

**CLASSIFIED PERSONNEL**

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

*(cf. 0200 - Goals for the School District)*

*(cf. 4211 - Recruitment and Selection)*

The classified service shall consist of all employees in positions not requiring certification unless the position is specifically exempted from the classified service. Individuals who possess certification qualifications shall not be prohibited from being employed in a classified position. (Education Code 45104)

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

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

*(cf. 4215 - Evaluation/Supervision)*

Policies, rules and regulations related to classified personnel shall be available to all concerned and shall be administered in a fair and equitable fashion.

*Legal Reference:*

EDUCATION CODE

45100-45139 *Employment of classified staff*

45160-45166 *Salaries and differential compensation*

45190-45210 *Resignation and leaves of absence*

45220-45320 *Merit system*

49406 *Examination for tuberculosis*

51760-51769.5 *Work experience education*

**CLASSIFIED PERSONNEL**

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

1. Substitute or short-term employees who are employed for less than 75 percent of the school year to replace any classified employee who is temporarily absent from duty
2. Part-time playground positions (noon duty aides)
3. Apprentices and professional experts employed on a temporary basis for a specific project
4. Full-time day students employed part time
5. Part-time students employed part time in any program conducted by a community college district pursuant to Education Code 51760 et seq. and which is financed by state or federal funds

Persons hired solely for purposes which are exempted from the classified service shall nevertheless fulfill the obligations of classified employees related to physical examinations pursuant to Education Code 45122, fingerprinting pursuant to Education Code 45125, and tuberculosis tests pursuant to Education Code 49406. Employment for such purposes after conviction of a sex or controlled substance offense shall be subject to the provisions of Education Code 45123 and 45124. (Education Code 45106)

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

*(cf. 4212.5 - Criminal Record Check)*

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

**RECRUITMENT AND SELECTION**

In order to secure quality personnel, the district shall maintain an effective recruitment program based upon alertness to good candidates, initiative that results in prompt action, and good personnel practices in dealing with applicants.

The Superintendent shall determine the personnel needs of the district. He/she shall locate suitable candidates and make recommendations to the Governing Board for employment.

No inquiry shall be made with regard to the age, race, color, religion, sex or national origin of persons proposed for or seeking employment. Questions regarding handicap shall be asked only when directly related to the job.

District employment practices shall not discriminate against authorized aliens. Legally-required inquiries to assure employment eligibility status shall be made in accordance with Board policy and administrative regulation.

*(cf. 4111.2/4211.2/4311.2 - Legal Status Requirement)*

The Superintendent shall ensure that persons nominated for employment meet all qualifications established by law and by the Board.

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

*Legal Reference:*

EDUCATION CODE

200-261 *Prohibition of discrimination on the basis of sex*

44066 *Limitations on certification requirements*

45103-45138 *Employment (classified employees)*

49406 *Examination for tuberculosis*

CODE OF REGULATIONS, TITLE 5

30-31 *Affirmative Action Employment Programs*

TITLE VII, Civil Rights Act as amended by Title IX, Equal Employment Opportunity Act

IMMIGRATION REFORM AND CONTROL ACT OF 1986

**APPOINTMENT AND CONDITIONS OF EMPLOYMENT**

The Governing Board shall approve the appointment of all full-time, part-time and hourly classified employees. Temporary, substitute, short-term and student employees may be appointed by the Superintendent. The position and the pay rate shall be reported to the Board at a regular meeting.

Individuals appointed to the classified staff shall:

1. Not have been convicted of a violent or serious felony (Education Code 45122.1)
2. Submit to fingerprinting as required by law (Education Code 45125)

*(cf. 4212.5 - Criminal Record Check)*

3. Submit to a physical examination or proof thereof as required by law and Board policy (Education Code 45122, 49406)

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

4. File the oath or affirmation of allegiance required by Government Code 3100-3109

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

5. Submit to drug and alcohol testing as required by Board policy

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

Classified staff shall also fulfill any other requirements as specified by law or Board policy.

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

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

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

**Additional Requirements for Instructional Aides**

No person shall be initially assigned as an instructional aide without having demonstrated proficiency in basic reading, writing and mathematics skills. (Education Code 45344.5)

**APPOINTMENT AND CONDITIONS OF EMPLOYMENT** (continued)

*(cf. 4222 - Teacher Aides/Paraprofessionals)*

These proficiency requirements shall equal or exceed those required for high school seniors pursuant to Education Code 51216 by the high school district that includes all or the largest portion of this district. (Education Code 45344.5)

If a district hires an instructional aide who has passed this requirement in another district, the employee may be considered to have met this requirement. However, the district may require the aide to take a proficiency exam upon determination that the test taken was not comparable to district standards. (Education Code 45344.5)

*Legal Reference:*

EDUCATION CODE

- 35161 Powers and duties*
- 44066 Limitation on certification requirements*
- 45103 Classified service in districts not incorporating the merit system*
- 45104 Positions not requiring certification qualifications*
- 45105 Positions under various acts not requiring certification qualifications; classification*
- 45108 Restricted positions*
- 45113 Rules and regulations for classified service in districts not incorporating the merit system*
- 45122 Physical examinations*
- 45122.1 Classified employees, conviction of a violent or serious felony*
- 45125 Use of personal identification cards to ascertain conviction of crime*
- 45169 Employee salary data*
- 45272 Vacancies in classified services for districts incorporating the merit system*
- 45344.5 Demonstrated proficiency in basic skills*
- 49406 Examination for tuberculosis*
- 51216 Student proficiency*

GOVERNMENT CODE

- 3100-3109 Oaths or affirmations of allegiance for disaster service workers and public employees*
- 12940-12950 Unlawful employment practices*

PENAL CODE

- 667.5 Prior prison terms, enhancement of prison terms*
- 1192.7 Plea bargaining limitation*

COURT DECISIONS

- Miller v. Trinity County Bd. of Education, 121 Cal.App.3d 184 (App. 3 Dist. 1981)*

**CRIMINAL RECORD CHECK**

**Applicants for Employment**

All applicants for classified positions, including temporary, substitute and part-time positions, shall be fingerprinted. However, secondary school students attending a district school who are to be employed in a temporary or part-time position shall not be required to be fingerprinted. (Education Code 45125)

The Superintendent or designee shall ensure that each classified applicant has a local law enforcement authority prepare fingerprint identification cards with his/her personal description. The local law enforcement authority shall forward these cards to the Bureau of Criminal Identification Investigation, State Department of Justice, for processing. (Education Code 45125)

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

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

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

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

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

The Superintendent or designee may ask the local law enforcement agency to conduct an automated records check to ascertain whether a prospective classified employee has a criminal record. This information shall be requested only for applicants whom the district intends to hire at the time the check is requested. (Education Code 45125.5)

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

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

**CRIMINAL RECORD CHECK** (continued)

**Current Employees**

The Superintendent or designee shall forward to the Department of Justice a list of all current classified employees, except secondary students employed in a temporary or part-time position by the district having jurisdiction over the school they attend, who have not completed a criminal background check. (Education Code 45125)

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

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

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

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

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

*Legal Reference: (see next page)*

**CRIMINAL RECORD CHECK (continued)**

*Legal Reference:*

EDUCATION CODE

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

GOVERNMENT CODE

- 6200-6203 *Crimes related to public records*

PENAL CODE

- 502 *Unauthorized access to computers*
  - 667.5 *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*
  - 11105.2 *Subsequent arrest notification*
  - 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
- 703 *Release of criminal offender record information*
  - 708 *Destruction of criminal offender record information*

*Management Resources:*

WEB SITES

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

**EVALUATION/SUPERVISION**

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

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

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

*(cf. 4219.21 - Code of Ethics)*

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

*Legal Reference:*

EDUCATION CODE

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

*45261 Subjects of rules (merit system districts)*

*45262 Printing and distribution of rules*

GOVERNMENT CODE

*3543.2 Scope of representation*

**PROBATIONARY/PERMANENT STATUS**

Employees newly hired for regular positions in the classified service shall be considered probationary employees until they have satisfactorily completed 10 months of probationary service. Upon satisfactorily completing this period, they shall become permanent classified employees of the district.

Permanent employees promoted to a higher classification shall be considered probationary in their new position until they have satisfactorily completed 10 months of service in that position.

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

*(cf. 4215 - Evaluation/Supervision)*

The Superintendent may dismiss an employee during the initial probationary period. A permanent employee who was promoted to a higher classification and fails to complete the probationary period for that promotional position shall be employed in the classification from which he/she was promoted. (Education Code 45113)

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

*Legal Reference:*

EDUCATION CODE

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

**LAYOFF/REHIRE**

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

**Order of Layoff; Determination of Seniority**

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

The Superintendent or designee shall maintain a current determination of each employee's seniority in the district.

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

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

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

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

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

Short-term or substitute employees may be separated at the completion of their assignment without regard to the procedures in this regulation.

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

*(cf. 4121 - Temporary/Substitute Personnel)*

**Notice of Layoff**

**LAYOFF/REHIRE** (continued)

Classified employees subject to layoff because of lack of work in the event of a bona fide reduction or elimination of service being performed shall receive notice of the layoff ~~30~~ 45 days before the effective date. They shall be informed of their reemployment rights and displacement rights, if any. (Education Code 45117)

In cases where specially funded programs expire at the end of any school year, classified employees subject to layoff for lack of funds shall receive written notice on or before ~~May~~ April 29. The notice shall inform them of the layoff effective at the end of the school year and of their displacement and reemployment rights. If the termination date of the specially funded program is other than June 30, the notice shall be given at least 45 days before the effective date of the layoff. (Education Code 45117)

The district is not bound to provide 45 days' notice in the event that it is unable to pay the salaries of classified employees due to an actual and existing financial inability, or if layoff is due to a lack of work caused by conditions not foreseeable or preventable by the district. The district will provide information about reemployment and displacement rights, if any, to all employees laid off under these conditions. (Education Code 45117)

The district also is not bound to provide 45 days' notice to any person hired as a short-term employee for a period not exceeding 45 days. (Education Code 45117)

**Voluntary Demotion or Voluntary Reduction of Hours**

Employees may sometimes take voluntary demotions or voluntary reductions in assigned time in lieu of layoff or in order to remain in their present position rather than be reclassified or reassigned. Employees who do so shall be granted the same rights as persons laid off. (Education Code 45114, 45298)

**Reemployment Eligibility**

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

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

**LAYOFF/REHIRE** (continued)

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

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

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

**Reemployment Procedures**

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

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

*(cf. 4032 - Reasonable Accommodation)*

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

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

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

**LAYOFF/REHIRE** (continued)

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

*Legal Reference:*

EDUCATION CODE

45101 Definitions

45103 Classified service in districts not incorporating the merit system

45105 Positions under various acts not requiring certification qualifications; classification

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

45114 Layoff and reemployment procedures; definitions

45115 Layoff: Reinstatement from service retirement

45117 Notice of layoff due to expiration of specially funded programs or bona fide reduction or elimination of service

45286 Limited term employees

45297 Right to take equivalent examination while employee in military service

45298 Reemployment and promotional examination preference of persons laid off; voluntary demotions or reductions in time

45308 Order of layoff and reemployment; length of service

45309 Reinstatement of permanent noncertified employees after resignation

UNITED STATES CODE, TITLE 38

4301-4307 Veterans' Reemployment Rights

COURT DECISIONS

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

**DISMISSAL/SUSPENSION/DISCIPLINARY ACTION**

**A. Progressive Discipline**

1. The District recognizes the general principle of progressive discipline in the initiation of discipline of permanent employees. Informal corrective action may include job counseling, special evaluation, oral reprimand, and written reprimand. Under normal circumstances, it is appropriate that one or more of the above types of corrective action be used before the initiation of a suspension without pay, demotion, reduction of pay step in class, or dismissal. However, the final determination of whether to use one or more of such informal corrective actions and, if so, the one to use is left to the Superintendent's discretion after his/her review of the facts of the matter, and his/her determination shall be final and binding on the employee and the District.

2. While a written reprimand given to an employee is not a "personnel action" as defined in Section D, below, if a written reprimand is to be placed in the employee's personnel file, the employee shall be so informed and given an opportunity to respond to the reprimand within ten workdays after receiving the reprimand. Any response by the employee to a reprimand will be retained with the reprimand in the personnel file. Regarding any reprimand to be placed in an employee's personnel file, the employee may request in writing to meet with the Superintendent regarding the reprimand. Any such request must be filed in the District Office within five regular workdays after the employee receives the reprimand. If a request is filed as described, the Superintendent or his/her designee shall meet with the employee at a mutually convenient time. After any such meeting, the Superintendent/designee's determination on the propriety of the written reprimand shall be final and binding on the employee and the District.

**B. Interview of Employee/Administrative Leave With Pay**

1. During an investigation of concerns related to employee conduct, the Superintendent or his/her designee shall interview the employee regarding the concerns or request a written statement from the employee regarding the concerns prior to reaching a final conclusion on the matter. The employee may request the presence of a CSEA representative in the interview.

2. During any personnel investigation, the Superintendent may place an employee on leave of absence without loss of pay or benefits (administrative leave).

**DISMISSAL/SUSPENSION/DISCIPLINARY ACTION** (continued)**C. Termination of Probationary Employment**

At any time prior to the expiration of the probationary period, the Superintendent may dismiss a probationary classified employee from District employment. A probationary employee shall not be entitled to a hearing.

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

1. Permanent classified employees shall be subject to personnel action (suspension without pay, demotion, reduction of pay step in class, dismissal) only for cause as set forth in Section D3, below. The Board's determination of the sufficiency of the cause for personnel action shall be conclusive.

2. No personnel action shall be taken for any cause which arose before the employee became permanent, nor for any cause which arose more than two years before the date of the filing of the notice of personnel action unless the cause was concealed or not disclosed by the employee when it could be reasonably assumed that the employee should have disclosed the facts to the District.

3. Causes

In addition to any other causes provided by statute or by policy or regulation of the District, each of the following constitutes cause for personnel action against a permanent classified employee:

- a. Falsifying any information supplied to the District, including, but not limited to information supplied on application forms, employment records, or any other District records.
- b. Unsatisfactory performance.
- c. Inefficiency.
- d. Neglect of duty.
- e. Insubordination, including but not limited to willful disobedience.
- f. Dishonesty.

g. Drinking alcoholic beverages while on duty or in such close time proximity thereto as to cause any detrimental effect upon the employee, upon employees associated with him/her, upon the public, or upon students.

AR 4218 (c)

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

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

i. Conviction of a felony, conviction of any sex or drug offense made relevant by provisions of law, or conviction of a misdemeanor which is of such a nature as to adversely affect the employee's ability to perform the duties and responsibilities of his/her position. A plea or verdict of guilty, or a conviction following a plea of nolo contendere (no contest), is deemed to be a conviction for this purpose.

j. Inexcusable absence without leave.

k. Immoral conduct which is of such nature that it causes discredit to the District or to the employee's employment.

l. Discourteous, offensive, or abusive conduct or language toward a member of the public, a student, or another employee.

m. Political activity as proscribed by law.

n. Misuse of District property or failure to adequately care for or safeguard assigned District material, equipment, or facilities.

o. Violation of state law or regulation or District, Board or departmental rule, policy, or procedure.

p. Failure to possess or keep in effect any license, certificate, or other similar requirement specified in the employee's class specification or otherwise necessary for the employee to

perform the duties of the position.

q. A physical or mental disability which precludes the employee from the proper performance of his/her duties and responsibilities as determined by competent medical authority, except as otherwise provided by a contract or by law regulating the retirement of employees or by law regulating/protecting employees with disabilities.

r. Unlawful discrimination, including harassment, on the basis of race, religious creed, color, national origin, ancestry, physical handicap, marital status, gender, or age against a member of the public, a student, or another employee while acting in the capacity of a District employee.

AR 4218 (d)

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

s. Unlawful retaliation against any District officer, employee, or student, or a member of the public who, in good faith, reports, discloses, divulges, or otherwise brings to the attention of any appropriate authority any information relative to an actual or suspected violation of state law, federal law, or Board policy or administrative regulation occurring on the job or directly related thereto.

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

4. Initiation of Personnel Action and Notification of Charges

The Superintendent or his/her designee shall issue a notice of personnel action. A copy of the notice shall be served upon the employee personally or it may be served by certified mail, return receipt requested, at the employee's last known home address. The notice shall include:

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

5. Employment Status Pending Hearing or Waiver

Except as provided herein, any employee against whom a notice of personnel action has been issued shall remain on active duty status and responsible for fulfilling the duties of the position pending his/her hearing or waiver thereof. The Superintendent, however, may place the employee on leave of absence without loss of pay or benefits (administrative leave) during this period.

AR 4218 (e)

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

6. Right To Request A Hearing; Effect of Failure To Request A Hearing

- a. Within seven normal work days after receiving the notice of personnel action described above, the employee may request a hearing by signing and filing the card or paper included with the notice. Any other written document signed and appropriately filed within the specified time limit by the employee shall constitute a sufficient request for hearing. A request for hearing is filed only by delivering

the request for hearing to the office of the Superintendent during normal work hours of that office. A request for hearing may be mailed to the office of the Superintendent but must be received or postmarked no later than the time limit stated herein.

b. If the employee fails to file a request for hearing within the time specified in these rules, he/she shall be deemed to have waived his/her right to a hearing, and the Superintendent may order the personnel action into effect immediately.

#### 7. Amended/Supplemental Charges

At any time after the commencement of and before the conclusion of a hearing requested by the employee, the Superintendent may, with the consent of the hearing officer, serve notice on the employee and file with the hearing officer an amended or supplemental notice of personnel action.

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

#### 8. Hearing Procedures

a. The hearing shall be held at the earliest convenient date, taking into consideration the established schedule of the hearing officer and the availability of representation and witnesses. The employee shall be notified of the time and place of the hearing at least ten calendar days prior to the hearing. The employee shall be entitled to appear personally, produce evidence, and have representation by California School Employees Association. The Superintendent or designee may also be represented. The procedure entitled "Administrative Adjudication" commencing with Government Code 11500 shall not apply to any such hearing before the hearing officer. The hearing officer shall not be bound by rules of evidence used in California courts. However, evidence may be admitted and given probative

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

effect only if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. Informality in any such hearing shall not invalidate any order or decision made or approved by the hearing officer.

b. The hearing shall be held before a hearing officer (administrative law judge from the State Office of Administrative Hearings). Costs and fees of the hearing officer and the court reporter recording the hearing shall be paid by the District. The cost of any transcripts shall be paid by the party requesting the transcript.

c. The hearing officer shall prepare a proposed decision in such form that it may be adopted by the Board as the decision in the case. A copy shall be furnished to the employee's representative and the Superintendent after the proposed decision is received by the Board. The Board may:

- (1) Adopt the proposed decision in its entirety;
- (2) Reduce the disciplinary action set forth therein and adopt the balance of the proposed decision;
- (3) Reject the proposed decision in its entirety.

If the Board rejects the proposed decision in its entirety, the Board shall assign the case to another hearing officer, who shall hold a hearing and prepare a proposed decision as described in Section 8c, above. A copy of such proposed decision shall be furnished to each party after the proposed decision is received by the Board.

d. In arriving at a decision on the personnel action, the hearing officer may consider the records of any prior personnel action proceedings against the employee in which a

personnel action was ultimately sustained and any records that were contained in the employee's personnel file and introduced into evidence at the hearing.

9. Hearing Decision

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

AR 4218 (g)

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

b. The decision of the Board shall be given to the Superintendent and he/she shall enforce and follow the decision. A copy of the decision shall be delivered to the employee or his/her designated representative personally or by certified mail. The decision of the Board shall be final.

**E. Compulsory Dismissal**

The District shall not employ or retain in employment any person who has been convicted of any sex offense as defined in Education Code 44010 or any controlled substance offense as defined in Education Code 44011. If any such conviction is reversed and the person acquitted or charges dismissed except as otherwise provided below, the employee may be reemployed by the District, although reemployment is not a guarantee. (Education Code 45123)

**F. Compulsory and Optional Leave of Absence**

1. An employee charged with a mandatory leave of absence offense as defined in Education Code 44940 shall be placed immediately on compulsory leave of absence by the Superintendent or designee for not more than ten days after entry of judgment in the criminal proceedings, unless the leave is extended as provided below. Once the employee is placed on leave of absence, he/she is subject to the provisions of Education Code section 44940.5.

2. An employee charged with an optional leave of absence offense as defined in Education Code 44940 may be placed

immediately on compulsory leave of absence by the Superintendent or designee in accordance with the provisions of Education Code section 44940.5.

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

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

AR 4218 (h)

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

5. The Superintendent may extend an employee's compulsory leave of absence by giving him/her notice (as described in Section D4, above), within ten calendar days after the entry of judgment in the criminal proceedings that he/she will be dismissed after seven normal work days unless he/she requests a hearing as described in Section D6, above. Employee compensation during the period of compulsory leave shall be made in accordance with law. (Education Code 44940.5)

#### *Legal Reference:*

##### EDUCATION CODE

35161 *Delegation of powers and duties*

44009 *Conviction of specified crimes*

44010 *"Sex offense" defined*

44011 *"Controlled substance offense" defined*

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

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

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

45109 *Fixing of duties*

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

*45123 Employment after conviction of sex or narcotics offense*  
*45304 Suspension for reasonable cause; filing of charges; employee charged with mandatory or optional leave of absence offense*

## Regulation

approved: September 11, 2001  
revised: December 15, 2005

**PALERMO UNION SCHOOL DISTRICT**  
Palermo, California

**EMPLOYMENT RESPONSIBILITIES**

Each classified position represents a service that is important in carrying on the program of public education in this district. The community expects much from its public employees in return for adequate salaries and responsible conditions of employment.

The first responsibility of any employee is to do well in the position to which he/she has been assigned. The safety and health of students are affected by the condition of the buildings, ground and equipment. The Governing Board believes that since the classified employees are working in an educational environment and many are working closely with students they should attempt to conduct themselves in a manner that will serve as a good example to youth.

Public education is a cooperative venture involving the services of many people. The district functions best when there is a spirit of cooperation among all employees -- when the employees have confidence in and respect for the rights and responsibilities of others.

Each employee should seek to learn as much as possible about the total program of the schools, for he/she will be called upon frequently to answer questions about the schools and to interpret the school program to the community.

**CODE OF ETHICS  
CLASSIFIED EMPLOYEES**

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

**AS A SCHOOL EMPLOYEE I WILL:**

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

SOURCE: CALIFORNIA SCHOOL EMPLOYEES' ASSOCIATION

**TEACHER AIDES/PARAPROFESSIONALS**

The Governing Board favors the use of instructional aides and considers them to be members of a professional team dedicated to the best interests of students. By relieving teachers of duties, noncertificated persons allow teachers to dedicate their skills, knowledge and efforts primarily to teaching. Instructional aides also can help teachers to provide individualized student instruction and an enriched educational program.

The district shall employ instructional aides in those classes where they will provide the greatest benefit to students, taking into consideration such factors as large class size, student age group and teacher workload.

The Superintendent or designee shall ensure that all instructional aides have appropriate training and supervision.

*(cf. 4212 - Appointment and Conditions of Employment)*  
*(cf. 5142 - Safety)*

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

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

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

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

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

*(cf. 4131 - Staff Development)*  
*(cf. 4212 - Appointment and Conditions of Employment)*  
*(cf. 4215 - Evaluation/Supervision)*  
*(cf. 4231 - Staff Development)*

**TEACHER AIDES/PARAPROFESSIONALS** (continued)

Instructional aides expected to be courteous, discrete, cooperative and dependable, to employ high ethical standards as they work with students, and to respect school rules, district policies and administrative regulations.

*(cf. 1240 - Volunteer Assistance)*

The Board recognizes the need for qualified teaching staff and encourages instructional aides to seek opportunities leading to a teaching credential. The district shall support these efforts to the extent possible, particularly as they relate to obtaining bilingual or special education credentials.

*(cf. 4112.21 - District Interns)*

*Legal Reference:*

EDUCATION CODE

45340-45349 Instruction aides, especially

45344 Duties and qualifications

45344.5 Required passing of basic skills proficiency examination by instructional aides

45347 Instructional aides as classified employees

45350-45354 Teacher assistants

45360-45367 Teacher aides, especially

45361.5 Required passing of basic skills proficiency examination by teacher aides

54480-54486 Special Teacher Employment Programs

69619.1 Establishment of program

CODE OF REGULATIONS, TITLE 5

12065-12070 Teacher aides

Revised: March 8, 2008

## **TEACHER AIDES/PARAPROFESSIONALS**

### **Qualifications and Duties of Paraprofessionals**

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

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

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

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

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

### **Additional Qualifications and Duties of Paraprofessionals in Title I Programs**

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

*(cf. 6171 - Title I Programs)*

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

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

In accordance with the definition adopted by the State Board of Education, "two years of study" shall be equal to 48 semester units or equivalent quarter units.

2. Possession of an associate's degree or higher

**TEACHER AIDES/PARAPROFESSIONALS** (continued)

3. Knowledge of and ability to assist in instructing reading, writing, and mathematics, as demonstrated through a local or state assessment

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

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

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

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

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

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

**TEACHER AIDES/PARAPROFESSIONALS** (continued)

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

**Parental Notification**

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

*(cf. 5145.6 - Parental Notifications)*

**TEACHER AIDES/PARAPROFESSIONALS**

**ATTESTATION REGARDING TITLE I PARAPROFESSIONALS**

School: \_\_\_\_\_ Principal: \_\_\_\_\_

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

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**STAFF DEVELOPMENT**

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

*(cf. 4261.3 - Professional Leaves)*

The Superintendent or designee shall develop a program of ongoing staff development designed to improve general workplace skills and/or skills and knowledge specific to the duties of each classified position. Staff development activities may include, but not be limited to, training in:

1. The role of classified staff in achieving district goals

*(cf. 0000 - Vision)*

*(cf. 0200 - Goals for the School District)*

*(cf. 6010 - Goals and Objectives)*

2. The use of technologies to improve job performance

*(cf. 0440 - District Technology Plan)*

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

*(cf. 6020 - Parent Involvement)*

4. Issues related to student health, safety and welfare

*(cf. 3515.5 - Sex Offender Notification)*

*(cf. 5131.6 - Alcohol and Other Drugs)*

*(cf. 5141.4 - Child Abuse Reporting Procedures)*

*(cf. 5145.3 - Nondiscrimination/Harassment)*

*(cf. 5145.7 - Sexual Harassment)*

*(cf. 5149 - At-Risk Students)*

The district's staff development plan for classified staff shall be coordinated with school improvement objectives and school-site plans.

*(cf. 0420.1 - School-Based Program Coordination)*

*(cf. 0420.2 - School Improvement Program)*

*(cf. 0420.3 - School-Based Student Motivation and Maintenance Program)*

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

*(cf. 3350 - Travel Expenses)*

**STAFF DEVELOPMENT** (continued)

The Superintendent shall provide a means for continual evaluation of the benefit of these activities to staff and the district.

*(cf. 0500 - Accountability)*

*Legal Reference:*

EDUCATION CODE

44032 *Travel expense payment*

44579-44579.4 *Instructional Time and Staff Development Reform Program*

44670.1-44680.8 *School personnel staff development and resource centers*

45380-45387 *Retraining and study leave (classified)*

56240-56245 *Staff development; service to persons with disabilities*

GOVERNMENT CODE

3543.2 *Scope of representation of employee organization*

CODE OF REGULATIONS, TITLE 5

6000-6002 *Instructional Time and Staff Development Reform Program*

PUBLIC EMPLOYMENT RELATIONS BOARD DECISIONS

*San Mateo City School District, (1984) PERB Dec. No. 375, 8 PERC 15021*

*Jefferson School Districts, (1980) PERB Dec. No. 133, 4 PERC 11117*

**STAFF DEVELOPMENT**

Staff development opportunities for classified staff may include, but are not limited to, the following:

1. Visits to other schools and school districts
2. Local and state conferences involving other classified personnel
3. Training classes and workshops offered by the district, county office of education, institution of higher education, private organization or other appropriate agency

*(cf. 4261.3 - Professional Leaves)*

4. Access to a professional library, which shall include books and reference materials related to job responsibilities

**Classified Classroom Instructional Aides**

Classified classroom instructional aides may participate in staff development related to the academic content of the core curriculum and/or instructional methods, including teaching strategies, classroom management and other training designed to improve student performance. Such staff development shall be conducted on days that are not counted as instructional time and shall meet other requirements of Education Code 44579.1.

*(cf. 4131 - Staff Development)*

*(cf. 6111 - School Calendar)*

Probationary and permanent classified employees shall not receive regular pay for staff development unless they are required to report for duty. (Education Code 44579.1)

For the SB 1193 staff development day(s), classified employees will be paid at their regular hourly rate.

**PERSONAL ILLNESS/INJURY LEAVE**

Full-time classified employees are entitled to 12 days leave of absence, with full pay, for personal illness or injury per fiscal year. Employees who serve less than a full fiscal year or less than five days a week shall be granted comparable sick leave in proportion to the time they work. (Education Code 45191)

*(cf. 4161/4261 - Leaves)*

*(cf. 4161.9/4261.9/4361.9 - Catastrophic Leave Program)*

An employee may take sick leave at any time during the year, even if credit for sick leave has not yet been accrued. However, new employees shall not be entitled to more than six days of sick leave until they have completed six months of active service with the district. (Education Code 45191)

When available paid leave has been exhausted, the employee shall be so notified in writing and shall be offered an opportunity to request additional leave. (Education Code 45195)

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

Unused days of sick leave shall be accumulated from year to year without limitation. (Education Code 45191)

A classified employee who leaves the district after at least one year of employment and accepts employment in another district or county office of education within one year shall have transferred with him/her the total amount of accumulated sick leave. This provision shall not apply to employees whose employment is terminated due to action initiated by the district for cause. The district may not require new employees to waive their leave accumulated in a previous district. (Education Code 45202)

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

**Purposes of Leave**

Sick leave may be used by classified employees for the following purposes:

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

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

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

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

3. Cases of personal necessity (Education Code 45207)

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

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

5. Cases of industrial accidents or illnesses when leave granted specifically for that purpose has expired (Education Code 45192)

*(cf. 4261.11 - Industrial Accident/Illness Leave)*

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

**Notification of Absence**

An employee shall notify the district of his/her need to be absent as soon as such need is known, so that substitute services may be secured as necessary. This notification shall include an estimate of the expected duration of absence. If the absence becomes longer than estimated, the employee shall so notify the district. If the duration of absence becomes shorter than estimated, the employee shall notify the district by not later than 2:00 p.m. of the day preceding the day on which he/she intends to return to work. If failure to so notify the district results in a substitute being secured, the cost of the substitute shall be deducted from the employee's pay.

**Verification Requirements**

After any absence due to illness or injury, the employee shall verify the absence by submitting a completed and signed district absence form to the District Personnel Office.

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

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

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

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

*(cf. 4032 - Reasonable Accommodation)*

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

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

*(cf. 4030 - Nondiscrimination in Employment)*

*(cf. 4031 - Complaints Concerning Discrimination in Employment)*

**Accrual of Leave**

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

*(cf. 4161/4261/4361 - Leaves)*

*(cf. 4161.9/4261.9/4361.9 - Catastrophic Leave Program)*

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

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

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

**Compensation**

After an employee has exhausted all paid leave, including personal illness or injury leave he/she shall receive his/her regular salary minus the amount actually paid to any substitute employed to fill the position. The employee is entitled to this differential pay for a period up to five months. (Education Code 45196)

**Extension of Leave**

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

When a classified employee has exhausted all available leaves, paid or unpaid, and is still not able to resume his/her duties, the employee shall be placed on a reemployment list for a period of 39 months. If during this time the employee becomes able, he/she shall be reemployed in the first vacancy in the classification of his/her previous assignment. The employee's reemployment shall take preference over all other applicants except those laid off for lack of work or funds, in which case the employee shall be ranked according to his/her seniority. (Education Code 45195)

*Legal Reference:*

EDUCATION CODE

*45190 Leaves of absence and vacations*

*45191 Leaves of absence for illness and injury*

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

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

*45196 Salary; deductions during sick leave*

*45202 Transfer of accumulated sick leave and other benefits*

revised: June 16, 2010

**INDUSTRIAL ACCIDENT/ILLNESS LEAVE**

Leave of absence for industrial accidents or illnesses shall be provided to classified employees.

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

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

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

*(cf. 4157.2/4257.2/4357.2 - Ergonomics)*

*(cf. 4161/4261 - Leaves)*

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

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

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

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

*(cf. 4261.1 - Personal Illness/Injury Leave)*

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

**INDUSTRIAL ACCIDENT/ILLNESS LEAVE (continued)**

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

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

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

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

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

*Legal Reference:*

EDUCATION CODE

*45191 Leave of absence for illness or injury*

*45192 Industrial accident and illness leaves for classified employees*