

MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL

The Governing Board recognizes that effective management is vital to the success of district operations. Management personnel are expected to demonstrate initiative and good judgment in the development, implementation and oversight of district programs. Supervisors shall promote the productivity, professional growth and teamwork of district staff.

The Board shall adopt policies related to management, supervisory and confidential personnel insofar as they are needed to comply with law and describe circumstances of employment within the district.

The Board may, by resolution, establish or abolish positions designated as senior management of the classified service.

Personnel

The Governing Board designates the following as management and confidential positions. All individuals serving in these positions and such other positions that may be designated shall be members of the management team.

Directors
Principals
Assistant Principals
Business Manager
Maintenance and Operations Director
District Director of Special Programs
Psychologists
District Coordinator of Special Education
Superintendent's Secretary (confidential)
Personnel Technician/Receptionist (confidential)
Payroll Technician (confidential)

Legal Reference (see next page)

MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL (continued)

Legal Reference:

EDUCATION CODE

35031 *Term of employment*

45100.5 *Senior management positions*

45104.5 *Abolishment of senior classified management positions*

45108.5 *Definitions of senior classified management employees*

45108.7 *Waiver of provisions of 45108.5*

45128 *Overtime*

45130 *Exclusion from overtime provisions*

45256.5 *Designation of certain positions*

GOVERNMENT CODE

3540.1 *Definitions*

3543.4 *Management position; representation*

3545 *Appropriateness of unit; basis*

COURT DECISIONS

Auer v. Robbins, (1997) 117 S.Ct. 905

MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL

Management, supervisory and confidential positions shall be defined as follows:
(Government Code 3540.1)

1. Management employees are those having significant responsibilities for formulating district policies or administering district programs and who serve in a position which the Governing Board has legally designated as a management position.
2. Supervisory employees are those who, using independent judgment:
 - a. Have the authority to make recommendations to the Superintendent concerning employee hiring, transfer, suspension, layoff, recall, promotion, discharge, assignment, reward, or discipline
 - b. Assign work to employees and direct them
 - c. Adjust employee grievances

(cf. 2100 - Administrative Staff Organization)

3. Confidential employees are those employees who, in the regular course of their duties, have access to or possess information relating to the district's employer-employee relations.

Certificated Management

The following certificated management employees shall have the same rights, benefits and duties of the certificated employees except the right to permanent status in these positions.

Principals
Assistant Principals
District Director of Special Programs
Psychologists
District Coordinator of Special Education

(cf. 4100 series)

(cf. 4312.1 - Contracts)

(cf. Negotiated Bargaining Agreement)

MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL (continued)

Non-Certificated Management , Supervisory and Confidential Personnel

Employees designated as non-certificated management, supervisory or confidential, are part of the classified service and shall have the same rights, benefits and duties except the right to permanent status in these positions. (Education Code 45100.5)

Directors
Business Manager
Maintenance and Operations Director
Superintendent's Secretary (confidential)
Personnel Technician/Receptionist (confidential)
Payroll Technician (confidential)

(cf. 4100 and 4200 series)
(cf. Negotiated Bargaining Agreement)

RECRUITMENT AND SELECTION

Recruitment and Screening

When a management position vacancy is known or anticipated, the Superintendent shall determine the need and qualifications for the position. As soon as possible, notice of the vacancy shall be published within the district and may be published through other recruitment sources.

In selecting candidates for formal interview, the Superintendent shall:

1. Review valid transfer requests
2. Review the current applicant file
3. Establish an interview committee
4. Arrange interviews for the best qualified applicants
5. Provide the interview committee with each candidate's complete personnel folder, a set of questions to be asked, rating sheets, and related instructions.

The interview committee shall rank candidates in order of priority. When all interviews have been completed, committee members may discuss candidates before recommending finalists. All discussions and recommendations shall be confidential.

Selection

When finalists have been identified, the Superintendent shall interview in person or by telephone those individuals given as references who have had the greatest opportunity to observe the finalists' professional activities.

The Superintendent shall check references and submit a recommendation to the Board. No management position shall be filled without concurrence of both the Superintendent and the Board.

If the Superintendent cannot make a recommendation in full confidence, he/she shall be directed to declare the position open and undertake a new search.

When a final recommendation is approved, the Superintendent shall contact the finalist to obtain acceptance of an offer of employment.

The salary and placement of newly elected staff shall be determined by the Board. Employment shall be subject to the possession of valid, appropriate credentials.

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

RECRUITMENT AND SELECTION (continued)

As soon as the position is filled, the Superintendent or designee shall notify all candidates who were not selected.

CONTRACTS

In order to attract qualified staff, the Governing Board may employ certificated administrators and supervisors and senior management of the classified staff on a contract basis.

The Board will not offer multiyear contracts to supervisors or administrators other than the Superintendent.

Pursuant to law, employee contracts shall include a provision specifying the legal maximum cash settlement that the employee may receive upon termination of the contract. (Government Code 53260)

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

Legal Reference:

EDUCATION CODE

35030 *Title of deputy, associate or assistant superintendent for certain positions*

35031 *Term of employment*

44842 *Automatic declining of employment*

44843 *Notice of employment (to county superintendent)*

44929.20 *Continuing contract*

44951 *Continuation in position unless notified*

GOVERNMENT CODE

53260-53264 *Employment contracts*

LOAD/SCHEDULING/HOURS OF EMPLOYMENT

The Governing Board designates in accordance with law salaried positions which are exempt from overtime. Persons holding these positions work whatever hours are necessary in order to fulfill their assignments. Their positions are set apart from other positions by virtue of the duties, flexibility of hours, salary, benefit structure and authority which they entail.

Employees serving in positions excluded from overtime shall not be unreasonably discriminated against as a result of the exclusion. (Education Code 45130)

Legal Reference:

EDUCATION CODE

45130 *Exclusion from overtime provisions*

UNITED STATES CODE, TITLE 29

201-215 *Fair Labor Standards Acts*

CODE OF FEDERAL REGULATIONS, TITLE 29

511-800 *Department of Labor Relations*

COURT DECISIONS

Abshire v. County of Kern, (9th Cir. 1990) 908 F.2d 483

PROMOTION/DEMOTION/REASSIGNMENT

The Governing Board may promote, demote, and reassign management and confidential employees when such action is determined to be in the best interest of the district. The Board shall consider the recommendation of the Superintendent when making decisions related to promotion, demotion and reassignment.

The Superintendent shall ensure that the district complies with all applicable statutory deadlines and due process procedures.

(cf. 4317.3 - Personnel Reduction)

Legal Reference:

EDUCATION CODE

35031 Senior management employee in the classified service: nonreelection

44660-44665 Evaluation and assessment of performance of certificated employees

44850.1 No tenure in administrative or supervisory positions

44896 Transfer of administrator or supervisor to teaching position

44951 Continuation in position unless notified (position requiring administrative or supervisory credential)

45101 Definitions (including disciplinary action, cause)

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

COURT DECISIONS

Jefferson v. Compton Unified School District, (1993) 14 Cal.App. 4th 32

Ellerbroek v. Saddleback Valley Unified School District, (1981) 177 Cal. Rptr. 910

Hentschke v. Sink, (1973) 34 Cal.App. 3d 19

PROMOTION/DEMOTION/REASSIGNMENT

Certificated Management and Supervisory Personnel

Certificated employees holding an administrative or supervisory credential may be released and placed in a different position for the following year.

Before March 15, the Governing Board shall meet and determine whether the identified employee may be released from his/her position effective the end of the school year and reassigned to a different position.

By March 15, the employee shall be notified of the Board's action by registered mail or in person. If the notice is presented to the employee in person, the employee's signature acknowledging receipt of the notice shall be obtained on the district's copy of the written notice. (Education Code 44951)

Before July 1, the Board shall take additional action to bring into effect the release and reassignment of employees who received the above notice.

If the reassignment is to a teaching position, the Board shall give the employee, if requested, a written statement of the reasons for the reassignment. If these reasons include incompetency as an administrator or supervisor, the district shall have completed an evaluation of the employee within the 60-day period immediately preceding the notice date. (Education Code 44896)

Classified Management, Supervisory and Confidential Personnel

For personnel in this classification:

"Demotion" means assignment to an inferior position or status, without the employee's written voluntary consent. (Education Code 45101)

"Reclassification" means the upgrading of a position to a higher classification as a result of the gradual increase of the duties being performed by the incumbent in such position. (Education Code 45101)

If assigned to a position within a bargaining unit, management, supervisory and confidential classified employees shall be reclassified at the discretion of the district.

(cf. 4312.1 - Contracts)

Any decision regarding the demotion of a permanent management, supervisory or confidential classified employee shall be subject to the causes, appeal rights, and procedure set forth in district policy, regulation or collective bargaining agreements for disciplinary action against classified employees. (Education Code 45113)

PROMOTION/DEMOTION/REASSIGNMENT (continued)

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

The Board shall provide 45 days' notice before demoting a deputy, associate or assistant superintendent or employee in the senior management of the classified service. (Education Code 35031)

In initiating the involuntary reassignment of a classified manager, the Superintendent shall provide the classified manager with prior written notice of the intent to reassign him/her to a designated position. The notice will inform the manager of the specific reasons for the reassignment, his/her right to a hearing, and the time within which an appeal must be filed. The notice shall also contain a card or paper for requesting a hearing. The classified manager may, within five days after receiving such notice, file a written request for hearing before the Board.

The request for hearing shall be filed in the office of the Superintendent. If the manager fails to file a request for hearing as specified above, he/she will be deemed to have waived the right to a hearing and the reassignment may be made effective immediately.

If a request for hearing is filed as specified above, a hearing shall be scheduled before the Board. The Board shall hear the matter, with the party initiating the reassignment bearing the burden of proving the reasons for the reassignment. The hearing shall be recorded by a reporter or tape recording. After the hearing, the Board shall determine whether to approve, modify, or revoke the reassignment. The decision of the Board shall be final.

TRANSFERS

The Superintendent shall assess the needs of the district and place management personnel in positions which will meet those needs.

Voluntary Transfer

The Governing Board recognizes that management employees may wish to request transfers to vacant positions for which they are qualified in order to promote their professional growth and broaden their management background.

Involuntary Transfer

Involuntary transfers within an administrator's classification (same job title) shall be initiated at the recommendation of the Superintendent in the best interests of the district.

Legal Reference:

EDUCATION CODE

35035 *Additional powers and duties of superintendent*

COURT DECISIONS

Hentschke v. Sink (1973) 34 Cal.App. 3d 19

TRANSFERS

Voluntary Transfer

Requests for voluntary transfers shall be submitted to the Superintendent or designee at the time of the known vacancy. The employee will be notified in writing of the decision within 15 days.

Transfer requests may be withdrawn by the employee at any time.

Involuntary Transfer

Before recommending the involuntary transfer or lateral end-of-the-year rotation of administrators, the Superintendent shall confer with the affected employee and notify him/her of the intent to recommend the transfer or rotation and the specific reasons for the transfer. For transfers effective at the beginning of the school year, this conference shall take place before May 30.

If, after the conference, the recommendation to transfer or rotate administrators is made, the Superintendent or designee shall so notify the affected employee at least 20 days before the transfer, except in emergency situations.

EVALUATION/SUPERVISION

Certificated Management

The Governing Board shall establish and define job responsibilities for administrative personnel. The evaluation and assessment of the competency of administrative personnel shall be based on:

1. The administrator's progress toward agreed-upon goals, objectives and tasks
2. General expectations of performance which recognize professional responsibility, accountability and attitude
3. The fulfillment of responsibilities contained in the specific job descriptions adopted by the Board
4. Additional factors as determined by the Superintendent

The evaluation shall recognize the worth and needs of the individual in the total working environment and shall provide direction toward the improvement of his/her effectiveness.

Each administrator shall be evaluated formally at least once each school year. Evaluation is a continuous process and may occur between scheduled periods at the request of the administrator, the administrator's immediate supervisor or any higher supervisor.

Formal management evaluations shall be recorded in writing on a form prescribed by the Superintendent. The evaluation shall include recommendations for improvement if needed. Assistance shall be provided by the district to this end.

The evaluation report must be signed by the evaluator and the evaluatee and may be reviewed by the evaluator's immediate supervisor at the request of either party. The signature of the evaluated administrator shall not show agreement with the evaluation unless so indicated above his/her signature.

A copy of the report shall be given to the administrator within 10 working days following the evaluation and no later than 30 days before the last scheduled school day. The employee may make a written response to the evaluation at any time up to 10 days after receiving a copy of the evaluation. The response shall be attached to the evaluation and permanently placed in the employee's personnel file.

For 12-month employees, the written evaluation report shall be given to the administrator no later than June 30 and a discussion of the evaluation shall be held no later than July 30 of the year in which the evaluation takes place. (Education Code 44663)

EVALUATION/SUPERVISION (continued)

The Superintendent shall develop regulations and procedures for the evaluation of all administrative and supervisory personnel. These written regulations and procedures shall be available to administrative and supervisory personnel. (Education Code 35171)

Classified Management Employees

Classified management personnel will be evaluated according to the procedures developed by the Superintendent or designee and approved by the Board. The evaluation shall include recommendations for improvement if needed. Assistance shall be provided by the district to this end.

The evaluation form must be signed by both the person being evaluated and the supervisor making the evaluation. The signature of the evaluated management employee shall not show agreement with the evaluation unless so indicated above the signature of the employee. The employee may make written response to the evaluation at any time up to 10 days after receiving a copy of the evaluation. The response shall be attached to the evaluation and placed in the employee's personnel file.

Confidential Personnel

The Superintendent shall develop appropriate procedures for the evaluation of confidential personnel. Evaluations shall be administered in the same manner and time schedule as classified employees who have similar but nonconfidential positions with the district.

Legal Reference:

EDUCATION CODE

33039 State guidelines for teacher evaluation procedures

35171 Availability of rules and regulations for evaluation of performance

44660-44665 Evaluation and assessment of performance of certificated employees

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

GOVERNMENT CODE

3543.2 Scope of representation (re evaluation procedures)

STAFF EVALUATING TEACHERS

The Governing Board expects that administrators assigned to evaluate teachers shall:

1. Possess a valid administrative credential
2. Be competent in the instructional methodologies used by the teachers they evaluate
3. Be skilled in the supervision of instruction and in techniques and procedures related to the evaluation of instruction
4. Be familiar with district curriculum priorities, policies and practices, district standards for student progress, and district policies and procedures related to personnel supervision, performance evaluation and staff development
5. Participate in at least one inservice per year

(cf. 4115 - Evaluation/Supervision)

(cf. 4131 - Staff Development)

(cf. 4131.5 - Professional Growth)

(cf. 4331 - Staff Development)

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

(cf. 5123 - Promotion/Acceleration/Retention)

(cf. 6011 - Academic Standards)

(cf. 6141 - Curriculum Development and Evaluation)

(cf. 6146.1 - High School Graduation Requirements/Standards of Proficiency)

(cf. 6146.5 - Elementary School Promotion/Standards of Proficiency)

The Superintendent shall ensure that administrators who evaluate teachers meet the above criteria.

(cf. 4315 - Evaluation/Supervision)

Legal Reference:

EDUCATION CODE

33039 *Guidelines for teacher evaluation*

44660-44665 *Evaluation and assessment of performance of certificated employees*

44681-44689 *Administrator training and evaluation*

GOVERNMENT CODE

3543.2 *Scope of representation (re evaluation procedures)*

PERSONNEL REDUCTION

When the district needs to reduce the kind and/or number of management staff, layoff proceedings shall be initiated at the recommendation of the Superintendent and after consultation with legal counsel.

Certificated Management

When the district needs to reduce the number and/or kind of certificated management staff and also needs to reduce the overall number of certificated employees, the district shall proceed pursuant to the requirements of Education Code 44955. By March 15, affected employees shall be notified of the Board's action by registered mail or in person.

When the district needs to reduce the number and/or kind of certificated management staff and intends to place the displaced personnel in other certificated positions (causing no reduction in the overall number of certificated employees of the district), the district shall proceed pursuant to Education Code 44951. By March 15, affected employees shall be notified of the Board's action by registered mail or in person. If the notice is presented in person, the employee's signature acknowledging receipt of the notice shall be obtained on the district's copy of the notice.

During the time period between five days after enactment of the Budget Act and August 15, the Board may determine that the total revenue limit per ADA has not increased by at least two percent and that the district needs to reduce the number and/or kind of management staff pursuant to Education Code 44955.5. In such a situation, the Board shall adopt a schedule of notice and hearings and shall otherwise proceed pursuant to Education Code 44951 or 44955.

An employee who has served as an administrator in the district for at least two years shall have permanent certificated status in the district as a teacher. (Education Code 44893, 44894, 44929.21) However, the period of employment in the administrative position is not included when calculating seniority related to layoff and reemployment, except for: (Education Code 44956.5)

1. Site administrators who are entitled to earn up to three years' seniority for these purposes.
2. Administrators who were initially employed in an administrative position before July 1, 1983.

Classified Management/Confidential Employees

Classified managers shall be entitled to the same procedure and have the same layoff rights as all other classified employees.

(cf. 4217.3 - Layoff/Rehire)

(cf. 4300 - Management, Supervisory and Confidential Personnel)

PERSONNEL REDUCTION (continued)

Senior Management of the Classified Service

The Board may by resolution abolish any or all positions of the senior management of the classified service. Any employee occupying a senior management position abolished by Board action shall become a member of the classified or certificated service in a position to which he/she would otherwise be entitled if the employee had not been in a senior management position. (Education Code 45104.5)

Legal Reference:

EDUCATION CODE

- 44951 Continuation in position unless notified*
- 44955 Certificated employee layoff*
- 44955.5 Termination of certificated employees; insufficient increase in revenue limits*
- 44956 Reemployment rights of laid-off certificated employees*
- 44956.5 Seniority of certificated administrators*
- 45100.5 Senior management positions*
- 45104.5 Abolition of position*
- 45108.5 Senior management employee*
- 45114 Layoff and reemployment procedures*
- 45117 Notice of layoff*
- 45298 Reemployment and promotional exam*
- 45308 Order of layoff and reemployment*

**CODE OF ETHICS
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL EMPLOYEES**

A management, supervisor or confidential school employee's behavior must conform to an ethical code. The code must be idealistic and at the same time practical, so that it can apply reasonably to all. The professional acknowledges that the schools belong to the public they serve for the purpose of providing educational opportunities to all and provides professional leadership in the school and community. This responsibility requires standards of exemplary professional conduct. It must be recognized that the professional's actions will be viewed and appraised by the community, associates and students. To these ends, the professional subscribes to the following statements of standards.

The management, supervisory, confidential school employee:

1. Makes the well-being of students the fundamental element in all decision-making and actions.
2. Fulfills professional responsibilities with honesty and integrity.
3. Supports the principle of due process and equal treatment under the law.
4. Obeys local, state and national laws and does not knowingly join or support organizations that advocate, directly or indirectly, the overthrow of the government.
5. Implements the Governing Board of Education's policies and administrative rules and regulations.
6. Pursues appropriate measures to correct those laws, policies and regulations that are not consistent with sound educational goals.
7. Avoids using positions for personal gain through political, social, religious, economic or other influence.
8. Accepts academic degrees or professional certification used in relationship with professional responsibilities only from duly accredited institutions.
9. Maintains the standards and seeks to improve the effectiveness of the profession through research and continuing professional development.
10. Honors all contracts until fulfillment or release.
11. Seeks to involve the public and keep them honestly informed.
12. Recommends the employment, development, promotion and retention of the best possible personnel to assure a quality educational program.

SOURCE: ASSOCIATION OF CALIFORNIA SCHOOL ADMINISTRATORS

STAFF DEVELOPMENT

The Governing Board recognizes that professional development opportunities enhance employee effectiveness and contribute to personal growth. Staff development for management, supervisory and confidential personnel shall be designed to build leadership skills and overall management efficiency.

The Superintendent shall develop a plan for administrator support and development activities which is based on a systematic assessment of unmet needs of district students and staff and which is tied to the district's vision and goals. The Board desires that all administrators share in planning activities which are pertinent to their specific areas of responsibility.

(cf. 0000 - Vision)

(cf. 0200 - Goals for the School District)

(cf. 6010 - Goals and Objectives)

Activities may include but not be limited to professional education conferences; courses in institutions of higher education; workshops offered by the district, county office of education or state; small-group activities; self-directed learning; observation of other schools; and follow-up activities that help staff implement newly acquired skills.

(cf. 4361 - Leaves)

Within budget parameters, the Superintendent may approve participation in activities which will benefit individual administrators and enhance their contributions to the district.

(cf. 3350 - Travel Expenses)

The Superintendent shall provide a means for continual evaluation of the benefit of these activities to staff and students, including evaluation by participating administrators.

(cf. 0500 - Accountability)

Legal Reference:

EDUCATION CODE

44670.3-44670.5 *Staff development and resource centers*

44681-44689.5 *Administrator training and evaluation*

LEAVES

The Governing Board recognizes the need to provide for leaves which management and confidential personnel may take for justifiable reasons. Such leaves shall be authorized pursuant to Board policies and/or administrative regulations.

Certificated management and supervisory employees shall be entitled to those leave provisions provided in the certificated agreement unless otherwise specified in Board policy, administrative regulations or individual contract.

Classified management, supervisory and confidential employees shall be entitled to those leave provisions provided in the classified negotiated agreement unless otherwise specified in Board policy, administrative regulations or individual contract.

Legal Reference:

EDUCATION CODE

44036 Leaves of absence for judicial and official appearances

44037 Unlawful to encourage exemption from jury duty

44940 Sex offenses and narcotic offenses; compulsory leave

44962-44988 Leaves of absence (certificated)

45190-45210 Leaves of absence (classified)