

POLICY MANUAL



**TUOLUMNE COUNTY
SUPERINTENDENT OF SCHOOLS**

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CONCEPTS AND ROLES

The Tuolumne County Superintendent of Schools recognizes that the success of Tuolumne County Superintendent of Schools office 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 County Office'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 County Office 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 Board shall hear employee complaints and appeals when such hearings are in accordance with County Office 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.

(cf. 4131 - Staff Development)
(cf. 4141/4241 - Collective Bargaining Agreement)
(cf. 4143/4243 - Negotiations/Consultation)
(cf. 4144/4244/4344 - Complaints)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)
(cf. 9000 - Role of the Board)

The Superintendent has primary responsibility for overseeing the County Office's personnel system. To support this effort, the County Superintendent shall approve a framework for sound hiring practices. Designated staff shall nominate all personnel for employment, and the County Board shall approve only those persons so recommended.

(cf. 4030 - Nondiscrimination in Employment)
(cf. 4111 - Recruitment and Selection)
(cf. 4211 - Recruitment and Selection)
(cf. 4311 - Recruitment and Selection)

The County Superintendent or designee shall assign and supervise the work of all employees and shall evaluate their work in accordance with effective accountability systems approved by the County Board.

(cf. 4115 - Evaluation/Supervision)
(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4215 - Evaluation/Supervision)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)
(cf. 4315 - Evaluation/Supervision)

CONCEPTS AND ROLES (continued)

The County Superintendent recognizes that every employee has a stake in the County Office's successful operation. The County Superintendent encourages all County Office employees to express their ideas, concerns and proposals related to the improvement of working conditions and the total educational program.

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 Tuolumne County Superintendent of Schools believes that the maintenance of drug- and alcohol-free workplaces is essential to school/program site and County Office operations.

No employee shall unlawfully manufacture, distribute, dispense, possess, use or be under the influence of any alcoholic beverage, drug or controlled substance as defined in 21 USC 81 at any County Office workplace. These prohibitions apply before, during and after school hours. A County Office workplace is any place where County Office work is performed, any County Office owned or approved vehicle used to transport students to and from school/program sites or school activities; any off-school sites when accommodating a school-sponsored or school-approved activity or function where students are under County Office jurisdiction; or during any period of time when an employee is supervising students on behalf of the County Office or otherwise engaged in County Office business.

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

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

The County Superintendent or designee shall notify employees of these prohibitions. (Government Code 8355; 41 USC 702)

An employee shall abide by the terms of this policy and notify the County Office, within five days, of any criminal drug or alcohol statute conviction which he/she receives for a violation occurring in the workplace. (41 USC 702)

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

The County Superintendent may not employ or retain in employment persons convicted of a controlled substance offense as defined in Education Code 44011. If any such conviction is reversed and the person acquitted in a new trial or the charges dismissed, his/her employment is no longer prohibited. A plea or verdict of guilty, a finding of guilt by a court in a trial without a jury, or a conviction following a plea of nolo contendere shall be deemed to be a conviction. (Education Code 44836, 45123)

(cf. 4112 - Appointment and Conditions of Employment)

(cf. 4212 - Appointment and Conditions of Employment)

A classified employee may be reemployed after conviction of such an offense if the County Superintendent determines, from the evidence presented, that the person has been rehabilitated for at least five years. (Education Code 45123)

The County Superintendent may take appropriate disciplinary action, up to and including termination, or require the employee to satisfactorily participate in and complete a drug assistance or rehabilitation program approved by a federal, state or local health, law enforcement or other appropriate agency.

DRUG AND ALCOHOL-FREE WORKPLACE (continued)

(cf. 4117.4 - Dismissal)

(cf. 4118 - Suspension/Disciplinary Action)

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

The County Superintendent or designee shall establish a drug- and alcohol-free awareness program to inform employees about: (Government Code 8355)

1. The dangers of drug and alcohol abuse in the workplace
2. The County Office policy of maintaining drug- and alcohol-free workplaces
3. Any available drug and alcohol counseling, rehabilitation, and employee assistance programs

(cf. 4159/4259/4359 - Employee Assistance Programs)

4. The penalties that may be imposed on employees for drug and alcohol abuse violations

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*

NONDISCRIMINATION IN EMPLOYMENT

The Tuolumne County Superintendent of Schools prohibits unlawful discrimination against and/or harassment of County Office employees and job applicants on the basis of actual or perceived race, color, national origin, ancestry, religion, age, marital status, pregnancy, physical or mental disability, medical condition, veteran status, gender, sex or sexual orientation at any County Office site and/or activity. The County Superintendent also prohibits retaliation against any County Office employee or job applicant who complains, testifies or in any way participates in the County Office's complaint procedures instituted pursuant to this policy.

(cf. 4031 - Complaints Concerning Discrimination in Employment)

(cf. 4032 - Reasonable Accommodation)

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

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

Any County Office employee who engages or participates in unlawful discrimination, or who aids, abets, incites, compels or coerces another to discriminate, is in violation of this policy and is subject to disciplinary action, up to and including dismissal.

(cf. 4117.4 - Dismissal)

(cf. 4118 - Suspension/Disciplinary Action)

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

Any County Office employee who observes or has knowledge of an incident of unlawful discrimination or harassment shall report the incident to the principal/program administrator, County Office administrator or Superintendent as soon as practical after the incident. Failure of a County Office employee to report discrimination or harassment may result in disciplinary action.

The County Superintendent or designee shall regularly publicize, within the County Office and in the community, the County Office's nondiscrimination policy and the availability of complaint procedures. 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 County Office's policy and administrative regulation shall be posted in all school/program sites and offices including staff lounges and student government meeting rooms. (5 CCR 4960)

The Superintendent designates the following position as Coordinator for Nondiscrimination in Employment:

Director of Human Resources
175 S. Fairview Lane
Sonora, CA 95370
209-536-2011

NONDISCRIMINATION IN EMPLOYMENT (continued)

Other Remedies

An employee may, in addition to filing a discrimination complaint with the County Office, 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, the employee must file his/her complaint 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, the employee must file his/her complaint within 180 days of the alleged discriminatory act(s). To file a valid complaint with EEOC after filing a complaint with DFEH, the employee must file the complaint 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)

Employees wishing to file complaints with the DFEH and EEOC should contact the nondiscrimination coordinator for more information.

Legal Reference: (see next page)

NONDISCRIMINATION IN EMPLOYMENT (continued)

Legal Reference:

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 programs receiving state financial assistance*

UNITED STATES CODE, TITLE 20

1681-1688 *Discrimination based on sex or blindness, Title IX*

UNITED STATES CODE, TITLE 29

794 *Section 504 of the Rehabilitation Act of 1973*

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*

CODE OF FEDERAL REGULATIONS, TITLE 34

100.6 *Compliance information*

104.8 *Notice*

106.8 *Designation of responsible employee and adoption of grievance procedures*

106.9 *Dissemination of policy*

COURT DECISIONS

Carter v. California Department of Veterans Affairs (2003) 2003 Cal.LEXIS 5694

Shepard v. Loyola Marymount (2002) 102 CalApp.4th 837

Management Resources:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors, June 1999

Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act, March, 1999

U.S. DEPARTMENT OF EDUCATION, OFFICE OF CIVIL RIGHTS

Notice of Non-Discrimination, January, 1999

WEB SITES

EEOC: <http://www.eeoc.gov>

OCR: <http://www.ed.gov/offices/OCR>

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

NONDISCRIMINATION IN EMPLOYMENT

Unlawful discrimination or harassment of an individual includes:

1. Slurs, epithets, threats or verbal abuse
2. Derogatory or degrading comments, descriptions, drawings, pictures or gestures
3. Unwelcome jokes, stories, teasing or taunting
4. Any other verbal, written, visual or physical conduct against the individual which:
 - a. Adversely affects his/her employment opportunities, or
 - b. Has the purpose or effect of unreasonably interfering with his/her work performance or creating an intimidating, hostile or offensive work environment

Any employee or job applicant who feels that he/she has been or is being unlawfully discriminated against or harassed should immediately contact his/her supervisor, the nondiscrimination coordinator or the Superintendent in order to obtain procedures for reporting a complaint. Such complaints shall be filed in accordance with AR 4031 - Complaints Concerning Discrimination in Employment. An employee may bypass his/her supervisor when the supervisor is the alleged offender.

(cf. 4031 - Complaints Concerning Discrimination in Employment)
(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

Any supervisor who receives a discrimination/harassment complaint shall immediately notify the nondiscrimination coordinator or the Superintendent, who shall ensure that the complaint is appropriately investigated in accordance with County Office policy and regulations.

The Tuolumne County Superintendent of Schools or designee shall ensure that annual training is provided to all employees regarding the issues of discrimination.

COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT

The following procedures shall be used when a County Office employee or job applicant has a complaint alleging that a specific action, policy, procedure or practice discriminates against him/her on any basis specified in the County Office nondiscrimination policies.

(cf. 0410 - Nondiscrimination in District Programs and Activities)

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4032 - Reasonable Accommodation)

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

1. The complaint should be initiated promptly after a complainant knew, or should have known, of the alleged discrimination.
2. All parties involved in allegations of discrimination shall be notified when a complaint is filed, when a complaint meeting or hearing is scheduled, and when a decision or ruling is made. The parties also shall be notified of their right to appeal the decision to the next level.
3. When a complaint is brought against the individual responsible for the complaint process at any level, the complainant may address the complaint directly to the next appropriate level.
4. Meetings related to a complaint shall be held at times the County Office determines appropriate to the circumstances.
5. For the protection of all the parties involved, complaint proceedings shall be kept confidential insofar as appropriate.
6. All documents, communications and records dealing with the investigation of the complaint shall be placed in a confidential County Office personnel complaint file and not in the employee's individual personnel file.

(cf. 1340 - Access to District Records)

(cf. 3580 - District Records)

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

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

7. Time limits specified in these procedures may be revised only by written agreement of all parties involved. If the County Office fails to respond within a specified or adjusted time limit, a complainant may proceed to the next level. If a complainant fails to take the complaint to the next step within the prescribed time, the complaint shall be considered settled at the preceding step.

COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT (continued)

Level I

The complainant shall first meet informally with his/her supervisor or the administrator of the school/program site where the alleged discriminatory act occurred. A complaint regarding discrimination away from the school/program site should be discussed informally with the complainant's supervisor. If the complainant's concerns are not clear or cannot be resolved through informal discussion, the supervisor or other administrator shall prepare, within 10 working days, a written summary of his/her meeting(s) with the complainant. This report shall be made available to the nondiscrimination coordinator (coordinator) designated by the Tuolumne County Superintendent in BP 4030 - Nondiscrimination in Employment.

Level II

If a complaint cannot be resolved to the satisfaction of the complainant at Level I, he/she may submit a formal written complaint to the coordinator within 10 working days of his/her attempt to resolve the complaint informally. The written complaint shall include the following:

1. The complainant's name, address and telephone number
2. The name and work location of the County Office staff member who committed the alleged violation
3. A description of the alleged discriminatory act(s) or omission(s)
4. The discriminatory basis alleged
5. A specific description of the time, place, nature, participants in and witnesses to the alleged violation
6. Other pertinent information which may assist in investigating and resolving the complaint
7. The complainant's signature or that of his/her representative

The coordinator shall assign a staff member to assist the complainant with this writing if such help is needed. The coordinator shall respond to the complaint in writing within 10 working days.

COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT (continued)

The coordinator shall conduct any investigation necessary to respond to the complaint, including discussion with the complainant, person(s) involved, appropriate staff members and students, and review of the Level I report and all other relevant documents. If a response from third parties is necessary, the coordinator may designate up to 10 additional working days for investigation of the complaint.

Level III

If the complaint cannot be resolved at Level II, either party may present the complaint to the County Superintendent or designee within 10 working days. The County Superintendent or designee shall review the Level II investigation file, including the written complaint and all responses from County Office staff. The County Superintendent or designee shall respond to the complaint in writing within 10 working days.

If the County Superintendent or designee finds it necessary to conduct further investigation, he/she may designate up to 10 additional working days for such investigation and shall respond to the complaint in writing within 10 working days of completing the investigation.

Other Remedies

Complainants may appeal the County Superintendent's action to the California Department of Education. The County Superintendent or designee shall ensure that complainants are informed that injunctions, restraining orders and other civil law remedies may also be available to them. This information shall be published with the County Office's nondiscrimination complaint procedures and included in any related notices. (Education Code 262.3)

Legal Reference: (see next page)

COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT (continued)

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 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*

2001h-2-2001h-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:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act, March, 1999

OFFICE OF CIVIL RIGHTS AND NATIONAL ASSOCIATION OF ATTORNEYS GENERAL

Protecting Students from Harassment and Hate Crime, January, 1999

WEB SITES

EEOC: <http://www.eeoc.gov>

OCR: <http://www.ed.gov/offices/OCR>

REASONABLE ACCOMMODATION

Definitions

Disability, with respect to an individual, is defined as any of the following: (Government Code 12926; 29 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. (29 CFR 1630.2)

Reasonable accommodations that an employer may need to provide in connection with modifications to the work environment or adjustments in how and when a job is performed that enable an individual with a disability to enjoy equal employment opportunities include, but are not limited to: (29 CFR 1630.2)

1. Making existing facilities accessible and usable
2. Restructuring the job duties
3. Offering part-time or modified work schedules
4. Acquiring or modifying equipment or devices
5. Changing tests, training materials or policies
6. Providing qualified readers or interpreters
7. Reassigning the employee to a vacant position

Qualified individual with a disability means an individual with a disability who satisfies the requisite skill, experience, education and other job-related requirements of the employment position and who, with or without reasonable accommodation, can perform the essential functions of such position. (29 CFR 1630.2)

REASONABLE ACCOMMODATION (continued)

Undue hardship is a determination based on an individualized assessment of current circumstances that shows that a specific reasonable accommodation would cause significant difficulty or expense. A determination of undue hardship should be based on several factors, including: (29 CFR 1630.2)

1. The nature and net cost of the accommodation needed, taking into consideration the availability of tax credits and deductions and/or outside funding
2. The overall financial resources of the facility making the reasonable accommodation, the number of persons employed at this facility, the effect on expenses and resources of the facility, or the impact on the operations of the facility
3. The overall financial resources, size, number of employees, and the number, type and location of facilities of the County Office
4. The type of operation of the County Office, including the structure and functions of the workforce, the geographic separateness, and the administrative or fiscal relationship of the facility involved in making the accommodation
5. 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.

Requests for Reasonable Accommodation

The Tuolumne County Superintendent of Schools Office designates the position specified in BP 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.

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4031 - Complaints Concerning Discrimination in Employment)

When requesting reasonable accommodation, the employee or employee's representative shall inform the employee's supervisor that he/she needs a change at work for a reason related to a medical condition.

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

Employees' requests for reasonable accommodation may first be considered informally by the site administrator. The site administrator shall consult with the coordinator before any decision as to accommodation is made.

REASONABLE ACCOMMODATION (continued)

When the disability and/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 County Office to submit a list of specific questions to the health care or vocational professional.

If the documentation submitted by the employee does not specify the existence of a qualifying disability and explain the need for reasonable accommodation, the County Office may require the employee to submit to an examination by a health care professional selected and paid for by the County Office.

Upon receiving a request to reasonably accommodate a qualified employee with a disability, the coordinator shall:

1. Determine the essential functions of the job
2. Engage in an informal, interactive process with the employee to review the request for accommodation, identify the precise limitations resulting from the disability, identify potential means for providing accommodation, and assess their effectiveness
3. Develop a plan for reasonable accommodation which is effective and allows the employee to perform the essential functions of the job or to gain equal access to a benefit or privilege of employment and does not impose undue hardship on the County Office

To qualify for a job, an individual shall not pose a significant risk of substantial harm to himself/herself or others in the workplace which cannot be eliminated or reduced by reasonable accommodation. (29 CFR 1630.2)

The determination of whether an individual poses a significant risk of substantial harm to himself/herself or others shall be made on a case-by-case basis and shall be based on objective, factual evidence, taking into consideration the duration of the risks, the nature and severity of the potential harm, the likelihood that the potential harm will occur and the imminence of potential harm. (29 CFR 1630.2)

The coordinator may confer with the program administrator, the County Office medical advisor and/or other County Office staff before making a final decision as to the accommodation.

REASONABLE ACCOMMODATION (continued)

Reasonable Accommodation Committee

The coordinator may appoint a Reasonable Accommodation Committee to review or assist in the development of appropriate plans to reasonably accommodate an employee or qualified job applicant who has requested an adjustment in work duties or environment because of known physical or mental disabilities. The membership of this committee may change on a case-by-case basis. The committee may include:

1. A County Office administrator
2. A site administrator
3. A medical advisor or rehabilitation specialist
4. A certificated employee
5. A classified employee
6. County Office legal counsel

Committee members shall be selected on the basis of their knowledge of the relevant issues, including:

1. The specific functions and duties required in the position
2. The physical work environment
3. Available accommodations

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

The coordinator shall take steps to ensure the confidentiality of information related to medical conditions.

Appeal Process

If the employee or applicant is not satisfied with the decision of the coordinator, he/she 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:

REASONABLE ACCOMMODATION (continued)

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 employee or applicant 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 County Office's procedure for such complaints.

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

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 Direct threat

COURT DECISIONS

Colmenares v. Braemar Country Club, Inc., 2003 Cal.LEXIS 1131

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

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

Management Resources:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

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

WEB SITES

EEOC: <http://www.eeoc.gov>

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

EMPLOYEE USE OF TECHNOLOGY

The Tuolumne County Superintendent of Schools Office 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 County Office and school/program site operations, and improving access to and exchange of information. The County Board 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.

(cf. 0440 - District Technology Plan)
(cf. 1113 - District and School Web Sites)
(cf. 4032 - Reasonable Accommodation)
(cf. 4131 - Staff Development)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)
(cf. 6163.4 - Student Use of Technology)

Employees shall be responsible for the appropriate use of technology and shall use the County Office's technological resources primarily for purposes related to their employment. Such use is a privilege which may be revoked at any time.

(cf. 4119.25/4219.25/4319.25 - Political Activities of Employees)

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 County Office operations without authority.

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)
(cf. 5125 - Student Records)
(cf. 5125.1 - Release of Directory Information)

Online/Internet Services

The Tuolumne County Superintendent of Schools or designee shall ensure that all County Office 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.

EMPLOYEE USE OF TECHNOLOGY (continued)

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 County Office 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, County Board policy, and administrative regulation.

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

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

In the event that the use of an electronic resource affects the working conditions of one or more employees, the Superintendent or designee shall notify the employees' exclusive representative.

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

Use of Cellular Phone or Mobile Communications Device

An employee shall not use a cellular phone or other mobile communications device for personal business while on duty, except in emergency situations and/or during scheduled work breaks.

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

(cf. 3513.1 - Cellular Phone Reimbursement)
(cf. 3542 - School Bus Drivers)
(cf. 4156.3/4256.3/4356.3 - Employee Property Reimbursement)

Legal Reference: (see next page)

EMPLOYEE USE OF TECHNOLOGY (continued)

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*

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

On-Line/Internet Services: User Obligations and Responsibilities

Employees are authorized to use Tuolumne County Superintendent of Schools Office equipment to access the Internet or on-line services in accordance with County Office policy and the user obligations and responsibilities specified below.

1. The employee in whose name an on-line 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 their own account number.

2. Employees shall use the system responsibly and primarily for work-related purposes.

(cf. 6162.7 - Use of Technology in Instruction)

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, gender, sexual orientation, age, disability, religion or political beliefs.

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4031 - Complaints Concerning Discrimination in Employment)

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

4. Employees shall not intentionally upload, download or create computer viruses and/or maliciously attempt to harm or destroy County Office equipment or materials or the data of any other user, including so-called "hacking."

5. Employees shall not read other users' electronic mail or files. They shall not attempt to interfere with other users' ability to send or receive electronic mail, nor shall they attempt to read, delete, copy, modify or forge other users' mail.

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

(cf. 6163.4 - Student Use of Technology)

7. Employees shall be required to read and sign an Acknowledgement of Acceptable Use Agreement at the time of hire.

CERTIFICATED PERSONNEL

The Tuolumne County Superintendent of Schools Office recognizes that teachers and other certificated personnel work closely with students in carrying out the County Office educational goals. The Tuolumne County Superintendent of Schools or designee shall ensure that the duties, responsibilities, and County Office 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.

(cf. 4115 - Evaluation/Supervision)
(cf. 4141/4241 - Collective Bargaining Agreement)

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

(cf. 4131 - Staff Development)

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*
- 90 Definition, certificated and certified*
- 44006 Certificated person*
- 44490-44497 Mentor teacher program*

GOVERNMENT CODE

- 3543.2 Scope of representation*

All Personnel

BP 4111(a)

4211

RECRUITMENT AND SELECTION

4311

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

(cf. 4000 - Concepts and Roles)

(cf. 4100 - Certificated Personnel)

(cf. 4200 - Classified Personnel)

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

The Tuolumne County Superintendent of Schools or designee shall recruit candidates for open positions based on an assessment of the County Office 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.

(cf. 0410 - Nondiscrimination in District Programs and Activities)

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4031 - Complaints Concerning Discrimination in Employment)

(cf. 4032 - Reasonable Accommodation)

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

For each position, the interview committee shall present to the County Superintendent one candidate who meets all qualifications established for the position. The final employment decision rests with the County Superintendent.

(cf. 4112 - Appointment and Conditions of Employment)

(cf. 4112.2 - Certification)

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

(cf. 4212 - Appointment and Conditions of Employment)

(cf. 4312.1 - Contracts)

Legal Reference: (see next page)

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

BP 4111.2

4211.2

LEGAL STATUS REQUIREMENT

4311.2

The Tuolumne County Superintendent of Schools Office shall hire only citizens and aliens who are lawfully authorized to work in the United States. The Tuolumne County Superintendent of Schools or designee shall ensure that County Office 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.

(cf. 0410 - Nondiscrimination in District Programs and Activities)

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4111 - Recruitment and Selection)

(cf. 4211 - Recruitment and Selection)

(cf. 4311 - Recruitment and Selection)

All new employees shall show appropriate documents which certify that they are legally eligible to work in the United States, as required by law and in accordance with administrative regulation.

Legal Reference:

UNITED STATES CODE, TITLE 8

1324(a)(b) Immigration and Nationality Act, as amended by Immigration Reform and Control Act of 1986 and Immigration Act of 1990

CODE OF FEDERAL REGULATIONS, TITLE 8

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

Management Resources:

WEB SITES

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

All Personnel

AR 4111.2

4211.2

LEGAL STATUS REQUIREMENT

4311.2

Within three business days of hire, the Tuolumne County Superintendent of Schools or designee shall physically examine the documentation presented by the employee establishing his/her identity and employment eligibility as set forth in DHS (Department of Homeland Security) Form I-9. The County Superintendent or designee shall (1) ensure that the documents presented appear to be genuine and relate to the individual and (2) complete the "Employer Review and Verification" section of the Form I-9. (8 CFR 274a.2)

Persons employed for three 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 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 reverify the I-9 form, 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 either shows continuing employment eligibility or a new grant of work authorization. (8 CFR 274a.2)

After examining the documents presented, the County Superintendent or designee shall copy them. Such copies shall be retained with the individual's I-9 form. The documents shall be kept confidential and used only as needed to help justify the County Office past decision to accept the documents as valid.

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

The County Office shall retain the I-9 forms for three years after the date of the hire or for one year after the date the individual's employment is terminated, whichever is later. (8 CFR 274a.2)

CONTRACTS

When initially employed, certificated employees shall receive a written statement of their employment status and salary prior to the first day of paid service. 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)

(cf. 4121 - Temporary/Substitute Personnel)

Employee Notification

By May 15 of each year, each classroom teacher shall notify the Tuolumne County Superintendent of Schools or designee 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 County Office no later than May 15 of each year of his/her intent to remain in service the following year in accordance with law, County Office policy and administrative regulation.

(cf. 4161/4261 - Leaves)

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 Tuolumne County Superintendent of Schools 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.

(cf. 4111 - Recruitment and Selection)

(cf. 4112.21 - Interns)

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

(cf. 4112.23 - Special Education Staff)

(cf. 4113 - Assignment)

(cf. 4116 - Probationary/Permanent Status)

(cf. 4121 - Temporary/Substitute Personnel)

(cf. 4131.1 – Beginning Teacher Support/Induction)

(cf. 5148 - Child Care and Development)

When a fully credentialed teacher is not available, the County Office may employ a person with a short-term staff permit or provisional internship permit under the conditions and limitations provided in state and federal law.

As necessary, 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)

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

National Board for Professional Teaching Standards Certification

The Tuolumne County Superintendent of Schools Office encourages County Office teachers to voluntarily seek additional certification from the National Board for Professional Teaching Standards which demonstrates advanced knowledge and teaching skills.

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 *Drawing of warrants*
44066 *Limitations on certification requirements*
44200-44405 *Teacher credentialing, especially:*
44225.6 *CTC annual report on availability of teachers*
44251 *Period of credentials*
44252 *Standards and procedures for issuance; proficiency testing of basic skills*
44252.5 *State basic skills assessment required for certificated personnel*
44258.9 *Monitoring of teacher assignments by county superintendent*
44259 *Minimum requirements for teaching credential*
44259.5 *Standards for teachers of all students, including English language learners*
44270.3-44270.4 *Out-of-state credentials, administrative services*
44274.2-44274.4 *Out-of-state credentials*
44277 *Requirements for maintaining valid credentials*
44279.1-44279.7 *Beginning Teacher Support and Assessment Program (BTSA)*
44320.2 *Teachers Performance Assessment*
44325-44329 *District interns*
44330-44355 *Certificates and credentials*
44395-44399 *National Board for Professional Teaching Standards*
44464 *Period of validity of internship credential*
44468 *Early completion of internship program*
44500-44508 *Peer Assistance and Review Program for Teachers*
44662 *Performance evaluation; Stull Act review*
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*
90530 *Recruitment Centers*

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 *District Title I 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:

CSBA POLICY ADVISORIES

Teacher Credentialing Commission Eliminates Emergency Permits, August 2003

COMMISSION ON TEACHER CREDENTIALING CODED CORRESPONDENCE

03-0021 Alignment of Emergency Permits and Credential Waivers with No Child Left Behind

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

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

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

California Standards for the Teaching Profession, July 1997

U.S. DEPARTMENT OF EDUCATION GUIDANCE

Improving Teacher Quality State Grants, December 19, 2002

WEB SITES

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

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

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

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

CERTIFICATION

Registration

Each person employed by the Tuolumne County Superintendent of Schools Office for a position requiring certification qualifications shall, within 30 days after beginning employment, register with the County Office a valid credential authorizing the person to work in that position. Certificated employees also shall register renewed credentials within 30 days after the renewal.

Basic Skills Proficiency Test

Prior to being hired, all certificated persons, whether hired on a permanent, temporary, or substitute basis, shall pass a basic skills proficiency test in reading, writing, and mathematics, unless specifically exempted from this requirement by law or by fulfilling an alternative indicator of basic proficiency authorized by law. (Education Code 44252, 44252.6, 44830)

Certificated persons who have not held a position requiring certification within 39 months of employment and who have not taken the state basic skills proficiency test may be hired as temporary employees, provided they pass a basic skills proficiency test developed and administered by the County Office. Such employees shall subsequently take the state test within one year of employment. (Education Code 44830)

(cf. 4121 - Temporary/Substitute Personnel)

Out-of-State/Country Credentials

The County Office may employ an out-of-state applicant who has met the requirements for a preliminary or professional clear credential from the Commission on Teacher Credentialing (CTC) pursuant to Education Code 44252, 44274.2, and 44275.4.

(cf. 4112.5/4312.5 - Criminal Record Check)

(cf. 4131.1 - Beginning Teacher Support/Induction)

Short-Term and Provisional Internship Permits

Whenever there is a need to fill a classroom immediately based on an unforeseen need, the County Office may request that the CTC issue a short-term staff permit to an applicant who meets the qualifications specified in 5 CCR 80021.

The County Office may request that the CTC issue a provisional internship permit to an applicant who meets the qualifications specified in 5 CCR 80021.1 whenever a suitable credentialed teacher cannot be found after a diligent search.

Holders of either of the above permits shall be authorized to provide the same service as a holder of a teaching credential. (5 CCR 80021, 80021.1)

CERTIFICATION (continued)

Emergency Substitute Teaching Permits

The County Office may employ, at any grade level, a person with an emergency substitute permit issued by the CTC with the following restrictions:

1. A person with a 30-day emergency substitute permit shall not serve as a substitute for more than 30 days for any one teacher during the school/program site year. (5 CCR 80025)
2. A person with an emergency career substitute teaching permit shall not serve as a substitute for more than 60 days for any one teacher during the school year. (5 CCR 80025.1)
3. A person with an emergency substitute permit for prospective teachers shall not serve as a substitute for more than 30 days for any one teacher during the school/program site year and not more than 90 days total during the school year. (5 CCR 80025.2)
4. A person authorized for day-to-day substitute teaching shall not serve as a special education substitute for more than 20 days for any one teacher during the school year. (5 CCR 80025.4)

Before employing any person pursuant to 5 CCR 80025 or 80025.5, the County Superintendent or designee shall prepare and keep on file a signed statement of need. The statement of need shall describe the situation or circumstances that necessitate the use of a 30-day substitute permit holder and state either that a credentialed person is not available or that the available credentialed person does not meet the County Office specified employment criteria. (5 CCR 80025, 80025.5)

INTERNS

The Tuolumne County Superintendent of Schools Office may employ interns to fulfill the County Office's need for additional instructional resources and to assist future teachers in meeting state credentialing requirements by linking teaching theory with practice. The Tuolumne County Superintendent of Schools or designee shall ensure that such persons possess appropriate internship credentials from the Commission on Teacher Credentialing (CTC).

(cf. 4112.2 - Certification)

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

Interns shall not be assigned to teach any classes outside the subject area, grade levels, or classes authorized by their credentials.

(cf. 4113 - Assignment)

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

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

Terms of employment for interns shall be consistent with law and the County Office's collective bargaining agreement, as applicable.

(cf. 4116 - Probationary/Permanent Status)

Interns shall receive support and assistance to enhance their instructional skills and knowledge, and may be assigned a mentor teacher, when state funding is available for the mentor teacher program, at the school/program site where the intern is employed.

(cf. 4131 - Staff Development)

(cf. 4131.1 - Beginning Teacher Support/Induction)

(cf. 4138 - Mentor Teachers)

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

(cf. 4115 - Evaluation/Supervision)

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 to limited-English-proficient students
44259 Minimum requirements for teaching credential
44279.1-44279.7 Beginning Teacher Support and Assessment System
44314 Diversified or liberal arts program
44321 CTC approval of internship programs
44325-44329 District interns
44380-44386 Alternative certification
44387 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 PUBLICATIONS

CTC Credential Handbook, revised 1997

California Standards for the Teaching Profession, 1997

Standards of Program Quality and Effectiveness for District Intern Programs, revised 1996

U.S. DEPARTMENT OF EDUCATION GUIDANCE

Improving Teacher Quality State Grants, revised January 16, 2004

WEB SITES

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

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

STAFF TEACHING STUDENTS OF LIMITED ENGLISH PROFICIENCY

Definitions

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

(cf. 4112.2 - Certification)

(cf. 4112.21 - Interns)

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

(cf. 4113 - Assignment)

(cf. 4131 - Staff Development)

(cf. 4222 - Teacher Aides/Paraprofessionals)

(cf. 6174 - Education for English Language Learners)

A teacher may be provisionally assigned to provide instruction for English language development 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.

Legal Reference: (see next page)

STAFF TEACHING STUDENTS OF LIMITED ENGLISH PROFICIENCY
(continued)

Legal Reference:

EDUCATION CODE

10600-10610 California Education Information System
44225 Duties of the Commission on Teacher Credentialing
44253.1-44253.10 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
44760-44763 Teacher supply and demand reporting
52160-52178 Bilingual-Bicultural Act of 1976
52180-52186 Bilingual teacher training assistance program
62001-62005.5 Evaluation and sunseting of programs

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

1701-1704 Equal educational opportunities
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:

CDE PROGRAM ADVISORIES

0300.97 Programs for English learners

CTC PUBLICATIONS

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

CL-622 Serving English Learners, February 2004

CTC CODED CORRESPONDENCE

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

02-0006 Authorization to teach English learners pursuant to SB 2042, April 24, 2002

U.S. DEPARTMENT OF EDUCATION GUIDANCE

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

WEB SITES

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>

All Personnel

AR 4112.3(a)

4212.3

OATH OR AFFIRMATION

4312.3

All Tuolumne County Superintendent of Schools Office 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 County Office. 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 County Office employees are subject to disaster service activities as assigned to them by their supervisors or by law. (Government Code 3100-3102)

(cf. 3516 - Emergencies and Disaster Preparedness Plan)

(cf. 9224 - Oath or Affirmation)

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

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

The Superintendent, deputy or assistant superintendent, principal/program administrator or other person authorized in Education Code 60 shall administer the oath or affirmation when a County Office 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)

(cf. 4121 - Temporary/Substitute Personnel)

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

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

HEALTH EXAMINATIONS

4312.4

Tuberculosis Tests

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

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

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

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

Tuberculosis tests for employees shall be provided by the County Office or at County Office expense. (Education Code 44839, 45122, 49406)

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 Board shall determine by resolution, after a hearing, that the health of students would not be jeopardized. (Education Code 49406)

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

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)

HEALTH EXAMINATIONS (continued)

Medical Certification for Communicable Diseases for Certificated Employees

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

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

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

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

Mental Examination for Certificated Employees

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

(cf. 4032 - Reasonable Accommodation)

(cf. 4118 - Suspension/Disciplinary Action)

Legal Reference: (see next page)

AR 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, psychiatric examination; mandatory sick leave*

45122 *Physical examinations*

49406 *Examination for tuberculosis*

CODE OF REGULATIONS, TITLE 5

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

5503 *Physical examination for employment of retired persons*

5504 *Medical certification procedures*

COURT DECISIONS

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

Management Resources:

WEB SITES

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

All Personnel

BP 4112.42(a)
4212.42
4312.42

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS

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

(cf. 3540 - Transportation)
(cf. 3543 - Transportation Safety and Emergencies)

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

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

(cf. 3542 - School Bus Drivers)
(cf. 4020 - Drug and Alcohol-Free Workplace)

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

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

(cf. 4117.4 - Dismissal)
(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

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

BP 4112.42(b)
4212.42
4312.42

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

(cf. 4112.9 - Employee Notifications)

Legal Reference:

EDUCATION CODE

35160 Authority of governing boards

VEHICLE CODE

34500-34520.5 Safety regulations

CODE OF REGULATIONS, TITLE 13

1200-1293 Motor carrier safety, especially:

1213.1 Placing drivers out-of-service

UNITED STATES CODE, TITLE 49

31306 Alcohol and controlled substances testing

41501-41507 Transportation Employee Testing Act

CODE OF FEDERAL REGULATIONS, TITLE 49

40.1-40.413 Part 40, Procedures for transportation workplace drug and alcohol testing programs

382.101-382.605 Controlled substance and alcohol use and testing; especially:

382.205 On-duty use

382.207 Pre-duty use

382.209 Use following an accident

Management Resources:

WEB SITES

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

U.S. Department of Transportation, Office of Drug and Alcohol Policy and Compliance:

<http://www.dot.gov/ost/dapc>

Certificated Personnel

AR 4112.5(a)
4312.5

CRIMINAL RECORD CHECK

Applicants for Employment

The Tuolumne 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 County Office 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)

(cf. 4112 - Appointment and Conditions of Employment)

(cf. 4112.2 - Certification)

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

(cf. 4121 - Temporary/Substitute Personnel)

Temporary Certificate of Clearance

Before issuing a temporary certificate of clearance to an applicant whose credential is being processed, the 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 district within the county who is serving under a valid credential and has applied for a renewal of that credential or for an additional credential. (Education Code 44332.6)

The 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)

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

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

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 County Office 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 County Office 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

BP 4112.61

4212.61

EMPLOYMENT REFERENCES

4312.61

The Tuolumne County Superintendent of Schools or designee shall process all requests for references, letters of recommendation, or information about the reasons for separation regarding all Tuolumne County Superintendent of Schools Office employees other than himself/herself. All letters of recommendation to be issued on behalf of the County Office 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.

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

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

Legal Reference:

LABOR CODE

1050-1054 Reemployment privileges

CIVIL CODE

47 Privileged communication

CODE OF CIVIL PROCEDURE

527.3 Labor disputes

CODE OF REGULATIONS, TITLE 5

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

COURT DECISIONS

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

All Personnel

AR 4112.61

4212.61

EMPLOYMENT REFERENCES

4312.61

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

No certificated employee shall agree to provide a positive letter of recommendation which misrepresents facts as a condition of another employee's resigning or withdrawing action against the Tuolumne County Superintendent of Schools Office. (5 CCR, Section 80332)

All Personnel

AR 4112.62(a)

4212.62

MAINTENANCE OF CRIMINAL OFFENDER RECORDS

4312.62

Maintenance of Criminal Offender Records

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

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

(cf. 1240 - Volunteer Assistance)

(cf. 3515.6 - Criminal Background Checks for Contractors)

(cf. 4112.5/4312.5 - Criminal Record Check)

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

(cf. 4212.5 - Criminal Record Check)

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

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

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

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

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

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

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

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

MAINTENANCE OF CRIMINAL OFFENDER RECORDS (continued)

Interagency Agreements

Upon receipt from the Department of Justice of a criminal history record or report of subsequent arrest for any person on a common list of persons eligible for employment, the designated district shall give notice to the Superintendent or 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 written designee. The report shall be made available at the office of the designated district for 30 days following the receipt of the notice. (Education Code 44830.2, 45125.01)

The designated district shall not release a copy of that information to any participating district or any other person. In addition, the designated district 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 designated district shall maintain a record of all persons to whom the information has been shown. This record shall be available to the Department of Justice. (Education Code 44830.2, 45125.01)

The designated district shall submit an interagency agreement to the Department of Justice to establish authorization to submit and receive this information. (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

PENAL CODE

667.5 Prior prison terms, enhancement of prison terms

1192.7 Plea bargaining limitation

11075-11081 Criminal record dissemination

11105 State criminal history information; furnishing to authorized persons

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

11140-11144 Furnishing of state criminal history information

13300-13305 Local summary criminal history information

CODE OF REGULATIONS, TITLE 11

700-708 Criminal offender record information

All Personnel

E 4112.62

4212.62

MAINTENANCE OF CRIMINAL OFFENDER RECORDS

4312.62

SAMPLE EMPLOYEE STATEMENT FORM

USE OF CRIMINAL JUSTICE INFORMATION

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

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

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

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

Signature: _____

Date: _____

All Personnel

BP 4112.8

4212.8

EMPLOYMENT OF RELATIVES

4312.8

In order to preclude situations which could bring about a conflict of interest for members of the administrative staff, an employee shall not be appointed to a position where a member of his/her immediate family maintains supervisory or evaluation responsibilities for the position.

Immediate family members may be employed at the same department or work location with the approval of the Tuolumne County Superintendent of Schools or designee.

(cf. 9270 - Conflict of Interest)

Legal Reference:

GOVERNMENT CODE

12940 Unlawful employment practices, exceptions

All Personnel

AR 4112.9(a)

4212.9

EMPLOYEE NOTIFICATIONS

4312.9

The Tuolumne County Superintendent of Schools Office shall provide employees with the following notifications and shall obtain signed acknowledgments that the notifications were received when so required by law or by County Office policy or regulations.

Acknowledgments Required by Law

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

(cf. 5141.4 - Child Abuse Prevention and Reporting)

2. Oath or affirmation of allegiance required of public employees

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

3. Hepatitis B vaccine declination

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

4. The County Office school bus driver drug and alcohol testing policy, regulations and related information

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

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

(cf. 4313.2 - Promotion/Demotion/Reassignment)

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

(cf. 4212 - Appointment and Conditions of Employment)

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

8. Uniform Complaint Procedure

Acknowledgments Not Required by Law

1. The County Office drug- and alcohol-free workplace

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

2. The County Office nonsmoking policy

EMPLOYEE NOTIFICATIONS (continued)

(cf. 3513.3 - Tobacco-Free Schools)

3. Prohibition of sexual harassment

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

4. The certificated employee's employment status and salary

(cf. 4112.1 - Contracts)

5. State disability insurance rights and benefits

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

6. Certificated employee evaluations

(cf. 4115 - Evaluation/Supervision)

(cf. 4315 - Evaluation/Supervision)

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

(cf. 4112.2 - Certification)

8. Notice of layoff

(cf. 4117.3 - Personnel Reduction)

(cf. 4217.3 - Layoff/Rehire)

(cf. 4317.3 - Personnel Reduction)

9. Derogatory information to be placed in personnel file

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

10. Exhaustion of classified employee's paid leave

(cf. 4261.1 - Personal Illness/Injury Leave)

(cf. 4261.11 - Industrial Accident/Illness Leave)

11. Notice of charges related to disciplinary action

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

EMPLOYEE NOTIFICATIONS (continued)

12. Notice of intention to dismiss

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

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

(cf. 4158/4258/4358 - Employee Security)

Legal Reference:

EDUCATION CODE

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

GOVERNMENT CODE

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

PENAL CODE

11166.5 Employment; statement of knowledge of duty to report

UNEMPLOYMENT INSURANCE CODE

2613 Notice of rights and benefits

CODE OF REGULATIONS, TITLE 5

80026.1 Information to applicants

CODE OF REGULATIONS, TITLE 8

5193 California bloodborne pathogens standard

CODE OF FEDERAL REGULATIONS, TITLE 49

382.601 Controlled substance and alcohol use and testing notifications

ASSIGNMENT

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

- (cf. 4112.2 - Certification)*
- (cf. 4112.21 - Interns)*
- (cf. 4112.22 - Staff Teaching Students of Limited English Proficiency)*
- (cf. 4112.23 - Special Education Staff)*
- (cf. 4112.8/4212.8/4312.8 - Employment of Relatives)*

Teachers may be assigned to any school/program within the Tuolumne County Superintendent of Schools Office in accordance with the collective bargaining agreement.

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

Teachers shall be assigned to teach core academic subjects in accordance with the requirements of the No Child Left Behind Act pertaining to teacher qualifications. (20 USC 6319, 7801; 5 CCR 6100-6126)

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

Legal Reference:

EDUCATION CODE

- 33126 School accountability report card
- 35035 Additional powers and duties of superintendent
- 35186 Complaint process
- 37616 Assignment of teachers to year-round schools
- 44225.6 Commission report to the legislature re: teachers
- 44250-44277 Credentials and assignments of teachers
- 44395-44398 Incentives for assigning NBPTS-certified teachers to high-priority schools
- 44824 Assignment of teachers to weekend classes
- 44955 Reduction in number of employees

GOVERNMENT CODE

- 3543.2 Scope of representation

CODE OF REGULATIONS, TITLE 5

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

UNITED STATES CODE, TITLE 20

- 6319 Highly qualified teachers
 - 7801 Definitions, highly qualified teacher
- CODE OF FEDERAL REGULATIONS, TITLE 34
- 200.55-200.57 Highly qualified teachers

Management Resources:

WEB SITES

- CSBA: <http://www.csba.org>
- California Department of Education: <http://www.cde.ca.gov>
- Commission on Teacher Credentialing: <http://www.ctc.ca.gov>

All Personnel

BP 4113.4(a)

4213.4

TEMPORARY MODIFIED/LIGHT-DUTY ASSIGNMENT

4313.4

Commitment To Reduce Workers' Compensation Claims Cost

1. Modified Work/Light Duty Policy

Employee safety and well being is an ongoing goal of the Tuolumne County Superintendent of Schools Office. In order to fulfill the goal of employee safety and well being, the objectives are as follows:

- a. Maintain an adequate Workers' Compensation Insurance program.
- b. Protect the county office against losses as a result of employee injuries.
- c. Comply with standards prescribed by applicable federal, state and local laws and regulations affecting industrial injuries to employees.
- d. Conduct continuous education and training.
- e. Develop safe attitudes and work practices among all employees in the County Office.
- f. Promote the safe return of injured employees back into the work environment.

The Tuolumne County Superintendent of Schools believes that a Modified Duty/Structured Return-to-Work Program is a prudent methodology to implement the above goal and objectives. It is also his/her belief that a Modified Duty/Structured Return-to-Work Program enhances mental and physical healing, thereby shortening the period of time an injured employee is off the job.

The County Superintendent, in accepting its responsibility, requires that all levels of management adhere to the responsibility for encouraging the prompt and timely filing of industrial injury claim forms for injured employees. Furthermore, all levels of management shall cooperate in modifying employee duties to the extent that employees recuperating from industrial injuries may safely return to work and be permitted to perform duties during their medical recovery period within established program guidelines.

In order to comply with the intent and provisions of the Workers' Compensation Insurance Program, the County Superintendent authorizes and fully supports a comprehensive countywide Modified Duty/Structured Return-to-Work Program.

2. Objectives of the Modified Duty/Structured Return-to-Work Program

The Modified Duty/Structured Return-to-Work Program complements its existing Workers' Compensation Insurance Program administered by Tuolumne JPA. The primary objectives of the program are as follows:

TEMPORARY MODIFIED/LIGHT-DUTY ASSIGNMENT

- a. Safely return employees to work as soon as possible.
 - b. Avoid deterioration in work skills due to prolonged absences from work.
 - c. Reduce the number of lost time incidents and total number of lost workdays.
 - d. Reduce disability and medical treatment costs.
 - e. Reduce the number of litigate claims.
 - f. Maintain productivity without hiring temporary employees.
 - g. Maintain a high level of communication with employees to help reinforce management's commitment.
3. Location of the Modified Work/Structured Return-to-Work Program

The County Office's Modified Duty/Structured Return-to-Work Program is applicable to all divisions, departments, and units within each department.

4. Responsibilities for Modified Duty/Structured Return-to-Work Program

Administrators and supervisors at all levels of the organization have a responsibility to help manage Workers' Compensation claims costs, and to assist employees' return to the work place as soon as it is safe to do so without jeopardizing the employees' health.

Workers' Compensation Insurance Management

County Office Responsibilities

It is the County Office's responsibility to maintain Workers' Compensation insurance coverage for all employees in compliance with Education Codes 44984 et. seq. A cost effective Workers' Compensation program must include the following:

1. The identity of an organizational unit within the County Office that has responsibility for implementing and maintaining the program.
2. A procedure for reporting employee injuries.

TEMPORARY MODIFIED/LIGHT-DUTY ASSIGNMENT

3. A method for communicating with injured employees that ensures cost effective medical treatment.
4. A method of communicating and coordinating with third party administrators regarding services and fees.
5. A Modified Duty/Structured Return-to-Work Program to help injured employees return to the work environment as soon as it is safe to do so without further aggravating the employees' safe recovery.

Site Responsibilities

1. Modified Duty Temporary Work Assignment hierarchy:
 - a. Always consider every reasonable accommodation for injured employees in their existing jobs prior to assigning to modified duty positions.
 - b. If 1.a. is not possible, assign to temporary modified duty within same unit and worker class or category.
 - c. Only if 1.a. or b. are not possible is the employee transferred out of class/category to another unit.
2. Modified Duty Temporary Work Assignments (TWAs), properly assigned, should not cause a new re-injury. Assign Modified Duty TWAs only to the extent that the employee can safely perform the duties. It is appropriate to very gradually increase the number of work hours each day in order to prevent re-injury. The treating physician will have defined the work restrictions and capabilities of the injured employee.
3. As the employer, we have the right to require injured employees to perform modified/light or alternate duty as long as the job complies with the doctors' work restrictions. If employees fail to perform they are subject to the same conditions as they would be if they refused to perform their regular jobs.
4. Never retaliate or be punitive in the design of modified/light or alternate duty assignments.

5. Do not discriminate with job assignments on the basis of any factor other than an employee's ability to perform the essential functional/physical demands required in the modified position.

BP 4113.4(d)
4213.4
4313.4

TEMPORARY MODIFIED/LIGHT-DUTY ASSIGNMENT

6. Working conditions, rules and regulations for Modified Duty TWAs or alternate duty positions are the same as for regular positions.
7. As a rule, change employees' modified/light or alternate duty positions if they have not satisfactorily recovered within two to four weeks. Several changes are acceptable provided they do not compromise the doctors' guidelines.
8. Always be ready to accommodate and do what is right by the employee.

Employee Responsibilities

Employees must exercise due care in the performance of Temporary Work Assignments. They are to avoid injury to themselves or coworkers; promptly report to site administrator or supervisor and the Tuolumne JPA Coordinator any injury to themselves or coworkers; cooperate with the County Office, and the County Office's third part insurance administrator.

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>

POSTRETIREMENT EMPLOYMENT

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

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

Postretirement Compensation Limitation

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

Upon retaining the services of a retired individual as a district employee, employee of a third party, or an independent contractor, the 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 monthly to STRS and the individual regardless of the method of payment or the fund from which the payments are made

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

Exemption for Providing Specified Instructional Services

Any retired certificated individual employed by the County Office shall be exempt from the compensation limitation specified in law for members of STRS provided that he/she retired from service with an effective date on or before January 1, 2006, 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 System pursuant to Education Code 44279.1-44279.7

(cf. 4131.1 - Beginning Teacher Support/Induction)

POSTRETIREMENT EMPLOYMENT (continued)

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/program site paraprofessional teacher training program (Education Code 44390-44393)

(cf. 4112.21 - Interns)
(cf. 4222 - Teacher Aides/Paraprofessionals)

5. Instruction and student services to students enrolled in special education programs pursuant to Education Code 56885-56867

(cf. 4112.23 - Special Education Staff)

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

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

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

(cf. 5123 - Promotion/Acceleration/Retention)
(cf. 6179 - Supplemental Instruction)

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

Exemption for Emergency Situations or Appointment as a Trustee/Administrator

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

POSTRETIREMENT EMPLOYMENT (continued)

Superintendent pursuant to Education Code 42122-42129. (Education Code 24216)

(cf. 0520.1 - High Priority Schools Grant Program)

Until June 30, 2009, 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 County Office's control.
2. The recruitment process to fill the vacancy on a permanent basis is expected to extend over several months.
3. The employment is reported in a public meeting of the Tuolumne County Superintendent of Schools Office.

(cf. 9320 - Meetings and Notices)

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

(cf. 4117.13/4317.13 - Early Retirement Option)

Consultancy Contracts

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

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

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

Legal Reference: (see next page)

POSTRETIREMENT EMPLOYMENT (continued)

Legal Reference:

EDUCATION CODE

400-410 *English language acquisition program*
430-446 *English Learner and Immigrant Student Federal Conformity Act*
22119.5 *Creditable service, definition*
22461 *Notice of earnings limitation*
22714 *Encouragement of retirement*
22714.5 *2+2 service and year credit option under STRS*
22715 *Additional service credit*
22716 *Unpaid services*
24116 *Service at California State University*
24214 *Creditable service by retiree*
24215 *Service at California State University*
24216 *Payments to retirants in excess of limitation*
24216.5 *Exemption from earnings limitation*
24216.6 *Exemption from earnings limitation*
35046 *Consultancy contracts*
37252-37254.1 *Supplemental instruction*
41320.1 *Appointment of trustee*
42120-42129 *Budget completion*
44279.1-44279.7 *Beginning Teacher Support and Assessment System*
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*
56885-56867 *Special education*

Management Resources:

WEB SITES

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

All Personnel

BP 4117.2

4217.2

RESIGNATION

4317.2

Any Tuolumne County Superintendent of Schools Office 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 County Superintendent encourages employees to provide advance notice that is appropriate for the position they hold.

An employee's written resignation shall be submitted to the County Superintendent. The County Superintendent shall set the date when the resignation takes effect. Once the date is formally set by the County Superintendent, 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)

(cf. 4117.7 - Employment Status Reports)

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

PERSONNEL REDUCTION

The Tuolumne County Superintendent of Schools Office may reduce the number of probationary and permanent certificated employees when, in the opinion of the County Superintendent, one or more of the following conditions makes such reduction necessary:

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

Seniority

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

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

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

When two or more employees first rendered paid service on the same date, the County Superintendent shall adopt a resolution specifying the criteria based on the needs of the County Office and students for the order of termination among those employees. Upon the request of any employee whose order of termination is so determined, the County Superintendent shall furnish, in writing, no later than five days prior to the commencement of

PERSONNEL REDUCTION (continued)

the administrative hearing on the layoff, a statement of the specific criteria used in determining the order of termination and the application of the criteria in ranking the employee relative to the other employees in the group. (Education Code 44955)

(cf. 4113 - Assignment)

(cf. 4115 - Evaluation/Supervision)

(cf. 4117.4 - Dismissal)

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

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

Notice and Hearing Rights

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

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

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

The County Superintendent or designee shall give final notice, in the manner specified, to the affected employees before May 15. (Education Code 44955)

PERSONNEL REDUCTION (continued)

Special Procedure Based Upon Late Adoption of the State Budget

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

Reappointment

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

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

(cf. 4112.2 - Certification)

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

(cf. 4113 - Assignment)

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

Legal Reference: (see next page)

PERSONNEL REDUCTION (continued)

Legal Reference:

EDUCATION CODE

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

GOVERNMENT CODE

3543.2 *Scope of representation*

COURT DECISIONS

California Teachers Association v. Vallejo City Unified School District, (2007) 149 Cal.App.4th 135
Bakersfield Elementary Teachers Association v. Bakersfield City School District, (2006) 145 Cal.App.4th 1260
Cousins v. Weaverville Elementary School District, (1994) 24 Cal.App.4th 1846
Forker v. Board of Trustees, (1984) 160 Cal.App.3d 13
Moreland Teachers Assoc. v. Kurze, (1980) 109 Cal.App.3d 648
King v. Berkeley Unified School District, (1979) 89 Cal.App.3d 1016

Management Resources:

WEB SITES

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

PERSONNEL REDUCTION

For purposes of reduction of certificated personnel, terminations shall generally be in order of least seniority. The Tuolumne County Superintendent of Schools Office may deviate from terminating or reappointing a certificated employee in order of seniority for either of the following reasons: (Education Code 44955, 44956)

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

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

(cf. 4112.2 - Certification)

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

(cf. 4113 - Assignment)

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

Notice and Right to Hearing

When the County Office needs to reduce the number of certificated staff, the County Office shall adhere to the notice, hearing and layoff procedures in Education Code 44949 and 44955.

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

PERSONNEL REDUCTION (continued)

Reappointment

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

DISMISSAL

Permanent Employees

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

(cf. 4116 - Probationary/Permanent Status)

Probationary Employees

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

(cf. 4115 - Evaluation/Supervision)

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

(cf. 4117.6 - Decision Not to Rehire)

Probationary Employees

Certificated probationary employees may be dismissed only for causes specified in Education Code 44932 et seq. (Education Code 44948)

Legal References:

EDUCATION CODE

- 44660-44665 Evaluation and assessment of performance
- 44842 Automatic declining of employment
- 44918 Substitute or temporary employee; reemployment rights
- 44929.21 Districts with 250 ADA or more; notice of reelection decision.
- 44929.23 Districts with daily attendance less than 250
- 44932-44947 Suspension and/or dismissal of permanent employees
- 44948 Dismissal or suspension of probationary employees during school year
- 44948.2 Election to use provisions of Education Code 44948.3
- 44948.3 Dismissal of probationary employees (over 250 ADA)
- 44948.5 Dismissal of probationary employees (under 250 ADA)
- 44949 Cause, notice and right to hearing for dismissal of probationary employee
- 44953 Dismissal of substitute employees
- 44955 Reduction in number of permanent employees

GOVERNMENT CODE

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

All Personnel

AR 4117.5

4217.5

TERMINATION AGREEMENTS

4317.5

If a termination settlement agreement has been made with an employee, the Tuolumne 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.

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

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

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

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

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

Legal Reference:

CIVIL CODE

47 Privileged communication

GOVERNMENT CODE

53260-53264 Employment contracts

LABOR CODE

1198.5 Inspection of personnel files by employees

CODE OF REGULATIONS, TITLE 5

80303 Reports of dismissal, resignation and other terminations for cause

80332 Professional honesty in letters of employment recommendation

COURT DECISIONS

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

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

EMPLOYMENT STATUS REPORTS

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

1. Dismissal

(cf. 4117.4 - Dismissal)

2. Nonreelection/nonreemployment

(cf. 4117.6 - Decision Not to Rehire)

3. Suspension for more than 10 days

(cf. 4118 - Suspension/Disciplinary Action)

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

5. Resignation or other departure from employment

(cf. 4117.2 - Resignation)

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

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

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

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

EMPLOYMENT STATUS REPORTS (continued)

Notice of Other Violations

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

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

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

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

(cf. 1312.1 - Complaints Concerning District Employees)

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

(cf. 5145.7 - Sexual Harassment)

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

Legal Reference: (see next page)

EMPLOYMENT STATUS REPORTS (continued)

Legal Reference:

EDUCATION CODE

44225 Powers and duties of the Commission on Teacher Credentialing

44242.5 Reports and review of alleged misconduct

44420-44440 Adverse actions by CTC against credential holder

CODE OF REGULATIONS, TITLE 5

80303 Reports of change in employment status, alleged misconduct

80304 Notice of sexual misconduct

Management Resources:

WEB SITES

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

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

All Personnel

BP 4119.1(a)
4219.1
4319.1

CIVIL AND LEGAL RIGHTS

The Tuolumne County Superintendent of Schools Office believes that the personal life of an employee is not an appropriate concern of the County Office, except as it may directly relate to the employee's performance of his/her duties.

An employee's religious or political activities, or lack thereof, shall not be grounds for any discrimination or disciplinary action by the County Office, provided that these activities do not violate law, County Board policy, or administrative regulation.

(cf. 4030 - Nondiscrimination in Employment)
(cf. 4119.21/4219.21/4319.21 - Professional Standards)
(cf. 4119.25/4219.25/4319.25 - Political Activities of Employees)

A teacher shall have the right to refuse to submit to any evaluation or survey conducted by the County Office concerning personal values, attitudes, and beliefs; sexual orientation; political affiliations or opinions; critical appraisals of other individuals with whom the teacher has a family relationship; or religious affiliations or beliefs. (Education Code 49091.24)

Employees do not have a reasonable expectation of privacy with regards to County Office property under an employee's control including, but not limited to, desks, classrooms, offices, file cabinets, computers, or phones. As necessary to protect the health, welfare, or safety of students and staff, school/program site officials may search such items in order to uncover evidence that the employee is violating the law, County Board policy, administrative regulation, or other rules of the County Office or school/program site.

(cf. 3515 - Campus Security)
(cf. 4040 - Employee Use of Technology)

Whistleblower Protection

An employee shall have the right to disclose to a County Board member, a school/program site administrator, a member of the County Board of Education, County Superintendent of Schools, or the Superintendent of Public Instruction any improper governmental activity by the County Office or a County Office employee that violates state or federal law, is economically wasteful, or involves gross misconduct, incompetency, or inefficiency. When the employee has reasonable cause to believe that the information discloses a violation of state or federal statute or a violation or noncompliance with a state or federal rule or regulation, he/she has the right to disclose such information to a government or law enforcement agency or to refuse to participate in any such activity. (Education Code 44112, 44113; Labor Code 1102.5)

The County Superintendent or designee shall prominently display in lettering larger than size 14 point type a list of employees' rights and responsibilities under the whistleblower laws, including the telephone number of the whistleblower hotline maintained by the office of the California Attorney General. (Labor Code 1102.8)

CIVIL AND LEGAL RIGHTS (continued)

No employee shall use or attempt to use his/her official authority or influence to intimidate, threaten, coerce, or command another employee for the purpose of interfering with that employee's right to disclose improper governmental activity. (Education Code 44113)

(cf. 4118 - Suspension/Disciplinary Action)

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

An employee who has disclosed improper governmental activity and believes that he/she has subsequently been subjected to acts or attempted acts of reprisal shall file a written complaint in accordance with the County Office's complaint procedures. After filing a complaint with the County Office, he/she may also file a copy of the complaint with local law enforcement in accordance with Education Code 44114.

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 4144/4244/4344 - Complaints)

Protection Against Liability

No employee shall be liable for harm caused by his/her act or omission when acting within the scope of employment or County Office responsibilities. For the protection against liability to apply, the act or omission must be in conformity with federal, state, and local laws and must be in furtherance of an effort to control, discipline, expel, or suspend a student, or to maintain order or control in the classroom or school/program site. (20 USC 6736)

(cf. 3320 - Claims and Actions Against the District)

(cf. 9260 - Legal Protection)

The protection against liability shall not apply when: (20 USC 6736)

1. The employee acted with willful or criminal misconduct, gross negligence, recklessness, or a conscious, flagrant indifference to the harmed person's right to safety.
2. The employee caused harm by operating a motor vehicle or other vehicle requiring license or insurance.
3. The employee was not properly licensed, if required, by state law for such activities.
4. The employee was found by a court to have violated a federal or state civil rights law.

CIVIL AND LEGAL RIGHTS (continued)

5. The employee was under the influence of alcohol or any drug at the time of the misconduct.
6. The misconduct constituted a crime of violence pursuant to 18 USC 16 or an act of terrorism for which the employee has been convicted in a court.
7. The misconduct involved a sexual offense for which the employee has been convicted in a court.

Legal Reference:

EDUCATION CODE

200-262.4 *Prohibition of discrimination on the basis of sex*
7050-7058 *Political activities of school officers and employees*
44040 *Discrimination based on employee's appearance before certain boards or committees*
44110-44114 *Reporting by school employees of improper governmental activity*
49091.24 *Teacher rights to refuse evaluation/survey of personal life*

CIVIL CODE

51 *Unruh Civil Rights Act*

GOVERNMENT CODE

815.3 *Intentional torts*
820-823 *Tort Claims Act*
825.6 *Indemnification of public entity*
3540.1 *Public employment definitions*
3543.5 *Interference with employee's rights prohibited*
12940-12951 *Discrimination prohibited; unlawful practices*

LABOR CODE

1102.5-1106 *Whistleblower protections*

UNITED STATES CODE, TITLE 18

16 *Crime of violence defined*

UNITED STATES CODE, TITLE 20

6731-6738 *Teacher liability protection*

UNITED STATES CODE, TITLE 42

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

COURT DECISIONS

Garcetti v. Ceballos, (2006) 543 U.S. 1186
O'Conner v. Ortega, (1987) 480 U.S. 709
New Jersey v. T.L.O., (1985) 468 U.S. 325

Management Resources:

WEB SITES

California Attorney General: <http://caag.state.ca.us>

All Personnel

BP 4119.11(a)

4219.11

SEXUAL HARASSMENT

4319.11

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

(cf. 0410 - Nondiscrimination in District Programs and Activities)

(cf. 4030 - Nondiscrimination in Employment)

The Tuolumne County Superintendent of Schools 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 County Office sexual harassment policy to staff

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

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 County Office 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 principal, County Office administrator or County Superintendent.

A supervisor, principal or other County Office 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.

(cf. 4031 - Complaints Concerning Discrimination in Employment)

SEXUAL HARASSMENT (continued)

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

(cf. 4117.4 - Dismissal)
(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

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

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.4th 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

Oncale 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 of Civil Rights: <http://www.ed.gov/offices/OCR>

All Personnel

AR 4119.11(a)

4219.11

SEXUAL HARASSMENT

4319.11

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 Tuolumne County Superintendent of Schools Office.

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

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

SEXUAL HARASSMENT (continued)

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 County Superintendent Office'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 County Superintendent Office's sexual harassment policy, particularly the procedures for filing complaints and employees' duty to use the County Superintendent Office's complaint procedures.

Notifications

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

1. Be displayed in a prominent location in the main administrative building, County Superintendent Office, or other area of the school/program site where notices of County Superintendent 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/program site year or whenever a new employee is hired

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

3. Appear in any school or County Superintendent publication that sets forth the school/program site's or County Superintendent Office's comprehensive rules, regulations, procedures, and standards of conduct

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 Tuolumne County Superintendent of Schools Office information sheets that contain, at a minimum, components on: (Government Code 12950)

SEXUAL HARASSMENT (continued)

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 County Superintendent's complaint process available to the employee

(cf. 4031 - Complaints Concerning Discrimination in Employment)

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 County Superintendent 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

BP 4119.21

4219.21

PROFESSIONAL STANDARDS

4319.21

The Tuolumne County Superintendent of Schools expects Tuolumne County Superintendent of Schools Office employees to maintain the highest ethical standards, follow County Office policies and regulations, and abide by state and federal laws. Employee conduct should enhance the integrity of the County Office and advance the goals of the educational programs. Each employee should make a commitment to acquire the knowledge and skills necessary to fulfill his/her responsibilities and should focus on his/her contribution to the learning and achievement of County Office students.

(cf. 0000 - Vision)

(cf. 4112.2 - Certification)

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

The County Superintendent encourages County Office employees to accept as guiding principles the professional standards and codes of ethics adopted by professional associations to which they may belong.

(cf. 2111 - Superintendent Governance Standards)

(cf. 9005 - Governance Standards)

Legal Reference:

CODE OF REGULATIONS, TITLE 5

80331-80338 Rules of conduct for professional educators

Management Resources:

CDE PUBLICATIONS

California Professional Standards for Educational Leaders, 2001

COUNCIL OF CHIEF STATE SCHOOL OFFICERS PUBLICATIONS

Standards for School Leaders, 1996

NATIONAL EDUCATION ASSOCIATION PUBLICATIONS

Code of Ethics of the Education Profession, 1975

WEB SITES

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

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

Association of California School Administrators: <http://www.acsa.org>

California School Leadership Academy: <http://www.csla.org>

Council of Chief State School Officers: <http://www.ccsso.org>

California Teachers Association: <http://www.cta.org>

California Federation of Teachers: <http://www.cft.org>

California School Employees Association: <http://www.csea.com>

All Personnel

BP 4119.22

4219.22

DRESS AND GROOMING

4319.22

The Tuolumne County Superintendent of Schools believes that appropriate dress and grooming by Tuolumne County Superintendent of Schools Office 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.

(cf. 4118 - Suspension/Disciplinary Action)

(cf. 4119.25/4219.25/4319.25 - Political Activities of Employees)

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

(cf. 5132 - Dress and Grooming)

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.org>

All Personnel

BP 4119.23(a)
4219.23
4319.23

**UNAUTHORIZED RELEASE OF CONFIDENTIAL/
PRIVILEGED INFORMATION**

The Tuolumne County Board and Tuolumne County Superintendent of Schools Office 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 County Office 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 Office to meet lawfully in closed session. (Government Code 54963)

(cf. 9011 - Disclosure of Confidential/Privileged Information)
(cf. 9321 - Closed Session Purposes and Agendas)

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)

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

The Tuolumne County Superintendent of Schools 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 County Office 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 County Office policy, when the employee is: (Government Code 54963)

1. Making a confidential inquiry or complaint to a County Office attorney or grand jury concerning a perceived violation of law, including disclosing facts necessary to establish the illegality or potential illegality of a County Office action that has been the subject of deliberation during a closed session

(cf. 4119.1/4219.1/4319.1 - Civil and Legal Rights)

2. Expressing an opinion concerning the propriety or legality of County Office action in closed session, including disclosure of the nature and extent of the illegal or potentially illegal action

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

3. Disclosing information that is not confidential

Other Disclosures

An employee who willfully releases confidential/privileged information about the County Office, 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.

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

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

(cf. 4143/4243 - Negotiations/Consultation)

(cf. 5125 - Student Records)

(cf. 5125.1 - Release of Directory Information)

(cf. 5141.4 - Child Abuse Prevention and Reporting)

(cf. 6164.2 - Guidance/Counseling Services)

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: (see next page)

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

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

BP 4119.25

4219.25

POLITICAL ACTIVITIES OF EMPLOYEES

4319.25

The Tuolumne 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 Tuolumne County Superintendent of Schools Office.

(cf. 1160 - Political Processes)

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

(cf. 1330 - Use of School Facilities)

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.

(cf. 1325 - Advertising and Promotion)

(cf. 4118 - Suspension/Disciplinary Action)

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

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

POLITICAL ACTIVITIES OF EMPLOYEES

4319.25

Tuolumne County Superintendent of Schools Office employees shall not:

1. Use County Office funds, services, supplies or equipment to urge the passage or defeat of any ballot measure or candidate, including any candidate for election to the Tuolumne County Board of Education (Education Code 7054)

(cf. 1160 - Political Processes)

2. During working hours and on County Office 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 County Office property, solicit or receive any political funds or contributions to promote the passage or defeat of other types of ballot measures
4. Use County Office time to urge the passage or defeat of any ballot measure or candidate
5. Use County Office equipment for the preparation or reproduction of political campaign materials, even if the County Office is reimbursed

(cf. 3512 - Equipment)

6. Post or distribute political campaign materials on County Office property
7. Disseminate political campaign materials through the County Office mail service, e-mail or staff mailboxes

(cf. 4040 - Employee Use of Technology)

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

(cf. 6144 - Controversial Issues)

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.

AR 4119.25(b)
4219.25
4319.25

POLITICAL ACTIVITIES OF EMPLOYEES (continued)

Nothing in County Office 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)

Employee Organizations

Employee organizations may use County Office 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 County Office facilities at reasonable times for the purpose of meetings. (Government Code 3543.1)

However, employee organizations shall not use County Office funds, services, supplies or equipment, such as the County Office 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)

(cf. 4140/4240 - Bargaining Units)

Access to County Office communication channels shall be limited in cases where such access would be disruptive to County Office 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.

(cf. 4141.6/4241.6 - Concerted Action/Work Stoppage)

All Personnel

BP 4119.41(a)

4219.41

EMPLOYEES WITH INFECTIOUS DISEASE

4319.41

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

The County Office 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.

(cf. 4161.1/4361.1 - Personal Illness/Injury Leave)

(cf. 4261.1 - Personal Illness/Injury Leave)

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.

(cf. 0410 - Nondiscrimination in District Programs and Activities)

(cf. 4030 - Nondiscrimination in Employment)

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

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

BP 4119.41(b)
4219.41
4319.41

EMPLOYEES WITH INFECTIOUS DISEASE (continued)

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.

Confidentiality

The Superintendent or designee shall ensure that employee rights to confidentiality are strictly observed. The County Office 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

BP 4119.42

4219.42

EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS

4319.42

As part of its commitment to provide a safe and healthful work environment, the Tuolumne County Superintendent of Schools Office recognizes the importance of developing an exposure control plan. The Tuolumne County Superintendent of Schools 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).

(cf. 4119.43/4219.43/4319.43 - Universal Precautions)

(cf. 4157/4257/4357 - Employee Safety)

The County Superintendent or designee shall determine which employees have occupational exposure to bloodborne pathogens and other potentially infectious materials. In accordance with the County Office 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:

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

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

All Personnel

BP 4119.43
4219.43
4319.43

UNIVERSAL PRECAUTIONS

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

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.

- (cf. 4157/4257/4357 - Employee Safety)*
- (cf. 5141 – Health Care and Emergencies)*
- (cf. 5141.22 - Infectious Diseases)*
- (cf. 5141.24 - Specialized Health Care Services)*
- (cf. 5141.6 - Student Health and Social Services)*
- (cf. 6145.2 - Athletic Competition)*

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

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

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

AR 4119.43(a)

4219.43

UNIVERSAL PRECAUTIONS

4319.43

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 Tuolumne 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)

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

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

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))

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.

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.

(cf. 4157/4257/4357 - Employee Safety)
(cf. 5141 – Health Care and Emergencies)
(cf. 5141.22 - Infectious Diseases)
(cf. 5141.6 - Student Health and Social Services)
(cf. 6145.2 - Athletic Competition)

TEMPORARY/SUBSTITUTE PERSONNEL

Hiring

Substitute personnel may be employed on an on-call, day-to-day basis.

In addition, after September 1 of any school year, the Tuolumne County Superintendent of Schools Office may employ substitute personnel for the remainder of the school year for positions for which no regular employee is available. The County Office shall first demonstrate to the Commission on Teacher Credentialing the inability to acquire the services of a qualified regular employee. (Education Code 44917)

(cf. 4117.14 - Employment of Retired Teachers)

Classification

The County Office may classify as substitute certificated personnel a teacher hired to fill a position of regularly employed person absent from service. (Education Code 44917)

The County Office may classify as a temporary employee a teacher who is employed at least one semester and up to one complete school year. Any person whose service begins in the second semester and before March 15 may be classified as a temporary employee even if employed for less than a semester. The County Office shall determine the number of persons who shall be so employed based on the absence of regular employees due to leaves or long-term illness. (Education Code 44920)

The County Office also shall classify as temporary employees those certificated persons, other than substitute employees, who are employed to:

1. Serve from day-to-day during the first three months of any term to teach temporary classes which shall not exist after that time, or perform any other duties which do not last longer than the first three months of any term (Education Code 44919)
2. Serve in a position for a period not to exceed 20 working days in order to prevent the stoppage of County Office business during an emergency when persons are not immediately available for probationary classification (Education Code 44919)

At the time of initial employment and each July thereafter, the County Office shall classify substitute and temporary employees as such. (Education Code 44915, 44916)

TEMPORARY/SUBSTITUTE PERSONNEL (continued)

Before his/her first day of work, each new substitute and temporary employee shall receive a written statement at the time of initial employment during each school year confirming his/her employment status and salary. 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)

Time of initial employment means before the employee starts work. (Kavanaugh v. West Sonoma County Union High School District)

The County Superintendent or designee shall ensure that substitute and temporary employees are appropriately trained, assigned, oriented and evaluated.

(cf. 4113 - Assignment)

(cf. 4115 - Evaluation/Supervision)

(cf. 4131 - Staff Development)

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.

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

(cf. 4112.2 - Certification)

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

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

(cf. 4112.5/4312.5 - Criminal Record Check)

Any person employed on a substitute or temporary basis in a capacity designated in his/her credential shall also be required to demonstrate basic skills proficiency in reading, writing and mathematics pursuant to Education Code 44252.5, unless exempted by law. (Education Code 44830)

Qualifications for Special Education

A noncredentialed person shall not substitute for any special education certificated position. (Education Code 56060)

A person holding a valid credential authorizing substitute teaching may serve as a substitute for a special education teacher for a period not to exceed 20 cumulative school days for each special education teacher absent during each school year. Upon application by the County Office, the Superintendent of Public Instruction may approve an extension of 20 school days. In extraordinary circumstances the County Office may seek an extension beyond the initial 20 school days. (Education Code 56061)

TEMPORARY/SUBSTITUTE PERSONNEL (continued)

In placing substitute teachers in special education classrooms, the County Office shall give first priority to substitute teachers with the appropriate special education credential(s), second priority to substitute teachers with any other special education credential, and third priority to substitute teachers with a regular teaching credential. (Education Code 56062)

The County Superintendent or designee shall recruit and maintain lists of appropriately credentialed substitute teachers. He/she shall contact institutes of higher education with approved special education programs for possible recommendations of appropriately credentialed special education personnel. (Education Code 56063)

Salary/Benefits

The County Superintendent shall adopt and make public a salary schedule setting the daily or pay period rate(s) for substitute employees for all categories or classes of certificated employees of County Office programs. (Education Code 44977, 45030)

Granting Probationary Status

Unless released from employment pursuant to Education Code 44954, and with the exception of on-call, day-to-day substitutes, any substitute or temporary employee who performs the duties normally required of certificated employees for at least 75 percent of the number of days the regular schools of the County Office were maintained in that school year, shall be deemed to have served a complete school year as a probationary employee if employed as a probationary employee for the following school year. (Education Code 44918)

(cf. 4116 - Probationary/Permanent Status)

A temporary employee hired to teach temporary classes or perform other certificated duties not expected to last more than the first three months of any semester, or to teach special day and evening classes for adults or in schools/programs for migratory populations for the first four months of a semester, shall be classified as a probationary employee if the duties continue beyond the time limits. (Education Code 44919)

Release from Employment/Dismissal

The County Superintendent may dismiss a substitute employee at any time at its discretion. (Education Code 44953)

The County Superintendent may release a temporary employee at its discretion if the employee has served less than 75 percent of the number of days the regular schools of the County Office are maintained.

TEMPORARY/SUBSTITUTE PERSONNEL (continued)

After serving during one school year 75 percent of the number of days the regular schools of the County Office are maintained, a temporary employee may be released as long as the employee is notified before the end of the school year of the County Superintendent's decision not to reelect him/her for the following school year. (Education Code 44954)

Reemployment Rights

With the exception of on-call, day-to-day substitutes, a temporary or substitute employee who served during one school year at least 75 percent of the number of days the regular schools of the County Office were maintained and who was not released pursuant to Education Code 44954 prior to the end of the school year shall be reemployed for the following school year to fill any vacant positions in the County Office. (Education Code 44918)

With the exception of on-call, day-to-day substitutes, a temporary or substitute employee who was released pursuant to Education Code 44954 but who has nevertheless served for two consecutive years, for at least 75 percent of each year, shall receive first priority if the County Office fills a vacant position for the subsequent school year at the grade level at which the employee served during either year. In the case of a departmentalized program, the employee shall have taught the subject matter in which the vacant position occurs. (Education Code 44918)

Legal Reference: (see next page)

TEMPORARY/SUBSTITUTE PERSONNEL (continued)

Legal Reference:

EDUCATION CODE

- 1294.1 County community and juvenile schools, substitute and temporary employees*
- 44252.5 State basic skills assessment required for certificated personnel*
- 44300 Emergency teaching or specialist permits*
- 44830 Employment of certificated persons; requirements of proficiency in basic skills*
- 44839.5 Employment of retirant*
- 44846 Criteria for reemployment preferences*
- 44914 Substitute and probationary employment computation for classification as permanent employee*
- 44915 Classification of probationary employees*
- 44916 Time of classification; statement of employment status*
- 44917 Classification of substitute employees*
- 44918 Substitute or temporary employee deemed probationary employee; reemployment rights*
- 44919 Classification of temporary employees*
- 44920 Employment of certain temporary employees; classifications*
- 44921 Employment of temporary employees; reemployment rights (unified and high school districts)*
- 44953 Dismissal of substitute employees*
- 44954 Release of temporary employees*
- 44956 Rights of laid-off permanent employees to substitute positions*
- 44957 Rights of laid-off probationary employees to substitute positions*
- 44977 Salary schedule for substitute employees*
- 45030 Substitutes*
- 45041 Computation of salary*
- 45042 Alternative method of computation for less than one school year*
- 45043 Compensation for employment beginning in the second semester*
- 56060-56063 Substitute teachers in special education*

CODE OF REGULATIONS, TITLE 5

- 5502 Filing of notice of physical examination for employment of retired person*
- 5503 Physical examination for employment of retired persons*

COURT DECISIONS

- Kavanaugh v. West Sonoma Union High School District, (2003) 29 Cal.4th 911*

Management Resources:

WEB SITES

- CTC: <http://www.ctc.ca.gov>*
- CSBA: <http://www.csba.org>*

STAFF DEVELOPMENT

The Tuolumne County Superintendent of Schools Office believes that, in order to maximize student learning and achievement, certificated staff members must be continuously learning and improving their skills. The County Superintendent or designee shall develop a program of ongoing professional development which includes opportunities for teachers and certificated teaching assistants to enhance their instructional and classroom management skills and become informed about changes in pedagogy and subject matter.

(cf. 6111 - School Calendar)

The County Office staff development program may include, but is not limited to:

1. Mastery of discipline-based knowledge, including academic content in the core curriculum and academic standards

(cf. 6011 - Academic Standards)

(cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction)

(cf. 6142.3 - Civic Education)

(cf. 6142.5 - Environmental Education)

(cf. 6142.6 - Visual and Performing Arts Education)

(cf. 6142.7 - Physical Education)

(cf. 6142.8 - Comprehensive Health Education)

(cf. 6142.91 - Reading/Language Arts Instruction)

(cf. 6142.92 - Mathematics Instruction)

(cf. 6142.93 - Science Instruction)

2. Effective, subject-specific teaching methods, strategies, and skills

3. The use of technologies to enhance instruction

(cf. 0440 - District Technology Plan)

4. Sensitivity to and ability to meet the needs of diverse student populations, including, but not limited to, students of various racial and ethnic groups, students with disabilities, English language learners, economically disadvantaged students, gifted and talented students, and at-risk students

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

(cf. 4112.23 - Special Education Staff)

(cf. 5149 - At-Risk Students)

(cf. 6141.5 - Advanced Placement)

(cf. 6171 - Title I Programs)

(cf. 6172 - Gifted and Talented Student Program)

(cf. 6173 - Education for Homeless Children)

(cf. 6173.1 - Education for Foster Youth)

(cf. 6174 - Education for English Language Learners)

(cf. 6175 - Migrant Education Program)

STAFF DEVELOPMENT (continued)

5. Understanding of how academic and career technical instruction can be integrated and implemented to increase student learning

(cf. 6030 - Integrated Academic and Vocational Instruction)

6. Knowledge of strategies that enable parents/guardians to participate fully and effectively in their children's education

(cf. 1240 - Volunteer Assistance)

(cf. 5020 - Parent Rights and Responsibilities)

(cf. 6020 - Parent Involvement)

7. Effective classroom management skills and strategies for establishing a climate that promotes respect, fairness, and discipline, including conflict resolution, intolerance, and hatred prevention

(cf. 5137 - Positive School Climate)

(cf. 5138 - Conflict Resolution/Peer Mediation)

(cf. 5145.9 - Hate-Motivated Behavior)

8. Ability to relate to students, understand their various stages of growth and development, and motivate them to learn

9. Ability to interpret and use data and assessment results to guide instruction

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

(cf. 6162.5 - Student Assessment)

10. Topics related to student health, safety, and welfare

(cf. 0450 - Comprehensive Safety Plan)

(cf. 3515.5 - Sex Offender Notification)

(cf. 5030 - Student Wellness)

(cf. 5131.6 - Alcohol and Other Drugs)

(cf. 5131.63 - Steroids)

(cf. 5141.21 - Administering Medication and Monitoring Health Conditions)

(cf. 5141.4 - Child Abuse Prevention and Reporting)

(cf. 5141.52 - Suicide Prevention)

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

11. Topics related to employee health, safety, and security

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

(cf. 4119.43/4219.43/4319.43 - Universal Precautions)

(cf. 4157/4257/4357 - Employee Safety)

(cf. 4158/4258/4358 - Employee Security)

STAFF DEVELOPMENT (continued)

As necessary, teachers shall receive professional development which is designed to help them meet the requirements of federal law for teachers of core academic subjects.

(cf. 4112.2 - Certification)

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

The County Superintendent or designee may, in conjunction with individual teachers, develop an individualized program of professional growth which contributes to competence, performance, or effectiveness in teaching and classroom assignments.

(cf. 4112.21 - Interns)

(cf. 4131.1 - Beginning Teacher Support/Induction)

(cf. 4138 - Mentor Teachers)

The County Office staff evaluation process may be used to recommend additional staff development for individual employees.

(cf. 4115 - Evaluation/Supervision)

(cf. 4139 - Peer Assistance and Review)

The County Superintendent or designee shall involve teachers, site and County Office administrators, and others, as appropriate, in the development of the County Office staff development program. He/she shall ensure that the County Office staff development program is aligned with County Office priorities for student achievement, program improvement objectives, and LEA plans.

(cf. 0000 - Vision)

(cf. 0200 - Goals for the School District)

(cf. 0420 - School Plans/Site Councils)

(cf. 0420.1 - School-Based Program Coordination)

(cf. 0520 - Intervention for Underperforming Schools)

(cf. 0520.1 - High Priority Schools Grant Program)

(cf. 0520.2 - Title I Program Improvement Schools)

(cf. 0520.3 - Title I Program Improvement Districts)

(cf. 0520.4 - Quality Education Investment Schools)

The County Office may budget funds for actual and reasonable expenses incurred by staff who participate in staff development activities.

(cf. 3350 - Travel Expenses)

The County Superintendent or designee shall provide a means for continual evaluation of the benefit of staff development activities to both staff and students and shall regularly report to the County Board regarding the effectiveness of the staff development program. Based on the Superintendent's report, the County Office may revise the program as necessary in order to ensure that the staff development program supports the County Office priorities for student achievement.

STAFF DEVELOPMENT (continued)

(cf. 0500 - Accountability)
(cf. 9000 - Role of the Board)

Legal Reference:

EDUCATION CODE

41520-41522 *Teacher Credentialing Block Grant, including beginning teacher support*

41530-41532 *Professional Development Block Grant*

44032 *Travel expense payment*

44259.5 *Standards for teacher preparation*

44277 *Professional growth programs for individual teachers*

44279.1-44279.7 *Beginning Teacher Support and Assessment Program (BTSA)*

44560-44562 *Certificated Staff Mentoring Program*

44570-44578 *Inservice training, secondary education*

44580-44591 *Inservice training, elementary teachers*

44630-44643 *Professional Development and Program Improvement Act of 1968*

44700-44705 *Classroom teacher instructional improvement program*

44735 *Teaching as a Priority; teacher recruitment and retention in high-priority schools*

44755-44757.5 *Inservice training in reading instruction, grades K-3*

48980 *Notification of parents/guardians: schedule of minimum days*

52800-52870 *School-Based Program Coordination Act*

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

99200-99206 *Subject matter projects*

99220-99227 *California Professional Development Institutes*

99230-99242 *Mathematics and Reading Professional Development Program*

REPEALED EDUCATION CODE FOR CATEGORICAL PROGRAMS

44579-44579.6 *Instructional Time and Staff Development Reform Program*

GOVERNMENT CODE

3543.2 *Scope of representation of employee organization*

CODE OF REGULATIONS, TITLE 5

6100-6125 *Teacher qualifications, No Child Left Behind Act*

11980-11986 *Mathematics and Reading Professional Development Program*

13025-13044 *Professional development and program improvement*

UNITED STATES CODE, TITLE 20

6319 *Highly qualified teachers*

6601-6702 *Preparing, Training and Recruiting High Quality Teachers and Principals*

7801 *Definitions, highly qualified teacher*

PUBLIC EMPLOYMENT RELATIONS BOARD DECISIONS

United Faculty of Contra Costa Community College District v. Contra Costa Community College District, (1990) PERB Order No. 804, 14 PERC P21, 085

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

NCLB Teacher Requirements Resource Guide, March 2004

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

California Standards for the Teaching Profession, 1997

WEB SITES

Beginning Teacher Support and Assessment: <http://www.btsa.ca.gov>

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

California Department of Education, Professional Development: <http://www.cde.ca.gov/pd>

California Subject Matter Projects: <http://csmp.ucop.edu>

Policy

adopted: May 30, 2008

TUOLUMNE COUNTY SUPERINTENDENT OF SCHOOLS

Sonora, California

STAFF DEVELOPMENT

The Tuolumne County Superintendent of Schools or designee shall ensure that certificated staff members have opportunities to learn both from outside sources and from each other. These opportunities may include, but are not limited to:

1. Visits to other classrooms and other schools to observe and analyze teaching
2. Attendance at professional education conferences or committee meetings
3. Classes/workshops offered by the County Office, state projects, private organizations, or other appropriate agencies
4. Courses in regionally accredited institutions of higher education, including courses delivered through online technologies
5. Participation in professional development networks that promote inquiry and allow staff to analyze and evaluate each other's work
6. Peer conferences and/or joint staff preparation time
7. Participation in curriculum development projects

(cf. 6141 - Curriculum Development and Evaluation)

8. Participation in educational research or innovation efforts
9. Assistance from or service as a mentor teacher or consulting teacher

(cf. 4112.21 - Interns)

(cf. 4131.1 - Beginning Teacher Support/Induction)

(cf. 4138 - Mentor Teachers)

(cf. 4139 - Peer Assistance and Review)

10. Service in a leadership role in a professional organization
11. Discussions and/or internships with business and community agencies for the purpose of identifying the skills, knowledge, and aptitudes necessary for specific career paths and developing meaningful career-related, work-based learning experiences

(cf. 1700 - Relations Between Private Industry and the Schools)

12. Travel, study, and research in subject-matter content and effective educational practices

(cf. 4161.3 - Professional Leaves)

13. Follow-up activities that help staff to implement newly acquired skills

STAFF DEVELOPMENT (continued)

The County Superintendent or designee shall approve the participation of individual staff members in County Office -provided or external staff development activities which may require release time, leave of absence, or other County Office resources.

All Personnel

BP 4132

4232

PUBLICATION OR CREATION OF MATERIALS

4332

The Tuolumne County Superintendent of Schools recognizes that Tuolumne County Superintendent of Schools Office employees may create copyrightable materials at work, at home, or both at work and at home. The development of copyrightable materials during, or in part during, the work day shall be approved by the County Superintendent or designee. However, the County Superintendent or designee's approval or lack of approval shall not affect the County Office ownership of copyrights for materials developed during work hours.

Materials written or developed by an employee during the normal school day are considered County Office property. (Education Code 60076, 17 USC 201)

Materials developed during both school and leisure hours are owned jointly by the employee and the County Office. In such cases, the County Superintendent or designee shall ensure that a contractual agreement is made, clarifying the joint ownership. A partnership entity may be created to hold the copyright on behalf of both parties.

The County Office may secure copyrights in the name of the County Office for all copyrightable works developed by the County Office. All royalties or revenues from these copyrights shall be used for the benefit of the County Office. (Education Code 35170)

The County Office may market or license any noneducational mainframe electronic software developed by the County Office. Proceeds from this marketing or licensing shall be used exclusively for educational purposes. (Education Code 35182)

Legal Reference:

EDUCATION CODE

32360 Copyrights; use of funds

32361 Copyrights; use of employee work time

35170 Authority to secure copyrights

35182 Marketing or licensing noneducational mainframe electronic data-processing software

60076 Royalties or other compensation

LABOR CODE

2870-2872 Inventions made by an employee

UNITED STATES CODE, TITLE 17

201 Copyright Law

201(a) Copyright Law

All Personnel

BP 4135

4235

SOLICITING AND SELLING

4335

Employees shall not solicit Tuolumne County Superintendent of Schools Office staff, students or their families with the intent to sell general merchandise, books, equipment or services for their own personal profit or benefit. Solicitation of students and staff on behalf of a County Office program or other charitable organizations shall be conducted in accordance with applicable County Office policy and administrative regulation.

(cf. 1325 - Advertising and Promotion)

(cf. 1321 - Solicitation of Funds from and by Students)

(cf. 4137 - Tutoring)

(cf. 5022 - Student and Family Privacy Rights)

Staff members shall respect the confidentiality of County Office employees and students and shall not use their status as County Office employees to secure information such as names, addresses, e-mail addresses, and telephone numbers for solicitations or use in personal profit-making or beneficial ventures.

(cf. 5125.1 - Release of Directory Information)

Educational tours may be promoted on school premises only if they are sponsored by the County Office. Employees engaged in planning, organizing or leading tours as private, non-County Office -sponsored businesses shall make it clear that they do not represent the County Office. All activities related to such tours must be carried on outside of school hours and off school premises.

(cf. 3312.2 - Educational Travel Program Contracts)

Staff participation in “flower funds,” “anniversary funds” or other similar funds shall be voluntary.

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

Legal Reference:

EDUCATION CODE

51520 Prohibited solicitations on school premises

All Personnel

BP 4136

4236

NONSCHOOL EMPLOYMENT

4336

The Tuolumne County Superintendent of Schools recognizes that County Office employees may receive compensation for outside activities as long as these activities are not inconsistent, incompatible, in conflict with or inimical to the employee's duties or to the duties, functions or responsibilities of the County Office.

Outside paid activities are incompatible with County Office employment if they require time periods that interfere with the proper, efficient discharge of the employee's duties, if they entail compensation from an outside source for activities which are part of the employee's regular duties, or if they involve using for private gain the County Office name, prestige, time, facilities, equipment or supplies.

(cf. 1321 - Solicitation of Funds from and by Students)
(cf. 4119.21/4219.21/4319.21 - Professional Standards)
(cf. 4135/4235/4335 - Soliciting and Selling)
(cf. 4137 - Tutoring)

County Office employees shall not perform, without prior County Office approval, any outside paid service which will be wholly or in part subject to the approval or control of another County Office employee or a County Office officer.

(cf. 4132/4232/4332 - Publication or Creation of Materials)
(cf. 6161.1 - Selection and Evaluation of Instructional Materials)
(cf. 9270 - Conflict of Interest)

Upon determining that an employee's outside job is incompatible with County Office employment, the County Superintendent or designee shall so inform the employee. An employee who continues to pursue an incompatible activity may be subject to disciplinary action. Appeals shall be addressed in accordance with law, County Office policy and administrative regulations.

(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4119.1/4219.1/4319.1 - Civil and Legal Rights)
(cf. 4144/4244/4344 - Complaints)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

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

Policy
adopted: May 30, 2008

TUOLUMNE COUNTY SUPERINTENDENT OF SCHOOLS
Sonora, California

TUTORING

The Tuolumne County Superintendent of Schools expects teachers and other members of the instructional staff to make every effort to resolve students' learning problems at school before recommending that parents/guardians engage a tutor or other professional help. By maintaining a competent, dedicated staff and adequate instructional resources, the County Tuolumne County Superintendent of Schools Office seeks to minimize the need for individual tutoring.

To preclude conflicts of interest, teachers may not accept any kind of remuneration for tutoring a student enrolled in any of their classes. Teachers who tutor other students must perform this service outside of County Office facilities and make their own arrangements with parents/ guardians for the fees to be charged. The County Office encourages teachers to tutor only in subjects or grade levels for which they are certificated.

(cf. 4119.21/4219.21/4319.21 - Professional Standards)
(cf. 4135 - Soliciting and Selling)

Legal Reference:

GOVERNMENT CODE
1126 Incompatible activities of employees

BARGAINING UNITS

The Tuolumne 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 Tuolumne County Superintendent of Schools Office.

The Superintendent is committed to negotiating in good faith and respecting the rights of employees and employee organizations. As required by law, the County Office shall negotiate only with the exclusive representative of each bargaining unit.

(cf. 4141/4241 - Collective Bargaining Agreement)
(cf. 4143/4243 - Negotiations/Consultation)

Employees shall not be intimidated, restrained, coerced or discriminated against, either by the County Office or by employee organizations, because of their membership or nonmembership in an employee organization.

Legal Reference:

GOVERNMENT CODE
3540-3549.3 *Educational Employment Relations Act*

COLLECTIVE BARGAINING AGREEMENT

The Tuolumne County Superintendent of Schools recognizes that collective bargaining agreements are legally binding, bilateral agreements. The Tuolumne County Superintendent of Schools Office is committed to carrying out the provisions of each agreement and expects the agreements to be consistently and uniformly administered.

In order to help prepare for future negotiations, the County Superintendent or designee shall identify any portions of the agreement that hinder the County Office efforts to meet County Office goals.

(cf. 4140/4240 - Bargaining Units)
(cf. 4143/4243 - Negotiations/Consultation)

Legal Reference:

EDUCATION CODE

35160 Authority of governing boards

35160.1 Broad authority of school districts

GOVERNMENT CODE

3540-3549.3 Educational Employment Relations Act

CODE OF REGULATIONS, TITLE 8

31001-32997 Regulations of employee relations boards

CONCERTED ACTION/WORK STOPPAGE

The Tuolumne County Superintendent of Schools Office recognizes the importance of maintaining positive relations with employees, employee organizations, parents/guardians and community members throughout the collective bargaining process. In the event of an impasse in negotiations, the County Office shall make a good faith effort to reach an agreement with the employee organization through participation in state mediation and factfinding procedures.

(cf. 4141/4241 - Collective Bargaining Agreement)

(cf. 4143/4243 - Negotiations/Consultation)

During any threatened or actual withholding of services, the County Office shall keep parents/guardians and community informed about the status of County Office negotiations, the educational program and safety measures that have been taken by the County Office.

When feasible, the Tuolumne County Superintendent of Schools desires to maintain operations during any work stoppage. The County Superintendent or designee shall take steps necessary in order to help ensure the safety of students, staff and County Office property during a work stoppage. Such steps shall be reported to the County Superintendent as soon as possible.

The County Superintendent recognizes that preparation is necessary to reduce disruption during a work stoppage and to ensure that students receive the education to which they are entitled. The County Superintendent or designee shall develop a written plan which shall delineate actions to be taken in the event of a strike or threatened strike. The plan shall include specific responsibilities of the County Office staff, plans to maintain County Office operations, appropriate student instruction and supervision, as well as communication and safety issues.

(cf. 0450 - Comprehensive Safety Plan)

(cf. 1100 - Communications with the Public)

(cf. 1112 - Media Relations)

(cf. 9000 - Role of the Board)

The County Superintendent believes that employees shall be held accountable for their behavior during any labor dispute. The County Superintendent may take disciplinary action against employees, taking into account the seriousness of the behavior and the County Office efforts to rebuild relations following the withholding of services by employees.

(cf. 4118 - Suspension/Disciplinary Action)

(cf. 4218 - Suspension/Disciplinary Action)

Legal Reference: (see next page)

CONCERTED ACTION/WORK STOPPAGE (continued)

Legal Reference:

EDUCATION CODE

35204 *Contract with attorney in private practice*

35205 *Contract for legal services*

37200-37202 *Instructional days*

GOVERNMENT CODE

3540-3549.3 *Educational Employment Relations Act, especially:*

3543.5-3543.6 *Unfair labor practices*

3548-3548.8 *Impasse procedures*

INSURANCE CODE

10116 *Employee continuation of insurance coverage*

UNITED STATES CODE, TITLE 29

1161-1169 *Continuation coverage and additional standards for group health plan*

PUBLIC EMPLOYMENT RELATIONS BOARD DECISIONS

Fresno Unified School District, 1982, PERB Dec. No. 208, 6 PERC 13110

Konocti Unified School District, 1982, PERB Dec. No. 217, 6 PERC 13152

Management Resources:

CSBA PUBLICATIONS

Before the Strike: Planning Ahead in Difficult Negotiations, 1996

Certificated and Classified Personnel

AR 4141.6(a)
4241.6

CONCERTED ACTION/WORK STOPPAGE

Maintenance of County Office Operations

At the discretion of the Tuolumne County Superintendent of Schools or designee, employees reporting for duty may be temporarily assigned to other duties. In addition, the County Superintendent or designee may hire qualified substitute and/or temporary employees as needed to maintain Tuolumne County Superintendent of Schools Office operations and shall recommend to the County Superintendent an appropriate rate of pay for such employees for the period of the work stoppage.

(cf. 4113 - Assignment)

(cf. 4121 - Temporary/Substitute Personnel)

Days of instruction lost due to a work stoppage may be made up following the end of the normal school year.

(cf. 6111 - School Calendar)

Strike Plan

The County Superintendent or designee may establish a committee to develop a plan in the event of a work stoppage. This committee may include cabinet-level staff, legal counsel, the County Office negotiator and parents/ guardians.

The strike plan shall address, at a minimum, the following elements:

1. Roles and responsibilities during a work stoppage, including roles of the County Superintendent, cabinet-level staff, legal counsel, program administrators, certificated or classified staff when they are not participating in the strike, substitutes and other employees
2. Criteria for maintaining operations during a work stoppage including potential costs, availability of qualified substitutes or other staffing, the ability to maintain the quality of the educational program and other essential services, and the ability to ensure the safety of students and staff
3. Maintenance of the educational program, including availability of lesson plans and instructional materials, alternatives for handling special education and other programs as appropriate
4. Internal communications among County Office staff and the County Superintendent during a work stoppage
5. Plans for obtaining, paying and communicating with temporary or substitute employees

CONCERTED ACTION/WORK STOPPAGE (continued)

6. Status of County Office-paid benefits, including health care, insurance, vacation and sick leave benefits

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

(cf. 4161.1/4361.1 - Personal Illness/Injury Leave)

(cf. 4161.2/4261.2/4361.3 - Personal Leaves)

(cf. 4261.1 - Personal Illness/Injury Leave)

7. Communications with parents/guardians, the media, business partners, public officials and other community members that identify key messages, strategies and County Office spokespersons

(cf. 1100 - Communications with the Public)

(cf. 1112 - Media Relations)

(cf. 4143.1/4243.1 - Public Notice - Personnel Negotiations)

8. Equipment and supply needs

9. Desirability and feasibility of conducting extracurricular activities during a work stoppage including an analysis of the number of events and activities that would be affected, the availability of staffing, the degree of student and/or community participation and the ability to provide adequate security at events

(cf. 6145 - Extracurricular and Cocurricular Activities)

10. Contingency plans for transportation

(cf. 3541 - Transportation Routes and Services)

11. Contingency plans for the provision of food services

(cf. 3550 - Food Service/Child Nutrition Program)

12. Identification of outside resources who may be called upon to help with program operations

13. Coordination with law enforcement and other agencies

(cf. 1020 - Youth Services)

(cf. 1400 - Relations Between Other Governmental Agencies and the Schools)

(cf. 1700 - Relations Between Private Industry and the Schools)

14. Appropriate safeguards for the safety of students, working employees, substitutes, volunteers, and parent/guardians

CONCERTED ACTION/WORK STOPPAGE (continued)

(cf. 0450 - Comprehensive Safety Plan)

15. Provisions for safe, effective board meetings
16. Cost estimates for the various strategies to be implemented during a work stoppage
17. Legal remedies available to enjoin the work stoppage if possible or to file unfair labor practice charges against the employee organization
18. Continuation of negotiations during a work stoppage

(cf. 4143/4243 - Negotiations/Consultation)

19. Plans for resuming normal County Office operations, rebuilding relations and disciplining employees if necessary after the work stoppage

Activities of Employees

The Office Superintendent shall not impose or threaten to impose reprisals, discriminate or threaten to discriminate, or otherwise interfere with, restrain or coerce employees for the exercise of their rights. (Government Code 3543.5-3543.6)

Employees engaging in a work stoppage shall not prevent access to school site or program facilities by other employees, substitutes or students; use or threaten physical violence or bodily injury; trespass; distribute malicious or defamatory leaflets or materials; or otherwise coerce or intimidate individuals in the conduct of school business.

During an actual or threatened work stoppage, an employee shall not retain in his/her possession any County Office property, including but not limited to student attendance and grading records, lesson plans, keys, equipment and supplies.

(cf. 3512 - Equipment)

Employees shall not use students to distribute messages that promote or explain the position of any employee organization that is contemplating or engaged in a work stoppage. In addition, employees shall not use classroom or other duty time to promote an employee organization's position in negotiations or in a work stoppage.

When students raise questions related to a work stoppage, teachers shall approach the subject in accordance with the County Office policy on controversial issues and shall not allow such discussions to interfere with their regular teaching responsibilities.

(cf. 6144 - Controversial Issues)

CONCERTED ACTION/WORK STOPPAGE (continued)

Salary and Benefits

Employees withholding services shall not receive salary or unemployment benefits during the period of the work stoppage.

Any employee withholding services may be subject to the loss of payroll deduction privileges.

The County Office may not pay contributions to health care benefits if employees fail to work the minimum number of hours per month as specified in the collective bargaining agreement, County Office policy or administrative regulation. However, the County Office shall offer employees the option of paying their own coverage under COBRA. (29 USC 1161-1169)

If the County Office determines that it will withhold its contributions to employees' life and disability insurance, employees shall be offered an opportunity to retain these coverages by paying the contributions themselves. (Insurance Code 10116)

Employees whose vacation leave has been authorized prior to the work stoppage shall receive vacation pay for the authorized period.

If an employee is on a paid sick or disability leave when the work stoppage begins, he/she shall be entitled to continued payment as long as he/she remains ill or disabled and is otherwise eligible according to County Office policy and collective bargaining agreements.

The County Superintendent or designee may determine that credit shall not be applied toward probationary service, salary schedule advancement, permanent status, vacation earnings, retirement credit or sick leave accrual during the period of time that employees withhold services.

NEGOTIATIONS/CONSULTATION

The Tuolumne County Superintendent of Schools is legally responsible for negotiating 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)

(cf. 4140/4240 - Bargaining Units)

The County Superintendent recognizes his/her responsibility to represent the public's interests in the collective bargaining process. The County Superintendent shall keep the public informed about the progress of negotiations and the ways in which negotiations affect Tuolumne County Superintendent of Schools Office goals.

(cf. 4141.6/4241.6 - Concerted Action/Work Stoppage)

(cf. 4143.1/4243.1- Public Notice - Personnel Negotiations)

In reaching agreements on employee contracts, the County Superintendent shall balance the needs of staff and the priorities of the County Office in order to provide students with a high-quality instructional program based on a sound, realistic budget.

(cf. 0200 - Goals for the School District)

(cf. 3100 - Budget)

(cf. 4141/4241 - Collective Bargaining Agreement)

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 with his/her bargaining team shall establish standards of conduct pertaining to the negotiations process for members of the bargaining team. Meetings related to negotiations are not subject to state open meeting laws and shall be held in closed session. Matters discussed in these meetings shall be kept in strict confidence.

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

(cf. 9010 - Public Statements)

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

(cf. 9321 - Closed Session Purposes and Agendas)

The County Superintendent shall provide negotiator(s) with expected outcomes and clear parameters for acceptable contract provisions and may initiate proposals which promote the realization of County Office goals. The County Superintendent shall closely monitor the progress of negotiations and carefully consider how proposed contract provisions would affect the County Office short- and long-term goals.

NEGOTIATIONS/CONSULTATION (continued)

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.

(cf. 6010 - Goals and Objectives)

(cf. 6141 - Curriculum Development and Evaluation)

(cf. 6161.1 - Selection and Evaluation of Instructional Materials)

(cf. 9310 - Board Policies)

Legal Reference:

GOVERNMENT CODE

3540-3549.3 *Educational Employment Relations Act*

PUBLIC NOTICE - PERSONNEL NEGOTIATIONS

Because the Tuolumne County Superintendent of Schools has a responsibility to represent the public's interest in negotiations with employee organizations, the County Superintendent is committed to keeping the public informed about issues being negotiated, and providing members of the public an opportunity to express their views.

(cf. 1112 - Media Relations)
(cf. 4141/4241 - Collective Bargaining Agreement)
(cf. 4143/4243 - Negotiations/Consultation)
(cf. 9000 - Role of the Board)
(cf. 9010 - Public Statements)
(cf. 9011 - Disclosure of Confidential/Privileged Information)

Public Notice/Sunshining of Initial Proposals

All initial contract proposals of the County Superintendent and an employee organization which relate to matters within the scope of representation shall be presented at a public meeting and shall thereafter be public records.

(cf. 1340 - Access to District Records)
(cf. 9321 - Closed Session Purposes and Agendas)
(cf. 9321.1 - Closed Session Actions and Reports)

Meeting and negotiating between the Tuolumne County Superintendent of Schools Office and employee organization representatives shall not take place on these initial proposals until a reasonable time has elapsed after the submission of these proposals to enable the public to become informed and to express itself regarding the proposals at a public meeting. (Government Code 3547)

After the public has had an opportunity to provide input, the Superintendent shall adopt its initial proposal at a public meeting. (Government Code 3547)

New subjects of meeting and negotiating arising after the presentation of initial proposals shall be made public within 24 hours. (Government Code 3547)

Public Disclosure of Proposed Agreement

Before entering into a written agreement covering matters within the scope of representation, the County Superintendent shall disclose, at a public meeting, the major provisions of the agreement, including, but not limited to, the costs that would be incurred by the County Office under the agreement for the current and subsequent fiscal years. (Government Code 3547.5)

The County Superintendent and chief business official shall certify, in writing, that any costs incurred by the County Office under the agreement can be met by the County Office during the term of the agreement. The certification shall itemize any budget revision necessary to meet the costs of the agreement in each year of its term. (Government Code 3547.5)

(cf. 3460 - Financial Reports and Accountability)

PUBLIC NOTICE - PERSONNEL NEGOTIATIONS (continued)

A copy of the proposed agreement shall be made available to the public prior to the day of the public meeting.

The Superintendent or designee shall prepare a summary of the major provisions and changes in the proposed agreement.

Legal Reference:

EDUCATION CODE

42130-42134 *Financial reports and certifications*

GOVERNMENT CODE

3540.2 *Meeting and negotiating in public educational employment*

3547 *Proposals relating to representation; informing public*

3547.5 *Major provisions of agreement with exclusive representative*

CODE OF REGULATIONS, TITLE 8

32075 *PERB regional office defined*

Management Resources:

CSBA PUBLICATIONS

Collective Bargaining DVD-ROM

Maximizing School Board Governance: Collective Bargaining

Public Notice and Disclosure, Resource Guide for Employment Relations, December 1996

CALIFORNIA DEPARTMENT OF EDUCATION MANAGEMENT ADVISORIES

0515.92 *Public Disclosure of Collective Bargaining Agreements, 92-01*

WEB SITES

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

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

Fiscal Crisis and Management Assistance Team: <http://www.fcmat.org>

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

School Services of California: <http://www.sscal.com>

PUBLIC NOTICE - PERSONNEL NEGOTIATIONS

Public Disclosure of Proposed Agreement

The Tuolumne County Superintendent of Schools or designee shall prepare a summary of the proposed agreement which shall include, but may not necessarily be limited to:

1. Major provisions of the agreement that affect compensation, such as:
 - a. Direct increases in salaries and percentage change in on-schedule salaries
 - b. Changes in health and welfare benefits
 - c. Changes in health and welfare benefit dollar contributions by the County Office
 - d. Changes in step and column or longevity provisions
 - e. Changes in overtime, differential, callback, and standby pay provisions
 - f. Changes in staffing ratios
 - g. One-time bonuses or off-the-schedule increases
2. Other provisions that will result in increased costs to the County Office even if they do not involve an increase in employee compensation, such as class-size reduction or increased number of staff development days
3. Costs of the proposed agreement, for the current and subsequent fiscal years, categorized for salaries, benefits, other compensation, and other noncompensation costs, including percentage increase of total compensation (salaries, benefits, and other compensation provisions) for the average represented employee as a result of the agreement and the approximate cost to the County Office of providing a one percent increase in total compensation
4. Proposed source(s) of funding for the current and subsequent fiscal years including the assumptions used to determine available resources to meet the obligations of the proposed agreement
5. Other major provisions that do not directly affect the County Office costs, such as binding arbitration or grievance procedures

All Personnel

BP 4154(a)
4254
4354

HEALTH AND WELFARE BENEFITS

The Tuolumne County Superintendent of Schools Office 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.

(cf. 4140/4240 - Bargaining Units)
(cf. 4141/4241 - Collective Bargaining Agreement)

Certificated management, supervisory and confidential employees who are not in bargaining units shall receive the same health and welfare benefits as those specified in the collective bargaining agreement for certificated employees. Classified management, supervisory and confidential employees who are not in bargaining units shall receive the same health and welfare benefits as those specified in the collective bargaining agreement for classified employees.

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

To the extent that benefits are granted to spouses of employees, domestic partners registered in accordance with Family Code 297 shall have the same benefits. (Family Code 297.5)

The Tuolumne County Superintendent of Schools or designee shall maintain the confidentiality of employee health records in accordance with law.

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

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

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

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, especially:

22931 Application of education code provisions relating to inclusion of certain retirees in local health and welfare benefit plans

53200-53210 Group insurance

HEALTH AND SAFETY CODE

1366.20-1366.29 Cal-COBRA program, health insurance

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

12670-12692.5 Conversion coverage

LABOR CODE

2800.2 Notification of conversion and continuation coverage

UNEMPLOYMENT INSURANCE CODE

2613 Education program; notice of rights and benefits

UNITED STATES CODE, TITLE 26

4980B COBRA continuation coverage

UNITED STATES CODE, TITLE 29

1161-1168 COBRA continuation coverage

UNITED STATES CODE, TITLE 42

1395-1395g Medicare benefits

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:

WEB SITES

California Department of Industrial Relations: <http://www.dir.ca.gov>

California Employment Development Department: <http://www.edd.ca.gov>

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

All Personnel

BP 4157.1

4257.1

WORK-RELATED INJURIES

4357.1

The Tuolumne 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.

- (cf. 3320 - Claims and Actions Against the County Office)*
- (cf. 4032 - Reasonable Accommodation)*
- (cf. 4113.4/4213.4/4313.4 - Temporary Modified/Light-Duty Assignment)*
- (cf. 4154/4254/4354 - Health and Welfare Benefits)*
- (cf. 4157/4257/4357 - Employee Safety)*
- (cf. 4157.2/4257.2/4357.2 - Ergonomics)*
- (cf. 4161.11/4361.11 - Industrial Accident/Illness Leave)*
- (cf. 4261.11 - Industrial Accident/Illness Leave)*

An employee shall report any work-related injury or illness to Company Nurse on Call 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

- 1252 Group workers' compensation*
- 1297 County employee for purposes of workers' compensation*
- 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>*

Policy
adopted: May 30, 2008

TUOLUMNE COUNTY SUPERINTENDENT OF SCHOOLS
Sonora, California

All Personnel

AR 4157.2(a)

4257.2

ERGONOMICS

4357.2

To minimize employees' risk of repetitive motion injuries (RMIs), the Tuolumne 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 Superintendent 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 County Office 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 County Office program
- b. The exposures that have been associated with RMIs
- c. The symptoms and consequences of injuries caused by repetitive motion

ERGONOMICS (continued)

- d. The importance of reporting symptoms and injuries to the employer
- e. Methods used by the County Office to minimize RMIs

(cf. 4157 /4257/4357 - *Employee Safety*)
(cf. 4157.1/4257.1/4357.1 - *Work-Related Injuries*)

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*

CATASTROPHIC LEAVE

1. An employee who is, or whose family member is, suffering from a catastrophic illness or injury may receive sick leave credits from the catastrophic leave bank.
2. “Catastrophic illness” or “injury” means an illness that is expected to incapacitate the employee for an extended period of time, or that incapacitates a member of the employee’s family which incapacity requires the employee to take time off from work for an extended period of time to care for that family member, and taking extended time off work creates a financial hardship for the employee because he/she has exhausted all of his/her sick leave and other paid time off. (EC 44043.5)
3. Upon requesting donations under the program, the employee shall provide verification of the catastrophic illness or injury. (EC 44043.5)
4. The Superintendent or designee shall determine:
 - a. That the employee is unable to work due to the employee’s or his/her family member’s catastrophic illness or injury, and
 - b. That the employee has exhausted all accrued paid leave credits. (EC 44043.5)
5. When the above verification and determinations are made, the Superintendent or designee may approve the transfer of accrued sick leave credits. (EC 44043.5)
6. The Superintendent or designee shall inform employees of the means by which donations may be made in response to the employee’s request.
7. Any employee, upon written notice to the office, may donate accrued sick leave credits to the requesting employee at a minimum of two hours and a maximum of three work days. All transfers or eligible leave credit shall be irrevocable. (EC 44043.5)
8. To ensure that employees retain sufficient accrued sick leave to meet needs that normally arise, donors shall not reduce their accumulated sick leave to fewer than twenty (20) days.
9. Benefitting employees may use donated leave credits for a maximum of 60 days per year.
10. An employee who receives paid leave pursuant to this program shall use any leave credits that he/she continues to accrue on a monthly basis before receiving paid leave pursuant to this program. (EC 44043.4)
11. The Superintendent or designee shall ensure that all donations are confidential.

TUOLUMNE COUNTY SUPERINTENDENT OF SCHOOLS
Employee Request to Receive Donation of Catastrophic Leave

Employee Name: _____ Date: _____

Position: _____ Work Location: _____

I hereby declare that I have or soon will have exhausted all earned sick leave, vacation leave, and other paid time off and I am requesting catastrophic sick leave for reasons and due to circumstances as follows:

Illness/Injury affects: Self Qualifying Family Member
Spouse _____ Child/Step Child _____
Parent _____ Sibling _____
Other permanent household member _____

Describe the nature of the illness or injury:

Indicate the anticipated duration of this illness or injury:

Describe the nature and extent of the resulting financial hardship should you have to take time off without pay:

I hereby certify that I am unable to work and must take time off due to a catastrophic illness or injury to the above-mentioned family member or myself. I have been given a copy of the Tuolumne County Superintendent of Schools Administrative Regulation and understand the terms and conditions under which I am requesting catastrophic leave. I have attached a letter of verification signed and dated by the treating physician, which indicates the incapacitating nature of the illness or injury and an estimated time that I will be unable to work.

Date: _____

(Signature of Employee or Authorized Representative)

(Print name of Employee or Authorized Representative)

(Print Authorized Representative's relationship to Employee)

OFFICE APPROVAL:

The above request for donation of catastrophic leave is approved as requested and upon authorized donation, catastrophic leave donated shall be made available.

Date (Personnel Director's Signature)

TUOLUMNE COUNTY SUPERINTENDENT OF SCHOOLS

Employee Request to Donate Catastrophic Leave

Employee Name: _____

Date: _____

(Print)

Work

Position: _____

Location: _____

I hereby request to donate sick leave to a Catastrophic Leave Bank to be used due to a catastrophic illness/injury.

- Deduct from my earned sick leave _____ hours (2 hours minimum not to exceed 24 hours)
(Employee may not reduce their earned sick leave below 20 days.)

I fully understand and agree that by exercising my option of donating such accumulated sick leave and/or hours as requested herein that:

1. After my donation my earned sick leave will be at 20 days or greater.
2. I will no longer have any right to any of my donated sick leave at any future time under any circumstances: (a) once the donation is approved by the Office; (b) no matter what the need for current catastrophic leave may prove to be once my donation is approved by the Office.

The Office specifically has not made any statements, representations, nor taken any actions, nor in any way influenced my freely taken decision to donate sick leave as requested. I assume all risks associated with my donation as provided herein and take full responsibility regarding any and all loss of benefits, penalties, liabilities or obligations I may have, if any, for matters including those relating to: State or federal income taxes; State or federal gift taxes; Retirement benefits under STRS or PERS; Social security benefits; Difference pay under Education Code section 4977; Transfer to another educational agency under Education Code sections 44979, 44980 or 44982; Industrial accident leave pursuant to Education Code section 44984; Disability allowances under Education Code section 44986; and any other leaves and/or benefits.

Further, I assume all risks and take full responsibility and otherwise hold the Office harmless for any and all statements, actions and representations made to me regarding the above named employee's need for donated catastrophic leave no matter what the source or its apparent reliability.

Dated: _____

(Signature of Employee Donor)

RETURN TO THE HUMAN RESOURCES DEPARTMENT

AUTHORIZATION:

The above donation of catastrophic leave is

- Approved as requested
- Denied. Will reduce accumulated sick leave to fewer than 20 days.

Date Transfer Posted: _____

By: _____

Human Resources Director

Date

CLASSIFIED PERSONNEL

The Tuolumne County Superintendent of Schools Office shall fill each of its classified positions with qualified persons, consistent with position requirements and collective bargaining agreement.

(cf. 0200 - Goals for the School District)

(cf. 4211 - Recruitment and Selection)

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.

(cf. 4215 - Evaluation/Supervision)

Classification of Employees

The Tuolumne 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)

(cf. 4211 - Recruitment and Selection)

(cf. 4212 - Appointment and Conditions of Employment)

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.

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 Office for the position the employee holds, in accordance with applicable job descriptions and collective bargaining agreements.

(cf. 4141/4241 - Collective Bargaining Agreement)

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 County Office is then engaged in a procedure to hire a permanent employee to fill a vacancy in any classified position, the County Office 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 County Office, 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. Apprentices and professional experts employed on a temporary basis for a specific project regardless of length of employment
3. Full-time students employed part time
4. 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

Persons hired solely for purposes which are exempted from the classified service shall nevertheless fulfill the obligations of classified employees related to physical examinations pursuant to Education Code 45122, fingerprinting pursuant to Education Code 45125, and tuberculosis tests pursuant to Education Code 49406. (Education Code 45106)

(cf. 4112.4/4212.4/4312.4 - Health Examinations)
(cf. 4212 - Appointment and Conditions of Employment)
(cf. 4212.5 - Criminal Record Check)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

APPOINTMENT AND CONDITIONS OF EMPLOYMENT

Upon recommendation of the Superintendent, the Tuolumne County Superintendent of Schools Office 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)

(cf. 4212.5 - Criminal Record Check)

3. Not have been convicted of any sex offense as defined in Education Code 44010 (Education Code 45123)

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

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)

(cf. 3515.5 - Sex Offender Notification)

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 County Office policy (Education Code 45122, 49406)

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

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

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

9. Submit to drug and alcohol testing as required by County Office policy

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

10. Fulfill any other requirements as specified by law, collective bargaining agreement, County Office policy or administrative regulation

APPOINTMENT AND CONDITIONS OF EMPLOYMENT (continued)

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

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)

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

(cf. 4151/4251/4351 - *Employee Compensation*)

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

Regulation
approved: May 30, 2008

TUOLUMNE COUNTY SUPERINTENDENT OF SCHOOLS
Sonora, California

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 Tuolumne County Superintendent of Schools Office program 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 Tuolumne County Superintendent of Schools or designee shall ensure that each person to be employed submits fingerprints through the Live Scan system 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)

(cf. 4212 - Appointment and Conditions of Employment)

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 or 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)

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

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

CRIMINAL RECORD CHECK (continued)

Subsequent Arrest Notification

The County Office shall request subsequent arrest notification from the Department of Justice as provided under Penal Code 11105.2. (Education Code 45125)

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 County Office procedures, unless that employee has received a certificate of rehabilitation and a pardon. (Education Code 45122.1)

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

If the employee challenges the Department of Justice record and the Department of Justice withdraws in writing its notification, the 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>

MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL

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

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

Legal Reference:

EDUCATION CODE

35031 *Term of employment*

45100.5 *Senior management positions*

45104.5 *Abolishment of senior classified management positions*

45108.5 *Definitions of senior classified management employees*

45108.7 *Waiver of provisions of 45108.5*

45128 *Overtime*

45130 *Exclusion from overtime provisions*

45256.5 *Designation of certain positions*

GOVERNMENT CODE

3540.1 *Definitions*

3543.4 *Management position; representation*

3545 *Appropriateness of unit; basis*

COURT DECISIONS

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

MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL

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

1. *Management employees* are those having significant responsibilities for formulating County Office policies or administering County Office programs and who serve in a position which the County Superintendent has designated as a management position.
2. *Supervisory employees* are those who, using independent judgment, have the authority, in the interest of the County Office, to make or effectively recommend:
 - a. Hiring, transfer, suspension, layoff, recall, promotion, discharge, assignment, reward, or discipline
 - b. Assigning work to employees and directing them
 - c. Adjusting employee grievances

(cf. 2220 - Administrative Staff Organization)

3. *Confidential employees* are those who are 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.

Senior Management of the Classified Service

A senior management employee is either a fiscal advisor to the County Superintendent or an employee in the highest position not requiring certification in a principal County Office program area, with County Office-wide responsibility for formulating policy or administering the program. (Education Code 45108.5)

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

CERTIFICATED MANAGEMENT EMPLOYEES

Employees in the Certificated Management classification serve in positions of management and/or supervision. These employees are responsible for planning, supervising, evaluating, and carrying out the stated mission of the Tuolumne County Superintendent of Schools Office.

In general, the rights and guarantees that accrue to the members of the certificated service accrue to the Certificated Management employees, with the following exceptions:

1. Certificated Management employees do not accrue any degree of permanency in their positions.
2. Certificated Management employees serve at the pleasure of the County Superintendent.
3. Certificated Management employees are designated as salaried positions.
4. Certificated Management employees do not enjoy reemployment rights upon dismissal or severance. Certificated Management employees do, however, enjoy reemployment rights to any certificated or classified non-management position, for which they hold seniority due to prior employment with the County Superintendent of Schools Office.
5. Certificated Management employees do not earn vacation. Instead, Certificated Management employees are assigned to a set number of workdays per year.
6. Certificated Management employees are expected to have their work year schedules pre-approved by their County Superintendent.

Legal References:

EDUCATION CODE

1290-1293 Staff

35031 Term of Employment

CLASSIFIED MANAGERS

Employees in the classified service serving in positions of management and/or supervision are Classified Managers. Classified Manager may have responsibility for supervising and evaluating other members of the classified service as assigned and in general carrying out the stated mission of the Tuolumne County Superintendent of Schools Office along with Certificated Managers.

In general, the rights and guarantees that accrue to the members of the classified service accrue to the Classified Managers, with some distinctions:

1. Classified Managers do not accrue any degree of permanency in the positions they occupy.
2. Classified Managers serve at the pleasure of the County Superintendent.
3. Classified Manager positions are designated as salaried positions.
4. Classified Managers do not enjoy reemployment rights as Managers upon dismissal or severance. They do, however, enjoy reemployment rights to any classified or certificated, non-management, position in which they hold seniority due to prior employment with the County Office.
5. Classified Managers do not earn vacation leave. Instead, Classified Managers are assigned to a set number of workdays per year.
6. Classified Managers are expected to have their work year schedules pre-approved by their County Superintendent.

Legal References:

EDUCATION CODE

1310-1319 Classified County School Employers

45100 et seq. Employment

CERTIFICATED MANAGEMENT EMPLOYEES - TERMS OF EMPLOYMENT

1. In accordance with Education Code 1293, the Tuolumne County Superintendent of Schools may appoint a certificated management employee for a period not to exceed the end of the school year in which the term for which the county superintendent of schools was elected or appointed expires and in no event, for more than four years and six months.
2. Certificated management employees do not accrue any degree of permanency in their assignments.
3. Certificated management employees serve at the pleasure of the County Superintendent.
4. If the County Superintendent does not wish to reelect a certificated management employee for another term, the County Superintendent must provide the certificated management employee with written notice of such fact, in accordance with Education Code 35031, at least 45 calendar days prior to the expiration of his or her term.
5. If the County Superintendent fails to provide such written notice to a certificated management employee at least 45 calendar days prior to the expiration of his or her term, the certificated management employee shall be reelected for a term of the same length as the one completed.

Legal References:

EDUCATION CODE

1290-1293 Staff

35031 Term of Employment

CLASSIFIED MANAGEMENT EMPLOYEES - TERMS OF EMPLOYMENT

1. In accordance with Education Code 1310 et seq., the Tuolumne County Superintendent of Schools may appoint a classified management employee for a period not to exceed the end of the school year in which the term for which the County Superintendent was elected or appointed expires and in no event, for more than four years and six months.
2. Classified management employees do not accrue any degree of permanency in their assignments.
3. Classified management employees serve at the pleasure of the County Superintendent.
4. If the County Superintendent does not wish to reelect a classified management employee for another term, the County Superintendent must provide the classified management employee with written notice of such fact, in accordance with Education Code 35031, at least 45 calendar days prior to the expiration of his/her term.
5. If the County Superintendent fails to provide such written notice to a classified management employee at least 45 calendar days prior to the expiration of his/her term, the classified management employee shall be reelected for a term of the same length as the one completed.

Legal References:

EDUCATION CODE

*1310-1319 Classified County School Employers
45100 et seq. Employment*

HOURS OF EMPLOYMENT FOR CERTIFICATED MANAGEMENT EMPLOYEES

Certificated Management Employees Are Salaried Employees.

A "workday" shall consist of any day in which a certificated employee is expected to perform his or her duties. Certificated management employees are not permitted to work alternate days in lieu of their regular schedule without the prior approval of the Tuolumne County Superintendent of Schools or designee. Certificated management employees are also not permitted to accumulate hours over various days to substitute for a regular workday without the prior approval of the County Superintendent. If a certificated management employee elects to attend a conference that requires him or her to travel on a non-work day, the certificated management employee may not count this day as a workday without the prior approval of the County Superintendent or designee.

No certificated management employee has the authority to work beyond his or her contracted work year without the prior approval of the Superintendent or designee except in the case of an emergency.

The school year for certificated management employees shall begin on July 1 and end on June 30.

Certificated management employees are expected to gain prior approval of their schedule for the school year. The County Superintendent expects certificated management employees to arrange their schedule so that non-work day periods coordinate with the needs of the Tuolumne County Superintendent of Schools Office.

Legal References:

EDUCATION CODE
1290-1292 Staff

HOURS OF EMPLOYMENT FOR CLASSIFIED MANAGEMENT EMPLOYEES

Classified Management Employees Are Salaried Employees.

A "workday" shall consist of any day in which a classified employee is expected to perform his or her duties. Classified management employees are not permitted to work alternate days in lieu of their regular schedule without the prior approval of the Tuolumne County Superintendent of Schools or designee. Classified management employees are also not permitted to accumulate hours over various days to substitute for a regular workday without the prior approval of the County Superintendent. If a classified management employee elects to attend a conference that requires him or her to travel on a non-work day, the classified employee may not count this day as a workday without the prior approval of the County Superintendent or designee.

No classified management employee has the authority to work beyond his or her contracted work year without the prior approval of the County Superintendent or his or her designee except in the case of an emergency.

The school year for classified management employees shall begin on July 1 and end on June 30.

Classified management employees are expected to gain prior approval of their schedule for the school year. The County Superintendent expects classified management employees to arrange their schedule so that non-work day periods coordinate with the needs of the Tuolumne County Superintendent of Schools Office.

Legal References:

EDUCATION CODE

44048 Weekend classes

45127 Workweek

45128 Overtime

45132 Four consecutive day workweek

PROMOTION/DEMOTION/REASSIGNMENT

The Tuolumne County Superintendent of Schools may promote, demote, and reassign management and confidential employees when such action is determined to be in the best interest of the Tuolumne County Superintendent of Schools Office.

The County Superintendent or designee shall ensure that the County Office complies with all applicable statutory deadlines and due process procedures.

(cf. 4317.3 - Personnel Reduction)

Legal Reference:

EDUCATION CODE

35031 Senior management employee in the classified service: nonreelection

44660-44665 Evaluation and assessment of performance of certificated employees

44850.1 No tenure in administrative or supervisory positions

44896 Transfer of administrator or supervisor to teaching position

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

45101 Definitions (including disciplinary action, cause)

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

COURT DECISIONS

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

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

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

EVALUATION/SUPERVISION

Certificated Management

The Tuolumne County Superintendent of Schools shall establish and define job responsibilities for administrative personnel. The evaluation and assessment of the competency of administrative personnel shall be based on:

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

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

Each administrator shall be evaluated formally at least once every other school year. Administrators 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 administrator, the administrator's immediate supervisor or any higher supervisor.

Formal management evaluations shall be recorded in writing on a form prescribed by the County Superintendent or designee. The evaluation shall include recommendations for improvement if needed.

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

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

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

EVALUATION/SUPERVISION (continued)

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

Classified Management Employees

Classified management personnel will be evaluated according to the procedures developed by the Superintendent or designee. The evaluation shall include recommendations for improvement if needed.

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

Confidential Personnel

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

Legal Reference:

EDUCATION CODE

33039 State guidelines for teacher evaluation procedures

35171 Availability of rules and regulations for evaluation of performance

44660-44665 Evaluation and assessment of performance of certificated employees

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

GOVERNMENT CODE

3543.2 Scope of representation (re evaluation procedures)

PERSONNEL REDUCTION

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

Certificated Management

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

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

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

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

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

Classified Management/Confidential Employees

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

PERSONNEL REDUCTION (continued)

(cf. 4217.3 - Layoff/Rehire)

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

Senior Management of the Classified Service

The County Superintendent may 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 the employee had not been in a senior management position. (Education Code 45104.5)

Legal Reference:

EDUCATION CODE

44951 Continuation in position unless notified

44955 Certificated employee layoff

44955.5 Termination of certificated employees; insufficient increase in revenue limits

44956 Reemployment rights of laid-off certificated employees

44956.5 Seniority of certificated administrators

45100.5 Senior management positions

45104.5 Abolition of position

45108.5 Senior management employee

45114 Layoff and reemployment procedures

45117 Notice of layoff

45298 Reemployment and promotional exam

45308 Order of layoff and reemployment

EMPLOYEE SECURITY

The Tuolumne County Superintendent of Schools Office desires to provide a safe, orderly working environment for all employees. As part of the County Office comprehensive school safety plan, the Tuolumne County Superintendent of Schools 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.

(cf. 0450 - Comprehensive Safety Plan)

(cf. 3515 - Campus Security)

(cf. 5131.4 - Student Disturbances)

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, the County Superintendent 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 County Superintendent 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.

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

Reporting of Injurious Objects

The County Superintendent requires all employees to take immediate action upon being made aware that any person is in possession of an injurious object on Office or 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 principal/program administrator immediately
2. Immediately notify the principal/program administrator, who shall take appropriate action
3. Immediately notify the local law enforcement agency and the principal/program administrator

EMPLOYEE SECURITY (continued)

(cf. 5131.7 - Weapons and Dangerous Instruments)
(cf. 5144. - Discipline)
(cf. 5144.1 - Suspension and Expulsion/Due Process)
(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

When informing the principal/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:

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*

Legal Reference continued: (see next page)

EMPLOYEE SECURITY (continued)

Legal Reference: (continued)

WELFARE AND INSTITUTIONS CODE

827 *Juvenile court proceedings; reports; confidentiality*

828.1 *District police or security department, disclosure of juvenile records*

Management Resources:

CDE CORRESPONDENCE

0401.01 *Protecting Student Identification in Reporting Injurious Objects*

WEB SITES

CDE, Safe Schools and Violence Prevention Office: <http://www.cde.ca.gov/spbranch/safety/safetyhome>

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