

**CONCEPTS AND ROLES**

The Tehama County Superintendent of Schools recognizes that the success of Tehama County Department of Education students and programs hinges on effective personnel. The County Superintendent desires to establish safe and supportive working conditions that will attract and retain staff members who are highly qualified and dedicated to the education and welfare of students. The Department's personnel policies and related regulations shall be designed to ensure a supportive, positive climate and shall be consistent with collective bargaining agreements and in conformance with state and federal law and regulations.

As the legal representative of the Department in negotiations with employee representatives, the County Superintendent shall set goals and guidelines for collective bargaining, select the bargaining team, maintain communications during the bargaining process, and adopt the negotiated contract. Terms and conditions of employment which have been negotiated and stated in employee contracts shall have the force of policy. The County Superintendent shall hear employee complaints and appeals when such hearings are in accordance with Department policy or negotiated agreements. The County Superintendent shall also adopt wage and salary schedules and shall commit budget funds for staff development so that staff members may continue developing their skills.

The County Superintendent has primary responsibility for overseeing the Department's personnel system. To support this effort, the County Superintendent shall approve a framework for sound hiring practices.

The County Superintendent or designee shall assign and supervise the work of all employees and shall evaluate their work in accordance with effective Department accountability systems. The County Superintendent or designee also shall recommend disciplinary action against employees when warranted pursuant to Department policy, administrative regulations and/or state or federal law.

The County Superintendent recognizes that every employee has a stake in the Department's successful operation. The County Superintendent encourages all Department employees to express their ideas, concerns and proposals related to the improvement of working conditions and the total educational program. The County Superintendent shall establish procedures whereby he/she will receive and consider employee suggestions.

*Legal Reference: (see next page)*

**CONCEPTS AND ROLES (continued)**

*Legal Reference:*

EDUCATION CODE

*1040-1047 Duties and responsibilities of county boards*

*1290-1302 Staff county offices*

*1310-1319 Classified county school employees*

*1700-1940 County school service fund programs and services*

*35020 Duties of employees fixed by governing board*

*35035 Powers and duties of superintendent*

*35160 Powers of governing board*

GOVERNMENT CODE

*3540-3549.3 Public education employer-employee relations*

**DRUG AND ALCOHOL-FREE WORKPLACE**

The Tehama County Superintendent of Schools believes that the maintenance of a drug- and alcohol-free workplace is essential to staff and student safety and to help ensure a productive and safe work and learning environment.

An employee shall not unlawfully manufacture, distribute, dispense, possess, or use any controlled substance while on duty, on Department property, or at a school-related activity or event. (Government Code 8355; 41 USC 701)

In addition, an employee shall not use or be under the influence of any alcoholic beverage or controlled substance, as defined in 21 USC 812, while on duty, on Department property, or at a Department-related activity or event.

The County Superintendent or designee shall notify employees of the Department's prohibition against drug use and the actions that will be taken for violation of such prohibition. (Government Code 8355; 41 USC 701)

An employee shall abide by the terms of this policy and shall notify the Department, within five days, of his/her conviction for violation in the workplace of any criminal drug statute. (Government Code 8355; 41 USC 701)

The County Superintendent or designee shall notify the appropriate federal granting or contracting agency within 10 days after receiving notification, from an employee or otherwise, of any conviction for a violation occurring in the workplace. (41 USC 701)

In accordance with law and the Department's collective bargaining agreements, the County Superintendent or designee shall take appropriate disciplinary action, up to and including termination, against an employee for violating the terms of this policy and/or shall require the employee to satisfactorily participate in and complete a drug assistance or rehabilitation program approved by a federal, state, or local health or law enforcement agency or other appropriate agency.

The County Superintendent or designee shall establish a drug-free awareness program to inform employees about: (Government Code 8355; 41 USC 701)

1. The dangers of drug abuse in the workplace
2. The Department's policy of maintaining a drug-free workplace
3. Available drug counseling, rehabilitation, and employee assistance programs
4. The penalties that may be imposed on employees for drug abuse violations occurring in the workplace

**DRUG AND ALCOHOL-FREE WORKPLACE (continued)**

*Legal Reference:*

EDUCATION CODE

44011 *Controlled substance offense*

44425 *Conviction of controlled substance offenses as grounds for revocation of credential*

44836 *Employment of certificated persons convicted of controlled substance offenses*

44940 *Compulsory leave of absence for certificated persons*

44940.5 *Procedures when employees are placed on compulsory leave of absence*

45123 *Employment after conviction of controlled substance offense*

45304 *Compulsory leave of absence for classified persons*

GOVERNMENT CODE

8350-8357 *Drug-free workplace*

UNITED STATES CODE, TITLE 20

7111-7117 *Safe and Drug Free Schools and Communities Act*

UNITED STATES CODE, TITLE 21

812 *Schedule of controlled substances*

UNITED STATES CODE, TITLE 41

701-707 *Drug-Free Workplace Act*

CODE OF FEDERAL REGULATIONS, TITLE 21

1308.01-1308.49 *Schedule of controlled substances*

COURT DECISIONS

*Cahoon v. Governing Board of Ventura USD, (2009) 171 Cal.App.4th 381*

*Ross v. RagingWire Telecommunications, Inc., (2008) 42 Cal.4th 920*

*Management Resources:*

WEB SITES

*California Department of Alcohol and Drug Programs: <http://www.adp.ca.gov>*

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

*U.S. Department of Labor: <http://www.dol.gov>*

**NONDISCRIMINATION IN EMPLOYMENT**

The Tehama County Superintendent of Schools prohibits discrimination against and/or harassment of Department employees and job applicants at any Department site or activity on the basis of actual or perceived race, religion, color, national origin, ancestry, age, marital status, pregnancy, physical or mental disability, medical condition, genetic information, veteran status, gender, sex, or sexual orientation.

Prohibited discrimination or harassment consists of unwelcome conduct, whether verbal, physical, or visual, based on any of the prohibited categories of discrimination listed above that it is so severe and pervasive that it adversely affects an individual's employment opportunities or has the purpose or effect of unreasonably interfering with his/her work performance or creating an intimidating, hostile, or offensive work environment.

The County Superintendent also prohibits retaliation against any Department employee or job applicant who complains, testifies, assists, or in any way participates in the Department's complaint procedures instituted pursuant to this policy.

Any Department employee who engages or participates in prohibited discrimination or harassment, or who aids, abets, incites, compels, or coerces another to engage or attempt to engage in such behavior, shall be in violation of this policy and shall be subject to disciplinary action, up to and including dismissal.

The County Superintendent designates the following position(s) as Coordinator(s) for Nondiscrimination in Employment:

Human Resource Services Administrator  
1135 Lincoln Street  
Red Bluff, CA 96080  
530-527-5811

Any employee or job applicant who believes that he/she has been or is being discriminated against or harassed in violation of Department policy or regulation should immediately contact his/her supervisor, the Coordinator, or the County Superintendent who shall advise the employee or applicant about the Department's procedures for filing, investigating, and resolving any such complaints.

Complaints regarding employment discrimination or harassment shall immediately be investigated in accordance with AR 4031 - Complaints Concerning Discrimination in Employment.

Any supervisory or management employee who observes or has knowledge of an incident of prohibited discrimination or harassment shall report the incident to his/her supervisor, the Coordinator, or County Superintendent as soon as practical after the incident. All other employees are encouraged to report such incidents to their supervisor immediately.

**NONDISCRIMINATION IN EMPLOYMENT** (continued)

**Training and Notifications**

The County Superintendent or designee shall provide training to employees about how to recognize harassment and discrimination, how to respond appropriately, and components of the Department's policies and regulations regarding discrimination.

The County Superintendent or designee has the ongoing responsibility to publicize the provisions of the Department's nondiscrimination policy to students, parents, employees, agents of the governing board and the general public. Such publication shall be included in each announcement, bulletin, or application form that is used in employee recruitment. (34 CFR 100.6, 106.9)

The Department's policy shall be posted in all offices including staff lounges and meeting rooms. (5 CCR 4960)

*Legal Reference: (see next page)*

**NONDISCRIMINATION IN EMPLOYMENT** (continued)*Legal Reference:*EDUCATION CODE

200-262.4 Prohibition of discrimination

CIVIL CODE

51.7 Freedom from violence or intimidation

GOVERNMENT CODE

11135 Unlawful discrimination

12900-12996 Fair Employment and Housing Act

PENAL CODE

422.56 Definitions, hate crimes

CODE OF REGULATIONS, TITLE 2

7287.6 Terms, conditions and privileges of employment

CODE OF REGULATIONS, TITLE 5

4900-4965 Nondiscrimination in elementary and secondary education

UNITED STATES CODE, TITLE 20

1681-1688 Title IX of the Education Amendments of 1972

UNITED STATES CODE, TITLE 29

621-634 Age Discrimination in Employment Act

794 Section 504 of the Rehabilitation Act of 1973

UNITED STATES CODE, TITLE 42

2000d-2000d-7 Title VI, Civil Rights Act of 1964, as amended

2000e-2000e-17 Title VII, Civil Rights Act of 1964, as amended

2000ff-2000ff-11 Genetic Information Nondiscrimination Act of 2008

2000h-2-2000h-6 Title IX of the Civil Rights Act of 1964

12101-12213 Americans with Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 28

35.101-35.190 Americans with Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 34

100.6 Compliance information

104.7 Designation of responsible employee for Section 504

104.8 Notice

106.8 Designation of responsible employee and adoption of grievance procedures

106.9 Dissemination of policy

COURT DECISIONSShephard v. Loyola Marymount, (2002) 102 CalApp.4th 837*Management Resources:*EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONSQuestions and Answers: Religious Discrimination in the Workplace, 2008Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act, October 2002Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors, June 1999U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTSNotice of Non-Discrimination, January 1999WEB SITESCalifornia Department of Fair Employment and Housing: <http://www.dfeh.ca.gov>U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/about/offices/list/ocr>U.S. Equal Employment Opportunity Commission: <http://www.eeoc.gov>

Policy

adopted: April 20, 2011

Revised: July 30, 2015

**TEHAMA COUNTY DEPARTMENT OF EDUCATION**

Red Bluff, California

## COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT

### Complaint Procedure

Any complaint by an employee or job applicant alleging discrimination or harassment shall be addressed in accordance with the following procedures:

1. **Notice and Receipt of Complaint:** Any employee or job applicant (the "complainant") who believes he/she has been subjected to prohibited discrimination or harassment shall promptly inform his/her supervisor, the Tehama County Department of Education Coordinator for Nondiscrimination in Employment, or the Tehama County Superintendent of Schools.

The complainant may file a written complaint in accordance with this procedure, or if he/she is an employee, may first attempt to resolve the situation informally with his/her supervisor.

A supervisor or manager who has received information about an incident of discrimination or harassment, or has observed such an incident, shall report it to the Coordinator, whether or not the complainant files a written complaint.

The written complaint should contain the complainant's name, the name of the individual who allegedly committed the act, a description of the incident, the date and location where the incident occurred, any witnesses who may have relevant information, other evidence of the discrimination or harassment, and any other pertinent information which may assist in investigating and resolving the complaint.

2. **Investigation Process:** The Coordinator shall initiate an impartial investigation of an allegation of discrimination or harassment within five school days of receiving notice of the behavior, regardless of whether a written complaint has been filed or whether the written complaint is complete.

The Coordinator shall meet with the complainant to describe the Department's complaint procedure and discuss the actions being sought by the complainant in response to the allegation. The Coordinator shall inform the complainant that the allegations will be kept confidential to the extent possible, but that some information may be revealed as necessary to conduct an effective investigation.

If the Coordinator determines that a detailed fact-finding investigation is necessary, he/she shall begin the investigation immediately. As part of this investigation, the Coordinator should interview the complainant, the person accused, and other persons who could be expected to have relevant information.



**COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT**  
(continued)

When necessary to carry out his/her investigation or to protect employee or student safety, the Coordinator may discuss the complaint with the County Superintendent or designee, Department legal counsel, or the Department's risk manager.

The Coordinator also shall determine whether interim measures, such as scheduling changes, transfers, or leaves, need to be taken before the investigation is completed to ensure that further incidents do not occur. The Coordinator shall ensure that such interim measures do not constitute retaliation.

3. **Written Report on Findings and Corrective Action:** No more than 30 days after receiving the complaint, the Coordinator shall conclude the investigation and prepare a written report of his/her findings. This timeline may be extended for good cause. If an extension is needed, the Coordinator shall notify the complainant and explain the reasons for the extension.

The report shall include the decision and the reasons for the decision and shall summarize the steps taken during the investigation. If a determination has been made that discrimination or harassment occurred, the report also shall include any corrective action(s) that have been or will be taken to address the behavior, correct the effect on the complainant, and ensure that retaliation or further discrimination or harassment does not occur.

The report shall be presented to the complainant, the person accused, and the County Superintendent or designee.

**Other Remedies**

In addition to filing a discrimination or harassment complaint with the Department, a person may also file a complaint with either the California Department of Fair Employment and Housing (DFEH) or the Equal Employment Opportunity Commission (EEOC). The time limits for filing such complaints are as follows:

1. To file a valid complaint with DFEH, within one year of the alleged discriminatory act(s), unless an exception exists pursuant to Government Code 12960 (Government Code 12960)
2. To file a valid complaint directly with EEOC, within 180 days of the alleged discriminatory act(s) (42 USC 2000e-5)

**COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT**  
(continued)

3. To file a valid complaint with EEOC after first filing a complaint with DFEH, within 300 days of the alleged discriminatory act(s) or within 30 days after the termination of proceedings by DFEH, whichever is earlier (42 USC 2000e-5)

*Legal Reference:*

EDUCATION CODE

200-262.4 *Prohibition of discrimination*

GOVERNMENT CODE

12920-12921 *Nondiscrimination*

12940-12948 *Discrimination prohibited; unlawful practices, generally*

UNITED STATES CODE, TITLE 20

1681-1688 *Title IX of the Education Amendments of 1972*

UNITED STATES CODE, TITLE 29

621-634 *Age Discrimination in Employment Act*

794 *Section 504 of the Rehabilitation Act of 1973*

UNITED STATES CODE, TITLE 42

2001d-2001d-7 *Title VI, Civil Rights Act of 1964*

2001e-2001e-17 *Title VII, Civil Rights Act of 1964, as amended*

2000ff-2000ff-11 *Genetic Information Nondiscrimination Act of 2008*

2001h-2-2001h-6 *Title IX of the Civil Rights Act of 1964*

12101-12213 *Americans with Disabilities Act*

CODE OF FEDERAL REGULATIONS, TITLE 28

35.101-35.190 *Americans with Disabilities Act*

CODE OF FEDERAL REGULATIONS, TITLE 34

106.8 *Designation of responsible employee for Title IX*

*Management Resources:*

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONS

Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act, October 2002

Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors,

June 1999

WEB SITES

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

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

**REASONABLE ACCOMMODATION**

Except when undue hardship would result to the Tehama County Department of Education, the Tehama County Superintendent of Schools or designee shall provide reasonable accommodation:

1. In the job application process, to any qualified job applicant with a disability
2. To enable any qualified employee with a disability to perform the essential functions of the position he/she holds or desires to hold or to enjoy equal benefits or other terms, conditions, and privileges of employment as other similarly situated employees without disabilities

The Department designates the position specified in SP 4030 - Nondiscrimination in Employment as the coordinator of its efforts to comply with the Americans with Disabilities Act (ADA) and to investigate any and all related complaints.

**Definitions**

*Disability*, with respect to an individual, is defined as any of the following: (Government Code 12926; 20 CFR 1630.2)

1. A physical or mental impairment that limits one or more of the major life activities
2. A record of such an impairment
3. Being regarded as having such an impairment

*Limits* shall be determined without regard to mitigating measures such as medications, assistive devices, prosthetics or reasonable accommodations, unless the mitigating measure itself limits a major life activity. (Government Code 12926)

*Essential functions* are the fundamental job duties of the position the individual with a disability holds or desires. The term does not include the marginal functions of the position. (Government Code 12926; 29 CFR 1630.2)

*Reasonable accommodation* means: (Government Code 12926; 29 CFR 1630.2)

1. For a qualified job applicant with a disability, modifications or adjustments to the job application process that enable him/her to be considered for the position he/she desires

**REASONABLE ACCOMMODATION** (continued)

2. For a qualified employee with a disability, modifications or adjustments to the work environment, or to the manner or circumstances under which the position the employee holds or desires is customarily performed, that enable him/her to perform the essential functions of that position or to enjoy equal benefits and privileges of employment as are enjoyed by the Department's other similarly situated employees without disabilities

*Qualified individual with a disability* means a job applicant or employee with a disability who: (29 CFR 1630.15, 1630.2)

1. Satisfies the requisite skill, experience, education, and other job-related requirements of the employment position he/she holds or desires
2. Can perform the essential functions of the position with or without reasonable accommodation
3. Would not pose a significant risk of substantial harm, which cannot be eliminated or reduced by reasonable accommodation, to himself/herself or others in the job he/she holds or desires

*Undue hardship* is a determination based on an individualized assessment of current circumstances that shows that the provision of a specific accommodation would cause significant difficulty or expense to the Department. (29 CFR 1630.2)

**Request for Reasonable Accommodation**

When requesting reasonable accommodation, an employee or his/her representative shall inform the employee's supervisor that he/she needs a change at work for a reason related to a medical condition. The supervisor shall inform the Coordinator of the employee's request as soon as practicable.

When requesting reasonable accommodation for the hiring process, a job applicant shall inform the Coordinator that he/she will need a reasonable accommodation during the process.

When the disability or the need for accommodation is not obvious, the Coordinator may ask the employee to supply reasonable documentation about his/her disability. In requesting this documentation, the Coordinator shall specify the types of information that are being sought about the employee's condition, the employee's functional limitations, and the need for reasonable accommodation. The employee may be asked to sign a limited release allowing the coordinator to submit a list of specific questions to his/her health care or vocational professional.

**REASONABLE ACCOMMODATION** (continued)

If the documentation submitted by the employee does not indicate the existence of a qualifying disability or explain the need for reasonable accommodation, the Coordinator shall request additional documentation that specifies the missing information. If the employee does not submit such additional documentation in a timely manner, the Coordinator may require him/her to submit to an examination by a health care professional selected and paid for by the Department.

The Department may make a medical or psychological inquiry of a job applicant or require him/her to submit to a medical or psychological examination after he/she has been given a conditional offer of employment but before the commencement of his/her job duties, provided the inquiry or examination is job-related, consistent with business necessity, and required for all incoming employees in the same job classification. (Government Code 12940)

The Coordinator shall not request any job applicant's or employee's genetic information except as authorized by law. (42 USC 2000ff-1, 2000ff-5)

In accordance with law, the Coordinator shall take steps to ensure the confidentiality of information related to medical conditions or history. As applicable, he/she shall notify the supervisor or manager of the qualified individual of any reasonable accommodation granted the individual and may notify first aid and safety personnel when the disability of the qualified individual may require emergency treatment. (42 USC 12112)

**Granting Reasonable Accommodation**

Upon receiving a request for reasonable accommodation from a qualified individual with a disability, the Coordinator shall:

1. Determine the essential functions of the job involved
2. Engage in an informal, interactive process with the individual to review the request for accommodation, identify the precise limitations resulting from the disability, identify potential accommodations, and assess their effectiveness
3. Develop a plan for reasonable accommodation which will enable the individual to perform the essential functions of the job or gain equal access to a benefit or privilege of employment without imposing undue hardship on the Department

**REASONABLE ACCOMMODATION** (continued)

A determination of undue hardship should be based on several factors, including: (29 CFR 1630.2)

- a. The nature and net cost of the accommodation needed, taking into consideration the availability of tax credits and deductions and/or outside funding
- b. The overall financial resources of the facility making the accommodation, the number of persons employed at this facility, and the effect on expenses and resources of the facility
- c. The overall financial resources, number of employees, and the number, type, and location of facilities of the Department
- d. The type of operation of the Department, including the composition, structure, and functions of the workforce and the geographic separateness and administrative or fiscal relationship of the facility making the accommodation to other Department facilities
- e. The impact of the accommodation on the operation of the facility, including the impact on the ability of other employees to perform their duties and the impact on the facility's ability to conduct business

The Coordinator may confer with the site administrator, any medical advisor chosen by the Department, and/or other Department staff before making a final decision as to the accommodation.

**Reasonable Accommodation Committee**

The Coordinator may appoint a committee to review or assist in the development of appropriate plans to reasonably accommodate qualified individuals who request modifications or adjustments in their work duties or environment because of known physical or mental disabilities.

Committee members shall be selected on the basis of their knowledge of the specific functions and duties required in the position, the physical work environment, available accommodations, and other relevant issues. The committee may include a Department administrator, site administrator, medical advisor or rehabilitation specialist, and as necessary, a certificated and/or classified employee. Membership may change on a case-by-case basis.

**REASONABLE ACCOMMODATION** (continued)

At the Coordinator's discretion, the employee or applicant requesting accommodation may participate in the committee's meetings. If the employee or applicant is excluded from the committee's meetings, the Coordinator shall communicate with him/her so that he/she has the opportunity to interact and contribute to planning the reasonable accommodation.

**Appeal Process**

Any qualified individual with a disability who is not satisfied with the decision of the Coordinator may appeal in writing to the County Superintendent or designee. This appeal shall be made within 10 working days of receiving the decision and shall include:

1. A clear, concise statement of the reasons for the appeal
2. A statement of the specific remedy sought

The County Superintendent or designee shall consult with the Coordinator and review the appeal, together with any available supporting documents. The County Superintendent or designee shall give the individual his/her decision within 15 working days of receiving the appeal.

Any further appeal for reasonable accommodation shall be considered a complaint concerning discrimination in employment and may be taken to the County Superintendent in accordance with the Department's procedure for such complaints.

*Legal Reference: (see next page)*

**REASONABLE ACCOMMODATION (continued)**

*Legal Reference:*

CIVIL CODE

51 *Unruh Civil Rights Act*

GOVERNMENT CODE

12900-12996 *Fair Employment and Housing Act*

UNITED STATES CODE, TITLE 29

701-794e *Vocational Rehabilitation Act*

UNITED STATES CODE, TITLE 42

2000ff-1-2000ff-11 *Genetic Information Nondiscrimination Act of 2008*

12101-12213 *Americans with Disabilities Act*

CODE OF FEDERAL REGULATIONS, TITLE 28

35.101-35.190 *Americans with Disabilities Act, especially:*

35.107 *Designation of employee*

36.101-36.608 *Nondiscrimination on the basis of disability by public facilities*

CODE OF FEDERAL REGULATIONS, TITLE 29

1630.2 *Definitions*

COURT DECISIONS

*A.M. v. Albertsons, LLC*, (2009) Cal.App.4th 455

*Colmenares v. Braemar Country Club, Inc.*, (2003) 29 Cal.4th 1019

*Chevron USA v. Echazabal*, (2002) 536 U.S. 73, 122 S.Ct. 2045

*US Airways, Inc. v. Barnett*, (2002) 535 U.S. 391, 122 S.Ct. 1516

*Management Resources:*

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONS

Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act, October 2002

WEB SITES

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

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

U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/about/offices/list/ocr>



**EMPLOYEE USE OF TECHNOLOGY**

The Tehama County Superintendent of Schools recognizes that technological resources can enhance employee performance by offering effective tools to assist in providing a quality instructional program, facilitating communications with parents/guardians, students, and the community, supporting Tehama County Department of Education and school operations, and improving access to and exchange of information. The County Superintendent expects all employees to learn to use the available technological resources that will assist them in the performance of their job responsibilities. As needed, employees shall receive professional development in the appropriate use of these resources.

Employees shall be responsible for the appropriate use of technology and shall use the Department's technological resources primarily for purposes related to their employment.

Employees shall be notified that computer files and electronic communications, including email and voice mail, are not private. Technological resources shall not be used to transmit confidential information about students, employees, or Department operations without authority.

**Online/Internet Services**

The County Superintendent or designee shall ensure that all Department computers with Internet access have a technology protection measure that prevents access to visual depictions that are obscene or child pornography and that the operation of such measures is enforced. The County Superintendent or designee may disable the technology protection measure during use by an adult to enable access for bona fide research or other lawful purpose. (20 USC 6777; 47 USC 254)

To ensure proper use, the County Superintendent or designee may monitor employee usage of technological resources, including the accessing of email and stored files. Monitoring may occur at any time without advance notice or consent. When passwords are used, they must be known to the County Superintendent or designee so that he/she may have system access.

The County Superintendent or designee shall establish administrative regulations and an Acceptable Use Agreement which outline employee obligations and responsibilities related to the use of Department technology. He/she also may establish guidelines and limits on the use of technological resources. Inappropriate use may result in a cancellation of the employee's user privileges, disciplinary action, and/or legal action in accordance with law, Department policy, and administrative regulation.

The County Superintendent or designee shall provide copies of related policies, regulations, and guidelines to all employees who use the Department's technological resources. Employees shall be required to acknowledge in writing that they have read and understood the Department's Acceptable Use Agreement.

## **EMPLOYEE USE OF TECHNOLOGY (continued)**

### **Use of Cellular Phone or Mobile Communications Device**

Any employee that uses a cell phone or mobile communications device in violation of law, Department policy, or administrative regulation shall be subject to discipline and may be referred to law enforcement officials as appropriate.

#### *Legal Reference:*

##### EDUCATION CODE

51870-51874 *Education technology*

52270-52272 *Education technology and professional development grants*

52295.10-52295.55 *Implementation of Enhancing Education Through Technology grant program*

##### GOVERNMENT CODE

3543.1 *Rights of employee organizations*

##### PENAL CODE

502 *Computer crimes, remedies*

632 *Eavesdropping on or recording confidential communications*

##### VEHICLE CODE

23123 *Wireless telephones in vehicles*

23123.5 *Mobile communication devices; text messaging while driving*

23125 *Wireless telephones in school buses*

##### UNITED STATES CODE, TITLE 20

6751-6777 *Enhancing Education Through Technology Act, Title II, Part D, especially:*

6777 *Internet safety*

##### UNITED STATES CODE, TITLE 47

254 *Universal service discounts (E-rate)*

##### CODE OF FEDERAL REGULATIONS, TITLE 47

54.520 *Internet safety policy and technology protection measures, E-rate discounts*

#### *Management Resources:*

##### WEB SITES

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

American Library Association: <http://www.ala.org>

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

Federal Communications Commission: <http://www.fcc.gov>

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

## **EMPLOYEE USE OF TECHNOLOGY**

### **Online/Internet Services: User Obligations and Responsibilities**

Employees are authorized to use Tehama County Department of Education equipment to access the Internet or other online services in accordance with Tehama County Superintendent of Schools policy, the Department's Acceptable Use Agreement, and the user obligations and responsibilities specified below.

1. The employee in whose name an online services account is issued is responsible for its proper use at all times. Employees shall keep account information, home addresses, and telephone numbers private. They shall use the system only under the account number to which they have been assigned.
2. Employees shall use the system safely, responsibly, and primarily for work-related purposes.
3. Employees shall not access, post, submit, publish, or display harmful or inappropriate matter that is threatening, obscene, disruptive, or sexually explicit, or that could be construed as harassment or disparagement of others based on their race, ethnicity, national origin, sex, gender, sexual orientation, age, disability, religion, or political beliefs.
4. Employees shall not use the system to promote unethical practices or any activity prohibited by law, Department policy, or administrative regulations.
5. Employees shall not use the system to engage in commercial or other for-profit activities without permission of the County Superintendent or designee.
6. Copyrighted material shall be posted online only in accordance with applicable copyright laws.
7. Employees shall not attempt to interfere with other users' ability to send or receive email, nor shall they attempt to read, delete, copy, modify, or forge other users' email.
8. Employees shall not develop any classroom or work-related web sites, blogs, forums, or similar online communications representing the Department or using Department equipment or resources without permission of the County Superintendent or designee. Such sites shall be subject to rules and guidelines established for Department online publishing activities including, but not limited to, copyright laws, privacy rights, and prohibitions against obscene, libelous, and slanderous content. Because of the unfiltered nature of blogs, any such site shall include a disclaimer that the Department is not responsible for the content of the messages. The Department retains the right to delete material on any such online communications.

**EMPLOYEE USE OF TECHNOLOGY** (continued)

9. Users shall report any security problem or misuse of the services to the County Superintendent or designee.

**All Personnel**

**POLICY DEVELOPMENT COMMITTEE**

The purpose of the Policy Development Committee is as follows:

- To develop and purpose Board and/or County Superintendent Policy for Series 4000, 5000, and 6000 for the Tehama County Department of Education
- To review and revise existing Policy for Series 4000, 5000, and 6000, as needed
- To participate in policy development
- To review final product prior to submission to the Board and/or County Superintendent for adoption
- To review existing policies as recommended.

Membership:

The committee will have six standing members representing the following groups:

- Administrator, Human Resource Services
- Two certificated unit members
- Two classified unit members
- One confidential employee representative

**CERTIFICATED PERSONNEL**

The Tehama County Superintendent of Schools recognizes that teachers and other certificated personnel work closely with students in carrying out the Tehama County Department of Education's educational goals. The County Superintendent or designee shall ensure that the duties, responsibilities, and Department's expectations for certificated positions are clearly defined and made known to each member of the certificated staff.

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

The County Superintendent strongly encourages certificated staff to continually improve their skills and pursue excellence within their profession.

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

*Legal Reference:*

EDUCATION CODE

90 *Definition, certificated and certified*

1700-1940 *County school service fund programs and services*

44006 *Certificated person*

GOVERNMENT CODE

3543.2 *Scope of representation*

**All Personnel**

SP  
4111(a)  
4211  
4311

**RECRUITMENT AND SELECTION**

The Tehama County Superintendent of Schools desires to employ the most highly qualified and appropriate person available for each open position in order to improve student achievement and efficiency in Tehama County Department of Education operations.

The County Superintendent or designee shall recruit candidates for open positions based on an assessment of the Department's needs for specific skills, knowledge and abilities. He/she shall develop job descriptions that accurately describe all essential and marginal functions and duties of each position, and shall disseminate job announcements to ensure a wide range of candidates.

The County Superintendent or designee shall develop selection procedures that identify the best possible candidate for each position based on screening processes, interviews, observations and recommendations from previous employers. He/she may establish an interview committee, as appropriate, to rank candidates and recommend finalists. All discussions and recommendations shall be confidential in accordance with law.

During job interviews, applicants may be asked to describe or demonstrate how they will be able to perform the duties of the job. No inquiry shall be made with regard to any category of discrimination prohibited by state or federal law.

For each position, a recommendation will be made to the County Superintendent or designee, one candidate who meets all qualifications established by law and the Department for the position. No person shall be employed by the Department without the recommendation or endorsement of the County Superintendent or designee.

**Recruiting Incentives for Teachers**

Contingent upon available funding, the County Superintendent or designee may provide incentives to recruit credentialed teachers to teach in any Department school ranked in the bottom half of the state Academic Performance Index. Such incentives may include, but are not limited to, signing bonuses, improved work conditions, teacher compensation or housing subsidies. (Education Code 44735)

*Legal Reference: (see next page)*

SP  
4111(b)  
4211  
4311

## RECRUITMENT AND SELECTION (continued)

### *Legal Reference:*

#### EDUCATION CODE

200-262.4 *Prohibition of discrimination on the basis of sex*  
44066 *Limitations on certification requirement*  
44259 *Teaching credential; exception; designated subjects; minimum requirements*  
44735 *Incentive grants for recruiting teachers for low-performing schools*  
44740-44741 *Personnel Management Assistance Teams*  
44750-44754.5 *Regional teacher recruitment centers*  
44830-44831 *Employment of certificated persons*  
44858 *Age or marital status in certificated positions*  
44859 *Prohibition against certain rules and regulations re residency*  
45103-45138 *Employment (classified employees)*  
49406 *Examination for tuberculosis*  
52051 *Academic Performance Index*

#### GOVERNMENT CODE

12900-12996 *Fair Employment and Housing Act, including:*  
12940-12956 *Discrimination prohibited; unlawful practices*

#### UNITED STATES CODE, TITLE 8

1324a *Unlawful employment of aliens*  
1324b *Unfair immigration related practices*

#### UNITED STATES CODE, TITLE 42

2000d-2000d-7 *Title VI, Civil Rights Act of 1964*  
2000e-2000e-17 *Title VII, Civil Rights Act of 1964 as amended*  
2000h-2-2000h-6 *Title IX, 1972 Education Act Amendments*  
12101-12213 *Americans with Disabilities Act*

#### CODE OF FEDERAL REGULATIONS, TITLE 28

35.101-35.190 *Americans with Disabilities Act*

### *Management Resources:*

#### CSBA PUBLICATIONS

Maximizing School Board Leadership: Human Resources, 1996

#### WEB SITES

*Equal Employment Opportunity Commission:* <http://www.eeoc.gov>  
*Department of Fair Employment and Housing:* <http://www.dfeh.ca.gov>  
*CalTeach:* <http://www.calteach.org>  
*Education Job Opportunities Information Network:* <http://www.edjoin.org>



**All Personnel**

SP 4111.2

4211.2

**LEGAL STATUS REQUIREMENT**

4311.2

The Tehama County Superintendent of Schools shall ensure that the Tehama County Department of Education employs only those individuals who are lawfully authorized to work in the United States.

The County Superintendent or designee shall verify the employment eligibility of all persons hired by completing the U.S. Citizenship and Immigration Services Form I-9, Employment Eligibility Verification, for each individual hired and ensure that the Department does not knowingly hire or continue to employ any person not authorized to work in the United States. (8 USC 1324a)

In accordance with law, the County Superintendent or designee shall ensure that Department employment practices do not unlawfully discriminate on the basis of citizenship status or national origin, including, but not limited to, discrimination against any refugees, grantees of asylum, or persons qualified for permanent or temporary residency.

*Legal Reference:*

UNITED STATES CODE, TITLE 8

*1324a Unlawful employment of aliens*

*1324b Unfair immigrant-related employment practices*

CODE OF FEDERAL REGULATIONS, TITLE 8

*274a.1-274a.14 Control of Employment of Aliens*

*Management Resources:*

U.S. CITIZENSHIP AND IMMIGRATION SERVICES PUBLICATIONS

Handbook for Employers: Instructions for Completing Form I-9, April 2009

WEB SITES

*U.S. Citizenship and Immigration Services: <http://www.uscis.gov>*

**All Personnel**

AR 4111.2

4211.2

**LEGAL STATUS REQUIREMENT**

4311.2

Within three business days of hire, the County Superintendent or designee shall physically examine the documentation presented by the employee establishing his/her identity and employment authorization as set forth in U.S. Citizenship and Immigration Services Form I-9. The employee may present either an original document which establishes both employment authorization and identity or two separate original documents which establish authorization and identity. Only unexpired documents are acceptable. (8 CFR 274a.2)

The County Superintendent shall: (8 CFR 274a.2)

1. Ensure that the documents presented appear to be genuine and relate to the individual
2. Complete the "Employer Review and Verification" section and sign the attestation with a handwritten signature or electronic signature on Form I-9

Persons employed for three business days or less must provide such documentation on their first day. (8 CFR 274a.2)

If unable to provide satisfactory documentation because the document was lost, stolen, or damaged, the employee shall furnish a receipt indicating that a replacement document has been requested. This receipt must be presented within three business days of the hire, and the replacement document must be provided within 90 days of the hire. (8 CFR 274a.2)

If an individual's employment authorization expires, the County Superintendent or designee must re-verify Form I-9, by noting the document's identification number and expiration date on the form, no later than the date the work authorization expires. The employee shall present a document that shows either continuing employment authorization or a new grant of work authorization. (8 CFR 274a.2)

The Tehama County Department of Education shall retain an individual's Form I-9 for three years after the date of the hire or for one year after the date his/her employment is terminated, whichever is later. (8 CFR 274a.2)

The County Superintendent or designee shall copy documents presented by an individual for verification and shall retain them with the individual's Form I-9. The documents shall be kept confidential and used only as needed to help justify the Department's past decision to accept the documents as valid.

**APPOINTMENT AND CONDITIONS OF EMPLOYMENT**

The Tehama County Superintendent of Schools shall approve the appointment of all certificated personnel. The position shall be reported to the Tehama County Board of Education at a regular meeting as information.

Individuals appointed to the certificated staff shall:

1. Possess the appropriate certification qualifications and register the certification document in accordance with law and Tehama County Department of Education policy (Education Code 44250-44279, 44330)
2. Demonstrate proficiency in basic skills as required by law and Department policy (Education Code 44252.5, 44830)
3. When required by the federal No Child Left Behind Act for teachers of core academic subjects, possess the qualifications of "highly qualified" teachers as defined in law, Department policy and administrative regulations (20 USC 6319)
4. Submit to fingerprinting as required by law (Education Code 44830.1)
5. Not have been convicted of a violent or serious felony as defined in Penal Code 667.5 or 1192.7, unless the individual has received a certificate of rehabilitation and pardon (Education Code 44830.1)
6. Not have been convicted of any sex offense as defined in Education Code 44010 (Education Code 44836)
7. Not have been required to register as a sex offender pursuant to Penal Code 290 because of a conviction for a crime where the victim was a minor under the age of 16 (Penal Code 290.95)
8. Not have been determined to be a sexual psychopath pursuant to Welfare and Institutions Code 6300-6332 (Education Code 44837)
9. Not have been convicted of any controlled substance offense as defined in Education Code 44011 (Education Code 44836)
10. Submit to a physical examination, tuberculosis testing and/or provide a medical certificate as required by law and Department policy (Education Code 44839, 49406)

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

11. Furnish a statement of military service and, if any was rendered, a copy of the discharge or release from service or, if no such document is available, other suitable evidence of the termination of service (Education Code 44838)
12. File the oath or affirmation of allegiance required by Government Code 3100-3109
13. Fulfill any other requirements as specified by law, collective bargaining agreement, Department policy or administrative regulation

*Legal Reference: (see next page)*

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

*Legal Reference:*

EDUCATION CODE

35161 Powers and duties  
44008 Effect of termination of probation  
44009 Conviction of specified crimes; definitions  
44010 Sex offense  
44011 Controlled substance offense  
44066 Limitation on certification requirements  
44250-44277 Credential types  
44330 Effect of registration of certification document  
44830.1 Felons; certificated positions; criminal record summary; fingerprints  
44836 Employment of person convicted of sex offenses or controlled substance offenses  
44837 Employment of sexual sociopath  
44838 Statement of military service  
44839 Medical certificate  
44839.5 Medical certificate for retirant  
49406 Examination for tuberculosis

GOVERNMENT CODE

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

PENAL CODE

290 Registration of sex offenders  
290.95 Disclosure by persons required to register as sex offenders  
667.5 Prior prison terms, enhancement of prison terms  
1192.7 Plea bargaining limitation

WELFARE AND INSTITUTIONS CODE

6300-6332 Sexual psychopaths

CODE OF REGULATIONS, TITLE 5

6100-6125 Teacher qualifications, No Child Left Behind Act

UNITED STATES CODE, TITLE 20

6319 Highly qualified teachers  
7801 Definitions, highly qualified teacher

CODE OF FEDERAL REGULATIONS, TITLE 34

200.55-200.57 Highly qualified teachers

**CONTRACTS**

When initially employed, certificated employees shall receive a written statement of their employment status and salary. In the case of temporary employees, this statement shall clearly indicate the temporary nature of the employment and the length of time for which the person is being employed. (Education Code 44916)

**Length of Contract**

Any certificated employee may be offered a continuing contract covering a period longer than one year but not exceeding four years. (Education Code 44929.20)

**Reemployment Notices**

By May 30 of each year, the Tehama County Superintendent of Schools may give, or mail by certified mail with return receipt requested, written notices to probationary and permanent certificated employees requesting that they notify the Tehama County Department of Education of their intent to remain in Department service for the next school year. This notice shall include a copy of Education Code 44842. If an employee, without good cause, fails to notify the Department before July 1 that he/she will remain in Department service, the employee may be deemed to have declined reemployment and the employee's services may be terminated on June 30 of that year. (Education Code 44842)

**Employee Notification**

By May 15 of each year, each classroom teacher shall notify the Department of his/her intent to return to a teaching position for the next school year. (Education Code 44832)

An employee on leave of absence shall notify the Department of his/her intent to remain in service the following year in accordance with law, Department policy and administrative regulation.

*Legal Reference:*

EDUCATION CODE

44832 Teachers; notice of intent to return

44842 Failure to provide notice or to report to work

44843 Notice of employment (to county superintendent)

44916 Time of classification; statement of employment status

44929.20 Continuing contract-districts w/less than 250 ADA

44955 Reduction in number of employees

**CERTIFICATION**

The Tehama County Superintendent of Schools recognizes that the Tehama County Department of Education's ability to provide a high-quality educational program is dependent upon the employment of certificated staff who are adequately prepared and have demonstrated proficiency in basic skills and in the subject matter to be taught. The County Superintendent or designee shall ensure that persons employed in positions requiring certification qualifications possess the appropriate credential or permit from the Commission on Teacher Credentialing (CTC) authorizing their employment in such positions.

All teachers of core academic subjects shall meet the requirements of the No Child Left Behind Act. (20 USC 6319, 7801; 5 CCR 6100-6125)

When a credentialed teacher or intern is not available, the Department may request that the CTC issue a short-term staff permit, provisional internship permit (PIP), visiting faculty permit, emergency permit, or credential waiver under the conditions and limitations provided in state or federal law.

When requesting a PIP, the County Superintendent or designee shall approve and post a notice of intent to employ the applicant in the identified position. (5 CCR 80021.1)

Before requesting a visiting faculty permit or emergency permit, the County Superintendent or designee shall annually approve a Declaration of need for Fully Qualified Educators. (Education Code 44300.1; 5 CCR 80026)

The County Superintendent or designee shall provide support and guidance to noncredentialed teachers in accordance with law to ensure the quality of the instructional program. He/she also may provide assistance and support to staff holding preliminary credentials to help them meet the qualifications required for the professional clear credential.

*Legal Reference: (see next page)*

## CERTIFICATION (continued)

### *Legal Reference:*

#### EDUCATION CODE

8360-8370 *Qualifications of child care personnel*  
32340-32341 *Unlawful issuance of a credential*  
35186 *Complaints regarding teacher vacancy or misassignment*  
41520-41522 *Teacher Credentialing Block Grant*  
42647 *Eligibility to issue warrants*  
44066 *Limitations on certification requirements*  
44200-44399 *Teacher credentialing, especially:*  
44250-44277 *Credential types; minimum requirements*  
44279.1-44279.7 *Beginning Teacher Support and Assessment Program*  
44300-44302 *Emergency permits and visiting faculty permits*  
44320.2 *Teachers' performance assessment*  
44325-44328 *District interns*  
44330-44355 *Certificates and credentials*  
44380-44387 *Alternative certification program*  
44395-44399 *National Board for Professional Teaching Standards*  
44420-44440 *Revocation and suspension of credentials*  
44450-44468 *University internship program*  
44560-44562 *Certificated Staff Mentoring Program*  
44735 *Teaching as a Priority Block Grant*  
44830-44929 *Employment of certificated persons; requirement of proficiency in basic skills*  
56060-56063 *Substitute teachers in special education*

#### CODE OF REGULATIONS, TITLE 5

6100-6125 *Teacher qualifications, No Child Left Behind Act*  
80001-80674.6 *Commission on Teacher Credentialing*

#### UNITED STATES CODE, TITLE 20

6311 *Parental notifications*  
6312 *Title I local educational agency plan*  
6319 *Highly qualified teachers*  
7801 *Definitions, highly qualified teacher*

#### CODE OF FEDERAL REGULATIONS, TITLE 34

200.55-200.57 *Highly qualified teachers*  
200.61 *Parent notification regarding teacher qualifications*

#### COURT DECISIONS

*Association of Mexican-American Educators et al. v. State of California and the Commission on Teacher Credentialing, (1993) 836 F.Supp. 1534*

*Management Resources: (see next page)*



**CERTIFICATION** (continued)

*Management Resources:*

COMMISSION ON TEACHER CREDENTIALING CODED CORRESPONDENCE

*08-11 Approval of Amendments to Title 5 Regulations Pertaining to Multiple Subject, Single Subject or Education Specialist Short-Term Staff Permit, July 18, 2008*

*08-09 New Online Credential View and Print Process, July 3, 2008*

*07-23 Visiting Faculty Permit, December 14, 2007*

*07-19 Designated Subjects Career Technical Education Teaching Credential, December 14, 2007*

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

*Teacher Supply in California: A Report to the Legislature, April 2008*

*Standards of Quality and Effectiveness for Professional Teacher Induction Programs, June 2008*

*The Administrator's Assignment Manual, rev. September 2007*

*Standards of Quality and Effectiveness for Professional Teacher Preparation Programs, rev. March 2007*

*California Standards for the Teaching Profession, July 1997*

U.S. DEPARTMENT OF EDUCATION GUIDANCE

*Improving Teacher Quality State Grants, rev. October 5, 2006*

WEB SITES

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

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

*California Teacher Credentialing Examinations: <http://www.ctcexams.nesinc.com>*

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

*Commission on Teacher Credentialing, Commission's Information Guide (for employers' use only): <http://www.ctc.ca.gov/credentials/cig>*

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

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

**INTERNS**

The Tehama County Superintendent of Schools may employ interns to fulfill the Tehama County Department of Education's need for additional instructional resources and to assist future teachers in meeting state credentialing requirements by linking teaching theory with practice.

The County Superintendent or designee may enter into an agreement with an accredited college or university to provide supervised teaching experiences within the Department as part of a teacher preparation program. He/she shall ensure that the Department collaborates with the college or university in the selection, placement, support, and performance assessment of interns.

The County Superintendent or designee shall ensure that interns employed by the Department possess an appropriate internship credential from the Commission on Teacher Credentialing (CTC) and that their prior experiences and personal qualifications adequately prepare them for the responsibilities of the position.

An intern may be assigned to provide the same service as a holder of a regular credential in accordance with the authorizations specified on the internship credential. (Education Code 44454, 44325, 44326, 44830.3)

To be assigned to teach core academic subjects, as defined in law, an intern must meet the definition of a "highly qualified" teacher adopted by the State Board of Education. (20 USC 6319, 7801; 5 CCR 6100-6112)

Terms of employment for interns shall be consistent with law and the Department's collective bargaining agreement, as applicable. Interns shall not displace certificated Department employees.

Interns shall receive systematic supervision and guidance by qualified personnel in order to enhance their instructional skills and knowledge. The County Superintendent or designee shall ensure that Department staff serving as supervisors, mentor teachers, or other support providers receive appropriate training to fulfill their responsibilities and maintain frequent communication with the interns they are assigned to assist.

Interns shall be provided with ongoing feedback regarding their performance and shall be formally evaluated at least once every year in accordance with Department policy and the Department's collective bargaining agreement.

**INTERNS** (continued)

When an intern has successfully completed the program, the County Superintendent may recommend to the CTC that the intern be awarded a preliminary or professional clear credential commensurate with his/her qualifications. (Education Code 44328, 44468, 44830.3)

The County Superintendent shall regularly evaluate the effectiveness of the program to determine whether changes are needed in the support and/or assignment of interns. The County Superintendent's evaluation shall be based on a report by a program designee, including, but not limited to, data on student performance in classes taught by interns, feedback from interns and supervisors, and the number of interns who successfully complete the program and obtain teaching or education specialist credentials.

*Legal Reference: (see next page)*

## INTERNS (continued)

### *Legal Reference:*

#### EDUCATION CODE

300-340 *English language education for immigrant children*  
44253.3-44253.4 *Certificate to provide services to limited-English-proficient students*  
44253.10 *Qualifications to provide specially designed academic instruction in English*  
44259 *Minimum requirements for teaching credential*  
44314 *Diversified or liberal arts program*  
44321 *CTC approval of internship programs*  
44325-44328 *District interns*  
44339-44341 *Teacher fitness*  
44380-44387 *Alternative certification program; increased funding for internship programs*  
44450-44468 *Teacher Education Internship Act of 1967 (university interns)*  
44560-44562 *Certificated Staff Mentoring Program*  
44830.3 *Employing district interns*  
44885.5 *District interns classified as probationary employees*  
52055.605 *Identification of high priority schools, High Priority Schools Grant Program*

#### CODE OF REGULATIONS, TITLE 5

6100-6126 *No Child Left Behind teacher requirements*  
13000-13017 *New Careers Program*  
80021.1 *Provisional internship permit*  
80055 *Internship credential*  
UNITED STATES CODE, TITLE 20  
6319 *Highly qualified teachers*  
7801 *Definitions, highly qualified teacher*

### *Management Resources:*

#### COMMISSION ON TEACHER CREDENTIALING CORRESPONDENCE

08-03 *Preparation of Intern Credential Holders Prior to Service as Teacher of Record as an Intern, March 3, 2008*

03-0028 *Changes in District Intern Programs as a Result of Senate Bill 187, December 22, 2003*  
*Implementation of SB 57, Early Completion Internship Option, March 10, 2003*

#### COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

*Administrator's Assignment Manual, 2008*

*CTC Credential Handbook, revised 1997*

*California Standards for the Teaching Profession, 1997*

*Standards of Quality and Effectiveness for Teacher Preparation Programs for Preliminary Multiple and Single Subject Teaching Credentials (including internship programs), rev. April 2008*

*Standards of Quality and Effectiveness for Education Specialist Credential Programs (Including University Internship Options) and Clinical Rehabilitative Services Credential Programs, December 1996*

#### U.S. DEPARTMENT OF EDUCATION GUIDANCE

*Improving Teacher Quality State Grants, rev. January 16, 2004*

#### WEB SITES

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

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

**INTERNS**

**University Internship Program**

The Tehama County Superintendent of Schools or designee shall cooperate with a college or university in the development, implementation, and coordination of the university internship program. (Education Code 44452, 44465, 44467)

The County Superintendent or designee may enter into an agreement with a college or university for the employment of competent and qualified college or university staff members to supervise and guide interns as they pursue their Tehama County Department of Education responsibilities. (Education Code 44461)

Salary payments for the supervision of interns may be made out of Department funds and may be met by proportionately reducing the salaries of paid interns. In such cases, no more than eight interns may be supervised by one staff member and the Department salary normally paid to interns may be reduced by no more than one-eighth to pay the supervisor's salary. The intern shall not be paid less than the minimum salary required by the state for a regularly certificated teacher. (Education Code 44462)

Before an intern enrolls in any college or university program to renew his/her internship credential, the County Superintendent or designee shall counsel the intern and plan a program for the first and subsequent renewals. (Education Code 44457)

**Department Internship Program**

The County Superintendent or designee shall, in consultation with a college or university, develop and implement a professional development plan for Department interns. This plan shall include, but not necessarily be limited to, the components described in Education Code 44830.3, including provisions for mandatory preservice training tailored to the grade level or class to be taught, additional instruction during the first year of service when required, and an annual evaluation of the Department intern. (Education Code 44830.3)

Each Department intern shall be assisted and guided by either of the following: (Education Code 44326, 44830.3)

1. A certificated employee who possesses valid certification at the same level or the same type of credential as the Department intern he/she serves, and who is selected through a competitive process adopted by the County Superintendent after consultation with the exclusive teacher representative unit

**INTERNS** (continued)

2. Personnel employed by a college or university to supervise student teachers

The County Superintendent or designee shall ensure that appropriate records are maintained, showing the credit earned by each Department intern. (Education Code 44327)

When a Department intern's credential expires, the County Superintendent or designee may recommend to the Commission on Teacher Credentialing (CTC) that the intern's credential be extended for one year. (Education Code 44325)

**Early Completion Option**

An intern may choose an early completion option leading to a five-year preliminary credential by completing the following requirements: (Education Code 44468)

1. Passing the CTC-approved assessment of knowledge of teaching foundations
2. Passing the CTC-approved Teaching Performance Assessment (TPA)
  - a. The intern shall first pass the assessment of teaching foundations described in item #1 before qualifying to take the TPA.
  - b. The intern may take the TPA only one time as part of the early completion option. An intern who is not successful on the TPA may complete his/her internship program and his/her scores shall be used to provide an individualized professional development plan that emphasizes preparation in areas where additional growth is warranted and waiving preparation in areas where the intern has demonstrated competence. The intern shall be required to retake and pass the TPA at the end of the internship in order to be considered for recommendation to the CTC.
3. For interns pursuing a preliminary multiple subjects credential, passing the reading instruction competence assessment described in Education Code 44283
4. Meeting the requirements for teacher fitness as set forth in Education Code 44339, 44340, and 44341

**Alternative Certification Program for Addressing Teacher Shortages**

To assist with recruitment of teachers in geographic and subject matter shortage areas, the Department shall implement an alternative certification program that encourages persons with work experience and others who already have a bachelor's degree in the field in which they plan to teach to obtain a permanent credential. (Education Code 44382)

**INTERNS** (continued)

The Department's alternative certification program shall be operated as a university internship program and/or Department internship program under the requirements specified above for the applicable program. (Education Code 44384)

**Enhanced Internship Program**

When granted additional state funding as an enhanced internship program, the Department's program shall: (Education Code 44387)

1. Provide interns, before they provide instructional services, with the greater of the following:
  - a. 120 hours of intensive preservice training focused on the teaching of English language learners
  - b. 40 hours of preservice training in addition to all other required training, including, but not limited to, training related to services for English language learners pursuant to Education Code 44253.3, 44253.4, and 44253.10
2. Provide all teacher interns with 40 hours of classroom observation, supervision, assistance, and assessment by one or more experienced teachers who possess valid certification to teach the same grade level and the same subject matter and who are employed by the Department, assigned to assist the interns at the interns' respective school sites, and, to the extent possible, teach at the same school sites as the interns
3. Maintain a ratio of one experienced teacher to no more than five interns at the same school site

Beginning in the second year of receipt of state funding for this program, the Department shall annually demonstrate that no "high priority school," defined as one that is ranked in deciles 1-5 on the Academic Performance Index, will have a higher percentage of interns than the Department average of interns per school in that year. (Education Code 44387, 52055.605)

**STAFF TEACHING STUDENTS OF LIMITED ENGLISH PROFICIENCY**

**Definitions**

*Instruction for English language development (ELD)* means instruction designed specifically for limited-English-proficient students to develop their listening, speaking, reading, and writing skills in English. (Education Code 44253.2)

*Specially designed academic instruction in English (SDAIE)* means instruction in a subject area, delivered in English, that is specially designed to meet the needs of limited-English-proficient students. (Education Code 44253.2)

*Content instruction delivered in the primary language* means instruction in a subject area delivered in the primary language of the student. (Education Code 44253.2)

**Teacher Qualifications**

The Tehama County Superintendent of Schools or designee shall ensure that a teacher providing instruction for ELD, SDAIE, and/or content instruction in any student's primary language possesses the appropriate authorization issued by the Commission on Teacher Credentialing (CTC).

The County Superintendent shall make reasonable efforts to assign teachers with appropriate ELD authorizations to those students who need ELD instruction. However, a teacher awarded a Certificate of Completion of Staff Development for SDAIE pursuant to Education Code 44253.11 shall be considered certified and competent to provide ELD instruction. (Education Code 44253.11)

A teacher may be provisionally assigned to provide instruction for ELD or SDAIE during the period that he/she is pursuing training to complete a Certificate of Completion of Staff Development pursuant to Education Code 44253.10 or 44253.11.

*Legal Reference: (see next page)*



**STAFF TEACHING STUDENTS OF LIMITED ENGLISH PROFICIENCY**  
(continued)

*Legal Reference:*

EDUCATION CODE

44253.1-44253.11 *Certification for bilingual-crosscultural competence*  
44258.9 *County superintendent review of teacher assignment*  
44259.5 *Standards for teachers of all students, including English language learners*  
44380-44386 *Alternative certification*  
52052 *Adequate yearly progress*  
52160-52178 *Bilingual-Bicultural Act of 1976*  
52180-52186 *Bilingual teacher training assistance program*  
62001-62005. 5 *Evaluation and sunseting of programs*  
99230-99242 *Mathematics and Reading Professional Development Program*

CODE OF REGULATIONS, TITLE 5

6100-6125 *Teacher qualifications, No Child Left Behind Act*  
80016 *Certificate of completion of staff development to teach English learners*

UNITED STATES CODE, TITLE 20

6319 *Highly qualified teachers*  
6601-6651 *Training and recruiting high-quality teachers*  
6801-7014 *Language instruction for English learners and immigrant students*  
7801 *Definitions, highly qualified teacher*

CODE OF FEDERAL REGULATIONS, TITLE 34

200.55-200.57 *Highly qualified teachers*

COURT DECISIONS

*Teresa P. et al v. Berkeley Unified School District et al (1989) 724 F.Supp. 698*

*Management Resources:*

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

*Languages Other than English Single Subject Matter Standards for the Single Subject Teaching Credential, May 2004*

CL-622 *Serving English Learners, April 2006*

COMMISSION ON TEACHER CREDENTIALING CODED CORRESPONDENCE

06-0020 *Implementation of Senate Bill 1292 regarding options to earn an English learner authorization, December 13, 2006*

04-0001 *Clarification of authorizations to teach English learners, January 12, 2004*

U.S. DEPARTMENT OF EDUCATION GUIDANCE

*Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance, rev. January 16, 2004*

WEB SITES

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

California Association for Bilingual Education: <http://www.bilingualeducation.org>

California Department of Education, English Learners: <http://www.cde.ca.gov/sp/el>

California Teachers of English to Speakers of Other Languages: <http://www.catesol.org>

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

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

**SPECIAL EDUCATION STAFF**

**Qualifications/Assignment of Special Education Teachers**

Any teacher assigned to serve students with disabilities shall possess an appropriate credential or other authorization that specifically authorizes him/her to teach students with that primary disability within the program placement recommended in the students' individualized education program (IEP). (5 CCR 80046.5, 80048.7)

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

The Tehama County Superintendent of Schools or designee may request the Commission on Teacher Credentialing (CTC) to issue a special education limited assignment teaching permit to authorize a qualified special education teacher, with his/her written consent, to serve outside the specialty area of his/her credential. In so doing, the Tehama County Department of Education shall submit a Declaration of Need for Fully Qualified Educators that satisfies the requirements of 5 CCR 80026. If the teacher has not yet obtained permanent status, the County Superintendent or designee shall assign one or more experienced educators in the special education subject area(s) of the permit, who have at least three years of full-time teaching experience in each of the subject area(s) of the permit, to provide guidance and assistance to the permit holder. (5 CCR 80027.1)

The Department may employ a person with an appropriate Department internship credential to provide classroom instruction to students with disabilities, provided he/she has met the subject matter requirement specified in Education Code 44325 and receives guidance, supervision, and professional development through an established Department internship program. (Education Code 44325, 44326, 44830.3)

**Resource Specialists**

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

1. Providing instruction and services to students whose needs have been identified in an IEP and who are assigned to regular classroom teachers for a majority of the school day

A student shall not be enrolled in a resource specialist program for a majority of a school day without approval by the student's IEP team.

2. Providing information and assistance to students with disabilities and their parents/guardians

**SPECIAL EDUCATION STAFF** (continued)

3. Providing consultation, resource information, and material regarding students with disabilities to their parents/guardians and regular education staff members
4. Coordinating special education services with the regular school programs for each student with disabilities enrolled in the resource specialist program
5. Monitoring student progress on a regular basis, participating in the review and revision of IEPs as appropriate, and referring students who do not demonstrate sufficient progress to the IEP team
6. At the secondary school level, emphasizing academic achievement, career and vocational development, and preparation for adult life

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

The Department's resource specialist program shall be under the direction of a resource specialist who possesses the qualifications specified in Education Code 56362 and 5 CCR 80070.8. (Education Code 56362)

**Teachers of Students with Autism**

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

1. The teacher has provided full-time instruction for at least one year prior to September 1, 2007, in a special education program that serves students with autism in accordance with their IEP and received a favorable evaluation or recommendation from the Department or school to teach students with autism.
2. The teacher has completed a minimum of three semester units of coursework in the subject of autism offered by a regionally accredited institution of higher education.

The County Superintendent or designee may employ and assign a teacher to provide instruction to students age 3-4 who are diagnosed with autism if the teacher holds a valid preliminary Level I or clear Level II education specialist credential, is authorized to provide instruction to students with autism, and satisfies either of the criteria listed in items #1 and 2 above, except that the prior service shall have been with autistic students age 3-4 or the completed coursework shall have been in the subject of special education related to early childhood education. (Education Code 44265.2)

**SPECIAL EDUCATION STAFF** (continued)

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

**Caseloads**

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

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

The average caseload for language, speech, and hearing specialists shall not exceed 55 cases unless otherwise specified and reasons stated in the SELPA plan. The maximum caseload for speech and language specialists exclusively serving children with disabilities age 3-5 shall not exceed 40. (Education Code 56363.3, 56441.7)

*Legal Reference: (see next page)*

**SPECIAL EDUCATION STAFF (continued)***Legal Reference:*EDUCATION CODE44250-44279 *Credentials, especially:*44256 *Credential types, specialist instruction*44258.9 *Assignment monitoring*44265-44265.99 *Special education credential*44325-44328 *District interns*56000-56865 *Special education, especially:*56195.8 *Adoption of policies*56361 *Program options*56362-56362.5 *Resource specialist program*56363.3 *Average caseload limits; language, speech, and hearing specialists*CODE OF REGULATIONS, TITLE 53051.1 *Language, speech and hearing development and remediation; appropriate credential*3100 *Waivers of maximum caseload for resource specialists*6100-6126 *Teacher qualifications, No Child Left Behind Act*80026 *Declaration of need for fully qualified educators*80027.1 *Special education limited assignment teaching permit*80046-80046.1 *Adapted physical education specialist*80046.5 *Credential holders authorized to serve students with disabilities*80048-80048.7 *Credential requirements and authorizations*80070.1-80070.8 *Resource specialist certificate of competence*UNITED STATES CODE, TITLE 201400-1482 *Individuals with Disabilities Education Act, especially:*1401 *Definition of highly qualified special education teacher*6319 *Highly qualified teachers*7801 *Definitions, highly qualified teacher*CODE OF FEDERAL REGULATIONS, TITLE 34200.55-200.57 *Highly qualified teachers*300.8 *Definition of autism*300.18 *Highly qualified special education teachers*300.156 *Special education personnel requirements**Management Resources:*CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONSHandbook on Developing and Implementing Early Childhood Special Education Programs and Services, 2001COMMISSION ON TEACHER CREDENTIALING CODED CORRESPONDENCE09-16 *Approval of Additions to Title 5 Regulations Pertaining to Added Authorizations in Special Education, July 23, 2009*09-15 *Approval of Amendments to Title 5 Regulations Pertaining to General and Special Education Limited Assignment Teaching Permits, July 23, 2009*08-13 *Alternative Route to Provide Special Education Services to Students with Autism Ages Three and 4, October 9, 2008*08-10 *Alternative Route to Provide Special Education Services to Students with Autism, July 7, 2008**Management Resources continued: (see next page)*

**SPECIAL EDUCATION STAFF (continued)**

*Management Resources: (continued)*

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

Standards of Quality and Effectiveness for Education Specialist Credential Programs (including University Internship Options) and Clinical Rehabilitative Services Programs, 1996

WEB SITES

California Association of Resource Specialists and Special Education Teachers:  
<http://www.carsplus.org>

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

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

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

**All Personnel**

AR  
4112.3(a)  
4212.3  
4312.3

**OATH OR AFFIRMATION**

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

Legally employed noncitizens shall be exempt from taking this oath. (Government Code 3101)

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

The County Superintendent, Assistant Superintendent of Administrative and Business Services, Program Administrator or other person authorized in Education Code 60 shall administer the oath or affirmation when a Department employee is hired.

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

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

**Reimbursement of Expenses for Disaster Service Workers**

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

*Legal Reference: (see next page)*

AR  
4112.3(b)  
4212.3  
4313.3

**OATH OR AFFIRMATION (continued)**

*Legal Reference:*

EDUCATION CODE

60 Persons authorized to administer and certify oaths

44334 Oath or affirmation required for credential

44354 Administration of oath required for credential

GOVERNMENT CODE

3100-3109 Oath or affirmation of allegiance

CALIFORNIA CONSTITUTION

Article 20, Section 3 Oath of office

COURT DECISIONS

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

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

Regulation  
approved: April 20, 2011  
July 30, 2015

**TEHAMA COUNTY DEPARTMENT OF EDUCATION**  
Red Bluff, California



**All Personnel**

E 4112.3

4212.3

**OATH OR AFFIRMATION**

4312.3

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

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

\_\_\_\_\_  
(Signature)

Certified by:

\_\_\_\_\_  
(Person who administers the oath)

**All Personnel**

AR  
4112.4(a)  
4212.4  
4312.4

**HEALTH EXAMINATIONS**

**Tuberculosis Tests**

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

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

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

Every Department employee who tests negative shall undergo a tuberculosis examination at least once every four years, or more often if so directed by the Tehama County Superintendent of Schools upon recommendation of the county health officer, for as long as the employee's test remains negative. An employee with a documented positive test for tuberculosis infection shall no longer be required to submit to the examination but shall be referred to the county health officer within 30 days of the examination to determine the need for follow-up care. (Education Code 49406)

Tuberculosis tests for current employees shall be provided by the Department or at Department expense. (Education Code 44839, 45122, 49406) Reimbursement to any employee shall not exceed the amount charged by the Tehama County Health Department for the skin test.

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

The County Superintendent or designee may exempt from the tuberculosis testing requirement classified employees who are employed for less than a school year if their functions do not require frequent or prolonged contact with students. (Education Code 49406)

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4112.4(b)  
4212.4  
4312.4

## **HEALTH EXAMINATIONS (continued)**

The County Superintendent or designee may exempt a pregnant employee from the requirement that a positive tuberculin test be followed by an X-ray of the lungs, for a period not to exceed 60 days following termination of the pregnancy. (Education Code 49406)

### **Medical Certification for Communicable Diseases for Certificated Employees**

The County Superintendent shall not fill a position requiring certification with an applicant who has not previously been employed in a certificated position in California or a retirant who has not been employed as a retirant, unless the Department has on file a medical certification completed and submitted by a physician, physician assistant, registered nurse, or commissioned medical officer. (Education Code 44839 and 44839.5)

The medical certification shall certify that the applicant or retirant is free from any disabling disease which would render him/her unfit to instruct or associate with children. The medical examination referred to in the certificate must have been conducted within six months of the date that the certificate is filed. (Education Code 44839, 44839.5; 5 CCR 5503)

Applicants and retirants shall pay for the cost of obtaining the medical certification. (Education Code 44849, 44839.5)

The County Superintendent may require certificated employees and/or retirants to undergo, at Department expense, a periodic medical examination pursuant to Education Code 44839 or 44839.5 to determine that they are free from any communicable disease making them unfit to instruct or associate with children. (Education Code 44839, 44839.5)

### **Mental Examination for Certificated Employees**

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

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4112.4(c)  
4212.4  
4312.4

## HEALTH EXAMINATIONS (continued)

### *Legal Reference:*

#### EDUCATION CODE

44839 *Medical certificate; periodic medical examination*

44839.5 *Requirements for employment of retirant*

44932 *Grounds for dismissal of permanent employee*

44942 *Suspension or transfer of certificated employee on ground of mental illness*

45122 *Physical examinations*

49406 *Examination for tuberculosis*

#### BUSINESS AND PROFESSIONS CODE

2700-2838 *Nurses*

3500-3503.5 *Physician assistants*

#### CODE OF REGULATIONS, TITLE 5

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

5503 *Physical examination for employment of retired persons*

5504 *Medical certification procedures*

#### COURT DECISIONS

*Leonel v. American Airlines, Inc.*, (2005) 400 F.3d. 702

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

### *Management Resources:*

#### WEB SITES

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

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

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

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

**DRUG AND ALCOHOL TESTING CONSORTIUM****Testing Consortium**

The school districts of the Tehama County Department of Education ("TCDE" or "the Department") are firmly committed to the safe transportation of students. In addition, an employee substance abuse testing program is mandated for all "motor carriers" regulated by the Federal Highway Administration (FHWA) of the U.S. Department of Transportation (DOT). For these reasons, the school districts of the TCDE have formed a consortium to facilitate compliance with the FHWA regulation, 49 CFR Part 382, "Controlled Substances & Alcohol Use and Testing."

The school districts of this Consortium recognize each individual's value and contribution to the services the districts provide to the public. Therefore, this Policy includes communication of resources for employees who voluntarily seek assistance before an alcohol or drug dependency problem affects their work performance or is discovered through a drug or alcohol test (see "Employee Assistance Program and Self-Referral" on page 1).

This Drug and Alcohol Testing Consortium Policy ("Policy") is intended to comply with FHWA regulations, changes in which will supersede specific policy provisions. The individual school districts retain the sole and exclusive right to administer and interpret this Policy.

*Legal Reference:*EDUCATION CODE*35160 Authority of governing boards*UNITED STATES CODE, TITLE 49*2717 Alcohol and controlled substances testing (Omnibus Transportation Employee Testing Act of 1991)*CODE OF FEDERAL REGULATIONS, TITLE 49*40 Procedures for Transportation Workplace Drug and Alcohol Testing Programs**382 Controlled Substance and Alcohol Use and Testing**395 Hours of Service of Drivers**Holiday v. City of Modesto (1991) 229 Cal.App.3d 528, 540*

## **DRUG AND ALCOHOL TESTING CONSORTIUM**

### **Who Will Be Tested and When**

As per Board Policy 4280, covered drivers are defined as those who are required to hold commercial driver's licenses for their jobs. Such applicants and employees fall under the FHWA drug and alcohol testing regulations, as indicated in BP 4280. Generally, covered drivers are operators of commercial motor vehicles which 1) are greater than 26,000 pounds GVWR, 2) carry hazardous materials in placard able quantities, or 3) carry 16 or more passengers, including the driver.

Covered drivers may be tested for drugs or alcohol whenever they are on duty. For the purposes of the Policy, "on duty" is defined as any time on the job, since covered drivers are expected to be ready to perform safety-sensitive driving functions on short notice. Conversely, time spent in association with drug testing specimen collection and/or alcohol testing is considered "on-duty" time.

### **Education and Training**

Each district will make information available to employees on the Consortium Policy; the dangers of drug and alcohol abuse in the workplace; and drug counseling, rehabilitation, and employee assistance resources. Employees will be required to sign a form acknowledging a receipt of a summary of, and their responsibility to read, this information.

At the time of hire, new covered drivers will receive specific information regarding the Consortium Policy and be informed of their responsibilities with respect to compliance with federal drug and alcohol testing regulations.

Supervisors of covered drivers who may be required to make "reasonable suspicion" determinations will receive training on recognition of the physical, behavioral, speech and performance indicators of probable alcohol and controlled substances use. The duration of the training will be at least 60 minutes each for 1) alcohol and 2) controlled substances use recognition.

### **Employee Assistance Program and Self-Referral**

The school districts of this Consortium will support treatment efforts for covered drivers with drug/alcohol problems who, prior to official discovery, voluntarily seek assistance.

When a covered driver voluntarily reports a drug/alcohol problem BEFORE it is discovered through a drug or alcohol test, she/he will immediately be granted a leave of absence in accordance with applicable employment policies. The employee will be required to enter into a "last chance" agreement (see page 12) in order to return to work.

## **DRUG AND ALCOHOL TESTING CONSORTIUM**

Covered drivers who voluntarily seek assistance will be permitted job protection and rehabilitation only one time. Any subsequent involvement in a drug/alcohol or related incident following return to work may result in termination of employment.

The school districts' financial participation in rehabilitation will be limited to existing leave and medical benefits provided under employment policies applicable to the driver at that time.

Although it is the intent of the Policy to ensure that drivers who have a drinking or drug problem will not have their jobs jeopardized by a request for help, satisfactory job performance is mandatory. Drivers have the primary responsibility for seeking help and for maintaining a treatment program as necessary. Employees seeking treatment will not necessarily avoid disciplinary action if they do not meet satisfactory job performance standards and other conditions of employment.

### **Prescription Medications**

UNDER AUTHORITY INDEPENDENT OF THE DOT, covered drivers are specifically required to notify their immediate supervisors when they are taking medications with warning labels (for example, relating to the operation of vehicles, heavy equipment, or machinery). Failure to notify management of the use of medication that could affect performance on the job can lead to disciplinary action, up to and including termination.

Consortium members do not request information about the condition for which medication is prescribed, only that it has been prescribed. In some cases, it may be necessary to temporarily re-assign covered drivers until the course of medication is completed.

If a driver is in doubt about a medication's effect on work performance, she/he should ask the prescribing physician for clarification. Non-compliance with the recommended dosage of prescription medications which results in an incident or accident will be considered a violation of the Policy.

### **Prohibitions**

FHWA REGULATIONS SPECIFY the following prohibitions:

1. Covered drivers must not use alcohol within four (4) hours prior to reporting for duty ("pre-duty use").

## **DRUG AND ALCOHOL TESTING CONSORTIUM**

2. Covered drivers are prohibited from possessing alcohol while on duty (unless the alcohol is manifested); from using alcohol while on duty; and from having alcohol present in their systems at a level of 0.02 g/210 L or greater while on duty. Those with levels of 0.02 or greater as demonstrated by breath alcohol testing are subject to immediate removal from duty for a minimum of 24 hours (see also "Discipline" section, page 11).
3. Covered drivers are prohibited from using alcohol after an on-the-job accident until:
  - a. The Anti Drug Program Manager or his/her designated alternate has determined that alcohol testing is not required,
  - b. A breath alcohol test has been completed, OR
  - c. Eight (8) hours have passed since the accident.
4. Refusal by a covered driver to submit a urine or breath specimen when required by federal regulations will have the same consequences as a test result of 0.04 or greater (see "Discipline" section, page 11), and result in the immediate removal of the employee from duty.

UNDER AUTHORITY INDEPENDENT OF THE DOT, the Policy specifically prohibits the unlawful manufacture, distribution, dispensation, possession, or use of controlled substances in the workplace, as described in the Drug-Free Workplace Act of 1988. It also prohibits employees from reporting for duty or being on duty with evidence of alcohol or illegal drugs, or illegally obtained prescription medications, in their systems. Violation of these prohibitions will lead to administrative action, up to and including termination of employment.

### **Investigation Of Previous Testing**

As a condition of employment, applicants for covered driver positions will be required to authorize previous employers to release specific information regarding previous alcohol and drug tests. If an applicant can document an alcohol test performed under FHWA regulations, with a result less than 0.04 within the six months prior to the application date, no pre-employment alcohol test will be required.

Similarly, no pre-employment drug test will be required if an applicant for a covered driver position can document:



## **DRUG AND ALCOHOL TESTING CONSORTIUM**

- Participation in a drug testing program which meets FHWA requirements during the 30 days prior to application AND
  - 1) a negative drug test within the six months prior to application OR
  - 2) participation in a random drug testing program for twelve months prior to application

AND

- No violation of alcohol or controlled substance prohibitions within the six months prior to application.

The school districts of this Consortium reserve the right to require applicants to undergo pre-employment drug and/or alcohol testing, whether or not such documentation is provided.

### **Types Of Drug And Alcohol Testing Required**

The following are occasions for drug and alcohol testing under the Policy:

#### Pre-employment Testing

Pre-employment drug testing is required for all covered driver positions, except as noted above ("Investigation of Previous Testing"). A notice will be posted that drug testing is a requirement of the application process. Anyone who does not wish to proceed with the application may withdraw without question.

A drug test result which is verified as positive for unauthorized use of controlled substances will disqualify the applicant for the covered driver position.

#### Random Testing

Definition of Random Test: A random test is a test that is unannounced, and where every person in the random selection "pool" has an equal chance of being selected for testing each time a selection occurs. Random testing is considered to be an effective deterrent to substance abuse. Covered drivers are required to be randomly tested under DOT regulations.

Method of Random Selection: The Consortium has contracted with an outside drug testing management service (see Appendix D) to perform computerized random selections on its covered employees. Selections occur approximately once per quarter; testing days are selected randomly throughout the period. Selections are therefore spread reasonably throughout each year.

## **DRUG AND ALCOHOL TESTING CONSORTIUM**

A number of drug tests equal to at least 50% of the number of individuals in the Consortium will be completed annually, as required by DOT drug testing regulations; a number of alcohol tests equal to at least 25% of the number of individuals in the Consortium will be completed annually.

### **Procedure for Notification and Specimen Collection/Testing:**

1. The drug testing management service will maintain a secure data base of individuals covered by the Federal Highway Administration's drug and alcohol testing regulations.
2. On a randomly selected date, the service will transmit a coded list of individuals who have been selected for testing to the Anti Drug Program Manager at each affected school district.
3. The Anti Drug Program Manager or his/her designated representative will notify the individual in person or by telephone that she/he has been selected to provide a urine and/or breath specimen for testing. The date and time of notification will be recorded on the transmitted, coded list.
4. IMMEDIATELY after being notified, each individual selected for testing must proceed to a specimen collection and/or alcohol testing facility. Individuals in remote locations will be directed to the closest competent local facility so that specimen collection and/or breath testing are completed expeditiously.

### **Reasonable Suspicion Testing**

Reasonable suspicion/probable cause testing provides school district personnel with a tool (in conjunction with supervisor training on the signs and symptoms of drug use and/or alcohol misuse) to identify drug-affected employees who may pose a danger to themselves and others in their job performance. Employees may be at work in a condition that raises concern regarding their safety or productivity. Supervisors must then make a decision as to whether there is reason to believe an employee is using or has used a prohibited drug or alcohol in violation of the Consortium Policy.

The decision to test for drugs or alcohol must be based on a reasonable and articulable belief that the employee is using a prohibited drug, or has used alcohol in violation of the prohibitions stated above, on the basis of specific, contemporaneous physical, behavioral, or performance indicators of probable drug use and/or alcohol misuse. Observations indicating possible alcohol misuse must be made just before, while, or just after the employee performs a covered function, and must be documented. If at all possible, two supervisors, at least one of whom is trained in the detection of the possible symptoms of drug use and/or alcohol misuse, shall substantiate and concur in the decision to test the employee; however, a single supervisor may make a reasonable suspicion determination.

## **DRUG AND ALCOHOL TESTING CONSORTIUM**

Employees **MUST BE ACCOMPANIED** to the alcohol testing/specimen collection site(s). Drug or alcohol testing must take place **AS SOON AS POSSIBLE** after the observations leading to testing. Specimen collection for drug testing must take place within 32 hours. Alcohol testing must take place within eight (8) hours of the decision to test. School district employees will not be permitted to conduct alcohol testing under the Policy. Under authority independent of the DOT, employees who are required to undergo reasonable suspicion testing will be suspended with pay pending receipt of the test results (not fewer than 8 hours following decision to test).

If required alcohol testing is not performed within two (2) hours of the decision to test, the school district involved in the incident will document the reason for the delay. If required alcohol testing is not performed within eight (8) hours of the decision to test, the school district will cease attempts to have the driver tested for alcohol and document the reason for failure to test.

Whether or not an alcohol test can be performed, if a school district representative believes that an driver is under the influence of or impaired by alcohol, as shown by behavioral, speech or performance indicators of alcohol misuse, she/he must remove the employee from covered functions for eight (8) hours (suspension with pay). However, no other disciplinary action will occur in connection with the observation in the absence of a breath alcohol test.

Supervisors who may need to make reasonable suspicion/probable cause determinations under the Policy will undergo at least two (2) hours of training on specific physical, behavioral, and performance indicators of probable drug use and of alcohol misuse (see Appendix A).

### **Post-accident Testing**

A reportable accident under Federal Highway Administration regulations is defined an accident in which a covered driver was operating a commercial motor vehicle and in which:

1. A fatality occurred; or
2. The driver received a citation for a moving traffic violation **AND** a person involved in the accident needed medical care away from the scene of the accident;  
or
3. The driver received a citation for a moving traffic violation **AND** one or more vehicles involved in the accident needed to be towed from the scene of the accident

## **DRUG AND ALCOHOL TESTING CONSORTIUM**

UNDER FHWA REGULATIONS, employees involved in a reportable accident are required to be:

- Tested for alcohol as soon as possible, but in no case later than 8 hours after the incident.
- Drug tested as soon as possible, but in no case later than 32 hours after the incident.

An employee who is seriously injured and cannot provide a specimen for testing may be requested to authorize the release of relevant hospital reports and other documentation that would indicate whether there were any controlled substances in his or her system at the time of the incident.

The school districts of the Consortium will provide their covered drivers with any necessary information and procedures to enable them to meet federal requirements for post-accident testing.

### **Return To Duty and Follow-up Testing**

FHWA regulations require return to duty and follow-up drug and/or alcohol testing when a covered driver has been evaluated by a Substance Abuse Professional and has been found to need assistance with resolving his or her drug abuse and/or alcohol misuse problem. Under these conditions, a negative drug and/or alcohol test is required prior to return to duty and at least six (6) follow-up tests are required during the twelve (12) months following return to duty. Follow-up testing may continue for no longer than sixty months following return to duty.

Under the Consortium Policy, there will be no return to duty or follow up testing under Federal Highway Administration regulations, since termination of employment is the consequence for a positive drug test or other prohibited behavior. Return to duty and follow-up testing may occur UNDER AUTHORITY INDEPENDENT OF THE DOT in connection with voluntary requests for assistance and subsequent return to work (see "Employee Assistance Program and Self-Referral", page 1).

### **Drug And Alcohol Testing Procedures**

#### Drug Testing

1. Urine specimen collection for drug testing will be performed by qualified individuals in conformance with current standards of practice, using chain of custody procedures specified by FHWA regulations (49 CFR Part 40) and with respect for the privacy and dignity of the person giving the specimen. Drug test specimens will be collected to provide at least 30 mL of urine in a "primary specimen" shipping bottle and at least 15 mL of urine in a "split specimen" shipping bottle, as described in Appendix B.

**DRUG AND ALCOHOL TESTING CONSORTIUM**

2. Drug testing will be performed only by laboratories certified by the Substance Abuse and Mental Health Administration (SAMHSA) of the U.S. Department of Health and Human Services (previously "NIDA"). The Consortium's primary drug testing laboratories are given in Appendix D.
3. When an initial screening test for drugs is positive, a second, confirmatory test will automatically be performed. Confirmed positive drug tests will be reported by the testing laboratory to the MRO for verification (see "Drug Test Results Review," below).
4. As a quality assurance measure, the Consortium's drug testing management service will submit at least 3 blind samples to the certified laboratory for every 100 applicant/employee samples submitted as required by DOT regulations (49 CFR Part 40). A summary of the results of this quality assurance program will be provided to the school districts of the Consortium annually.

**Breath Alcohol Testing**

1. Breath alcohol testing will be performed only by qualified Breath Alcohol Technicians (see Appendix C). Testing will be conducted using evidential breath alcohol testing devices listed on the Conforming Products List of the National Highway Traffic Safety Administration.
2. Breath alcohol tests with results below 0.02 require no further action.
3. Tests with results of 0.02 or above will be confirmed as follows:
  - a. The individual being tested is instructed not to smoke, use mouthwash, drink or eat for a period of 15 minutes.
  - b. Within 20 minutes of completion of the initial screening test, a confirmatory breath test is conducted per 49 CFR Part 40. The result is recorded in the "Confirmation Test Results" section of the Alcohol Test Form.
4. If the result of the confirmatory breath alcohol test is 0.02 or greater, the Breath Alcohol Technician must immediately notify the Anti Drug Program Manager or his/her designated representative, who will arrange for transportation of the individual from the alcohol testing site. The Breath Alcohol Technician will then forward a copy of the Alcohol Test Form to the Anti Drug Program Manager.

## **DRUG AND ALCOHOL TESTING CONSORTIUM**

### **Drug Test Results Review**

A drug test result on a covered driver will be considered positive ONLY if it has tested positive initially, been confirmed positive by gas chromatography-mass spectrometry (GC-MS), and been reviewed and verified by the Medical Review Officer (MRO).

A POSITIVE drug test result may result from detection of any one or more of the following classes of drugs:

Substance or Class	Initial Screening Cut-off	Confirmation Cut-Off
Amphetamines	1000 ng/mL	500 ng/mL
Cocaine	200 ng/mL	150 ng/mL (1)
Marijuana (THC)	50 ng/mL	15 ng/mL (2)
Opiates	300 ng/mL	300 ng/mL
Phencyclidine (PCP)	25 ng/mL	25 ng/mL

(1) as benzoylecgonine

(2) confirmation as 9-carboxy THC

A confirmed positive test from a certified laboratory does not automatically identify an employee or applicant as having used drugs in violation of a DOT regulation. The MRO brings detailed knowledge of possible alternate medical explanations to his or her review of the test results. This review is performed by the MRO prior to the transmission of results to the school districts.

### **Medical Review Officer Role**

The MRO is a consulting physician who is a licensed doctor of medicine or osteopathy with knowledge of substance abuse disorders, symptoms, treatment, and toxicology. The MRO's primary function is to review, interpret and report positive test results of the applicant or employee. The MRO or his/her authorized representative will also report negative test results.

Before reporting a positive drug result on a covered driver to a school district of the Consortium, the MRO will give the "donor" (applicant or employee) a chance to discuss it. If a prescription drug is involved, the donor will be asked to provide the name of the medication and the prescribing doctor's name for verification. The MRO may review the donor's medical history, any relevant biomedical factors, and medical records made available by the donor to determine whether a positive test resulted from legally prescribed medication before verifying a test result as "positive" or "negative."

## **DRUG AND ALCOHOL TESTING CONSORTIUM**

The MRO may communicate a positive result on a covered donor to the school districts of the Consortium if:

1. The donor has told the MRO or his authorized representative that she/he does not wish to discuss the results of the test; or
2. The MRO has spoken with the donor, and has concluded that the positive drug test result indicates unauthorized use of a controlled substance; or
3. The MRO can't reach the donor, and has asked the appropriate Anti drug Program Manager to contact the donor and relay the message to contact the MRO; but the donor has not responded within five days of documented receipt of the message.

NOTE: If a test is verified positive under the latter circumstances, the donor may give the MRO information documenting that serious illness, injury, or other circumstances unavoidably prevented him or her from contacting the MRO. On the basis of this information, the MRO may re-open the verification, allowing the donor to present information concerning a legitimate explanation for the positive test. If the MRO concludes that there is a legitimate explanation, the MRO shall verify the test as negative.

Upon verifying a test result as positive, the MRO will inform the donor of the option for having the "split" portion of his or her specimen tested. The donor must notify the MRO of a desire to exercise this option within 72 hours of being notified of the positive result, at which time the MRO will direct the testing laboratory to ship the "split" specimen to a second SAMHSA-certified laboratory, which the donor may choose from a list of available labs.

Payment for testing of the "split" specimen must be presented to the MRO or his/her designated representative in advance. If the result of the "split" specimen analysis is negative, the MRO will cancel the test and the school district will reimburse the employee for the costs associated with the analysis.

The MRO will not delay reporting of a verified positive test result pending "split" specimen testing.

### **Communication of Results**

The MRO or his/her designated representative will report test results ONLY to individuals authorized to receive them. Confidentiality will be strictly maintained. If the result is positive, the MRO or his/her authorized representative will report the identity of the controlled substance

## **DRUG AND ALCOHOL TESTING CONSORTIUM**

Employees and applicants may obtain copies of their test results by requesting them in writing from the MRO within 60 days of being notified of the results.

### **Failure To Cooperate**

Failure to cooperate with any aspect of the Policy, including but not limited to falsifying or attempting to falsify test results or specimens, refusing to cooperate in testing or searches, or impeding drug investigations will subject the employee to disciplinary action, up to and including discharge. Any covered driver who refuses to take a drug or alcohol test to comply with FHWA regulations (49 CFR Part 382) will be immediately removed from duty as required by these federal regulations.

### **Disciplinary Action And Procedures**

1. An otherwise qualified applicant for a covered driver position whose drug test results are negative and/or who has documented satisfactory participation in a previous employer's drug and alcohol testing program will be considered qualified for the position offered. Applicants with verified positive drug test results will be considered ineligible for the position.

NOTE: If an applicant's records from previous employers demonstrate evidence that he/she has violated FHWA drug/alcohol prohibitions, the applicant will be required to complete requirements for return to duty as defined by FHWA regulations, at his/her own expense, in order to be eligible for a covered driver position for the school districts of this Consortium. Any follow-up testing conducted during such a driver's employment with the school districts will be at his or her expense.

2. Any covered driver found to be in violation of this Drug and Alcohol Testing Policy will be discharged. Violations include:
  - a. Alcohol possession or use in violation of the prohibitions stated in the Policy (e.g. pre-duty, post-accident; see page 3)
  - b. An alcohol test result of 0.04 or greater
  - c. A verified positive drug test result
  - d. Refusal to test or to cooperate
3. A covered driver determined to have evidence of alcohol in his or her system below 0.04 will be subject to prompt disciplinary action.



## **DRUG AND ALCOHOL TESTING CONSORTIUM**

- a. On the first occasion in any two-year period in which a covered driver has a breath alcohol test result of 0.02 or greater, he/she will be immediately removed from duty for a period of at least 24 hours. The time away from work may be considered vacation time or personal leave time if such is available; otherwise, it will be considered leave of absence without pay.

No further alcohol testing will be required prior to resuming work at the end of the 24-hour period.

- b. The second occasion in any two-year period in which a covered driver has a breath alcohol test result of 0.02 or greater, will be considered a violation of the Policy, and will subject the employee to discharge.
4. Covered drivers who have had a verified positive drug test or a confirmed alcohol result of 0.04 or above will not be permitted to operate a commercial motor vehicle for the school districts of this Consortium.

### **"Last Chance" Agreement**

If a covered driver seeks assistance with a drug or alcohol dependency problem BEFORE recognition under the Policy, a school district MAY offer to enter into a "last chance" agreement with the driver. Under the terms of such an agreement, the driver is suspended for a minimum of five (5) working days and is referred to a certified Substance Abuse Professional for evaluation. The Substance Abuse Professional may advise and the school district may require the driver to undergo rehabilitation prior to return to duty. Ordinarily, in order to continue employment with the school district, whether or not treatment is necessary, the driver must agree to undergo a follow-up testing program after return to work in addition to the random testing program of the Consortium.

### **Return To Duty Procedures**

The Federal Highway Administration's return to duty and follow-up testing requirements of the FHWA are given in Appendix E for reference. Since a covered driver's positive drug test or prohibited alcohol-related conduct results in termination of employment with the school districts of this Consortium, no federal return to duty procedures will apply under the Policy.

### **Record Keeping Procedures**

The district Anti Drug Program Managers will maintain drug testing records in secure filing systems, separate from district personnel files, with information available only on a "need to know" basis.

## **DRUG AND ALCOHOL TESTING CONSORTIUM**

A driver is entitled, upon written request, to obtain copies of any records concerning his/her use of alcohol or controlled substances. Requests for such information may be directed to the Anti Drug Program Manager or to the Consortium drug testing management service (see Appendix D).

Information regarding an individual's drug test results or rehabilitation may be released only upon written consent of the individual, except:

1. Such information must be released to the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over the employer or any of its drivers.
2. Such information may be disclosed in a lawsuit, grievance, or other proceeding initiated by or on behalf of the covered driver and arising from an alcohol test and/or a verified positive drug test or from a determination that the driver engaged in conduct prohibited by FHWA regulations.
3. When requested by the National Transportation Safety Board as part of an accident investigation, the school districts of this Consortium will disclose information regarding post-accident alcohol and/or drug testing.

The school districts of this Consortium shall release information regarding a covered driver's records to a subsequent employer upon receipt of a specific written request authorizing release of the records to an identified person.

### **Record Retention**

The following schedule of record keeping will be maintained by the school districts of this Consortium and its authorized agents:

Negative and canceled drug test records; records of alcohol test results less than 0.02	1 year
Specimen collection/alcohol test records; records of supervisor training	2 years
Records of verified positive drug test results; alcohol test results of 0.02 or greater; refusals to be tested for drugs and/or alcohol; SAP evaluations and referrals	5 years
Documentation of EBT calibration	5 years

**DRUG AND ALCOHOL TESTING CONSORTIUM**

Calendar year record of total number of employees tested and the results of tests 5 years

**Informational Resources**

Information on the Policy and associated procedures is available during business hours from:

Transportation Supervisor  
Name of Anti Drug Program Manager

(530) 528-7336  
Telephone Number for Anti Drug Program Manager

Questions may also be addressed directly to the Consortium's drug testing management service (see Appendix D).

**APPENDIX A**

**DEFINITIONS OF TERMS**

For the purposes of this Policy, the following definitions apply.

Accident:

A "reportable accident" is an accident involving a commercial motor vehicle in which:

1. A fatality occurred; or
2. The driver received a citation for a moving traffic violation AND a person involved in the accident needed medical care away from the scene of the accident;  
OR
3. The driver received a citation for a moving traffic violation AND one or more vehicles involved in the accident needed to be towed from the scene of the accident.

Covered drivers must undergo drug testing and breath alcohol testing as soon as possible after a reportable accident (see pages 5-6). The Anti Drug Program Manager will be responsible for determining whether post-accident testing is required under FHWA regulations.

Alcohol: Ethyl alcohol or ethanol. Under the Consortium policy, drivers are prohibited from having alcohol in their systems while at work. Under DOT regulations, breath alcohol tests on covered drivers must show levels below 0.02, or the driver must be removed from duty for a period of 24 hours. Levels of 0.04 or greater are grounds for prompt disciplinary action, up to and including discharge.

Alcohol concentration: The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test conducted under the Consortium Policy.

Anti Drug Program Manager: Individual at each school district with responsibility for implementing the Consortium Policy, communicating with the Consortium drug testing management service, and keeping records according to FHWA requirements.

Blind sample: A urine specimen submitted to a laboratory for quality control testing purposes, with a fictitious identifier, so that the laboratory cannot distinguish it from employee specimens, and which is spiked with known quantities of specific drugs or which is blank, containing no drugs.

**Breath Alcohol Technician:** An individual who has been trained to proficiency in the operation of the evidential breath testing device he or she is using as required under 49 CFR Part 40.

**Breath alcohol testing site:** A location which affords visual and aural privacy for the performance of breath alcohol testing. No unauthorized person shall be permitted access to the breath alcohol testing site when the evidential breath testing device is unsecured or at any time when testing is being conducted. In unusual circumstances, e.g. after an accident when a test must be conducted outdoors, the breath alcohol technician must provide visual and aural privacy to the greatest extent practicable.

**CFR:** United States Code of Federal Regulations

**Chain of custody:** Procedures to account for the integrity of each urine specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen. These procedures shall require that an appropriate drug testing custody form from a Department of Health and Human Services (DHHS), Substance Abuse and Mental Health Services Administration (SAMHSA)-certified laboratory be used from time of collection to receipt by the laboratory.

**Collection site:** A designated clinic/facility where applicants or employees may present themselves for the purpose of providing a specimen of their urine to be analyzed for the presence of drugs.

**Collector:** A person who instructs and assists applicants and employees through the urine specimen collection process.

**Company:** Ash Grove Cement Co.

**Confirmation test**

**Confirmatory drug test:** A second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the initial test and which uses a different technique and chemical principle from that of the initial test in order to ensure reliability and accuracy. Gas chromatography/mass spectrometry (GC-MS) is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine.

**Confirmatory alcohol test:** A second breath test to confirm the presence of prohibited levels of alcohol. Confirmation tests follow a "deprivation period" of 15 minutes in which the tested individual is instructed not to smoke, eat, drink, or to the extent possible belch, to prevent interference by mouth alcohol in the testing procedure.

**Controlled substances:** Substances listed on Schedules I through V in 21 U.S.C. 802 as they may be revised from time to time (21 CFR 1308). Controlled substances include illicit drugs and drugs which may be authorized for use by a physician or dentist for certain medical uses, but which are subject to misuse or abuse.

**Covered driver:** Individual who is required to hold a Commercial Driver's License (CDL) for his or her job with any school district of this Consortium and who is subject to drug testing under Federal Highway Administration, Department of Transportation regulations (49 CFR Parts 40 and 382).

**DOT:** United States Department of Transportation.

**EBT:** Evidential breath testing device used for performing breath alcohol tests in accordance with DOT regulations.

**Employee Assistance Program (EAP):** Generally, a confidential system for providing evaluation and treatment services for employees with substance abuse and/or other medical or family problems. In DOT anti drug and alcohol misuse prevention programs, the term "EAP" refers to dissemination of information and training on substance abuse and on treatment resources; trained EAP counselors are called "Substance Abuse Professionals" (see below).

Employees who desire confidential assistance should contact their districts Anti drug Program Manager for assistance at (530) 528-7336.

**GVWR:** Gross Vehicular Weight Rating; size criterion for determining classification of a commercial motor vehicle under federal regulations.

**Initial (screening) test:**

**Initial drug test (drug screen):** An immunoassay test to eliminate "negative" urine specimens from further consideration.

**Initial (screening) alcohol test:** A breath test to determine whether alcohol is present in an applicant's or employee's system at or above the level at which transportation employees are prohibited from performing safety-sensitive duties (0.02 g/210L).

**Medical Review Officer (MRO):** A licensed doctor of medicine or osteopathy with knowledge of drug abuse disorders and drug testing who is responsible for reviewing and verifying drug testing results prior to their communication to the Anti Drug Program Manager.

Negative drug test: A test in which initial or confirmation testing under DOT procedures did not show evidence of a prohibited drug in an employee's or applicant's system above established levels; OR, a test which is verified as negative by the MRO (e.g. review showed positive test was due to prescription medication or other authorized use of controlled substance).

NIDA: National Institute on Drug Abuse. Formerly the agency under the U.S. Department of Health and Human Services responsible for certifying laboratories to perform federal workplace drug testing. This function is now performed by the Substance Abuse and Mental Health Services Administration (SAMHSA).

Positive drug test: A urine drug test result which indicates the presence of controlled substances beyond the cut-off levels specified by SAMHSA.

Confirmed positive drug test: A positive drug test which has undergone an initial "screening" test AND a confirmation test which validates the first result. Drug tests are confirmed by the SAMHSA-certified laboratory which performs the analyses.

Verified positive drug test: A confirmed positive drug test (see above) after investigation by the MRO, who has determined that no legitimate explanation exists for the presence of the controlled substance that was detected.

Probable cause or reasonable suspicion: An observation or observations of an employee's condition or performance that indicate(s) possible drug or alcohol use. Examples include deteriorating work performance, poor attendance, tardiness, appearance (including, for example, noticeable odor of an alcoholic beverage), behavior, or speech of the employee.

Prohibited drugs: Marijuana, cocaine, opiates, phencyclidine (PCP), and amphetamines.

Random testing: Computerized random selection and testing for drugs in which each person in the computer data base has an equal chance of selection each time a selection occurs, in accordance with regulatory requirements.

Reasonable suspicion or probable cause: An observation or observations of an employee's condition or performance that indicate(s) possible drug or alcohol use. Examples include deteriorating work performance, poor attendance, tardiness, appearance (including, for example, noticeable odor of an alcoholic beverage), behavior, or speech of the employee.

Refusal to submit: Refusal by an individual to provide a urine or breath specimen after receiving notice of the requirement to be tested in accordance with the Consortium Policy.

SAMHSA: Substance Abuse and Mental Health Services Administration, a division of the U.S. Department of Health and Human Services (DHHS) which is responsible for certifying laboratories to perform federal workplace drug testing. Formerly National Institute on Drug Abuse (NIDA).

Screening or initial test: An immunoassay screen to eliminate "negative" urine specimens from further consideration.

Split specimen collection procedure: A collection procedure in which a urine specimen is divided or "split" between two shipping bottles, both of which are transported to the testing laboratory. If the results of the initial screening and confirmation tests of the "primary" specimen are positive, the "split" specimen may be tested at another qualified laboratory at the expense of the tested individual.

Substance Abuse Professional: Under DOT regulations, individuals who may serve as substance abuse professionals include:

- licensed physicians (Medical Doctors or Doctors of Osteopathy) or
- licensed or certified psychologists, social workers, employee assistance professionals, or addiction counselors (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol-related disorders.

Under the Policy, the Anti Drug Program Manager must inform employees or applicants who are found to have violated the alcohol prohibitions or who have had verified positive drug tests of the qualified Substance Abuse Professional(s) in the local area.



**APPENDIX B****DRUG TESTING SPECIMEN COLLECTION PROCEDURES**

Under the Policy, drug testing specimens will be collected according to federal workplace drug testing requirements (49 CFR Part 40). The following is a brief summary of the collection procedure. Further details are available from the Consortium drug testing management service (see Appendix D).

1. Ask donor for a photo I.D.
2. Fill out the chain of custody form completely. Step 5 must be SIGNED and dated by the COLLECTOR. Step 6 is to be printed, dated and signed by the COLLECTOR in TWO places. THE DONOR DOES NOT SIGN.
3. Have donor remove all outer garments and leave purses, briefcases, etc. in a secure location.
4. Select a collection kit. The kit contains 1 collection cup and 2 specimen shipping bottles.
5. Have donor wash hands prior to collection. Give the collection cup to the donor and ask him/her to fill it AT LEAST half-way (to the 60 mL mark).
6. Stand outside the restroom while donor voids. DATE BOTH tamperproof bottle seals (found at the side of the chain of custody form).
7. As soon as the donor gives you the collection cup, pour at least 30 mL of urine into one of the shipping bottles. This will be the "primary specimen." Then, pour the rest of the urine into the second bottle. This will be the "split specimen." Be sure to have the donor watch as you pour the specimen into the two shipping bottles.
8. As soon as possible, check temperature strip on the side of the primary specimen bottle and record on chain of custody form. Visually check specimen for signs of contamination (discoloration, precipitation, etc.). If you suspect that the specimen has been substituted, call Choicepoint immediately.
9. SEAL BOTH SPECIMENS. Be certain to place the tamperproof ID seal marked "A" over the lid of the primary specimen containing at least 30 mL urine. The seal marked "B" must go over the lid of the "split" specimen containing at least 15 mL urine.
10. Have DONOR initial both tamperproof ID seals in the spaces provided.

11. Place Copies 1, 2 and 3 in the outer pouch of the shipping bag; seal. Place shipping bottles in shipping bag with the absorbent; seal. Place shipping bag with paperwork and bottles in collection kit box; seal with box Security Seal. Apply specimen ID label to lid of box.
12. Have donor sign Copy 4. Give copy 5 to donor. Please mail pink "MEDICAL REVIEW OFFICER" copy (Copy 4) to ChoicePoint in the envelope provided.

If you have any questions or need to order more kits, please call

Stewart & Hoffman, MD, FACP  
ChoicePoint  
1-800-733-6676

**APPENDIX C****BREATH ALCOHOL TESTING PROCEDURES**

Under the Policy, breath alcohol testing will be performed according to federal workplace alcohol testing requirements (49 CFR Part 40). The following is a brief summary of the breath testing procedure.

1. **Timing of Breath Alcohol Tests:** Alcohol testing may occur any time a covered driver is on duty (see Appendix A for definitions of these terms). Testing will also be performed as part of the application process; applicants will be given adequate notice of this requirement prior to testing. Testing will occur at breath testing sites designated by the Consortium drug testing management service (see Appendix D).
2. **Scope of Breath Alcohol Tests**
  - a. Breath alcohol testing procedures will conform to federal workplace alcohol testing requirements (49 CFR Part 40).
  - b. Testing will be performed only by qualified Breath Alcohol Technicians (see Appendix A, "Glossary of Terms") using evidential breath alcohol testing devices listed on the Conforming Products List of the National Highway Traffic Safety Administration.
  - c. Testing locations will afford visual and aural privacy to the employee being tested, and unauthorized persons will be excluded from the testing area. Under post-accident conditions, privacy will be provided to the greatest extent practicable.
3. **Employee Signatures Required:** Employees will be required to sign the Breath Alcohol Test Form prior to and following the completion of the alcohol test. Refusal to sign Step 2 of the Form will be considered refusal to test.
4. **Screening Alcohol Test**
  - a. The Breath Alcohol Technician (BAT) will show the employee the test number associated with his or her test on the display of the Evidential Breath Testing device (EBT) prior to performing the test. (The BAT will also show the employee the test result on the EBT display after the test.) The BAT will follow DOT requirements (49 CFR Part 40) in handling any discrepancies between the displayed and printed test information.
  - b. Each breath test will be conducted with a new, individually-sealed mouthpiece. The employee will be instructed to take a deep breath and to blow into the mouthpiece of the EBT until the BAT says to stop.

- c. The test result will be printed on, or attached to the back of, the Alcohol Test Form.
  - d. If the employee is unable after repeated attempts to provide an adequate breath sample, the BAT will document his or her efforts to conduct the test and notify the Administrator or his designated representative by telephone.
  - e. If the screening alcohol test result is less than 0.02, no further testing will be conducted. The result will be reported to the Administrator by copy of the Breath Alcohol Test Form.
  - f. Any screening alcohol test with a result of 0.02 or above will be confirmed by a confirmatory breath test.
5. Confirmatory Test
- a. The BAT will instruct the individual being tested not to smoke, use mouthwash, drink, eat, or otherwise put any object or substance in his or her mouth for a period of 15 minutes.
  - b. Within 20 minutes of the completion of the screening test, the BAT will conduct a confirmatory breath test in the same manner as described above ("Screening Test"), except that an "air blank" must be conducted prior to the test. The result will be printed on, or attached to the back of, the Alcohol Test Form.
  - c. If the confirmatory alcohol test result is less than 0.02, no further testing will be conducted. The test results will be reported to the Administrator by copy of the Breath Alcohol Test Form.
  - d. If the confirmatory alcohol test result is 0.02 or greater, the BAT will immediately notify the Plan Administrator or his designated representative by telephone. A copy of the Alcohol Test Form will then be forwarded to the Administrator.
6. Results Reporting: All test results will be transmitted in a confidential manner, with safeguards to prevent the disclosure of information to unauthorized persons.

Further details concerning the procedures for performing breath alcohol testing are available from the drug testing management service and/or the Anti Drug Program Manager (see Appendix A and appendix D).

**APPENDIX D**

**SERVICE PROVIDERS**

**DRUG AND ALCOHOL TESTING MANAGEMENT SERVICE**

The Consortium drug testing management service is:

ChoicePoint  
5900 Wilshire Blvd. FL 22  
Los Angeles, CA 90036

This organization is responsible for overseeing compliance of agents of the Consortium school districts with federal regulations, including interacting with specimen collection and alcohol testing agents, designated drug testing laboratories and Medical Review Officers. It also performs random selections, submits blind specimens on behalf of the Consortium, and maintains records as required by federal regulations.

Medical Review Officers (MROs)

Medical Review Officer services are provided by National Medical Review Services. The physicians with whom employees or applicants would speak in the event of a positive drug test result are:

Lexis Nexis Medical Review Services  
480 Quadrangle Drive, Suite D  
Bolingbrook, IL 60440

**SAMHSA-CERTIFIED LABORATORIES**

The Consortium's primary laboratories for drug testing are:

Red Bluff Medical Clinic  
658 Washington Street  
Red Bluff, CA 96080

If drug testing is required in remote geographic locations, other laboratories certified by the Substance Abuse and Mental Health Services (SAMHSA) (formerly "NIDA") may be used.

Covered drivers may specify the SAMHSA-certified laboratory to which a "split" portion of their urine specimen should be sent; the drug testing management service will provide relevant informational assistance upon request.

## SUBSTANCE ABUSE PROFESSIONALS

The Consortium will use the services of Substance Abuse Professionals who meet U.S. Department of Transportation requirements for education/certification and absence of financial benefit from referral for treatment.

Other qualified Substance Abuse Professionals who meet U.S. Department of Transportation requirements for education/certification and absence of financial benefit from referral for treatment may be used as necessary (e.g. due to applicant/employee's geographic location).

**APPENDIX E**

**FEDERAL HIGHWAY ADMINISTRATION RETURN TO DUTY PROCEDURES**

The following information is for reference only. The school districts of this Consortium do not return covered drivers to duty following a positive drug test or prohibited alcohol conduct, since a positive drug test or prohibited alcohol conduct results in termination of employment.

Under 49 CFR Part 382, "Controlled Substances & Alcohol Use and Testing," the following return to duty procedures apply to drivers of commercial motor vehicles:

1. Covered drivers who have had alcohol test results of 0.04 or greater must be evaluated, undergo treatment, if required, and be recommended for return to work by the Substance Abuse Professional. A "return to duty" alcohol test with a result less than 0.02 is required prior to resumption of safety-sensitive or covered driving functions.
2. Covered drivers who have had verified positive drug tests must be evaluated, undergo treatment, if required, and be recommended for return to work by the Substance Abuse Professional if appropriate. A negative "return to duty" drug test is required prior to resumption of safety-sensitive or covered driving functions.
3. Covered drivers may be subject to periodic unannounced follow-up alcohol and/or drug testing as determined by the Substance Abuse Professional who evaluated the employee and/or by the MRO. If the driver was found to need assistance in resolving his/her alcohol misuse or drug abuse problem, a minimum of six (6) such follow-up tests must be conducted during the twelve (12) months following the driver's return to duty.

## **Certificated Personnel**

AR  
4112.5(a)  
4312.5

### **CRIMINAL RECORD CHECK**

#### **Applicants for Employment**

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

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

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

#### **Temporary Certificate of Clearance**

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

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

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



**CRIMINAL RECORD CHECK** (continued)

**Subsequent Arrest Notification**

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

**Current Employees**

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

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

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

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

*Legal Reference: (see next page)*

**CRIMINAL RECORD CHECK (continued)**

*Legal Reference:*

EDUCATION CODE

44010 Sex offense

44332 Temporary certificate

44332.5 Registering certificates by certain districts

44332.6 Criminal record check, county board of education

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

44830.1 Certificated employees, conviction of a violent or serious felony

44830.2 Certificated employees; interagency agreement

44836 Conviction of a sex offense

45122.1 Classified employees, conviction of a violent or serious felony

45125 Use of personal identification cards to ascertain conviction of crime

45125.01 Classified employees; interagency agreements

45125.5 Automated records check

45126 Duty of Department of Justice to furnish information

PENAL CODE

667.5 Prior prison terms, enhancement of prison terms

1192.7 Plea bargaining limitation

11105.2 Subsequent arrest notification

CODE OF REGULATIONS, TITLE 11

703 Release of criminal offender record information

708 Destruction of criminal offender record information

*Management Resources:*

WEB SITES

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

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

**All Personnel**

AR  
4112.6(a)  
4212.6  
4312.6

**PERSONNEL FILES**

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

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

**Placement of Material in Personnel Files**

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

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

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

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

**Derogatory Information**

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

**File Review by Employee**

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

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4112.6(b)  
4212.6  
4312.6

**PERSONNEL FILES** (continued)

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

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

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

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

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

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

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

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

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

AR 4112.6(c)  
4212.6  
4312.6

**PERSONNEL FILES** (continued)

**File Review by Management and Board**

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

*Legal Reference:*

EDUCATION CODE

35253 Regulations to destroy records

44031 Personnel file contents and inspection

44663 Performance appraisals and related materials

GOVERNMENT CODE

3305-3306 District police officers; personnel files

6254.3 Disclosure of home address and phone number

LABOR CODE

1198.5 Inspection of personnel files

PENAL CODE

11165.14 Report of investigation of child abuse complaint

CODE OF REGULATIONS, TITLE 5

16020-16022 Records, general provisions

16023-16027 Retention of records

ATTORNEY GENERAL OPINIONS

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

**All Personnel**

SP 4112.61

4212.61

**EMPLOYMENT REFERENCES**

4312.61

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

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

*Legal Reference:*

LABOR CODE

1050-1054 Reemployment privileges

CIVIL CODE

47 Privileged communication

CODE OF CIVIL PROCEDURE

527.3 Labor disputes

CODE OF REGULATIONS, TITLE 5

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

COURT DECISIONS

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

**All Personnel**

AR 4112.61

4212.61

**EMPLOYMENT REFERENCES**

4312.61

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

No employee shall agree to provide a positive letter of recommendation which misrepresents facts as a condition of another employee's resigning or withdrawing action against the Tehama County Department of Education. (5 CCR 80332)

**All Personnel**

AR  
4112.62(a)  
4212.62  
4312.62

**MAINTENANCE OF CRIMINAL OFFENDER RECORDS**

The Tehama County Superintendent of Schools or designee shall ensure that criminal record background checks on employees or prospective employees are conducted through the Department of Justice (DOJ) and that any Criminal Offender Record Information (CORI) received is maintained in accordance with law.

To ensure its confidentiality, CORI shall be accessible only to the custodian of records and shall be kept in a locked file separate from other files. CORI shall be used only for the purpose for which it is requested and its contents shall not be disclosed or reproduced. (Education Code 44830.1, 45125)

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

Any unauthorized release or reproduction of any criminal offender record or other violation of this administrative regulation may result in suspension, dismissal, and/or criminal or civil legal action.

**Custodian of Records**

The County Superintendent shall designate an employee as custodian of records. Beginning July 1, 2011, any employee designated as custodian of records shall receive a criminal background check clearance from the DOJ prior to serving in that capacity. (Penal Code 11102.2)

The custodian of records shall sign and return to the DOJ the Employee Statement Form acknowledging an understanding of the laws prohibiting misuse of CORI. In addition, the custodian of records shall ensure that any individual with access to CORI has on file a signed Employee Statement Form.

The custodian of records shall be responsible for the security, storage, dissemination, and destruction of all CORI furnished to the Tehama County Department of Education. He/she also shall serve as the primary contact for the DOJ for any related issues. (Penal Code 11102.2)

By March 1, 2012, and by March 1 of every year thereafter, the County Superintendent or designee shall notify the DOJ of the Department's designated custodian of records. In addition, the County Superintendent or designee shall immediately notify the DOJ whenever a designated custodian of records ceases to serve in that capacity. (Penal Code 11102.2)



**MAINTENANCE OF CRIMINAL OFFENDER RECORDS (continued)**

**Interagency Agreements**

The Department shall submit an interagency agreement to the DOJ to establish authorization to submit and receive CORI on behalf of all participating districts. (Education Code 44830.2, 45125.01)

Upon receipt from the DOJ of a report of conviction of a serious or violent felony, the Department shall communicate that fact to participating districts and shall remove the affected employee from the common list of persons eligible for employment. (Education Code 44830.2, 45125.01)

In addition, upon receipt from the DOJ of a criminal history record or report of subsequent arrest for any person on a common list of persons eligible for employment, the Department shall give notice to the superintendent of any participating district, or the person designated in writing by that superintendent, that the report is available for inspection on a confidential basis by the superintendent or the authorized designee. The report shall be made available at the Department office for 30 days following the receipt of the notice. (Education Code 44830.2, 45125.01)

The Department shall not release a copy of that information to any participating district or any other person. In addition, the Department shall retain or dispose of the information in the manner specified in law and in this administrative regulation after all participating districts have had an opportunity to inspect it in accordance with law. (Education Code 44830.2, 45125.01)

The Department shall maintain a record of all persons to whom the information has been shown. This record shall be available to the DOJ. (Education Code 44830.2, 45125.01)

*Legal Reference: (see next page)*

AR  
4112.62(c)  
4212.62  
4312.62

## **MAINTENANCE OF CRIMINAL OFFENDER RECORDS (continued)**

### *Legal Reference:*

#### EDUCATION CODE

44332 *Temporary certificate*  
44332.6 *Criminal record check, county board of education*  
44346.1 *Applicants for credential, conviction of a violent or serious felony*  
44830.1 *Certificated employees, conviction of a violent or serious felony*  
44830.2 *Interagency agreements*  
45122.1 *Classified employees, conviction of a violent or serious felony*  
45125 *Use of personal identification cards to ascertain conviction of crime*  
45125.01 *Interagency agreements*  
45125.5 *Automated records check*  
45126 *Duty of Department of Justice to furnish information*  
49024 *Activity Supervisor Clearance Certificates*

#### PENAL CODE

667.5 *Prior prison terms, enhancement of prison terms*  
1192.7 *Plea bargaining limitation*  
11075-11081 *Criminal record dissemination*  
11102.2 *Criminal records: custodian*  
11105 *State criminal history information; furnishing to authorized persons*  
11105.3 *Record of conviction involving sex crimes, drug crimes or crimes of violence; availability to employer for applicants for positions with supervisory or disciplinary power over minors*  
11140-11144 *Furnishing of state criminal history information*  
13300-13305 *Local summary criminal history information*

#### CODE OF REGULATIONS, TITLE 11

701-708 *Criminal offender record information*

### *Management Resources:*

#### WEB SITES

*Office of the Attorney General, Department of Justice, Background Checks:*  
<http://www.ag.ca.gov/fingerprints>

**All Personnel**

E  
4112.62(a)  
4212.62  
4312.62

**MAINTENANCE OF CRIMINAL OFFENDER RECORDS**

**SAMPLE EMPLOYEE STATEMENT FORM  
USE OF CRIMINAL JUSTICE INFORMATION**

As an employee/volunteer of Tehama County Department of Education, you may have access to confidential criminal record information which is controlled by state and federal statutes. Misuse of such information may adversely affect the individual's civil rights and violate constitutional rights of privacy. Penal Code 502 prescribes the penalties relating to computer crimes. Penal Code 11105 and 13300 identify who has access to criminal history information and under what circumstances it may be disseminated. Penal Code 11140-11144 and 13301-13305 prescribe penalties for misuse of criminal history information. Government Code 6200 prescribes felony penalties for misuse of public records. Penal Code 11142 and 13300 state:

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

Civil Code 1798.53, Invasion of Privacy, states:

**"Any person who intentionally discloses information, not otherwise public, which they know or should reasonably know was obtained from personal or confidential information maintained by a state agency or from records within a system of records maintained by a federal government agency, shall be subject to a civil action, for invasion of privacy, by the individual. "**

**CIVIL, CRIMINAL, AND ADMINISTRATIVE PENALTIES:**

\*Penal Code 11141: DOJ furnishing to unauthorized person (misdemeanor)

\*Penal Code 11142: Authorized person furnishing to other (misdemeanor)

\*Penal Code 11143: Unauthorized person in possession (misdemeanor)

\*California Constitution, Article I, Section 1 (Right to Privacy)

\* Civil Code 1798.53, Invasion of Privacy

\*Title 18 USC 641, 1030, 1951, and 1952

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

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4112.62(b)  
4212.62  
4313.62

**MAINTENANCE OF CRIMINAL OFFENDER RECORDS (continued)**

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

Signature \_\_\_\_\_ Date \_\_\_\_\_

Printed Name \_\_\_\_\_ Title \_\_\_\_\_

Name of District \_\_\_\_\_

PLEASE NOTE: Do not return this form to the DOJ. Your Custodian of Records should maintain these forms.

**All Personnel**

SP 4112.8

4212.8

**EMPLOYMENT OF RELATIVES**

4312.8

The Tehama County Superintendent of Schools desires to maximize staff and community confidence in Tehama County Department of Education hiring, promotion, and other employment decisions by promoting practices that are free of conflicts of interest or the appearance of impropriety.

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

For purposes of this policy, *relative* includes the individual's spouse, domestic partner, parents, grandparents, great-grandparents, children, grandchildren, great-grandchildren, brothers, sisters, aunts, uncles, nieces, nephews, and the similar family of the individual's spouse or domestic partner.

In addition, the County Superintendent or designee may determine, on a case-by-case basis, whether to appoint a person to a position in the same department or facility as an employee with whom he/she maintains a personal relationship when that relationship has the potential to create (1) an adverse impact on supervision, safety, security, or morale of other Department employees or (2) a conflict of interest for the individuals involved which is greater because of their relationship than it would be for another person.

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

*Legal Reference:*

EDUCATION CODE

35107 School district employees

FAMILY CODE

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

GOVERNMENT CODE

1090-1098 Prohibitions applicable to specified officers

12940 Unlawful employment practices

CODE OF REGULATIONS, TITLE 2

7292.0-7292.6 Marital status discrimination, especially:

7292.5 Employee selection

*Management Resources:*

WEB SITES

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

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

**All Personnel**

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4112.9(a)  
4212.9  
4312.9

**EMPLOYEE NOTIFICATIONS**

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

**Acknowledgments Required by Law**

1. Legal obligation to report known or suspected instances of child abuse
2. Oath or affirmation of allegiance required of public employees
3. Hepatitis B vaccine declination
4. The Department's school bus driver drug and alcohol testing policy, regulations and related information
5. Notice of release from position requiring an administrative or supervisory credential
6. The classified employee's class specification, salary data, assignment or work location, duty hours and prescribed workweek
7. Information about certificated employee membership in the State Teachers' Retirement System

**Acknowledgments Not Required by Law**

1. The Department's drug- and alcohol-free workplace
2. The Department's nonsmoking policy
3. Prohibition of sexual harassment
4. The certificated employee's employment status and salary
5. State disability insurance rights and benefits
6. Certificated employee evaluations
7. Requirements and information pertinent to emergency teaching or specialist permit applicants

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4112.9(b)  
4212.9  
4312.9

**EMPLOYEE NOTIFICATIONS** (continued)

8. Notice of layoff
9. Derogatory information to be placed in personnel file
10. Exhaustion of classified employee's paid leave
11. Notice of charges related to disciplinary action
12. Notice of intention to dismiss
13. Students whose actions could constitute grounds for suspension or expulsion, except for possession or use of tobacco

*Legal Reference: (see next page)*

AR  
4112.9(c)  
4212.9  
4312.9

## **EMPLOYEE NOTIFICATIONS (continued)**

### *Legal Reference:*

#### EDUCATION CODE

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

#### GOVERNMENT CODE

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

#### PENAL CODE

11166.5 Employment; statement of knowledge of duty to report

#### UNEMPLOYMENT INSURANCE CODE

2613 Notice of rights and benefits

#### CODE OF REGULATIONS, TITLE 5

80026.1 Information to applicants

#### CODE OF REGULATIONS, TITLE 8

5193 California bloodborne pathogens standard

#### CODE OF FEDERAL REGULATIONS, TITLE 49

382.601 Controlled substance and alcohol use and testing notifications



**All Personnel**

SP  
4113.4(a)  
4213.4  
4313.4

**TEMPORARY MODIFIED/LIGHT-DUTY ASSIGNMENT**

The Tehama County Superintendent of Schools recognizes that, when employees have temporarily disabling medical conditions, temporary modified or light-duty assignments can allow the Tehama County Department of Education to continue to use their valuable knowledge, skills, and abilities while minimizing time away from work. Temporary modified/light-duty assignments may also serve to facilitate the employee's transition back to his/her regular duties or full-time work.

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

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

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

*Legal Reference: (see next page)*

SP  
4113.4(b)  
4213.4  
4313.4

## **TEMPORARY MODIFIED/LIGHT-DUTY ASSIGNMENT (continued)**

### *Legal Reference:*

#### EDUCATION CODE

44984 *Required rules for industrial accident and illness leave*

45192 *Industrial accident and illness leave for classified employees*

#### GOVERNMENT CODE

12900-12996 *Fair Employment and Housing Act*

12945.1-12945.2 *California Family Rights Act*

#### UNITED STATES CODE, TITLE 29

2601-2654 *Family Care and Medical Leave Act*

#### UNITED STATES CODE, TITLE 42

12101-12213 *Americans with Disabilities Act*

#### COURT DECISIONS

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

### *Management Resources:*

#### WEB SITES

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

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

**EVALUATION/SUPERVISION**

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

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

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

*Legal Reference:*EDUCATION CODE*33039 State guidelines for teacher evaluation procedures**35171 Availability of rules and regulations for evaluation of performance**44500-44508 Peer assistance and review program for teachers**44660-44665 Evaluation and assessment of performance of certificated employees (the Stull Act)*GOVERNMENT CODE*3543.2 Scope of representation*UNITED STATES CODE, TITLE 20*6319 Highly qualified teachers**7801 Definition of highly qualified teacher**Management Resources:*CTC PUBLICATIONS*Standards for the Quality and Effectiveness for Beginning Teacher Support and Assessment Programs, 1997**California Standards for the Teaching Profession, 1997*WEB SITES*CSBA: <http://www.csba.org>**California Department of Education: <http://www.cde.ca.gov>**California Commission on Teacher Credentialing: <http://www.ctc.ca.gov>**National Board for Professional Teaching Standards: <http://www.nbpts.org>*

**Certificated Personnel**

AR  
4117.11(a)  
4317.11

**PRERETIREMENT PART-TIME EMPLOYMENT**

On a case-by-case basis, the Tehama County Superintendent of Schools or designee may allow a certificated employee to reduce his/her workload from full time to part time when doing so does not disrupt the educational program and is in the best interests of the Tehama County Department of Education.

A certificated employee who is a member of the defined benefit program of the California State Teachers' Retirement System (STRS) and who reduces his/her workload to part time may maintain the retirement and health and welfare benefits that he/she would have received if employed on a full-time basis under the following conditions: (Education Code 22713, 44922)

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

**PRERETIREMENT PART-TIME EMPLOYMENT** (continued)

Prior to the reduction of an employee's workload, the County Superintendent or designee shall verify the employee's eligibility in conjunction with the administrative staff of STRS and/or the Public Employees' Retirement System. (Education Code 22713)

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

*Legal Reference:*

EDUCATION CODE

22119.5 *Creditable service, definition*

22138.5 *Full-time, definition*

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

44922 *Regulations; reduction to part-time employment*

GOVERNMENT CODE

21110-21120 *Reduced workload, partial service retirement under PERS*

53201 *Health and welfare benefits: election by officers and employees*

*Management Resources:*

WEB SITES

*California Public Employees' Retirement System: <http://www.calpers.ca.gov>*

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

## **Certificated Personnel**

SP  
4117.13(a)  
4317.13

### **EARLY RETIREMENT OPTION**

When it is beneficial to the Tehama County Department of Education, the Tehama County Superintendent of Schools may offer certificated employees the option to retire early in accordance with law.

#### **Two Years of Service Credit Retirement Incentive**

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

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

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

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

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

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

#### **Two + Two Retirement Incentive: 2 Years of Service Credit + 2 Years of Age Credit**

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

*Legal Reference: (see next page)*

**EARLY RETIREMENT OPTION (continued)**

*Legal Reference:*

EDUCATION CODE

22714 *Service credit under STRS; additional two years*

44929 *Service credit under STRS; additional two years*

UNITED STATES CODE, TITLE 20

6319 *Highly qualified teachers*

COURT DECISIONS

*United Teacher of Los Angeles v. Los Angeles Unified School District (1994) 24 Cal.App. 4<sup>th</sup> 1510*

*Management Resources:*

CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM PUBLICATIONS

*Retirement Incentive Program, Frequently Asked Questions*

WEB SITES

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

## **Certificated Personnel**

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4117.14(a)  
4317.14

### **POSTRETIREMENT EMPLOYMENT**

The Tehama County Superintendent of Schools may hire retired certificated individuals who possess unique knowledge and experience to perform specialized work of a limited duration.

Any retired certificated individual who is a member of the defined benefit program of the State Teachers' Retirement System (STRS) and who is hired by the Tehama County Department of Education to perform services pursuant to this administrative regulation shall not make contributions to the retirement fund or accrue service credit based on compensation earned from that service. (Education Code 24214)

Any retired individual hired under this administrative regulation shall be paid at a rate commensurate with that of other Department employees performing comparable duties. (Education Code 24214)

Beginning July 1, 2010, any certificated individual who is a member of STRS and who retires from service below normal retirement age shall not be hired for service pursuant to this administrative regulation for at least six calendar months after his/her retirement from service. (Education Code 24214.5)

#### **Postretirement Compensation Limitation**

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

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

When employing a retired individual eligible for any of the exemptions from the postretirement compensation limitation stated below, the County Superintendent or designee shall submit to STRS, no later than June 30 of the school year for which the exemption is to apply, all required documentation to substantiate eligibility for the exemption. (Education Code 24216, 24216.5, 24216.6)



## **POSTRETIREMENT EMPLOYMENT (continued)**

### **Exemption for Providing Specified Instructional Services**

Until June 30, 2012, any retired certificated individual employed by the Department shall be exempt from the compensation limitation for members of STRS provided that he/she retired from service with an effective date on or before January 1, 2009, and is employed to provide any of the following services: (Education Code 24216.5, 24216.6)

1. Direct classroom instruction to students in grades K-12
2. Support and assessment for new teachers through the Beginning Teacher Support and Assessment program pursuant to Education Code 44279.1-44279.7
3. Support to individuals completing student teaching assignments
4. Support to individuals participating in an alternative certification program (Education Code 44380-44386) or a school paraprofessional teacher training program (Education Code 44390-44393)
5. Instruction and student services to students enrolled in special education programs pursuant to Education Code 56000-56885
6. Instruction to students enrolled in English language learner programs pursuant to Education Code 400-410 and 430-446
7. Direct remedial instruction to students in grades 2-12 for the programs specified in Education Code 37252 and 37252.2

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

The compensation for the class of retired individuals shall be agreed to in the collective bargaining agreement between the Department and the exclusive representative for the bargaining unit. (Education Code 24216.5, 24216.6)

## **POSTRETIREMENT EMPLOYMENT (continued)**

### **Exemption for Appointment as Trustee/Administrator or for Emergency Situations**

A retired certificated individual shall be exempt from the postretirement compensation limitation for a maximum period of 24 consecutive months if he/she is appointed by the Superintendent of Public Instruction as a trustee or administrator pursuant to Education Code 41320.1, appointed as a trustee pursuant to the Immediate Intervention/Underperforming Schools Program or the High Priority Schools Grant Program, or assigned to a position by the County Superintendent pursuant to Education Code 42122-42129. (Education Code 24216)

Until June 30, 2012, a retired individual shall be exempt from the postretirement compensation limitation up to an additional one-half of the full-time position when employed in an emergency situation to fill a vacant administrative position requiring highly specialized skills, provided that all of the following conditions are met: (Education Code 24216)

1. The vacancy occurred due to circumstances beyond the Department's control.
2. The recruitment process to fill the vacancy on a permanent basis is expected to extend over several months.
4. The retired individual's termination of employment with the Department is not the basis for the vacant administrative position.

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

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

### **Consultancy Contracts**

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

## **POSTRETIREMENT EMPLOYMENT (continued)**

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

### *Legal Reference:*

#### EDUCATION CODE

400-410 *English language acquisition program*  
430-446 *English Learner and Immigrant Student Federal Conformity Act*  
22119.5 *Creditable service, definition*  
22461 *Notice of earnings limitation*  
22714 *Encouragement of retirement*  
22714.5 *2+2 service and year credit option under STRS*  
22715 *Additional service credit*  
22716 *Unpaid services*  
24116 *Service at California State University*  
24214 *Creditable service by retiree*  
24214.5 *Postretirement compensation limit; members below normal retirement age*  
24215 *Service at California State University*  
24216 *Payments to retirants in excess of limitation*  
24216.5 *Exemption from earnings limitation*  
24216.6 *Exemption from earnings limitation*  
35046 *Consultancy contracts*  
37252-37254.1 *Supplemental instruction*  
41320.1 *Appointment of trustee*  
42120-42129 *Budget completion*  
44279.1-44279.7 *Beginning Teacher Support and Assessment Program*  
44380-44386 *Alternative certification program*  
44390-44393 *School paraprofessional teacher training program*  
44830 *Employment of certificated employees*  
44830.3 *Employment of district interns*  
44929 *Service credit under STRS; additional two years*  
44929.1 *2+2 service and year credit option under STRS*  
52053-52055.55 *Immediate Intervention/Underperforming Schools Program*  
52055.600-52055.662 *High Priority Schools Grant Program*  
56000-56885 *Special education*

### *Management Resources:*

#### WEB SITES

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

**All Personnel**

SP 4117.2

4217.2

**RESIGNATION**

4317.2

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

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

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

*Legal Reference:*

EDUCATION CODE

35161 Board delegation of any powers or duties

44242.5 Reports of change in employment status, alleged misconduct

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

44433 Unauthorized departure from service as unprofessional conduct

44930 Acceptance and date of resignation

45201 Power to accept resignation

CODE OF REGULATIONS, TITLE 5

80303 Reports of change in employment status

80304 Notice of sexual misconduct

COURT DECISIONS

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

**All Personnel**

AR 4117.5

4217.5

**TERMINATION AGREEMENTS**

4317.5

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

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

Settlement agreements shall not include noncash items other than health benefits, which the Tehama County Department of Education may offer to continue for the unexpired term up to 18 months or until the employee finds other employment, whichever comes first. (Government Code 53261)

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

*Legal Reference:*

CIVIL CODE

47 Privileged communication

GOVERNMENT CODE

53260-53264 Employment contracts

LABOR CODE

1198.5 Inspection of personnel files by employees

CODE OF REGULATIONS, TITLE 5

80303 Reports of dismissal, resignation and other terminations for cause

80332 Professional honesty in letters of employment recommendation

COURT DECISIONS

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

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

Regulation  
approved: April 20, 2011  
Revised: July 30, 2015

**TEHAMA COUNTY DEPARTMENT OF EDUCATION**  
Red Bluff, California

**All Personnel**

SP  
4119.11(a)  
4219.11  
4319.11

**SEXUAL HARASSMENT**

The Tehama County Superintendent of Schools prohibits sexual harassment of Tehama County Department of Education employees and job applicants. The County Superintendent also prohibits retaliatory behavior or action against Department employees or other persons who complain, testify or otherwise participate in the complaint process established pursuant to this policy and administrative regulation.

The County Superintendent or designee shall take all actions necessary to ensure the prevention, investigation, and correction of sexual harassment, including but not limited to:

1. Providing training to employees in accordance with law and administrative regulation
2. Publicizing and disseminating the Department's sexual harassment policy to staff
3. Ensuring prompt, thorough, and fair investigation of complaints
4. Taking timely and appropriate corrective/remedial action(s), which may require interim separation of the complainant and the alleged harasser and subsequent monitoring of developments

All complaints and allegations of sexual harassment shall be kept confidential to the extent necessary to carry out the investigation or to take other subsequent necessary actions. (5 CCR 4964)

Any Department employee or job applicant who feels that he/she has been sexually harassed or who has knowledge of any incident of sexual harassment by or against another employee, a job applicant or a student, shall immediately report the incident to his/her supervisor, the Program Administrator, Department administrator or County Superintendent.

A supervisor, Program Administrator or other Department administrator who receives a harassment complaint shall promptly notify the County Superintendent or designee.

Complaints of sexual harassment shall be filed in accordance with AR 4031 - Complaints Concerning Discrimination in Employment. An employee may bypass his/her supervisor in filing a complaint where the supervisor is the subject of the complaint.

Any Department employee who engages or participates in sexual harassment or who aids, abets, incites, compels, or coerces another to commit sexual harassment against a Department employee, job applicant, or student is in violation of this policy and is subject to disciplinary action, up to and including dismissal.

*Legal Reference: (see next page)*

SP  
4119.11(b)  
4219.11  
4319.11

## SEXUAL HARASSMENT (continued)

### *Legal Reference:*

#### EDUCATION CODE

200-262.4 *Prohibition of discrimination on the basis of sex*

#### GOVERNMENT CODE

12900-12996 *Fair Employment and Housing Act, especially:*

12940 *Prohibited discrimination*

12950.1 *Sexual harassment training*

#### LABOR CODE

1101 *Political activities of employees*

1102.1 *Discrimination: sexual orientation*

#### CODE OF REGULATIONS, TITLE 2

7287.8 *Retaliation*

7288.0 *Sexual harassment training and education*

#### CODE OF REGULATIONS, TITLE 5

4900-4965 *Nondiscrimination in elementary and secondary education programs receiving state financial assistance*

#### UNITED STATES CODE, TITLE 42

2000d-2000d-7 *Title VI, Civil Rights Act of 1964*

2000e-2000e-17 *Title VII, Civil Rights Act of 1964, as amended*

2000h-2-2000h-6 *Title IX, 1972 Education Act Amendments*

#### CODE OF FEDERAL REGULATIONS, TITLE 34

106.9 *Dissemination of policy*

#### COURT DECISIONS

*Department of Health Services v. Superior Court of California*, (2003) 31 Cal.4<sup>th</sup> 1026

*Faragher v. City of Boca Raton*, (1998) 118 S.Ct. 2275

*Burlington Industries v. Ellreth*, (1998) 118 S.Ct. 2257

*Gebser v. Lago Vista Independent School District*, (1998) 118 S.Ct. 1989

*Oncala v. Sundowner Offshore Serv. Inc.*, (1998) 118 S.Ct. 998

*Meritor Savings Bank, FSB v. Vinson et al.*, (1986) 447 U.S. 57

### *Management Resources:*

#### OFFICE OF CIVIL RIGHTS AND NATIONAL ASSOCIATION OF ATTORNEYS GENERAL

*Protecting Students from Harassment and Hate Crime*, January, 1999

#### WEB SITES

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

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

U.S. Department of Education, Office for Civil Rights:

<http://www.ed.gov/about/offices/list/ocr/index.html>

**All Personnel**

AR  
4119.11(a)  
4219.11  
4319.11

**SEXUAL HARASSMENT**

**Definitions**

*Prohibited sexual harassment* includes, but is not limited to, unwelcome sexual advances, unwanted requests for sexual favors, or other unwanted verbal, visual, or physical conduct of a sexual nature made against another person of the same or opposite sex in the work or educational setting when: (Education Code 212.5; 5 CCR 4916)

1. Submission to the conduct is made explicitly or implicitly a term or condition of the individual's employment.
2. Submission to or rejection of such conduct by the individual is used as the basis for an employment decision affecting him/her.
3. The conduct has the purpose or effect of having a negative impact upon the individual's work or has the purpose or effect of creating an intimidating, hostile, or offensive work environment. The conduct is sufficiently severe, persistent, pervasive, or objectively offensive so as to create a hostile or abusive working environment or to limit the individual's ability to participate in or benefit from an education program or activity.
4. Submission to or rejection of the conduct by the other individual is used as the basis for any decision affecting him/her regarding benefits, services, honors, programs, or activities available at or through the Tehama County Department of Education.

Other examples of actions that might constitute sexual harassment, whether committed by a supervisor, a co-worker, or a non-employee, in the work or educational setting, include, but are not limited to:

1. Unwelcome verbal conduct such as sexual flirtations or propositions; graphic comments about an individual's body; overly personal conversations or pressure for sexual activity; sexual jokes or stories; unwelcome sexual slurs, epithets, threats, innuendoes, derogatory comments, sexually degrading descriptions, or the spreading of sexual rumors
2. Unwelcome visual conduct such as drawings, pictures, graffiti, or gestures; sexually explicit emails; displaying sexually suggestive objects
3. Unwelcome physical conduct such as massaging, grabbing, fondling, stroking, or brushing the body; touching an individual's body or clothes in a sexual way; cornering, blocking, leaning over, or impeding normal movements



AR  
4119.11(b)  
4219.11  
4319.11

## **SEXUAL HARASSMENT** (continued)

*Prohibited sexual harassment* may also include any act of retaliation against an individual who reports a violation of the Department's sexual harassment policy or who participates in the investigation of a sexual harassment complaint.

### **Training**

Every two years, the County Superintendent or designee shall ensure that supervisory employees receive at least two hours of classroom or other effective interactive training and education regarding sexual harassment. All newly hired or promoted supervisory employees shall receive training within six months of their assumption of the supervisory position. (Government Code 12950.1)

The Department's training and education program for supervisory employees shall include information and practical guidance regarding the federal and state laws on the prohibition against and the prevention and correction of sexual harassment, and the remedies available to the victims of sexual harassment in employment. The training shall also include all of the content specified in 2 CCR 7288.0 and practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation. (Government Code 12950.1; 2 CCR 7288.0)

In addition, the County Superintendent or designee shall ensure that all employees receive periodic training regarding the Department's sexual harassment policy, particularly the procedures for filing complaints and employees' duty to use the Department's complaint procedures.

### **Notifications**

A copy of the Department policy and this administrative regulation shall: (Education Code 231.5)

1. Be displayed in a prominent location in the main administrative building, Department office, or other area of the school where notices of Department rules, regulations, procedures, and standards of conduct are posted
2. Be provided to each faculty member, all members of the administrative staff, and all members of the support staff at the beginning of the first quarter or semester of the school year or whenever a new employee is hired
3. Appear in any school or Department publication that sets forth the school's or Department's comprehensive rules, regulations, procedures, and standards of conduct

AR  
4119.11(c)  
4219.11  
4319.11

**SEXUAL HARASSMENT** (continued)

All employees shall receive either a copy of information sheets prepared by the California Department of Fair Employment and Housing (DFEH) or a copy of Department information sheets that contain, at a minimum, components on: (Government Code 12950)

1. The illegality of sexual harassment
2. The definition of sexual harassment under applicable state and federal law
3. A description of sexual harassment, with examples
4. The Department's complaint process available to the employee
5. The legal remedies and complaint process available through DFEH and the Equal Employment Opportunity Commission (EEOC)
6. Directions on how to contact DFEH and the EEOC
7. The protection against retaliation provided by 2 CCR 7287.8 for opposing harassment prohibited by law or for filing a complaint with or otherwise participating in an investigation, proceeding, or hearing conducted by DFEH and the EEOC

In addition, the Department shall post, in a prominent and accessible location, DFEH's poster on discrimination in employment and the illegality of sexual harassment. (Government Code 12950)

**All Personnel**

SP 4119.22

4219.22

**DRESS AND GROOMING**

4319.22

The Tehama County Superintendent of Schools believes that appropriate dress and grooming by Tehama County Department of Education employees contribute to a productive learning environment and model positive behavior. During school hours and at school activities, employees shall maintain professional standards of dress and grooming that demonstrate their high regard for education, present an image consistent with their job responsibilities and assignment, and not endanger the health or safety of employees or students. All employees shall be held to the same standards unless their assignment provides for modified dress as approved by their supervisor.

*Legal Reference:*

EDUCATION CODE

35160 Authority of governing boards

35160.1 Broad authority of school districts

GOVERNMENT CODE

3543.2 Scope of representation

12949 Dress standards, consistency with gender identity

COURT DECISIONS

San Mateo City School District v. PERB (1983) 33 Cal. 3d 850

Domico v. Rapides Parish School Board (5th Cir. 1982) 675 F.2d 100

East Hartford Education Assn. v. Board of Education (2d Cir. 1977) 562 F. 2d 856

Finot v. Pasadena Board of Education (1967) 250 Cal.App.2d 189

PUBLIC EMPLOYMENT RELATIONS BOARD DECISIONS

Santa Ana Unified School District (1998) 22 PERC P29, 136

Inglewood Unified School District (1985) 10 PERC P17, 000

*Management Resources:*

WEB SITES

Public Employment Relations Board: <http://www.perb.ca.gov>

**All Personnel**

SP

4119.23(a)

4219.23

4319.23

**UNAUTHORIZED RELEASE OF CONFIDENTIAL/  
PRIVILEGED INFORMATION**

The Tehama County Superintendent of Schools recognizes the importance of keeping confidential information confidential. Staff shall maintain the confidentiality of information acquired in the course of their employment. Confidential/privileged information shall be released only to the extent authorized by law.

**Disclosure of Closed Session Information**

An employee shall not disclose confidential information acquired by being present during a closed session to a person not entitled to receive such information, unless the Tehama County Board of Education authorizes disclosure of that information. (Government Code 54963)

*Confidential information* means a communication made in a closed session that is specifically related to the basis for the County Board to meet lawfully in closed session. (Government Code 54963)

An employee who willfully discloses confidential information acquired during a closed session may be subject to disciplinary action if he/she has received training or notice as to the requirements of this policy. (Government Code 54963)

The County Superintendent or designee shall provide all employees who attend closed sessions a copy of this policy. New employees who may attend closed sessions shall also receive a copy of this policy.

The Tehama County Department of Education shall not take disciplinary action against any employee for disclosing confidential information acquired in a closed session, nor shall the disclosure be considered a violation of the law or Department policy, when the employee is: (Government Code 54963)

1. Making a confidential inquiry or complaint to a Department attorney or grand jury concerning a perceived violation of law, including disclosing facts necessary to establish the illegality or potential illegality of a County Board action that has been the subject of deliberation during a closed session
2. Expressing an opinion concerning the propriety or legality of County Board action in closed session, including disclosure of the nature and extent of the illegal or potentially illegal action
3. Disclosing information that is not confidential

SP  
4119.23(b)  
4219.23  
4319.23

**UNAUTHORIZED RELEASE OF CONFIDENTIAL/  
PRIVILEGED INFORMATION (continued)**

**Other Disclosures**

An employee who willfully releases confidential/privileged information about the Department, students or staff shall be subject to disciplinary action.

No employee shall disclose confidential information acquired in the course of his/her official duties. Confidential information includes information that is not a public record subject to disclosure under the Public Records Act, information that by law may not be disclosed, or information that may have a material financial effect on the employee.

Any action by an employee which inadvertently or carelessly results in release of confidential/privileged information shall be recorded, and the record shall be placed in the employee's personnel file. Depending on the circumstances, the County Superintendent or designee may deny the employee further access to any privileged information and shall take any steps necessary to prevent any further unauthorized release of such information.

*Legal Reference:*

EDUCATION CODE

35010 *Control of district; prescription and enforcement of rules*

35146 *Closed sessions*

35160 *Authority of governing boards*

44031 *Personnel file contents and inspection*

44932 *Grounds for dismissal of permanent employees*

44933 *Other grounds for dismissal*

45113 *Rules and regulations for classified service*

49060-49079 *Pupil records*

GOVERNMENT CODE

1098 *Public officials and employees: confidential information*

6250-6270 *Inspection of public records*

54950-54963 *Brown Act*

UNITED STATES CODE, TITLE 20

1232g *Family Education Rights and Privacy Act*

*Management Resources:*

WEB SITES

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

**All Personnel**

SP 4119.25

4219.25

**POLITICAL ACTIVITIES OF EMPLOYEES**

4319.25

The Tehama County Superintendent of Schools respects the right of school employees to engage in political discussions and activities on their own time and at their own expense. On such occasions, employees shall make it clear that they are acting as individuals and not as representatives of the Tehama County Department of Education.

Like other community members, employees may use school facilities for meetings under the Civic Center Act.

Employees shall refrain from prohibited activities identified in law and administrative regulations. Employees who engage in these activities shall be subject to disciplinary action and/or criminal penalties.

*Legal Reference:*

EDUCATION CODE

7050-7057 *Political activities of school officers and employees*

38130-38139 *Civic Center Act*

51520 *Prohibited solicitations on school premises*

GOVERNMENT CODE

3543.1 *Rights of employee organizations*

COURT DECISIONS

*Downs v. Los Angeles Unified School District*, (9th Cir. 2000) 228 F.3d 1003

*California Teachers Association v. Governing Board of San Diego Unified School District*, (1996)

45 Cal.App. 4th 1333

*L.A. Teachers Union v. L.A. City Board of Education*, (1969) 71 Cal.2d 551

ATTORNEY GENERAL OPINIONS

84 *Ops.Cal.Atty.Gen.* 106 (2001)

84 *Ops.Cal.Atty.Gen.* 52 (2001)

77 *Ops.Cal.Atty.Gen.* 56 (1994)

PERB RULINGS

*California Federation of Teachers, Local 1931 v. San Diego Community College District* (2001)

PERB Order #1467 (26 PERC 33014)

*Management Resources:*

CSBA PUBLICATIONS

*Political Activities of School Districts: Legal Issues*, 1998, revised 2001

WEB SITES

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

Office of the Attorney General, Dept. of Justice: <http://caag.state.ca.us/>

Public Employment Relations Board: <http://www.perb.ca.gov>

**All Personnel**

AR  
4119.25(a)  
4219.25  
4319.25

**POLITICAL ACTIVITIES OF EMPLOYEES**

Tehama County Department of Education employees shall not:

1. Use Department funds, services, supplies or equipment to urge the passage or defeat of any ballot measure or candidate, including any candidate for election to the Tehama County Superintendent of Schools (Education Code 7054)
2. During working hours and on Department property, solicit or receive any political funds or contributions to promote the passage or defeat of a ballot measure that would affect the rate of pay, hours of work, retirement, civil service or other working conditions (Education Code 7056)
3. During working hours and on Department property, solicit or receive any political funds or contributions to promote the passage or defeat of other types of ballot measures
4. Use Department time to urge the passage or defeat of any ballot measure or candidate
5. Use Department equipment for the preparation or reproduction of political campaign materials, even if the Department is reimbursed
6. Post or distribute political campaign materials on Department property
7. Disseminate political campaign materials through the Department's mail service, e-mail or staff mailboxes
8. Use students to write, address or distribute political campaign materials
9. Present viewpoints on particular candidates or ballot measures in the classroom without giving equal time to the presentation of opposing views
10. Wear buttons or articles of clothing that express political opinions on ballot measures or candidates during instructional time

However, teachers shall not be prohibited from wearing political buttons during noninstructional time, such as Back-to-School Night.

Nothing in Department policy or administrative regulation shall be construed to prevent employees from soliciting or receiving funds or contributions for political purposes during nonworking time, including before and after school, the lunch period or other scheduled work intermittency during the school day. (Education Code 7056)

AR  
4119.25(b)  
4219.25  
4319.25

## **POLITICAL ACTIVITIES OF EMPLOYEES (continued)**

### **Employee Organizations**

Employee organizations may use Department mailboxes and other means to communicate with employees, subject to reasonable regulation. Employee organizations may have access at reasonable times to areas in which employees work; may use institutional bulletin boards, mailboxes, and other means of communication and may use Department facilities at reasonable times for the purpose of meetings. (Government Code 3543.1)

However, employee organizations shall not use Department funds, services, supplies or equipment, such as the Department mail system, to urge the passage or defeat of any ballot measure or candidate, including any candidate for election to the County Board (Education Code 7054)

Access to Department communication channels shall be limited in cases where such access would be disruptive to Department operations.

In the event of a concerted action or work stoppage, political activities by employee organizations and individual employees shall be restricted to peaceful informational picketing and other activities allowed by law.



**All Personnel**

SP

4119.41(a)

4219.41

**EMPLOYEES WITH INFECTIOUS DISEASE**

4319.41

The Tehama County Superintendent of Schools encourages each employee to inform the Tehama County Department of Education as soon as possible if he/she contracts an infectious disease which creates a physical or mental disability. The County Superintendent will reasonably accommodate the needs of such individuals.

The County Superintendent may reassign or grant disability leave to an employee who is unable to perform his/her job responsibilities because of illness or because the employee's illness significantly endangers his/her health or safety or the health or safety of others.

No employee will be discriminated against because of his/her disability. Legal protections established for disabled persons extend to individuals significantly impaired by infectious diseases.

When informed that an employee has a disabling infectious disease, the County Superintendent or designee may request that the employee sign a release form to provide confidential medical information and records.

In determining a reasonable accommodation of the employee's condition, the County Superintendent or designee may consult with public health officials or physicians with expertise in the diagnosis and treatment of infectious disease. The County Superintendent or designee may also communicate with the employee's physician regarding the employee's ability to perform the essential requirements of the job with reasonable accommodation and without posing significant health or safety risks to the employee or others.

The County Superintendent or designee shall prepare a confidential report which includes his/her recommendation and the medical information upon which it is based. These recommendations shall take into consideration:

1. The nature of the disease and the probability of its being transmitted, including the duration and severity of the risk
2. The physical condition of the employee, including diagnosis, treatment, and prognosis of the condition
3. The actual requirements of the employee's job and the expected type of interaction with others in the school setting

The job assignment of an employee with a disabling infectious disease shall be reevaluated whenever there is a change in medical knowledge or in the employee's medical regimen or health which might affect his/her assignment.

SP  
4119.41(b)  
4219.41  
4319.41

## **EMPLOYEES WITH INFECTIOUS DISEASE (continued)**

### **Confidentiality**

The County Superintendent or designee shall ensure that employee rights to confidentiality are strictly observed. The Department shall disclose medical record information only to the extent required or permitted by law. The medical records of any employee with a disabling infectious disease shall be held in strict confidence.

#### *Legal Reference:*

CIVIL CODE

56-56.37 Confidentiality of medical information

GOVERNMENT CODE

12900-12996 Fair Employment and Housing Act

HEALTH AND SAFETY CODE

120975-121020 Mandated blood testing and confidentiality to protect public health

CODE OF REGULATIONS, TITLE 2

7293.5 et seq.

UNITED STATES CODE, TITLE 29

701 et seq. Rehabilitation Act

UNITED STATES CODE, TITLE 42

12101-12213 Americans With Disabilities Act

COURT DECISIONS

School Board of Nassau County, Fla. v. Arline, 408 U.S. 273 (1987)

**All Personnel**

SP

4119.42(a)

4219.42

**EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS**

4319.42

As part of its commitment to provide a safe and healthful work environment, the Tehama County Superintendent of Schools recognizes the importance of developing an exposure control plan. The County Superintendent or designee shall establish a written exposure control plan in accordance with state and federal standards for dealing with potentially infectious materials in the workplace to protect employees from possible infection due to contact with bloodborne pathogens, including but not limited to hepatitis B virus, hepatitis C virus and human immunodeficiency virus (HIV).

The County Superintendent or designee shall determine which employees have occupational exposure to bloodborne pathogens and other potentially infectious materials. In accordance with the Department's exposure control plan, employees having occupational exposure shall be offered the hepatitis B vaccination.

The County Superintendent or designee may exempt designated first aid providers from pre-exposure hepatitis B vaccination under the conditions specified by state regulations. (8 CCR 5193(f))

Any employee not identified by the County Superintendent or designee as having occupational exposure may submit a request to the County Superintendent or designee to be included in the training and hepatitis B vaccination program. The County Superintendent or designee may deny a request when there is no reasonable anticipation of contact with any infectious material.

*Legal Reference: (see next page)*

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4119.42(b)  
4219.42  
4319.42

## **EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS (continued)**

### *Legal Reference:*

#### LABOR CODE

142.3 Authority of Cal/OSHA to adopt standards

144.7 Requirement to amend standards

#### CODE OF REGULATIONS, TITLE 8

3204 Access to employee exposure and medical records

5193 California bloodborne pathogens standards

#### CODE OF FEDERAL REGULATIONS, TITLE 29

1910.1030 OSHA bloodborne pathogens standards

### *Management Resources:*

#### CDE ADVISORIES

1016.89 Guidelines for Informing School Employees about Preventing the Spread of Infectious Diseases, including Hepatitis B and AIDS/HIV Infections and Policies for Dealing with HIV-Infected Persons in School Settings

#### WEB SITES

OSHA: <http://www.osha.gov>

Cal/OSHA: [http://www.dir.ca.gov/occupational\\_safety.html](http://www.dir.ca.gov/occupational_safety.html)

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

## All Personnel

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## EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS

### Definitions

*Occupational exposure* means reasonably anticipated skin, eye, mucous membrane, or parenteral contact with blood or other potentially infectious materials that may result from the performance of an employee's duties. (8 CCR 5193(b))

*Exposure incident* means a specific eye, mouth, other mucous membrane, nonintact skin, or parenteral contact with blood or other potentially infectious materials that result from the performance of an employee's duties. (8 CCR 5193 (b))

*Parenteral contact* means piercing mucous membranes or the skin barrier through such events as needlesticks, human bites, cuts, and abrasions. (8 CCR 5193(b))

A *sharp* is any object that can be reasonably anticipated to penetrate the skin or any other part of the body and to result in an exposure incident. (8 CCR 5193(b))

A *sharps injury* is any injury caused by a sharp, including but not limited to cuts, abrasions or needlesticks. (8 CCR 5193(b))

*Work practice controls* are controls that reduce the likelihood of exposure by defining the manner in which a task is performed. (8 CCR 5193(b))

*Engineering controls* are controls, such as sharps disposal containers, needleless systems, and sharps with engineered sharps injury protection, that isolate or remove the bloodborne pathogens hazard from the workplace. (8 CCR 5193(b))

*Engineered sharps injury protection* is a physical attribute built into a needle device or into a non-needle sharp which effectively reduces the risk of an exposure incident. (8 CCR 5193(b))

### Exposure Control Plan

The Tehama County Department of Education's exposure control plan shall contain at least the following components: (8 CCR 5193(c))

1. A determination of which employees have occupational exposure to blood or other potentially infectious materials

The Department's exposure determination shall be made without regard to the use of personal protective equipment and shall include a list of:

- a. All job classifications in which all employees have occupational exposure
- b. Job classifications in which some employees have occupational exposure

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**EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS (continued)**

- c. All tasks and procedures, or groups of closely related tasks and procedures, in which occupational exposure occurs and which are performed by employees listed in item #b above
2. The schedule and method of implementing:
  - a. Methods of compliance required by 8 CCR 5193(d), such as universal precautions, general and specific engineering and work practice controls, and personal protective equipment
  - b. Hepatitis B vaccination
  - c. Bloodborne pathogen post-exposure evaluation and follow-up
  - d. Communication of hazards to employees, including labels, signs, information and training
  - e. Recordkeeping
3. The Department's procedure for evaluating circumstances surrounding exposure incidents
4. An effective procedure for gathering information about each exposure incident involving a sharp, as required for the log of sharps injuries
5. An effective procedure for periodically determining the frequency of use of the types and brands of sharps involved in exposure incidents documented in the sharps injury log
6. An effective procedure for identifying currently available engineering controls and selecting such controls as appropriate for the procedures performed by employees in their work areas or departments
7. An effective procedure for documenting instances when a licensed healthcare professional directly involved in a patient's care determines, in the reasonable exercise of clinical judgment, that the use of an engineering control would jeopardize an individual's safety or the success of a medical, dental or nursing procedure involving the individual

**EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS (continued)**

8. An effective procedure for obtaining the active involvement of employees in reviewing and updating the exposure control plan with respect to the procedures performed by employees in their respective work areas or departments

The exposure control plan shall be reviewed and updated at least annually and whenever necessary to: (8 CCR 5193(c))

1. Reflect new or modified tasks and procedures affecting occupational exposure
2. To the extent that sharps are used in the Department, reflect progress in implementing the use of needleless systems and sharps with engineered sharps injury protection
3. Include new or revised employee positions with occupational exposure
4. Review and evaluate the exposure incidents which occurred since the previous update
5. Review and respond to information indicating that the exposure control plan is deficient in any area

The Department's exposure control plan shall be accessible to employees upon request. (8 CCR 3204(e))

**Preventive Measures**

The County Superintendent or designee shall use engineering and work practice controls to eliminate or minimize employee exposure, and shall regularly examine and update controls to ensure their effectiveness. (8 CCR 5193(d))

**Hepatitis B Vaccination**

The hepatitis B vaccination and vaccination series shall be made available at no cost to all employees who have occupational exposure. The hepatitis B vaccination shall be made available after an employee with occupational exposure has received the required training and within 10 working days of initial assignment, unless the employee has previously received the complete hepatitis B vaccination series, or antibody testing has revealed that the employee is immune, or vaccination is contraindicated by medical reasons. (8 CCR 5193(f))

Employees who decline to accept the vaccination shall sign the hepatitis B declination statement. (8 CCR 5193(f))

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## **EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS (continued)**

The County Superintendent or designee may exempt designated first aid providers from the pre-exposure hepatitis B vaccine in accordance with 8 CCR 5193 (f).

### **Information and Training**

The County Superintendent or designee shall ensure that all employees with occupational exposure participate in a training program containing the elements required by state regulations, during working hours and at no cost to the employee. This program shall be offered at the time of initial assignment to tasks where occupational exposure may take place, at least annually thereafter, and whenever a change of tasks or procedures affects the employee's exposure. (8 CCR 5193(g))

Designated first aid providers shall receive training that includes the specifics of reporting first-aid incidents which involve blood or body fluids which are potentially infectious. (8 CCR 5193(g))

### **Reporting Incidents**

All exposure incidents shall be reported as soon as possible to the County Superintendent or designee.

Unvaccinated designated first aid providers must report any first aid incident involving the presence of blood or other potentially infectious material, regardless of whether an exposure incident occurred, by the end of the work shift. The full hepatitis B vaccination series shall be made available to such employees no later than 24 hours after the first aid incident. (8 CCR 5193(f))

### **Sharps Injury Log**

The County Superintendent or designee shall establish and maintain a log recording each exposure incident involving a sharp. The exposure incident shall be recorded within 14 working days of the date the incident is reported to the Department. (8 CCR 5193(c))

The information recorded shall include the following, if known or reasonably available: (8 CCR 5193(c))

1. Date and time of the exposure incident
2. Type and brand of sharp involved in the exposure incident



**EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS (continued)**

3. A description of the exposure incident, including:
  - a. Job classification of the exposed employee
  - b. Department or work area where the exposure incident occurred
  - c. The procedure that the exposed employee was performing at the time of the incident
  - d. How the incident occurred
  - e. The body part involved in the incident
  - f. If the sharp had engineered sharps injury protection, whether the protective mechanism was activated and whether the injury occurred before, during or after the protective mechanism was activated
  - g. If the sharp had no engineered sharps injury protection, the injured employee's opinion as to whether and how such a mechanism could have prevented the injury
  - h. The employee's opinion about whether any other engineering, administrative or work practice could have prevented the injury

**Post-Exposure Evaluation and Follow-up**

Following a report of an exposure incident, the County Superintendent or designee shall immediately make available to the exposed employee, at no cost, a confidential medical evaluation, post-exposure evaluation and follow-up. The County Superintendent or designee shall, at a minimum: (8 CCR 5193(f))

1. Document the route(s) of exposure and the circumstances under which the exposure incident occurred
2. Identify and document the source individual, unless that identification is infeasible or prohibited by law
3. Provide for the collection and testing of the employee's blood for hepatitis B, hepatitis C and HIV serological status
4. Provide for post-exposure prophylaxis, when medically indicated, as recommended by the U.S. Public Health Service

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## **EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS (continued)**

### 5. Provide for counseling and evaluation of reported illnesses

The County Superintendent or designee shall provide the health care professional with a copy of 8 CCR 5193; a description of the employee's duties as they relate to the exposure incident; documentation of the route(s) of exposure and circumstances under which exposure occurred; results of the source individual's blood testing, if available; and all medical records maintained by the Department relevant to the appropriate treatment of the employee, including vaccination status. (8 CCR 5193(f))

The Department shall maintain the confidentiality of the affected employee and the exposure source during all phases of the post-exposure evaluation. (8 CCR 5193(f))

### **Records**

Upon an employee's initial employment and at least annually thereafter, the County Superintendent or designee shall inform employees with occupational exposure of the existence, location and availability of related records; the person responsible for maintaining and providing access to records; and the employee's right of access to these records. (8 CCR 3204)

Medical records for each employee with occupational exposure shall be kept confidential and not disclosed or reported without the employee's written consent to any person within or outside the workplace except as required by law. (8 CCR 5193(h))

Upon request by an employee, or a designated representative with the employee's written consent, the County Superintendent or designee shall provide access to a record in a reasonable time, place and manner, no later than 15 days after the request is made. (8 CCR 3204(e))

Records shall be maintained as follows: (8 CCR 3204(d), 5193(h))

1. Medical records shall be maintained for the duration of employment plus 30 years.
2. Training records shall be maintained for three years from the date of training.
3. The sharps injury log shall be maintained five years from the date the exposure incident occurred.
4. Exposure records shall be maintained for at least 30 years.

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**EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS (continued)**

5. Each analysis using medical or exposure records shall be maintained for at least 30 years.

**All Personnel**

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**EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS**

4319.42

**Hepatitis B Vaccine Declination**

I understand that due to my occupational exposure to blood or other potentially infectious materials I may be at risk of acquiring hepatitis B virus (HBV) infection. I have been given the opportunity to be vaccinated with hepatitis B vaccine, at no charge to myself. However, I decline hepatitis B vaccination at this time. I understand that by declining this vaccine, I continue to be at risk of acquiring hepatitis B, a serious disease. If in the future I continue to have occupational exposure to blood or other potentially infectious materials and I want to be vaccinated with hepatitis B vaccine, I can receive the vaccination series at no charge to myself.

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Signature

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Employee Name (Please print)

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Date

**All Personnel**

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**UNIVERSAL PRECAUTIONS**

4319.43

In order to protect employees from contact with potentially infectious blood or other body fluids, the Tehama County Superintendent of Schools requires that universal precautions be observed throughout the Tehama County Department of Education.

Universal precautions are appropriate for preventing the spread of all infectious diseases and shall be used regardless of whether bloodborne pathogens are known to be present.

Employees shall immediately report any exposure incident or first aid incident in accordance with the Department's exposure control plan or other safety procedures.

*Legal Reference:*

HEALTH AND SAFETY CODE

117600-118360 *Handling and disposal of regulated waste*

120875 *Providing information to school districts on AIDS, AIDS-related conditions and Hepatitis B*

120880 *Information to employees of school district*

CODE OF REGULATIONS, TITLE 8

5193 *California bloodborne pathogens standard*

CODE OF FEDERAL REGULATIONS, TITLE 29

1910.1030 *OSHA bloodborne pathogens standards*

*Management Resources:*

CDE PROGRAM ADVISORIES

1016.89 *Guidelines for Informing School Employees about Preventing the Spread of Infectious Diseases, including Hepatitis B and AIDS/HIV Infections and Policies for Dealing with HIV-Infected Persons in School Settings*

WEB SITES

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

**All Personnel**

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**UNIVERSAL PRECAUTIONS**

**Definitions**

Universal precautions are an approach to infection control. All human blood and certain human body fluids, including but not limited to semen, vaginal secretions and any body fluid that is visibly contaminated with blood, are treated as if known to be infectious for human immunodeficiency virus (HIV), hepatitis B virus (HBV), hepatitis C virus (HCV) and other bloodborne pathogens. (8 CCR 5193(b))

Personal protective equipment includes specialized clothing or equipment worn or used for protection against a hazard. General work clothes such as uniforms, pants, shirts or blouses not intended to function as protection against a hazard are not considered to be personal protective equipment. (8 CCR 5193(b))

A sharp is any object that can be reasonably anticipated to penetrate the skin or any other part of the body and to result in an exposure incident. (8 CCR 5193(b))

Engineered sharps injury protection is a physical attribute built into a needle device or into a non-needle sharp which effectively reduces the risk of an exposure incident. (8 CCR 5193(b))

**Employee Information**

The Tehama County Superintendent of Schools or designee shall distribute to employees information provided by the California Department of Education regarding acquired immune deficiency syndrome (AIDS), AIDS-related conditions, and hepatitis B. This information shall include, but not be limited to, any appropriate methods employees may use to prevent exposure to AIDS and hepatitis B, including information concerning the availability of a vaccine to prevent contraction of hepatitis B, and that the cost of this vaccination may be covered by the health plan benefits of the employees. Information shall be distributed at least annually, or more frequently if there is new information supplied by the California Department of Education. (Health and Safety Code 120875, 120880)

**Infection Control Practices**

The County Superintendent or designee shall ensure that the worksite is effectively maintained in a clean and sanitary condition, and shall implement an appropriate written schedule for cleaning and decontamination of the worksite. (8 CCR 5193(d))

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## **UNIVERSAL PRECAUTIONS** (continued)

Where occupational exposure remains after the institution of engineering and work practice controls, the County Superintendent or designee shall provide appropriate personal protective equipment at no cost to the employee. Such equipment may include gloves, gowns, masks, eye protection, and other devices that do not permit blood or other potentially infectious materials to pass through or reach the employee's clothes, skin, eyes, mouth or other mucous membranes under normal conditions of use. The County Superintendent or designee shall maintain, repair, make accessible and require employees to use and properly handle protective equipment. (8 CCR 5193(d))

The County Superintendent or designee shall provide handwashing facilities which are readily accessible to employees. When provision of handwashing facilities is not feasible, the County Superintendent or designee shall provide an appropriate antiseptic hand cleanser in conjunction with clean cloth or paper towels, or antiseptic towelettes. (8 CCR 5193(d))

For the prevention of infectious disease, employees shall routinely: (8 CCR 5193(d))

1. Perform all procedures involving blood or other potentially infectious materials in such a manner as to minimize splashing, spraying, spattering, and generating droplets of these substances.
2. Use personal protective equipment as appropriate.
  - a. Appropriate clothing, including but not limited to, gowns, aprons, lab coats, clinic jackets or similar outer garments, shall be worn in occupational exposure situations.

If a garment becomes penetrated by blood or other potentially infectious materials, the employee shall remove the garment immediately or as soon as feasible. All personal protective equipment shall be removed prior to leaving the work area. When removed, it shall be placed in an appropriately designated area or container for storage, washing, decontamination or disposal.

- b. Gloves shall be worn when it can be reasonably anticipated that the employee may have hand contact with blood, other potentially infectious materials, mucous membranes and nonintact skin, and when handling or touching contaminated items or surfaces.

**UNIVERSAL PRECAUTIONS (continued)**

Disposable gloves shall be replaced as soon as practical when contaminated, or as soon as feasible if they are torn, punctured, or when their ability to function as a barrier is compromised. They shall not be washed or decontaminated for reuse. Utility gloves may be decontaminated for reuse if the integrity of the gloves is not compromised, but must be discarded if they are cracked, peeling, torn, punctured, or exhibit other signs of deterioration or when their ability to function as a barrier is compromised.

- c. Masks in combination with eye protection devices or face shields shall be worn whenever splashes, spray, spatter, or droplets of blood or other potentially infectious materials may be generated and eye, nose or mouth contamination can be reasonably anticipated.
3. Wash hands and other skin surfaces thoroughly with soap and running water:
- a. Immediately or as soon as feasible following contact of hands or any other skin or mucous membranes with blood or other potentially infectious materials
  - b. Immediately after removing gloves or other personal protective equipment

When handwashing facilities are not available, the employee shall use antiseptic hand cleanser in conjunction with clean cloth or paper towels, or antiseptic towelettes. In such instances, hands shall be washed with soap and running water as soon as feasible.

- 4. Refrain from eating, drinking, smoking, applying cosmetics or lip balm, or handling contact lenses in work areas with a reasonable likelihood of occupational exposure.
- 5. Clean and decontaminate all equipment and environmental and work surfaces after contact with blood or other potentially infectious material, no later than the end of the shift or more frequently as required by state regulations.
- 6. Rather than using the hands directly, use mechanical means such as a brush and dust pan, tongs or forceps to clean up broken glassware which may be contaminated.
- 7. Use effective patient-handling techniques and other methods designed to minimize the risk of a sharps injury in all procedures involving the use of sharps in patient care.



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**UNIVERSAL PRECAUTIONS (continued)**

- a. Needleless systems shall be used to administer medication or fluids, withdraw body fluids after initial venous or arterial access is established, and conduct any other procedure involving the potential for an exposure incident for which a needleless system is available as an alternative to the use of needle devices. If needleless systems are not used, needles or non-needle sharps with engineered sharps injury protection shall be used.
  - b. Contaminated needles or other sharps shall not be broken, bent, recapped, removed from devices, or stored or processed in a manner that requires employees to reach by hand into the containers where these sharps have been placed.
  - c. Disposable sharps shall not be reused.
8. Handle, store, treat and dispose of regulated waste in accordance with Health and Safety Code 117600-118360 and other applicable state and federal regulations.
- a. Immediately or as soon as possible after use, contaminated sharps shall be placed in containers meeting the requirements of 8 CCR 5193(d)(3)(D). Containers shall be easily accessible, maintained upright throughout use where feasible, and replaced as necessary to avoid overfilling.
  - b. Specimens of blood or other potentially infectious material shall be placed in a container which prevents leakage during collection, handling, processing, storage, transport or shipping.

## **Personnel**

### **SUBSTITUTE/TEMPORARY CERTIFICATED PERSONNEL**

#### **Hiring**

The Tehama County Superintendent of Schools may classify as substitute certificated personnel a teacher hired to fill a position of regularly employed person absent from service. Substitute personnel may be employed on an on-call, day-to-day basis. (Education Code 44917)

The Superintendent or designee shall ensure that substitute and temporary employees are appropriately trained, assigned, oriented and evaluated.

#### **Qualifications**

Any person employed on a substitute or temporary basis in a position requiring certification qualifications shall possess the appropriate credential or permit authorizing his/her employment in such position and shall meet all other requirements of law for certificated positions

#### **Salary/Benefits**

The County Superintendent shall pay substitute certificated personnel \$100.00 per day or \$70 per half day of service. Substitute certificated personnel for Juvenile Hall teachers will be paid \$125.00 per day or \$88 per half day of service. In unique situations the County Superintendent and the substitute may agree upon a different substitute pay rate in excess of the rates established above.

Substitute and temporary employees shall not participate in the health and welfare plans or other fringe benefits of the Department.

#### **Release from Employment/Dismissal**

The County Superintendent may dismiss a substitute employee at any time at his/her discretion. (Education Code 44953).

**Personnel**

**CERTIFICATED EMPLOYEES**

**Substitute Teacher – County Listing**

The County Superintendent or designee shall annually prepare a listing of eligible persons to serve as substitute teachers. The substitute listing shall be distributed to all Tehama County school districts and shall indicate those persons who have completed all employment verifications. Districts that use persons whose employment verifications are incomplete, do so without the endorsement of the County Superintendent.

The Tehama County Department of Education retains the authority to prescreen applicants before placing them on this list, and to delete or retain them on this list at its discretion. The Tehama County Superintendent of Schools and District Administrators choose not to list persons who have previously been dismissed for cause from any school district. However, a district may choose to screen for employment, request live scan clearance, and hire such persons at its discretion.

*Legal Reference:*

EDUCATION CODE

44917, 45030, 56061, 56062, 56063

**All Personnel**

SP  
4136(a)  
4236  
4336

**NONSCHOOL EMPLOYMENT**

In order to help maintain public trust in the integrity of Tehama County Department of Education operations, the Tehama County Superintendent of Schools expects all employees to give the responsibility of their positions precedence over any other outside employment. A Department employee may receive compensation for outside activities as long as these activities are not inconsistent, incompatible, in conflict with, or inimical to his/her Department duties.

An outside activity shall be considered inconsistent, incompatible, or inimical to Department employment when such activity: (Government Code 1126)

1. Requires time periods that interfere with the proper, efficient discharge of the employee's duties
2. Entails compensation from an outside source for activities which are part of the employee's regular duties
3. Involves using the Department's name, prestige, time, facilities, equipment, or supplies for private gain
4. Involves service which will be wholly or in part subject to the approval or control of another Department employee or County Board member

An employee wishing to accept outside employment that may be inconsistent, incompatible, in conflict with, or inimical to the employee's duties shall file a written request with his/her immediate supervisor describing the nature of the employment and the time required. The supervisor shall evaluate each request based on the employee's specific duties within the Department and determine whether to grant authorization for such employment.

The supervisor shall inform the employee whether the outside employment is prohibited. The employee may appeal a supervisor's denial of authorization to the Superintendent or designee. An employee who continues to pursue a prohibited activity may be subject to disciplinary action.

**Tutoring**

A certificated employee shall not accept any compensation or other benefit for tutoring a student enrolled in his/her class(es). An employee who wishes to tutor another Department student shall first request authorization from his/her supervisor in accordance with this Department policy. If authorization is granted, the employee shall not use Department facilities, equipment, or supplies when providing the tutoring service.

*Legal Reference: (see next page)*

SP  
4136(b)  
4236  
4336

## **NONSCHOOL EMPLOYMENT (continued)**

*Legal Reference:*

EDUCATION CODE

35160 Authority of governing boards

35160.1 Broad authority of school districts

51520 Prohibited solicitation on school premises

GOVERNMENT CODE

1126 Incompatible activities of employees

1127 Incompatible activities; off duty work

1128 Incompatible activities, attorney

CODE OF REGULATIONS, TITLE 5

80334 Unauthorized private gain or advantage

ATTORNEY GENERAL OPINIONS

70 Ops. Cal. Atty. Gen. 157 (1987)

*Management Resources:*

WEB SITES

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

Fair Political Practices Commission: <http://www.fppc.ca.gov>

## **Certificated and Classified Personnel**

SP  
4140(a)  
4240

### **BARGAINING UNITS**

The Tehama County Superintendent of Schools recognizes the right of public school employees to form bargaining units, select an employee organization as the exclusive representative of their unit, and be represented by that organization in their employment relationship with the Tehama County Department of Education. The County Superintendent is committed to negotiating in good faith with the employee organizations and respecting the rights of employees and employee organizations.

The County Superintendent shall negotiate only with the exclusive representative of each bargaining unit. (Government Code 3543.3)

Certificated and classified employees shall not be included in the same bargaining unit. (Government Code 3545)

The Department shall not dominate or interfere with the formation or administration of any employee organization or contribute financial or other support to it. (Government Code 3543.5)

Neither the Department nor the employee organization shall impose or threaten to impose reprisals on employees, discriminate or threaten to discriminate against employees, or otherwise interfere with, restrain, or coerce employees because of their membership or nonmembership in an employee organization. (Government Code 3543.5, 3543.6)

### **Management and Supervisory Employees**

Employees serving in a management, senior management, or confidential position shall not be represented by an exclusive representative. Such employees may represent themselves individually or may be represented by an employee organization whose membership is composed entirely of employees designated as holding those positions, but that organization shall not meet and negotiate with the Department. (Government Code 3543.4)

However, the Department may recognize a bargaining unit of supervisors if that unit includes all supervisory employees and if the unit does not represent the employee whom the supervisors supervise. (Government Code 3545)

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

1. *Management employee* means any employee who has significant responsibilities for formulating Department policies or administering Department programs, and whose position is designated as a management position by the County Superintendent.

**BARGAINING UNITS (continued)**

2. *Supervisory employee* means any employee, regardless of job description, having the authority, in the interest of the Department, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, discipline, assign work, direct, adjust grievance of other employees, or effectively recommend that action. The exercise of this authority shall not be merely routine or clerical in nature, but shall require the use of independent judgment.
3. *Confidential employee* means any employee who is required to develop or present management positions with respect to employer-employee relations or whose duties normally require access to confidential information that is used to contribute significantly to the development of management positions.

*Legal Reference:*

EDUCATION CODE

45060-45061.5 *Deduction of fees from salary or wage payment, certificated employees*

45168 *Deduction of fees from salary or wage payment, classified employees*

45220-45320 *Merit system, classified employees*

GOVERNMENT CODE

3540-3549.3 *Educational Employment Relations Act*

CODE OF REGULATIONS, TITLE 8

33015-33490 *Recognition of exclusive representative; proceedings*

33700-33710 *Severance of established unit*

34020 *Petition to rescind organizational security arrangement*

34055 *Reinstatement of organizational security arrangement*

*Management Resources:*

CSBA PUBLICATIONS

Collective Bargaining DVD-ROM

Maximizing School Board Governance: Collective Bargaining

Before the Strike: Planning Ahead in Difficult Negotiations, 1996

WEB SITES

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

California Federation of Teachers: <http://www.cft.org>

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

California Teachers Association: <http://www.cta.org>

Public Employment Relations Board: <http://www.perb.ca.gov>

**COLLECTIVE BARGAINING AGREEMENT**

The Tehama County Superintendent of Schools recognizes that collective bargaining agreements are legally binding, bilateral agreements with the exclusive representatives of employees pertaining to terms and conditions of employment. The County Superintendent is committed to carrying out the provisions of each agreement and expects the agreements to be consistently and uniformly administered.

Following adoption of the collective bargaining agreement, the County Superintendent or designee shall review related Department policies and recommend any action needed to maintain consistency with the agreement. Whenever a Department policy conflicts with a provision in the collective bargaining agreement, the agreement shall be binding for those employees covered by the terms of the agreement.

Upon request by the Public Employment Relations Board, the County Superintendent or designee shall provide, within 15 days of the request, a copy of the written agreement and any amendments. (8 CCR 32120)

*Legal Reference:*

EDUCATION CODE

35035 *Additional powers and duties of superintendent, transfer authority*

35036 *Voluntary transfers*

35160 *Authority of governing boards*

35160.1 *Broad authority of school districts*

45220-45320 *Merit system, classified employees*

GOVERNMENT CODE

3540-3549.3 *Educational Employment Relations Act*

CODE OF REGULATIONS, TITLE 8

31001-32997 *Regulations of employee relations boards*

*Management Resources:*

CSBA PUBLICATIONS

Collective Bargaining DVD-ROM

Maximizing School Board Governance: Collective Bargaining

WEB SITES

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

California Public Employee Relations: <http://cper.berkeley.edu>

Center for Collaborative Solutions: <http://www.ccscenter.org>

Public Employment Relations Board: <http://www.perb.ca.gov>

State Mediation and Conciliation Service (SMCS): <http://www.dir.ca.gov/csmcs/smcs.html>



## **Certificated and Classified Personnel**

SP  
4143(a)  
4243

### **NEGOTIATIONS/CONSULTATION**

The Tehama County Superintendent of Schools recognizes his/her responsibility to represent the public's interests in the collective bargaining process. In negotiating agreements on employee contracts, the County Superintendent shall balance the needs of staff and the priorities of the Tehama County Department of Education in order to provide students with a high-quality instructional program based on a sound, realistic budget.

The County Superintendent shall negotiate in good faith with exclusive employee representatives on wages, hours of employment, and other terms and conditions of employment identified in law as being within the scope of representation. (Government Code 3543.2)

The County Superintendent believes that effective negotiations require the input of all levels of the administration. The County Superintendent shall establish a bargaining team to assist in analyzing contract provisions and conducting contract negotiations.

The County Superintendent shall provide the chosen negotiator(s) with expected outcomes and clear parameters for acceptable contract provisions which promote the realization of Department goals and priorities.

The County Superintendent and employee organizations shall collaborate to determine the collective bargaining approach or method to be used.

The County Superintendent and the negotiator(s) shall not knowingly provide the employee organization with inaccurate information regarding the financial resources of the Department. (Government Code 3543.5)

The County Superintendent shall closely monitor the progress of negotiations and carefully consider how proposed contract provisions would affect the Department's short- and long-term fiscal, programmatic, instructional, and personnel goals.

The County Superintendent shall keep the public informed about the progress of negotiations and the ways in which negotiations may affect Department goals.

The Department shall provide the County Superintendent of Schools with all information relevant to gain an understanding of the financial impact of any final collective bargaining agreement. (Government Code 3540.2)

Once the final terms of the agreement have been ratified by the membership of the employee organization, the contract shall be presented to the County Superintendent for acceptance.

Any agreement adopted by the County Superintendent may be for a term not to exceed three years. (Government Code 3540.1)

## **NEGOTIATIONS/CONSULTATION (continued)**

In the event of an impasse in negotiations, the County Superintendent shall participate in good faith in state mediation and fact-finding procedures pursuant to Government Code 3548-3548.8. (Government Code 3543.5)

Following adoption of the collective bargaining agreement, any subsequent amendments shall be executed in writing by the County Superintendent and the employees' exclusive representative.

### **Consultation**

The exclusive representative of certificated staff may consult with the County Superintendent on the definition of educational objectives, the determination of the content of courses and curriculum, and the selection of textbooks.

#### *Legal Reference:*

##### GOVERNMENT CODE

3540-3549.3 *Educational Employment Relations Act*

#### *Management Resources:*

##### CSBA PUBLICATIONS

Collective Bargaining DVD-ROM

Maximizing School Board Governance: Collective Bargaining

Before the Strike: Planning Ahead in Difficult Negotiations, 1996

##### WEB SITES

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

California Public Employee Relations: <http://cper.berkeley.edu>

Center for Collaborative Solutions: <http://www.ccscenter.org>

Public Employment Relations Board: <http://www.perb.ca.gov>

State Mediation and Conciliation Service (SMCS): <http://www.dir.ca.gov/csmcs/smcs.html>

**All Personnel**

SP 4144

4244

**COMPLAINTS**

4344

The Tehama County Superintendent of Schools recognizes the need to establish a process to allow employees and job applicants to have their concerns heard in an expeditious and unbiased manner. The County Superintendent expects that employees will make every effort to resolve complaints and disagreements informally before filing a formal complaint.

The County Superintendent prohibits retaliation against complainants. The County Superintendent or designee may keep a complainant's identity confidential, except to the extent necessary to investigate the complaint.

All matters related to a complaint shall be kept confidential and any document, communication, or record regarding the complaint shall be placed in a separate file and shall not be placed in an employee's personnel file.

*Legal Reference:*

EDUCATION CODE

200-262.4 *Prohibition of discrimination on the basis of sex*

35186 *Williams uniform complaint procedures*

44110-44114 *Reporting by school employees of improper governmental activity*

GOVERNMENT CODE

3543 *Public school employees' rights*

3543.1 *Rights of employee organizations*

53296-53299 *Disclosure of confidential information; whistleblower*

54957 *Closed session; personnel matters*

LABOR CODE

1102.5-1106 *Whistleblower protections*

CODE OF REGULATIONS, TITLE 5

4900-4965 *Nondiscrimination in district programs and activities*

*Management Resources:*

WEB SITES

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

**All Personnel**

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4144(a)  
4244  
4344

**COMPLAINTS**

Except as specified below, the following procedure shall be used for any complaint by an employee alleging misapplication of the Tehama County Department of Education's policies, regulations, rules, or procedures or for "whistleblower" complaints by an employee or job applicant regarding an improper Department activity including, but not limited to, an allegation of gross mismanagement, a significant waste of funds, an abuse of authority, or a specific danger to public health or safety.

Complaints alleging unlawful discrimination on any basis specified in the Department's nondiscrimination policies, including complaints of sexual harassment, shall be resolved in accordance with the Department's procedure for complaints regarding discrimination in employment.

Complaints regarding unlawful discrimination in Department programs or the Department's failure to comply with state or federal laws regarding educational programs shall be resolved in accordance with the Department's Uniform Complaint Procedures. Complaints regarding sufficiency of textbook materials, teacher vacancy or misassignment, an urgent or emergency facility condition, or the failure to provide intensive instruction to students who did not pass the high school exit examination by the end of grade 12 shall be resolved in accordance with the Department's Williams Uniform Complaint Procedures. (Education Code 35186; 5 CCR 4621)

For complaints regarding working conditions or other subjects of negotiation, the employee shall use the grievance procedure specified in the applicable collective bargaining agreement.

Any of the time limits specified in this procedure may be extended by written agreement between the Department and complainant.

**Step 1: Informal Complaint Process**

Prior to instituting a formal, written complaint, the employee shall first discuss the issue with his/her supervisor or the Program Administrator of the school where the alleged act took place. Formal complaint procedures shall not be initiated until the employee has first attempted to resolve the complaint informally.

**Step 2: Site Level Formal Complaint Process**

If a complaint has not been satisfactorily resolved through the informal process in Step 1, the complainant may file a written complaint with his/her immediate supervisor or Program Administrator within 60 days of the act or event which is the subject of the complaint. If an employee fails to file a written complaint within 60 days, the complaint shall be considered settled on the basis of the answer given at the preceding step.

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4144(b)  
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4344

## **COMPLAINTS (continued)**

In the written complaint, the employee shall specify the nature of the problem, including names, dates, locations, witnesses, the remedy sought by the employee, and a description of informal efforts to resolve the issue.

Within 10 working days of receiving the complaint, the immediate supervisor or Program Administrator shall conduct any necessary investigation and meet with the complainant in an effort to resolve the complaint. Within five working days after the meeting, he/she shall prepare and send a written response to the complainant.

### **Step 3: Department District Level Appeal**

If a complaint has not been satisfactorily resolved at Step 2, the complainant may file the written complaint with the County Superintendent or designee within five working days of receiving the written response from the immediate supervisor or the Program Administrator. The complainant shall include all information presented to the immediate supervisor or Program Administrator at Step 2.

Within 10 working days of receiving the complaint, the County Superintendent or designee shall conduct any necessary investigation, including reviewing the investigation and written response by the immediate supervisor or Program Administrator at Step 2, and shall meet with the complainant in an effort to resolve the complaint. Within five working days after the meeting, he/she shall prepare and send a written response to the complainant.

**All Personnel**

SP  
4151(a)  
4251  
4351

**EMPLOYEE COMPENSATION**

In order to recruit and retain employees committed to the Tehama County Department of Education's goals for student learning, the Tehama County Superintendent of Schools recognizes the importance of offering a competitive compensation package which includes salaries and health and welfare benefits.

The County Superintendent shall adopt separate salary schedules for certificated, classified, and supervisory and administrative personnel. These schedules shall comply with law and negotiated agreements and shall be printed and made available for review at the Department office. (Education Code 45023, 45028)

Salary schedules for staff who are not a part of a bargaining unit shall be determined by the County Superintendent or designee.

The County Superintendent or designee shall ensure that the Department's payroll system complies with all applicable laws and bargaining agreements, including, but not limited to, timelines regarding payment of compensation and deductions of dues for employee organizations.

*Legal Reference: (see next page)*

**EMPLOYEE COMPENSATION (continued)**

*Legal Reference:*

EDUCATION CODE

45022-45061.5 Salaries, especially:

45023 Availability of salary schedule

45028 Salary schedule for certificated employees

45160-45169 Salaries for classified employees

45268 Salary schedule for classified service in merit system districts

GOVERNMENT CODE

3540-3549 Meeting and negotiating, especially:

3543.2 Scope of representation

3543.7 Duty to meet and negotiate in good faith

LABOR CODE

226 Employee access to payroll records

232 Disclosure of wages

UNITED STATES CODE, TITLE 26

409A Deferred compensation plans

CODE OF FEDERAL REGULATIONS, TITLE 26

1.409A-1 Definitions and covered plans

*Management Resources:*

NATIONAL SCHOOL BOARDS ASSOCIATION PUBLICATIONS

NEA and NSBA Joint Guidance on the Tax Consequences of Deferred Compensation - Section 409A of the Internal Revenue Code, January 2008

WEB SITES

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

Internal Revenue Service: <http://www.irs.gov>

National School Boards Association: <http://www.nsba.org>

**All Personnel**

SP  
4154(a)  
4254  
4354

**HEALTH AND WELFARE BENEFITS**

The Tehama County Department of Education shall provide health and welfare benefits for certificated and classified employees in bargaining units in accordance with state and federal law and subject to negotiated employee agreements.

Employees who are not in bargaining units shall receive health and welfare benefits as specified by the County Superintendent.

For purposes of granting benefits pursuant to state law, a registered domestic partner and his/her child shall have the same rights, protections, and benefits as a spouse and spouse's child. (Family Code 297.5)

The County Superintendent or designee shall not use or disclose any medical information the Department possesses pertaining to an employee without the employee's authorization obtained in accordance with Civil Code 56.21, except for the purpose of administering and maintaining employee benefit plans and for other purposes specified in law. (Civil Code 56.20)

**Continuation of Coverage**

Retired certificated employees, other employees who would otherwise lose coverage due to a qualifying event specified in law and administrative regulation, and their qualified beneficiaries may continue to participate in the Department's group health and welfare benefits in accordance with state and federal law.

To receive continuation coverage, covered employees and their qualified beneficiaries shall pay the premiums, dues, and other charges, including any increases in premiums, dues, and costs incurred by the Department in administering this program.

*Legal Reference: (see next page)*



**HEALTH AND WELFARE BENEFITS (continued)**

*Legal Reference:*

EDUCATION CODE

1350 *Retiree benefit fund*

7000-7008 *Health and welfare benefits, retired certificated employees*

17566 *Self-insurance fund*

35208 *Liability insurance*

35214 *Liability insurance (self-insurance)*

44041-44042 *Payroll deductions for collection of premiums*

44986 *Leave of absence, state disability benefits*

45136 *Benefits for classified employees*

CIVIL CODE

56.10-56.16 *Disclosure of information by medical providers*

56.20-56.245 *Use and disclosure of medical information by employers*

FAMILY CODE

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

GOVERNMENT CODE

22750-22944 *Public Employees' Medical and Hospital Care Act*

53200-53210 *Group insurance*

HEALTH AND SAFETY CODE

1366.20-1366.29 *Cal-COBRA program, health insurance*

1367.08 *Disclosure of fees and commissions paid related to health care service plan*

1373 *Health services plan, coverage for dependent children over 18 who are full-time students*

1373.621 *Continuation coverage, age 60 or older after five years with district*

1374.58 *Coverage for registered domestic partners, health service plans and health insurers*

INSURANCE CODE

10116.5 *Continuation coverage, age 60 or older after five years with district*

10128.50-10128.59 *Cal-COBRA program, disability insurance*

10277-10278 *Group and individual health insurance, coverage for dependent children*

10604.5 *Annual disclosure of fees and commissions paid*

12670-12692.5 *Conversion coverage*

LABOR CODE

2800.2 *Notification of conversion and continuation coverage*

4856 *Health benefits for spouse of peace officer killed in performance of duties*

UNEMPLOYMENT INSURANCE CODE

2613 *Education program; notice of rights and benefits*

UNITED STATES CODE, TITLE 1

7 *Definition of marriage, spouse*

UNITED STATES CODE, TITLE 26

139C *COBRA premium assistance, elimination of subsidy for high-income individuals*

4980B *COBRA continuation coverage*

6432 *COBRA premium assistance*

6720C *COBRA premium assistance, failure to notify health plan of cessation of eligibility*

UNITED STATES CODE, TITLE 29

1161-1168 *COBRA continuation coverage*

UNITED STATES CODE, TITLE 42

1395-1395g *Medicare benefits*

*Legal Reference continued: (see next page)*

SP  
4154(c)  
4254  
4354

## **HEALTH AND WELFARE BENEFITS (continued)**

*Legal Reference: (continued)*

CODE OF FEDERAL REGULATIONS, TITLE 26

*54.4980B-1-54.4980B-10 COBRA continuation coverage*

CODE OF FEDERAL REGULATIONS, TITLE 45

*164.500-164.534 Health Insurance Portability and Accountability Act (HIPAA)*

*Management Resources:*

INTERNAL REVENUE SERVICE GUIDANCE

*Premium Assistance for COBRA Benefits, Notice 2009-27*

WEB SITES

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

*California Department of Industrial Relations: <http://www.dir.ca.gov>*

*California Employment Development Department: <http://www.edd.ca.gov>*

*Internal Revenue Service: <http://www.irs.gov>*

*U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services:*

*<http://www.cms.hhs.gov>*

*U.S. Department of Labor: <http://www.dol.gov>*

**All Personnel**

AR  
4154(a)  
4254  
4354

**HEALTH AND WELFARE BENEFITS**

For employees whose first day of service is any day of a given month, health benefits coverage will be effective the first day of the following month.

For example:

For employees starting service on October 10, coverage becomes effective November 1.  
For employees starting service October 31, coverage becomes effective November 1.

Upon separation from employment, an employee's coverage will end on the last day of the month of separation.

For example:

For employees who resign on October 2, coverage ends October 31.

For employees who resign on October 29, coverage ends October 31.

**Retired Employees**

Any former employee who retired from the Tehama County Department of Education under any public retirement system and his/her spouse/domestic partner shall be permitted to enroll in the health and welfare and/or dental care benefit plan currently provided for certificated employees. The plan also shall be available to any surviving spouse/domestic partner of a former employee who either retired from the Department or was, at the time of death, employed by the Department and a member of the State Teachers' Retirement System. (Education Code 7000)

A retired employee or surviving spouse/domestic partner shall be allowed to enroll in the coverage within 30 days of losing active employee coverage. (Education Code 7000)

**COBRA/Cal-COBRA Continuation Coverage**

Covered Department employees and their qualified beneficiaries shall be offered the opportunity to continue health and disability insurance coverage when they otherwise would lose coverage due to one of the following qualifying events: (Health and Safety Code 1366.21, 1366.23, 1373; Insurance Code 10128.51, 10128.53, 10277; 26 USC 4980B; 26 CFR 54.4980B-4)

1. Death of the covered employee

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4154(b)  
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4354

**HEALTH AND WELFARE BENEFITS** (continued)

2. Termination or reduction in hours of the covered employee's employment, other than termination by reason of the employee's gross misconduct
3. Divorce or legal separation of the covered employee
4. Covered employee's becoming entitled to Medicare benefits
5. A dependent child ceasing to be a dependent child of the covered employee

Continuation health coverage shall be the same as provided to similarly situated individuals under the group benefit plan. (Health and Safety Code 1366.23; Insurance Code 10128.53; 26 USC 4980B)

The County Superintendent or designee shall notify the health care service plan administrator of a qualifying event listed in item #1, 2, or 4 above, within 30 days of the event. A covered employee or qualified beneficiary shall notify the service plan administrator of a qualifying event listed in item #3 or 5 above within 60 days of the event or of the date that the beneficiary would lose coverage, whichever is later. (26 USC 4980B; 29 USC 1163, 1166; 26 CFR 54.4980B-6)

Continuation coverage shall be terminated in accordance with the Department's insurance plan and federal and state law. (26 USC 4980B; 26 CFR 54.4980B-6; Health and Safety Code 1373.621; Insurance Code 10116.5)

The County Superintendent or designee shall notify covered employees and qualified beneficiaries of the availability of conversion and continuation coverage. This notification shall include the statement in Labor Code 2800.2 encouraging individuals to examine their options carefully before declining such coverage. (Labor Code 2800.2)

**Temporary Subsidized Premium for COBRA/Cal-COBRA**

Under either of the following circumstances, a former employee and his/her qualified beneficiaries shall pay 35 percent of the premium amount they would otherwise be required to pay for health care continuation coverage: (26 USC 139C, 6432 Note; Health and Safety Code 1366.25; Insurance Code 10128.55)

1. The employee is involuntarily terminated, other than by reason of gross misconduct, between September 1, 2008 and March 31, 2010, or a later date if extended by law

**HEALTH AND WELFARE BENEFITS** (continued)

2. The employee's eligibility for continuation coverage is due to a reduction in hours and he/she subsequently experiences an involuntary termination between March 2, 2010 and March 31, 2010, or a later date if extended by law

The Department shall seek reimbursement of Department payments toward the normal employee share of the premium as allowed by law. (26 USC 139C, 6432; Health and Safety Code 1366.25; Insurance Code 10128.55)

The premium reduction shall apply until one of the following dates, whichever comes first: (26 USC 6432 Note)

1. Fifteen months after the first day of the first month for which the premium reduction applies to the assistance eligible individual
2. The first date that the assistance eligible individual becomes eligible for Medicare coverage or other group health plan coverage, with certain exceptions specified in law
3. The date the assistance eligible individual ceases to be eligible for continuation coverage for other reasons as noted in the section "Continuation of Coverage" above

Because the premium reduction will be offset by an increase in income tax liability for individuals who earn more than \$125,000 for the tax year (or \$250,000 for married couples filing a joint federal income tax return), such individuals may choose to permanently waive their right to the subsidy. (26 USC 6432)

**Disability Insurance**

Tehama County Department of Education employees are not covered under State Disability Insurance as administered through the Employment Development Department. The Department makes available a voluntary plan option to provide income protection for wages lost because of disability that was not caused at work.

**All Personnel**

SP 4156.2

4256.2

**AWARDS AND RECOGNITION**

4356.2

The Tehama County Superintendent of Schools values the instructional and noninstructional staff and desires to recognize their outstanding service in order to increase employee morale and encourage creative and innovative performance.

The County Superintendent encourages recognition of all staff during days of significance designated by the County Superintendent, state law, or state resolution.

The County Superintendent authorizes awards to individual employees who: (Education Code 44015)

1. Propose procedures or ideas that result in eliminating or reducing Tehama County Department of Education expenditures or improving operations
2. Perform special acts or services in the public interest
3. By their superior accomplishments, make exceptional contributions to the efficiency, economy, or other improvement in Department operations

As the Department budget permits, the County Superintendent or designee may recognize such employees by issuing service pins, certificates, plaques, and/or other mementos. In addition, he/she may recommend employees to the County Superintendent for recognition at a public Tehama County Board of Education meeting.

The County Superintendent or designee shall establish procedures for the selection of individual employees to receive awards.

*Legal Reference:*

EDUCATION CODE

35160 Authority of governing boards

35160.1 Broad authority of school districts

35161 Powers and duties generally

37222.10 Days of significance, including Day of the Teacher

44015 Awards to employees

45460 Classified School Employee Week

*Management Resources:*

CSBA PUBLICATIONS

Maximizing School Board Governance: The Board's Relationship to District Staff, 2008

WEB SITES

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

Fiscal Crisis and Management Assistance Team: <http://www.fcmat.org>

Policy

adopted: April 20, 2011

**TEHAMA COUNTY DEPARTMENT OF EDUCATION**

Red Bluff, California

**All Personnel**

SP 4156.3

4256.3

**EMPLOYEE PROPERTY REIMBURSEMENT**

4356.3

The Tehama County Superintendent of Schools authorizes the Department to pay the cost of replacing or repairing employee personal property, except cash, which has been stolen or intentionally destroyed or damaged while being used for work-related purposes.

No reimbursement shall be made for accidental damage or for any loss due to lack of personal supervision or failure to keep property in a secured area.

The maximum payment shall be \$500 or the amount specified in the applicable collective bargaining agreement, whichever is less.

Reimbursement for personal items used for work-related purposes shall be made only if: (Education Code 35213)

1. Use of the personal property was approved by the Program Administrator, site supervisor or designee before the property was brought to Department premises
2. At that time, the employee and Department representative agreed on the value of the property

*Legal Reference:*

EDUCATION CODE

*35213 Reimbursement for loss, destruction or damage of personal property*

*48904 Liability of parent/guardian for willful misconduct; withholding of grades, diplomas and transcripts*

CIVIL CODE

*1714.1 Liability of parent or guardian for act of willful misconduct by a minor*

**All Personnel**

AR 4156.3

4256.3

**PERSONAL PROPERTY**

4356.3

The Department will pay the costs of replacing or repairing eyeglasses, hearing aids, other prosthetics, and/or clothing necessarily worn or carried by the employee when any such property is damaged in the line of duty without fault of the employee. Limit of payment shall be \$500.00, or as approved by the County Superintendent.

The Department will also reimburse any employee for the loss, destruction, and damage by arson, burglary, accident, or vandalism of personal property used the special education classrooms or any Department facility, including administrative offices, only under the following conditions:

1. Reasonable precautions have been taken by the employee to protect property.
2. Employees are encouraged to seek authorization, in writing, prior to the use of personal property in the performance of any employee's duties. Exceptions to this rule would be clothing, dentures, eyeglasses, hearing aids, and prosthetics.
3. If, during the performance of his/her duties, an employee incurs damage of personal property while defending him/herself from attack on a school or department site during work hours.
4. Reimbursement by the Department shall augment and not replace personal insurance coverage. The combination of personal insurance reimbursement and Department reimbursement shall not exceed the total current value of the personal property in question.
5. Claims for reimbursement of personal property damaged or stolen while the employee is on duty shall be limited to \$500.00 or an amount approved by the County Superintendent. Claims must be filed within thirty (30) days of occurrence.
6. Any reimbursement by the Department for damages or theft of personal property shall be subject to approval by the County Superintendent.

**Accident Deductible Reimbursement**

The Department shall reimburse any employee for out-of-pocket deductible costs incurred in an accident while on official business for the Tehama County Department of Education. The reimbursement shall not exceed \$500.00 per incident and \$1,200.00 per year. If an accident occurs, the employee must submit the official accident report form to Business Department with a copy of the repair bill and a copy of the insurance statement.



**All Personnel**

SP  
4157(a)  
4257  
4357

**EMPLOYEE SAFETY**

The Tehama County Superintendent of Schools is committed to maximizing employee safety and believes that workplace safety is every employee's responsibility. Working conditions and equipment shall comply with standards prescribed by federal, state, and local laws and regulations.

No employee shall be required or permitted to be in any place of employment which is unsafe or unhealthful. (Labor Code 6402)

The County Superintendent expects all employees to use safe work practices and, to the extent possible, correct any unsafe conditions which may occur. If an employee is unable to correct an unsafe condition, he/she shall immediately report the problem to the County Superintendent or designee.

The County Superintendent or designee shall promote safety and correct any unsafe work practices through education and enforcement.

The County Superintendent or designee shall establish and implement a written injury and illness prevention program in accordance with law. (Labor Code 6401.7)

The County Superintendent or designee shall ensure the ready availability of first aid materials at Tehama County Department of Education workplaces and shall make effective provisions, in advance, for prompt medical treatment in the event of an employee's serious injury or illness. (8 CCR 3400)

No employee shall be discharged or discriminated against for making complaints, instituting proceedings, or testifying with regard to employee safety or health or for participating in any occupational health and safety committee established pursuant to Labor Code 6401.7. (Labor Code 6310)

*Legal Reference: (see next page)*

SP  
4157(b)  
4257  
4357

## EMPLOYEE SAFETY (continued)

### *Legal Reference:*

#### EDUCATION CODE

1252 *Group workers' compensation*

1297 *County employee for purposes of workers' compensation*

32030-32034 *Eye safety*

32225-32226 *Communications devices in classrooms*

32280-32289 *School safety plans*

44984 *Required rules for industrial accident and illness leave of absence*

#### GOVERNMENT CODE

3543.2 *Scope of bargaining*

#### LABOR CODE

3300 *Definitions*

6305 *Occupational safety and health standards; special order*

6310 *Retaliation for filing complaint prohibited*

6400-6413.5 *Responsibilities and duties of employers and employees, especially:*

6401.7 *Injury and illness prevention program*

#### CODE OF REGULATIONS, TITLE 8

3203 *Injury and illness prevention program*

3400 *Medical services and first aid*

5095-5100 *Control of noise exposure*

#### CODE OF FEDERAL REGULATIONS, TITLE 29

1910.95 *Noise standards*

### *Management Resources:*

#### DEPARTMENT OF INDUSTRIAL RELATIONS PUBLICATIONS

*Guide to Developing Your Workplace Injury and Illness Prevention Program*, rev. August 2005

#### WEB SITES

*California Department of Industrial Relations, Occupational Safety and Health:*

[http://www.dir.ca.gov/occupational\\_safety.html](http://www.dir.ca.gov/occupational_safety.html)

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

*National Hearing Conservation Association:* <http://www.hearingconservation.org>

*National Institute for Occupational Safety and Health:* <http://www.cdc.gov/niosh>

*U.S. Department of Labor, Occupational Safety and Health Administration:* <http://www.osha.gov>

**All Personnel**

AR  
4157(a)  
4257/4357

**EMPLOYEE SAFETY**

The Tehama County Superintendent of Schools or designee shall provide and implement safety devices, safeguards, methods, and processes that are reasonably adequate to render the employment and place of employment safe and healthful. (Labor Code 6401)

**Injury and Illness Prevention Program**

The Tehama County Department of Education's injury and illness prevention program shall cover all Department employees and all other workers whom the Department controls or directs and directly supervises on the job to the extent that the workers are exposed to hazards specific to their worksite and job assignment. The obligation of contractors or other employers who control or direct and supervise their own employees on the job shall not be affected by the Department's injury and illness prevention program. (Labor Code 6401.7)

The Department's injury and illness prevention program shall include: (Labor Code 6401.7; 8 CCR 3203)

1. The name/position of the person(s) with authority and responsibility for implementing the program.
2. A system for ensuring that employees comply with safe and healthful work practices, which may include, but not be limited to:
  - a. Recognition of employees who follow safe and healthful work practices
  - b. Training and retraining programs
  - c. Disciplinary actions
3. A system for communicating with employees, in a form readily understandable by all employees, on matters related to occupational health and safety, including provisions designed to encourage employees to report hazards at the worksite without fear of reprisal. The communications system may include, but not be limited to:
  - a. Meetings
  - b. Training programs
  - c. Posting
  - d. Written communications
  - e. A system of anonymous notification by employees about hazards
  - f. A labor/management safety and health committee

**EMPLOYEE SAFETY** (continued)

4. Procedures for identifying and evaluating workplace hazards, including scheduled periodic inspections to identify unsafe conditions and work practices. Such inspections shall be made:
  - a. Whenever new substances, processes, procedures, or equipment that represents a new occupational safety or health hazard is introduced into the workplace
  - b. Whenever the Department is made aware of a new or previously unrecognized hazard
5. A procedure for investigating occupational injury or illness.
6. Methods and/or procedures for correcting unsafe or unhealthful conditions, work practices, and work procedures in a timely manner, based on the severity of the hazard, when the hazard is observed or discovered.

When an imminent hazard exists which cannot be immediately abated without endangering employee(s) and/or property, these procedures shall call for the removal of all exposed staff from the area except those necessary to correct the hazardous condition. Employees needed to correct the condition shall be provided necessary safeguards.

7. Provision of training and instruction as follows:
  - a. To all new employees
  - b. To all employees given new job assignments for which training has not previously been received
  - c. Whenever new substances, processes, procedures, or equipment is introduced into the workplace and represents a new hazard
  - d. Whenever the Department is made aware of a new or previously unrecognized hazard
  - e. To supervisors, to familiarize them with the safety and health hazards to which employees under their immediate direction and control may be exposed

## **EMPLOYEE SAFETY (continued)**

### **Labor/Management Safety and Health Committee**

The Department's labor/management safety and health committee shall: (8 CCR 3203)

1. Meet regularly, but not less than quarterly.
2. Prepare and make available to affected employees written records of the safety and health issues discussed at committee meetings and maintained for review by the California Department of Industrial Relations' Division of Occupational Safety and Health (Cal/OSHA) upon request. These records shall be maintained for at least one year.
3. Review results of the periodic, scheduled worksite inspections.
4. Review investigations of occupational accidents and causes of incidents resulting in occupational injury or illness or exposure to hazardous substances. As appropriate, the committee may submit suggestions to the County Superintendent or designee regarding the prevention of future incidents.
5. Review investigations of alleged hazardous conditions brought to the attention of any committee member. When determined necessary by the committee, it may conduct its own inspection and investigation to assist in remedial solutions.
6. Submit recommendations to assist in the evaluation of employee safety suggestions.
7. Upon request of Cal/OSHA, verify abatement action taken by the Department to abate citations issued by Cal/OSHA.

### **Hearing Protection**

Whenever employee noise exposure equals or exceeds the standards specified in law, the County Superintendent or designee shall implement a hearing conservation program in accordance with state and federal regulations, including, when required, monitoring of sound levels, audiometric testing of affected employees, the provision of hearing protectors, and employee training. (8 CCR 5095-5100; 29 CFR 1910.95)

### **Eye Safety Devices**

Eye safety devices shall be worn by employees whenever they are engaged in or observing an activity involving hazards or hazardous substances likely to cause injury to the eyes. (Education Code 32030-32034)

## **EMPLOYEE SAFETY (continued)**

### **First Aid and Medical Services**

The County Superintendent or designee shall ensure the ready availability of medical personnel for advice and consultation on matters of industrial health or injury. Whenever a workplace is not in close proximity to an infirmary, clinic, or hospital where all injured employees may be treated, the County Superintendent or designee shall ensure that at least one employee is adequately trained to provide first aid. (8 CCR 3400)

The County Superintendent or designee shall make adequate first aid materials readily available for employees at every worksite. Such materials shall be approved by a consulting physician and shall be kept in a sanitary and usable condition. The County Superintendent or designee shall frequently inspect all first aid materials and replenish them as necessary. (8 CCR 3400)

To avoid unnecessary delay in medical treatment in the event of an employee's serious injury or illness, the Department shall use one or more of the following: (8 CCR 3400)

1. A communication system for contacting a physician or emergency medical service, such as access to 911 or equivalent telephone system. The communication system or the employees using the system shall have the ability to direct emergency services to the location of the injured or ill employee.
2. Readily accessible and available on-site treatment facilities suitable for treatment of reasonably anticipated injury and illness.
3. Proper equipment for prompt medical transport when transportation of injured or ill employees is necessary and appropriate.

**All Personnel**

SP 4157.1

4257.1

**WORK-RELATED INJURIES**

4357.1

The Tehama County Superintendent of Schools desires to provide its employees with insurance and workers' compensation benefits in accordance with law. The County Superintendent or designee shall develop an efficient claims handling process in order to reduce costs and facilitate employee recovery.

An employee shall report any work-related injury or illness to his/her supervisor as soon as practicable. Upon learning of an injury, a supervisor shall promptly report the incident to the County Superintendent or designee and the insurance carrier as appropriate.

The County Superintendent or designee shall ensure that every new employee is notified of his/her right to receive workers' compensation if injured at work and that injured employees are given notice of rights in accordance with law.

The County Superintendent or designee shall ensure that notifications regarding workers' compensation are posted in accordance with law.

*Legal Reference:*

EDUCATION CODE

44984 *Industrial accident and illness leaves, certificated employees*

45192 *Industrial accident and illness leaves, classified employees*

LABOR CODE

3200-4855 *Workers' compensation, especially:*

3550-3553 *Employee notice*

3600-3605 *Conditions of liability*

3760 *Report of injury to insurer*

4600 *Provision of medical and hospital treatment by employer*

4906 *Disclosures and statements*

5400-5413 *Notice of injury or death*

6409.1 *Reports*

CODE OF REGULATIONS, TITLE 8

15596 *Notice of employee rights*

*Management Resources:*

WEB SITES

California Department of Industrial Relations: <http://www.dir.ca.gov>

**All Personnel**

AR  
4157.2(a)  
4257.2  
4357.2

**ERGONOMICS**

To minimize employees' risk of repetitive motion injuries (RMIs), the Tehama County Superintendent of Schools or designee shall implement an ergonomics program whenever two or more RMIs from an identical work activity have been reported by Tehama County Department of Education employees within a 12-month period beginning July 3, 1997. In addition, all reported injuries must satisfy all of the following conditions: (8 CCR 5110)

1. The RMIs were predominantly caused (i.e., 50 percent or more) by a repetitive job, process or operation.
2. The employees incurring the RMIs were performing a job process or operation of identical work activity. Identical work activity means that the employees were performing the same repetitive motion task, such as similar word processing, assembly or loading tasks.
3. The RMIs were musculoskeletal injuries that a licensed physician objectively identified and diagnosed.

The County Superintendent or designee shall ensure that the ergonomics program be designed to minimize RMIs in accordance with law. The program shall be composed of the following components: (8 CCR 5110)

1. Worksite evaluation

Each job, process or operation of identical work activity, or a representative number of such jobs, processes or operations of identical activities, shall be evaluated for exposures which have caused RMIs.

2. Control of exposures which have caused RMIs

Any exposures that have caused RMIs shall, in a timely manner, be corrected or, if not capable of being corrected, be minimized to the extent feasible. The Department shall consider engineering controls, such as work station redesign, adjustable fixtures or tool redesign, and administrative controls such as job station, work pacing or work breaks.

3. Training

Employees shall be provided training that includes an explanation of:

- a. The Department's program
- b. The exposures that have been associated with RMIs
- c. The symptoms and consequences of injuries caused by repetitive motion



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4257.2  
4357.2

**ERGONOMICS (continued)**

- d. The importance of reporting symptoms and injuries to the employer
- e. Methods used by the Department to minimize RMIs

*Legal Reference:*

EDUCATION CODE

44984 *Industrial accident and illness leaves, certificated employees*

45192 *Industrial accident and illness leaves, classified employees*

GOVERNMENT CODE

21153 *Employer not to separate for disability members eligible to retire*

LABOR CODE

142.3 *Adoption, amendment or repeal of standards and orders*

3200-4855 *Workers' compensation, especially:*

3550-3553 *Employee Notice*

3600-3605 *Conditions of liability*

3760 *Report of injury to insurer*

4600 *Provision of medical and hospital treatment by employer*

4906 *Disclosures and statements*

5400-5404 *Notice of injury or death*

6303 *Place of employment; employment*

6305 *Occupational safety and health standards; special orders*

6310 *Retaliation for filing complaint prohibited*

6357 *Standards for workplace ergonomics*

6401.7 *Injury prevention programs*

6409.1 *Reports*

CODE OF REGULATIONS, TITLE 8

3203 *Injury and Illness Prevention Program*

5110 *Repetitive motion injuries*

**EMPLOYEE SECURITY**

The Tehama County Superintendent of Schools desires to provide a safe, orderly working environment for all employees. As part of the Tehama County Department of Education's comprehensive school safety plan, the County Superintendent or designee shall develop strategies for protecting employees from potentially dangerous persons and situations and for assisting them in the event of an emergency situation.

The County Superintendent or designee shall ensure that employees are informed, in accordance with law, regarding crimes and offenses by students who may pose a danger in the classroom.

When violence is directed against an employee by any individual and the employee so notifies the County Superintendent or designee, he/she shall take steps to ensure that appropriate legal measures are instituted. When the employee notifies the County Superintendent or designee of a threat of bodily harm, the Department shall take appropriate measures to enable the employee to request assistance if a threat occurs on school grounds.

The County Superintendent or designee shall ensure that employees are trained in crisis prevention and intervention techniques in order to protect themselves and students. Staff development may include training in classroom management, effective communication techniques and crisis resolution.

The County Superintendent recognizes that access to two-way communications devices allows employees to call for assistance from their supervisor or law enforcement in the event of a threat of violence or medical emergency. The Department shall provide such communications devices in classrooms to the extent possible.

Employees may not carry or possess pepper spray on school property or at school activities. On a case-by-case basis, however, the County Superintendent or designee may allow the possession of a pepper spray weapon that meets the requirements of Penal Code 12403.7 when justified by unusual dangerous circumstances. Any employee who is negligent or careless in the possession or handling of pepper spray shall be subject to appropriate disciplinary measures.

**Reporting of Injurious Objects**

The Tehama County Superintendent of Schools requires school employees to take immediate action upon being made aware that any person is in possession of an injurious object on school grounds or at a school-related or school-sponsored activity. The employee shall use his/her own judgment as to the dangerousness of the situation and, based upon this analysis, shall do one of the following:

1. Confiscate the object and deliver it to the Program Administrator immediately

SP  
4158(b)  
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4358

**EMPLOYEE SECURITY** (continued)

2. Immediately notify the Program Administrator, who shall take appropriate action
  
3. Immediately notify the local law enforcement agency and the Program Administrator

When informing the Program Administrator about the possession or seizure of a weapon or dangerous device, the employee shall report the name(s) of persons involved, witnesses, location, and the circumstances of any seizure.

*Legal Reference: (see next page)*

## **EMPLOYEE SECURITY (continued)**

### *Legal Reference:*

#### EDUCATION CODE

- 32210-32212 *Willful disturbance, public schools or meetings*
- 32225-32226 *Communication devices*
- 35204 *Contract with attorney in private practice or use of administrative advisor*
- 35205 *Contract for legal services*
- 35208 *Liability insurance*
- 35213 *Reimbursement for loss, destruction or damage of school property*
- 44014 *Report of assault by pupil against school employee*
- 44807 *Duty concerning conduct of students*
- 48201 *Transfer of student records*
- 48900-48926 *Suspension or expulsion Grounds for suspension or expulsion*
- 49079 *Notification to teacher; student who has engaged in acts constituting grounds for suspension or expulsion*
- 49330-49335 *Injurious objects*

#### CIVIL CODE

- 51.7 *Freedom from violence or intimidation*

#### CODE OF CIVIL PROCEDURE

- 527.8 *Workplace violence safety act*

#### GOVERNMENT CODE

- 995-996.4 *Defense of public employees*
- 3543.2 *Scope of representation*

#### PENAL CODE

- 71 *Threatening public officers and employees and school officials*
- 240 *Definition of assault*
- 241.2 *Assault on school or park property against any person*
- 241.3 *Assault against school bus drivers*
- 241.6 *Assault on school employee includes board member*
- 242 *Definition of battery*
- 243 *Battery; definition of "injury" and "serious bodily injury"*
- 243.2 *Battery on school or park property against any person*
- 243.3 *Battery against school bus drivers*
- 243.6 *Battery against school employee includes board member*
- 245.5 *Assault with deadly weapon; school employee includes board member*
- 290 *Registration of sex offenders*
- 601 *Trespass by person making credible threat*
- 626.9 *Gun-Free School Zone Act of 1995*
- 626.10 *Exceptions to bringing weapons on school grounds*
- 646.9 *Stalking*
- 12403.7 *Weapons approved for self defense*

#### WELFARE AND INSTITUTIONS CODE

- 827 *Juvenile court proceedings; reports; confidentiality*
- 828.1 *District police or security department, disclosure of juvenile records*

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## **EMPLOYEE SECURITY (continued)**

### *Management Resources:*

#### CDE CORRESPONDENCE

*0401.01 Protecting Student Identification in Reporting Injurious Objects*

#### WEB SITES

*California Department of Education, Safe Schools and Violence Prevention Office:*

*<http://www.cde.ca.gov/ls/ss/>*

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

**All Personnel**

AR  
4158(a)  
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4358

**EMPLOYEE SECURITY**

An employee may use reasonable and necessary force when necessary for self-defense, to protect another person or property, to quell a disturbance threatening physical injury to others, or to obtain possession of weapons or other dangerous objects on or within the control of a student. (Education Code 44807, 49001)

Employees shall promptly report to their Program Administrator or other immediate supervisor any attack, assault or physical threat made against them by a student.

Both the employee and the Program Administrator or other immediate supervisor shall promptly report such instances to the appropriate local law enforcement agency. (Education Code 44014)

In addition, employees shall promptly report to their Program Administrator or supervisor, and may report to law enforcement, any attack, assault or threat made against them on school grounds by any other individual.

Reports of attack, assault or threat also shall be forwarded immediately to the County Superintendent or designee.

An employee whose person or property is injured or damaged by willful misconduct of a student may ask the Tehama County Department of Education to pursue legal action against the student or the student's parent/guardian. (Education Code 48905)

**Notice Regarding Student Offenses Committed While Under School Jurisdiction**

The Tehama County Superintendent of Schools or designee shall inform the teacher of each student who has engaged in, or is reasonably suspected of, any act during the previous three school years which could constitute grounds for suspension or expulsion under Education Code 48900, with the exception of the possession or use of tobacco products, or Education Code 48900.2, 48900.3, 48900.4, or 48900.7. This information shall be based upon Department records maintained in the ordinary course of business or records received from a law enforcement agency. (Education Code 49079)

Upon receiving a transfer student's record regarding acts committed by the student that resulted in his/her suspension or expulsion, the County Superintendent or designee shall inform any of the student's teacher(s) that the student was suspended from his/her former district and of the act that resulted in the suspension or expulsion. (Education Code 48201)

Information received by teacher(s) shall be received in confidence for the limited purpose for which it was provided and shall not be further disseminated by the teacher. (Education Code 49079)

## **EMPLOYEE SECURITY (continued)**

### **Notice Regarding Student Offenses Committed While Outside School Jurisdiction**

When informed by the court that a minor student has been found by a court to have committed any felony or any misdemeanor involving curfew, gambling, alcohol, drugs, tobacco products, carrying of weapons, a sex offense listed in Penal Code 290, assault or battery, larceny, vandalism or graffiti, the County Superintendent or designee shall so inform the Program Administrator. (Welfare and Institution Code 827)

The Program Administrator shall disseminate this information to the counselor(s) who directly supervises or reports on the student's behavior or progress. The Program Administrator also may inform any teacher or administrator he/she thinks may need the information so as to work with the student appropriately, avoid being needlessly vulnerable, or protect others from vulnerability. (Welfare and Institutions Code 827)

Any court-initiated information that a teacher, counselor or administrator receives shall be kept confidential and used only to rehabilitate the student and protect other students and staff. The information shall be further disseminated only when communication with the student, parent/guardian, law enforcement staff and probation officer is necessary to rehabilitate the student or to protect students and staff. (Welfare and Institutions Code 827)

When a student is removed from school as a result of his/her offense, the Superintendent shall hold the court's information in a separate confidential file until the student is returned to public school. If the student is returned to a different Department, the Superintendent shall transmit the information provided by the student's parole or probation officer to the Superintendent of the new district of attendance. (Welfare and Institutions Code 827)

Any confidential file of court-initiated information shall be kept until the student becomes 18, graduates from high school, or is released from juvenile court jurisdiction, whichever occurs first; it shall then be destroyed. (Welfare and Institutions Code 827)

### **Procedures to Maintain Confidentiality of Student Offenses**

In order to maintain confidentiality when providing information about student offenses to counselors and teachers of classes/programs to which a student is assigned, the Program Administrator or designee shall send the staff member a written notification requesting him/her to review a student's file in the school office as soon as practicable. This notification shall not name or otherwise identify the student. The staff member shall be asked to initial the notification and return it to the Program Administrator or designee.

## **EMPLOYEE SECURITY (continued)**

The staff member shall also initial the student's file when reviewing it in the school office. Once the Department has made a good faith effort to comply with the notification requirement of Education Code 49079 and Welfare and Institutions Code 827, an employee's failure to review the file constitutes Department compliance with the requirement to provide notice to the teacher.

### **Use of Pepper Spray**

Employees who possess pepper spray on school property shall be notified of the following conditions:

1. The pepper spray shall be used only in self-defense.
2. An employee who uses pepper spray other than in self-defense shall be subject to disciplinary action by the Department and, in accordance with law, a fine and/or imprisonment.
3. The employee shall ensure that the pepper spray is stored in a secure place and not accessible to students or other individuals. An employee who is negligent in the storage of pepper spray may be subject to disciplinary action.

Employees wishing to carry pepper spray on school property or to a school-related activity shall submit to the County Superintendent or designee a written request setting forth the need for the pepper spray. Should the County Superintendent or designee determine that the employee may not carry pepper spray, the employee shall receive a written statement of the reason for this determination.



**All Personnel**

SP 4159

4259

**EMPLOYEE ASSISTANCE PROGRAMS**

4359

The Tehama County Superintendent of Schools recognizes that school Tehama County Department of Education employees may have problems which can have detrimental effects upon job performance and student safety. The County Board encourages employees to seek help when such problems exist and to take advantage of the resources that are available to assist them.

Employees shall have confidential access to information about the Department's employee assistance program. This information shall be available to all employees and their spouses and dependents.

Management and supervisory staff shall be knowledgeable about the Department's employee assistance program and may counsel employees about the program, as appropriate.

Participation in the assistance program shall not jeopardize an employee's employment or career advancement, nor will it protect the employee from disciplinary action for substandard job performance.

*Legal Reference:*

EDUCATION CODE

35160 Authority of governing board

35160.1 Broad authority of school districts

44962 Leaves of absence for certificated employees

44964 Power to grant leaves of absence for accident, illness or quarantine

45190-45209 Resignations and leaves of absence for classified employees

GOVERNMENT CODE

8355 Certification to contracting or granting agency; requisites

HEALTH AND SAFETY CODE

104420 Providing information re: smoking cessation program

UNITED STATES CODE, TITLE 41

701-707 Drug-Free Workplace Act

**All Personnel**

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4161(a)  
4261  
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**LEAVES**

The Tehama County Superintendent of Schools shall provide for paid and unpaid leaves of absence for employees in accordance with law, Tehama County Department of Education policy, administrative regulation, and collective bargaining agreements.

The County Superintendent recognizes the following justifiable reasons for employee absence:

1. Personal illness or injury
2. Industrial accident or illness
3. Family care and medical leave
4. Military service
5. Personal necessity and personal emergencies
6. Disability leave for certificated employees in accordance with Education Code 44986
7. Vacations for classified staff
8. Sabbaticals for purposes of study or training related to the employee's job duties
9. Attendance at work-related meetings and staff development opportunities
10. Compulsory leave

**Long-Term Leaves**

With County Superintendent approval, an employee may receive a leave of absence, without pay and without accruing seniority or service credit, for a period of up to one school year. Applications for long-term leave shall be made in writing and shall state the purpose for which leave is requested. All long-term leave agreements shall be in writing and shall state the terms and conditions of the leave, including the conditions governing the employee's return.

At the end of a long-term leave, the employee shall be reinstated to a similar position as that held at the time leave was granted, unless otherwise agreed upon.

The County Superintendent shall consider any written request by an employee to return to work prior to the expiration date of the leave.

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## LEAVES (continued)

### **Administrative and Supervisory Personnel**

Certificated administrative and supervisory employees who are not subject to the Department's bargaining agreement for certificated employees shall generally be entitled to those leave provisions provided in the bargaining agreement for other certificated employees unless otherwise specified in individual contract, memorandums of understanding, Department policy, administrative regulation, or law.

Classified administrative and supervisory employees who are not subject to the Department's bargaining agreement for classified employees shall generally be entitled to those leave provisions provided in the bargaining agreement for other classified employees unless otherwise specified in individual contract, memoranda of understanding, Department policy, administrative regulation, or law.

*Legal Reference: (see next page)*

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4161(c)  
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## LEAVES (continued)

### *Legal Reference:*

#### EDUCATION CODE

22850-22856 *Pension benefits, STRS members on military leave*  
44018 *Compensation for employees on active military duty*  
44036-44037 *Leaves of absence for judicial and official appearances*  
44043.5 *Catastrophic leave*  
44800 *Effect of active military service on status of employees*  
44842 *Failure to provide notice or to report to work*  
44940 *Sex offenses and narcotic offenses; compulsory leave of absence*  
44962-44988 *Leaves of absence (certificated)*  
45059 *Employee ordered to active military/naval duty, computation of salary*  
45190-45210 *Leaves of absence (classified)*

#### FAMILY CODE

297-297.5 *Registered domestic partner rights, protections and benefits*

#### GOVERNMENT CODE

3543.1 *Release time for representatives of employee organizations*  
3543.2 *Scope of representation*  
12945.1-12945.2 *California Family Rights Act*  
20990-21013 *Pension benefits, PERS members on military leave*

#### LABOR CODE

230-230.2 *Leaves for victims of domestic violence, sexual assault or specified felonies*  
230.3 *Leave for emergency personnel*  
230.4 *Leave for volunteer firefighters*  
230.8 *Leave to visit child's school*  
233 *Illness of child, parent, spouse or domestic partner*

#### MILITARY AND VETERANS CODE

395-395.9 *Military leave*  
395.10 *Leave when spouse on leave from military deployment*

#### UNITED STATES CODE, TITLE 29

2601-2654 *Family and Medical Leave Act of 1993*

#### UNITED STATES CODE, TITLE 38

4301-4334 *Uniformed Services Employment and Reemployment Rights Act of 1994*

**All Personnel**

AR 4161

4261

**LEAVES**

4361

**Failure to Return to Service After Leave**

In the case of a certificated employee who was on leave of absence for 20 or more consecutive working days after April 30 of the previous school year, the Tehama County Department of Education may terminate the employment of such an employee if all of the following circumstances exist: (Education Code 44842)

1. The employee fails to report for duty, without good cause, at the beginning of the school year after having notified the Tehama County Superintendent of Schools of his/her intention to remain in service with the Department in accordance with Education Code 44842.
2. The Department had specifically notified the employee, at least five days in advance, of the time and place at which the employee was to report to work.
3. The employee did not request or was not granted a leave of absence authorized by the County Superintendent.

In any such case, the Department may terminate the employee's employment on the day following 20 consecutive days of absence. (Education Code 44842)

**Use of Leaves by Classified Employees**

A classified employee may interrupt or terminate vacation leave in order to begin another type of paid leave without a return to active service, as long as the employee provides adequate notice and relevant supporting information regarding the basis for such interruption or termination. (Education Code 45200)

## **Certificated Personnel**

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4161.1(a)  
4361.1

### **PERSONAL ILLNESS/INJURY LEAVE**

Full-time certificated employees are entitled to 10 days leave of absence for personal illness or injury (sick leave) per school year, with full pay. Employees working less than five school days per week shall be granted comparable sick leave in proportion to the time they work. (Education Code 44978)

An employee may take sick leave at any time during the school year, even if credit for sick leave has not yet been accrued. (Education Code 44978)

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 of service.

Unused days of sick leave shall be accumulated from year to year without limitation. (Education Code 44978)

At the beginning of each school year, employees shall be notified of the amount of sick leave they have accumulated.

Any certificated employee who leaves the Tehama County Department of Education after at least one school year of employment and accepts a certificated position in another district, county office of education, or community college district within one year shall have transferred with him/her the total amount of accumulated sick leave. The Department shall not require new employees to waive leave accumulated in a previous district. (Education Code 44979, 44980)

Sick leave may be used by a certificated employee for absences due to:

1. Temporary inability to perform his/her duties because of illness, accident, or quarantine, whether or not the cause of the absence arises out of and in the course of employment (Education Code 44964)
2. Pregnancy, miscarriage, childbirth, and recovery (Education Code 44965, 44978)
3. Personal necessity (Education Code 44981)
4. Medical and dental appointments, in increments of not less than one hour
5. Industrial accidents or illnesses when leave granted specifically for that purpose has been exhausted (Education Code 44984)
6. Illness of the employee's child, parent, spouse, registered domestic partner, or domestic partner's child in an amount not less than the sick leave that would be accrued by the employee during six months at his/her then current rate of entitlement (Labor Code 233)

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

An employee shall notify the Department of his/her need to be absent as soon as such need is known, so that substitute services may be secured. 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 Department. If the duration of absence becomes shorter than estimated, the employee shall notify the Department not later than 3 p.m. of the day preceding the day on which he/she intends to return to work. If failure to so notify the Department results in a substitute being secured, the cost of the substitute shall be deducted from the employee's pay.

### **Continued Absence After Available Sick Leave Is Exhausted**

After a certificated employee has exhausted all available sick leave, including all accumulated sick leave, and, due to illness or injury, continues to be absent for an additional period up to five months, he/she shall receive differential pay of his/her regular salary during the five-month period of absence.

If a certificated employee is not medically able to resume his/her duties after the five-month period provided pursuant to Education Code 44977, the employee shall be placed either in another position or on a reemployment list. Placement on the reemployment list shall be for 24 months for probationary employees or 39 months for permanent employees and shall begin at the expiration of the five-month period. If during this time the employee becomes medically able, he/she shall be returned to employment in a position for which he/she is credentialed and qualified. (Education Code 44978.1)

### **Verification Requirements**

After any absence due to illness or injury, the employee shall verify the absence by submitting a completed and signed Department absence form to his/her immediate supervisor.

The Tehama County Superintendent of Schools or designee may, at any time, require additional written verification by the employee's physician or other authorized health care provider. 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.

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

The County Superintendent or designee may require an employee to visit a physician selected by the Department, at Department 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 as to 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 County Superintendent or designee may, after giving notice to the employee, deny further leave.

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

### *Legal Reference:*

#### EDUCATION CODE

- 44964 *Power to grant leave of absence in case of illness, accident, or quarantine*
- 44965 *Granting of leaves of absence for pregnancy and childbirth*
- 44976 *Transfer of leave rights when school is transferred to another district*
- 44977 *Salary deduction during absence from duties up to five months after sick leave is exhausted*
- 44978 *Provisions for sick leave of certificated employees*
- 44978.1 *Inability to return to duty; placement in another position or on reemployment list*
- 44979 *Transfer of accumulated sick leave to another district*
- 44980 *Transfer of accumulated sick leave to a county office of education*
- 44981 *Leave of absence for personal necessity*
- 44983 *Exception to sick leave when district adopts specific rule*
- 44984 *Industrial accident or illness*
- 44986 *Leave of absence for disability allowance applicant*

#### LABOR CODE

- 220 *Sections inapplicable to public employees*
- 233 *Illness of child, parent, spouse or domestic partner*
- 234 *Absence control policy*

#### CODE OF REGULATIONS, TITLE 5

- 5601 *Transfer of accumulated sick leave*

#### UNITED STATES CODE, TITLE 42

- 2000ff-2000ff-11 *Genetic Information Nondiscrimination Act of 2008*

#### COURT DECISIONS

- Veguez v. Governing Board of Long Beach Unified School District, (2005) 127 Cal.App.4th 406*



## **Certificated Personnel**

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4361.11

### **INDUSTRIAL ACCIDENT/ILLNESS LEAVE**

In each fiscal year, allowable leave for certificated employees for any single industrial accident or illness shall be for 60 days during which the schools of the Tehama County Department of Education are in session or when the employee would otherwise have been performing work for the Department.

Allowable industrial accident/illness leave shall not accumulate from year to year. (Education Code 44984)

When a certificated employee is absent from his/her duties because of an industrial accident or illness: (Education Code 44984)

1. Industrial accident or illness leave shall start on the first day of absence.
2. The employee shall be paid such portion of the salary due for any month in which the absence occurs as, when added to the temporary disability indemnity under Division 4 or 4.5 of the Labor Code, will result in a payment to the employee of not more than his/her full salary.
3. Industrial accident or illness leave shall be reduced by one day for each day of authorized absence, regardless of a temporary disability indemnity award.
4. When an industrial accident or illness leave overlaps into the next fiscal year, the employee is entitled to only the amount of unused leave due the employee for the same illness or injury.

Upon expiration of allowable leave for an industrial accident or illness, the employee may use personal illness and injury leave. If the employee continues to receive temporary disability indemnity, he/she may elect to take as much of the accumulated sick leave which, when added to his/her temporary disability indemnity, will result in a payment to the employee of not more than the employee's full salary. (Education Code 44984)

During any paid leave of absence, the employee may endorse to the Department the temporary disability indemnity checks received on account of his/her industrial accident or illness. In those cases, the Department shall issue appropriate salary warrants for payment of the employee's salary, and shall deduct normal retirement, other authorized contributions, and the temporary disability indemnity, if any, actually paid to and retained by the employee for periods covered by such salary warrants. (Education Code 44984)

Any employee receiving benefits under this leave shall, during periods of injury or illness, remain within the State of California unless the Tehama County Superintendent of Schools authorizes travel outside the state. (Education Code 44984)

*Legal Reference: (see next page)*

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4161.11(b)  
4361.11

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

*Legal Reference:*

EDUCATION CODE

*44977 Salary deductions during absence from duties*

*44978 Provisions for certificated employee sick leave*

*44983 Exception to sick leave*

*44984 Required rules for industrial accident and illness leave of absence*

*Management Resources:*

WEB SITES

*Department of Industrial Relations: <http://www.dir.ca.gov/DIR/OS&H/DOSH/dosh1.html>*

**All Personnel**

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**PERSONAL LEAVES**

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For the purpose of any personal leave offered pursuant to state law, a registered domestic partner shall have the same rights, protections, and benefits as a spouse and protections provided to a spouse's child shall also apply to a child of a registered domestic partner. (Family Code 297.5)

Whenever possible, employees shall request personal leaves in advance and prepare suitable lesson plans or instructions for a substitute employee.

**Bereavement**

Employees are entitled to a leave not to exceed three days, or five days if out-of-state travel is required, upon the death of any member of the employee's immediate family. No deduction shall be made from the employee's salary, nor shall such leave be deducted from any other leave to which the employee is entitled. (Education Code 44985, 45194) If additional absence is required beyond the bereavement allowance, additional time off shall be designated as personal necessity leave up to a maximum of seven days. Leave beyond personal necessity availability shall be charged against the employees vacation time, or if there is no accrued vacation time, the employee's salary will be deducted.

Members of the immediate family include: (Education Code 44985, 45194)

1. The mother, father, grandmother, grandfather, aunt, uncle, niece, nephew, or grandchild of the employee or of the employee's spouse. Mother and father are defined to include stepmother and stepfather.
2. The employee's spouse, son, son-in-law, daughter, daughter-in-law, brother, brother-in-law, sister or sister-in-law. Son and daughter are defined to include stepson and stepdaughter.
3. Any relative living in the employee's immediate household

At the employee's request, bereavement leave may be extended under personal necessity leave provisions as provided below. (Education Code 44981, 45207)

**Personal Necessity**

Employees may use a maximum of seven days of their accrued personal illness/injury leave during each school year for reasons of personal necessity. (Education Code 44981, 45207) Absence for personal necessity must be taken in increments of not less than one hour.

Acceptable reasons for the use of personal necessity leave include:

1. Death of a member of the employee's immediate family when the number of days of absence exceeds the limits set by bereavement leave provisions (Education Code 44981, 45207)

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**PERSONAL LEAVES** (continued)

2. An accident involving the employee's person or property or the person or property of a member of the employee's immediate family (Education Code 44981, 45207)
3. A serious illness of a member of the employee's immediate family (Education Code 44981)
4. An employee's appearance in any court or before any administrative tribunal as a litigant, party, or witness under subpoena or other order (Education Code 45207)
5. Other compelling reason as approved by the employee's supervisor and the County Superintendent or designee.

Members of the immediate family means the mother, father, grandmother, grandfather, or grandchild of the employee or the spouse of the employee; the spouse, son, son-in-law, daughter, daughter-in-law, brother or sister of the employee, or other person(s) living in the immediate household of the employee. Mother and father are defined to include stepmother and stepfather; son and daughter are defined to include stepson and stepdaughter.

Advance permission shall not be required of any employee in cases involving the death or serious illness of a member of the employee's immediate family or an accident involving the employee's person or property or the person or property of a member of his/her immediate family. (Education Code 44981, 45207)

An employee may use up to three days per year, which will be charged to his/her accumulated sick leave as personal necessity leave without stating a reason due to the confidential nature of the circumstances. Pre-approval must be obtained from the employee's supervisor prior to sue of confidential personal necessity leave.

No such leave shall be granted for purposes of personal convenience, for the extension of a holiday or vacation, or for matters which can be taken care of outside of working hours. The County Superintendent or designee shall have final discretion as to whether a request reflects personal necessity.

After any absence in which advance permission is not required due to personal necessity, the employee shall verify the absence by submitting a completed and signed Tehama County Department of Education absence form to his/her immediate supervisor.

**Legal Duties**

Classified employees called for jury duty shall be granted leave with pay up to the amount of the difference between the employee's regular earnings and any amount received for jury fees. (Education Code 44037)

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## **PERSONAL LEAVES** (continued)

Certificated employees also shall be granted leave for jury duty with pay up to the amount of the difference between the employee's regular earnings and any amount received as juror's fees.

Employees shall be granted leaves to appear in court as witnesses other than litigants or to respond to an official order from another governmental jurisdiction for reasons not brought about through the connivance or misconduct of the employee. Such employees shall receive pay up to the amount of the difference between the employee's regular earnings and any amount received for witness fees.

An employee may take time off work in order to: (Labor Code 230)

1. Serve on an inquest jury or trial jury
2. Comply with a subpoena or other court order to appear as a witness

Notices, summons, and subpoenas for court appearances shall be submitted to the Department office when requesting leave.

### **Leaves for Crime Victims**

An employee may be absent from work in order to attend judicial proceedings related to a crime when he/she is a victim, immediate family member of a victim, registered domestic partner of a victim, or child of a registered domestic partner of a victim of the following crimes: (Labor Code 230.2)

1. A violent felony as defined in Penal Code 667.5(c)
2. A serious felony as defined in Penal Code 1192.7(c)
3. A felony provision of law proscribing theft or embezzlement

For these purposes, the employee may use vacation, personal leave, personal illness/injury leave, compensatory time off that is otherwise available to the employee, or unpaid leave. (Labor Code 230.2)

Prior to taking time off, an employee shall give his/her supervisor a copy of the notice of each scheduled proceeding that is provided by the responsible agency, unless advance notice is not feasible. When advance notice is not feasible or an unscheduled absence occurs, the employee shall, within a reasonable time after the absence, provide documentation evidencing the judicial proceeding from the court or government agency setting the hearing, the district attorney or prosecuting attorney's office, or the victim/witness office that is advocating on behalf of the victim. (Labor Code 230.2)

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## **PERSONAL LEAVES (continued)**

The Department shall keep confidential any records pertaining to the employee's absence from work. (Labor Code 230.2)

### **Leaves for Victims of Domestic Violence or Sexual Assault**

An employee who is a victim of domestic violence or sexual assault as defined by law may take time off work to obtain or attempt to obtain any relief including, but not limited to, a temporary restraining order, restraining order, or other injunctive relief to help ensure the health, safety, or welfare of the employee or his/her child. (Labor Code 230)

In addition, an employee who is a victim of domestic violence or sexual assault may take time off work to attend to the following activities: (Labor Code 230.1)

1. Seek medical attention for injuries caused by domestic violence or sexual assault
2. Obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence or sexual assault
3. Obtain psychological counseling related to an experience of domestic violence or sexual assault
4. Participate in safety planning and take other actions to increase safety from future domestic violence or sexual assault, including temporary or permanent relocation

An employee who is a victim of domestic violence or sexual assault may use vacation, personal leave, or compensatory time off that is otherwise available to the employee under the applicable terms of employment. (Labor Code 230, 230.1)

Prior to taking time off, an employee shall give reasonable notice to his/her supervisor, unless advance notice is not feasible. When an unscheduled absence occurs, the employee shall provide, within a reasonable period of time, certification of the absence in the form of any of the following documents: (Labor Code 230, 230.1)

1. A police report indicating that the employee was a victim of domestic violence or sexual assault
2. A court order protecting or separating the employee from the perpetrator of an act of domestic violence or sexual assault, or other evidence from the court or prosecuting attorney that the employee has appeared in court

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**PERSONAL LEAVES** (continued)

3. Documentation from a medical professional, domestic violence advocate or advocate for victims of sexual assault, health care provider, or counselor that the employee was undergoing treatment for physical or mental injuries or abuse resulting from an act of domestic violence or sexual assault

The Department shall maintain the confidentiality of such an employee to the extent authorized by law. (Labor Code 230, 230.1)

**Personal Leave for a Child's School Activities**

Any employee who is a parent/guardian, or grandparent having custody of one or more children who are enrolled in grades K-12, or who attend a licensed day care facility, may use up to 40 hours of personal leave, vacation, or compensatory time off each school year in order to participate in school or day care activities. Such leave shall not exceed eight hours in any month of the year, and the employee shall give reasonable advance notice of the absence. (Labor Code 230.8)

If both parents/guardians of a child are employed at the same work site, this leave shall be allowed for the first parent/guardian who applies. Simultaneous absence by the second parent may be granted by the County Superintendent or designee. (Labor Code 230.8)

Upon request by the County Superintendent or designee, the employee shall provide documentation from the school or licensed day care facility that he/she participated in school or licensed day care facility activities on a specific date and at a particular time. (Labor Code 230.8)

**Service on Education Boards, Committees, and State or Employee Organizations**

Upon request, certificated employees shall be granted up to 20 school days of paid leave per school year for service performed within the state on any education boards, commissions, committees, or groups authorized by Education Code 44987.3 provided that all of the following conditions are met: (Education Code 44987.3)

1. The service is performed in the state of California.
2. The board, commission, organization, or group informs the Department in writing of the service.
3. The board, commission, organization, or group agrees, prior to service, to reimburse the Department, upon the Department's request, for compensation paid to the employee's substitute and for actual related administrative costs.

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## **PERSONAL LEAVES (continued)**

Upon request, certificated and classified employees shall be granted a leave of absence without loss of compensation to serve as an elected officer of a Department employee organization or any statewide or national employee organization with which the local organization is affiliated. The leave shall include, but is not limited to, absence for purposes of attending periodic, stated, special, or regular meetings of the body of the organization. (Education Code 44987, 45210)

### **Religious Leave**

The County Superintendent or designee may grant employees up to three days of leave per year for religious purposes, provided that the leave is requested in advance and that it does not cause additional Department expenditures, the neglect of assigned duties, or any other unreasonable hardship on the Department.

The County Superintendent or designee shall deduct the cost of a substitute, when required, from the wages of the employee who takes religious leave.

No employee shall be discriminated against for using this leave or any additional days of unpaid leave granted for religious observances at the discretion of the County Superintendent or designee.

### **Spouse on Leave from Military Deployment**

An employee who works an average of 20 hours or more per week and whose spouse is a member of the United States Armed Forces, National Guard, or reserves may take up to 10 days of unpaid leave during a period that his/her spouse is on leave from deployment during a military conflict, as defined in Military and Veterans Code 395.10. (Military and Veterans Code 395.10)

The employee shall provide the County Superintendent or designee with notice, within two business days of receiving official notice that his/her spouse will be on leave from deployment, of his/her intention to take the leave. The employee shall submit written documentation certifying that his/her spouse will be on leave from deployment during the time that the leave is requested. (Military and Veterans Code 395.10)

### **Leave for Emergency Duty**

An employee may take time off to perform emergency duty as a volunteer firefighter, a reserve peace officer, or emergency rescue personnel. (Labor Code 230.3)



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**PERSONAL LEAVES** (continued)

An employee who is a volunteer firefighter shall be permitted to take temporary leaves of absence, not to exceed an aggregate total of 14 days per calendar year, for the purpose of engaging in fire or law enforcement training. (Labor Code 230.4)

**Civil Air Patrol Leave**

An employee may take up to 10 days of unpaid leave per calendar year, beyond any leave otherwise available to employees, to respond to an emergency operational mission of the California Civil Air Patrol, provided that the employee has been employed by the Department for at least a 90-day period immediately preceding the leave. Such leaves shall not exceed three days for a single emergency operational mission, unless an extension is granted by the governmental entity authorizing the mission and is approved by the County Superintendent or designee. (Labor Code 1501, 1503)

The employee shall give the Department as much advance notice as possible of the intended dates of the leave. The County Superintendent or designee may require certification from the proper Civil Air Patrol authority to verify the eligibility of the employee for the leave and may deny the leave if the employee fails to provide the required certification. (Labor Code 1503)

*Legal Reference: (see next page)*

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## PERSONAL LEAVES (continued)

### Legal Reference:

#### EDUCATION CODE

44036-44037 Leaves of absence for judicial and official appearances

44963 Power to grant leaves of absence (certificated)

44981 Leave of absence for personal necessity (certificated)

44985 Leave of absence due to death in immediate family (certificated)

44987 Service as officer of employee organization (certificated)

44987.3 Leave of absence to serve on certain boards, commissions, etc.

45190 Leaves of absence and vacations (classified)

45194 Bereavement leave of absence (classified)

45198 Effect of provisions authorizing leaves of absence

45207 Personal necessity (classified)

45210 Service as officer of employee organization (classified)

45240-45320 Merit system, classified employees

#### FAMILY CODE

297-297.5 Registered domestic partner rights, protections, and benefits

#### GOVERNMENT CODE

3543.1 Release time for representatives of employee organizations

#### LABOR CODE

230-230.2 Leave for victims of domestic violence, sexual assault, or specified felonies

230.3 Leave for emergency personnel

230.4 Leave for volunteer firefighters

230.8 Leave to visit child's school

233 Illness of child, parent, spouse, domestic partner or domestic partner's child

234 Absence control policy

1500-1507 Civil Air Patrol leave

#### MILITARY AND VETERANS CODE

395.10 Leave when spouse on leave from military deployment

#### PENAL CODE

667.5 Violent felony, defined

1192.7 Serious felony, defined

#### CALIFORNIA CONSTITUTION

Article 1, Section 8 Religious discrimination

#### UNITED STATES CODE, TITLE 29

2612 Family and Medical Leave Act, leave requirements

#### UNITED STATES CODE, TITLE 42

2000d-2000d-7 Title VII, Civil Rights Act of 1964

#### COURT DECISIONS

Rankin v. Commission on Professional Competence, (1988) 24 Cal.3d 167

### Management Resources:

#### WEB SITES

California Federation of Teachers: <http://www.cft.org>

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

California Teachers Association: <http://www.cta.org>

Regulation

approved: April 20, 2011

Revised: December 7, 2012

**TEHAMA COUNTY DEPARTMENT OF EDUCATION**

Red Bluff, California

## **All Personnel**

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## **MILITARY LEAVE**

4361.5

Military leave shall be granted in accordance with applicable state and federal law to employees performing military duties on a voluntary or involuntary basis in a uniformed service, including active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, examination to determine fitness for duty, and performance of funeral honors duty. (Education Code 44800; Military and Veterans Code 395, 395.01, 395.02, 395.05, 395.1, 395.2, 395.9; 38 USC 4301, 4303, 4316)

An employee who needs to be absent from the Tehama County Department of Education to fulfill his/her military service shall provide advance written or verbal notice to the Tehama County Superintendent of Schools or designee, unless the giving of such notice is precluded by military necessity or is otherwise impossible or unreasonable. (38 USC 4312; 20 CFR 1002.85, 1002.86)

## **Salary/Compensation**

An employee shall receive his/her salary or compensation for the first 30 days of any one absence for military leave or during one fiscal year, under any of the following conditions:

1. **Active Military Training or Exercises:** The employee is granted a temporary military leave of absence to engage in ordered military duty for purposes of active military training, encampment, naval cruises, special exercises, or like activity as a member of the reserve corps or force of the United States Armed Forces, National Guard, or Naval Militia, provided that: (Military and Veterans Code 389, 395, 395.01)
  - a. He/she has been employed by the Department for at least one year immediately prior to the day the military leave begins.
  - b. The ordered duty does not exceed 180 days, including time involved in going to and returning from such duty.
2. **Active Military Duty:** The employee is on military leave, other than a temporary military leave, to engage in active military duty as a member of the reserve corps or force of the United States Armed Forces, the National Guard, or the Naval Militia, provided that he/she has been employed by the Department for at least one year immediately prior to the day the military leave begins. (Military and Veterans Code 389, 395.02)
3. **War or Other Emergency:** The employee, however long employed by the Department, is a member of the National Guard who is engaged in military or naval duty during a state of extreme emergency as declared by the Governor, or during such time as the National Guard may be on active duty in situations described in Military and Veterans Code 146, including travel time to and from such duty. (Military and Veterans Code 395.05)

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## **MILITARY LEAVE (continued)**

In determining the length of Department employment when necessary to determine eligibility for compensation for military leave, all recognized military service performed during and prior to Department employment shall be included.

For classified employees, 30 days' compensation shall be one month's salary. For certificated employees, 30 days' compensation shall be one-tenth of the employee's annual salary. (Education Code 45059)

Certificated employees shall not be entitled to compensation during non-teaching, non-paying months of the year.

During the period of military leave, an employee may, upon his/her own request, use any vacation or similar paid leave accrued before the commencement of the military leave. The Department shall not require the employee to use such leave. (38 USC 4316; 20 CFR 1002.153)

### **Benefits**

An employee may elect to continue his/her health plan coverage during the military leave. The maximum period of coverage for the employee and his/her dependents shall be either 24 months from the beginning of the leave or until the day after the employee fails to apply for or return to employment, whichever is less. (38 USC 4317; 20 CFR 1002.164)

An employee on military leave may be required to pay the employee cost, if any, of any funded benefit to the extent that other employees on leave are so required. (38 USC 4316)

An employee absent for 30 days or fewer shall not be required to pay more than the employee share for such coverage. An employee absent for 31 days or more may be required to pay not more than 102 percent of the full premium under the plan. (38 USC 4317; 20 CFR 1002.166)

Any employee called into active military duty as a member of the California National Guard or a United States Military Reserve organization shall receive, for up to 180 days, the difference between the amount of his/her military pay and the amount the employee would have received from the Department and all benefits that the employee would have received if he/she had not been called to active military duty, unless the benefits are prohibited or limited by vendor contracts.

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## **MILITARY LEAVE (continued)**

### **Vacation and Sick Leave Accrual**

An employee on temporary military leave under the conditions described in item #1 Active Military Training or Exercises, in the section entitled "Salary/Compensation" above, shall continue to accrue the same vacation, sick leave, and holiday privileges to which he/she would otherwise be entitled if not absent. (Military and Veterans Code 395)

An employee on military leave who is serving in active duty in time of war, national emergency, or United Nations military or police operation shall not accrue sick leave or vacation leave during the period of such leave. (Military and Veterans Code 395.1)

However, an employee who is a National Guard member on active duty as described in item #3 War or Other Emergency, in the section entitled "Salary/Compensation" above, shall not suffer any loss or diminution of vacation or holiday privileges because of his/her leave of absence. (Military and Veterans Code 395.05)

### **Pension Plan Service Credit**

Pension plan service credit and vesting shall continue during an employee's military leave as though no break in service had occurred. Payment of employer and employee contributions shall be made in accordance with law for members of the State Teachers' Retirement System or Public Employees' Retirement System. (Education Code 22850-22856; Government Code 20990-21013)

### **Employment Status**

Absence for military leave shall not affect the classification of any certificated employee. In the case of a certificated probationary employee, the period of such absence shall not count as part of the service required to obtain permanent status, but shall not be construed as a break in the continuity of service for any purpose. (Education Code 44800)

### **Reinstatement Rights**

At the conclusion of the military duty, an employee shall be promptly reinstated in the position held at the beginning of the leave, at the salary to which he/she would otherwise have been entitled, except under the conditions noted below. (Education Code 44800; Military and Veterans Code 395, 395.2; 38 USC 4304, 4313; 20 CFR 1002.180-1002.181)

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## **MILITARY LEAVE (continued)**

Any employee who performs active military duty in time of war, national emergency, or United Nations military or police operation has a right to return to his/her position within six months of an honorable discharge or placement on inactive duty. Reinstatement rights shall not be extended to any such employee who fails to return within 12 months after the first date upon which he/she could terminate or could cause to be terminated his/her active service. (Education Code 44800; Military and Veterans Code 395.1)

When an employee has been on military leave for reasons other than war or national emergency, the time frame for reinstatement shall depend on the length of military service as follows: (38 USC 4312; 20 CFR 1002.115, 1002.118)

1. For a leave of 30 days or fewer, the employee shall report for duty no later than the beginning of the first full work day following the completion of military service, provided the employee has a period of eight hours to rest following transportation to his/her residence.
2. For a leave of 31-180 days, the employee shall submit a written or verbal application for reinstatement not later than 14 days after the completion of military service.
3. For a leave of more than 180 days, the employee shall submit a written or verbal application for reinstatement within 90 days after the completion of military service.

In cases where reporting within the periods specified in items #1 and #2 above is impossible or unreasonable through no fault of the employee, he/she shall report as soon as possible after the expiration of the period. (38 USC 4312; 20 CFR 1002.115, 1002.117)

An employee who is hospitalized for, or convalescing from, an illness or injury incurred in or aggravated during the performance of military service shall report for duty or submit an application for reinstatement at the end of the period that is necessary to recover from such illness or injury, but no more than two years after the completion of military service unless circumstances beyond the employee's control make reporting within the two-year period impossible or unreasonable. (38 USC 4312; 20 CFR 1002.116)

Upon receiving an application for reinstatement, the County Superintendent or designee shall reinstate the employee as soon as practicable under the circumstances of his/her case, but within a time period not to exceed two weeks, absent unusual circumstances. (20 CFR 1002.181)

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## **MILITARY LEAVE (continued)**

If the employee's previous position has been abolished, he/she shall be reinstated in a position of like seniority, status, and pay, if such position exists, or to a comparable vacant position for which he/she is qualified. (Military and Veterans Code 395, 395.1; 38 USC 4313; 20 CFR 1002.192)

An employee failing to apply for reinstatement within the appropriate period does not automatically forfeit his/her rights, but shall be subject to the County Board's rules governing unexcused absences. (38 USC 4312)

The County Superintendent or designee may elect not to reinstate an employee following military leave if any of the following conditions exists:

1. The Department's circumstances have so changed as to make such re-employment impossible or unreasonable, such as a reduction in force that would have included the employee. (38 USC 4312; 20 CFR 1002.139)
2. The accommodation, training, or effort described in 38 USC 4313(a)(3), (a)(4), or (b)(2)(B) would impose an undue hardship on the Department as defined in 20 CFR 1002.5 or 1002.198. (38 USC 4312; 20 CFR 1002.139)
3. The employee's position was for a brief, nonrecurrent period and there was no reasonable expectation that such employment will continue indefinitely or for a significant period. (38 USC 4312; 20 CFR 1002.139)
4. The employee's cumulative length of absence and length of all previous military leave while employed with the Department exceeds five years, excluding those training and service obligations specified in 38 USC 4312(c). (38 USC 4312; 20 CFR 1002.99-1002.103)
5. The employee was separated from military service with a disqualifying discharge or under other than honorable conditions. (Military and Veterans Code 395.1; 20 USC 4304, 4312; 20 CFR 1002.134-1002.138)

## **Notices**

The County Superintendent or designee shall provide employees a notice of the rights, benefits, and obligations of employees granted military leave and of the Department under the Uniformed Services Employment and Reemployment Rights Act (USERRA), 38 USC 4301-4334. (38 USC 4334)

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## **MILITARY LEAVE (continued)**

This requirement may be met by posting the notice where the Department customarily places notices for employees. (38 USC 4334)

### *Legal Reference:*

#### EDUCATION CODE

22850-22856 Pension benefits, STRS members on military leave

44018 Compensation for employees on active military duty

44800 Effect of active military service on status of employees

45059 Employee ordered to military/naval duty - computation of salary

#### GOVERNMENT CODE

18540 Definition of armed forces

18540.3 Recognized military service

20990-21013 Pension benefits, PERS members on military leave

#### MILITARY AND VETERANS CODE

146 Events justifying calling of militia into active service

389 Definitions; temporary military leave

394 Nondiscrimination based on military service

395-395.9 Military leave

#### UNITED STATES CODE, TITLE 38

4301-4334 Uniformed Services Employment and Reemployment Rights Act of 1994

#### CODE OF FEDERAL REGULATIONS, TITLE 20

1002.1-1002.314 Uniformed Services Employment and Reemployment Rights Act of 1994

#### COURT DECISIONS

*Wright v. City of Santa Clara* (1989) 213 Cal. App.3d 1503

*Bowers v. San Buenaventura* (1977) 75 Cal. App.3d 65

#### ATTORNEY GENERAL OPINIONS

77 *Ops.Cal.Atty.Gen.* 209 (1994)

69 *Ops.Cal.Atty.Gen.* 185 (1986)

63 *Ops.Cal.Atty.Gen.* 924 (1978)

19 *Ops.Cal.Atty.Gen.* 132 (1952)

18 *Ops.Cal.Atty.Gen.* 178 (1951)

### *Management Resources:*

#### U.S. DEPARTMENT OF LABOR PUBLICATIONS

*A Non-Technical Resource Guide to the Uniformed Services Employment and Reemployment Rights Act (USERRA)*, rev. April 2005

#### NATIONAL SCHOOL BOARDS ASSOCIATION PUBLICATIONS

*The Uniformed Services Employment and Reemployment Rights Act (USERRA)*, NSBA Federal File: *Guidance on Federal School Law*, 2003

#### WEB SITES

National Committee for Employer Support of the Guard and Reserve: <http://www.esgr.org>

National School Boards Association: <http://www.nsba.org>

U.S. Department of Labor, USERRA: <http://www.dol.gov/vets/programs/userra>



**All Personnel**

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**FAMILY CARE AND MEDICAL LEAVE**

The Tehama County Department of Education shall not interfere with, restrain, or deny the exercise of any right for family care and medical leave provided to an eligible employee, as defined below, under the law. In addition, the Department shall not discharge or discriminate against any employee for opposing any practice made unlawful by, or because of, his/her involvement in any inquiry or proceeding related to the family care and medical leave. (29 USC 2615; Government Code 12945.2)

**Definitions**

Any word or phrase defined below shall have the same meaning throughout this administrative regulation except where otherwise specifically defined.

*Child* means a biological, adopted, or foster child; a stepchild; a legal ward; or a child of a person standing in loco parentis as long as the child is under 18 years of age or an adult dependent child. (29 USC 2611; Government Code 12945.2)

*Eligible employee* means an employee who has been employed with the Department for at least 12 months and who has at least 1,250 hours of service with the Department during the previous 12-month period. (29 USC 2611; 29 CFR 825.110; Government Code 12945.2)

*Parent* means a biological, foster, or adoptive parent; a stepparent; a legal guardian; or another person who stood in loco parentis to the employee when the employee was a child. Parent does not include a spouse's parents. (29 USC 2611; 29 CFR 825.122; Government Code 12945.2; 2 CCR 7297.0)

*Serious health condition* means an illness, injury, impairment, or physical or mental condition that involves either of the following: (29 USC 2611; 29 CFR 825.113, 825.114, 825.115; Government Code 12945.2)

1. Inpatient care in a hospital, hospice, or residential health care facility
2. Continuing treatment or continuing supervision by a health care provider, including one or more of the following:
  - a. A period of incapacity of more than three consecutive full days
  - b. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition
  - c. For purposes of leave under the Family and Medical Leave Act (FMLA), any period of incapacity due to pregnancy or for prenatal care.

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#### **FAMILY CARE AND MEDICAL LEAVE (continued)**

- d. Any period of incapacity which is permanent or long term due to a condition for which treatment may not be effective
- e. Any period of absence to receive multiple treatments, including recovery, by a health care provider

*Spouse* means a partner in marriage as defined in Family Code 300 or 1 USC 7. In addition, for purposes of rights under the California Family Rights Act (CFRA), a registered domestic partner shall have the same rights, protections, and benefits as a spouse and protections provided to a spouse's child shall also apply to a child of a registered domestic partner. (1 USC 7; 29 CFR 825.122; Family Code 297.5, 300; 2 CCR 7297.0)

#### **Eligibility**

The Department shall grant family care and medical leave to eligible employees for the following reasons: (29 USC 2612; 29 CFR 825.112; Family Code 297.5; Government Code 12945.2)

1. Because of the birth of a child of the employee or placement of a child with the employee in connection with the employee's adoption or foster care of the child
2. To care for the employee's child, parent, or spouse with a serious health condition
3. Because of the employee's own serious health condition that makes him/her unable to perform one or more essential functions of his/her position, except that CFRA leave shall not cover an employee's disability on account of pregnancy, childbirth, or related medical conditions
4. Because of any qualifying exigency arising out of the fact that the employee's spouse, child, or parent is a covered military member on covered active duty (or has been notified of an impending call or order to covered active duty)
5. To care for a covered servicemember with a serious injury or illness if the employee is the spouse, child, parent, or next of kin, as defined, of the servicemember

In addition to FMLA leave for disability on account of a pregnancy, childbirth, or related medical conditions pursuant to item #3 above, a female employee disabled by pregnancy, childbirth, or related medical conditions may be entitled to take leave for a reasonable period of time, not to exceed four months. (Government Code 12945)

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## **FAMILY CARE AND MEDICAL LEAVE (continued)**

### **Terms of Leave**

An eligible employee shall be entitled to a total of 12 work weeks of family care and medical leave during any 12-month period, except in the case of leave to care for a covered service member as provided under "Military Caregiver Leave" below. (29 USC 2612; Government Code 12945.2)

This 12-month period shall be a rolling year which shall be counted backward from the date the family leave is taken. (29 CFR 825.200)

Leave taken pursuant to the CFRA shall run concurrently with leave taken pursuant to the FMLA, except in the following circumstances:

1. Leave taken to care for a registered domestic partner or a child of a domestic partner. Such leave shall count as leave under the CFRA only. (Family Code 297.5)
2. Leave taken for disability on account of pregnancy, childbirth, or related medical conditions. FMLA leave taken for these purposes shall run concurrently with the California pregnancy disability leave granted pursuant to Government Code 12945. CFRA leave related to the birth of a child shall not commence until the expiration of the pregnancy disability leave. (Government Code 12945, 12945.2; 2 CCR 7297.6)

Leave taken for the birth or placement of a child must be concluded within the 12-month period beginning on the date of the birth or placement of the child. Such leave does not need to be taken in one continuous period of time. The basic minimum duration of the leave for birth or placement of a child shall be two weeks. However, the Department shall grant a request for leave of less than two weeks' duration on any two occasions. (29 USC 2612; 2 CCR 7297.3)

If both parents of a child work for the Department, their family care and medical leave related to the birth or placement of the child shall be limited to a combined total of 12 weeks. This restriction shall apply whether or not the parents are married, not married, or registered domestic partners. (29 USC 2612; Government Code 12945.2)

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## **FAMILY CARE AND MEDICAL LEAVE (continued)**

### **Use/Substitution of Paid Leave**

During the period of family care and medical leave or pregnancy disability leave, the employee may elect to use his/her accrued vacation leave, other accrued time off, or any other paid or unpaid time off negotiated with the Department. If the leave is because of the employee's own serious health condition, the employee shall use accrued sick leave pursuant to the collective bargaining agreement and/or County Board policy. (29 USC 2612; Government Code 12945.2)

### **Intermittent Leave/Reduced Leave Schedule**

Leave related to the serious health condition of the employee or his/her child, parent, or spouse may be taken intermittently or on a reduced leave schedule when medically necessary, as determined by the health care provider of the person with the serious health condition. However, the Department may limit leave increments to the shortest period of time that the Department's payroll system uses to account for absences or use of leave. (29 USC 2612; 2 CCR 7297.3)

If an employee needs intermittent leave or leave on a reduced work schedule that is foreseeable based on planned medical treatment for the employee or a family member, the Department may require the employee to transfer temporarily to an available alternative position. This alternative position must have equivalent pay and benefits, the employee must be qualified for the position, and the position must better accommodate recurring periods of leave than the employee's regular job. Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent leave or a reduced leave schedule. (29 USC 2612; 2 CCR 7297.3)

### **Request for Leave**

An employee shall provide at least verbal notice sufficient to make the Department aware that he/she needs family care and medical leave and the anticipated timing and duration of the leave. The employee need not expressly assert or mention FMLA/CFRA to satisfy this requirement; however, he/she must state the reason the leave is needed (e.g., birth of child, medical treatment). If more information is necessary to determine whether the employee is eligible for family care and medical leave, the County Superintendent or designee shall inquire further and obtain the necessary details of the leave to be taken. (2 CCR 7297.4)

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## **FAMILY CARE AND MEDICAL LEAVE (continued)**

Based on the information provided by the employee, the County Superintendent or designee shall designate the leave, paid or unpaid, as FMLA/CFRA qualifying leave and shall give notice of such designation to the employee. (2 CCR 7297.4)

When the need for the leave is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment for a serious health condition of the employee or a family member, the employee shall provide the Department with at least 30 days advance notice before the leave. The employee shall consult with the Department and make a reasonable effort to schedule, subject to the health care provider's approval, any planned medical treatment or supervision so as to minimize disruption to Department operations. (Government Code 12945.2; 2 CCR 7297.4)

When the 30 days notice is not practicable because of a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, the employee shall provide the Department with notice as soon as practicable. (2 CCR 7297.4)

### **Certification of Health Condition**

At the time of the employee's request for leave for his/her own or his/her child's, parent's, or spouse's serious health condition, or within five business days of the request, the County Superintendent or designee shall request that the employee provide certification by a health care provider of the need for leave. Upon receiving the Department's request, the employee shall provide the certification within 15 days, unless either the County Superintendent or designee provides additional time or it is not practicable under the particular circumstances, despite the employee's diligent, good faith efforts. (29 CFR 825.305; 2 CCR 7297.4)

The certification shall include the following: (29 USC 2613; Government Code 12945.2; 2 CCR 7297.0)

1. The date on which the serious health condition began
2. The probable duration of the condition
3. If the employee is requesting leave to care for a child, parent, or spouse with a serious health condition, both of the following:
  - a. Statement that the serious health condition warrants the participation of a family member to provide care during a period of the treatment or supervision of the child, parent, or spouse

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**FAMILY CARE AND MEDICAL LEAVE (continued)**

- b. Estimated amount of time the health care provider believes the employee needs to care for the child, parent, or spouse
4. If the employee is requesting leave because of his/her own serious health condition, a statement that due to the serious health condition, he/she is unable to work at all or is unable to perform one or more essential functions of his/her job
5. If the employee is requesting leave for intermittent treatment or is requesting leave on a reduced leave schedule for planned medical treatment, a statement of the medical necessity for the leave, the dates on which treatment is expected to be given, the duration of such treatment, and the expected duration of the leave

The County Superintendent or designee shall not request any genetic information, as defined in 42 USC 2000ff, from any employee or his/her family member except as necessary to comply with a certification requirement for FMLA/CFRA leave purposes or with the prior written authorization of the employee. Any such genetic information received by the Department shall be kept confidential in accordance with law. (42 USC 2000ff-1, 2000ff-5)

When an employee has provided sufficient medical certification to enable the Department to determine whether the employee's leave request is FMLA-eligible, the County Superintendent or designee shall notify the employee within five business days whether the leave is FMLA-eligible. The County Superintendent or designee may also retroactively designate leave as FMLA/CFRA as long as there is no individualized harm to the employee. (29 CFR 825.301)

If the County Superintendent or designee doubts the validity of a certification that accompanies a request for leave for the employee's own serious health condition, he/she may require the employee to obtain a second opinion from a Department-approved health care provider, at Department expense. If the second opinion is contrary to the first, the County Superintendent or designee may require the employee to obtain a third medical opinion from a third health care provider approved by both the employee and the Department, again at Department expense. The opinion of the third health care provider shall be final and binding. (29 USC 2613; Government Code 12945.2)

If additional leave is needed when the time estimated by the health care provider expires, the Department may require the employee to provide recertification in the manner specified in items #1-5 above. (29 USC 2613; Government Code 12945.2)

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## **FAMILY CARE AND MEDICAL LEAVE (continued)**

### **Fitness for Duty Upon Return to Work**

Upon expiration of leave taken for his/her own serious health condition, an employee shall present certification from his/her health care provider that he/she is able to resume work.

The certification from the employee's health care provider shall address the employee's ability to perform the essential functions of his/her job.

### **Rights to Reinstatement and Maintenance of Benefits**

Upon granting an employee's request for family care and medical leave, the County Superintendent or designee shall guarantee to reinstate the employee in the same or a comparable position when the leave ends. (29 USC 2614; Government Code 12945.2)

However, the Department may refuse to reinstate an employee returning from leave to the same or a comparable position if all of the following apply: (29 USC 2614; Government Code 12945.2)

1. The employee is a salaried "key employee" who is among the highest paid 10 percent of those Department employees who are employed within 75 miles of the employee's worksite.
2. The refusal is necessary to prevent substantial and grievous economic injury to Department operations.
3. The Department informs the employee of its intent to refuse reinstatement at the time it determines that the refusal is necessary, and the employee fails to immediately return to service.

During the period when an employee is on family care and medical leave, he/she shall maintain his/her status with the Department and the leave shall not constitute a break in service for purposes of longevity, seniority under any collective bargaining agreement, or any employee benefit plan. (29 USC 2614; Government Code 12945.2)

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## **FAMILY CARE AND MEDICAL LEAVE (continued)**

For a period of 12 work weeks, the Department shall continue to provide an eligible employee on family care and medical leave the group health plan coverage that was in place before he/she took the leave. The employee shall reimburse the Department for premiums paid during the family care and medical leave if he/she fails to return to Department employment after the expiration of the leave and the failure is for any reason other than the continuation, recurrence, or onset of a serious health condition or other circumstances beyond his/her control. (29 USC 2614; 29 CFR 825.213; Government Code 12945.2)

In addition, during the period when an employee is on family care and medical leave, he/she shall be entitled to continue to participate in other employee benefit plans including life insurance, short-term or long-term disability insurance, accident insurance, pension and retirement plans, and supplemental unemployment benefit plans to the same extent and under the same conditions as apply to an unpaid leave taken for any other purpose. However, for purposes of pension and retirement plans, the Department shall not be required to make plan payments for an employee during the leave period and the leave period shall not be counted for purposes of time accrued under the plan. (Government Code 12945.2)

### **Military Family Leave Resulting from Qualifying Exigencies**

An eligible employee may take up to 12 work weeks of unpaid leave during the 12-month period established by the Department while a covered military member is on covered active duty or call to covered active duty status for one or more qualifying exigencies. (29 USC 2612)

*Covered military member* means an employee's spouse, son, daughter, or parent on covered active duty or call to covered active duty status. (29 CFR 825.126)

*Covered active duty* means duty during the deployment of a member of the regular Armed Forces to a foreign country or duty during the deployment of a member of the National Guard or Reserves to a foreign country under a call or order to active duty. (29 USC 2611)

*Qualifying exigencies* include time needed to: (29 CFR 825.126)

1. Address issues arising from short notice deployment (up to seven calendar days from the date of receipt of call or order of short notice deployment)
2. Attend military events and related activities, such as any official ceremony or family assistance program related to the active duty or call to active duty status



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**FAMILY CARE AND MEDICAL LEAVE (continued)**

3. Arrange childcare or attend school activities arising from the active duty or call to active duty, such as arranging for alternative childcare, enrolling or transferring a child to a new school, or attending meetings
4. Make or update financial and legal arrangements to address a covered military member's absence
5. Attend counseling provided by someone other than a health care provider
6. Spend time (up to five days of leave per instance) with a covered military member who is on short-term temporary rest and recuperation leave during deployment
7. Attend to certain post-deployment activities, such as arrival ceremonies or reintegration briefings
8. Address any other event that the employee and Department agree is a qualifying exigency

The employee shall provide the County Superintendent or designee with notice of the need for the qualifying exigency leave as soon as practicable, regardless of how far in advance such leave is foreseeable. (29 CFR 825.302)

An employee who is requesting such leave for the first time shall provide the County Superintendent or designee with a copy of the covered military member's active duty orders, or other documentation issued by the military, and the dates of the service. In addition, the employee shall provide the County Superintendent or designee with certification of the qualifying exigency necessitating the leave. The certification shall contain the information specified in 29 CFR 825.309.

The employee's qualifying exigency leave may be taken on an intermittent or reduced leave schedule basis. (29 CFR 825.302)

During the period of qualified exigency leave, the Department's rule regarding an employee's use of his/her accrued vacation leave and any other accrued paid or unpaid time off, as specified in "Use/Substitution of Paid Leave" above, shall apply.

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## **FAMILY CARE AND MEDICAL LEAVE (continued)**

### **Military Caregiver Leave**

The Department shall grant up to a total of 26 work weeks of leave during a single 12-month period, measured forward from the first date of leave taken, to an eligible employee to care for a covered service member with a serious illness or injury. In order to be eligible for such military caregiver leave, an employee must be the spouse, son, daughter, parent, or next of kin of the covered service member. This 26-week period is not in addition to, but rather is inclusive of, the 12 work weeks of leave that may be taken for other FMLA qualifying reasons. (29 USC 2611, 2612; 29 CFR 825.127)

*Covered service member* may be either: (29 USC 2611)

1. A member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy; is otherwise in outpatient status; or is otherwise on the temporary disability retired list for a serious injury or illness
2. A veteran who, within the five years preceding his/her undergoing of medical treatment, recuperation, or therapy for a serious injury or illness, was a member of the Armed Forces, including the National Guard or Reserves

*Son or daughter of a covered service member* means the biological, adopted, or foster child, stepchild, legal ward, or a child of any age for whom the covered service member stood in loco parentis. (29 CFR 825.127)

*Parent of a covered service member* means the covered service member's biological, adopted, step or foster parent, or any other individual who stood in loco parentis to the covered service member (except "parents in law"). (29 CFR 825.127)

*Next of kin* means the nearest blood relative to the covered service member, or as designated in writing by the covered service member. (29 USC 2611, 2612)

*Outpatient status* means the status of a member of the Armed Forces assigned to a military medical treatment facility as an outpatient or a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients. (29 USC 2611; 29 CFR 825.127)

*Serious injury or illness* means: (29 USC 2611; 29 CFR 825.127)

1. For a member of the Armed Forces, an injury or illness incurred or aggravated by the member's service in the line of duty while on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating

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## **FAMILY CARE AND MEDICAL LEAVE (continued)**

2. For a veteran, an injury or illness incurred or aggravated by the member's service in the line of duty on active duty in the Armed Forces, including the National Guard or Reserves, that manifested itself before or after the member became a veteran

The employee shall provide reasonable and practicable notice of the need for the leave in accordance with the procedures in the section entitled "Request for Leave" above.

An employee requesting leave to care for a covered service member with a serious injury or illness shall provide the County Superintendent or designee with certification from an authorized health care provider of the service member that contains the information specified in 29 CFR 825.310.

The leave may be taken intermittently or on a reduced schedule when medically necessary. An employee taking military caregiver leave in combination with other leaves pursuant to this administrative regulation shall be entitled to a combined total of 26 work weeks of leave during a single 12-month period. When both spouses work for the Department and both wish to take such leave, the spouses are limited to a maximum combined total of 26 work weeks during a single 12-month period. (29 USC 2612)

During the period of military caregiver leave, the Department's rule regarding an employee's use of his/her accrued vacation leave and other accrued paid or unpaid time off, as specified in "Use/Substitution of Paid Leave" above, shall apply.

### **Notifications**

The County Superintendent or designee shall provide the following notifications about state and federal law related to FMLA/CFRA:

1. **General Notice:** Information explaining the provisions of the FMLA/CFRA and employee rights and obligations shall be posted in a conspicuous place on Department premises, or electronically, and shall be included in employee handbooks. (29 USC 2619; 2 CCR 7297.9)

The general notice shall also explain an employee's obligation to provide the County Superintendent or designee with at least 30 days notice of the need for the leave, when the need for the leave is reasonably foreseeable. (2 CCR 7297.4)

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## **FAMILY CARE AND MEDICAL LEAVE (continued)**

2. **Eligibility Notice:** When an employee requests leave or when the County Superintendent or designee acquires knowledge that an employee's leave may be for an FMLA/CFRA qualifying reason, the County Superintendent or designee shall, within five business days, provide notification to the employee of his/her eligibility to take such leave. (29 CFR 825.300)
  
3. **Rights and Responsibilities Notice:** Each time the eligibility notice is provided to an employee, the County Superintendent or designee shall provide written notification explaining the specific expectations and obligations of the employee, including any consequences for a failure to meet those obligations. Such notice shall include, as appropriate: (29 CFR 825.300)
  - a. A statement that the leave may be designated and counted against the employee's annual FMLA/CFRA leave entitlement and the appropriate 12-month entitlement period, if qualifying
  
  - b. Any requirements for the employee to furnish medical certification of a serious health condition, serious injury or illness, or qualifying exigency arising out of active duty or call to active duty status and the consequences of failing to provide the certification
  
  - c. The employee's right to substitute paid leave, whether the Department will require substitution of paid leave, conditions related to any substitution, and the employee's entitlement to take unpaid leave if the employee does not meet the conditions for paid leave
  
  - d. Any requirements for the employee to make any premium payments to maintain health benefits, the arrangement for making such payments, and the possible consequences of failure to make payments on a timely basis
  
  - e. If applicable, the employee's status as a "key employee," potential consequence that restoration may be denied following the FMLA leave, and explanation of the conditions required for such denial
  
  - f. The employee's right to maintenance of benefits during the leave and restoration to the same or an equivalent job upon return from leave
  
  - g. The employee's potential liability for health insurance premiums paid by the Department during the employee's unpaid FMLA leave should the employee not return to service after the leave

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## **FAMILY CARE AND MEDICAL LEAVE (continued)**

Any time the information provided in the above notice changes, the County Superintendent or designee shall, within five business days of his/her receipt of an employee's first notice of need for leave, provide the employee with a written notice referencing the prior notice and describing any changes to the notice. (29 CFR 825.300)

4. **Designation Notice:** When the County Superintendent or designee has information (e.g., sufficient medical certification) to determine whether the leave qualifies as FMLA/CFRA leave, he/she shall, within five business days, provide written notification designating the leave as FMLA/CFRA qualifying or, if the leave will not be so designated, the reason for that determination. (29 CFR 825.300)

If the amount of leave needed is known, the notice shall include the number of hours, days, or weeks that will be counted against the employee's FMLA/CFRA entitlement. If it is not possible to provide that number at the time of the designation notice, notification shall be provided of the amount of leave counted against the employee's entitlement upon request by the employee and at least once in every 30-day period if leave was taken in that period. (29 CFR 825.300)

If the Department requires paid leave to be substituted for unpaid family care and medical leave, the notice shall so specify. If the Department requires an employee to present a fitness-for-duty certification that addresses the employee's ability to perform the essential functions of the job, the notice shall also specify that requirement.

Any time the information provided in the designation notice changes, the County Superintendent or designee shall, within five business days, provide the employee with written notice referencing the prior notice and describing any changes to the notice. (29 CFR 825.300)

### **Records**

The County Superintendent or designee shall maintain records pertaining to an individual employee's use of family care and medical leave in accordance with law. (29 USC 2616; 42 USC 2000ff-1; 29 CFR 825.500; Government Code 12946)

*Legal Reference: (see next page)*

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## **FAMILY CARE AND MEDICAL LEAVE (continued)**

### *Legal Reference:*

#### EDUCATION CODE

44965 *Granting of leaves of absence for pregnancy and childbirth*

#### FAMILY CODE

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

300 *Validity of marriage*

#### GOVERNMENT CODE

12940 *Unlawful employment practices*

12945 *Pregnancy; childbirth or related medical condition; unlawful practice*

12945.1-12945.2 *California Family Rights Act*

#### CODE OF REGULATIONS, TITLE 2

7291.2-7291.16 *Sex discrimination: pregnancy and related medical conditions*

7297.0-7297.11 *Family care leave*

#### UNITED STATES CODE, TITLE 1

7 *Definition of marriage, spouse*

#### UNITED STATES CODE, TITLE 29

2601-2654 *Family and Medical Leave Act of 1993, as amended*

#### UNITED STATES CODE, TITLE 42

2000ff-1-2000ff-11 *Genetic Information Nondiscrimination Act of 2008*

#### CODE OF FEDERAL REGULATIONS, TITLE 29

825.100-825.800 *Family and Medical Leave Act of 1993*

#### COURT DECISIONS

*Faust v. California Portland Cement Company*, (2007) 150 Cal.App.4th 864

*Tellis v. Alaska Airlines*, (9th Cir., 2005) 414 F.3d 1045

### *Management Resources:*

#### FEDERAL REGISTER

*Final Rule and Supplementary Information*, November 17, 2008. Vol. 73, No. 222, pages 67934-68133

#### U.S. DEPARTMENT OF LABOR PUBLICATIONS

*Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers*

#### WEB SITES

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

U.S. Department of Labor, FMLA: <http://www.dol.gov/whd/fmla>

**CLASSIFIED PERSONNEL**

The Tehama County Department of Education shall fill each of its classified positions with qualified persons, consistent with position requirements. The primary role of classified personnel is to provide services that support and enhance the Department's educational program.

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

**Classification of Employees**

The Tehama County Superintendent of Schools shall classify all employees and positions not requiring certification qualifications as the classified service, except for those employees and positions specifically exempt from classified service. (Education Code 45103)

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

Each position shall have a designated title and regular minimum number of assigned hours per day, days per week and months per year. A job description shall be established for each position.

Before employing a short-term classified employee, the County Superintendent shall specify the service required to be performed by the employee and shall certify the ending date of the service. The County Superintendent may shorten or extend the ending date, but the date shall not be extended beyond 75 percent of the school year, as defined. (Education Code 45103)

**Assignment**

Classified employees shall be assigned by their immediate supervisors with the approval of the County Superintendent or designee. They shall be required to perform those duties prescribed by the County Superintendent for the position the employee holds, in accordance with applicable job descriptions and collective bargaining agreements.

*Legal Reference: (see next page)*

**CLASSIFIED PERSONNEL (continued)**

*Legal Reference:*

EDUCATION CODE

*45100-45139 Employment of classified staff*

*45160-45169 Salaries and differential compensation*

*45190-45210 Resignation and leaves of absence*

*45220-45320 Merit system*

*49406 Examination for tuberculosis*

*51760-51769.5 Work experience education*

*Management Resources:*

WEB SITES

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



**CLASSIFIED PERSONNEL**

**Exemption from Classified Service**

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

1. Substitute or short-term employees, as defined, who are employed and paid for less than 75 percent of the school year

*Substitute employee* means any person employed to replace any classified employee

who is temporarily absent from duty. In addition, if the Tehama County Department of Education is then engaged in a procedure to hire a permanent employee to fill a vacancy in any classified position, the Tehama County Superintendent of Schools may fill the vacancy through the employment, for not more than 60 calendar days, of one or more substitute employees, except to the extent that a collective bargaining agreement then in effect provides for a different period of time.

*Short term employee* means any person who is employed to perform a service for the

Department, upon the completion of which the service required or similar services will not be extended or needed on a continuing basis.

*Seventy-five percent of the school year* means 195 working days, including holidays,

sick leave, vacation and other leaves of absences, irrespective of the number of hours worked per day.

2. Part-time playground positions (noon duty aides), when the employees are not otherwise employed in classified positions in the Department
3. Apprentices and professional experts employed on a temporary basis for a specific project regardless of length of employment
4. Full-time students employed part time
5. Part-time students employed part time in any college work study program, or in a work experience education program conducted by a community college district, and which is financed by state or federal funds

**CLASSIFIED PERSONNEL** (continued)

**Restricted Positions**

Persons employed in restricted positions shall be classified employees for all purposes except that they shall not be subject to the provisions of Education Code 45272 and 45273 related to promotional examinations and the filling of vacancies, and shall not acquire permanent status or seniority credit. They shall be eligible for promotion into the regular classified service only after completing six months of satisfactory service, and only upon the subsequent satisfactory completion of the qualifying examinations required of all other persons serving in the same class in the regular classified service. (Education Code 45105, 45108)

**APPOINTMENT AND CONDITIONS OF EMPLOYMENT**

Upon recommendation, the County Superintendent of Schools shall approve the appointment of all classified employees.

Individuals appointed to the classified staff shall, at a minimum:

1. Submit to fingerprinting as required by law (Education Code 45125)
2. Not have been convicted of a violent or serious felony (Education Code 45122.1)
3. Not have been convicted of any sex offense as defined in Education Code 44010 (Education Code 45123)
4. Not have been determined to be a sexual psychopath pursuant to Welfare and Institutions Code 6300-6332 (Education Code 45124)
5. If the individual will be working directly and in an unaccompanied setting with minor children on a more than incidental and occasional basis or will have supervision or disciplinary power over minor children, not be required to register as a sex offender pursuant to Penal Code 290 because of a conviction for a crime where the victim was a minor under the age of 16 (Penal Code 290.95)
6. Not have been convicted of any controlled substance offense as defined in Education Code 44011 (Education Code 45123)
7. Submit to a physical examination or provide proof thereof as required by law and Department policy (Education Code 45122, 49406)
8. File the oath or affirmation of allegiance required by Government Code 3100-3109
9. Submit to drug and alcohol testing as required by Department policy
10. Fulfill any other requirements as specified by law, collective bargaining agreement, Department policy or administrative regulation

**APPOINTMENT AND CONDITIONS OF EMPLOYMENT** (continued)**Notification of Classification and Compensation**

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

*Legal Reference:*EDUCATION CODE*35161 Powers and duties**44010 Sex offense - definitions**44011 Controlled substance offense - definitions**44066 Limitation on certification requirements**45103 Classified service in districts not incorporating the merit system**45104 Positions not requiring certification qualifications**45105 Positions under various acts not requiring certification qualifications**45108 Restricted positions**45113 Rules and regulations for classified service in districts not incorporating the merit system**45122 Physical examinations**45122.1 Classified employees, conviction of a violent or serious felony**45123 Employment after conviction of sex offense or controlled substance offense**45125 Use of personal identification cards to ascertain conviction of crime**45169 Employee salary data**49406 Examination for tuberculosis**60850-60856 High school exit exam*GOVERNMENT CODE*3100-3109 Oaths or affirmations**12940-12950 Unlawful employment practices*PENAL CODE*290 Registration of sex offenders**290.95 Disclosure by person required to register as sex offenders**667.5 Prior prison terms, enhancement of prison terms**1192.7 Plea bargaining limitation**1203.4 Discharged petitioner, change of plea*WELFARE AND INSTITUTIONS CODE*6300-6332 Sexual psychopaths*

**CRIMINAL RECORD CHECK**

**Applicants for Employment**

Each person to be employed in a classified position, including temporary, substitute and part-time positions, shall be required to submit fingerprint identification data. However, secondary school students attending a Tehama County Department of Education school who are to be employed in a temporary or part-time position shall not be required to submit fingerprint identification data. (Education Code 45125)

The Tehama County Superintendent of Schools or designee shall ensure that each person to be employed submits fingerprints, either electronically through the Live Scan system or on fingerprint identification card, for processing by the Department of Justice.

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

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

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

The County Superintendent or designee shall ensure that no person is hired who has been convicted of a violent or serious felony as listed in Penal Code 667.5(c) or 1192.7(c), unless that person has obtained a certificate of rehabilitation and a pardon. (Education Code 45122.1)

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

**Subsequent Arrest Notification**

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

**CRIMINAL RECORD CHECK** (continued)

**Current Employees**

Upon notification from the Department of Justice that a current temporary, substitute or probationary classified employee has been convicted of a violent or serious felony, the County 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 County Superintendent or designee shall terminate the temporary, substitute or probationary employee without regard to any other procedure for termination specified in the Education Code or Department procedures, unless that employee has received a certificate of rehabilitation and a pardon. (Education Code 45122.1)

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

*Legal Reference: (see next page)*

**CRIMINAL RECORD CHECK (continued)**

*Legal Reference:*

EDUCATION CODE

44332.6 *Criminal record check, county board of education*  
44346.1 *Applicants for credential, conviction of a violent or serious felony*  
44830.1 *Certificated employees, conviction of a violent or serious felony*  
44830.2 *Certificated employees; Interagency agreements*  
45122.1 *Classified employees, conviction of a violent or serious felony*  
45125 *Use of personal identification cards to ascertain conviction of crime*  
45125.01 *Classified employees; interagency agreements*  
45125.1 *Fingerprint for contractors*  
45125.5 *Automated records check*  
45126 *Duty of Department of Justice to furnish information*

GOVERNMENT CODE

6200-6203 *Crimes related to public records*

PENAL CODE

502 *Unauthorized access to computers*  
667.5 *Violent felonies*  
1192.7 *Serious felonies*  
11075-11081 *Criminal record dissemination*  
11105-11105.75 *Criminal identification*  
11140-11144 *Furnishing of state criminal history information*  
13300-13305 *Local summary criminal history information*

CODE OF REGULATIONS, TITLE 11

703 *Release of criminal offender record information*  
708 *Destruction of criminal offender record information*

*Management Resources:*

WEB SITES

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

**WORK DAY , WORK WEEK, WORK YEAR**

The normal work day, work week, or work year of full-time classified personnel shall consist of an eight-hour day, 40-hour week, and 12 month work year.

These provisions do not restrict the extension of a regular work day or work week on an overtime basis when such is necessary to carry on the business of the Department. Nothing in this section shall be deemed to bar the County Superintendent from establishing a work day of less than eight hours or a work week of less than 40 hours for all or any of its classified positions.

Classes of positions specified by the County Superintendent shall work a flexible schedule and shall be exempt from overtime in excess of either hours in one day, provided that hours worked in excess of 40 in a calendar week shall be compensated on an overtime basis as specified by State and Federal guidelines.



**EVALUATION/SUPERVISION**

The Tehama County Superintendent of Schools 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.

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

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

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

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

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

*Legal Reference: (see next page)*

**EVALUATION/SUPERVISION (continued)**

*Legal Reference:*

EDUCATION CODE

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

45261 *Subjects of rules (merit system districts)*

45262 *Distribution of rules*

GOVERNMENT CODE

3543.2 *Scope of representation*

*Management Resources:*

WEB SITES

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

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

**PROBATIONARY/PERMANENT STATUS**

Employees newly hired for regular positions in the classified service shall be considered probationary employees until they have satisfactorily completed one year of probationary service. Upon satisfactorily completing this period, they shall become permanent classified employees of the Tehama County Department of Education.

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

The Tehama County Superintendent of Schools or designee may dismiss an employee during the initial probationary period.

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

A permanent employee who accepts a promotion and fails to complete the probationary period for that promotional position shall be employed in the classification from which he/she was promoted. (Education Code 45113)

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

*Legal Reference:*

EDUCATION CODE

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

45240-45320 Merit system

*Management Resources:*

WEB SITES

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

**PRERETIREMENT PART-TIME EMPLOYMENT**

Tehama County Department of Education employees may reduce their workload from full-time to part-time for a period not to exceed five years.

Regulations allowing employees to reduce their workload include but are not limited to the following (Education Code 45139):

1. Employees must be 55 years of age before they may reduce their workload.
2. Employees must have completed at least 10 years of full-time service to the Department.
3. Employees must have completed five years of full-time service immediately prior to requesting a reduction in workload.
4. The five years required in #3 must have passed without a break in service.
5. The part-time employment option is available at the employee's request and may be revoked only with the mutual consent of the employee and the Tehama County Superintendent of Schools.
6. Employees will be paid a pro rata share of their full-time salary.
7. Minimum part-time employment shall be the equivalent of one-half of the number of days of service required by the employee's contract during the final year of full-time service.
8. The employee shall receive the same health benefits as those received by full-time employees.
9. The employee shall retain all other rights and benefits as long as he/she makes the payments for them that would be required if he/she still worked full time.
10. The period of part-time employment shall not extend beyond the end of the school year during which the employee reaches his/her 70th birthday.

*Legal Reference:*

EDUCATION CODE

*45139 Reduced workload for classified employees*

**LAYOFF/REHIRE**

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

**Order of Layoff/Determination of Seniority**

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

Length of service shall be determined by the date of hire. The employee who has been employed the shortest time by the Tehama County Department of Education 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, 45114)

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

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)

**Notice of Layoff**

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

**LAYOFF/REHIRE** (continued)

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

The Department is not bound to provide 45 days' notice in the event of an actual and existing financial inability to pay the salaries of classified employees or if the layoff is due to a lack of work resulting from conditions not foreseeable or preventable by the Department. (Education Code 45117)

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

**Reemployment Eligibility**

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

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

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

**LAYOFF/REHIRE** (continued)

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

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

**Reemployment Procedures**

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

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

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

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

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

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

**LAYOFF/REHIRE (continued)**

*Legal Reference:*

EDUCATION CODE

45101 *Definitions*

45103 *Classified service in districts not incorporating the merit system*

45105 *Positions under various acts not requiring certification qualifications; classification*

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

45114 *Layoff and reemployment procedures; definitions*

45115 *Layoff: Reinstatement from service retirement*

45117 *Notice of layoff*

45286 *Limited term employees*

45297 *Right to take equivalent examination while employee in military service*

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

45308 *Order of layoff and reemployment; length of service*

45309 *Reinstatement of permanent noncertified employees after resignation*

UNITED STATES CODE, TITLE 38

4301-4307 *Veterans' Reemployment Rights*

COURT DECISIONS

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

*Management Resources:*

WEB SITES

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



**DISMISSAL/SUSPENSION/DISCIPLINARY ACTION**

**Termination of Probationary Employment**

At any time prior to the expiration of the probationary period, the Tehama County Superintendent of Schools or designee may, at his/her discretion, dismiss a probationary classified employee from Tehama County Department of Education employment. A probationary employee shall not be entitled to a hearing.

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

Permanent classified employees shall be subject to personnel action (suspension without pay, demotion, reduction of pay step in class, dismissal) only for cause. The County Superintendent 's determination of the sufficiency of the cause for disciplinary action shall be conclusive.

1. Causes

In addition to any disqualifying or actionable causes otherwise provided for by statute or by policy or regulation of this Department, each of the following constitutes cause for personnel action against a permanent classified employee:

- a. Falsifying any information supplied to the Department, including, but not limited to, information supplied on application forms, employment records, or any other Department records.
- b. Incompetency.
- c. Inefficiency.
- d. Neglect of duty.
- e. Insubordination.
- 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 or upon employees associated with him/her.
- h. Possessing or being under the influence of a controlled substance at work or away from work, or furnishing a controlled substance to a minor.

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

- i. Conviction of a felony, conviction of any sex 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, is deemed to be a conviction for this purpose.
- j. Absence without leave.
- k. Immoral conduct.
- l. Discourteous treatment of the public, students, or other employees.
- m. Improper political activity.
- n. Willful disobedience.
- o. Misuse of Department property.
- p. Violation of Departmental, Tehama County Superintendent of Schools or Tehama County Board of Education rule, policy, or procedure.
- q. 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.
- r. Refusal to take and subscribe any oath or affirmation which is required by law in connection with his/her employment.
- s. 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.
- t. Unlawful discrimination, including harassment, on the basis of race, religious creed, color, national origin, ancestry, physical handicap, marital status, sex, or age against the public or other employees while acting in the capacity of a Department employee.

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

- u. Unlawful retaliation against any other Department officer or employee or 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 or federal law occurring on the job or directly related thereto.
- v. Any other failure of good behavior either during or outside of duty hours which is of such nature that it causes discredit to the Department or his/her employment.

Except as defined in item "s" above, 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 cause unless this cause was concealed or not disclosed by the employee when it could be reasonably assumed that the employee would have disclosed the facts to the Department.

2. Initiation and Notification of Charges

The County Superintendent or designee may initiate a personnel action as defined herein against a permanent classified employee.

In all cases involving a personnel action, the person initiating the action shall file a written recommendation of personnel action with the County Superintendent. A copy of the recommendation shall be served upon the employee either personally or by registered or certified mail, return receipt requested, at the employee's last known address. The recommendation shall include:

- 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 Department is alleged, the rule, policy, or regulation violated shall be stated in the recommendation.
- d. A statement of the employee's right to appeal the recommendation and the manner and time within which the appeal must be filed.
- e. A card or paper, the signing and filing of which shall constitute a demand for hearing and a denial of all charges.

**DISMISSAL/SUSPENSION/DISCIPLINARY ACTION** (continued)3. Employment Status Pending Appeal or Waiver

Except as provided herein, any employee against whom a recommendation of personnel action has been issued shall remain on active duty status and responsible for fulfilling the duties of the position pending his/her appeal or waiver thereof.

If the County Superintendent or designee determines that a permanent classified employee should be dismissed and that his/her continuing in active duty status would present an unreasonable risk of harm to students, staff, or property while proceedings are pending, the County Superintendent or designee may order the employee immediately suspended from duty without pay in conjunction with the recommendation of personnel action. This suspension order shall be in writing and shall state the reasons that the suspension is deemed necessary. The suspension order shall be served upon the employee either personally or by registered or certified mail, return receipt requested, immediately after issuance. Except in cases of emergency when the employee must be removed from the premises immediately, the County Superintendent or designee shall give the employee written notice of the proposed recommendation of dismissal at least five calendar days before the effective date of any order of suspension issued in conjunction with a recommendation involving dismissal. This notice shall state that immediate suspension without pay is being considered, the reasons for the proposed dismissal and proposed immediate suspension without pay, materials upon which the proposed action is based, and the employee's right to respond to the County Superintendent or designee orally or in writing before the final recommendation and order are issued.

4. Time Limit of Suspension

Except for a suspension imposed under #3 above, any suspension invoked under these rules against any one person for one or more periods shall not aggregate more than 90 calendar days in any 12-month period; however, this time limitation shall not apply to cases in which a personnel action of dismissal is modified by the County Superintendent to a suspension.

5. Right to Appeal

Within five calendar days after receiving the recommendation of personnel action described above, the employee may appeal by signing and filing the card or paper included with the recommendation. Any other written document signed and appropriately filed within the specified time limit by the employee shall constitute a sufficient notice of appeal. A notice of appeal is filed only by delivering the notice of appeal to the office of the County Superintendent or designee during normal work hours of that office. A notice of appeal may be mailed to the office

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

of the County Superintendent or designee but must be received or postmarked no later than the time limit stated herein. In cases where an order of suspension without pay has been issued in conjunction with a recommendation of dismissal, any appeal of the recommendation of dismissal shall also constitute an appeal of the suspension order, and the necessity of the order shall be an issue in the appeal hearing.

If the employee fails to file a notice of appeal within the time specified in these rules, he/she shall be deemed to have waived his/her right to appeal, and the County Superintendent may order the recommended personnel action into effect immediately.

6. Amended/Supplemental Charges

At any time before an employee's appeal is finally submitted to the County Superintendent or to a hearing officer for decision, the complainant may, with the consent of the County Superintendent or hearing officer, serve on the employee and file with the County Superintendent an amended or supplemental recommendation of personnel action.

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

7. Hearing Procedures

- a. The hearing shall be held at the earliest convenient date, taking into consideration the established schedule of the County Superintendent or hearing officer and the availability of counsel and witnesses. The parties shall be notified of the time and place of the hearing. The employee shall be entitled to appear personally, produce evidence, and have counsel. The employee shall be entitled to a public hearing if he/she demands it when the County Superintendent is hearing the appeal. The complainant may also be represented by counsel. The procedure entitled "Administrative Adjudication" commencing with Government Code 1150 shall not apply to any such hearing before the County Superintendent or a hearing officer. Neither the County Superintendent nor a hearing officer shall be bound by rules of evidence used in California courts. Informality in any such hearing shall not invalidate any order or decision made or approved by the hearing officer or the County Superintendent.

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

- b. All hearings shall be heard by a hearing officer (who shall be an attorney licensed in the State of California) except in those cases where the County Superintendent determines to hear the appeal. In any case in which the County Superintendent hears the appeal, the County Superintendent may use the services of Department counsel or a hearing officer in ruling upon procedural questions, objections to evidence, and issues of law. If the appeal is heard by the County Superintendent, the County Superintendent shall affirm, modify or revoke the recommended personnel action.
- c. If the appeal is heard by a hearing officer, he/she shall prepare a proposed decision in a form that may be adopted by the County Superintendent as the decision in the case. A copy of the proposed decision shall be received and filed by the County Superintendent and furnished to each party within 10 days after the proposed decision is filed by the County Superintendent. The County Superintendent may:
  - (1) Adopt the proposed decision in its entirety.
  - (2) Reduce the personnel action set forth in the proposed decision and adopt the balance of the proposed decision.
  - (3) Reject a proposed reduction in personnel action, approve the personnel action sought by the complainant or any lesser penalty, and adopt the balance of the proposed decision.
  - (4) Reject the proposed decision in its entirety.
- d. If the County Superintendent rejects the proposed decision in its entirety, each party shall be notified of such action and the County Superintendent may decide the case upon the record including the transcript, with or without the taking of additional evidence, or may refer the case to the same or another hearing officer to take additional evidence. If the case is so assigned to a hearing officer, he/she shall prepare a proposed decision, as provided in item "c" above, upon the additional evidence and the transcript and other papers which are part of the record of the prior hearing. A copy of this proposed decision shall be furnished to each party within 10 days after the proposed decision is filed by the County Superintendent.

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

- e. In arriving at a decision or a proposed decision on the propriety of the proposed personnel action, the County Superintendent or 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 files and introduced into evidence at the hearing.

8. Hearing Decision

The decision of the County Superintendent 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.

The decision of the County Superintendent shall be certified, and he/she shall enforce and follow this decision. A copy of the decision shall be delivered to the appellant or his/her designated representative personally or by registered mail. The decision of the County Superintendent shall be final.

9. Compulsory Dismissal

The Department 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. However, the Department may employ a person convicted of a controlled substance offense if the County Superintendent determines from the evidence it requires that the person has been rehabilitated for at least five years. 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 Department, although reemployment is not a guarantee. (Education Code 45123)

The Department reserves the right to dismiss an employee for any acts upon which the original criminal charges were based, despite the disposition by the courts. If dismissal is recommended and upheld, an employee will not be reemployed or compensated for the time he/she was suspended unless otherwise required by law. An employee shall be given notice of the possibility of not being reimbursed during mandatory suspension if he/she is ultimately dismissed for the acts upon which the original charges were based.

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

10. Extension of Compulsory Leave

The County Superintendent may extend an employee's compulsory leave of absence by giving him/her notice, within 10 days after the entry of judgment in the proceedings, that he/she will be dismissed in 30 days unless he/she demands a hearing. Employee compensation during the period of compulsory leave shall be made in accordance with law. (Education Code 44940.5)

*Legal Reference:*

EDUCATION CODE

35161 *Delegation of powers and duties*

44009 *Conviction of specified crimes*

44010 *Sex offense*

44011 *"Controlled substance offense" defined*

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

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

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

45109 *Fixing of duties*

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

45123 *Employment after conviction of sex or narcotics offense*

45302 *Demotion and removal from permanent classified service*

45303 *Additional cause for suspension or dismissal of employees in classified service*

45304 *Suspension for reasonable cause; filing of charges; employee charged with mandatory or optional leave of absence offense*

VEHICLE CODE

1808.8 *School bus drivers; dismissal for safety-related cause*

UNITED STATES CODE, TITLE 42

12101 -12213 *Americans With Disabilities Act*

COURT DECISIONS

*California School Employees v. Livingston Union School District, (2007) 149 Cal.App 4<sup>th</sup> 391*

*CSEA v. Foothill Community College District, 52 Cal. App. 3rd 150, 155-156, 124 Cal. Rptr 830 (1975)*



**CODE OF ETHICS  
CLASSIFIED EMPLOYEES**

School employees who are in daily contact with many phases of educational work should be persons whose conduct is beyond reproach and who sincerely believe in the advancement of education and the betterment of working conditions; therefore, the Tehama County Department of Education subscribes to 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 professional discussions 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.

**SUBSTITUTE SALARY SCHEDULE**

The Tehama County Superintendent of Schools may employ a substitute employee to fill a position of a regularly employed person absent from service. The substitute salary shall be the beginning salary or bottom range for the appropriate position. Substitute personnel may be employed on an on-call, day-to-day basis. The County Superintendent may dismiss a substitute employee at any time at his/her discretion.

**PERSONAL ILLNESS/INJURY LEAVE**

**Purposes of Leave**

A classified employee may use personal illness or injury leave granted by the Tehama County Department of Education 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)
2. Absences due to pregnancy, childbirth, and recovery (Education Code 45193)
3. Cases of personal necessity as specified in Education Code 45207
4. Medical or dental appointments
5. Cases of industrial accident or illness when leave granted specifically for that purpose has been exhausted (Education Code 45192)
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 Tehama County Superintendent of Schools or the designated manager or supervisor of his/her need to be absent as soon as such need is known so that the services of a substitute may be secured as necessary. This notification shall include an estimate of the expected duration of absence. If the absence becomes longer than estimated, the employee shall so notify the Department. If the duration of absence becomes shorter than estimated, the employee shall notify the Department not later than 3 p.m. of the day preceding the day on which he/she intends to return to work.

**Verification Requirements**

After any absence due to illness or injury, the employee shall submit a completed and signed Department absence form to his/her immediate supervisor. An employee must verify an absence for a period of more than four days because of illness or injury by filing a statement from his/her physician certifying to his/her illness and ability to return to work.

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

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

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

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

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

**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)

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 Department. (Education Code 45191)

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

At the beginning of each school year, each employee shall be notified of the amount of leave which he/she has accumulated.

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

Upon employment with the Department, a new classified employee shall receive credit for any personal illness or injury leave accumulated in a previous school district, county office of education, or community college district if he/she left employment with that district within the previous year and had been employed by the previous district for at least one year. If the employee's previous employment had been terminated for cause, the Tehama County Superintendent of Schools may determine whether to accept the transfer of the accumulated leave. (Education Code 45202)

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

### **Extension of Leave**

A permanent employee who is absent because of a personal illness or injury and who has exhausted all available personal illness or injury leave, vacation, compensatory overtime, and any other paid leave shall be so notified, in writing, and offered an opportunity to request additional leave. The County Superintendent 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)

If the employee is still unable to resume his/her duties after all available paid and unpaid leaves have been exhausted, the employee shall be placed on a reemployment list for a period of 39 months. If during this time the employee becomes able to resume the duties of his/her position, he/she shall be reemployed in the first vacancy in the classification of his/her previous assignment. The employee's reemployment shall take preference over all other applicants except those laid off for lack of work or lack of funds, in which case the employee shall be ranked according to his/her seniority. (Education Code 45195)

### **Compensation**

A classified employee who has exhausted all paid leave, including personal illness or injury leave shall receive his/her salary, minus the actual amount paid a substitute employed to fill the position during the employee's absence for the remaining days within a total five-month period of absence. (Education Code 45196)

The five-month period shall commence on the first day of the leave of absence and shall run concurrently with any other paid leave.

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

*Legal Reference:*

EDUCATION CODE

45103 Substitute employees

45190 Leaves of absence and vacations

45191 Leaves of absence for illness and injury

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

45195 Additional leave for nonindustrial accident or illness; reemployment preference

45196 Salary; deductions during sick leave

45202 Transfer of accumulated sick leave and other benefits

LABOR CODE

233 Illness of child, parent, spouse or domestic partner

COURT DECISIONS

California School Employees Association v. Tustin Unified School District, (2007) 148 Cal.App.4th 510

ATTORNEY GENERAL OPINIONS

53 Ops.Cal.Atty.Gen. 111 (1970)

**INDUSTRIAL ACCIDENT/ILLNESS LEAVE**

Leave of absence for industrial accidents or illnesses shall be provided to classified employees who have served in the Tehama County Department of Education continuously for at least three years.

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

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)

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

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)

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

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, if not placed in another position, be placed 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)

Any employee receiving benefits under this leave shall, during periods of injury or illness, remain within the State of California unless the Tehama County Superintendent of Schools 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*



**PROFESSIONAL LEAVES**

The Tehama County Superintendent of Schools may grant a leave of absence of up to one year to classified employees for the purpose of permitting study or retraining the employee to meet changing conditions within the Tehama County Department of Education (Education Code 45381)

To be eligible for a leave for study purposes, the employee must have served in the Department for at least seven consecutive years preceding the leave, unless the leave is for purposes of retraining, in which case the employee must have served in the Department for at least three consecutive years. Sick leave shall not be deemed a break in service, except if it will not be included as service in computing service for the granting of any subsequent professional leave. (Education Code 45382)

No more than one such leave of absence shall be granted in each seven or three-year period. (Education Code 45382)

The County Superintendent may require that such leaves of absence be taken in separate six-month periods or in any other appropriate periods as long as the total leave is completed within three years. Any period of service by the employee between the separate periods of leave shall comprise a part of the service required for qualifying for a subsequent leave of absence. (Education Code 45381)

Every employee granted a leave of absence for these purposes may be required to perform such services during the leave as the County Superintendent and employee may agree upon in writing. (Education Code 45383)

The employee shall receive such compensation during the leave as the County Superintendent and employee agree upon in writing, which shall be not less than the difference between the employee's salary and the salary of a substitute employee. In lieu of such a difference, the Department may pay one-half of the salary of the employee or any additional amount up to and including the full salary of the employee. (Education Code 45383)

Compensation during the leave shall be paid in the manner authorized by Education Code 45384.

The County Superintendent may grant reimbursement of the costs, including tuition fees, to any permanent classified employee who satisfactorily completes approved training to improve his/her job knowledge, ability or skill. Programs eligible for reimbursement include, but are not limited to, courses of study at approved academic institutions, seminars and training institutes conducted by recognized professional associations, conferences, meetings and other training programs designed to upgrade the classified service and encourage the retraining of employees who may otherwise be subject to layoff as the result of technological changes. (Education Code 45387)

**PROFESSIONAL LEAVES (continued)**

*Legal Reference:*

EDUCATION CODE

*45380-45387 Leaves of absence for study or retraining, classified personnel*

**Classified Personnel**

**HOLIDAYS**

Classified employees shall not be required to work on the days listed below:

- New Year's Day
- Martin Luther King Day
- Lincoln Day
- Washington Day
- Memorial Day
- Independence Day
- \* Admission Day (Classified officer personnel only)
- Labor Day
- Veteran's Day
- Thanksgiving Day
- Day after Thanksgiving
- Day before Christmas
- Christmas Day
- Day before New Year's Day

And any other day proclaimed a holiday by the President, the Governor, or the County Superintendent.

The Department will provide a yearly calendar to indicate holidays.

In order to qualify for a paid holiday the employee must be in paid status on the working day before or the working day after the designed holiday as defined in Education Code 45203.

- \* The day to be taken in-lieu of Admission Day may be determined by the individual employee with prior Department approval.

**Classified Personnel****ANNUAL VACATIONS**

With the approval of the Tehama County Superintendent of School vacation may be taken by permanent full-time and part-time employees at any time during the year. No more than 15 days vacation shall be taken at any one time without the approval of the County Superintendent or designee. No more than 10 days of vacation may be carried forward beyond August 31 without prior written approval of the County Superintendent. Earned vacation shall not become a vested right until completion of the initial six months of employment. Vacation shall not be earned by substitute, short-term or limited-term employees.

Vacation is earned at the rate of 1 ¼ days for each month in which the employee is in a paid status for more than one-half the working days in the month and is regularly employed for five days per week, seven to eight hours a day. Full-time employees will earn 15 days of vacation after one year of service. Regular employees who work less than full-time shall earn vacation at the rate specified in Education Code 45197.

Employees who follow a school calendar will have their vacation pay included in their monthly salary rather than it being available to use.

A longevity benefit of one additional vacation day per each five-year period of continuous employment shall be granted to permanent classified employees up to a maximum of five additional days, per year. The effective date shall be based on the hire date of the employee.

**ADMINISTRATIVE AND SUPERVISORY PERSONNEL**

The Tehama County Superintendent of Schools recognizes that effective management is vital to the success of Tehama County Department of Education students and programs. Management personnel are expected to demonstrate initiative and good judgment in the development, implementation, and oversight of Department programs. Supervisors shall promote the productivity, professional growth, and teamwork of Department staff.

The Department shall adopt policies related to administrative and supervisory personnel insofar as they are needed to comply with law and describe terms of employment within the Department.

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

*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 Purpose*
- 3540.1 Definitions*
- 3543.4 Management position; representation*
- 3545 Appropriateness of unit; basis*

COURT DECISIONS

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

**ADMINISTRATIVE AND SUPERVISORY PERSONNEL**

**Classified Senior Management and Supervisory Employees**

A senior management employee is either a fiscal advisor to the Tehama County Superintendent of Schools or an employee in the highest position not requiring certification in a principal Tehama County Department of Education program area, with Department responsibility for formulating policy or administering the program. (Education Code 45108.5)

Employees holding positions designated as classified senior management and supervisory positions are entitled to all of the rights, benefits, and burdens of other classified employees, except that each senior management and supervisory employees shall not obtain permanent status in a senior management position. (Education Code 45100.5, 45256.5)

If assigned to a position within a bargaining unit, classified management and supervisory employees shall be reclassified at the discretion of the County Superintendent subject to provisions of the applicable collective bargaining agreement.

**ADMINISTRATIVE STAFF ORGANIZATION**

The Tehama County Superintendent of Schools is authorized to organize the administrative and supervisory staff in a manner that best supports student achievement, the educational program, and efficient operations.

The Superintendent shall establish and define job responsibilities for supervisory and administrative personnel. (Education Code 44662)

The County Superintendent or designee may adjust staff responsibilities temporarily or permanently as needed to accommodate the workload and/or individual capabilities.

The Superintendent shall maintain a current Tehama County Department of Education organization chart which designates lines of primary responsibility and the relationships among all Department positions. Lines of responsibility shall in no way prevent staff members at all levels from collaborating, communicating, and cooperating to develop the best possible programs and provide efficient services.

*Legal Reference:*

EDUCATION CODE

35010 Control of district; prescription and enforcement of rules

35020 Duties of employees fixed by governing board

35035 Powers and duties of superintendent

44662 Job responsibilities and evaluation

*Management Resources:*

CSBA PUBLICATIONS

Maximizing School Board Governance: The Board's Relationship to District Staff, 2007

WEB SITES

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

Association of California School Administrators: <http://www.acsa.org>

**CONTRACTS**

The Tehama County Superintendent of Schools recognizes the importance of attracting and retaining qualified administrative and supervisory personnel to help the Tehama County Department of Education achieve its goals for student learning. To that end, the County Superintendent may employ certificated administrative and supervisory personnel and senior management of the classified staff on a contract basis. Prior to entering into any such contract, the Superintendent shall consider the financial and legal implications of the contract in order to protect the Department from any potentially adverse obligations.

The County Superintendent may offer an assistant superintendent, or any other person holding a position requiring a supervision or administrative credential, a continuing contract for a period longer than one year but not to exceed four years. (Education Code 35031, 44929.20)

During the term of the contract and with the consent of the employee, the County Superintendent may reemploy, effective on the next succeeding first day of July, an assistant superintendent and reelect/reemploy him/her on those terms and conditions mutually agreed upon by the County Superintendent and the employee for a new term to begin on the effective date of the termination of the existing term of employment. (Education Code 35031)

If the County Superintendent decides not to reelect or reemploy an assistant superintendent or a senior manager of the classified service upon the expiration of his/her term, it shall notify the employee in writing 45 days prior to the expiration of the term of the contract. (Education Code 35031)

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)

*Legal Reference: (see next page)*



**CONTRACTS** (continued)

*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*

54954 *Time and place of regular meetings*

54957 *Closed session, personnel matters*

*Management Resources:*

CSBA PUBLICATIONS

*Maximizing School Board Governance: The Board's Relationship to District Staff*, 2007

WEB SITES

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

Association of California School Administrators: <http://www.acsa.org>

**DEMOTION/REASSIGNMENT**

The Tehama County Superintendent of Schools may authorize the demotion or reassignment of any administrative or supervisory employee when such action is determined to be in the best interest of the Tehama County Department of Education.

The County Superintendent or designee shall ensure that the Department complies with all applicable statutory deadlines and due process procedures when an employee is to be demoted or reassigned.

*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
- 44897 Classification of administrator or supervisor to a teaching position
- 44951 Continuation in position unless notified
- 45101 Definitions (including disciplinary action, cause)
- 45113 Rules for classified service in districts not incorporating the merit system
- 52055.5 Meeting or exceeding growth requirements
- 52055.650 Review by state board
- 52055.57 Districts identified or at risk of identification for program improvement

UNITED STATES CODE, TITLE 20

- 6316 School and district improvement

COURT DECISIONS

- Jefferson v. Compton Unified School District, (1993) 14 Cal. App. 4th 32
- Schultz v. Regents of the University of California, (1984) 160 Cal. App. 3d 768
- Ellerbroek v. Saddleback Valley Unified School District, (1981) 125 Cal. App 3d 348
- Skelly v. California Personnel Board, (1975) 15 Cal.3d 194
- Hentschke v. Sink, (1973) 34 Cal. App. 3d 19

**DEMOTION/REASSIGNMENT**

**Certificated Administrative Employees**

Permanent certificated management staff are not entitled to seniority rights in their administrative positions. However, such staff shall earn and/or retain any seniority earned in service as a classroom teacher or site administrator pursuant to Education Code 44893, 44894, or 44956.5.

**End of Year Release/Reassignment of Certificated Administrators**

By March 15, an employee shall be notified by either registered mail or in person that he/she may be released or reassigned from his/her position for the following school year. If the notice is presented to the employee in person, the Tehama County Department of Education shall obtain his/her signature acknowledging receipt of the notice on the Department's copy of the written notice. (Education Code 44951)

If the March 15 notice indicates that release or reassignment is only a possibility, the Tehama County Superintendent of Schools shall take additional action to release/reassign the employee before the new school year and shall send the employee a second notice by June 30 indicating that he/she has been released or reassigned.

If the employee is to be released or reassigned to a teaching position, the County Superintendent shall give the employee, upon his/her request, a written statement of the reasons for the release/reassignment. If the reasons include incompetence as an administrator or supervisor, the Department shall have completed an evaluation of the employee within the 60-day period immediately preceding the notice date. (Education Code 44896)

**TRANSFERS**

The Tehama County Superintendent of Schools recognizes the importance of placing employees in positions that best utilize their skills and talents, help improve student achievement, and provide the most benefit to the Tehama County Department of Education.

The County Superintendent shall approve the transfer or rotation of administrative or supervisory personnel to the same position at another location for reasons including, but not limited to, the need to improve student achievement and operational efficiency, utilize the skills and talents of the employee more effectively, provide opportunities for professional growth, provide an opportunity for evaluating employees in different school settings or locations, and best accommodate the overall needs of the Department.

The County Superintendent or designee shall establish procedures to enable administrative or supervisory personnel to request a transfer to a vacant position.

*Legal Reference:*

EDUCATION CODE

*35031 Senior management employee in the classified service: nonreelection*

*35035 Additional powers and duties of superintendent*

*44850.1 No tenure in administrative or supervisory positions*

*44896 Transfer of administrator or supervisor to teaching position*

*44897 Classification of administrator or supervisor to a teaching position*

*44951 Continuation in position unless notified*

*45101 Definitions (including disciplinary action, cause)*

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

*52055.57 Districts identified or at risk of identification for program improvement*

UNITED STATES CODE, TITLE 20

*6316 School and district improvement*

COURT DECISIONS

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

**TRANSFERS**

**Involuntary Transfer**

Before recommending the transfer or lateral rotation of an employee, the Tehama County Superintendent of Schools or designee shall confer with the affected employee and notify him/her of the intent to recommend the transfer. For transfers effective at the beginning of the school year, this conference shall take place before May 30. Affected employees shall be notified of the final decision, in writing, as soon as practicable.

**Voluntary Transfer**

The employee shall submit a transfer request to the County Superintendent or designee at the time of the known vacancy. The employee shall be notified in writing of the decision whether or not to grant the transfer request.

Transfer requests may be withdrawn by the employee at any time prior to the final decision.

**EVALUATION/SUPERVISION**

The Tehama County Superintendent of Schools recognizes the importance of regular and comprehensive evaluations of administrative and supervisory personnel to provide ongoing feedback for continuous improvement of employee performance. Evaluations shall be linked to the Tehama County Department of Education's vision, strategic plan, school improvement goals, professional development plan, and goals for student achievement.

**Certificated Administrative and Supervisory Personnel**

The County Superintendent shall develop objective evaluation guidelines and standards for use in the Department's evaluation system for certificated administrative and supervisory personnel. Such standards may include those of the California Professional Standards for Education Leaders as well as other standards and criteria developed by the Department

Each certificated administrative and supervisory employee shall be evaluated every other year. However, an employee may be evaluated every five years provided that he/she has been employed by the Department for at least 10 years, his/her previous evaluation rated him/her as meeting or exceeding standards, and the evaluator and the employee agree to this schedule. Either the evaluator or the employee may withdraw consent for this schedule at any time. (Education Code 44664)

Any certificated administrative and supervisory employee who is new to a position may be evaluated each year for the first two years in the position. Evaluation is a continuous process and may occur between scheduled periods at the request of the employee, his/her supervisor, or the County Superintendent or designee.

Evaluations shall be conducted within the timelines specified in law, Department policy, and administrative regulation. The evaluation process for certificated administrative and supervisory personnel shall be the same as for other certificated instructional personnel, as detailed in AR 4115 - Evaluation/Supervision.

**Classified Senior Management and Supervisory Employees**

Classified senior management and supervisory employees shall be evaluated in accordance with the procedures developed by the County Superintendent or designee.

Evaluations shall be used to recognize the exemplary skills and accomplishments of classified senior management and supervisory employees and to identify areas needing improvement. When the evaluation indicates areas needing improvement, the County Superintendent expects such staff to take the initiative to improve their performance and for their supervisors to assist them in obtaining needed job skills.

**EVALUATION/SUPERVISION (continued)**

The evaluation shall be dated and signed by the classified senior manager or supervisory employee and his/her supervisor. The manager or supervisory employee may respond in writing to the evaluation within a reasonable time after receiving a copy of the evaluation. The response shall be attached to the evaluation and placed in his/her personnel file.

*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*

UNITED STATES CODE, TITLE 20

6319 *Highly qualified teachers*

7801 *Definition of highly qualified teacher*

*Management Resources:*

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

*Standards of Quality and Effectiveness for Administrative Services Credentials, 2001*

WEB SITES

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

Association of California School Administrators: <http://www.acsa.org>

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

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

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

**STAFF EVALUATING TEACHERS**

The Tehama County Superintendent of Schools 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 Tehama County Department of Education curriculum priorities, policies and practices, Department standards for student progress, and Department policies and procedures related to personnel supervision, performance evaluation and staff development

The County Superintendent or designee shall ensure that administrators who evaluate teachers meet the above criteria and shall observe each administrator while he/she is conducting a teacher evaluation. This observation shall be a factor in the subsequent evaluation of the administrator. The County Superintendent or designee also shall discuss his/her observations with the administrator and may develop and implement an appropriate professional improvement program for the administrator.

*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)*



**PROFESSIONAL STANDARDS**

**CALIFORNIA PROFESSIONAL STANDARDS FOR  
EDUCATIONAL LEADERS**

**Preamble**

The administrator(s) at a school site have numerous responsibilities that ultimately lead to the improvement of the performance of all students in the school. By acquiring the skills, attitudes and behaviors as outlined in the following Professional Standards for School Leaders, students have the best opportunity to achieve the mission and vision of the Tehama County Department of Education and to meet the expectations of high standards for student learning.

**Standards**

A school administrator is an educational leader who promotes the success of all students by:

1. Facilitating the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by the school community
2. Advocating, nurturing, and sustaining a school culture and instructional program conducive to student learning and staff professional growth
3. Ensuring management of the organization, operations, and resources for a safe, efficient and effective learning environment
4. Collaborating with families and community members, responding to diverse community interests and needs, and mobilizing community resources
5. Modeling a personal code of ethics and developing professional leadership capacity
6. Understanding, responding to, and influencing the larger political, social, economic, legal, and cultural context

*Source: California Professional Standards for Educational Leaders, 2001*