employment status and salary

(cf. 4112.1 - Contracts)

5. State disability insurance rights and benefits

(cf. 4154 - Health and Welfare Benefits)

6. Certificated employee evaluations

(cf. 4115 - Evaluation/Supervision)

(cf. 4315 - Evaluation/Supervision)

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

(cf. 4112.2 - Certification)

8. Notice of layoff

(cf. 4117.3 - Personnel Reduction)

(cf. 4217.3 - Layoff/Rehire)

(cf. 4317.3 - Personnel Reduction)

9. Derogatory information to be placed in personnel file

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

10. Exhaustion of classified employee's paid leave

(cf. 4261.1 - Personal Illness/Injury Leave)

(cf. 4261.11 - Industrial Accident/Illness Leave)

11. Notice of charges related to disciplinary action

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

EMPLOYEE NOTIFICATIONS (continued)

12. Notice of intention to dismiss

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

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

(cf. 4158 - Employee Security)

Legal Reference:

EDUCATION CODE

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

GOVERNMENT CODE

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

PENAL CODE

11166.5 Employment; statement of knowledge of duty to report

UNEMPLOYMENT INSURANCE CODE

2613 Notice of rights and benefits

CODE OF REGULATIONS, TITLE 5

80026.1 Information to applicants

CODE OF REGULATIONS, TITLE 8

5193 California bloodborne pathogens standard

CODE OF FEDERAL REGULATIONS, TITLE 49

382.601 Controlled substance and alcohol use and testing notifications

ASSIGNMENT

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

(cf. 4112.2 - Certification)

(cf. 4112.21 – Interns

cf. 4112.22 – Staff Teaching Students of Limited English Proficiency)

(cf. 4112.23 – Special Education Staff)

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

Teachers may be assigned to any school within the district in accordance with the collective bargaining agreement.

(cf. 4141/4241- Collective Bargaining Agreement)

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

Teachers shall be assigned to teach core academic subjects in Title I and non-Title 1 programs in accordance with the requirements of the No Child Left Behind act pertaining to teacher qualifications. (20 USC 6319, 7801; 5CCR 6100-6126.

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

(cf. 6171 – Title 1 Programs)

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

(cf. 4117.3 – Personnel Reduction)

Certificated Personnel

ASSIGNMENT (continued)

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

Committee on Assignments

The Superintendent or designee shall establish a committee on assignments which may grant approval for the voluntary assignment of full-time teachers to teach one or more elective courses outside their credential authorization in an area for which they have special skills or preparation. (Education Code 44258.7)

Legal Reference:

EDUCATION CODE

33126 School accountability report card

35035 Additional powers and duties of superintendent

35186 Complaint Process

37616 Assignment of teachers to year-round schools

44225.6 Commission report to the legislature re: teachers

44250-44277 Credentials and assignments of teachers

44395-44398 Incentives for assigning NBPTS-certified teachers to low-performing schools

44824 Assignment of teachers to weekend classes

44955 Reduction in number of employees

GOVERNMENT CODE

3543.2 Scope of representation

CODE OF REGULATIONS, TITLE 5

6100-6126 Teacher qualifications, No Child Left Behind act

UNITED STATES CODE, TITLE 20

6319 Highly qualified teachers

7801 Definitions, highly qualified teacher

CODE OF FEDERAL REGULATIONS, TITLE 34

200.55-200.57 Highly qualified teachers

Management Resources:

WEB SITES

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

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

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

Certificated Personnel

ASSIGNMENT

Procedures for Verifying Subject Matter Knowledge

With the involvement of appropriate subject matter specialists, the Superintendent or designee shall develop and employ procedures for verifying the subject matter knowledge of teachers assigned to teach in departmentalized classes outside their credential authorization pursuant to Education Code 44258.3. For the purposes of these procedures, subject matter specialists are ~~mentor teachers~~, curriculum specialists, resource teachers, classroom teachers certified to teach a subject, staff to regional subject matter projects or curriculum institutes, or college faculty. (Education Code 44258.3)

(cf. 4112.2 – Certification)

(cf. 4112.21 – Interns)

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

(cf. 4112.23 – Special Education Staff)

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

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

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

(cf. 4140/4240 - Bargaining Units)

Certificated Personnel

ASSIGNMENT (continued)

Committee on Assignments

Verification of the subject matter competence of teachers assigned to core academic subjects in Title I and non-Title I programs shall be based on procedures and criteria specified in 5 CCR 6100-6115.

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

Assignment to Special Schedules

The Superintendent or designee shall make every reasonable effort to accommodate the preferences of certificated staff when assigning them to schools with year-round or regular schedules. (Education Code 37616)

(cf. 6117 Year-Round Schedules)

Full-time probationary or permanent classroom teachers employed by the district prior to implementation of weekend classes shall not, without their written consent, be required to teach for more than 180 full days during a school year or for more than the number of full days during the preceding school year, whichever is greater. No teacher shall be assigned to work on a Saturday or Sunday if he/she objects in writing that such assignment would conflict with his/her religious beliefs or practices. (Education Code 44824)

(cf. 6176 – Weekend/Saturday Classes)

Personnel

BP 4113.4
4213.4
4313.4

TEMPORARY MODIFIED/LIGHT-DUTY ASSIGNMENT

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

(cf. 3530 – Risk Management/Insurance)
(cf. 4157.1/4257.1/4357.1 - Work-Related Injuries)
(cf.4161.1/4361.1 – Industrial Accident/Illness Leave)
(cf. 4161.8/4261.8/4361.8 – Family Care and Medical Leave)
(cf.4261.8 – Industrial accident/Illness Leave)

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

(cf. 4032 – Reasonable Accommodation)

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

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

Personnel

BP 4113.4
4213.4
4313.4

TEMPORARY MODIFIED/LIGHT-DUTY ASSIGNMENT
(continued)

Legal Reference:

EDUCATION CODE

44984 *Required rules for industrial accident and illness leave*

45192 *Industrial accident and illness leave for classified employees*

GOVERNMENT CODE

12900-12996 *Fair Employment and Housing Act*

12945.1-12945.2 *California Family rights Act*

UNITED STATES CODE, TITLE 29

2601-2654 *Family Care and Medical Leave Act*

UNITED STATES CODE, TITLE 42

12101-12213 *Americans with Disabilities act*

COURT DECISIONS

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

Management Resources:

WEB SITES

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

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

TRANSFERS

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

(cf. 4030 – Nondiscrimination in Employment)

(cf. 4113 – Assignment)

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

(cf. 4141/4241 – Collective Bargaining Agreement)

Voluntary Transfers

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

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

(cf. 4112.2 – Certification)

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

(cf. 4112.23 – Special Education Staff)

(cf. 4112.24 – Teacher qualifications Under the No Child Left Behind Act)

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

(cf. 0500 – Accountability)

(cf. 05201.- High Priority Schools Grant Program)

(cf. 0520.2 – Title I Program Improvement Schools)

(cf. 0520.4 – Quality Education Investment Schools)

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

Legal Reference: (see next page)

Certificated Personnel

BP 4114(b)

TRANSFERS (continued)

Legal Reference:

EDUCATION CODE

35035 Additional powers and duties of superintendent, transfer authority

35036 Voluntary transfers

35186 Complaint process, teacher vacancy or misassignment

37616 Assignment of teachers to year-round schools

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

GOVERNMENT CODE

3543.2 Scope of representation