

EVALUATION/SUPERVISION

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

(cf. 4141/4241 - Collective Bargaining Agreement)

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

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

(cf. 4140/4240 - Bargaining Units)

(cf. 4315.1 - Staff Evaluating Teachers)

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

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

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

(cf. 4131 - Staff Development)

(cf. 4139 - Peer Assistance and Review)

Legal Reference: (see next page)

EVALUATION/SUPERVISION (continued)

Legal Reference:

EDUCATION CODE

33039 *State guidelines for teacher evaluation procedures*

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

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

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

GOVERNMENT CODE

3543.2 *Scope of representation*

UNITED STATES CODE, TITLE 20

6319 *Highly qualified teachers*

7801 *Definition of highly qualified teacher*

Management Resources:

CTC PUBLICATIONS

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

1997, Commission on Teacher Credentialing and State Superintendent of Public Instruction

California Standards for the Teaching Profession, 1997, Commission on Teacher Credentialing

WEB SITES

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

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

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

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

EVALUATION/SUPERVISION

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

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

Certificated staff shall receive information regarding the district’s evaluation criteria and procedures upon employment with the district and whenever the negotiated contract is revised.

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

Frequency of Evaluations

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

(cf. 4116 – Probationary/Permanent Status)

(cf. 4116 - Probationary/Permanent Status)
(cf. 4117.4 - Dismissal)
(cf. 4315.1 - Staff Evaluating Teachers)

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

EVALUATION/SUPERVISION (continued)

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

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

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

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

(cf. 4117.4 – Dismissal)

Evaluation Criteria

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

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

(cf. 6011 - Academic Standards)
(cf. 6162.5 – Student Assessment)

2. The instructional techniques and strategies used by the employee
3. The employee's adherence to curricular objectives

(cf. 6010 - Goals and Objectives)

4. The establishment and maintenance of a suitable learning environment within the scope of the employee's responsibilities

EVALUATION/SUPERVISION (continued)

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

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

Evaluation Results

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

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

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

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

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

Any certificated employee who receives an unsatisfactory rating in the area of teaching methods or instruction shall participate in the district's peer assistance and review program. (Education Code 44664)

(cf. 4139 - Peer Assistance and Review)

EVALUATION/SUPERVISION (continued)

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

(cf. 4131 - Staff Development)

(cf. 4138 – Mentor Teachers)

PROBATIONARY/PERMANENT STATUS

Probationary Status

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

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

(cf. 4115 - Evaluation/Supervision)

(cf. 4131 - Staff Development)

Permanent Status

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

(cf. 4117.4 - Dismissal)

(cf. 4117.6 - Decision Not to Rehire)

Legal Reference:

EDUCATION CODE

44466 Status of university interns

44850.1 No tenure in administrative or supervisory position

44885.5 Status of district interns

44908 Complete year for probationary employees

44911-44913 Service not computed in eligibility for permanent status

44915 Classification of probationary employees

44917-44921 Status of substitute or temporary employees

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

44929.21 Districts of 250 ADA or more

44929.23 Districts with less than 250 ADA

44929.28 Employment by another district

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

44948.2 Election to use provisions of Section 44948.3

44948.3 Dismissal of probationary employees

PROBATIONARY/PERMANENT STATUS

A probationary teacher who has been employed by the district in a position or positions requiring certification for two complete consecutive school years and is then rehired for the next succeeding school year shall become a permanent employee at the beginning of the third year. (Education Code 44929.23)

Interns

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

(cf. 4112.21- Interns)

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

PRERETIREMENT PART-TIME EMPLOYMENT

A certificated employee may be allowed to reduce his/her workload from full-time to part-time and receive the service credit that he/she would have received if employed on a full-time basis under the following conditions: (Education Code 22713)

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

1. The option to reduce the employee's workload shall be exercised at the request of the employee and can be revoked only with the mutual consent of the Superintendent or designee and the employee. The agreement to reduce the workload shall be in effect at the beginning of the school year.
2. The employee shall have been employed full time to perform creditable service for a minimum of 10 years including five years of credited service for full-time employment, immediately preceding the reduction in workload.
3. The employee shall not have had a break in service during the five years immediately preceding the reduction in workload. Sabbaticals, other approved leaves of absence, and unpaid absences for personal reasons shall not constitute a break in service. However, the period of time during which a member is retired shall constitute a break in service and an employee who reinstates from retirement shall be required to be employed on a full-time basis for at least five years preceding the workload reduction.
4. The employee shall have reached the age of 55 years prior to the reduction in workload.
5. The period of the reduced workload shall not exceed 10 years.
6. The reduced workload shall be equal to at least one-half of the full-time equivalent required by the employee's contract of employment in accordance with Education Code 22138.5 during his or her final year of full-time employment.
7. The employee shall be paid a compensation that is the pro rata share of the compensation the employee would have earned had he/she not opted to reduce his or her workload.
8. The employee's retirement allowance, as well as other benefits to which he/she is entitled, shall be based upon the compensation that he/she would have received if employed on a full-time basis.

PRERETIREMENT PART-TIME EMPLOYMENT (continued)

The Superintendent or designee shall verify the employee's eligibility prior to the reduction of an employee's workload. This shall be done in conjunction with the administrative staff of the State Teachers' Retirement System and Public Employees' Retirement System, STRS and PERS, in accordance with law. (Education Code 22713)

The Superintendent or designee shall maintain the necessary records to separately identify each employee who participates in the reduced workload program. (Education Code 22713)

Legal Reference:

EDUCATION CODE

22119.5 Creditable service, definition

22138.5 Full-time, definition

22713 Part-time employment; reduction of workload from full-time; credit

44922 Regulations; reduction to part-time employment

GOVERNMENT CODE

20815 Part-time employee; retirement with benefits based upon salary on full-time basis

53201 Health and welfare benefits: election by officers and employees; deduction of premiums or charges from salaries

Management Resources

WEB SITES

California Public Employees

Retirement System: <http://www.calpers.ca.gov>

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

EARLY RETIREMENT OPTION

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

2 Years of Service Credit Retirement Incentive

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

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

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

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

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

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

2+2 Retirement Incentive: 2 Years of Service Credit +2 Years of Age Credit

As an incentive to early retirement for certificated employees participating in the State Teachers' Retirement system, the Board may offer an additional two years of service credit and two years of age credit to employees who retire within the "window period" established by the Board in a memorandum of Understanding or by Board action prior to January 1, 2005 pursuant to repealed Education Code 22714.5.

EARLY RETIREMENT OPTION (continued)

Legal Reference:

EDUCATION CODE

22714 *Service credit under STRS; additional two years*

44929 *Service credit under STRS; additional two years*

UNITED STATES CODE, TITLE 20

6319 *Highly qualified teachers*

COURT DECISIONS

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

CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM PUBLICATIONS

Retirement Incentive Program, Frequently Asked Questions

WEB SITES

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

POSTRETIREMENT EMPLOYMENT

The Superintendent or designee may utilize retired certificated individuals who possess unique knowledge and experience to perform specialized work of a limited duration.

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

Postretirement Compensation Limitation

A retired individual retained under this program shall be paid at a rate commensurate with that of other employees performing comparable duties. The retired individual may earn compensation for creditable service up to the compensation limitation specified by law. This limit applies only to earnings for service that would be creditable for STRS purposes if performed by a current employee. (Education Code 22119.5, 24214, 35046)

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

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

When retaining a retired individual eligible for any of the exemptions from the postretirement compensation limitation stated below, the Superintendent or designee shall submit to STRS all required documentation to substantiate eligibility for the exemption. (Education Code 24216)

Exemption for Providing Specified Instructional Services

Until June 20, 2010, any retired certificated individual employed by the district shall be exempt from compensation limitation for members of STRS provided that he/she retired from service with an effective date on or before January 1, 2007, and is employed to provide any of the following services: (Education Code 24216.5, 24216.6)

1. Direct classroom instruction to students in grades K-12

POSTRETIREMENT EMPLOYMENT (continued)

2. Support and assessment for new teachers through the Beginning Teacher Support and Assessment program pursuant to Education Code 44279.1-44279.7

(cf. 4131.1 – Beginning Teacher Support/Induction)

3. Support to individuals completing student teaching assignments

4. Support to individuals participating in an alternative certification program (Education Code 44380-44386) or a school paraprofessional teacher training program (Education Code 44390-44393)

(cf. 4112.21 – Interns)

(cf. 4222-Teacher Aides/Paraprofessionals)

5. Instruction and student services to students enrolled in special education programs

(cf. 4112.23 – Special Education Staff)

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

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

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

(cf. 5123 – Promotion/Acceleration/Retention)

(cf. 6179 – Supplemental Instruction)

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

Exemption for Emergency Situations or appointment as a Trustee/Administrator

POSTRETIREMENT EMPLOYMENT (continued)

A retired certificated individual shall be exempt from the postretirement compensation limitation for a maximum period of two years if he/she is appointed by the Superintendent of Public Instruction as a trustee or administrator pursuant to Education Code 41320.1, appointed as a trustee pursuant to the Immediate Intervention/Underperforming Schools Program or the High Priority Schools Grant Program, or assigned to a position by the County Superintendent of Schools pursuant to Education Code 42122-42129. (Education Code 24216)

(cf. 0520.1 – High Priority Schools Grant Program)

Until June 30, 2010, a retired individual shall be exempt from the postretirement compensation limitation up to an additional one-half of the full-time position when employed in an emergency situation to fill a vacant administrative position requiring highly specialized skills, provided that all of the following conditions are met: (Education Code 24216)

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

(cf. 9320 – Meetings and Notices)

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

(cf. 4117.13/4317.13 – Early Retirement Option)

Consultancy Contracts

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

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

POSTRETIREMENT EMPLOYMENT (continued)

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

Legal Reference:

EDUCATION CODE

400-410 English language acquisition program
430-446 English Learner and Immigrant Student Federal Conformity Act
22119.5 Creditable service, definition
22461 Notice of earnings limitation
22714 Encouragement of retirement
22714.5 2+2 service and year credit option under STRS
22715 Additional service credit
22716 Unpaid services
24116 Service at California State University
24214 Creditable service by retiree
24215 Service at California State University
24216 Payments to retirants in excess of limitation
24216.5 Exemption from earnings limitation
24216.6 Exemption from earnings limitation
35046 Consultancy contracts
37252-37254.1 Supplemental instruction
41320.1 Appointment of trustee
42120-42129 Budget completion
44279.1-44279.7 Beginning Teacher Support and Assessment Program
44380-44386 Alternative certification program
44390-44393 School paraprofessional teacher training program
44830 Employment of certificated employees
44830.3 Employment of district interns
44929 Service credit under STYRS; additional two years
44929.1 2+2 service and year credit option under STRS
52053-52055.55 Immediate Intervention/Underperforming Schools Program
52055.600-52055.662 High Priority Schools Grant Program
56000-56885 Special Education

MANAGEMENT RESOURCES:

WEB SITES

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

All Personnel

BP 4117.2

4217.2

RESIGNATION

4317.2

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

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

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

(cf. 4117.7 - Employment Status Reports)

Legal Reference:

EDUCATION CODE

35161 Board delegation of any powers or duties

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

44433 Unauthorized departure from service as unprofessional conduct

44930 Acceptance and date of resignation

45201 Power to accept resignation

CODE OF REGULATIONS, TITLE 5

80303 Reports of change in employment status

80304 Notice of sexual misconduct

COURT DECISIONS

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

PERSONNEL REDUCTION

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

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

Seniority

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

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

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

When two or more employees first rendered paid service on the same date, the Board shall adopt a resolution specifying the criteria based on the needs of the district and students for the order of termination among those employees. Upon the request of any employee whose order of termination is so determined, the Board shall furnish, in writing, no later than five days prior to the commencement of the administrative hearing on the layoff, a statement of the specific criteria used in determining the order of termination and the application of the criteria in ranking the employee relative to the other employees in the group. (Education Code 44955)

PERSONNEL REDUCTION (continued)

(cf. 4113 – Assignment)

(cf. 4115 – Evaluation/Supervision)

(cf. 4117.4 – Dismissal)

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

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

Notice and Hearing Rights

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

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

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

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

PERSONNEL REDUCTION (continued)

Special Procedure Based Upon Late Adoption of the State Budget

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

Reappointment

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

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

(cf. 4112.2 – Certification)

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

(cf. 4113 – Assignment)

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

PERSONNEL REDUCTION (continued)

Legal Reference:

EDUCATION CODE

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

GOVERNMENT CODE

3543.2 *Scope of representation*

COURT DECISIONS

California Teachers Association v. Vallejo City Unified School District, (2007) 149 Cal.App.4th 135
Bakersfield Elementary Teachers Association v. Bakersfield City School District, (2006) 145 Cal.App.4th 1260
Cousins v. Weaverville Elementary School District, 91994) 24 Cal.App.4th 1846
Forker v. Governing Board, (1984) 160 Cal. App.3d 13
Moreland Teachers Assoc.v. Kurze, (1980) 109 Cal.App.3d 648
King v. Berkeley Unified School District (1979) 89 Cal.App.3d 1016

Management Resources:

WEB SITES

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

DISMISSAL

Permanent Employees

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

(cf. 4116 - Probationary/Permanent Status)

Probationary Employees

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

(cf. 4115 - Evaluation/Supervision)

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

(cf. 4117.6 - Decision Not to Rehire)

Legal References:

EDUCATION CODE

44660-44665 Evaluation and assessment of performance

44842 Automatic declining of employment

44918 Substitute or temporary employee; reemployment rights

44929.21 Districts with 250 ADA or more; notice of reelection decision.

44929.23 Districts with daily attendance less than 250

44932-44947 Suspension and/or dismissal of permanent employees

44948 Dismissal or suspension of probationary employees during school year

44948.2 Election to use provisions of Education Code 44948.3

44948.3 Dismissal of probationary employees (over 250 ADA)

44948.5 Dismissal of probationary employees (under 250 ADA)

44949 Cause, notice and right to hearing for dismissal of probationary employee

44953 Dismissal of substitute employees

44955 Reduction in number of permanent employees

GOVERNMENT CODE

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

All Personnel

AR 4117.5

4217.5

TERMINATION AGREEMENTS

4317.5

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

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

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

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

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

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

Legal Reference:

CIVIL CODE

47 Privileged communication

GOVERNMENT CODE

53260-53264 Employment contracts

LABOR CODE

1198.5 Inspection of personnel files by employees

CODE OF REGULATIONS, TITLE 5

80303 Reports of dismissal, resignation and other terminations for cause

80332 Professional honesty in letters of employment recommendation

COURT DECISIONS

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

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

DECISION NOT TO REHIRE

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

The Board may decide not to rehire a probationary employee for a second year and give written notice of its decision to the employee at any time during his/her first year. If the Board does not give written notice, the employee shall be reelected for the next succeeding school year. (Education Code 44929.21)

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

The Board may also decide not to rehire a district intern at the end of his/her first, second or third consecutive year. Written notice to the employee may be given at any time during the year except during the employee's last year as an intern, when notice must be given on or before March 15. If the Board does not give written notice, the employee shall be rehired as a probationary employee for the following year. (Education Code 44929.21, 44885.5)

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

Legal Reference:

EDUCATION CODE

44885.5 District interns

44929.21 Districts with 250 ADA or more; notice of reelection decision

44929.23 Districts with daily attendance less than 250

44948.2 Election to use provisions of Education Code 44948.3

44948.3 Dismissal of probationary employees (over 250 ADA)

44949 Cause, notice and right to hearing required for dismissal of probationary employee

44955 Reduction in number of permanent employees

COURT DECISIONS

Hoschler v. Sacramento City Unified School district, (2007) 149 Cal.App.4th 258

Fischer v. Los Angeles Unified School District, (1999) 70 Cal.app.4th 87

Bellflower Education Assn. v. Bellflower Unified School District 228 Cal. App. 3d 805, 279 Cal. Rptr. 179 (1991)

Fontana Teachers Assn. v. Fontana Unified School District 201 Cal. App. 3d 1517, 247 Cal. Rptr. 761 (1988)

Grimsley v. Governing Board 189 Cal. App. 3d 1440, 235 Cal. Rptr. 85 (1987)

EMPLOYMENT STATUS REPORTS

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

1. Dismissal

(cf. 4117.4 - Dismissal)

2. Non-reelection/non-reemployment

(cf. 4117.6 - Decision Not to Rehire)

3. Suspension for more than 10 days

(cf. 4118 - Suspension/Disciplinary Action)

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

5. Resignation or other departure from employment

(cf. 4117.2 - Resignation)

6. Termination by a decision not to employ or reemploy

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

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

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

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

Within 10 days after receipt of a complaint, information, or indictment regarding an employee who has been charged with a “mandatory leave of absence offense” (defined as a sex or drug offense specified in Education Code 44940), the Superintendent or designee shall

EMPLOYMENT STATUS REPORTS (continued)

forward a copy of the received documents to the CTC. In addition, he/she shall report to the CTC any action taken in connection with extending the employee's mandatory leave beyond the initial period. (Education Code 44940, 44940.5)

(cf. 4118 – Suspension/Disciplinary Action)

Notice of Other Violations

The Superintendent or designee may notify the Commission on Teacher Credentialing of any of the following: (Education Code 44242.5)

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

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

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

(cf. 1312.1 - Complaints Concerning District Employees)

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

(cf. 5145.7 - Sexual Harassment)

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

EMPLOYMENT STATUS REPORTS (continued)

Legal Reference:

EDUCATION CODE

44009 Conviction of specified crimes

44010 Sex offense – definitions

44011 Controlled substance offense – definitions

44225 Powers and duties of the Commission on Teacher Credentialing

44242.5 Reports and review of alleged misconduct

44420-44440 Adverse actions by CTC against credential holder

44940 Sex offenses and narcotic offenses; compulsory leave of absence

44940.5 Compulsory leave of absence

CODE OF REGULATIONS, TITLE 5

80303 Reports of change in employment status, alleged misconduct

80304 Notice of sexual misconduct

Management Resources:

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

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

WEB SITES

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

CTC: <http://www.ctc.ca.gov>