CERTIFICATED PERSONNEL

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

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

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

The Board 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
44006 Certificated person
GOVERNMENT CODE
3543.2 Scope of representation

RECRUITMENT AND SELECTION

Cautionary Notice: As added and amended by SBX3 4 (Ch. 12, Third Extraordinary Session, Statutes of 2009) and ABX4 2 (Ch. 2, Fourth Extraordinary Session, Statutes of 2009), Education Code 42605 grants districts flexibility in "Tier 3" categorical programs. The Chualar Union Elementary School District has accepted this flexibility and thus is deemed in compliance with the statutory or regulatory program and funding requirements for these programs for the 2008-09 though 2012-2013 fiscal years. As a result, the district may temporarily suspend certain provisions of the following policy or regulation that reflect these requirements. For further information, please contact the Superintendent/Principal or designee.

The Board of Trustees desires to employ the most highly qualified and appropriate person available for each open position in order to improve student achievement and efficiency in district operations.

(cf. 4000 - Concepts and Roles)
(cf. 4100 - Certificated Personnel)
(cf. 4200 - Classified Personnel)
(cf. 4300 - Administrative and Supervisory Personnel)

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

The Superintendent/Principal 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 Superintendent/Principal or designee shall present to the Board one candidate who meets all qualifications established by law and the Board for the position. No person shall be employed by the Board without the recommendation or endorsement of the Superintendent/Principal or designee.

RECRUITMENT AND SELECTION (continued)

(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:

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

LEGAL STATUS REQUIREMENT

The Board of Trustees shall ensure that the district employs only those individuals who are lawfully authorized to work in the United States.

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

In accordance with law, the Superintendent/Principal or designee shall ensure that district 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)

Legal Reference:

UNITED STATES CODE, TITLE 8
1324a Unlawful employment of aliens
1324b Unfair immigrant-related employment practices
CODE OF FEDERAL REGULATIONS, TITLE 8
274a.1-274a.14 Control of Employment of Aliens

Management Resources:

U.S. CITIZENSHIP AND IMMIGRATION SERVICES PUBLICATIONS
Handbook for Employers: Instructions for Completing Form I-9, April 2009
WEB SITES
U.S. Citizenship and Immigration Services: http://www.uscis.gov

LEGAL STATUS REQUIREMENT

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

(cf. 4030 - Nondiscrimination in Employment)
(cf. 4032 - Reasonable Accommodation)

The Superintendent/Principal or designee shall: (8 CFR 274a.2)

1. Ensure that the documents presented appear to be genuine and relate to the individual

2. Complete the "Employer Review and Verification" section and sign the attestation with a handwritten signature or electronic signature on Form I-9

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

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

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

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

(cf. 3580 - District Records)

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

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

APPOINTMENT AND CONDITIONS OF EMPLOYMENT

Upon recommendation from the Superintendent/Principal or designee, the Board of Trustees shall approve the appointment of all certificated personnel. The position and the salary classification shall be reported to the Board at a regular meeting.

(cf. 4111 - Recruitment and Selection)
(cf. 4121 - Temporary/Substitute Personnel)

Individuals appointed to the certificated staff shall:

1. Possess the appropriate certification qualifications and register the certification document in accordance with law and Board policy (Education Code 44250-44279, 44330)

(cf. 4112.2 - Certification)
(cf. 4112.21 - Interns)

2. Demonstrate proficiency in basic skills as required by law and Board policy (Education Code 44252.5, 44830)

3. When required by the federal No Child Left Behind Act for teachers of core academic subjects, possess the qualifications of "highly qualified" teachers as defined in law, Board policy and administrative regulations (20 USC 6319)

(cf. 4112.24 - Teacher Qualifications Under the No Child Left Behind Act)
(cf. 6171 - Title I Programs)

4. Submit to fingerprinting as required by law (Education Code 44830.1)

5. Not have been convicted of a violent or serious felony as defined in Penal Code 667.5 or 1192.7, unless the individual has received a certificate of rehabilitation and pardon (Education Code 44830.1)

(cf. 4112.5/4312.5 - Criminal Record Check)
(cf. 4118 - Suspension/Disciplinary Action)

6. Not have been convicted of any sex offense as defined in Education Code 44010 (Education Code 44836)

7. Not have been required to register as a sex offender pursuant to Penal Code 290 because of a conviction for a crime where the victim was a minor under the age of 16 (Penal Code 290.95)

(cf. 3515.5 - Sex Offender Notification)

8. Not have been determined to be a sexual psychopath pursuant to Welfare and Institutions Code 6300-6332 (Education Code 44837)

APPOINTMENT AND CONDITIONS OF EMPLOYMENT (continued)

9. Not have been convicted of any controlled substance offense as defined in Education Code 44011 (Education Code 44836)

10. Submit to a physical examination, tuberculosis testing and/or provide a medical certificate as required by law and Board policy (Education Code 44839, 49406)

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

11. Furnish a statement of military service and, if any was rendered, a copy of the discharge or release from service or, if no such document is available, other suitable evidence of the termination of service (Education Code 44838)

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

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

13. Fulfill any other requirements as specified by law, collective bargaining agreement, Board policy or administrative regulation

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

Legal Reference: (see next page)

Legal Reference:

EDUCATION CODE
35161 Powers and duties
44008 Effect of termination of probation
44009 Conviction of specified crimes; definitions
44010 Sex offense
44011 Controlled substance offense
44066 Limitation on certification requirements
44250-44277 Credential types
44330 Effect of registration of certification document
44830.1 Felons; certificated positions; criminal record summary; fingerprints
44836 Employment of person convicted of sex offenses or controlled substance offenses
44837 Employment of sexual sociopath
44838 Statement of military service
44839 Medical certificate
44839.5 Medical certificate for retirant
49406 Examination for tuberculosis
GOVERNMENT CODE
3100-3109 Oaths or affirmations of allegiance for disaster service workers and public employees
12940-12950 Unlawful employment practices
PENAL CODE
290 Registration of sex offenders
290.95 Disclosure by persons required to register as sex offenders
667.5 Prior prison terms, enhancement of prison terms
1192.7 Plea bargaining limitation
WELFARE AND INSTITUTIONS CODE
6300-6332 Sexual psychopaths
CODE OF REGULATIONS, TITLE 5
6100-6125 Teacher qualifications, No Child Left Behind Act
UNITED STATES CODE, TITLE 20
6319 Highly qualified teachers
7801 Definitions, highly qualified teacher
CODE OF FEDERAL REGULATIONS, TITLE 34
200.55-200.57 Highly qualified teachers

CONTRACTS

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

(cf. 4121 - Temporary/Substitute Personnel)

Reemployment Notices

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

(cf. 4113 - Assignment)
(cf. 4117.2/4217.2/4317.2 - Resignation)
(cf. 4117.4 - Dismissal)
(cf. 9122 - Secretary)

By April 30 of each year, the clerk or secretary of the Board may give, or mail by certified mail with return receipt requested, written notices to certificated employees of a year-round school who are serving in a track that starts within 14 days of July 1 requesting that they notify the district of their intent to remain in district service for the next school year. This notice shall include a copy of Education Code 44842. If an employee, without good cause, fails to notify the district before June 1 that he/she will remain in district service, the employee may be deemed to have declined reemployment and the employee's services may be terminated on June 30 of that year. An employee who gives notice of resignation after May 31 but before June 30 shall be released from his/her contract within 30 days of the employee's notice, or as soon as a replacement employee is obtained, whichever occurs first. (Education Code 44842)

Employee Notification

By May 15 of each year, each classroom teacher shall notify the Superintendent/Principal 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 district of his/her intent to remain in service the following year in accordance with law, Board policy and administrative regulation.

(cf. 4161/4261/4361 - Leaves)
Legal Reference: (see next page)

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

Cautionary Notice: As added and amended by SBX3 4 (Ch. 12, Third Extraordinary Session, Statutes of 2009) and ABX4 2 (Ch. 2, Fourth Extraordinary Session, Statutes of 2009), Education Code 42605 grants districts flexibility in "Tier 3" categorical programs. The Chualar Union Elementary School District has accepted this flexibility and thus is deemed in compliance with the statutory or regulatory program and funding requirements for these programs for the 2008-09 though 2012-2013 fiscal years. As a result, the district may temporarily suspend certain provisions of the following policy or regulation that reflect these requirements. For further information, please contact the Superintendent/Principal or designee.

The Board of Trustees recognizes that the district's ability to provide a high-quality educational program is dependent upon the employment of certificated staff who are adequately prepared and have demonstrated proficiency in basic skills and in the subject matter to be taught. The Superintendent/Principal 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. 4111/4211/4311 - Recruitment and Selection)
(cf. 4112.21 - Interns)
(cf. 4112.22 - Staff Teaching Students of Limited English Proficiency)
(cf. 4112.23 - Special Education Staff)
(cf. 4112.5/4312.5 - Criminal Record Check)
(cf. 4113 - Assignment)
(cf. 4121 - Temporary/Substitute Personnel)
(cf. 5148 - Child Care and Development)
(cf. 6178 - Career Technical Education)
(cf. 6178.2 - Regional Occupational Center/Program)
(cf. 6200 - Adult Education)

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)

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

When requesting a PIP, the Board shall approve, as an action item at a public Board meeting, a notice of intent to employ the applicant in the identified position. (5 CCR 80021.1)

Before requesting a visiting faculty permit or emergency permit, the Board shall annually approve a Declaration of Need for Fully Qualified Educators as an action item at a regularly scheduled public Board meeting. (Education Code 44300.1; 5 CCR 80026)

CERTIFICATION (continued)

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

(cf. 4131 - Staff Development)
(cf. 4131.1 - Beginning Teacher Support/Induction)
(cf. 4138 - Mentor Teachers)

National Board for Professional Teaching Standards Certification

The Board encourages district teachers to voluntarily seek additional certification from the National Board for Professional Teaching Standards which demonstrates advanced knowledge and teaching skills.

The Superintendent/Principal or designee shall inform all teachers about the program and how to acquire the necessary application and information materials. The Superintendent/Principal or designee may provide release time, fee support, a stipend upon completion, or other support to teachers participating in the program contingent upon funding.

(cf. 4161.3 - Professional Leaves)

Legal Reference: (see next page)

Legal Reference:

EDUCATION CODE
8360-8370 Qualifications of child care personnel
32340-32341 Unlawful issuance of a credential
35186 Complaints regarding teacher vacancy or misassignment
41520-41522 Teacher Credentialing Block Grant
42647 Eligibility to issue warrants
44066 Limitations on certification requirements
44200-44399 Teacher credentialing, especially:
44250-44277 Credential types; minimum requirements
44279.1-44279.7 Beginning Teacher Support and Assessment Program
44300-44302 Emergency permits and visiting faculty permits
44320.2 Teachers' performance assessment
44325-44328 District interns
44330-44355 Certificates and credentials
44380-44387 Alternative certification program
44395-44399 National Board for Professional Teaching Standards
44420-44440 Revocation and suspension of credentials
44450-44468 University internship program
44560-44562 Certificated Staff Mentoring Program
44735 Teaching as a Priority Block Grant
44830-44929 Employment of certificated persons; requirement of proficiency in basic skills
56060-56063 Substitute teachers in special education
CODE OF REGULATIONS, TITLE 5
6100-6125 Teacher qualifications, No Child Left Behind Act
80001-80674.6 Commission on Teacher Credentialing
UNITED STATES CODE, TITLE 20
6311 Parental notifications
6312 Title I local educational agency plan
6319 Highly qualified teachers
7801 Definitions, highly qualified teacher
CODE OF FEDERAL REGULATIONS, TITLE 34
200.55-200.57 Highly qualified teachers
200.61 Parent notification regarding teacher qualifications
COURT DECISIONS
Association of Mexican-American Educators et al. v. State of California and the Commission on Teacher Credentialing, (1993) 836 F.Supp. 1534

Management Resources: (see next page)

Management Resources:

COMMISSION ON TEACHER CREDENTIALING CODED CORRESPONDENCE
08-11 Approval of Amendments to Title 5 Regulations Pertaining to Multiple Subject, Single Subject or Education Specialist Short-Term Staff Permit, July 18, 2008
08-09 New Online Credential View and Print Process, July 3, 2008
07-23 Visiting Faculty Permit, December 14, 2007
07-19 Designated Subjects Career Technical Education Teaching Credential, December 14, 2007
COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS
Teacher Supply in California: A Report to the Legislature, April 2008
Standards of Quality and Effectiveness for Professional Teacher Induction Programs, June 2008
The Administrator's Assignment Manual, rev. September 2007
Standards of Quality and Effectiveness for Professional Teacher Preparation Programs, rev. March 2007
California Standards for the Teaching Profession, July 1997
U.S. DEPARTMENT OF EDUCATION GUIDANCE
Improving Teacher Quality State Grants, rev. October 5, 2006
WEB SITES
CSBA: http://www.csba.org
California Department of Education: http://www.cde.ca.gov
California Teacher Credentialing Examinations: http://www.ctcexams.nesinc.com
Commission on Teacher Credentialing: http://www.ctc.ca.gov
Commission on Teacher Credentialing, Commission's Information Guide (for employers' use only): http://www.ctc.ca.gov/credentials/cig
National Board for Professional Teaching Standards: http://www.nbpts.org
U.S. Department of Education: http://www.ed.gov

CERTIFICATION

Registration

Each person employed by the district for a position requiring certification qualifications shall, within 60 days after beginning employment, register with the county office of education a valid credential issued by the Commission on Teacher Credentialing (CTC) authorizing the person to work in that position. Certificated employees also shall register renewed credentials within 60 days after the renewal. (Education Code 44330, 44857)

Basic Skills Proficiency Test

The district shall not initially hire on a permanent, temporary, or substitute basis a certificated person seeking employment in the capacity designated in his/her credential unless that person has passed the California Basic Educational Skills Test (CBEST) in reading, writing, and mathematics or is specifically exempted from the requirement by law. (Education Code 44252, 44252.6, 44830)

(cf. 4112.22 - Staff Teaching Students of Limited English Proficiency)
(cf. 4112.23 - Special Education Staff)
(cf. 4112.24 - Teacher Qualifications Under the No Child Left Behind Act)
(cf. 4121 - Temporary/Substitute Personnel)
(cf. 5148 - Child Care and Development)
(cf. 6178 - Career Technical Education)
(cf. 6178.2 - Regional Occupational Center/Program)
(cf. 6200 - Adult Education)

The district may hire a certificated teacher who has not taken the CBEST if he/she has not yet been afforded the opportunity to take the test. The employee shall take the test at the earliest opportunity and may remain employed by the district pending the receipt of his/her test results. (Education Code 44830)

An out-of-state prepared teacher shall complete the CBEST requirement within one year of being issued a California preliminary credential by the CTC unless he/she has completed a basic skills proficiency test in another state or is otherwise exempted by law. An out-of-state prepared teacher applying to the CTC for a one-year nonrenewable credential pending completion of the CBEST requirement shall pass the district's basic skills proficiency test which is at least equivalent to the district test required for high school graduation. (Education Code 44252, 44274.2)

(cf. 6146.1 - High School Graduation Requirements)
(cf. 6146.2 - Certificate of Proficiency)
(cf. 6162.5 - High School Exit Examination)

A person holding or applying for a designated subjects special subjects credential which does not require possession of a bachelor's degree shall pass the district proficiency test in lieu of the CBEST. (Education Code 44252, 44830)

The district shall charge a fee to cover the costs of developing, administering, and grading the district proficiency test.

Short-Term Staff Permit

The district may request that the CTC issue a short-term staff permit (STSP) to an applicant who meets the qualifications specified in 5 CCR 80021 whenever there is a need to immediately fill a classroom based on an acute staffing need, including, but not limited to, the following circumstances: (5 CCR 80021)

1. Enrollment adjustments require the addition of another teacher.

2. The teacher of record is unable to finish the school year due to approved leave or illness.

3. The applicant needs additional time to complete preservice requirements for enrollment into an approved internship program.

(cf. 4112.21 - Interns)

4. The applicant is unable to enroll in an approved internship program due to timelines or lack of space in the program.

5. A third-year extension of an internship program is unavailable or the applicant has withdrawn from an internship program.

When requesting issuance of an STSP, the district shall submit to the CTC: (5 CCR 80021)

1. Verification that it has conducted a local recruitment for the permit being requested

2. Verification that it has provided the permit holder with orientation to the curriculum and to instruction and classroom management techniques and has assigned a mentor teacher for the term of the permit

(cf. 4131 - Staff Development)

3. Written justification for the permit signed by the Superintendent/Principal or designee

The holder of an STSP may be assigned to provide the same service as a holder of a multiple subject, single subject, or education specialist credential in accordance with the authorizations specified on the permit. (5 CCR 80021)

Provisional Internship Permit

The district may request that the CTC issue a provisional internship permit (PIP) 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. The district shall verify all of the following: (5 CCR 80021.1, 80026.5)

1. A diligent search has been conducted for a suitable credentialed teacher or suitable qualified intern as evidenced by documentation of the search.

The search shall include, but not be limited to, distributing job announcements, contacting college and university placement centers, and advertising in print or electronic media.

(cf. 4111/4211/4311 - Recruitment and Selection)

2. Orientation, guidance, and assistance shall be provided to the permit holder as specified in 5 CCR 80026.5.

The orientation shall include, but not be limited to, an overview of the curriculum the permit holder is expected to teach and effective instruction and classroom management techniques at the permit holder's assigned level. The Superintendent/Principal or designee shall assign an experienced educator to guide and assist each permit holder.

3. The district shall assist the permit holder in developing a personalized plan through a district-selected assessment that would lead to subject-matter competence related to the permit.

4. The district shall assist the permit holder to seek and enroll in subject-matter training, such as workshops or seminars and site-based courses, along with training in test-taking strategies, and shall assist the permit holder in meeting the credential subject-matter competence requirement related to the permit.

5. A notice of intent to employ the applicant in the identified position has been made public.

   The district shall submit a copy of the agenda item presented at a public Board of Trustees meeting which shall state the name of the applicant, the assignment in which the applicant will be employed including the subject(s) and grade(s) that he/she will be teaching, and that the applicant will be employed on the basis of a PIP. The district also shall submit a signed statement from the Superintendent/Principal or designee that the agenda item was acted upon favorably.

6. The candidate has been apprised of steps to earn a credential and enroll in an internship program.

The holder of a PIP may be assigned to provide the same service as a holder of a multiple subject, single subject, or education specialist credential in accordance with the authorizations specified on the permit. (5 CCR 80021.1)

Visiting Faculty Permits

The district may request that the CTC issue a visiting faculty permit authorizing an individual to teach in departmentalized classes if he/she has at least three years full-time teaching experience at an accredited postsecondary institution, possesses a master's degree in a subject area closely related to the subject he/she proposes to teach, and meets other qualifications specified in law. In such cases, the district shall provide the CTC with both of the following: (Education Code 44300.1)

1. Annual documentation that the district has implemented a process for conducting a diligent search that includes, but is not limited to, distributing job announcements, contacting college and university placement centers, advertising in local newspapers, and participating in job fairs in California, but has been unable to recruit a sufficient number of certificated teachers to teach the subject matter that the visiting faculty member proposes to teach

2. The Board-adopted Declaration of Need for Fully Qualified Educators based on the documentation set forth in item #1

Credential Waiver/"Long-Term Substitute" Emergency Permits

If the district is unable to place a teacher who has completed a teacher preparation program, the district shall make reasonable efforts to recruit an individual for the assignment in the following order: (Education Code 44225.7)

1. A candidate who is qualified to participate in and enrolls in an approved internship program in the region of the district

2. A candidate who is scheduled to complete preliminary credential requirements within six months and who is provided orientation, guidance, and assistance by the district

If an individual who meets the criteria specified in item #1 or 2 above is not available to the district, the district may, as a last resort, request from the CTC a credential waiver or an emergency permit for the assignment of an individual who does not meet those criteria. (Education Code 44225.7; 5 CCR 80023, 80026)

The district may request an emergency permit authorizing resource specialist, Crosscultural, Language and Academic Development (CLAD), Bilingual, Crosscultural, Language and Academic Development (BCLAD), or library media services.

In order to request an emergency permit, the district shall annually submit the Board-approved Declaration of Need for Fully Qualified Educators on a form provided by the CTC, including certification that the district has made reasonable efforts to recruit a fully prepared teacher for the assignment. (Education Code 44225.7; 5 CCR 80023, 80026)

The Superintendent/Principal or designee shall provide any first-time recipient of an emergency teaching permit with an orientation to teaching which shall, to the extent reasonably feasible, occur before he/she begins a teaching assignment. The orientation shall include, but not be limited to, the curriculum the teacher is expected to teach and effective techniques of classroom instruction at the assigned grade-level span. The emergency permit holder also shall receive guidance and assistance from an experienced educator who is a certificated district employee or a certificated retiree from a California district or county office of education and who has completed at least three years of full-time classroom teaching experience. (5 CCR 80026.5)

(cf. 4117.14/4317.14 - Postretirement Employment)

Emergency Substitute Teaching Permits

The district may employ for day-to-day substitute teaching, at any grade level, a person with an emergency substitute permit issued by the CTC with the following restrictions:

1. A person holding an emergency 30-day substitute permit, or any valid teaching or services credential that requires at least a bachelor's degree and completion of the CBEST, shall not serve as a substitute for more than 30 days for any one teacher during the school year. He/she shall not serve as a substitute in a special education classroom for more than 20 days for any one teacher during the school year. (5 CCR 80025, 80025.3, 80025.4)

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 year and not more than 90 days total during the school year. (5 CCR 80025.2)

CERTIFICATION (continued)

4. A person with an emergency substitute permit for career technical education shall teach only in a program of technical, trade, or vocational education and not serve as a substitute for more than 30 days for any one teacher during the school year. (5 CCR 80025.5)

Before employing a person with an emergency substitute permit pursuant to item #1 or 4 above, the Superintendent/Principal or designee shall prepare and keep on file a signed Statement of Need for the school year. 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 district's specified employment criteria. (5 CCR 80025, 80025.5)

INTERNS

Cautionary Notice: As added and amended by SBX3 4 (Ch. 12, Third Extraordinary Session, Statutes of 2009) and ABX4 2 (Ch. 2, Fourth Extraordinary Session, Statutes of 2009), Education Code 42605 grants districts flexibility in "Tier 3" categorical programs. The Chualar Union Elementary School District has accepted this flexibility and thus is deemed in compliance with the statutory or regulatory program and funding requirements for these programs for the 2008-09 though 2012-2013 fiscal years. As a result, the district may temporarily suspend certain provisions of the following policy or regulation that reflect these requirements. For further information, please contact the Superintendent/Principal or designee.

The Board of Trustees may employ interns to fulfill the district's need for additional instructional resources and to assist future teachers in meeting state credentialing requirements by linking teaching theory with practice.

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

(cf. 4111/4211/4311 - Recruitment and Selection)

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

(cf. 4112.2 - Certification)
(cf. 4112.22 - Staff Teaching Students of Limited English Proficiency)
(cf. 4112.23 - Special Education Staff)

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

(cf. 4113 - Assignment)

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

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

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

(cf. 4116 - Probationary/Permanent Status)
(cf. 4141/4241 - Collective Bargaining Agreement)

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

(cf. 4131 - Staff Development)
(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 Board policy and the district's collective bargaining agreement.

(cf. 4115 - Evaluation/Supervision)

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

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

(cf. 0500 - Accountability)

Legal Reference: (see next page)

Legal Reference:

EDUCATION CODE
300-340 English language education for immigrant children
44253.3-44253.4 Certificate to provide services to limited-English-proficient students
44253.10 Qualifications to provide specially designed academic instruction in English
44259 Minimum requirements for teaching credential
44314 Diversified or liberal arts program
44321 CTC approval of internship programs
44325-44328 District interns
44339-44341 Teacher fitness
44380-44387 Alternative certification program; increased funding for internship programs
44450-44468 Teacher Education Internship Act of 1967 (university interns)
44560-44562 Certificated Staff Mentoring Program
44830.3 Employing district interns
44885.5 District interns classified as probationary employees
52055.605 Identification of high priority schools, High Priority Schools Grant Program
CODE OF REGULATIONS, TITLE 5
6100-6126 No Child Left Behind teacher requirements
13000-13017 New Careers Program
80021.1 Provisional internship permit
80055 Internship credential
UNITED STATES CODE, TITLE 20
6319 Highly qualified teachers
7801 Definitions, highly qualified teacher

Management Resources:

COMMISSION ON TEACHER CREDENTIALING CORRESPONDENCE
08-03 Preparation of Intern Credential Holders Prior to Service as Teacher of Record as an Intern, March 3, 2008
03-0028 Changes in District Intern Programs as a Result of Senate Bill 187, December 22, 2003
Implementation of SB 57, Early Completion Internship Option, March 10, 2003
COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS
Administrator's Assignment Manual, 2008
CTC Credential Handbook, revised 1997
California Standards for the Teaching Profession, 1997
Standards of Quality and Effectiveness for Teacher Preparation Programs for Preliminary Multiple and Single Subject Teaching Credentials (including internship programs), rev. April 2008
Standards of Quality and Effectiveness for Education Specialist Credential Programs (Including University Internship Options) and Clinical Rehabilitative Services Credential Programs, December 1996
U.S. DEPARTMENT OF EDUCATION GUIDANCE
Improving Teacher Quality State Grants, rev. January 16, 2004
WEB SITES
CSBA: http://www.csba.org
Commission on Teacher Credentialing: http://www.ctc.ca.gov

INTERNS

Cautionary Notice: As added and amended by SBX3 4 (Ch. 12, Third Extraordinary Session, Statutes of 2009) and ABX4 2 (Ch. 2, Fourth Extraordinary Session, Statutes of 2009), Education Code 42605 grants districts flexibility in "Tier 3" categorical programs. The Chualar Union Elementary School District has accepted this flexibility and thus is deemed in compliance with the statutory or regulatory program and funding requirements for these programs for the 2008-09 though 2012-2013 fiscal years. As a result, the district may temporarily suspend certain provisions of the following policy or regulation that reflect these requirements. For further information, please contact the Superintendent/Principal or designee.

University Internship Program

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

(cf. 4112.2 - Certification)

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

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

(cf. 4151/4251 - Employee Compensation)

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

(cf. 4115 - Evaluation/Supervision)
(cf. 4131 - Staff Development)

Early Completion Option

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

1. Passing the CTC-approved assessment of knowledge of teaching foundations

2. Passing the CTC-approved Teaching Performance Assessment (TPA)

   a. The intern shall first pass the assessment of teaching foundations described in item #1 before qualifying to take the TPA.

   b. The intern may take the TPA only one time as part of the early completion option. An intern who is not successful on the TPA may complete his/her internship program and his/her scores shall be used to provide an individualized professional development plan that emphasizes preparation in areas where additional growth is warranted and waiving preparation in areas where the intern has demonstrated competence. The intern shall be required to retake and pass the TPA at the end of the internship in order to be considered for recommendation to the CTC.

3. For interns pursuing a preliminary multiple subjects credential, passing the reading instruction competence assessment described in Education Code 44283

4. Meeting the requirements for teacher fitness as set forth in Education Code 44339, 44340, and 44341

Alternative Certification Program for Addressing Teacher Shortages

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

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

Enhanced Internship Program

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

1. Provide interns, before they provide instructional services, with the greater of the following:

a. 120 hours of intensive preservice training focused on the teaching of English language learners

b. 40 hours of preservice training in addition to all other required training, including, but not limited to, training related to services for English language learners pursuant to Education Code 44253.3, 44253.4, and 44253.10

2. Provide all teacher interns with 40 hours of classroom observation, supervision, assistance, and assessment by one or more experienced teachers who possess valid certification to teach the same grade level and the same subject matter and who are employed by the district and assigned to assist the interns

(cf. 4138 - Mentor Teachers)

3. Maintain a ratio of one experienced teacher to no more than five

STAFF TEACHING STUDENTS OF LIMITED ENGLISH PROFICIENCY

Definitions

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

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

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

Teacher Qualifications

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

(cf. 1312.4 - Williams Uniform Complaint Procedures)
(cf. 4112.2 - Certification)
(cf. 4112.21 - Interns)
(cf. 4112.24 - Teacher Qualifications Under the No Child Left Behind Act)
(cf. 4113 - Assignment)
(cf. 4222 - Teacher Aides/Paraprofessionals)
(cf. 6174 - Education for English Language Learners)

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

(cf. 4131 - Staff Development)

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

Legal Reference: (see next page)

Legal Reference:

EDUCATION CODE
44253.1-44253.11 Certification for bilingual-crosscultural competence
44258.9 County superintendent review of teacher assignment
44259.5 Standards for teachers of all students, including English language learners
44380-44386 Alternative certification
52052 Adequate yearly progress
52160-52178 Bilingual-Bicultural Act of 1976
52180-52186 Bilingual teacher training assistance program
62001-62005. 5 Evaluation and sunsetting of programs
99230-99242 Mathematics and Reading Professional Development Program
CODE OF REGULATIONS, TITLE 5
6100-6125 Teacher qualifications, No Child Left Behind Act
80016 Certificate of completion of staff development to teach English learners
UNITED STATES CODE, TITLE 20
6319 Highly qualified teachers
6601-6651 Training and recruiting high-quality teachers
6801-7014 Language instruction for English learners and immigrant students
7801 Definitions, highly qualified teacher
CODE OF FEDERAL REGULATIONS, TITLE 34
200.55-200.57 Highly qualified teachers
COURT DECISIONS
Teresa P. et al v. Berkeley Unified School District et al (1989) 724 F.Supp. 698

Management Resources:

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS
Languages Other than English Single Subject Matter Standards for the Single Subject Teaching Credential, May 2004
CL-622 Serving English Learners, April 2006
COMMISSION ON TEACHER CREDENTIALING CODED CORRESPONDENCE
06-0020 Implementation of Senate Bill 1292 regarding options to earn an English learner authorization, December 13, 2006
04-0001 Clarification of authorizations to teach English learners, January 12, 2004
U.S. DEPARTMENT OF EDUCATION GUIDANCE
Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance, rev. January 16, 2004
WEB SITES
CSBA: http://www.csba.org
California Association for Bilingual Education: http://www.bilingualeducation.org
California Department of Education, English Learners: http://www.cde.ca.gov/sp/el
California Teachers of English to Speakers of Other Languages: http://www.catesol.org
Commission on Teacher Credentialing: http://www.ctc.ca.gov
U.S. Department of Education: http://www.ed.gov

SPECIAL EDUCATION STAFF

Qualifications/Assignment of Special Education Teachers

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

(cf. 4112.2 - Certification)
(cf. 4113 - Assignment)
(cf. 6159 - Individualized Education Program)
(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)

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

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

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

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

(cf. 4112.21 - Interns)

Resource Specialists

The district's resource specialist program shall provide, but not be limited to: (Education Code 56362)

1. Resource specialist(s) to provide instruction and services for students whose needs have been identified in their IEPs and who are assigned to regular classroom teachers for a majority of the school day

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

2. Information and assistance for students with disabilities and their parents/guardians

3. Consultation, resource information, and material regarding students with disabilities to their parents/guardians and regular education staff members

4. Coordination of special education services with the regular school program for each student with disabilities enrolled in the resource specialist program

5. Monitoring of student progress on a regular basis, participation in the review and revision of IEPs as appropriate, and referral of students who do not demonstrate sufficient progress to the IEP team

6. At the secondary school level, emphasis on academic achievement, career and vocational development, and preparation for adult life

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

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

Teachers of Students with Autism

A teacher may be assigned to provide instruction to students with autism if he/she meets the qualifications described above in the section entitled "Qualifications/Assignment of Special Education Teachers."

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

1. He/she has provided full-time instruction for at least one year prior to September 1, 2007, in a special education program that serves students with autism in accordance with their IEP and received a favorable evaluation or recommendation from the district or school to teach students with autism.

2. He/she has completed a minimum of three semester units of coursework in the subject of autism offered by a regionally accredited institution of higher education.

(cf. 5148.3 - Preschool/Early Childhood Education)

The Superintendent/Principal or designee shall report teacher assignments under the criteria specified in items #1 and #2 above to the county office of education as part of the annual assignment monitoring pursuant to Education Code 44258.9. (Education Code 44265.1)

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

Caseloads

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

(cf. 0430 - Comprehensive Local Plan for Special Education)
(cf. 1312.3 - Uniform Complaint Procedures)
(cf. 4141/4241 - Collective Bargaining Agreement)

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

(cf. 1431 - Waivers)

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

Legal Reference: (see next page)

Legal Reference:

EDUCATION CODE
44250-44279 Credentials, especially:
44256 Credential types, specialist instruction
44258.9 Assignment monitoring
44265-44265.99 Special education credential
44325-44328 District interns
44830.3 District interns, supervision and professional development
56000-56865 Special education, especially:
56195.8 Adoption of policies
56361 Program options
56362-56362.5 Resource specialist program
56363.3 Maximum caseload; language, speech, and hearing specialists
56441.7 Maximum caseload; language, speech, and hearing specialists serving children ages 3-5
CODE OF REGULATIONS, TITLE 5
3051.1 Language, speech and hearing development and remediation; appropriate credential
3100 Waivers of maximum caseload for resource specialists
6100-6126 Teacher qualifications, No Child Left Behind Act
80021 Short-term staffing permit
80021.1 Provisional internship permit
80025.4 Substitute teaching, special education
80026 Declaration of need for fully qualified educators
80027.1 Special education limited assignment teaching permit
80046.1 Adapted physical education specialist
80046.5 Credential holders authorized to serve students with disabilities
80047-80047.9 Credentials to provide instructional services to students with disabilities
80048-80048.9.3 Credential requirements and authorizations
80070.1-80070.8 Resource specialist certificate of competence
UNITED STATES CODE, TITLE 20
1400-1482 Individuals with Disabilities Education Act, especially:
1401 Definition of highly qualified special education teacher
6319 Highly qualified teachers
7801 Definitions, highly qualified teacher

Legal Reference continued: (see next page)

Legal Reference: (continued)

CODE OF FEDERAL REGULATIONS, TITLE 34
200.55-200.57 Highly qualified teachers
300.8 Definition of autism
300.18 Highly qualified special education teachers
300.156 Special education personnel requirements

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS
Handbook on Developing and Implementing Early Childhood Special Education Programs and Services, 2001
COMMISSION ON TEACHER CREDENTIALING CODED CORRESPONDENCE
10-15 Alternative Route to Provide Special Education Services to Students with Autism, September 7, 2010
10-13 Approval of Title 5 Regulations Pertaining to Special Education Services Credentials, July 21, 2010
10-12 Approval of Title 5 Regulations Pertaining to Special Education Teaching Credentials Requirements, July 21, 2010
09-16 Approval of Additions to Title 5 Regulations Pertaining to Added Authorizations in Special Education, July 23, 2009
09-15 Approval of Amendments to Title 5 Regulations Pertaining to General and Special Education Limited Assignment Teaching Permits, July 23, 2009
08-13 Alternative Route to Provide Special Education Services to Students with Autism Ages Three and 4, October 9, 2008
COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS
Education Specialist Teaching and Other Related Services Credential Program Standards, September 2010
WEB SITES
California Association of Resource Specialists and Special Education Teachers: http://www.carsplus.org
California Department of Education, Special Education: http://www.cde.ca.gov/sp/se
California Speech-Language-Hearing Association: http://www.csha.org
Commission on Teacher Credentialing: http://www.ctc.ca.gov

TEACHER QUALIFICATIONS UNDER THE NO CHILD LEFT BEHIND ACT

Recognizing the importance of teacher effectiveness in improving student achievement, the Board of Trustees desires to recruit and hire teachers for core academic subjects who possess the subject matter knowledge and teaching skills required by the federal No Child Left Behind Act (NCLB).

(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. 6171 - Title I Programs)

All teachers employed to teach core academic subjects shall be "highly qualified" as defined by federal law and the State Board of Education. (20 USC 6319, 7801; 34 CFR 200.55; 5 CCR 6100-6126)

The Superintendent/Principal or designee shall inform teachers of NCLB requirements and shall identify additional qualifications, if any, that individual teachers need to demonstrate in order to meet the requirements. He/she shall work with individual teachers to develop a plan for attaining full qualifications.

The Superintendent/Principal or designee shall report to the Board on the progress of the district's teachers toward becoming fully qualified. Such reports shall include, but need not be limited to, the percentage of teachers in core academic subjects who meet the definition of a "highly qualified" teacher in accordance with federal law, and the percentage of teachers who are receiving professional development to enable them to satisfy this definition. (20 USC 6319)

(cf. 4131 - Staff Development)
(cf. 4131.1 - Beginning Teacher Support/Induction)

Legal Reference: (see next page)

Legal Reference:

EDUCATION CODE
44500-44508 Peer Assistance and Review Program for Teachers
44662 Performance evaluation; Stull Act review
44664 Teacher evaluation; program to improve performance
44865 Alternative programs
CODE OF REGULATIONS, TITLE 5
6100-6126 Teacher qualifications, No Child Left Behind Act
80021 Short-term staff permit
80021.1 Provisional internship permit
80089.3-80089.4 Subject matter authorizations
UNITED STATES CODE, TITLE 20
1401 Definition of highly qualified special education teacher
6311 Parental notifications
6312 Title I local educational agency plan
6314 Schoolwide programs
6315 Targeted assistance schools
6319 Highly qualified teachers
7345-7345b Small Rural Schools Achievement Program
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
300.18 Highly qualified special education teachers

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS
California's Subject Matter Verification Process for Middle and High School Level Teachers in Special Settings, January 2007
NCLB Teacher Requirements Resource Guide, March 1, 2004
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, ESEA Title II, Part A, Non-Regulatory Guidance, revised October 5, 2006
New No Child Left Behind Flexibility: Highly Qualified Teachers, Fact Sheet, March 15, 2004
WEB SITES
CSBA: http://www.csba.org
California Department of Education, NCLB Teacher Quality: http://www.cde.ca.gov/nclb/sr/tq
Commission on Teacher Credentialing: http://www.ctc.ca.gov
U.S. Department of Education, No Child Left Behind: http://www.ed.gov/nclb

TEACHER QUALIFICATIONS UNDER THE NO CHILD LEFT BEHIND ACT

Definitions

Core academic subjects include English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography. (20 USC 7801)

Hard-to-staff setting means a middle or high school classroom eligible for the federal Small Rural Schools Achievement Program, a middle or high school special education classroom, or a middle or high school alternative education program as specified in Education Code 44865, including home teaching, hospital classes, necessary small high schools, continuation schools, alternative schools, opportunity schools, juvenile court schools, county community schools, and district community day schools. (5 CCR 6100)

(cf. 6181 - Alternative Schools/Programs of Choice)
(cf. 6183 - Home and Hospital Instruction)
(cf. 6184 - Continuation Education)
(cf. 6185 - Community Day School)

High Objective Uniform State Standard Evaluation (HOUSSE) is a method of determining a teacher's subject matter competence using forms developed by the California Department of Education (CDE). HOUSSE Part 1 consists of a summation of the teacher's years of experience, coursework, professional development, and service to the profession. HOUSSE Part 2, to be conducted only if Part 1 does not indicate subject matter competency, consists of direct observation and portfolio assessment and, if necessary, completion of the Peer Assistance and Review Program for Teachers or other individualized professional development plan. (5 CCR 6104)

(cf. 4139 - Peer Assistance and Review)

Level 1 professional development means training that will provide a teacher with the requisite understanding of each set of state content standards. *Level 2 professional development* means training that will provide a teacher with more in-depth understanding of the content standards than provided in a Level 1 professional development program. The trainings shall be consistent with state-adopted academic content standards, curriculum frameworks, and adopted texts and shall incorporate the assessment of subject matter competency as outlined in the CDE's document California's Subject Matter Verification Process for Middle and High School Level Teachers in Special Settings. For each type of training, at least 36 hours in the core subject for which the teacher is being certified is required to substantively address the subject matter content. (5 CCR 6100, 6105)

Teacher new to the profession is a teacher who either graduated from an accredited institution of higher education and received a credential, or was enrolled in or had completed an approved intern program, on or after July 1, 2002. (5 CCR 6100)

Teacher not new to the profession is a teacher who either graduated from an accredited institution of higher education and received a credential, or was enrolled in or had completed an approved intern program, before July 1, 2002. (5 CCR 6100)

Teacher Qualifications

To meet the teacher qualification requirements of the federal No Child Left Behind Act (NCLB), a teacher of a core academic subject shall meet all of the following conditions: (20 USC 6319, 7801; 34 CFR 200.55, 200.56, 300.18; 5 CCR 6101, 6104, 6105, 6110)

1. Hold a bachelor's degree

2. Hold a full credential or be currently enrolled in an approved intern program for less than three years

(cf. 4112.2 - Certification)
(cf. 4112.21 - Interns)

3. Demonstrate subject matter competency in accordance with the applicable requirements below

(cf. 6171 - Title I Programs)
\
A teacher who holds a supplementary authorization or is employed on a local teaching assignment shall meet the teacher qualification requirements of NCLB if he/she holds a California teaching credential and has demonstrated subject matter competency for the grade span and subject matter taught. (5 CCR 6116)

A teacher shall not meet the teacher qualification requirements of NCLB if he/she is teaching with a short-term staff permit, a provisional internship permit, or a state or local waiver for the grade or subject taught. (5 CCR 6115, 80021, 80021.1)

Demonstration of Subject Matter Competency

Subject matter competency shall be demonstrated in accordance with the following requirements based on the grade levels taught and the teacher's length of time in the profession:

1. An *elementary teacher who is new to the profession* shall pass a validated statewide subject matter examination certified by the Commission on Teacher Credentialing (CTC). (5 CCR 6102)

2. An *elementary teacher who is not new to the profession* shall complete one of the following: (5 CCR 6103-6104)

   a. A validated statewide subject matter examination that the CTC has utilized to determine subject matter competency for credentialing purposes

   b. The HOUSSE, as defined above, to determine the teacher's subject matter competency in each of the core academic subjects taught by the teacher

3. An *elementary special education teacher teaching multiple subjects* exclusively to students with disabilities may either: (20 USC 1401; 34 CFR 300.18; 5 CCR 6111)

   a. Meet the requirements above for teachers who are new or not new to the profession, as applicable

   b. In the case of a new special education teacher who has demonstrated subject matter competency in mathematics, language arts, or science, demonstrate competency in the other core academic subject(s) he/she teaches through the HOUSSE no later than two years after the date of employment

Satisfaction of Requirements Outside District

A teacher who has been determined by another district in California to have met the teacher qualification requirements for the grade level and/or subject taught shall not be required to demonstrate again that he/she meets those requirements. (5 CCR 6120)

A teacher who has been determined to meet subject matter competency requirements outside of California shall be considered to have met those requirements for the particular subject and/or grade span in California. The date of issuance of a valid out-of-state credential shall be used to identify a teacher as new or not new to the profession. (5 CCR 6125)

A teacher prepared in a country other than the United States shall be considered to have met NCLB teaching requirements if he/she: (5 CCR 6126)

1. Holds a degree from a foreign college or university that is at least equivalent to a bachelor's degree offered by an American institution of higher education

2. Has completed a teacher preparation program that meets CTC requirements for out-of-country trained teachers

3. Demonstrates subject matter competency for the grade span and subjects taught through the same or equivalent processes and methods required of California teachers

4. Holds a California teaching credential

Certification of Compliance

All teachers teaching core academic subjects shall complete and sign a certificate of compliance with NCLB requirements and attach appropriate documentation. The Superintendent/Principal or designee shall verify the information and retain the signed original copy.

The Superintendent/Principal shall annually attest in writing as to whether the school is in compliance with NCLB requirements related to teacher qualifications. Copies of the attestation shall be maintained at the school office and shall be available to any member of the public upon request. (20 USC 6319)

District Plan for Highly Qualified Teachers

Within the Title I local educational agency plan, the Superintendent/Principal or designee shall develop a plan for ensuring that all teachers of core academic subjects will meet NCLB requirements in accordance with law. As part of this plan, the Superintendent/Principal or designee shall provide high-quality professional development designed to enable teachers to meet NCLB requirements. (20 USC 6312, 6319)

Parental Notifications

At the beginning of each school year, the Superintendent/Principal or designee shall notify the parents/guardians of each student attending a school receiving Title I funds that they may request information regarding the professional qualifications of their child's classroom teacher including, but not limited to: (20 USC 6311)

1. Whether the teacher has met state qualification and licensing criteria for the grade levels and subject areas in which the teacher provides instruction

2. Whether the teacher is teaching under emergency or other provisional status through which state qualification or licensing criteria have been waived

3. The baccalaureate degree major of the teacher and any other graduate certification or degree held by the teacher, and the field of discipline of the certification or degree

4. Whether the student is provided services by paraprofessionals and, if so, their qualifications

(cf. 1312.4 - Williams Uniform Complaint Procedures)
(cf. 4222 - Teacher Aides/Paraprofessionals)
(cf. 5145.6 - Parental Notifications)

In addition, the Superintendent/Principal or designee shall provide timely notice to individual parents/guardians of students attending a Title I school whenever their child has been assigned to or has been taught for four or more consecutive weeks by a teacher of a core academic subject who does not meet NCLB teacher qualification requirements. (20 USC 6311; 34 CFR 200.61)

The Superintendent/Principal or designee shall notify teachers, as appropriate, prior to distributing the above notice to parents/guardians.

The notice and information provided to parents/guardians shall be in an understandable and uniform format and, to the extent practicable, be provided in a language that the parents/guardians can understand. (20 USC 6311)

TEACHER QUALIFICATIONS UNDER THE NO CHILD LEFT BEHIND ACT

ATTESTATION REGARDING QUALIFICATIONS OF TITLE I TEACHERS

Instructions: The following certification must be annually completed and signed by the Superintendent/Principal in a school that operates a Title I program pursuant to 20 USC 6314 (schoolwide programs) and 20 USC 6315 (targeted assistance schools).

School: _____ Superintendent/Principal: _____

I certify that all teachers hired after the first day of the 2002-03 school year to teach core academic subjects in a program supported by Title I funds meet the following qualifications:

1. Hold at least a bachelor's degree

2. Have a credential or are currently enrolled in an approved intern program for less than three years

3. Have demonstrated subject matter competence as required by 5 CCR 6100-6115 for the grade level(s) taught and the teacher's length of time in the profession

_____ _____

Signature of Superintendent/Principal Date

TEACHER QUALIFICATIONS UNDER THE NO CHILD LEFT BEHIND ACT

PARENTAL NOTIFICATION OF TEACHER QUALIFICATIONS

To Parents/Guardians:

Your child is attending a school receiving Title I federal funds under the federal No Child Left Behind Act (NCLB).

Under NCLB, teachers of core academic subjects are required to hold state certification and demonstrate subject matter competency for the grade span or subject matter taught. These requirements help us to ensure that all our students receive the best education by teachers who are highly skilled and knowledgeable in their subject areas.

This federal law requires the school to notify you that a teacher who has not yet completed the process for meeting NCLB requirements has taught your child for four or more consecutive weeks. However, the teacher is authorized to teach in California and is working toward completion of the requirements. Our school district continues to monitor teacher qualifications and to provide additional support and training, as necessary, to help teachers meet the requirements.

You may contact [insert school name] to request the qualifications of your child's teacher. If you have any questions, please contact [insert Superintendent/Principal name] at [insert telephone number].

OATH OR AFFIRMATION

All district 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 district. 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 district 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 Superintendent/Principal or designee may exempt an employee from taking the oath if he/she raises a valid religious objection.

The Superintendent/Principal or other person authorized in Education Code 60 shall administer the oath or affirmation when a district employee is hired.

In the case of intermittent, temporary, emergency or successive employments, the Superintendent/Principal 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 Superintendent/Principal 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 Superintendent/Principal or designee shall ascertain and certify that the employee has taken the oath or affirmation. (Government Code 3107)

Legal Reference: (see next page)

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

OATH OR AFFIRMATION

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)

Tuberculosis Tests

No applicant shall be initially employed in a classified or certificated position unless, within the past 60 days, he/she has submitted to an intradermal tuberculin skin test or other approved tuberculin test 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 an authorized health care provider 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 or private or parochial school may fulfill the tuberculosis examination requirement either by producing a certificate showing that he/she was examined within the last four years and found to be free of active tuberculosis or by having his/her previous employer verify that it has on file a certificate which contains that evidence. (Education Code 49406)

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

Tuberculosis tests for employees shall be provided by the district or at district 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 Board shall determine by resolution, after a hearing, that the health of students would not be jeopardized. (Education Code 49406)

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

HEALTH EXAMINATIONS (continued)

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

Medical Certification for Communicable Diseases for Certificated Employees

The Board shall not fill a position requiring certification with an applicant who has not previously been employed in a certificated position in California or a retirant who has not been employed as a retirant, unless the district has on file a medical certification completed and submitted directly to the district by an authorized health care provider. (Education Code 44839, 44839.5)

(cf. 4117.14/4317.14 - Postretirement Employment)

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

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

Mental Examination for Certificated Employees

A certificated employee may be suspended or transferred to other duties if the 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)

HEALTH EXAMINATIONS (continued)

Legal Reference:

EDUCATION CODE
44839 Medical certificate; periodic medical examination
44839.5 Requirements for employment of retirant
44932 Grounds for dismissal of permanent employee
44942 Suspension or transfer of certificated employee on ground of mental illness
45122 Physical examinations
49406 Examination for tuberculosis
BUSINESS AND PROFESSIONS CODE
2700-2838 Nurses
3500-3546 Physician assistants
HEALTH AND SAFETY CODE
121525 Private and parochial school employees, 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
Doe v. Lincoln Unified School District, (2010) 188 Cal.App.4th 758
Leonel v. American Airlines, Inc., (2005) 400 F.3d. 702
Raven v. Oakland Unified School District, (1989) 213 Cal.App.3d 1347

Management Resources:

WEB SITES
California Department of Public Health: http://www.cdph.ca.gov
Centers for Disease Control and Prevention: http://www.cdc.gov
Public Health Institute: http://www.phi.org
U.S. Food and Drug Administration: http://www.fda.gov

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS

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

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

The district's 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 Superintendent/Principal 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 district 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 district's collective bargaining agreement.

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

The Superintendent/Principal or designee shall ensure that each driver receives an explanation of the federal regulations and the district's 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)

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

(cf. 4112.9/4212.9/4312.9 - 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

CRIMINAL RECORD CHECK

Applicants for Employment

The Superintendent/Principal 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 district is using the Live Scan system, the Superintendent/Principal or designee shall also provide the applicant with a Live Scan request form and a list of nearby Live Scan locations.

The Superintendent/Principal 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 district, 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 Superintendent/Principal or designee shall obtain a criminal record summary from the Department of Justice. The Superintendent/Principal 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 Superintendent/Principal 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 Superintendent/Principal 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 Superintendent/Principal 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 Superintendent/Principal 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 Superintendent/Principal or designee shall immediately place that employee on leave without pay. (Education Code 44830.1)

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

If the employee challenges the Department of Justice record and the Department of Justice withdraws in writing its notification, the Superintendent/Principal 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

PERSONNEL FILES

The Superintendent/Principal or designee shall maintain personnel files for all current employees. All personnel files are confidential and shall be available only to the employee, persons authorized by the employee and those authorized by the Superintendent/Principal or designee. Official employee files shall be maintained at the district office. The Superintendent/Principal or designee shall determine the types of information to be included and shall process all material to be placed in a personnel file.

(cf. 4141/4241 - Collective Bargaining Agreement)

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

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)
(cf. 9011 - Disclosure of Confidential/Privileged Information)
(cf. 9321 - Closed Session Purposes and Agendas)
(cf. 9321.1 - Closed Session Actions and Reports)

Personnel files shall be reviewed and replaced within the shortest time possible. In no case shall a personnel file be left unattended or left unfiled overnight.

Placement of Material in Personnel Files

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

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

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

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

(cf. 4115 - Evaluation/Supervision)

Derogatory Information

Information of a derogatory nature shall not be entered into an employee's personnel file unless and until the employee is given notice and an opportunity to review and comment on that information. Such a review shall take place during normal business hours. The

PERSONNEL FILES (continued)

employee shall be released from duty for this purpose without a salary reduction. The employee may enter his/her own comments and have them attached to the derogatory statement. (Education Code 44031)

(cf. 1312.1 - Complaints Concerning District Employees)
(cf. 4117.4 - Dismissal)
(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)
(cf. 5141.4 - Child Abuse Prevention and Reporting)

File Review by Employee

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

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

1. Keep a copy of each employee's personnel records at the place where the employee reports to work

2. Make the employee's personnel records available at the place where the employee reports to work within a reasonable period of time following an employee's request

3. Permit the employee to inspect the personnel records at the location where the district stores the personnel records, with no loss of compensation to the employee

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

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

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

PERSONNEL FILES (continued)

1. Records relating to the investigation of a possible criminal offense

2. Letters of reference

3. Ratings, reports or records that were obtained prior to the employee's employment, prepared by identifiable examination committee members, or obtained in connection with a promotional examination

(cf. 4112.41/4212.41/4312.41 - Employee Drug Testing)
(cf. 4112.62/4212.62/4312.62 - Maintenance of Criminal Offender Records)

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

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

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

File Review by Management and Board

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

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

Board members are not individually allowed to request and access personnel files but the Board may request pertinent information from an employee's file in cases of personnel action.

Legal Reference: (see next page)

PERSONNEL FILES (continued)

Legal Reference:

EDUCATION CODE
35253 Regulations to destroy records
44031 Personnel file contents and inspection
44663 Performance appraisals and related materials
GOVERNMENT CODE
3305-3306 District police officers; personnel files
6254.3 Disclosure of home address and phone number
LABOR CODE
1198.5 Inspection of personnel files
PENAL CODE
11165.14 Report of investigation of child abuse complaint
CODE OF REGULATIONS, TITLE 5
16020-16022 Records, general provisions
16023-16027 Retention of records
ATTORNEY GENERAL OPINIONS
Cal. Atty. Gen., Indexed Letter, no. IL 75-73 (June 6, 1975)

All Personnel BP 4112.61
4212.61
EMPLOYMENT REFERENCES 4312.61

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

At his/her discretion, the Superintendent/Principal 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

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 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 district. (5 CCR 80332)

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

(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 Records)
(cf. 4212.5 - Criminal Record Check)

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

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

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

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)
(cf. 9011 - Disclosure of Confidential/Privileged Information)

Custodian of Records

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

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

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

MAINTENANCE OF CRIMINAL OFFENDER RECORDS (continued)

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

Interagency Agreements

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

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

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

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

Legal Reference: (see next page)

MAINTENANCE OF CRIMINAL OFFENDER RECORDS (continued)

Legal Reference:

EDUCATION CODE
44332 Temporary certificate
44332.6 Criminal record check, county board of education
44346.1 Applicants for credential, conviction of a violent or serious felony
44830.1 Certificated employees, conviction of a violent or serious felony
44830.2 Interagency agreements
45122.1 Classified employees, conviction of a violent or serious felony
45125 Use of personal identification cards to ascertain conviction of crime
45125.01 Interagency agreements
45125.5 Automated records check
45126 Duty of Department of Justice to furnish information
49024 Activity Supervisor Clearance Certificates
PENAL CODE
667.5 Prior prison terms, enhancement of prison terms
1192.7 Plea bargaining limitation
11075-11081 Criminal record dissemination
11102.2 Criminal records: custodian
11105 State criminal history information; furnishing to authorized persons
11105.3 Record of conviction involving sex crimes, drug crimes or crimes of violence; availability to employer for applicants for positions with supervisory or disciplinary power over minors
11140-11144 Furnishing of state criminal history information
13300-13305 Local summary criminal history information
CODE OF REGULATIONS, TITLE 11
701-708 Criminal offender record information

Management Resources:

WEB SITES
Office of the Attorney General, Department of Justice, Background Checks: http://www.ag.ca.gov/fingerprints

SAMPLE EMPLOYEE STATEMENT FORM
USE OF CRIMINAL JUSTICE INFORMATION

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

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

Civil Code 1798.53, Invasion of Privacy, states:

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

CIVIL, CRIMINAL, AND ADMINISTRATIVE PENALTIES:

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

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

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

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

* Civil Code 1798.53, Invasion of Privacy

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

MAINTENANCE OF CRIMINAL OFFENDER RECORDS (continued)

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

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

Signature _____ Date _____

Printed Name _____ Title _____

Name of District _____

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

All Personnel BP 4112.8(a)
4212.8
4312.8

EMPLOYMENT OF RELATIVES

The Board of Trustees desires to maximize staff and community confidence in district hiring, promotion, and other employment decisions by promoting practices that are free of conflicts of interest or the appearance of impropriety.

(cf. 4030 - Nondiscrimination in Employment)
(cf. 9270 - Conflict of Interest)

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

(cf. 4111/4211/4311 - Recruitment and Selection)
(cf. 4115 - Evaluation/Supervision)
(cf. 4215 - Evaluation/Supervision)
(cf. 4315 - Evaluation/Supervision)

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

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

(cf. 4031 - Complaints Concerning Discrimination in Employment)

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

Legal Reference: (see next page)

EMPLOYMENT OF RELATIVES (continued)

Legal Reference:

EDUCATION CODE
35107 School district employees
FAMILY CODE
297-297.5 Rights, protections, benefits under the law; registered domestic partners
GOVERNMENT CODE
1090-1098 Prohibitions applicable to specified officers
12940 Unlawful employment practices
CODE OF REGULATIONS, TITLE 2
7292.0-7292.6 Marital status discrimination, especially:
7292.5 Employee selection

Management Resources:

WEB SITES
California Department of Fair Employment and Housing: http://www.dfeh.ca.gov
Institute for Local Government: http://www.cacities.org/index.jsp?zone=ilsg

The district shall provide employees with the following notifications and shall obtain signed acknowledgments that the notifications were received when so required by law or by district 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 district's 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 - 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

Acknowledgments Not Required by Law

1. The district's drug- and alcohol-free workplace

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

2. The district's nonsmoking policy

(cf. 3513.3 - Tobacco-Free Schools)

EMPLOYEE NOTIFICATIONS (continued)

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)

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)

12. Notice of intention to dismiss

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

EMPLOYEE NOTIFICATIONS (continued)

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

Cautionary Notice: As added and amended by SBX3 4 (Ch. 12, Third Extraordinary Session, Statutes of 2009) and ABX4 2 (Ch. 2, Fourth Extraordinary Session, Statutes of 2009), Education Code 42605 grants districts flexibility in "Tier 3" categorical programs. The Chualar Union Elementary School District has accepted this flexibility and thus is deemed in compliance with the statutory or regulatory program and funding requirements for these programs for the 2008-09 though 2012-2013 fiscal years. As a result, the district may temporarily suspend certain provisions of the following policy or regulation that reflect these requirements. For further information, please contact the Superintendent/Principal or designee.

In order to serve the best interests of students and the educational program, the Board of Trustees authorizes the Superintendent/Principal or designee to assign certificated personnel to positions for which their preparation, certification, professional 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)

Assignment to Courses/Classes

The Superintendent/Principal or designee shall assign teachers to courses based on the grade level and subject matter authorized by their credentials.

When there is no credential authorization requirement for teaching an elective course, the Superintendent/Principal or designee shall select the credentialed teacher whose knowledge and skills best prepare him/her to provide instruction in that subject.

Teachers who are assigned to teach core academic subjects shall meet the requirements of the No Child Left Behind Act (NCLB) pertaining to qualifications of highly qualified teachers. (20 USC 6319, 7801; 5 CCR 6100-6126)

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

The Superintendent/Principal or designee may assign a teacher, with his/her consent, to a position outside his/her credential authorization when specifically authorized by law or regulation, and in accordance with the local teaching assignment options described in the Commission on Teacher Credentialing's Administrator's Assignment Manual. Assignments made pursuant to Education Code 44256, 44258.2, and 44263 shall be annually approved by Board resolution. In such cases, the Superintendent/Principal or designee shall reference in district records the statute or regulation under which the assignment is authorized.

(cf. 3580 - District Records)

ASSIGNMENT (continued)

The Superintendent/Principal or designee shall periodically report to the Board on teacher assignments and vacancies, including the number and type of assignments made outside a teacher's credential authorization through a local teaching assignment option. Whenever district misassignments and vacancies are reviewed by the County Superintendent of Schools or Commission on Teacher Credentialing, as applicable, the Superintendent/Principal or designee shall report the results to the Board and shall provide recommendations for remedying any identified issues.

(cf. 1312.4 - Williams Uniform Complaint Procedures)

Legal Reference: (see next page)

ASSIGNMENT (continued)

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
44314 Subject matter programs, approved subjects
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
80003-80005 Credential authorizations
80020-80020.5 Additional assignment authorizations
80335 Performance of unauthorized professional services
80339-80339.6 Unauthorized certificated employee assignment
UNITED STATES CODE, TITLE 20
6311 State plan
6319 Highly qualified teachers
6601-6651 Teacher and Principal Training and Recruiting Fund
7801 Definitions, highly qualified teacher
CODE OF FEDERAL REGULATIONS, TITLE 34
200.55-200.57 Highly qualified teachers

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS
Revised State Plan for the No Child Left Behind Act, rev. September 2008
COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS
The Administrator's Assignment Manual, rev. September 2007
U.S. DEPARTMENT OF EDUCATION GUIDANCE
Improving Teacher Quality State Grants: ESEA Title II, Part A, rev. October 5, 2006
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
Santa Clara County Office of Education, Personnel Management Assistance Team: http://www.sccoe.org/depts/pmat
U.S. Department of Education: http://www.ed.gov

ASSIGNMENT

Assignment to Departmentalized Classes Outside Credential Authorization

Any holder of a credential other than an emergency permit may be assigned, with his/her consent, to teach departmentalized classes in grades K-8 regardless of the designations on his/her teaching credential, provided that their subject matter knowledge is verified prior to the assignment. (Education Code 44258.3)

Procedures for verifying a teacher's subject matter knowledge shall be developed and implemented by the Superintendent/Principal or designee with the involvement of appropriate subject matter specialists, including curriculum specialists, resource teachers, classroom teachers certified to teach the subject, staff assigned to regional subject matter projects or curriculum institutes, or college faculty. (Education Code 44258.3)

Procedures to be used for this purpose shall specify: (Education Code 44258.3)

1. One or more of the following ways in which subject matter competence shall be assessed:

    a. Observation by subject matter specialists

    b. Oral interviews

    c. Demonstration lessons

    d. Presentation of curricular portfolios

    e. Written examinations

2. Specific criteria and standards for verifying subject matter knowledge by any of the above methods. These criteria shall include, but need not be limited to, evidence of the individual's knowledge of the subject matter to be taught, including demonstrated knowledge of the curriculum framework for the subject and the specific content of the district's course of study for the subject at the grade level to be taught.

(cf. 4115 - Evaluation/Supervision)

Whenever a teacher is assigned to teach departmentalized classes pursuant to Education Code 44258.3, the Superintendent/Principal or designee shall notify the exclusive representative of the district's certificated employees. (Education Code 44258.3)

(cf. 4140/4240 - Bargaining Units)

ASSIGNMENT (continued)

Assignment to Elective Courses Outside Credential Authorization

A full-time teacher with special skills and preparation outside his/her credential authorization may, with his/her consent and the prior approval of a district committee on assignments, be assigned to teach an elective course in the area of the special skills or preparation, excluding a course in English, mathematics, science, or social studies. (Education Code 44258.7)

The Superintendent/Principal or designee shall establish a committee on assignments, consisting of an equal number of teachers selected by teachers and school administrators selected by school administrators, to approve such assignments. (Education Code 44258.7)

Committee members shall serve a two-year term but may be reappointed using the same procedure as the initial appointment.

When determining whether a teacher is qualified for an assignment pursuant to Education Code 44258.7, the committee may consider the teacher's education, prior experience, observation by subject matter specialists, oral interviews, demonstration lessons, presentation of curricular portfolios, and/or written examinations.

Assignments approved by the committee shall be for a maximum of one school year, but may be extended by action of the committee upon application by the Superintendent/Principal and teacher. (Education Code 44258.7)

Assignment to Special Schedules

Full-time probationary or permanent classroom teachers employed by the district prior to implementation of weekend classes shall not, without their written consent, be required to teach for more than 180 full days during a school year or for more than the number of full days during the preceding school year, whichever is greater. No teacher shall be assigned to work on a Saturday or Sunday if he/she objects in writing that such assignment would conflict with his/her religious beliefs or practices. (Education Code 44824)

(cf. 6176 - Weekend/Saturday Classes)

TEMPORARY MODIFIED/LIGHT-DUTY ASSIGNMENT

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

(cf. 3530 - Risk Management/Insurance)
(cf. 4157.1/4257.1/4357.1 - Work-Related Injuries)
(cf. 4161.1/4361.1 - Industrial Accident/Illness Leave)
(cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)
(cf. 4261.8 - Industrial Accident/Illness Leave)

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

(cf. 4032 - Reasonable Accommodation)

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

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

Legal Reference: (see next page)

TEMPORARY MODIFIED/LIGHT-DUTY ASSIGNMENT (continued)

Legal Reference:

EDUCATION CODE
44984 Required rules for industrial accident and illness leave
45192 Industrial accident and illness leave for classified employees
GOVERNMENT CODE
12900-12996 Fair Employment and Housing Act
12945.1-12945.2 California Family Rights Act
UNITED STATES CODE, TITLE 29
2601-2654 Family Care and Medical Leave Act
UNITED STATES CODE, TITLE 42
12101-12213 Americans with Disabilities Act
COURT DECISIONS
Raine v. City of Burbank, (2006) 135 Cal.App.4th 1215

Management Resources:

WEB SITES
California Department of Fair Employment and Housing: http://www.dfeh.ca.gov
Equal Employment Opportunity Commission: http://www.eeoc.gov

EVALUATION/SUPERVISION

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

(cf. 4141/4241 - Collective Bargaining Agreement)

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

(cf. 4119.21/4219.21/4319.21 - Professional Standards)
(cf. 4140/4240 - Bargaining Units)
(cf. 4315.1 - Staff Evaluating Teachers)

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

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

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

(cf. 4131 - Staff Development)
(cf. 4139 - Peer Assistance and Review)

Legal Reference: (see next page)

EVALUATION/SUPERVISION (continued)

Legal Reference:

EDUCATION CODE
33039 State guidelines for teacher evaluation procedures
35171 Availability of rules and regulations for evaluation of performance
44500-44508 Peer assistance and review program for teachers
44660-44665 Evaluation and assessment of performance of certificated employees (the Stull Act)
GOVERNMENT CODE
3543.2 Scope of representation
UNITED STATES CODE, TITLE 20
6319 Highly qualified teachers
7801 Definition of highly qualified teacher

Management Resources:

CTC PUBLICATIONS
Standards for the Quality and Effectiveness for Beginning Teacher Support and Assessment Programs, 1997
California Standards for the Teaching Profession, 1997
WEB SITES
CSBA: http://www.csba.org
California Department of Education: http://www.cde.ca.gov
California Commission on Teacher Credentialing: http://www.ctc.ca.gov
National Board for Professional Teaching Standards: http://www.nbpts.org

EVALUATION/SUPERVISION

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

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

Certificated staff shall receive information regarding the district's evaluation criteria and procedures upon employment with the district and whenever the criteria are revised.

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

Frequency of Evaluations

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

(cf. 4116 - Probationary/Permanent Status)

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

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

1. At least every other year

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

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

(cf. 4117.4 - Dismissal)

Evaluation Criteria

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

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

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

2. The instructional techniques and strategies used by the employee

3. The employee's adherence to curricular objectives

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

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

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

Evaluation Results

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

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

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

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

Evaluations shall include recommendations, if necessary, as to areas in need of improvement in the employee's performance. If an employee is not performing satisfactorily according to teaching standards approved by the Board of Trustees pursuant to Education Code 44662, the

Superintendent/Principal or designee shall so notify the employee in writing and shall describe the unsatisfactory performance. The Superintendent/Principal or designee shall confer with the employee, make specific recommendations as to areas needing improvement, and endeavor to provide assistance to the employee in his/her performance. (Education Code 44664)

Any certificated employee who receives an unsatisfactory rating in the area of teaching methods or instruction shall participate in the district's peer assistance and review program. (Education Code 44662, 44664)

(cf. 4139 - Peer Assistance and Review)

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

(cf. 4131 - Staff Development)
(cf. 4138 - Mentor Teachers)

Regulation approved: **CHUALAR UNION ELEMENTARY SCHOOL DISTRICT**
Chualar, California
Certificated Personnel BP 4116

PROBATIONARY/PERMANENT STATUS

Probationary Status

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

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

(cf. 4115 - Evaluation/Supervision)
(cf. 4131 - Staff Development)

Permanent Status

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

(cf. 4117.4 - Dismissal)
(cf. 4117.6 - Decision Not to Rehire)

Legal Reference:

EDUCATION CODE
44466 Status of university interns
44850.1 No tenure in administrative or supervisory position
44885.5 Status of district interns
44908 Complete year for probationary employees
44911-44913 Service not computed in eligibility for permanent status
44915 Classification of probationary employees
44917-44921 Status of substitute or temporary employees
44929.20 Continuing contracts (not to exceed four years - ADA under 250)
44929.21 Districts of 250 ADA or more
44929.23 Districts with less than 250 ADA
44929.28 Employment by another district
44930-44988 Resignations, dismissals and leaves of absence, especially:
44948.2 Election to use provisions of Section 44948.3
44948.3 Dismissal of probationary employees

Policy adopted:

CHUALAR UNION ELEMENTARY SCHOOL DISTRICT
Chualar, California

Certificated Personnel

AR 4116

PROBATIONARY/PERMANENT STATUS

Permanent Status

A probationary teacher who has been employed by the district in a position or positions requiring certification for two complete consecutive school years and is then rehired for the next succeeding school year shall become a permanent employee at the beginning of the third year. (Education Code 44929.21)

(cf. 4115 - Evaluation/Supervision)
(cf. 4117.4 - Dismissal)
(cf. 4117.6 - Decision Not to Rehire)
(cf. 4121 - Temporary/Substitute Personnel)

Interns

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

(cf. 4112.21 - Interns)

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

Regulation approved:
Certificated Personnel

CHUALAR UNION ELEMENTARY SCHOOL DISTRICT
Chualar, California
AR 4117.14(a)
4317.14

POSTRETIREMENT EMPLOYMENT

Cautionary Notice: As added and amended by SBX3 4 (Ch. 12, Third Extraordinary Session, Statutes of 2009) and ABX4 2 (Ch. 2, Fourth Extraordinary Session, Statutes of 2009), Education Code 42605 grants districts flexibility in "Tier 3" categorical programs. The Chualar Union Elementary School District has accepted this flexibility and thus is deemed in compliance with the statutory or regulatory program and funding requirements for these programs for the 2008-09 though 2012-2013 fiscal years. As a result, the district may temporarily suspend certain provisions of the following policy or regulation that reflect these requirements. For further information, please contact the Superintendent/Principal or designee.

The Board of Trustees may hire retired certificated individuals who possess unique knowledge and experience to perform specialized work of a limited duration.

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

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

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

Postretirement Compensation Limitation

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

POSTRETIREMENT EMPLOYMENT (continued)

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

Exemption for Providing Specified Instructional Services

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

1. Direct classroom instruction to students in grades K-8

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

(cf. 4131.1 - Beginning Teacher Support/Induction)

3. Support to individuals completing student teaching assignments

4. Support to individuals participating in an alternative certification program pursuant to Education Code 44380-44386 or a school paraprofessional teacher training program pursuant to 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 56000-56885

(cf. 4112.23 - Special Education Staff)

6. Instruction to students enrolled in English language learner programs pursuant to Education Code 300-340, 400-410, and 430-446

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

7. Direct remedial instruction to students in grades 2-8 for the programs specified in Education Code 37252 and 37252.2

POSTRETIREMENT EMPLOYMENT (continued)

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

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

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

Exemption for Appointment as Trustee/Administrator or for Emergency Situations

Until June 30, 2012, a retired certificated individual shall be exempt from the postretirement compensation limitation for a maximum period of 24 consecutive months if he/she is appointed by the Superintendent of Public Instruction as a trustee or administrator pursuant to Education Code 41320.1, appointed as a trustee by the State Board of Education pursuant to Education Code 52055.57-52055.60 (the Local Educational Agency Intervention program), or assigned to a position by the County Superintendent of Schools pursuant to Education Code 42122-42129. (Education Code 24216)

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

1. The vacancy occurred due to circumstances beyond the district's control.

2. The recruitment process to fill the vacancy on a permanent basis is expected to extend over several months.

3. The employment is reported in a public meeting of the Board.

(cf. 9320 - Meetings and Notices)

4. The retired individual's termination of employment with the district is not the basis for the vacant administrative position.

POSTRETIREMENT EMPLOYMENT (continued)

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

(cf. 4117.13/4317.13 - Early Retirement Option)

Consultancy Contracts

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

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

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
300-340 English language education
400-410 English language acquisition program
430-446 English Learner and Immigrant Student Federal Conformity Act
22119.5 Creditable service, definition
22461 Notice of earnings limitation
22714 Encouragement of retirement

22714.5 2+2 service and year credit option under STRS
22715 Additional service credit
22716 Unpaid services
24116 Service at California State University
24214 Creditable service by retiree
24214.5 Postretirement compensation limit; members below normal retirement age
24215 Service at California State University
24216 Payments to retirants in excess of limitation
24216.5 Exemption from earnings limitation
24216.6 Exemption from earnings limitation
35046 Consultancy contracts
37252-37254.1 Supplemental instruction
41320.1 Appointment of trustee
42120-42129 Budget completion
44279.1-44279.7 Beginning Teacher Support and Assessment Program
44380-44386 Alternative certification program
44390-44393 School paraprofessional teacher training program
44830 Employment of certificated employees
44830.3 Employment of district interns
44929 Service credit under STRS; additional two years
44929.1 2+2 service and year credit option under STRS
52055.57-52055.60 Local Educational Agency Intervention program
56000-56885 Special education

Management Resources:
WEB SITES
California State Teachers' Retirement System: http://www.calstrs.com

Regulation approved:
All Personnel

CHUALAR UNION ELEMENTARY SCHOOL DISTRICT
Chualar, California
BP 4117.2
4217.2
4317.2

RESIGNATION

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

.

The Board authorizes the Superintendent/Principal or designee to accept an employee's written resignation and to set its effective date. Once the Superintendent/Principal or

designee has accepted and set an effective date for this resignation, the resignation may not thereafter be withdrawn by the employee.

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

(cf. 4117.7 - Employment Status Reports)

Legal Reference:

EDUCATION CODE
35161 Board delegation of any powers or duties
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

Policy adopted:

CHUALAR UNION ELEMENTARY SCHOOL DISTRICT
Chualar, California

Certificated Personnel

BP 4117.3(a)

PERSONNEL REDUCTION

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

1. Average daily attendance (ADA) of the school during the first six months of the school year has declined below the level for the same period in either of the previous two school years. (Education Code 44955)

2. A particular kind of service is to be reduced or discontinued not later than the beginning of the following school year. (Education Code 44955)

3. Attendance in the district will decline in the following year as a result of the termination of an interdistrict tuition agreement. (Education Code 44955)

4. An amendment of state law requires modification of the curriculum. (Education Code 44955)

5. The state Budget Act reveals that the district's total revenue limit per ADA for the fiscal year of that Budget Act has not increased by at least two percent. (Education Code 44955.5)

Seniority

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

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

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

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

(cf. 4113 - Assignment)
(cf. 4115 - Evaluation/Supervision)
(cf. 4117.4 - Dismissal)

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

1. To fill a demonstrated specific need for personnel to teach a specific course or courses of study, or to provide services authorized by a services credential with a specialization in either student personnel services or health for a school nurse, when

the certificated employee has the necessary special training and experience which others with more seniority do not possess

2. To maintain or achieve compliance with constitutional requirements related to equal protection of the law

Notice and Hearing Rights

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

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

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

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

Special Procedure Based Upon Late Adoption of the State Budget

When the Board, 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 district therefore needs to reduce the number of certificated staff pursuant to Education Code 44955.5, the Board shall adopt a schedule of notice and hearings and the district shall otherwise proceed pursuant to Education Code 44949 and 44955. (Education Code 44955.5)

Reappointment

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

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

(cf. 4112.2 - Certification)
(cf. 4112.24 - Teacher Qualifications Under the No Child Left Behind Act)
(cf. 4113 - Assignment)

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

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

Policy adopted:

CHUALAR UNION ELEMENTARY SCHOOL DISTRICT
Chualar, California

Certificated Personnel

AR 4117.4(a)

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 Board of Trustees 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)

At the end of the school year, dismissal procedures shall be those set forth in Education Code 44948.5. The employee shall receive written notice on or before March 15 and may request a hearing, as provided by Education Code 44948.5, to determine if there is cause for not reemploying him/her. If the Board of Trustees does not give written notice on or before March 15, the employee shall be rehired for the following year. (Education Code 44948.5)

(cf. 4121 - Temporary/Substitute Personnel)

Legal Reference: (see next page)

DISMISSAL (continued)

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)

Regulation approved:
All Personnel

CHUALAR UNION ELEMENTARY SCHOOL DISTRICT
Chualar, California
AR 4117.5
4217.5
4317.5

TERMINATION AGREEMENTS

If a termination settlement agreement has been made with an employee, the Superintendent/Principal 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 district may offer to continue for the unexpired term up to 18 months or until the employee finds other employment, whichever comes first. (Government Code 53261)

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

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

Legal Reference:

CIVIL CODE
47 Privileged communication
GOVERNMENT CODE
53260-53264 Employment contracts
LABOR CODE
1198.5 Inspection of personnel files by employees
CODE OF REGULATIONS, TITLE 5
80303 Reports of dismissal, resignation and other terminations for cause
80332 Professional honesty in letters of employment recommendation
COURT DECISIONS
Randi W. v. Muroc Joint Unified School District, (1997) 14 Cal.4th 1066
Board of Trustees of Leland Stanford Junior University v. Superior Court, (1981) 119 Cal. App. 3d 516

Regulation approved:

CHUALAR UNION ELEMENTARY SCHOOL DISTRICT
Chualar, California

Certificated Personnel

AR 4117.6

DECISION NOT TO REHIRE

The Superintendent/Principal or designee shall provide the Board of Trustees with his/her recommendations regarding the rehiring of probationary certificated personnel.

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

The Board may decide not to rehire a probationary employee for a third year and give written notice to the employee on or before March 15 of his/her second complete consecutive school year of employment. If the Board does not give written notice on or before March 15, the employee shall be deemed reelected for the next succeeding school year. (Education Code 44929.21, 44929.23)

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

Legal Reference:

EDUCATION CODE
44885.5 District interns
44929.21 Districts with 250 ADA or more; notice of reelection decision
44929.23 Districts with daily attendance less than 250
44948.2 Election to use provisions of Education Code 44948.3
44948.3 Dismissal of probationary employees (over 250 ADA)
44949 Cause, notice and right to hearing required for dismissal of probationary employee
44955 Reduction in number of permanent employees
COURT DECISIONS
Hoschler v. Sacramento City Unified School District, (2007) 149 Cal. App. 4th 258
Fischer v. Los Angeles Unified School District (1999) 70 Cal.App.4th 87
Bellflower Education Assn. v. Bellflower Unified School District (1991) 228 Cal.App.3d 805
Fontana Teachers Assn. v. Fontana Unified School District (1988) 201 Cal.App.3d 1517
Grimsley v. Board of Trustees (1987) 189 Cal.App.3d 1440

Regulation approved:
Certificated Personnel

CHUALAR UNION ELEMENTARY SCHOOL DISTRICT
Chualar, California
AR 4117.7(a)

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/Principal shall report the change to the Commission on Teacher Credentialing (CTC). The report shall be made whenever one of the following actions is taken as a result of alleged misconduct: (Education Code 44242.5; 5 CCR 80303)

1. Dismissal

(cf. 4117.4 - Dismissal)

2. Nonreelection/nonreemployment

(cf. 4117.6 - Decision Not to Rehire)

3. Suspension for more than 10 days

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

5. Resignation, retirement, or other departure from employment

(cf. 4117.2 - Resignation)

6. Termination by a decision not to employ or reemploy

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

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

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

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

Within 10 days after receipt of a complaint, information, or indictment regarding an employee who has been charged with a "mandatory leave of absence offense" (defined as a sex or drug offense specified in Education Code 44940), the Superintendent/Principal or designee shall forward a copy of the received documents to the CTC. In addition, he/she shall report to the CTC any action taken in connection with extending the employee's mandatory leave beyond the initial period. (Education Code 44940, 44940.5)

EMPLOYMENT STATUS REPORTS (continued)

(cf. 4118 - Suspension/Disciplinary Action)

Notice of Other Violations

The Superintendent/Principal or designee may notify the CTC of any of the following: (Education Code 44242.5)

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

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

   a. Name of the employee alleged to have engaged in the sexual misconduct

   b. Name, age, and address of each victim of the alleged sexual misconduct

   c. A summary of all information known to the district regarding the alleged sexual misconduct

   d. A summary of the action, if any, taken at the district level in response to the complaint of sexual misconduct

(cf. 1312.1 - Complaints Concerning District Employees)
(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)
(cf. 5145.7 - Sexual Harassment)

2. An employee's refusal, without good cause, to fulfill a valid employment contract, or departure from district service without the consent of the Superintendent/Principal or Board of Trustees (Education Code 44420)

3. An employee's knowing and willful use of student records in connection with, or in implicit or explicit attempts to recruit a student to be a customer for, any business owned by the credential holder or in which the credential holder is an employee (Education Code 44421.1)

4. An employee's knowing and willful reporting of false fiscal expenditure data relative to the conduct of any educational program (Education Code 44421.5)

Legal Reference: (see next page)

EMPLOYMENT STATUS REPORTS (continued)

Legal Reference:
EDUCATION CODE
44009 Conviction of specified crimes
44010 Sex offense - definitions
44011 Controlled substance offense - definitions
44225 Powers and duties of the CTC
44242.5 Reports and review of alleged misconduct

44420-44440 Adverse actions by CTC against credential holder
44940 Sex offenses and narcotic offenses; compulsory leave of absence
44940.5 Compulsory leave of absence
CODE OF REGULATIONS, TITLE 5
80303 Reports of change in employment status, alleged misconduct
80304 Notice of sexual misconduct

Management Resources:
COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS
California's Laws and Rules Pertaining to the Discipline of Professional Certificated Personnel, 2007
WEB SITES
CSBA: http://www.csba.org
Commission on Teacher Credentialing: http://www.ctc.ca.gov

Regulation approved:
Certificated Personnel

CHUALAR UNION ELEMENTARY SCHOOL DISTRICT
Chualar, California
BP 4118(a)

SUSPENSION/DISCIPLINARY ACTION

The Board of Trustees expects all employees to exhibit professional and appropriate conduct and serve as positive role models both at school and in the community. An employee may be suspended or disciplined for unprofessional or inappropriate conduct in accordance with law, the district's collective bargaining agreement, Board policy, and administrative regulation.

(cf. 4000 - Concepts and Roles)
(cf. 4112.5/4312.5 - Criminal Record Check)
(cf. 4117.4 - Dismissal)
(cf. 4119.21/4219.21/4319.21 - Professional Standards)

(cf. 4141/4241 - Collective Bargaining Agreement)

The Superintendent/Principal or designee may take disciplinary action as he/she deems appropriate in light of the particular facts and circumstances involved and based on the severity of the misconduct. Disciplinary actions may include, but not be limited to, verbal warnings, written warnings, reassignment, suspension, freezing or reduction of wages, compulsory leave, or dismissal.

The Superintendent/Principal or designee shall ensure that, consistent with law, disciplinary actions are taken in a consistent, nondiscriminatory manner and are appropriately documented.

(cf. 1312.1 - Complaints Concerning District Employees)
(cf. 4030 - Nondiscrimination in Employment)
(cf. 4032 - Complaints Concerning Discrimination in Employment)
(cf. 4112.6/4212.6/4312.6 - Personnel Files)
(cf. 4119.1/4219.4319.1 - Civil and Legal Rights)
(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

In accordance with law, the Superintendent/Principal or designee shall notify the Commission on Teacher Credentialing when the status of a credentialed employee has been changed as a result of alleged misconduct.

(cf. 4117.7 - Employment Status Reports)

Legal Reference: (see next page)

SUSPENSION/DISCIPLINARY ACTION (continued)

Legal Reference:

EDUCATION CODE
44008 Effect of termination of probation
44009 Conviction of specified crimes
44010 Sex offense - definitions
44011 Controlled substance offense - definitions
44242.5 Reports and review of alleged misconduct
44425 Conviction of a sex or narcotic offense

44660-44665 Evaluation and assessment of performance of certificated employees
44830.1 Criminal record summary certificated employees
44930-44988 Resignations, dismissal, and leave of absence, especially:
44940 Sex offenses and narcotic offenses; compulsory leave of absence
44940.5 Compulsory leave of absence
45055 Drawing of warrants for teachers
48907 Exercise of free speech, expression
48950 Speech and other communication
51530 Advocacy or teaching of communism
GOVERNMENT CODE
3543.2 Scope of representation
HEALTH AND SAFETY CODE
11054 Schedule I; substances included
11055 Schedule II, substances included
11056 Schedule III, substances included
11357-11361 Marijuana
11363 Peyote
11364 Opium
11370.1 Possession of controlled substances with a firearm
PENAL CODE
187 Murder
291 School employees arrest for sex offense
667.5 Prior prison terms, enhancement of prison terms
1192.7 Plea bargaining limitation
CODE OF REGULATIONS, TITLE 5
80303 Reports of change in employment status
80304 Notice of sexual misconduct
COURT DECISIONS
Crowl v. Commission on Professional Competence, (1990) 225 Cal. App. 3d 334

Management Resources:
COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS
California's Laws and Rules Pertaining to the Discipline of Professional Certificated Personnel, 2007
WEB SITES
CSBA: http://www.csba.org
Commission on Teacher Credentialing: http://www.ctc.ca.gov

Policy adopted:

CHUALAR UNION ELEMENTARY SCHOOL DISTRICT
Chualar, California

Certificated Personnel
AR 4118(a)

SUSPENSION/DISCIPLINARY ACTION

Suspension Without Pay

When a permanent certificated employee's unprofessional conduct is not considered serious enough to warrant dismissal, he/she may be suspended without pay on grounds of unprofessional conduct, following procedures designated in Education Code 44932-44938.

A probationary certificated employee may be suspended without pay for a specified period during the school year as an alternative to dismissal following procedures designated in Education Code 44948.3.

Prior to any disciplinary action on charges leading to suspension without pay on the grounds of unprofessional conduct, the Superintendent/Principal or designee shall give the employee written notice. This written notice shall: (Education Code 44938)

1. Indicate the nature of the employee's unprofessional conduct

2. Cite specific instances of unprofessional behavior

3. Give the employee a 45-day opportunity to correct the misconduct and overcome the ground(s) for the charge(s)

4. Include the evaluation made pursuant to Education Code 44660-44665, if applicable

(cf. 4115 - Evaluation/Supervision)

Mandatory Leave of Absence

Upon being informed that a certificated employee has been charged with a "mandatory leave of absence offense," the Superintendent/Principal or designee shall immediately place the employee on a leave of absence. A mandatory leave of absence offense includes: (Education Code 44830.1, 44940)

1. Any sex offense as defined in Education Code 44010

2. Any offense involving the unlawful sale, use, or exchange to minors of controlled substances as listed in Health and Safety Code 11054, 11055, and 11056, with the exception of marijuana, mescaline, peyote, or tetrahydrocannabinols

(cf. 4117.7 - Employee Status Reports)

SUSPENSION/DISCIPLINARY ACTION (continued)

Upon receipt of notification from the Department of Justice by telephone that a current temporary, substitute, or probationary employee serving before March 15 of the his/her second probationary year has been convicted of a violent or serious felony, that employee shall be immediately placed on leave without pay. Upon receipt of written electronic notification of the conviction from the Department of Justice, such employee shall be automatically terminated and without regard to any other termination procedure. (Education Code 44830.1)

(cf. 4112.5/4312.5 - Criminal Record Check)

An employee's compulsory leave may extend for not more than 10 days after the entry of judgment in the proceedings. However, the Board of Trustees may extend a certificated employee's compulsory leave by giving notice, within 10 days after the entry of judgment in the proceedings, that the employee will be dismissed within 30 days from the date of service of the notice unless he/she demands a hearing. (Education Code 44940, 44940.5)

(cf. 4117.4 - Dismissal)

Employee compensation during the period of compulsory leave shall be made in accordance with Education Code 44940.5.

Optional Leave of Absence

The Board may require an immediate compulsory leave of absence when a certificated employee is charged with an "optional leave of absence offense" as specified in law. Such employees shall be subject to the same requirements specified in Education Code 44940.5 regarding extension of the leave, furnishing of a bond, and payment of salaries for employees charged with mandatory leave of absence offenses. (Education Code 44940, 44940.5)

Protection of a Student's Free Speech or Press Rights

An employee shall not be suspended, disciplined, reassigned, transferred, dismissed, or otherwise retaliated against solely for acting to protect a student, or for refusing to infringe on a student's protected conduct, when that student is exercising his/her free speech or press rights pursuant to Education Code 48907 or 48950. (Education Code 48907, 48950)

(cf. 4119.1/4219.1/4319.1 - Civil and Legal Rights)
(cf. 5145.2 - Freedom of Speech/Expression)

Regulation approved:
All Personnel

CHUALAR UNION ELEMENTARY SCHOOL DISTRICT
Chualar, California
BP 4119.1(a)
4219.1
4319.1

CIVIL AND LEGAL RIGHTS

The Board of Trustees believes that the personal life of an employee is not an appropriate concern of the district, 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 district, provided that these activities do not violate law, 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 district 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 district 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 officials may search such items in order to uncover evidence that the employee is violating the law, Board policy, administrative regulation, or other rules of the district or school.

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

Whistleblower Protection

An employee shall have the right to disclose to a Board member, a school 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 district or a district 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 Superintendent/Principal 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)

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 district's complaint procedures. After filing a complaint with the district, 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 district 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. (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.

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

Policy adopted: **CHUALAR UNION ELEMENTARY SCHOOL DISTRICT**
Chualar, California
All Personnel BP 4119.11(a)
4219.11
SEXUAL HARASSMENT 4319.11

The Board of Trustees prohibits sexual harassment of district employees and job applicants. The Board also prohibits retaliatory behavior or action against district 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 Superintendent/Principal 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 district's 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 district 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 or the Superintendent.

A supervisor or other district administrator who receives a harassment complaint shall promptly notify the Superintendent/Principal 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)

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

BP 4119.11(b)
4219.11
4319.11

(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
7288.0 Sexual harassment training and education
CODE OF REGULATIONS, TITLE 5
4900-4965 Nondiscrimination in elementary and secondary education programs receiving state financial assistance
UNITED STATES CODE, TITLE 42
2000d-2000d-7 Title VI, Civil Rights Act of 1964
2000e-2000e-17 Title VII, Civil Rights Act of 1964, as amended
2000h-2-2000h-6 Title IX, 1972 Education Act Amendments
CODE OF FEDERAL REGULATIONS, TITLE 34
106.9 Dissemination of policy
COURT DECISIONS
Department of Health Services v. Superior Court of California, (2003) 31 Cal.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

Policy adopted:

CHUALAR UNION ELEMENTARY SCHOOL DISTRICT
Chualar, California

All Personnel

AR 4119.11(a)
4219.11
4319.11

SEXUAL HARASSMENT

Definitions

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

1. Submission to the conduct is made explicitly or implicitly a term or condition of the individual's employment.

2. Submission to or rejection of such conduct by the individual is used as the basis for an employment decision affecting him/her.

3. The conduct has the purpose or effect of having a negative impact upon the individual's work or has the purpose or effect of creating an intimidating, hostile, or offensive work environment. The conduct is sufficiently severe, persistent, pervasive, or objectively offensive so as to create a hostile or abusive working environment or to limit the individual's ability to participate in or benefit from an education program or activity.

4. Submission to or rejection of the conduct by the other individual is used as the basis for any decision affecting him/her regarding benefits, services, honors, programs, or activities available at or through the district.

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 district's sexual harassment policy or who participates in the investigation of a sexual harassment complaint.

AR 4119.11(b)
4219.11
4319.11

SEXUAL HARASSMENT (continued)

Training .

Every two years, the Superintendent/Principal 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 district'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 Superintendent/Principal or designee shall ensure that all employees receive periodic training regarding the district's sexual harassment policy, particularly the procedures for filing complaints and employees' duty to use the district's complaint procedures.

Notifications

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

1. Be displayed in a prominent location in the main administrative building or other area of the school where notices of district rules, regulations, procedures, and standards of conduct are posted

2. Be provided to each faculty member, all members of the administrative staff, and all members of the support staff at the beginning of the first quarter or semester of the school year or whenever a new employee is hired

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

3. Appear in any school publication that sets forth the school's or district'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 district information sheets that contain, at a minimum, components on: (Government Code 12950)

1. The illegality of sexual harassment

2. The definition of sexual harassment under applicable state and federal law

3. A description of sexual harassment, with examples

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

Regulation approved:
All Personnel

CHUALAR UNION ELEMENTARY SCHOOL DISTRICT
Chualar, California
BP 4119.21(a)
4219.21
4319.21

PROFESSIONAL STANDARDS

The Board of Trustees expects district employees to maintain the highest ethical standards, exhibit professional behavior, follow district policies and regulations, and abide by state and federal laws. Employee conduct should enhance the integrity of the district and advance the goals of the district's 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 district students.

(cf. 0200 - Goals for the School District)
(cf. 4112.2 - Certification)
(cf. 4119.1/4219.1/4319.1 - Civil and Legal Rights)
(cf. 4131 - Staff Development)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)

The Board encourages district employees to accept as guiding principles the professional standards and codes of ethics adopted by educational or professional associations to which they may belong.

(cf. 2111 - Superintendent Governance Standards)
(cf. 9005 - Governance Standards)

Staff Conduct with Students

The Board expects all employees to exercise good judgment and maintain professional standards and boundaries when interacting with students both on and off school property. Inappropriate employee conduct shall include, but not be limited to, engaging in harassing or discriminatory behavior; engaging in inappropriate socialization or fraternization with a student; soliciting, encouraging, or establishing an inappropriate written, verbal, or physical relationship with a student; furnishing tobacco, alcohol, or other illegal or unauthorized substances to a student; or engaging in child abuse.

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 4040 - Employee Use of Technology)
(cf. 5131 - Conduct)
(cf. 6163.4 - Student Use of Technology)

An employee who observes or has evidence of inappropriate conduct between another employee and a student shall immediately report such conduct to the Superintendent/Principal or designee. An employee who has knowledge of or suspects child abuse shall file a report pursuant to the district's child abuse reporting procedures as detailed in AR 5141.4 - Child Abuse Prevention and Reporting.

(cf. 5141.4 - Child Abuse Prevention and Reporting)

Any employee who is found to have engaged in inappropriate conduct with a student in violation of the law or this policy shall be subject to disciplinary action.

BP 4119.21(b)
4219.21
4319.21

PROFESSIONAL STANDARDS (continued)

(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
PENAL CODE
11164-11174.4 Child Abuse and Neglect Reporting Act
CODE OF REGULATIONS, TITLE 5
80331-80338 Rules of conduct for professional educators

Management Resources:

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
CSBA: http://www.csba.org
Association of California School Administrators: http://www.acsa.org
California Department of Education: http://www.cde.ca.gov
California Federation of Teachers: http://www.cft.org
California School Employees Association: http://www.csea.com
California Teachers Association: http://www.cta.org
Commission on Teacher Credentialing: http://www.ctc.ca.gov
Council of Chief State School Officers: http://www.ccsso.org

PROFESSIONAL STANDARDS

CODE OF ETHICS OF THE EDUCATION PROFESSION

Preamble

The educator, believing in the worth and dignity of each human being, recognizes the supreme importance of the pursuit of truth, devotion to excellence, and the nurturing of democratic principles. Essential to these goals is the protection of freedom to learn and to

teach and the guarantee of equal educational opportunity for all. The educator accepts the responsibility to adhere to the highest ethical standards.

The educator recognizes the magnitude of the responsibility inherent in the teaching process. The desire for the respect and confidence of one's colleagues, of students, of parents, and of the members of the community provides the incentive to attain and maintain the highest possible degree of ethical conduct. The Code of Ethics of the Education Profession indicates the aspiration of all educators and provides standards by which to judge conduct.

Principle I. Commitment to the Student

The educator strives to help each student realize his/her potential as a worthy and effective member of society. The educator therefore works to stimulate the spirit of inquiry, the acquisition of knowledge and understanding, and the thoughtful formulation of worthy goals.

In fulfillment of the obligation to the student, the educator:

1. Shall not unreasonably restrain the student from independent action in the pursuit of learning

2. Shall not unreasonably deny the student access to varying points of view

3. Shall not deliberately suppress or distort subject matter relevant to the student's progress

4. Shall make reasonable effort to protect the student from conditions harmful to learning or to health and safety

5. Shall not intentionally expose the student to embarrassment or disparagement

6. Shall not on the basis of race, color, creed, gender, national origin, marital status, political or religious beliefs, family, social, or cultural background, or sexual orientation, unfairly:

    a. Exclude any student from participation in any program

    b. Deny benefits to any student

    c. Grant any advantage to any student

7. Shall not use professional relationships with students for private advantage

8. Shall not disclose information in the course of professional service unless disclosure serves a compelling professional purpose or is required by law

Principle II. Commitment to the Profession

The education profession is vested by the public with a trust and responsibility requiring the highest ideals of professional service.

In the belief that the quality of the services of the education profession directly influences the nation and its citizens, the educator shall exert every effort to raise professional standards, to promote a climate that encourages the exercise of professional judgment, to achieve conditions that attract persons worthy of the trust to careers in education, and to assist in preventing the practice of the profession by unqualified persons.

In fulfillment of the obligation of the profession, the educator:

1. Shall not in any application for a professional position deliberately make a false statement or fail to disclose a material fact related to competency and qualifications

2. Shall not misrepresent his/her professional qualifications

3. Shall not assist any entry into the profession of a person known to be unqualified in respect to character, education, or other relevant attribute

4. Shall not knowingly make a false statement concerning the qualifications of a candidate for a professional position

5. Shall not assist a noneducator in the unauthorized practice of teaching

6. Shall not disclose information about colleagues obtained in the course of professional service unless disclosure serves a compelling professional purpose or is required by law

7. Shall not knowingly make false or malicious statements about a colleague

8. Shall not accept any gratuity, gift, or favor that might impair or appear to influence professional decisions or action

Source: National Education Association, 1975

Exhibit version:

CHUALAR UNION ELEMENTARY SCHOOL DISTRICT

Chualar, California

All Personnel

BP 4119.22
4219.22
4319.22

DRESS AND GROOMING

The Board of Trustees believes that appropriate dress and grooming by district 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.ca.gov

Policy adopted:

CHUALAR UNION ELEMENTARY SCHOOL DISTRICT
Chualar, California

All Personnel

BP 4119.23(a)
4219.23
4319.23

UNAUTHORIZED RELEASE OF CONFIDENTIAL/ PRIVILEGED INFORMATION

The Board of Trustees 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 Board 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 Board 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 Superintendent/Principal 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 district 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 Board policy, when the employee is: (Government Code 54963)

1. Making a confidential inquiry or complaint to a district attorney or grand jury concerning a perceived violation of law, including disclosing facts necessary to establish the illegality or potential illegality of a Board 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 Board action in closed session, including disclosure of the nature and extent of the illegal or potentially illegal action

3. Disclosing information that is not confidential

Other Disclosures

An employee who willfully releases confidential/privileged information about the district, 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 Superintendent/Principal 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

Policy **CHUALAR UNION ELEMENTARY SCHOOL DISTRICT**
adopted: Chualar, California
All Personnel BP 4119.25
4219.25
POLITICAL ACTIVITIES OF EMPLOYEES 4319.25

The Board of Trustees 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 district.

(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 1383
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

Policy adopted:

CHUALAR UNION ELEMENTARY SCHOOL DISTRICT
Chualar, California

All Personnel

AR 4119.25(a)
4219.25
4319.25

POLITICAL ACTIVITIES OF EMPLOYEES

District employees shall not:

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

(cf. 1160 - Political Processes)

2. During working hours and on district 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 district property, solicit or receive any political funds or contributions to promote the passage or defeat of other types of ballot measures

4. Use district time to urge the passage or defeat of any ballot measure or candidate

5. Use district equipment for the preparation or reproduction of political campaign materials, even if the district is reimbursed

(cf. 3512 - Equipment)

6. Post or distribute political campaign materials on district property

7. Disseminate political campaign materials through the district's 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.

POLITICAL ACTIVITIES OF EMPLOYEES (continued)

Nothing in Board 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 district 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 district facilities at reasonable times for the purpose of meetings. (Government Code 3543.1)

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

(cf. 4140/4240 - Bargaining Units)

Access to district communication channels shall be limited in cases where such access would be disruptive to district 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)

Regulation approved: **All Personnel**

CHUALAR UNION ELEMENTARY SCHOOL DISTRICT
Chualar, California
BP 4119.41(a)
4219.41
4319.41

EMPLOYEES WITH INFECTIOUS DISEASE

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

The Board 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 Superintendent/Principal 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 Superintendent/Principal or designee may consult with public health officials or physicians with expertise in the diagnosis and treatment of infectious disease. The Superintendent/Principal 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 Superintendent/Principal 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

This report shall be forwarded to the Board for confidential review and action.

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 Board and the Superintendent/Principal or designee shall ensure that employee rights to confidentiality are strictly observed. The district 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)

Policy adopted: **CHUALAR UNION ELEMENTARY SCHOOL DISTRICT**
Chualar, California
All Personnel BP 4119.42(a)
4219.42
EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS 4319.42

As part of its commitment to provide a safe and healthful work environment, the Board of Trustees recognizes the importance of developing an exposure control plan. The Superintendent/Principal 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 Superintendent/Principal or designee shall determine which employees have occupational exposure to bloodborne pathogens and other potentially infectious materials. In accordance with the district's exposure control plan, employees having occupational exposure shall be offered the hepatitis B vaccination.

The Superintendent/Principal 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 Superintendent/Principal or designee as having occupational exposure may submit a request to the Superintendent/Principal or designee to be included in the training and hepatitis B vaccination program. The Superintendent/Principal or designee may deny a request when there is no reasonable anticipation of contact with any infectious material.

Legal Reference: (see next page)

BP 4119.42(b)
4219.42
4319.42

EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS (continued)

Legal Reference:
LABOR CODE
142.3 Authority of Cal/OSHA to adopt standards

144.7 Requirement to amend standards
CODE OF REGULATIONS, TITLE 8
3204 Access to employee exposure and medical records
5193 California bloodborne pathogens standards
CODE OF FEDERAL REGULATIONS, TITLE 29
1910.1030 OSHA bloodborne pathogens standards

Management Resources:
CDE ADVISORIES
1016.89 Guidelines for Informing School Employees about Preventing the Spread of Infectious Diseases, including Hepatitis B and AIDS/HIV Infections and Policies for Dealing with HIV-Infected Persons in School Settings
WEB SITES
OSHA: http://www.osha.gov
Cal/OSHA: http://www.dir.ca.gov/occupational_safety.html
Centers for Disease Control and Prevention: http://www.cdc.gov

Policy adopted: **CHUALAR UNION ELEMENTARY SCHOOL DISTRICT**
Chualar, California
All Personnel AR 4119.42(a)
4219.42
EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS 4319.42

Definitions

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

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

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

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

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

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

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

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

Exposure Control Plan

The district's exposure control plan shall contain at least the following components: (8 CCR 5193(c))

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

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

   a. All job classifications in which all employees have occupational exposure

   b. Job classifications in which some employees have occupational exposure

AR 4119.42(b)
4219.42
4319.42

EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS (continued)

   c. All tasks and procedures, or groups of closely related tasks and procedures, in which occupational exposure occurs and which are performed by employees listed in item #b above

2. The schedule and method of implementing:

   a. Methods of compliance required by 8 CCR 5193(d), such as universal precautions, general and specific engineering and work practice controls, and personal protective equipment

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

   b. Hepatitis B vaccination

   c. Bloodborne pathogen post-exposure evaluation and follow-up

   d. Communication of hazards to employees, including labels, signs, information and training

   e. Recordkeeping

3. The district's procedure for evaluating circumstances surrounding exposure incidents

4. An effective procedure for gathering information about each exposure incident involving a sharp, as required for the log of sharps injuries

5. An effective procedure for periodically determining the frequency of use of the types and brands of sharps involved in exposure incidents documented in the sharps injury log

6. An effective procedure for identifying currently available engineering controls and selecting such controls as appropriate for the procedures performed by employees in their work areas or departments

7. An effective procedure for documenting instances when a licensed healthcare professional directly involved in a patient's care determines, in the reasonable exercise of clinical judgment, that the use of an engineering control would jeopardize an individual's safety or the success of a medical, dental or nursing procedure involving the individual

EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS (continued)

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

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

1. Reflect new or modified tasks and procedures affecting occupational exposure

2. To the extent that sharps are used in the district, reflect progress in implementing the use of needleless systems and sharps with engineered sharps injury protection

3. Include new or revised employee positions with occupational exposure

4. Review and evaluate the exposure incidents which occurred since the previous update

5. Review and respond to information indicating that the exposure control plan is deficient in any area

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

Preventive Measures

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

Hepatitis B Vaccination

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

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

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

Information and Training

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

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

Reporting Incidents

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

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

Sharps Injury Log

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

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

1. Date and time of the exposure incident

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

3. A description of the exposure incident, including:

AR 4119.42(e)
4219.42
4319.42

a. Job classification of the exposed employee

b. Department or work area where the exposure incident occurred

c. The procedure that the exposed employee was performing at the time of the incident

d. How the incident occurred

e. The body part involved in the incident

f. If the sharp had engineered sharps injury protection, whether the protective mechanism was activated and whether the injury occurred before, during or after the protective mechanism was activated

g. If the sharp had no engineered sharps injury protection, the injured employee's opinion as to whether and how such a mechanism could have prevented the injury

h. The employee's opinion about whether any other engineering, administrative or work practice could have prevented the injury

Post-Exposure Evaluation and Follow-up

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

1. Document the route(s) of exposure and the circumstances under which the exposure incident occurred

2. Identify and document the source individual, unless that identification is infeasible or prohibited by law

3. Provide for the collection and testing of the employee's blood for hepatitis B, hepatitis C and HIV serological status

4. Provide for post-exposure prophylaxis, when medically indicated, as recommended by the U.S. Public Health Service

5. Provide for counseling and evaluation of reported illnesses

The Superintendent/Principal or designee shall provide the health care professional with a copy of 8 CCR 5193; a description of the employee's duties as they relate to the exposure

incident; documentation of the route(s) of exposure and circumstances under which exposure occurred; results of the source individual's blood testing, if available; and all medical records maintained by the district relevant to the appropriate treatment of the employee, including vaccination status. (8 CCR 5193(f))

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

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)
(cf. 9011 - Disclosure of Confidential/Privileged Information)

Records

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

(cf. 1340 - Access to District Records)
(cf. 3580 - District Records)

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

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

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

1. Medical records shall be maintained for the duration of employment plus 30 years.

2. Training records shall be maintained for three years from the date of training.

3. The sharps injury log shall be maintained five years from the date the exposure incident occurred.

4. Exposure records shall be maintained for at least 30 years.

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

Hepatitis B Vaccine Declination

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

have occupational exposure to blood or other potentially infectious materials and I want to be vaccinated with hepatitis B vaccine, I can receive the vaccination series at no charge to myself.

_____
Signature

_____
Employee Name (Please print)

_____
Date

Exhibit version:
All Personnel

CHUALAR UNION ELEMENTARY SCHOOL DISTRICT
Chualar, California
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 Board of Trustees requires that universal precautions be observed throughout the district.

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 - School Health Services)
(cf. 6145.2 - Athletic Competition)

Employees shall immediately report any exposure incident or first aid incident in accordance with the district's 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

Policy adopted:

CHUALAR UNION ELEMENTARY SCHOOL DISTRICT
Chualar, California

All Personnel

AR 4119.43(a)
4219.43
4319.43

UNIVERSAL PRECAUTIONS

Definitions

Universal precautions are an approach to infection control. All human blood and certain human body fluids, including but not limited to semen, vaginal secretions and any body fluid that is visibly contaminated with blood, are treated as if known to be infectious for human immunodeficiency virus (HIV), hepatitis B virus (HBV), hepatitis C virus (HCV) and other bloodborne pathogens. (8 CCR 5193(b))

Personal protective equipment includes specialized clothing or equipment worn or used for protection against a hazard. General work clothes such as uniforms, pants, shirts or blouses not intended to function as protection against a hazard are not considered to be personal protective equipment. (8 CCR 5193(b))

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

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

Employee Information

The Superintendent/Principal 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 Superintendent/Principal 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))

Where occupational exposure remains after the institution of engineering and work practice controls, the Superintendent/Principal 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 Superintendent/Principal or designee shall maintain, repair, make accessible and require employees to use and properly handle protective equipment. (8 CCR 5193(d))

The Superintendent/Principal or designee shall provide handwashing facilities which are readily accessible to employees. When provision of handwashing facilities is not feasible, the Superintendent/Principal 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.

(cf. 5141.21 - Administering Medication and Monitoring Health Conditions)
(cf. 5141.24 - Specialized Health Care Services)

AR 4119.43(d)
4219.43
4319.43

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 - School Health Services)
(cf. 6145.2 - Athletic Competition)

Regulation approved:

CHUALAR UNION ELEMENTARY SCHOOL DISTRICT
Chualar, California

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 Board of Trustees may employ substitute personnel for the remainder of the school year for positions for which no regular employee is available. The district shall first demonstrate to the Commission on Teacher Credentialing the inability to acquire the services of a qualified regular employee. (Education Code 44917)

(cf. 4117.14/4317.14 - Postretirement Employment)

Classification

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

The Board 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 Board 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 Board 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. Teach in special day and evening classes for adults or in schools of migratory population for not more than four months of any school term (Education Code 44919)

3. Serve in a limited assignment supervising student athletic activities provided such assignments have first been made available to teachers presently employed in the district (Education Code 44919)

(cf. 4127/4227/4327 - Temporary Athletic Team Coaches)

TEMPORARY/SUBSTITUTE PERSONNEL (continued)

4. Serve in a position for a period not to exceed 20 working days in order to prevent the stoppage of district 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 Board shall classify substitute and temporary employees as such. (Education Code 44915, 44916)

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 Superintendent/Principal 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)

TEMPORARY/SUBSTITUTE PERSONNEL (continued)

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 district, the Superintendent of Public Instruction may approve an extension of 20 school days. In extraordinary circumstances the district may seek an extension beyond the initial 20 school days. (Education Code 56061)

In placing substitute teachers in special education classrooms, the district 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 Superintendent/Principal 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 Board 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 the district. (Education Code 44977, 45030)

Substitute and temporary employees shall not participate in the health and welfare plans or other fringe benefits of the district.

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 district school was 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 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)

TEMPORARY/SUBSTITUTE PERSONNEL (continued)

A temporary employee hired to teach only the first semester due to anticipated midyear high school graduations shall be classified as a probationary employee for the entire school year if the employment continues beyond the first semester. (Education Code 44921)

Release from Employment/Dismissal

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

The Board may release a temporary employee at its discretion if the employee has served less than 75 percent of the number of days the district school is maintained.

After serving during one school year 75 percent of the number of days the district school is maintained, a temporary employee may be released as long as the employee is notified before the end of the school year of the district'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 district school was 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 district. (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 district 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)

A person employed for only the first semester because of anticipated midyear high school graduations shall be reemployed to fill any vacant positions in the district for which the employee is certified. Preference for available positions shall be determined by the Board as prescribed by Education Code 44845 and 44846. (Education Code 44921)

Legal Reference: (see next page)

TEMPORARY/SUBSTITUTE PERSONNEL (continued)

Legal Reference:

EDUCATION CODE
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

TEMPORARY ATHLETIC TEAM COACHES

The Board of Trustees desires to employ highly qualified coaches for the district's sports and interscholastic athletic programs in order to enhance the knowledge, skills, motivation, and safety of student athletes.

(cf. 6142.7 - Physical Education and Activity)
(cf. 6145.2 - Athletic Competition)

The Superintendent/Principal or designee may employ a certificated or noncertificated employee, other than a substitute employee, to supervise or instruct interscholastic athletic activities as a temporary employee in a limited assignment capacity. (5 CCR 5590)

(cf. 4121 - Temporary/Substitute Personnel)

When hiring a person to fill a position as a temporary athletic team coach, the position shall first be made available to qualified certificated teachers currently employed by the district. (Education Code 44919)

All coaches shall be subject to Board policies, administrative regulations, and California Interscholastic Federation bylaws and codes of ethical conduct.

(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)
(cf. 5131.1 - Bus Conduct)
(cf. 5131.63 - Steroids)

Noncertificated coaches have no authority to give grades to students. (5 CCR 5591)

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

Qualifications

The Superintendent/Principal or designee shall establish qualification criteria for all athletic coaches in accordance with law and district standards. These criteria shall ensure that coaches possess an appropriate level of competence, knowledge, and skill.

Any noncertificated employee or volunteer who works with students in a district-sponsored interscholastic athletic program shall, prior to beginning his/her duties, obtain a Department of Justice and Federal Bureau of Investigation criminal background check through the district. (Education Code 49024)

An individual who possesses a current Activity Supervisor Clearance Certificate from the Commission on Teacher Credentialing, issued prior to July 9, 2010, shall have satisfied district requirements for the criminal background check. (Education Code 49024)

TEMPORARY ATHLETIC TEAM COACHES (continued)

(cf. 1240 - Volunteer Assistance)
(cf. 4112.5/4312.5 - Criminal Record Check)
(cf. 4112.62/4212.62/4312.62 - Maintenance of Criminal Offender Records)
(cf. 4212.5 - Criminal Record Check)

Legal Reference:

EDUCATION CODE
35179-35179.7 Interscholastic athletics
44010 Sex offense
44011 Controlled substance offense
44332-44332.5 Temporary certificates
44424 Conviction of a crime
44808 Liability when students are not on school property
44919 Classification of temporary employees
45125.01 Interagency agreements for criminal record information
45347 Instructional aides subject to requirements for classified staff
45349 Use of volunteers to supervise or instruct students
49024 Activity Supervisor Clearance Certificate
49030-49034 Performance-enhancing substances
49406 Examination for tuberculosis
CODE OF REGULATIONS, TITLE 5
5531 Supervision of extracurricular activities
5590-5596 Duties of temporary athletic team coaches
COURT DECISIONS
CTA v. Rialto Unified School District, (1997) 14 Cal. 4th 627
San Jose Teachers Association, CTA, NEA v. Barozzi, (1991) 230 Cal.App.3d 1376

Management Resources:

CSBA PUBLICATIONS
Steroids and Students: What Boards Need to Know, Policy Brief, July 2005
A School Board Member's Guide to CIF and Interscholastic Sports, 1997
CALIFORNIA INTERSCHOLASTIC FEDERATION PUBLICATIONS
Pursuing Victory with Honor, 1999
California Interscholastic Federation Constitution and Bylaws
COMMISSION ON TEACHER CREDENTIALING CODED CORRESPONDENCE
10-11 Information on Assembly Bill 346 Concerning the Activity Supervisor Clearance Certificate (ASCC), July 20, 2010
WEB SITES
CSBA: http://ww.csba.org
California Athletic Trainers' Association: http://www.ca-at.org
California Department of Education: http://www.cde.ca.gov
California Interscholastic Federation: http://www.cifstate.org
Commission on Teacher Credentialing: http://www.ctc.ca.gov
National Athletic Trainers' Association: http://www.nata.org

Policy adopted: **CHUALAR UNION ELEMENTARY SCHOOL DISTRICT**
Chualar, California

Qualifications

The Superintendent/Principal or designee shall establish minimum qualification criteria for temporary athletic team coaches. These criteria shall include, but not necessarily be limited to, competencies in the following areas: (5 CCR 5593)

1. Care and prevention of athletic injuries, basic sports injury first aid, and emergency procedures, as evidenced by one or more of the following:

    a. Completion of a college-level course in the care and prevention of athletic injuries and possession of a valid cardiopulmonary resuscitation (CPR) card

    b. A valid sports injury certificate or first aid card, and a valid CPR card

    c. A valid Emergency Medical Technician (EMT) I or II card

    d. A valid trainer's certification issued by the National or California Athletic Trainers' Association (NATA/CATA)

    e. Possession of both valid CPR and first aid cards and practical experience under the supervision of an athletic coach or trainer or experience assisting in team athletic training and conditioning

2. Coaching theory and techniques in the sport or game being coached, as evidenced by one or more of the following:

    a. Completion of a college course in coaching theory and techniques

    b. Completion of inservice programs arranged by a school district or county office of education

    c. Prior service as a student coach or assistant athletic coach in the sport or game being coached

    d. Prior coaching in community youth athletic programs in the sport being coached

    e. Prior participation in organized competitive athletics at high school level or above in the sport being coached

3. Knowledge of the rules and regulations pertaining to the sport or game being coached, the league rules, and, at the high school level, regulations of the California Interscholastic Federation (CIF)

TEMPORARY ATHLETIC TEAM COACHES (continued)

4. Knowledge of child or adolescent psychology, as appropriate, as it relates to sport participation, as evidenced by one or more of the following:

   a. Completion of a college-level course in child psychology for elementary school positions and adolescent or sports psychology for secondary school positions

   b. Completion of a seminar or workshop on human growth and development of youth

   c. Prior active involvement with youth in school or community sports program

The Superintendent/Principal or designee may waive competency requirements for persons enrolled in appropriate training courses leading to acquisition of the competency, provided such persons serve under the direct supervision of a fully qualified coach until the competencies are met. (5 CCR 5593)

Following the selection of a temporary athletic team coach, the Superintendent/Principal or designee shall certify to the Board of Trustees, at the next regular Board meeting or within 30 days, whichever is sooner, that the coach meets the qualifications and competencies required by 5 CCR 5593. By April 1 of each year, the Board shall certify to the State Board of Education that the provisions of 5 CCR 5593 have been met. (5 CCR 5594)

Additional Qualifications of Noncertificated Personnel and Volunteers

In addition to the qualifications listed above, any noncertificated employee or volunteer assigned as a temporary athletic team coach shall: (5 CCR 5592)

1. Be free from tuberculosis and any other contagious disease that would prohibit certificated teachers from teaching, as verified by a written statement, renewable every four years, from a licensed physician or other person approved by the district

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

2. Not have been convicted of any offense referred to in Education Code 44010, 44011, or 44424, or any offense involving moral turpitude or evidencing unfitness to associate with children

Any noncertificated employee or volunteer assigned as a temporary athletic team coach shall obtain an Activity Supervisor Clearance Certificate or a criminal background check in accordance with Board policy. (Education Code 49024)

TEMPORARY ATHLETIC TEAM COACHES (continued)

(cf. 1240 - Volunteer Assistance)
(cf. 4112.5/4312.5 - Criminal Record Check)
(cf. 4112.62/4212.62/4312.62 - Maintenance of Criminal Offender Records)
(cf. 4212.5 - Criminal Record Check)

STAFF DEVELOPMENT

Cautionary Notice: As added and amended by SBX3 4 (Ch. 12, Third Extraordinary Session, Statutes of 2009) and ABX4 2 (Ch. 2, Fourth Extraordinary Session, Statutes of 2009), Education Code 42605 grants districts flexibility in "Tier 3" categorical programs. The Chualar Union Elementary School District has accepted this flexibility and thus is deemed in compliance with the statutory or regulatory program and funding requirements for these programs for the 2008-09 though 2012-2013 fiscal years. As a result, the district may temporarily suspend certain provisions of the following policy or regulation that reflect these requirements. For further information, please contact the Superintendent/Principal or designee.

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

(cf. 6111 - School Calendar)

The district's staff development program shall assist certificated staff in developing knowledge and skills, including, but 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. Use of effective, subject-specific teaching methods, strategies, and skills

3. 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

STAFF DEVELOPMENT (continued)

(cf. 4112.22 - Staff Teaching Students of Limited English Proficiency)
(cf. 4112.23 - Special Education Staff)
(cf. 5147 - Dropout Prevention)
(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)

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

(cf. 6178 - Career Technical Education)

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 and 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 Achievement)
(cf. 6162.5 - Student Assessment)

10. Knowledge of 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)

STAFF DEVELOPMENT (continued)

(cf. 5141.4 - Child Abuse Prevention and Reporting)
(cf. 5141.52 - Suicide Prevention)
(cf. 5145.3 - Nondiscrimination/Harassment)
(cf. 5145.7 - Sexual Harassment)

11. Knowledge of topics related to employee health, safety, and security

(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)
(cf. 4119.42/4219.42/4319.42- Exposure Control Plan for Bloodborne Pathogens)
(cf. 4119.43/4219.43/4319.43 - Universal Precautions)
(cf. 4157/4257/4357 - Employee Safety)
(cf. 4158/4258/4358 - Employee Security)

The Superintendent/Principal or designee may, in conjunction with individual teachers and interns, develop an individualized program of professional growth which contributes to competence, performance, and effectiveness in teaching and classroom assignments and, as necessary, assists them in meeting state or federal requirements to be fully qualified for their positions.

(cf. 4112.2 - Certification)
(cf. 4112.21 - Interns)
(cf. 4112.24 - Teacher Qualifications Under the No Child Left Behind Act)
(cf. 4131.1 - Beginning Teacher Support/Induction)
(cf. 4138 - Mentor Teachers)

The district's 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 Superintendent/Principal or designee shall involve teachers, site and district administrators, and others, as appropriate, in the development of the district's staff development program. He/she shall ensure that the district's staff development program is aligned with district priorities for student achievement, school improvement objectives, and school 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. 0520.1 - 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)

STAFF DEVELOPMENT (continued)

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

(cf. 3100 - Budget)
(cf. 3350 - Travel Expenses)

The Superintendent/Principal 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 Board regarding the effectiveness of the staff development program. Based on the Superintendent/Principal's report, the Board may revise the program as necessary to ensure that the staff development program supports the district's priorities for student achievement.

(cf. 0500 - Accountability)

Legal Reference: (see next page)

STAFF DEVELOPMENT (continued)

Legal Reference:

EDUCATION CODE
41520-41522 Teacher Credentialing Block Grant, including beginning teacher support
41530-41533 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
44325-44328 District interns
44450-44468 University internship program
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 Block Grant; teacher recruitment and retention in high-priority schools
45028 Salary schedule and exceptions
48980 Notification of parents/guardians: schedule of minimum days
52055.600-52055.662 High Priority Schools Grant Program
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
11980-11985.6 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
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
State Board of Education Guidelines and Criteria for Approval of Training Providers, March 2008
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

STAFF DEVELOPMENT

Cautionary Notice: As added and amended by SBX3 4 (Ch. 12, Third Extraordinary Session, Statutes of 2009) and ABX4 2 (Ch. 2, Fourth Extraordinary Session, Statutes of 2009), Education Code 42605 grants districts flexibility in "Tier 3" categorical programs. The Chualar Union Elementary School District has accepted this flexibility and thus is deemed in compliance with the statutory or regulatory program and funding requirements for these programs for the 2008-09 though 2012-2013 fiscal years. As a result, the district may temporarily suspend certain provisions of the following policy or regulation that reflect these requirements. For further information, please contact the Superintendent/Principal or designee.

Approved Activities

The Superintendent/Principal 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 district, county office of education, 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

STAFF DEVELOPMENT (continued)

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)
(cf. 6178 - Career Technical Education)
(cf. 6178 - Work Experience Education)
(cf. 6178.2 - Regional Occupational Center/Program)

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

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

Mathematics and Reading Professional Development Program

With the approval of the State Board of Education, the district shall offer or contract with a training provider to provide professional development to teachers, instructional aides, and paraprofessionals who directly assist with classroom instruction in mathematics and/or reading. (Education Code 99232, 99237)

(cf. 4222 - Teacher Aides/Paraprofessionals)
(cf. 6142.91 - Reading/Language Arts Instruction)
(cf. 6142.92 - Mathematics Instruction)

Priority for professional development under this program may be given to teachers who meet any of the following criteria: (Education Code 99234)

1. Are in their first or second year of teaching

2. Are assigned to high-priority schools ranked in deciles 1-5 of the state's Academic Performance Index

3. Are assigned to schools that are under state sanctions in the High Priority Schools Grant Program pursuant to Education Code 52055.650

(cf. 0520.1 - High Priority Schools Grant Program)

4. Have recently changed teaching assignments

STAFF DEVELOPMENT (continued)

The program shall provide 40 hours of professional development per subject area focused primarily on the statewide academic content standards for mathematics or English language arts, state curriculum frameworks for mathematics or English language arts, and instructional materials aligned to mathematics or English language arts content standards. The program shall include instructional strategies designed to help all students gain mastery of the state content standards, with special emphasis on English language learners and students with disabilities. (Education Code 99237; 5 CCR 11984)

(cf. 6011 - Academic Standards)

Within two years of completing the above professional development, participating teachers shall complete 80 hours of follow-up instruction, coaching, or additional school-site assistance based on individual teacher or school needs as appropriate. (Education Code 99237, 99237.6)

Contingent upon state funding, teachers of English language learners who have completed at least the initial 40 hours of professional development described above may receive an additional 40 hours of instruction, follow-up instruction, and support in mathematics and reading/language arts instruction. Completion of the English learner professional development may be counted toward the 80-hour follow-up training requirement described above. (Education Code 99237.5; 5 CCR 11981.3, 11985)

The Superintendent/Principal or designee shall retain and submit preprogram and postprogram student achievement data to the California Department of Education upon request. He/she also shall retain, for no less than five years, all records related to the professional development provided to all program participants, including, but not limited to: (5 CCR 11982)

1. The number of hours of training attended

2. Attendance records

3. Subject content

4. The dates of each training session taken by teachers and paraprofessionals

5. The name(s) of the providers

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

BEGINNING TEACHER SUPPORT/INDUCTION

The Board of Trustees recognizes that intensive professional development and support will help beginning teachers apply their academic preparation more effectively in the classroom and result in greater district retention of capable beginning teachers. The Superintendent/Principal or designee shall ensure that first- and second-year teachers receive guidance to help them make an effective transition into the teaching profession.

(cf. 4131 - Staff Development)

The Superintendent/Principal or designee shall inform beginning teachers about induction programs that are available to help them fulfill the requirements of the professional clear multiple- or single-subject teaching credential pursuant to Education Code 44259.

(cf. 4112.2 - Certification)
(cf. 4112.21 - Interns)
(cf. 4112.24 - Teacher Qualifications Under the No Child Left Behind Act)

District-Sponsored BTSA Induction Program

When approved by the Commission on Teacher Credentialing (CTC) and the Superintendent of Public Instruction, the district may serve as a sponsor of an induction program. The program shall meet state standards for induction programs and shall support beginning teachers in meeting the competencies described in the California Standards for the Teaching Profession.

The Superintendent/Principal or designee, with input from the participating teacher, shall pair each participating teacher with a support provider who is an experienced teacher, knowledgeable about beginning teacher development and needed competencies, and effective in interpersonal and communication skills. The roles and responsibilities of support providers shall be clearly defined in writing and communicated to all program participants.

(cf. 4138 - Mentor Teachers)

The Superintendent/Principal or designee shall provide initial preparation and additional professional development for support providers to enable them to acquire and enhance their knowledge and skills needed to work with beginning teachers.

Professional development provided to a beginning teacher shall be based on an individual induction plan which takes into consideration the teacher's prior preparation and experience.

Subject to verification and approval of the Superintendent/Principal or designee, a beginning teacher shall not be required to demonstrate that a competency has been met, nor complete a program element designed to assist beginning teachers in meeting that competency, if he/she previously met the competency while participating in a CTC-approved teacher preparation program. (Education Code 44279.1)

The beginning teacher's knowledge and classroom practice shall be regularly assessed using multiple measures and the results shall be used to monitor and revise subsequent individual induction plans. The Superintendent/Principal or designee shall maintain a complete record of each participating teacher's participation and progress toward completion of professional credential requirements.

Performance assessments conducted as part of the induction program shall not be used for employment-related evaluations, as a condition of employment, or as a basis of terminating employment. (Education Code 44279.1)

(cf. 4115 - Evaluation/Supervision)
(cf. 4117.4 - Dismissal)

The Superintendent/Principal or designee shall conduct an annual evaluation of the induction program and shall report to the Board regarding its effectiveness in meeting induction program goals.

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

Legal Reference: (see next page)

Legal Reference:

EDUCATION CODE
41520-41522 Teacher Credentialing Block Grant
41530-41532 Professional Development Block Grant
44259 Credential requirements
44259.5 Standards for professional preparation programs
44275.4 Credential requirements, induction, out-of-state teachers
44279.1-44279.7 Beginning Teacher Support and Assessment Program (BTSA)
44325-44328 District interns
44380-44386 Alternative certification
44450-44468 University interns
44560-44562 Certificated Staff Mentoring Program
CODE OF REGULATIONS, TITLE 5
6100-6126 Teacher qualifications, No Child Left Behind Act
80055 Internship credential
80413 Credential requirements
80413.3 Credential requirements; teachers with out-of-state credentials
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

Management Resources:

COMMISSION ON TEACHER CREDENTIALING/CALIFORNIA DEPARTMENT OF EDUCATION POLICY
Funding Policy for Teacher Development Programs, December 2006
COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS
Induction Manual: A Credential Application Processing Guidebook for Commission-Approved Induction Programs, June 2004
Final Report of the Individual Evaluation of the Beginning Teacher Support and Assessment Program, April 2002
Standards of Quality and Effectiveness for Professional Teacher Induction Programs, March 2002
California Standards for the Teaching Profession, 1997
WEB SITES
Beginning Teacher Support and Assessment: http://www.btsa.ca.gov
California Department of Education: http://www.cde.ca.gov
Commission on Teacher Credentialing: http://www.ctc.ca.gov

Policy adopted:

CHUALAR UNION ELEMENTARY SCHOOL DISTRICT
Chualar, California

All Personnel

BP 4132(a)
4232
4332

PUBLICATION OR CREATION OF MATERIALS

The Board of Trustees recognizes the importance of creating a work environment that encourages employee innovation in creating and developing high-quality materials to improve student achievement and the efficiency of district operations.

(cf. 4119.21/4219.21/4319.21 - Professional Standards)
(cf. 6162.6 - Use of Copyrighted Materials)

The Superintendent/Principal or designee shall oversee the development of instructional materials, computer programs, and other copyrightable materials by employees, independent contractors, and consultants. An employee, independent contractor, or consultant shall notify the Superintendent/Principal or designee of his/her intent to publish or register a work developed in whole or in part within the scope of his/her employment.

(cf. 3600 - Consultants)

Instructional materials, computer programs, and other copyrightable materials developed by an employee within the scope of his/her employment shall be the property of the district.

(cf. 1113 - District and School Web Sites)
(cf. 4040 - Employee Use of Technology)
(cf. 4119.1/4219.1/4319.1 - Civil and Legal Rights)
(cf. 6161 - Equipment, Books and Materials)
(cf. 6161.11 - Supplementary Instructional Materials)
(cf. 6163.1 - Library Media Centers)

If an employee has developed copyrightable material during both work and non-working hours, and the work was within the scope of his/her employment, the Superintendent/Principal or designee shall negotiate a contract with the employee to protect the district's right as to the ownership or partial ownership of the copyright.

(cf. 3312 - Contracts)

The Superintendent/Principal or designee shall ensure that any contract with an independent contractor or consultant contains a provision specifying the district's right to ownership of the copyright of any work produced by the contractor or consultant for the district.

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

Legal Reference: (see next page)

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
101-122 Subject matter and scope of copyright
201 Copyright ownership and transfer
COURT DECISIONS
Community for Creative Non-Violence v. Reid, (1989) 490 U.S. 730

Management Resources:

WEB SITES
Copyright Clearance Center: http://www.copyright.com
Copyright Society of the USA: http://www.csusa.org
U.S. Copyright Office: http://www.copyright.gov

Employees shall not solicit district 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 the school or other charitable organizations shall be conducted in accordance with applicable Board policy and administrative regulation.

(cf. 1325 - Advertising and Promotion)
(cf. 1321 - Solicitation of Funds from and by Students)
(cf. 4136/4236/4336 - Nonschool Employment)
(cf. 5022 - Student and Family Privacy Rights)

Staff members shall respect the confidentiality of district employees and students and shall not use their status as district 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 district. Employees engaged in planning, organizing or leading tours as private, non-district-sponsored businesses shall make it clear that they do not represent the school or district. 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

Policy adopted:
All Personnel

CHUALAR UNION ELEMENTARY SCHOOL DISTRICT
Chualar, California
BP 4136(a)
4236
4336

NONSCHOOL EMPLOYMENT

In order to help maintain public trust in the integrity of district operations, the Board of Trustees expects all employees to give the responsibility of their positions precedence over any other outside employment. A district employee may receive compensation for outside activities as long as these activities are not inconsistent, incompatible, in conflict with, or inimical to his/her district duties.

(cf. 4119.21/4219.21/4319.21 - Professional Standards)
(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)
(cf. 9270 - Conflict of Interest)

An outside activity shall be considered inconsistent, incompatible, or inimical to district employment when such activity: (Government Code 1126)

1. Requires time periods that interfere with the proper, efficient discharge of the employee's duties

2. Entails compensation from an outside source for activities which are part of the employee's regular duties

3. Involves using the district's name, prestige, time, facilities, equipment, or supplies for private gain

4. Involves service which will be wholly or in part subject to the approval or control of another district employee or Board member

(cf. 1321 - Solicitation of Funds from and by Students)
(cf. 3300 - Expenditures and Purchases)
(cf. 4040 - Employee Use of Technology)
(cf. 4132/4232/4332 - Publication or Creation of Materials)
(cf. 4135/4235/4335 - Soliciting and Selling)
(cf. 6161.1 - Selection and Evaluation of Instructional Materials)

An employee wishing to accept outside employment that may be inconsistent, incompatible, in conflict with, or inimical to the employee's duties shall file a written request with his/her immediate supervisor describing the nature of the employment and the time required. The supervisor shall evaluate each request based on the employee's specific duties within the district and determine whether to grant authorization for such employment.

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

The supervisor shall inform the employee whether the outside employment is prohibited. The employee may appeal a supervisor's denial of authorization to the Superintendent/Principal or designee. An employee who continues to pursue a prohibited activity may be subject to disciplinary action.

(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)

Tutoring

A certificated employee shall not accept any compensation or other benefit for tutoring a student enrolled in his/her class(es). An employee who wishes to tutor another district student shall first request authorization from his/her supervisor in accordance with this Board policy. If authorization is granted, the employee shall not use district facilities, equipment, or supplies when providing the tutoring service.

Legal Reference:
EDUCATION CODE
35160 Authority of governing boards
35160.1 Broad authority of school districts
51520 Prohibited solicitation on school premises
GOVERNMENT CODE
1126 Incompatible activities of employees
1127 Incompatible activities; off duty work
1128 Incompatible activities, attorney
CODE OF REGULATIONS, TITLE 5
80334 Unauthorized private gain or advantage
ATTORNEY GENERAL OPINIONS
70 Ops.Cal.Atty.Gen. 157 (1987)

Management Resources:
WEB SITES
CSBA: http://www.csba.org
Fair Political Practices Commission: http://www.fppc.ca.gov

PEER ASSISTANCE AND REVIEW

Cautionary Notice: As added and amended by SBX3 4 (Ch. 12, Third Extraordinary Session, Statutes of 2009) and ABX4 2 (Ch. 2, Fourth Extraordinary Session, Statutes of 2009), Education Code 42605 grants districts flexibility in "Tier 3" categorical programs. The Chualar Union Elementary School District has accepted this flexibility and thus is deemed in compliance with the statutory or regulatory program and funding requirements for these programs for the 2008-09 though 2012-2013 fiscal years. As a result, the district may temporarily suspend certain provisions of the following policy or regulation that reflect these requirements. For further information, please contact the Superintendent/Principal or designee.

In order to assist teachers who may need additional development in subject matter knowledge and/or teaching strategies, the Board of Trustees shall work with the local teachers' organization to establish and maintain a program of peer assistance and review linking participating teachers with exemplary teachers serving as consulting teachers. Consulting teachers shall provide sustained, intensive support including, but not limited to, multiple classroom observations, recommendations for staff development and regular meetings with participating teachers.

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

The Superintendent/Principal or designee shall establish in accordance with law a joint teacher-administrator peer review panel to manage the program.

Board decisions regarding the continued employment of an individual participating teacher shall include consideration of the results of the individual's participation in the peer assistance and review program and the recommendations of the consulting teacher and review panel.

(cf. 4115 - Evaluation/Supervision)
(cf. 4117.4 - Dismissal)

The Board shall coordinate policies and procedures related to the district's peer assistance and review program with other district activities for staff development, teacher support and staff evaluation.

(cf. 4131 - Staff Development)
(cf. 4315.1 - Staff Evaluating Teachers)

Legal Reference: (see next page)

Legal Reference:

EDUCATION CODE

44279.1-44279.7 Beginning teacher support and assessment
44325-44328 District intern program
44500-44508 Peer assistance and review program
44560-44562 Certificated Staff Mentoring Program
44662 Evaluation of certificated employees
44664 Evaluation

Management Resources:

WEB SITES

CSBA: http://www.csba.org
CDE: http://www.cde.ca.gov
California Commission on Teacher Credentialing: http://www.ctc.ca.gov
California Teachers Association: http://www.cta.org
California Federation of Teachers: http:/www.cft.org

PEER ASSISTANCE AND REVIEW

Cautionary Notice: As added and amended by SBX3 4 (Ch. 12, Third Extraordinary Session, Statutes of 2009) and ABX4 2 (Ch. 2, Fourth Extraordinary Session, Statutes of 2009), Education Code 42605 grants districts flexibility in "Tier 3" categorical programs and provides that districts are deemed in compliance with the program and funding requirements for these programs for the 2008-09 through 2012-13 fiscal years. As a result of this flexibility, the district may choose to temporarily suspend certain provisions of the following policy or administrative regulation that reflect those requirements. However, this flexibility does not affect or alter any existing contract or bargaining agreement that the district may have in place. Thus, districts should examine the terms of those contracts and agreements and consult with district legal counsel for additional guidance. Also see BP 2210 - Administrative Discretion Regarding Board Policy.

Joint Teacher-Administrator Peer Review Panel

The joint teacher-administrator peer review panel shall: (Education Code 44502)

1. Select teachers to serve as consulting teachers

2. Review peer review reports prepared by consulting teachers

3. Make recommendations to the Board of Trustees regarding participants in the peer assistance and review program including forwarding to the Board the names of individuals who, after sustained assistance, have been unable to demonstrate satisfactory improvement

4. Annually evaluate the impact of the program in order to improve the program, including but not limited to, interviews or surveys of program participants, and submit any recommendations for improvement to the Board and exclusive representative of certificated employees in the district

(cf. 4140/4240 - Bargaining Units)

The majority of the panel shall be composed of certificated classroom teachers chosen by other certificated classroom teachers. The remainder of the panel shall be composed of school administrators chosen by the Superintendent/Principal or designee. (Education Code 44502).

Program Participation

Teachers may volunteer to participate in the program or may be referred as a result of an unsatisfactory rating in their performance evaluation. Teachers also may be referred pursuant to a collective bargaining agreement. (Education Code 44500)

(cf. 4115 - Evaluation/Supervision)
(cf. 4141/4241 - Collective Bargaining Agreement)
(cf. 4315.1 - Staff Evaluating Teachers)

A teacher participating in the program shall be a permanent employee of the district. (Education Code 44500)

Selection of Consulting Teachers

Consulting teachers shall be selected by the majority vote of the joint teacher-administrator peer review panel. The selection process shall include provisions for the panel to observe the candidate's classroom. (Education Code 44502)

A teacher selected to serve as a consulting teacher shall: (Education Code 44501)

1. Have substantial recent experience in classroom instruction

2. Have demonstrated exemplary teaching ability as indicated by, at a minimum, effective communication skills, subject matter knowledge, and mastery of a range of teaching strategies necessary to meet the needs of students in different contexts

3. Be a credentialed classroom teacher with permanent status in the district

Program Components

The district's peer assistance and review program shall include: (Education Code 44500)

1. Written performance goals for an individual teacher that are clearly stated, aligned with student learning and consistent with the evaluation criteria specified in Education Code 44662

2. Assistance and review through multiple observations of a teacher during periods of classroom instruction

3. A cooperative relationship between the consulting teacher and the Superintendent/Principal with respect to the process of peer assistance and review

4. Sufficient staff development activities to assist a teacher to improve his/her teaching skills and knowledge

5. A monitoring component with a written record

The final evaluation of a teacher's participation in the program shall be made available for placement in the teacher's personnel file. (Education Code 44500)

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

The Board of Trustees 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 district. The Board is committed to negotiating in good faith with the employee organizations and respecting the rights of employees and employee organizations.

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

The Board shall negotiate only with the exclusive representative of each bargaining unit. (Government Code 3543.3)

Certificated and classified employees shall not be included in the same bargaining unit. (Government Code 3545)

The district shall not dominate or interfere with the formation or administration of any employee organization or contribute financial or other support to it. (Government Code 3543.5)

Neither the district nor the employee organization shall impose or threaten to impose reprisals on employees, discriminate or threaten to discriminate against employees, or otherwise interfere with, restrain, or coerce employees because of their membership or nonmembership in an employee organization. (Government Code 3543.5, 3543.6)

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

Management and Supervisory Employees

Employees serving in a management, senior management, or confidential position shall not be represented by an exclusive representative. Such employees may represent themselves individually or may be represented by an employee organization whose membership is composed entirely of employees designated as holding those positions, but that organization shall not meet and negotiate with the district. (Government Code 3543.4)

However, the district may recognize a bargaining unit of supervisors if that unit includes all supervisory employees and if the unit does not represent the employee whom the supervisors supervise. (Government Code 3545)

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

1. *Management employee* means any employee who has significant responsibilities for formulating district policies or administering district programs, and whose position is designated as a management position by the Board.

BARGAINING UNITS (continued)

2. *Supervisory employee* means any employee, regardless of job description, having the authority, in the interest of the district, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, discipline, assign work, direct, adjust grievance of other employees, or effectively recommend that action. The exercise of this authority shall not be merely routine or clerical in nature, but shall require the use of independent judgment.

(cf. 4301 - Administrative Staff Organization)

3. *Confidential employee* means any employee who is required to develop or present management positions with respect to employer-employee relations or whose duties normally require access to confidential information that is used to contribute significantly to the development of management positions.

Legal Reference:

EDUCATION CODE
45060-45061.5 Deduction of fees from salary or wage payment, certificated employees
45168 Deduction of fees from salary or wage payment, classified employees
45220-45320 Merit system, classified employees
GOVERNMENT CODE
3540-3549.3 Educational Employment Relations Act
CODE OF REGULATIONS, TITLE 8
33015-33490 Recognition of exclusive representative; proceedings
33700-33710 Severance of established unit
34020 Petition to rescind organizational security arrangement
34055 Reinstatement of organizational security arrangement

Management Resources:

CSBA PUBLICATIONS
Collective Bargaining DVD-ROM
Maximizing School Board Governance: Collective Bargaining
Before the Strike: Planning Ahead in Difficult Negotiations, 1996
WEB SITES
CSBA: http://www.csba.org
California Federation of Teachers: http://www.cft.org
California School Employees Association: http://www.csea.com
California Teachers Association: http://www.cta.org
Public Employment Relations Board: http://www.perb.ca.gov

Policy adopted: **CHUALAR UNION ELEMENTARY SCHOOL DISTRICT**
Chualar, California

Certificated and Classified Personnel BP 4141
4241

COLLECTIVE BARGAINING AGREEMENT

The Board of Trustees recognizes that collective bargaining agreements are legally binding, bilateral agreements with the exclusive representatives of employees pertaining to terms and conditions of employment. The Board is committed to carrying out the provisions of each agreement and expects the agreements to be consistently and uniformly administered.

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

Following adoption of the collective bargaining agreement, the Superintendent/Principal or designee shall review related Board policies and recommend to the Board any action needed to maintain consistency with the agreement. Whenever a Board policy conflicts with a provision in the collective bargaining agreement, the agreement shall be binding for those employees covered by the terms of the agreement.

(cf. 9310 - Board Policies)

Upon request by the Public Employment Relations Board, the Superintendent/Principal or designee shall provide, within 15 days of the request, a copy of the written agreement and any amendments. (8 CCR 32120)

Legal Reference:
EDUCATION CODE
35035 Additional powers and duties of superintendent, transfer authority
35036 Voluntary transfers
35160 Authority of governing boards
35160.1 Broad authority of school districts
45220-45320 Merit system, classified employees
GOVERNMENT CODE
3540-3549.3 Educational Employment Relations Act
CODE OF REGULATIONS, TITLE 8
31001-32997 Regulations of employee relations boards

Management Resources:
CSBA PUBLICATIONS
Collective Bargaining DVD-ROM
Maximizing School Board Governance: Collective Bargaining
WEB SITES
CSBA: http://www.csba.org
California Public Employee Relations: http://cper.berkeley.edu
Center for Collaborative Solutions: http://www.ccscenter.org
Public Employment Relations Board: http://www.perb.ca.gov
State Mediation and Conciliation Service (SMCS): http://www.dir.ca.gov/csmcs/smcs.html

Policy adopted: **CHUALAR UNION ELEMENTARY SCHOOL DISTRICT**
Chualar, California
Certificated and Classified Personnel BP 4141.6(a)
4241.6

CONCERTED ACTION/WORK STOPPAGE

The Board of Trustees recognizes the importance of maintaining ongoing positive relations with employees and engaging in fair, respectful negotiations with employee organizations. The Board desires to reach agreement on employment contracts in a manner that does not disrupt school operations or impact student achievement.

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

The Board recognizes that advance planning is necessary to ensure that students receive the education to which they are entitled in the event of a work slowdown, sickout, strike, or other concerted activity by employees. The Superintendent/Principal or designee shall develop a written plan which shall include strategies for the provision of internal and external communications, preservation of student and staff safety, maintenance of district operations, and appropriate student instruction and supervision during a work slowdown or stoppage.

(cf. 0450 - Comprehensive Safety Plan)
(cf. 1100 - Communications with the Public)
(cf. 1112 - Media Relations)
(cf. 9000 - Role of the Board)

If an employee organization gives notice that it intends to strike, the Superintendent/Principal or designee shall notify the Public Employment Relations Board, Employment Development Department, employees in the striking unit, employees in the nonstriking unit, parents/guardians, students, law enforcement, the media, and others as appropriate.

Employees should be held accountable for their behavior during any labor dispute. The district may take disciplinary action against any employee who engages in an unlawful concerted action or in unlawful behavior in an otherwise protected activity, taking into account the seriousness of the behavior and the district's efforts to rebuild relations following the withholding of services by employees.

(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4119.25/4219.25/4319.25 - Political Activities of Employees)
(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
Collective Bargaining DVD-ROM
Maximizing School Board Governance: Collective Bargaining
Political Activities of School Districts: Legal Issues, rev. 2001
Before the Strike: Planning Ahead in Difficult Negotiations, 1996
WEB SITES
CSBA: http://www.csba.org
Public Employment Relations Board: http://www.perb.ca.gov
State Mediation and Conciliation Service (SMCS): http://www.dir.ca.gov/csmcs/smcs.html

Policy adopted: **CHUALAR UNION ELEMENTARY SCHOOL DISTRICT**
Chualar, California

Certificated and Classified Personnel AR 4141.6(a)
4241.6

CONCERTED ACTION/WORK STOPPAGE

Maintenance of District Operations

At the discretion of the Superintendent/Principal or designee, employees reporting for duty may be temporarily assigned to other duties. In addition, the Superintendent/Principal or designee may hire qualified substitute and/or temporary employees as needed to maintain district operations and shall recommend to the Board of Trustees 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 Superintendent/Principal or designee may establish a committee to develop a plan in the event of a work stoppage. This committee may include district staff, legal counsel, the district's 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 Board, Superintendent/Principal, legal counsel, certificated or classified staff when they are not participating in the strike, substitutes and other employees

2. Criteria for keeping the school open 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 district staff and the Board during a work stoppage

5. Plans for obtaining, paying and communicating with temporary or substitute employees

6. Status of district-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 district 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 school 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, parent/guardians and Board members

(cf. 0450 - Comprehensive Safety Plan)

CONCERTED ACTION/WORK STOPPAGE (continued)

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 district operations, rebuilding relations and disciplining employees if necessary after the work stoppage

Activities of Employees

The district 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 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 district 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 district's policy on controversial issues and shall not allow such discussions to interfere with their regular teaching responsibilities.

(cf. 6144 - Controversial Issues)

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 district 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, Board policy or administrative regulation. However, the district shall offer employees the option of paying their own coverage under COBRA. (29 USC 1161-1169)

If the district 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 Board policy and collective bargaining agreements.

The Superintendent/Principal 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.

The Board of Trustees recognizes its responsibility to represent the public's interests in the collective bargaining process. In negotiating agreements on employee contracts, the Board shall balance the needs of staff and the priorities of the district 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. 4140/4240 - Bargaining Units)
(cf. 4141/4241 - Collective Bargaining Agreement)

The Board shall negotiate in good faith with exclusive employee representatives on wages, hours of employment, and other terms and conditions of employment identified in law as being within the scope of representation. (Government Code 3543.2)

The Board believes that effective negotiations require the input of all levels of the administration. The Board shall establish a bargaining team to assist in analyzing contract provisions and conducting contract negotiations.

The Board and Superintendent/Principal shall provide its negotiator(s) with expected outcomes and clear parameters for acceptable contract provisions which promote the realization of district goals and priorities.

In consultation with the Superintendent/Principal and employee organization, the Board shall determine the collective bargaining approach or method to be used.

The Board with its bargaining team shall establish standards of conduct pertaining to the negotiations process for individual Board members and members of the bargaining team. Certain meetings related to negotiations shall be held in closed session in accordance with Government Code 3549.1 when not required by state open meeting laws (the Brown Act) to be held in public. 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 Board and its negotiator(s) shall not knowingly provide the employee organization with inaccurate information regarding the financial resources of the district. (Government Code 3543.5)

The Board shall closely monitor the progress of negotiations and carefully consider how proposed contract provisions would affect the district's short- and long-term fiscal, programmatic, instructional, and personnel goals.

(cf. 3100 - Budget)

The Board and/or Superintendent/Principal shall keep the public informed about the progress of negotiations and the ways in which negotiations may affect district goals.

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

Whenever the district has a qualified or negative certification on an interim fiscal report, it shall allow the county office of education at least 10 working days to review and comment on any proposed agreement with exclusive representatives of employees. The district shall provide the County Superintendent of Schools with all information relevant to gain an understanding of the financial impact of any final collective bargaining agreement. (Government Code 3540.2)

(cf. 3460 - Financial Reports and Accountability)

Once the final terms of the agreement have been ratified by the membership of the employee organization, the contract shall be presented to the Board at a public meeting for acceptance.

Any agreement adopted by the Board may be for a term not to exceed three years. (Government Code 3540.1)

In the event of an impasse in negotiations, the Board shall participate in good faith in state mediation and fact-finding procedures pursuant to Government Code 3548-3548.8. (Government Code 3543.5)

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

Following adoption of the collective bargaining agreement, any subsequent amendments shall be executed in writing by the Board and the employees' exclusive representative.

Consultation

The exclusive representative of certificated staff may consult with the Board on the definition of educational objectives, the determination of the content of courses and curriculum, and the selection of textbooks.

(cf. 6011 - Academic Standards)
(cf. 6141 - Curriculum Development and Evaluation)
(cf. 6161.1 - Selection and Evaluation of Instructional Materials)
(cf. 9310 - Board Policies)

Legal Reference: (see next page)

Legal Reference:

GOVERNMENT CODE
3540-3549.3 Educational Employment Relations Act

Management Resources:

CSBA PUBLICATIONS
Collective Bargaining DVD-ROM
Maximizing School Board Governance: Collective Bargaining
Before the Strike: Planning Ahead in Difficult Negotiations, 1996
WEB SITES
CSBA: http://www.csba.org
California Public Employee Relations: http://cper.berkeley.edu
Center for Collaborative Solutions: http://www.ccscenter.org
Public Employment Relations Board: http://www.perb.ca.gov
State Mediation and Conciliation Service (SMCS): http://www.dir.ca.gov/csmcs/smcs.html

Policy adopted:

CHUALAR UNION ELEMENTARY SCHOOL DISTRICT
Chualar, California

Certificated and Classified Personnel

BP 4143.1(a)
4243.1

PUBLIC NOTICE - PERSONNEL NEGOTIATIONS

Because the Board of Trustees has a responsibility to represent the public's interest in negotiations with employee organizations, the Board is committed to keeping the public informed about issues being negotiated, providing members of the public an opportunity to express their views, and disclosing the position of each Board member in accordance with law.

(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 Board and an employee organization which relate to matters within the scope of representation shall be presented at a public Board meeting and shall thereafter be public records. (Government Code 3547)

(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 district 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 Board meeting. (Government Code 3547)

After the public has had an opportunity to provide input, the Board 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. If a vote is taken on any such subject by the Board, each Board member's vote also 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 Board 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 district under the agreement for the current and subsequent fiscal years. (Government Code 3547.5)

The Superintendent/Principal and chief business official shall certify, in writing, that any costs incurred by the district under the agreement can be met by the district during the term of the agreement and shall submit the certification to the Board prior to the Board's approval 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)

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

The Superintendent/Principal 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

Policy adopted: **CHUALAR UNION ELEMENTARY SCHOOL DISTRICT**
Chualar, California

Certificated and Classified Personnel AR 4143.1
4243.1

PUBLIC NOTICE - PERSONNEL NEGOTIATIONS

Public Disclosure of Proposed Agreement

The Superintendent/Principal 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 district

    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 district 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 district 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 district's costs, such as binding arbitration or grievance procedures

The Board of Trustees recognizes the need to establish a process to allow employees and job applicants to have their concerns heard in an expeditious and unbiased manner. The Board expects that employees will make every effort to resolve complaints and disagreements informally before filing a formal complaint.

(cf. 1312.3 - Uniform Complaint Procedures)
(cf. 1312.4 - Williams Uniform Complaint Procedures)
(cf. 3320 - Claims and Actions Against the District)
(cf. 4031 - Complaints Concerning Discrimination in Employment)
(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

The Board prohibits retaliation against complainants. The Superintendent/Principal or designee may keep a complainant's identity confidential, except to the extent necessary to investigate the complaint.

(cf. 4119.1/4219.1/4319.1 - Civil and Legal Rights)
(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)

All matters related to a complaint shall be kept confidential and any document, communication, or record regarding the complaint shall be placed in a separate file and shall not be placed in an employee's personnel file.

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

Legal Reference: (see next page)

Legal Reference:

EDUCATION CODE
200-262.4 Prohibition of discrimination on the basis of sex
35186 Williams uniform complaint procedures
44110-44114 Reporting by school employees of improper governmental activity
GOVERNMENT CODE
3543 Public school employees' rights
3543.1 Rights of employee organizations
53296-53299 Disclosure of confidential information; whistleblower
54957 Closed session; personnel matters
LABOR CODE
1102.5-1106 Whistleblower protections
CODE OF REGULATIONS, TITLE 5
4900-4965 Nondiscrimination in district programs and activities

Management Resources:

WEB SITES
CSBA: http://www.csba.org

Except as specified below, the following procedure shall be used for any complaint by an employee alleging misapplication of the district's policies, regulations, rules, or procedures or for "whistleblower" complaints by an employee or job applicant regarding an improper district activity including, but not limited to, an allegation of gross mismanagement, a significant waste of funds, an abuse of authority, or a specific danger to public health or safety.

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

Complaints alleging unlawful discrimination on any basis specified in the district's nondiscrimination policies, including complaints of sexual harassment, shall be resolved in accordance with the district's procedure for complaints regarding discrimination in employment.

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 4031 - Complaints Concerning Discrimination in Employment)
(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

Complaints regarding unlawful discrimination in district programs or the district's failure to comply with state or federal laws regarding educational programs shall be resolved in accordance with the district's Uniform Complaint Procedures. Complaints regarding sufficiency of textbook materials, teacher vacancy or misassignment, an urgent or emergency facility condition, or the failure to provide intensive instruction to students who did not pass the high school exit examination by the end of grade 12 shall be resolved in accordance with the district's Williams Uniform Complaint Procedures. (Education Code 35186; 5 CCR 4621)

(cf. 1312.3 - Uniform Complaint Procedures)
(cf. 1312.4 - Williams Uniform Complaint Procedures)

For complaints regarding working conditions or other subjects of negotiation, the employee shall use the grievance procedure specified in the applicable collective bargaining agreement.

Any of the time limits specified in this procedure may be extended by written agreement between the district and complainant.

Step 1: Informal Complaint Process

Prior to instituting a formal, written complaint, the employee shall first discuss the issue with his/her supervisor or the Superintendent/Principal. Formal complaint procedures shall not be initiated until the employee has first attempted to resolve the complaint informally.

Step 2: Site Level Formal Complaint Process

If a complaint has not been satisfactorily resolved through the informal process in Step 1, the complainant may file a written complaint with his/her immediate supervisor or Superintendent/Principal or designee within 60 days of the act or event which is the subject of the complaint. If an employee fails to file a written complaint within 60 days, the complaint shall be considered settled on the basis of the answer given at the preceding step.

In the written complaint, the employee shall specify the nature of the problem, including names, dates, locations, witnesses, the remedy sought by the employee, and a description of informal efforts to resolve the issue.

Within 10 working days of receiving the complaint, the immediate supervisor or Superintendent/Principal or designee shall conduct any necessary investigation and meet with the complainant in an effort to resolve the complaint. Within five working days after the meeting, he/she shall prepare and send a written response to the complainant.

Step 3: Appeal to the Board of Trustees

If a complaint has not been satisfactorily resolved at Step 2, the complainant may file a written appeal to the Board within five working days of receiving the Superintendent/Principal or designee's response. All information presented at Steps 1 and 2, shall be included with the appeal.

The Board may uphold the findings by the Superintendent/Principal or designee without hearing the complaint or the Board may hear the complaint at a regular or special Board meeting. The hearing shall be held in closed session if the complaint relates to matters that may be addressed in closed session in accordance with law.

(cf. 9321 - Closed Session Purposes and Agendas)

The Board shall make its decision within 30 days of the hearing and shall send its decision to all concerned parties. The Board's decision shall be final.

In order to recruit and retain employees committed to the district's goals for student learning, the Board of Trustees recognizes the importance of offering a competitive compensation package which includes salaries and health and welfare benefits.

(cf. 3100 - Budget)
(cf. 3400 - Management of Districts Assets/Accounts)
(cf. 4000 - Concepts and Roles)
(cf. 4154/4254/4354 - Health and Welfare Benefits)

The Board shall adopt separate salary schedules for certificated, classified, and supervisory and administrative personnel. These schedules shall comply with law and negotiated agreements and shall be printed and made available for review at the district office. (Education Code 45023, 45028)

(cf. 4121 - Temporary/Substitute Personnel)
(cf. 4141/4241 - Collective Bargaining Agreement)
(cf. 4143/4243 - Negotiations/Consultation)

Salary schedules for staff who are not a part of a bargaining unit shall be determined by the Board at the recommendation of the Superintendent/Principal or designee.

(cf. 4312.1 - Contacts)

The Superintendent/Principal or designee shall ensure that the district's payroll system complies with all applicable laws and bargaining agreements, including, but not limited to, timelines regarding payment of compensation and deductions of dues for employee organizations.

(cf. 4140/4240 - Bargaining Units)

Legal Reference: (see next page)

Legal Reference:

EDUCATION CODE
45022-45061.5 Salaries, especially:
45023 Availability of salary schedule
45028 Salary schedule for certificated employees
45160-45169 Salaries for classified employees
45268 Salary schedule for classified service in merit system districts
GOVERNMENT CODE
3540-3549 Meeting and negotiating, especially:
3543.2 Scope of representation
3543.7 Duty to meet and negotiate in good faith
LABOR CODE
226 Employee access to payroll records
232 Disclosure of wages
UNITED STATES CODE, TITLE 26
409A Deferred compensation plans
CODE OF FEDERAL REGULATIONS, TITLE 26
1.409A-1 Definitions and covered plans

Management Resources:

NATIONAL SCHOOL BOARDS ASSOCIATION PUBLICATIONS
NEA and NSBA Joint Guidance on the Tax Consequences of Deferred Compensation - Section 409A of the Internal Revenue Code, January 2008
WEB SITES
CSBA: http://www.csba.org
Internal Revenue Service: http://www.irs.gov
National School Boards Association: http://www.nsba.org

The district 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)

Employees who are not in bargaining units shall receive health and welfare benefits as specified in Board policy and administrative regulation.

For purposes of granting benefits pursuant to state law, a registered domestic partner and his/her child shall have the same rights, protections, and benefits as a spouse and spouse's child. (Family Code 297.5)

The Superintendent/Principal or designee shall not use or disclose any medical information the district possesses pertaining to an employee without the employee's authorization obtained in accordance with Civil Code 56.21, except for the purpose of administering and maintaining employee benefit plans and for other purposes specified in law. (Civil Code 56.20)

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

Continuation of Coverage

Retired certificated employees, other employees who would otherwise lose coverage due to a qualifying event specified in law and administrative regulation, and their qualified beneficiaries may continue to participate in the district's group health and welfare benefits in accordance with state and federal law.

To receive continuation coverage, covered employees and their qualified beneficiaries shall pay the premiums, dues, and other charges, including any increases in premiums, dues, and costs incurred by the district in administering this program.

Legal Reference: (see next page)

Legal Reference:

EDUCATION CODE
7000-7008 Health and welfare benefits, retired certificated employees
17566 Self-insurance fund
35208 Liability insurance
35214 Liability insurance (self-insurance)
44041-44042 Payroll deductions for collection of premiums
44986 Leave of absence, state disability benefits
45136 Benefits for classified employees
CIVIL CODE
56.10-56.16 Disclosure of information by medical providers
56.20-56.245 Use and disclosure of medical information by employers
FAMILY CODE
297-297.5 Rights, protections and benefits under law; registered domestic partners
GOVERNMENT CODE
22750-22944 Public Employees' Medical and Hospital Care Act
53200-53210 Group insurance
HEALTH AND SAFETY CODE
1366.20-1366.29 Cal-COBRA program, health insurance
1367.08 Disclosure of fees and commissions paid related to health care service plan
1373 Health services plan, coverage for dependent children over 18 who are full-time students
1373.621 Continuation coverage, age 60 or older after five years with district
1374.58 Coverage for registered domestic partners, health service plans and health insurers
INSURANCE CODE
10116.5 Continuation coverage, age 60 or older after five years with district
10128.50-10128.59 Cal-COBRA program, disability insurance
10277-10278 Group and individual health insurance, coverage for dependent children
10604.5 Annual disclosure of fees and commissions paid
12670-12692.5 Conversion coverage
LABOR CODE
2800.2 Notification of conversion and continuation coverage
4856 Health benefits for spouse of peace officer killed in performance of duties
UNEMPLOYMENT INSURANCE CODE
2613 Education program; notice of rights and benefits

Legal Reference continued: (see next page)

Legal Reference: (continued)

UNITED STATES CODE, TITLE 1
7 Definition of marriage, spouse
UNITED STATES CODE, TITLE 26
139C COBRA premium assistance, elimination of subsidy for high-income individuals
4980B COBRA continuation coverage
6432 COBRA premium assistance
6720C COBRA premium assistance, failure to notify health plan of cessation of eligibility
UNITED STATES CODE, TITLE 29
1161-1168 COBRA continuation coverage
UNITED STATES CODE, TITLE 42
1395-1395g Medicare benefits
CODE OF FEDERAL REGULATIONS, TITLE 26
54.4980B-1-54.4980B-10 COBRA continuation coverage
CODE OF FEDERAL REGULATIONS, TITLE 45
164.500-164.534 Health Insurance Portability and Accountability Act (HIPAA)

Management Resources:

INTERNAL REVENUE SERVICE GUIDANCE
Premium Assistance for COBRA Benefits, Notice 2009-27
WEB SITES
CSBA: http://www.csba.org
California Department of Industrial Relations: http://www.dir.ca.gov
California Employment Development Department: http://www.edd.ca.gov
Internal Revenue Service: http://www.irs.gov
U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services: http://www.cms.hhs.gov
U.S. Department of Labor: http://www.dol.gov

Retired Certificated Employees

Any former certificated employee who retired from the district under any public retirement system and his/her spouse/domestic partner shall be permitted to enroll in the health and welfare and/or dental care benefit plan currently provided for certificated employees. The plan also shall be available to any surviving spouse/domestic partner of a former certificated employee who either retired from the district or was, at the time of death, employed by the district and a member of the State Teachers' Retirement System. (Education Code 7000)

A retired certificated employee or surviving spouse/domestic partner shall be allowed to enroll in the coverage within 30 days of losing active employee coverage. (Education Code 7000)

COBRA/Cal-COBRA Continuation Coverage

Covered district employees and their qualified beneficiaries shall be offered the opportunity to continue health and disability insurance coverage when they otherwise would lose coverage due to one of the following qualifying events: (Health and Safety Code 1366.21, 1366.23, 1373; Insurance Code 10128.51, 10128.53, 10277; 26 USC 4980B; 26 CFR 54.4980B-4)

1. Death of the covered employee

2. Termination or reduction in hours of the covered employee's employment, other than termination by reason of the employee's gross misconduct

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

3. Divorce or legal separation of the covered employee

4. Covered employee's becoming entitled to Medicare benefits

5. A dependent child ceasing to be a dependent child of the covered employee

Continuation health coverage shall be the same as provided to similarly situated individuals under the group benefit plan. (Health and Safety Code 1366.23; Insurance Code 10128.53; 26 USC 4980B)

The Superintendent/Principal or designee shall notify the health care service plan administrator of a qualifying event listed in item #1, 2, or 4 above, within 30 days of the event. A covered employee or qualified beneficiary shall notify the service plan administrator of a qualifying event listed in item #3 or 5 above within 60 days of the event or of the date that the beneficiary would lose coverage, whichever is later. (26 USC 4980B; 29 USC 1163, 1166; 26 CFR 54.4980B-6)

Continuation coverage shall be terminated in accordance with the district's insurance plan and federal and state law. (26 USC 4980B; 26 CFR 54.4980B-6; Health and Safety Code 1373.621; Insurance Code 10116.5)

The Superintendent/Principal or designee shall notify covered employees and qualified beneficiaries of the availability of conversion and continuation coverage. This notification shall include the statement in Labor Code 2800.2 encouraging individuals to examine their options carefully before declining such coverage. (Labor Code 2800.2)

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

Temporary Subsidized Premium for COBRA/Cal-COBRA

Under either of the following circumstances, a former employee and his/her qualified beneficiaries shall pay 35 percent of the premium amount they would otherwise be required to pay for health care continuation coverage: (26 USC 139C, 6432 Note; Health and Safety Code 1366.25; Insurance Code 10128.55)

1. The employee is involuntarily terminated, other than by reason of gross misconduct, between September 1, 2008 and March 31, 2010, or a later date if extended by law

2. The employee's eligibility for continuation coverage is due to a reduction in hours and he/she subsequently experiences an involuntary termination between March 2, 2010 and March 31, 2010, or a later date if extended by law

The district shall seek reimbursement of district payments toward the normal employee share of the premium as allowed by law. (26 USC 139C, 6432; Health and Safety Code 1366.25; Insurance Code 10128.55)

The premium reduction shall apply until one of the following dates, whichever comes first: (26 USC 6432 Note)

1. Fifteen months after the first day of the first month for which the premium reduction applies to the assistance eligible individual

2. The first date that the assistance eligible individual becomes eligible for Medicare coverage or other group health plan coverage, with certain exceptions specified in law

3. The date the assistance eligible individual ceases to be eligible for continuation coverage for other reasons as noted in the section "Continuation of Coverage" above

Because the premium reduction will be offset by an increase in income tax liability for individuals who earn more than $125,000 for the tax year (or $250,000 for married couples filing a joint federal income tax return), such individuals may choose to permanently waive their right to the subsidy. (26 USC 6432)

Disability Insurance

The Superintendent/Principal or designee shall give notice of disability insurance rights and benefits to each new employee and each employee leaving work due to pregnancy, nonoccupational illness or injury, or the need to provide care for any sick or injured family member, or the need to bond with a minor child within the first year of the child's birth or placement in connection with foster care or adoption. (Unemployment Insurance Code 2613)

(cf. 4157.1/4257.1/4357.1 - Work-Related Injuries)
(cf. 4161/4261/4361 - Leaves)
(cf. 4161.1/4361.1 - Personal Illness/Injury Leave)
(cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)
(cf. 4261.1 - Personal Illness and Injury Leave)

When disabled by an injury resulting from a violent act sustained while performing duties within the scope of employment and performing creditable employment, a certificated or classified employee may continue in the district health and dental care plans upon meeting criteria specified by law. The employee shall pay all employer and employee premiums and related administrative costs. (Education Code 7008)

The Board of Trustees values its instructional and noninstructional staff and desires to recognize their outstanding service in order to increase employee morale and encourage creative and innovative performance.

(cf. 1150 - Commendations and Awards)
(cf. 5126 - Awards for Achievement)

The Board encourages recognition of all staff during days of significance designated by the Board, state law, or state resolution.

(cf. 6115 - Ceremonies and Observances)

The Board authorizes awards to individual employees who: (Education Code 44015)

1. Propose procedures or ideas that result in eliminating or reducing district expenditures or improving district operations

2. Perform special acts or services in the public interest

3. By their superior accomplishments, make exceptional contributions to the efficiency, economy, or other improvement in district operations

As the district budget permits, the Superintendent/Principal or designee may recognize such employees by issuing service pins, certificates, plaques, and/or other mementos. In addition, he/she may recommend employees to the Board for recognition at a public Board meeting.

(cf. 3100 - Budget)
(cf. 3300 - Expenditures and Purchases)

The Superintendent/Principal or designee shall establish procedures for the selection of individual employees to receive awards.

The Superintendent/Principal or designee may appoint one or more merit award committees consisting of Board members, district employees, and/or private citizens to review employee contributions and recommend awards.

Monetary awards to employees shall not exceed $200 unless expressly approved by the Board. (Education Code 44015)

(cf. 1220 - Citizen Advisory Committees)
(cf. 9140 - Board Representatives)

Legal Reference: (see next page)

Legal Reference:

EDUCATION CODE
35160 Authority of governing boards
35160.1 Broad authority of school districts
35161 Powers and duties generally
37222.10 Days of significance, including Day of the Teacher
44015 Awards to employees
45460 Classified School Employee Week

Management Resources:

CSBA PUBLICATIONS
Maximizing School Board Governance: The Board's Relationship to District Staff, 2008
WEB SITES
CSBA: http://www.csba.org
Fiscal Crisis and Management Assistance Team: http://www.fcmat.org

All Personnel BP 4156.3
4256.3
EMPLOYEE PROPERTY REIMBURSEMENT 4356.3

The Board of Trustees does not authorize payment for the reimbursement of employee personal property which may be stolen or intentionally destroyed or damaged while being used for work-related purposes.

Legal Reference:

EDUCATION CODE
35213 Reimbursement for loss, destruction or damage of personal property
48904 Liability of parent/guardian for willful misconduct; withholding of grades, diplomas and transcripts
CIVIL CODE
1714.1 Liability of parent or guardian for act of willful misconduct by a minor

Policy adopted: **CHUALAR UNION ELEMENTARY SCHOOL DISTRICT**
Chualar, California

All Personnel BP 4157(a)
4257
EMPLOYEE SAFETY 4357

The Board of Trustees is committed to maximizing employee safety and believes that workplace safety is every employee's responsibility. Working conditions and equipment shall comply with standards prescribed by federal, state, and local laws and regulations.

(cf. 0450 - Comprehensive Safety Plan)

No employee shall be required or permitted to be in any place of employment which is unsafe or unhealthful. (Labor Code 6402)

The Board expects all employees to use safe work practices and, to the extent possible, correct any unsafe conditions which may occur. If an employee is unable to correct an unsafe condition, he/she shall immediately report the problem to the Superintendent/Principal or designee.

The Superintendent/Principal or designee shall promote safety and correct any unsafe work practices through education and enforcement.

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

The Superintendent/Principal or designee shall establish and implement a written injury and illness prevention program in accordance with law. (Labor Code 6401.7)

(cf. 3514 - Environmental Safety)
(cf. 3514.1 - Hazardous Substances)
(cf. 3516 - Emergencies and Disaster Preparedness Plan)
(cf. 4119.41/4219.41/4319.41 - Employees with Infectious Disease)
(cf. 4119.42/4219.42/4319.42 - Exposure Control Plan for Bloodborne Pathogens)
(cf. 4119.43/4219.43/4319.43 - Universal Precautions)
(cf. 4157.2/4257.2/4357.2 - Ergonomics)
(cf. 4158/4258/4358 - Employee Security)

The Superintendent/Principal or designee shall ensure the ready availability of first aid materials at district workplaces and shall make effective provisions, in advance, for prompt medical treatment in the event of an employee's serious injury or illness. (8 CCR 3400)

No employee shall be discharged or discriminated against for making complaints, instituting proceedings, or testifying with regard to employee safety or health or for participating in any occupational health and safety committee established pursuant to Labor Code 6401.7. (Labor Code 6310)

Legal Reference: (see next page)

EMPLOYEE SAFETY (continued)

Legal Reference:

EDUCATION CODE
32030-32034 Eye safety
32225-32226 Communications devices in classrooms
32280-32289 School safety plans
44984 Required rules for industrial accident and illness leave of absence
GOVERNMENT CODE
3543.2 Scope of bargaining
LABOR CODE
3300 Definitions
6305 Occupational safety and health standards; special order
6310 Retaliation for filing complaint prohibited
6400-6413.5 Responsibilities and duties of employers and employees, especially:
6401.7 Injury and illness prevention program
CODE OF REGULATIONS, TITLE 8
3203 Injury and illness prevention program
3400 Medical services and first aid
5095-5100 Control of noise exposure
CODE OF FEDERAL REGULATIONS, TITLE 29
1910.95 Noise standards

Management Resources:

DEPARTMENT OF INDUSTRIAL RELATIONS PUBLICATIONS
Guide to Developing Your Workplace Injury and Illness Prevention Program, rev. August 2005
WEB SITES
California Department of Industrial Relations, Occupational Safety and Health: http://www.dir.ca.gov/occupational_safety.html
Centers for Disease Control and Prevention: http://www.cdc.gov
National Hearing Conservation Association: http://www.hearingconservation.org
National Institute for Occupational Safety and Health: http://www.cdc.gov/niosh
U.S. Department of Labor, Occupational Safety and Health Administration: http://www.osha.gov

The Superintendent/Principal or designee shall provide and implement safety devices, safeguards, methods, and processes that are reasonably adequate to render the employment and place of employment safe and healthful. (Labor Code 6401)

(cf. 4157.1/4257.1/4357.1 - Work-Related Injuries)
(cf. 4157.2/4257.2/4357.2 - Ergonomics)
(cf. 4161.11/4361.11 - Industrial Accident/Illness Leave)
(cf.4261.1 - Industrial Accident/Illness Leave)

Injury and Illness Prevention Program

The district's injury and illness prevention program shall cover all district employees and all other workers whom the district controls or directs and directly supervises on the job to the extent that the workers are exposed to hazards specific to their worksite and job assignment. The obligation of contractors or other employers who control or direct and supervise their own employees on the job shall not be affected by the district's injury and illness prevention program. (Labor Code 6401.7)

The district's injury and illness prevention program shall include: (Labor Code 6401.7; 8 CCR 3203)

1. The name/position of the person(s) with authority and responsibility for implementing the program.

2. A system for ensuring that employees comply with safe and healthful work practices, which may include, but not be limited to:

    a. Recognition of employees who follow safe and healthful work practices

(cf. 4156.2/4256.2/4356.2 - Awards and Recognition)

    b. Training and retraining programs

    c. Disciplinary actions

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

3. A system for communicating with employees, in a form readily understandable by all employees, on matters related to occupational health and safety, including provisions designed to encourage employees to report hazards at the worksite without fear of reprisal. The communications system may include, but not be limited to:

    a. Meetings

    b. Training programs

EMPLOYEE SAFETY (continued)

c. Posting

d. Written communications

e. A system of anonymous notification by employees about hazards

f. A labor/management safety and health committee

4. Procedures for identifying and evaluating workplace hazards, including scheduled periodic inspections to identify unsafe conditions and work practices. Such inspections shall be made:

a. Whenever new substances, processes, procedures, or equipment that represents a new occupational safety or health hazard is introduced into the workplace

b. Whenever the district is made aware of a new or previously unrecognized hazard

(cf. 3514 - Environmental Safety)
(cf. 3514.1 - Hazardous Substances)

5. A procedure for investigating occupational injury or illness.

6. Methods and/or procedures for correcting unsafe or unhealthful conditions, work practices, and work procedures in a timely manner, based on the severity of the hazard, when the hazard is observed or discovered.

When an imminent hazard exists which cannot be immediately abated without endangering employee(s) and/or property, these procedures shall call for the removal of all exposed staff from the area except those necessary to correct the hazardous condition. Employees needed to correct the condition shall be provided necessary safeguards.

7. Provision of training and instruction as follows:

a. To all new employees

b. To all employees given new job assignments for which training has not previously been received

EMPLOYEE SAFETY (continued)

c. Whenever new substances, processes, procedures, or equipment is introduced into the workplace and represents a new hazard

d. Whenever the district is made aware of a new or previously unrecognized hazard

e. To supervisors, to familiarize them with the safety and health hazards to which employees under their immediate direction and control may be exposed

(cf. 4131 - Staff Development)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)

Labor/Management Safety and Health Committee

The district's labor/management safety and health committee shall: (8 CCR 3203)

1. Meet regularly, but not less than quarterly.

2. Prepare and make available to affected employees written records of the safety and health issues discussed at committee meetings and maintained for review by the California Department of Industrial Relations' Division of Occupational Safety and Health (Cal/OSHA) upon request. These records shall be maintained for at least one year.

3. Review results of the periodic, scheduled worksite inspections.

4. Review investigations of occupational accidents and causes of incidents resulting in occupational injury or illness or exposure to hazardous substances. As appropriate, the committee may submit suggestions to the Superintendent/Principal or designee regarding the prevention of future incidents.

5. Review investigations of alleged hazardous conditions brought to the attention of any committee member. When determined necessary by the committee, it may conduct its own inspection and investigation to assist in remedial solutions.

6. Submit recommendations to assist in the evaluation of employee safety suggestions.

7. Upon request of Cal/OSHA, verify abatement action taken by the district to abate citations issued by Cal/OSHA.

EMPLOYEE SAFETY (continued)

Hearing Protection

Whenever employee noise exposure equals or exceeds the standards specified in law, the Superintendent/Principal or designee shall implement a hearing conservation program in accordance with state and federal regulations, including, when required, monitoring of sound levels, audiometric testing of affected employees, the provision of hearing protectors, and employee training. (8 CCR 5095-5100; 29 CFR 1910.95)

Eye Safety Devices

Eye safety devices shall be worn by employees whenever they are engaged in or observing an activity involving hazards or hazardous substances likely to cause injury to the eyes. (Education Code 32030-32034)

First Aid and Medical Services **REVIEW THIS NEW ADDITION**

The Superintendent/Principal or designee shall ensure the ready availability of medical personnel for advice and consultation on matters of industrial health or injury. Whenever a workplace is not in close proximity to an infirmary, clinic, or hospital where all injured employees may be treated, the Superintendent/Principal or designee shall ensure that at least one employee is adequately trained to provide first aid. (8 CCR 3400)

The Superintendent/Principal or designee shall make adequate first aid materials readily available for employees at every worksite. Such materials shall be approved by a consulting physician and shall be kept in a sanitary and usable condition. The Superintendent/Principal or designee shall frequently inspect all first aid materials and replenish them as necessary. (8 CCR 3400)

To avoid unnecessary delay in medical treatment in the event of an employee's serious injury or illness, the Superintendent/Principal or designee shall use one or more of the following: (8 CCR 3400)

1. A communication system for contacting a physician or emergency medical service, such as access to 911 or equivalent telephone system. The communication system or the employees using the system shall have the ability to direct emergency services to the location of the injured or ill employee.

2. Readily accessible and available on-site treatment facilities suitable for treatment of reasonably anticipated injury and illness.

EMPLOYEE SAFETY (continued)

(cf. 5141.6 - School Health Services)

3. Proper equipment for prompt medical transport when transportation of injured or ill employees is necessary and appropriate.

All Personnel BP 4157.1
4257.1
WORK-RELATED INJURIES 4357.1

The Board of Trustees desires to provide its employees with insurance and workers' compensation benefits in accordance with law. The Superintendent/Principal 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 District)
(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 his/her supervisor as soon as practicable. Upon learning of an injury, a supervisor shall promptly report the incident to the Superintendent/Principal or designee and the insurance carrier as appropriate.

The Superintendent/Principal 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 Superintendent/Principal or designee shall ensure that notifications regarding workers' compensation are posted in accordance with law.

Legal Reference:
EDUCATION CODE
44984 Industrial accident and illness leaves, certificated employees
45192 Industrial accident and illness leaves, classified employees
LABOR CODE
3200-4855 Workers' compensation, especially:
3550-3553 Employee notice
3600-3605 Conditions of liability
3760 Report of injury to insurer
4600 Provision of medical and hospital treatment by employer
4906 Disclosures and statements
5400-5413 Notice of injury or death
6409.1 Reports
CODE OF REGULATIONS, TITLE 8
15596 Notice of employee rights

Management Resources:
WEB SITES
California Department of Industrial Relations: http://www.dir.ca.gov

Policy adopted: **CHUALAR UNION ELEMENTARY SCHOOL DISTRICT**
Chualar, California

All Personnel AR 4157.2(a)
4257.2
ERGONOMICS 4357.2

To minimize employees' risk of repetitive motion injuries (RMIs), the Superintendent/Principal or designee shall implement an ergonomics program whenever two or more RMIs from an identical work activity have been reported by district 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 Superintendent/Principal 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 district 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 district's 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 district 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

EMPLOYEE SECURITY

The Board of Trustees desires to provide a safe and orderly work environment for all employees. As part of the district's comprehensive safety plan, the Superintendent/Principal or designee shall develop strategies for protecting employees from potentially dangerous persons and situations and for providing them with necessary assistance and support when emergency situations occur.

(cf. 0450 - Comprehensive Safety Plan)
(cf. 3515 - Campus Security)
(cf. 5131.4 - Student Disturbances)

Any employee against whom violence or any threat of violence has been directed in the workplace shall notify the Superintendent/Principal or designee immediately. The Superintendent/Principal or designee shall initiate legal and security measures to protect the employee and others in the workplace. In addition, the Superintendent/Principal or designee may initiate legal proceedings against any individual to recover damages for injury caused by the willful misconduct of that individual to the person or property of an employee or another person on district premises.

(cf. 3320 - Claims and Actions Against the District)
(cf. 3515.4 - Recovery for Property Loss or Damage)

The Superintendent/Principal 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)

The Superintendent/Principal or designee also shall ensure that employees are informed, in accordance with law, of crimes and offenses committed by students who may pose a danger in the classroom.

The Superintendent/Principal or designee may make available at appropriate locations, including, but not limited to, district and school offices, gyms, and classrooms, communication devices that would enable two-way communication with law enforcement and others when emergencies occur.

(cf. 5141 - Health Care and Emergencies)

EMPLOYEE SECURITY (continued)

Use of Pepper Spray

Employees may not carry or possess pepper spray on school property or at school activities. On a case-by-case basis, however, the Superintendent/Principal or designee may allow an employee to possess pepper spray that meets the requirements of Penal Code 12403.7 when justified by unusual dangerous circumstances. Any employee who is negligent or careless in the possession or handling of pepper spray shall be subject to appropriate disciplinary measures.

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

Reporting of Injurious Objects

The Board requires employees to take immediate action upon being made aware that any person is in possession of an unauthorized injurious object on school grounds or at a school-related or school-sponsored activity. The employee shall use his/her own judgment as to the potential danger involved and, based upon this analysis, shall do one of the following:

1. Confiscate the object and deliver it to the Superintendent/Principal immediately

2. Immediately notify the Superintendent/Principal, who shall take appropriate action

3. Immediately call 911 and the Superintendent/Principal

(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 Superintendent/Principal about the possession or seizure of a weapon or dangerous device, the employee shall report the name(s) of persons involved, witnesses, location, and the circumstances of any seizure.

Legal Reference: (see next page)

Legal Reference:

EDUCATION CODE
32210-32212 Willful disturbance, public schools or meetings
32225-32226 Communication devices
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
49079 Notification to teacher; student who has engaged in acts re: grounds 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
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
240-246.3 Assault and battery, including:
241.3 Assault against school bus drivers
241.6 Assault on school employee includes board member
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
626-626.11 School crimes
646.9 Stalking
12403.7 Weapons approved for self defense
WELFARE AND INSTITUTIONS CODE
827 Juvenile court proceedings; reports; confidentiality
828.1 District police or security department, disclosure of juvenile records
COURT DECISIONS
City of San Jose v. William Garbett, (2010) 190 Cal. App. 4th 526

Management Resources:

WEB SITES
CSBA: http://www.csba.org
California Department of Education, Safe Schools and Violence Prevention Office: http://www.cde.ca.gov/ls/ss

An employee may use reasonable and necessary force for his/her self-defense, defense of another person, or protection of property; to quell a disturbance threatening physical injury to others; or to obtain possession of weapons or other dangerous objects within the control of a student. (Education Code 44807, 49001)

(cf. 5131.7 - Weapons and Dangerous Instruments)
(cf. 5144 - Discipline)

Employees shall promptly report to the Superintendent/Principal or other immediate supervisor any attack, assault, or physical threat made against them by a student.

Both the employee and the Superintendent/Principal or other immediate supervisor shall promptly report such instances to the appropriate local law enforcement agency. (Education Code 44014)

In addition, employees shall promptly report to the Superintendent/Principal or supervisor, and may report to law enforcement, any attack, assault, or threat made against them on school grounds by any other individual.

(cf. 3515.2 - Disruptions)

Reports of attack, assault, or threat shall be forwarded immediately to the Superintendent/Principal or designee.

(cf. 3320 - Claims and Actions Against the District)
(cf. 3515.4 - Recovery for Property Loss or Damage)
(cf. 3530 - Risk Management/Insurance)

Notice Regarding Student Offenses Committed While Under School Jurisdiction

The Superintendent/Principal or designee shall inform the teacher(s) of each student who has engaged in, or is reasonably suspected of, any act during the previous three school years which could constitute grounds for suspension or expulsion under Education Code 48900, with the exception of the possession or use of tobacco products, or Education Code 48900.2, 48900.3, 48900.4, or 48900.7. This information shall be based upon district records maintained in the ordinary course of business or records received from a law enforcement agency. (Education Code 49079)

(cf. 5125 - Student Records)
(cf. 5144.1 - Suspension and Expulsion/Due Process)

Upon receiving a transfer student's record regarding acts committed by the student that resulted in his/her suspension or expulsion, the Superintendent/Principal or designee shall inform the student's teacher(s) that the student was suspended or expelled from his/her former district and of the act that resulted in the suspension or expulsion. (Education Code 48201)

Information received by teacher(s) shall be received in confidence for the limited purpose for which it was provided and shall not be further disseminated by the teacher. (Education Code 49079)

Notice Regarding Student Offenses Committed While Outside School Jurisdiction

When a minor student has been found by a court of competent jurisdiction to have illegally used, sold, or possessed a controlled substance or committed specified crimes involving serious acts of violence, the district police or security department may provide written notification to the Superintendent/Principal. (Welfare and Institutions Code 828.1)

(cf. 3515.3 - District Police/Security Department)

When informed by the court that a minor student has been found by a court to have committed any felony or any misdemeanor involving curfew, gambling, alcohol, drugs, tobacco products, carrying of weapons, a sex offense listed in Penal Code 290, assault or battery, larceny, vandalism, or graffiti, the Superintendent/Principal or designee shall so inform the Superintendent/Principal. (Welfare and Institutions Code 827)

The Superintendent/Principal shall disseminate this information to any counselor who directly supervises or reports on the student's behavior or progress. The Superintendent/Principal also may inform any teacher or administrator he/she thinks may need the information so as to work with the student appropriately, avoid being needlessly vulnerable, or protect others from vulnerability. (Welfare and Institutions Code 827)

Any court-initiated information that a teacher, counselor, or administrator receives shall be kept confidential and used only to rehabilitate the student and protect other students and staff. The information shall be further disseminated only when communication with the student, parent/guardian, law enforcement staff, and probation officer is necessary to rehabilitate the student or to protect students and staff. (Welfare and Institutions Code 827)

When a student is removed from school as a result of his/her offense, the Superintendent/Principal shall hold the court's information in a separate confidential file until the student is returned to the district. If the student is returned to a different district, the Superintendent/Principal shall transmit the information provided by the student's parole or probation officer to the superintendent of the new district of attendance. (Welfare and Institutions Code 827)

Any confidential file of court-initiated information shall be kept until the student becomes 18, graduates from high school, or is released from juvenile court jurisdiction, whichever occurs first, and shall then be destroyed. (Welfare and Institutions Code 827)

Procedures to Maintain Confidentiality of Student Offenses

In order to maintain confidentiality when providing information about student offenses to counselors and teachers of classes/programs to which a student is assigned, the Superintendent/Principal or designee shall send the staff member a written notification that one of his/her students has committed an offense that requires his/her review of a student's file in the school office. This notice shall not name or otherwise identify the student. The staff member shall be asked to initial the notification and return it to the Superintendent/Principal or designee.

The staff member shall also initial the student's file when reviewing it in the school office. Once the district has made a good faith effort to comply with the notification requirement of Education Code 49079 and Welfare and Institutions Code 827, an employee's failure to review the file constitutes district compliance with the requirement to provide notice to the teacher.

Use of Pepper Spray

Employees who possess pepper spray on school property shall be notified of the following conditions:

1. The pepper spray shall be used only in self-defense.

2. An employee who uses pepper spray other than in self-defense shall be subject to disciplinary action by the district and, in accordance with law, a fine and/or imprisonment.

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

3. Employees shall ensure that the pepper spray is stored in a secure place and not accessible to students or other individuals. An employee who is negligent in the storage of pepper spray may be subject to disciplinary action.

Employees wishing to carry pepper spray on school property or to a school-related activity shall submit to the Superintendent/Principal or designee a written request setting forth the need for the pepper spray. Should the Superintendent/Principal or designee determine that the employee may not carry pepper spray, the employee shall receive a written statement of the reason for this determination.

The Board of Trustees recognizes that school district employees may have problems which can have detrimental effects upon job performance and student safety. The Board encourages employees to seek help when such problems exist and to take advantage of the resources that are available to assist them.

Employees shall have confidential access to information about the district's employee assistance program. This information shall be available to all employees and their spouses and dependents.

(cf. 3513.3 - Tobacco-Free Schools)
(cf. 4020 - Drug and Alcohol-Free Workplace)
(cf. 5131.62 - Tobacco)

Management and supervisory staff shall be knowledgeable about the district's employee assistance program and may counsel employees about the program, as appropriate.

Participation in the assistance program shall not jeopardize an employee's employment or career advancement, nor will it protect the employee from disciplinary action for substandard job performance.

(cf. 4032 - Reasonable Accommodation)
(cf. 4115 - Evaluation/Supervision)
(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4161/4261/4361 - Leaves)
(cf. 4161.1/4261.1 - Personal Illness/Injury Leave)
(cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)
(cf. 4161.9/4261.9/4361.9 - Catastrophic Leave Program)
(cf. 4215 - Evaluation/Supervision)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)
(cf. 4315 - Evaluation/Supervision)
(cf. 4361.1 - Personal Illness/Injury Leave)

Legal Reference: (see next page)

EMPLOYEE ASSISTANCE PROGRAMS (continued)

Legal Reference:

EDUCATION CODE
35160 Authority of governing board
35160.1 Broad authority of school districts
44962 Leaves of absence for certificated employees
44964 Power to grant leaves of absence for accident, illness or quarantine
45190-45209 Resignations and leaves of absence for classified employees
GOVERNMENT CODE
8355 Certification to contracting or granting agency; requisites
HEALTH AND SAFETY CODE
104420 Providing information re: smoking cessation program
UNITED STATES CODE, TITLE 41
701-707 Drug-Free Workplace Act

The Board of Trustees shall provide for paid and unpaid leaves of absence for employees in accordance with law, Board policy, administrative regulation, collective bargaining agreements, and merit system rules, as applicable.

(cf. 4141/4241 - Collective Bargaining Agreement)
(cf. 4161.9/4261.9/4361.9 - Catastrophic Leave Program)

The Board recognizes the following justifiable reasons for employee absence:

1. Personal illness or injury

(cf. 4161.1/4361.1 - Personal Illness/Injury Leave)
(cf. 4261.1 - Personal Illness/Injury Leave)

2. Industrial accident or illness

(cf. 4161.11/4361.11 - Industrial Accident/Illness Leave)
(cf. 4261.11 - Industrial Accident/Illness Leave)

3. Family care and medical leave

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

4. Military service

(cf. 4161.5/4261.5/4361.5 - Military Leave)

5. Personal necessity and personal emergencies

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

6. Disability leave for certificated employees in accordance with Education Code 44986

7. Vacations for classified staff and certificated management staff, as applicable

8. Sabbaticals for purposes of study or training related to the employee's job duties

(cf. 4161.3 - Professional Leaves)
(cf. 4261.3 - Professional Leaves)

9. Attendance at work-related meetings and staff development opportunities

(cf. 4131 - Staff Development)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)

10. Compulsory leave

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

Long-Term Leaves

With Board approval, an employee may receive a leave of absence, without pay and without accruing seniority or service credit, for a period of up to one school year. Applications for long-term leave shall be made in writing and shall state the purpose for which leave is requested. All long-term leave agreements shall be in writing and shall state the terms and conditions of the leave, including the conditions governing the employee's return.

At the end of a long-term leave, the employee shall be reinstated to a similar position as that held at the time leave was granted, unless otherwise agreed upon.

The Board shall consider any written request by an employee to return to work prior to the expiration date of the leave.

Administrative and Supervisory Personnel

Certificated administrative and supervisory employees who are not subject to the district's bargaining agreement for certificated employees shall generally be entitled to those leave provisions provided in the bargaining agreement for other certificated employees unless otherwise specified in individual contract, memorandums of understanding, Board policy, administrative regulation, or law.

Classified administrative and supervisory employees who are not subject to the district's bargaining agreement for classified employees shall generally be entitled to those leave provisions provided in the bargaining agreement for other classified employees unless otherwise specified in individual contract, memoranda of understanding, Board policy, administrative regulation, or law.

(cf. 2121 - Superintendent's Contract)
(cf. 4300 - Administrative and Supervisory Personnel)
(cf. 4312.1 - Contracts)

Legal Reference: (see next page)

Legal Reference:

EDUCATION CODE
22850-22856 Pension benefits, STRS members on military leave
44018 Compensation for employees on active military duty
44036-44037 Leaves of absence for judicial and official appearances
44043.5 Catastrophic leave
44800 Effect of active military service on status of employees
44842 Failure to provide notice or to report to work
44940 Sex offenses and narcotic offenses; compulsory leave of absence
44962-44988 Leaves of absence (certificated)
45059 Employee ordered to active military/naval duty, computation of salary
45190-45210 Leaves of absence (classified)
FAMILY CODE
297-297.5 Registered domestic partner rights, protections and benefits
GOVERNMENT CODE
3543.1 Release time for representatives of employee organizations
3543.2 Scope of representation
12945.1-12945.2 California Family Rights Act
20990-21013 Pension benefits, PERS members on military leave
LABOR CODE
230-230.2 Leaves for victims of domestic violence, sexual assault or specified felonies
230.3 Leave for emergency personnel
230.4 Leave for volunteer firefighters
230.8 Leave to visit child's school
233 Illness of child, parent, spouse or domestic partner
MILITARY AND VETERANS CODE
395-395.9 Military leave
395.10 Leave when spouse on leave from military deployment
UNITED STATES CODE, TITLE 29
2601-2654 Family and Medical Leave Act of 1993
UNITED STATES CODE, TITLE 38
4301-4334 Uniformed Services Employment and Reemployment Rights Act of 1994

Failure to Return to Service After Leave

In the case of a certificated employee who was on leave of absence for 20 or more consecutive working days after April 30 of the previous school year, the district may terminate the employment of such an employee if all of the following circumstances exist: (Education Code 44842)

1. The employee fails to report for duty, without good cause, at the beginning of the school year after having notified the Board of Trustees of his/her intention to remain in service with the district in accordance with Education Code 44842.

2. The district had specifically notified the employee, at least five days in advance, of the time and place at which the employee was to report to work.

3. The employee did not request or was not granted a leave of absence authorized by the Board.

(cf. 4112.1 - Contracts)

In any such case, the district may terminate the employee's employment on the day following 20 consecutive days of absence. (Education Code 44842)

(cf. 4117.4 - Dismissal)

Use of Leaves by Classified Employees

A classified employee may interrupt or terminate vacation leave in order to begin another type of paid leave without a return to active service, as long as the employee provides adequate notice and relevant supporting information regarding the basis for such interruption or termination. (Education Code 45200)

Full-time certificated employees are entitled to 10 days leave of absence for personal illness or injury (sick leave) per school year, with full pay. Employees working less than five school days per week shall be granted comparable sick leave in proportion to the time they work. (Education Code 44978)

(cf. 4161/4261/4361 - Leaves)
(cf. 4161.9/4261.9/4361.9 - Catastrophic Leave Program)

An employee may take sick leave at any time during the school year, even if credit for sick leave has not yet been accrued. (Education Code 44978)

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

Unused days of sick leave shall be accumulated from year to year without limitation. (Education Code 44978)

At the beginning of each school year, employees shall be notified of the amount of sick leave they have accumulated.

Any certificated employee who leaves the district after at least one school year of employment and accepts a certificated position in another district, county office of education, or community college district within one year shall have transferred with him/her the total amount of accumulated sick leave. The district shall not require new employees to waive leave accumulated in a previous district. (Education Code 44979, 44980)

Sick leave may be used by a certificated employee for absences due to:

1. Temporary inability to perform his/her duties because of illness, accident, or quarantine, whether or not the cause of the absence arises out of and in the course of employment (Education Code 44964)

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

2. Pregnancy, miscarriage, childbirth, and recovery (Education Code 44965, 44978)

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

3. Personal necessity (Education Code 44981)

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

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

PERSONAL ILLNESS/INJURY LEAVE (continued)

5. Industrial accidents or illnesses when leave granted specifically for that purpose has been exhausted (Education Code 44984)

(cf. 4161.11/4361.11 - Industrial Accident/Illness Leave)

6. Illness of the employee's child, parent, spouse, registered domestic partner, or domestic partner's child in an amount not less than the sick leave that would be accrued by the employee during six months at his/her then current rate of entitlement (Labor Code 233)

An employee shall notify the district of his/her need to be absent as soon as such need is known, so that substitute services may be secured. This notification shall include an estimate of the expected duration of absence. If the absence becomes longer than estimated, the employee shall so notify the district. If the duration of absence becomes shorter than estimated, the employee shall notify the district not later than 3 p.m. of the day preceding the day on which he/she intends to return to work. If failure to so notify the district results in a substitute being secured, the cost of the substitute shall be deducted from the employee's pay.

(cf. 4121 - Temporary/Substitute Personnel)

Continued Absence After Available Sick Leave Is Exhausted

During each school year, when a certificated employee has exhausted all available sick leave, including all accumulated sick leave, and, due to illness or injury, continues to be absent from his/her duties for an additional period up to five school months, the employee shall receive his/her regular salary minus the actual cost of a substitute to fill the position. If the district has made every reasonable effort to secure the services of a substitute and has been unable to do so, the amount that would have been paid to a substitute shall be deducted from the employee's salary. (Education Code 44977)

An employee shall not be provided more than one five-month period per illness or injury. However, if the school year ends before the five-month period is exhausted, the employee may take the balance of the five-month period in a subsequent school year. (Education Code 44977)

(cf. 4116 - Probationary/Permanent Status)

Verification Requirements

After any absence due to illness or injury, the employee shall verify the absence by submitting a completed and signed district absence form to his/her immediate supervisor.

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

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

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

(cf. 4032 - Reasonable Accommodation)
(cf. 4113.4/4213.4/4313.4 - Temporary Modified/Light-Duty Assignment)

PERSONAL ILLNESS/INJURY LEAVE (continued)

Legal Reference:

EDUCATION CODE
44964 Power to grant leave of absence in case of illness, accident, or quarantine
44965 Granting of leaves of absence for pregnancy and childbirth
44976 Transfer of leave rights when school is transferred to another district
44977 Salary deduction during absence from duties up to five months after sick leave is exhausted
44978 Provisions for sick leave of certificated employees
44978.1 Inability to return to duty; placement in another position or on reemployment list
44979 Transfer of accumulated sick leave to another district
44980 Transfer of accumulated sick leave to a county office of education
44981 Leave of absence for personal necessity
44983 Exception to sick leave when district adopts specific rule
44984 Industrial accident or illness
44986 Leave of absence for disability allowance applicant

LABOR CODE
220 Sections inapplicable to public employees
233 Illness of child, parent, spouse or domestic partner
234 Absence control policy
CODE OF REGULATIONS, TITLE 5
5601 Transfer of accumulated sick leave
UNITED STATES CODE, TITLE 42
2000ff-2000ff-11 Genetic Information Nondiscrimination Act of 2008
COURT DECISIONS
Veguez v. Governing Board of Long Beach Unified School District, (2005) 127 Cal.App.4th 406

Regulation approved:
Certificated Personnel

CHUALAR UNION ELEMENTARY SCHOOL DISTRICT
Chualar, California
AR 4161.11(a)
4361.11

INDUSTRIAL ACCIDENT/ILLNESS LEAVE

In each fiscal year, allowable leave for certificated employees for any single industrial accident or illness shall be for 60 days during which the district school is in session or when the employee would otherwise have been performing work for the district.

(cf. 4113.4/4213.4/4313.4 - Temporary Modified/Light-Duty Assignment)
(cf. 4157.1/4257.1/4357.1 - Work-Related Injuries)
(cf. 4157.2/4257.2/4357.2 - Ergonomics)
(cf. 4161/4261/4361 - Leaves)

Allowable industrial accident/illness leave shall not accumulate from year to year. (Education Code 44984)

When a certificated employee is absent from his/her duties because of an industrial accident or illness: (Education Code 44984)

1. Industrial accident or illness leave shall start on the first day of absence.

2. The employee shall be paid such portion of the salary due for any month in which the absence occurs as, when added to the temporary disability indemnity under Division 4 or 4.5 of the Labor Code, will result in a payment to the employee of not more than his/her full salary.

3. Industrial accident or illness leave shall be reduced by one day for each day of authorized absence, regardless of a temporary disability indemnity award.

4. When an industrial accident or illness leave overlaps into the next fiscal year, the employee is entitled to only the amount of unused leave due the employee for the same illness or injury.

Upon expiration of allowable leave for an industrial accident or illness, the employee may use personal illness and injury leave. If the employee continues to receive temporary disability indemnity, he/she may elect to take as much of the accumulated sick leave which, when added to his/her temporary disability indemnity, will result in a payment to the employee of not more than the employee's full salary. (Education Code 44984)

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

During any paid leave of absence, the employee may endorse to the district the temporary disability indemnity checks received on account of his/her industrial accident or illness. In those cases, the district shall issue appropriate salary warrants for payment of the employee's salary, and shall deduct normal retirement, other authorized contributions, and the temporary disability indemnity, if any, actually paid to and retained by the employee for periods covered by such salary warrants. (Education Code 44984)

INDUSTRIAL ACCIDENT/ILLNESS LEAVE (continued)

Any employee receiving benefits under this leave shall, during periods of injury or illness, remain within the State of California unless the Board of Trustees authorizes travel outside the state. (Education Code 44984)

Legal Reference:

EDUCATION CODE
44977 Salary deductions during absence from duties
44978 Provisions for certificated employee sick leave
44983 Exception to sick leave
44984 Required rules for industrial accident and illness leave of absence

Management Resources:

WEB SITES
Department of Industrial Relations: http://www.dir.ca.gov/DIR/OS&H/ DOSH/dosh1.html

Regulation approved:
All Personnel

CHUALAR UNION ELEMENTARY SCHOOL DISTRICT
Chualar, California
AR 4161.2(a)
4261.2
4361.2

PERSONAL LEAVES

For the purpose of any personal leave offered pursuant to state law, a registered domestic partner shall have the same rights, protections, and benefits as a spouse and protections provided to a spouse's child shall also apply to a child of a registered domestic partner. (Family Code 297.5)

Whenever possible, employees shall request personal leaves in advance and prepare suitable lesson plans or instructions for a substitute employee.

(cf. 4121 - Temporary/Substitute Personnel)

Bereavement

Employees are entitled to a leave of up to three days, or five days if out-of-state travel is required, upon the death of any member of the employee's immediate family. No deduction

shall be made from the employee's salary, nor shall such leave be deducted from any other leave to which the employee is entitled. (Education Code 44985, 45194)

(cf. 4161/4261/4361 - Leaves)

Members of the immediate family include: (Education Code 44985, 45194)

1. The mother, father, grandmother, grandfather, or grandchild of the employee or of the employee's spouse

2. The employee's spouse, son, son-in-law, daughter, daughter-in-law, brother, or sister

3. Any relative living in the employee's immediate household

At the employee's request, bereavement leave may be extended under personal necessity leave provisions as provided below. (Education Code 44981, 45207)

Personal Necessity

Employees may use a maximum of seven days of their accrued personal illness/injury leave during each school year for reasons of personal necessity. (Education Code 44981, 45207)

(cf. 4161.1/4361.1 - Personal Illness/Injury Leave)
(cf. 4261.1 - Personal Illness/Injury Leave)

Acceptable reasons for the use of personal necessity leave include:

1. Death of a member of the employee's immediate family when the number of days of absence exceeds the limits set by bereavement leave provisions (Education Code 44981, 45207)

PERSONAL LEAVES (continued)

2. An accident involving the employee's person or property or the person or property of a member of the employee's immediate family (Education Code 44981, 45207)

3. A serious illness of a member of the certificated employee's immediate family (Education Code 44981)

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

4. A classified employee's appearance in any court or before any administrative tribunal as a litigant, party, or witness under subpoena or other order (Education Code 45207)

5. Fire, flood, or other immediate danger to the home of the employee

6. Personal business of a serious nature which the employee cannot disregard

Leave for personal necessity may be allowed for other reasons at the discretion of the Superintendent/Principal or designee. However, no such leave shall be granted for purposes of personal convenience, for the extension of a holiday or vacation, or for matters which can be taken care of outside of working hours. The Superintendent/Principal or designee shall have final discretion as to whether a request reflects personal necessity.

Advance permission shall not be required of any employee in cases involving the death of a member of the employee's immediate family or an accident involving the employee's person or property or the person or property of a member of his/her immediate family. For certificated employees, advance permission also shall not be required in cases involving the serious illness of a member of the employee's immediate family. (Education Code 44981, 45207)

After any absence due to personal necessity, the employee shall verify the absence by submitting a completed and signed district absence form to his/her immediate supervisor.

Legal Duties

Classified employees called for jury duty shall be granted leave with pay up to the amount of the difference between the employee's regular earnings and any amount received for jury fees. (Education Code 44037)

Certificated employees also shall be granted leave for jury duty with pay up to the amount of the difference between the employee's regular earnings and any amount received as juror's fees.

AR 4161.2(c)
4261.2
4361.2

PERSONAL LEAVES (continued)

Employees shall be granted leaves to appear in court as witnesses other than litigants or to respond to an official order from another governmental jurisdiction for reasons not brought about through the connivance or misconduct of the employee. Such employees shall receive pay up to the amount of the difference between the employee's regular earnings and any amount received for witness fees.

An employee may take time off work in order to: (Labor Code 230)

1. Serve on an inquest jury or trial jury

2. Comply with a subpoena or other court order to appear as a witness

Notices, summons, and subpoenas for court appearances shall be submitted to the district office when requesting leave.

Leaves for Crime Victims

An employee may be absent from work in order to attend judicial proceedings related to a crime when he/she is a victim, immediate family member of a victim, registered domestic partner of a victim, or child of a registered domestic partner of a victim of the following crimes: (Labor Code 230.2)

1. A violent felony as defined in Penal Code 667.5(c)

2. A serious felony as defined in Penal Code 1192.7(c)

3. A felony provision of law proscribing theft or embezzlement

For these purposes, the employee may use vacation, personal leave, personal illness/injury leave, compensatory time off that is otherwise available to the employee, or unpaid leave. (Labor Code 230.2)

Prior to taking time off, an employee shall give his/her supervisor a copy of the notice of each scheduled proceeding that is provided by the responsible agency, unless advance notice is not feasible. When advance notice is not feasible or an unscheduled absence occurs, the employee shall, within a reasonable time after the absence, provide documentation evidencing the judicial proceeding from the court or government agency setting the hearing, the district attorney or prosecuting attorney's office, or the victim/witness office that is advocating on behalf of the victim. (Labor Code 230.2)

AR 4161.2(d)
4261.2
4361.2

PERSONAL LEAVES (continued)

The district shall keep confidential any records pertaining to the employee's absence from work. (Labor Code 230.2)

Leaves for Victims of Domestic Violence or Sexual Assault

An employee who is a victim of domestic violence or sexual assault as defined by law may take time off work to obtain or attempt to obtain any relief including, but not limited to, a temporary restraining order, restraining order, or other injunctive relief to help ensure the health, safety, or welfare of the employee or his/her child. (Labor Code 230)

In addition, an employee who is a victim of domestic violence or sexual assault may take time off work to attend to the following activities: (Labor Code 230.1)

1. Seek medical attention for injuries caused by domestic violence or sexual assault

2. Obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence or sexual assault

3. Obtain psychological counseling related to an experience of domestic violence or sexual assault

4. Participate in safety planning and take other actions to increase safety from future domestic violence or sexual assault, including temporary or permanent relocation

An employee who is a victim of domestic violence or sexual assault may use vacation, personal leave, or compensatory time off that is otherwise available to the employee under the applicable terms of employment. (Labor Code 230, 230.1)

Prior to taking time off, an employee shall give reasonable notice to his/her supervisor, unless advance notice is not feasible. When an unscheduled absence occurs, the employee shall provide, within a reasonable period of time, certification of the absence in the form of any of the following documents: (Labor Code 230, 230.1)

1. A police report indicating that the employee was a victim of domestic violence or sexual assault

2. A court order protecting or separating the employee from the perpetrator of an act of domestic violence or sexual assault, or other evidence from the court or prosecuting attorney that the employee has appeared in court

PERSONAL LEAVES (continued)

3. Documentation from a medical professional, domestic violence advocate or advocate for victims of sexual assault, health care provider, or counselor that the employee was undergoing treatment for physical or mental injuries or abuse resulting from an act of domestic violence or sexual assault

The district shall maintain the confidentiality of such an employee to the extent authorized by law. (Labor Code 230, 230.1)

Personal Leave for a Child's School Activities

Any employee who is a parent/guardian, or grandparent having custody of one or more children who are enrolled in grades K-8, or who attend a licensed day care facility, may use up to 40 hours of personal leave, vacation, or compensatory time off each school year in order to participate in school or day care activities. Such leave shall not exceed eight hours in any month of the year, and the employee shall give reasonable advance notice of the absence. (Labor Code 230.8)

(cf. 1240 - Volunteer Assistance)

In lieu of using vacation, personal leave, or compensatory time off, eligible employees giving reasonable advance notice may take up to 40 hours without pay each school year for this purpose, not to exceed eight hours in any month.

If both parents/guardians of a child are employed at the same work site, this leave shall be allowed for the first parent/guardian who applies. Simultaneous absence by the second parent may be granted by the Superintendent/Principal or designee. (Labor Code 230.8)

Upon request by the Superintendent/Principal or designee, the employee shall provide documentation from the school or licensed day care facility that he/she participated in school or licensed day care facility activities on a specific date and at a particular time. (Labor Code 230.8)

Service on Education Boards, Committees, and State or Employee Organizations

Upon request, certificated employees shall be granted up to 20 school days of paid leave per school year for service performed within the state on any education boards, commissions, committees, or groups authorized by Education Code 44987.3 provided that all of the following conditions are met: (Education Code 44987.3)

PERSONAL LEAVES (continued)

1. The service is performed in the state of California.

2. The board, commission, organization, or group informs the district in writing of the service.

3. The board, commission, organization, or group agrees, prior to service, to reimburse the district, upon the district's request, for compensation paid to the employee's substitute and for actual related administrative costs.

Upon request, certificated and classified employees shall be granted a leave of absence without loss of compensation to serve as an elected officer of a district employee organization or any statewide or national employee organization with which the local organization is affiliated. The leave shall include, but is not limited to, absence for purposes of attending periodic, stated, special, or regular meetings of the body of the organization. (Education Code 44987, 45210)

Religious Leave

The Superintendent/Principal or designee may grant employees up to three days of leave per year for religious purposes, provided that the leave is requested in advance and that it does not cause additional district expenditures, the neglect of assigned duties, or any other unreasonable hardship on the district.

The Superintendent/Principal or designee shall deduct the cost of a substitute, when required, from the wages of the employee who takes religious leave.

No employee shall be discriminated against for using this leave or any additional days of unpaid leave granted for religious observances at the discretion of the Superintendent/Principal or designee.

Spouse on Leave from Military Deployment

An employee who works an average of 20 hours or more per week and whose spouse is a member of the United States Armed Forces, National Guard, or reserves may take up to 10 days of unpaid leave during a period that his/her spouse is on leave from deployment during a military conflict, as defined in Military and Veterans Code 395.10. (Military and Veterans Code 395.10)

PERSONAL LEAVES (continued)

The employee shall provide the Superintendent/Principal or designee with notice, within two business days of receiving official notice that his/her spouse will be on leave from deployment, of his/her intention to take the leave. The employee shall submit written documentation certifying that his/her spouse will be on leave from deployment during the time that the leave is requested. (Military and Veterans Code 395.10)

Leave for Emergency Duty

An employee may take time off to perform emergency duty as a volunteer firefighter, a reserve peace officer, or emergency rescue personnel. (Labor Code 230.3)

An employee who is a volunteer firefighter shall be permitted to take temporary leaves of absence, not to exceed an aggregate total of 14 days per calendar year, for the purpose of engaging in fire or law enforcement training. (Labor Code 230.4)

Civil Air Patrol Leave

An employee may take up to 10 days of unpaid leave per calendar year, beyond any leave otherwise available to employees, to respond to an emergency operational mission of the California Civil Air Patrol, provided that the employee has been employed by the district for at least a 90-day period immediately preceding the leave. Such leaves shall not exceed three days for a single emergency operational mission, unless an extension is granted by the governmental entity authorizing the mission and is approved by the Superintendent/Principal or designee. (Labor Code 1501, 1503)

The employee shall give the district as much advance notice as possible of the intended dates of the leave. The Superintendent/Principal or designee may require certification from the proper Civil Air Patrol authority to verify the eligibility of the employee for the leave and may deny the leave if the employee fails to provide the required certification. (Labor Code 1503)

Legal Reference: (see next page)

PERSONAL LEAVES (continued)

Legal Reference:

EDUCATION CODE
44036-44037 Leaves of absence for judicial and official appearances
44963 Power to grant leaves of absence (certificated)
44981 Leave of absence for personal necessity (certificated)
44985 Leave of absence due to death in immediate family (certificated)
44987 Service as officer of employee organization (certificated)
44987.3 Leave of absence to serve on certain boards, commissions, etc.
45190 Leaves of absence and vacations (classified)

45194 Bereavement leave of absence (classified)
45198 Effect of provisions authorizing leaves of absence
45207 Personal necessity (classified)
45210 Service as officer of employee organization (classified)
45240-45320 Merit system, classified employees
FAMILY CODE
297-297.5 Registered domestic partner rights, protections, and benefits
GOVERNMENT CODE
3543.1 Release time for representatives of employee organizations
LABOR CODE
230-230.2 Leave for victims of domestic violence, sexual assault, or specified felonies
230.3 Leave for emergency personnel
230.4 Leave for volunteer firefighters
230.8 Leave to visit child's school
233 Illness of child, parent, spouse, domestic partner or domestic partner's child
234 Absence control policy
1500-1507 Civil Air Patrol leave
MILITARY AND VETERANS CODE
395.10 Leave when spouse on leave from military deployment
PENAL CODE
667.5 Violent felony, defined
1192.7 Serious felony, defined
CALIFORNIA CONSTITUTION
Article 1, Section 8 Religious discrimination
UNITED STATES CODE, TITLE 29
2612 Family and Medical Leave Act, leave requirements
UNITED STATES CODE, TITLE 42
2000d-2000d-7 Title VII, Civil Rights Act of 1964
COURT DECISIONS
Rankin v. Commission on Professional Competence, (1988) 24 Cal.3d 167

Management Resources:
WEB SITES
California Federation of Teachers: http://www.cft.org
California School Employees Association: http://www.csea.com
California Teachers Association: http://www.cta.org

Regulation approved:
Certificated Personnel

CHUALAR UNION ELEMENTARY SCHOOL DISTRICT
Chualar, California
AR 4161.3

PROFESSIONAL LEAVES

The Board of Trustees may grant a leave of absence of up to one year to certificated employees for the purpose of permitting study or travel which will benefit the school and students of the district. (Education Code 44966)

(cf. 4161/4261/4361 - Leaves)

To be eligible for a leave of absence for these purposes, the employee must have served in the district for at least seven consecutive years preceding the leave. No more than one such leave of absence shall be granted in each seven-year period. No other types of leaves shall be considered a break in service for purposes of meeting this requirement and the period of such

absence shall not be included as service in computing the seven consecutive years of service required for a professional leave. (Education Code 44967)

The Board may require that such leaves of absence be taken in separate six-month periods or separate quarters as long as the total leave is completed within three years. Any period of service by the employee between the separate periods of leave shall comprise a part of the service required for a subsequent leave of absence. (Education Code 44966)

Every employee granted a leave of absence for these purposes may be required to perform such services during the leave as the Board and employee agree upon in writing. (Education Code 44968)

Compensation during the leave shall be paid in the manner authorized by Education Code 44969 and 44970.

Unless the employee agrees in writing with the Board not to receive compensation during the leave, the employee shall receive such compensation during the leave as the Board and employee agree upon in writing, which shall be not less than the difference between the employee's salary and the salary of a substitute employee. In lieu of such a difference, the Board may pay one-half of the salary of the employee or any additional amount up to and including the full salary of the employee. (Education Code 44968, 44968.5)

As a condition to being granted such leave, the employee shall agree in writing to render service in the district following his/her return for a period equal to twice the period of the leave. (Education Code 44969)

At the end of the leave, the employee shall be reinstated in the position he/she held when the leave was granted. (Education Code 44973)

Legal Reference:
EDUCATION CODE
44966-44973 Leaves of absence for study or travel

Regulation approved:
All Personnel

CHUALAR UNION ELEMENTARY SCHOOL DISTRICT
Chualar, California
AR 4161.5(a)
4261.5
4361.5

MILITARY LEAVE

Military leave shall be granted in accordance with applicable state and federal law to employees performing military duties on a voluntary or involuntary basis in a uniformed service, including active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, examination to determine fitness for duty, and performance of funeral honors duty. (Education Code 44800; Military and Veterans Code 395, 395.01, 395.02, 395.05, 395.1, 395.2, 395.9; 38 USC 4301, 4303, 4316)

(cf. 4161/4261/4361 - Leaves)

An employee who needs to be absent from the district to fulfill his/her military service shall provide advance written or verbal notice to the Superintendent/Principal or designee, unless the giving of such notice is precluded by military necessity or is otherwise impossible or unreasonable. (38 USC 4312; 20 CFR 1002.85, 1002.86)

Salary/Compensation

An employee shall receive his/her salary or compensation for the first 30 days of any one absence for military leave or during one fiscal year, under any of the following conditions:

1. Active Military Training or Exercises: The employee is granted a temporary military leave of absence to engage in ordered military duty for purposes of active military training, encampment, naval cruises, special exercises, or like activity as a member of the reserve corps or force of the United States Armed Forces, National Guard, or Naval Militia, provided that: (Military and Veterans Code 389, 395, 395.01)

   a. He/she has been employed by the district for at least one year immediately prior to the day the military leave begins.

   b. The ordered duty does not exceed 180 days, including time involved in going to and returning from such duty.

2. Active Military Duty: The employee is on military leave, other than a temporary military leave, to engage in active military duty as a member of the reserve corps or force of the United States Armed Forces, the National Guard, or the Naval Militia, provided that he/she has been employed by the district for at least one year immediately prior to the day the military leave begins. (Military and Veterans Code 389, 395.02)

3. War or Other Emergency: The employee, however long employed by the district, is a member of the National Guard who is engaged in military or naval duty during a state of extreme emergency as declared by the Governor, or during such time as the National Guard may be on active duty in situations described in Military and Veterans Code 146, including travel time to and from such duty. (Military and Veterans Code 395.05)

AR 4161.5(b)
4261.5
4361.5

MILITARY LEAVE (continued)

4. Inactive Duty Training: The employee is a member of the reserve corps or force of the United States Armed Forces, National Guard, or Naval Militia who is engaged in temporary inactive duty training, provided that he/she has been employed by the district for at least one year immediately prior to the day the military leave begins and

the ordered duty does not exceed 180 days, including time involved in going to and returning from such duty.

In determining the length of district employment when necessary to determine eligibility for compensation for military leave, all recognized military service performed during and prior to district employment shall be included.

For classified employees, 30 days' compensation shall be one month's salary. For certificated employees, 30 days' compensation shall be one-tenth of the employee's annual salary. (Education Code 45059)

Certificated employees shall not be entitled to compensation during non-teaching, non-paying months of the year.

During the period of military leave, an employee may, upon his/her own request, use any vacation or similar paid leave accrued before the commencement of the military leave. The district shall not require the employee to use such leave. (38 USC 4316; 20 CFR 1002.153)

Benefits

An employee may elect to continue his/her health plan coverage during the military leave. The maximum period of coverage for the employee and his/her dependents shall be either 24 months from the beginning of the leave or until the day after the employee fails to apply for or return to employment, whichever is less. (38 USC 4317; 20 CFR 1002.164)

An employee on military leave may be required to pay the employee cost, if any, of any funded benefit to the extent that other employees on leave are so required. (38 USC 4316)

An employee absent for 30 days or fewer shall not be required to pay more than the employee share for such coverage. An employee absent for 31 days or more may be required to pay not more than 102 percent of the full premium under the plan. (38 USC 4317; 20 CFR 1002.166)

MILITARY LEAVE (continued)

Any employee called into active military duty as a member of the California National Guard or a United States Military Reserve organization shall receive, for up to 180 days, the difference between the amount of his/her military pay and the amount the employee would have received from the district and all benefits that the employee would have received if

he/she had not been called to active military duty, unless the benefits are prohibited or limited by vendor contracts.

Vacation and Sick Leave Accrual

An employee on temporary military leave under the conditions described in item #1 Active Military Training or Exercises, in the section entitled "Salary/Compensation" above, shall continue to accrue the same vacation, sick leave, and holiday privileges to which he/she would otherwise be entitled if not absent. (Military and Veterans Code 395)

(cf. 4161.1/4361.1 - Personal Illness/Injury Leave)
(cf. 4261.1 - Personal Illness/Injury Leave)

An employee on military leave who is serving in active duty in time of war, national emergency, or United Nations military or police operation shall not accrue sick leave or vacation leave during the period of such leave. (Military and Veterans Code 395.1)

However, an employee who is a National Guard member on active duty as described in item #3 War or Other Emergency, in the section entitled "Salary/Compensation" above, shall not suffer any loss or diminution of vacation or holiday privileges because of his/her leave of absence. (Military and Veterans Code 395.05)

Pension Plan Service Credit

Pension plan service credit and vesting shall continue during an employee's military leave as though no break in service had occurred. Payment of employer and employee contributions shall be made in accordance with law for members of the State Teachers' Retirement System or Public Employees' Retirement System. (Education Code 22850-22856; Government Code 20990-21013)

Employment Status

Absence for military leave shall not affect the classification of any certificated employee. In the case of a certificated probationary employee, the period of such absence shall not count as part of the service required to obtain permanent status, but shall not be construed as a break in the continuity of service for any purpose. (Education Code 44800)

(cf. 4116 - Probationary/Permanent Status)

MILITARY LEAVE (continued)

Reinstatement Rights

At the conclusion of the military duty, an employee shall be promptly reinstated in the position held at the beginning of the leave, at the salary to which he/she would otherwise

have been entitled, except under the conditions noted below. (Education Code 44800; Military and Veterans Code 395, 395.2; 38 USC 4304, 4313; 20 CFR 1002.180-1002.181)

(cf. 4030 - Nondiscrimination in Employment)
(cf. 4031 - Complaints Concerning Discrimination in Employment)

Any employee who performs active military duty in time of war, national emergency, or United Nations military or police operation has a right to return to his/her position within six months of an honorable discharge or placement on inactive duty. Reinstatement rights shall not be extended to any such employee who fails to return within 12 months after the first date upon which he/she could terminate or could cause to be terminated his/her active service. (Education Code 44800; Military and Veterans Code 395.1)

When an employee has been on military leave for reasons other than war or national emergency, the time frame for reinstatement shall depend on the length of military service as follows: (38 USC 4312; 20 CFR 1002.115, 1002.118)

1. For a leave of 30 days or fewer, the employee shall report for duty no later than the beginning of the first full work day following the completion of military service, provided the employee has a period of eight hours to rest following transportation to his/her residence.

2. For a leave of 31-180 days, the employee shall submit a written or verbal application for reinstatement not later than 14 days after the completion of military service.

3. For a leave of more than 180 days, the employee shall submit a written or verbal application for reinstatement within 90 days after the completion of military service.

In cases where reporting within the periods specified in items #1 and #2 above is impossible or unreasonable through no fault of the employee, he/she shall report as soon as possible after the expiration of the period. (38 USC 4312; 20 CFR 1002.115, 1002.117)

An employee who is hospitalized for, or convalescing from, an illness or injury incurred in or aggravated during the performance of military service shall report for duty or submit an application for reinstatement at the end of the period that is necessary to recover from such illness or injury, but no more than two years after the completion of military service unless circumstances beyond the employee's control make reporting within the two-year period impossible or unreasonable. (38 USC 4312; 20 CFR 1002.116)

AR 4161.5(e)
4261.5
4361.5

MILITARY LEAVE (continued)

(cf. 4032 - Reasonable Accommodation)

Upon receiving an application for reinstatement, the Superintendent/Principal or designee shall reinstate the employee as soon as practicable under the circumstances of his/her case,

but within a time period not to exceed two weeks, absent unusual circumstances. (20 CFR 1002.181)

If the employee's previous position has been abolished, he/she shall be reinstated in a position of like seniority, status, and pay, if such position exists, or to a comparable vacant position for which he/she is qualified. (Military and Veterans Code 395, 395.1; 38 USC 4313; 20 CFR 1002.192)

An employee failing to apply for reinstatement within the appropriate period does not automatically forfeit his/her rights, but shall be subject to the Board's rules governing unexcused absences. (38 USC 4312)

The Superintendent/Principal or designee may elect not to reinstate an employee following military leave if any of the following conditions exists:

1. The district's circumstances have so changed as to make such re-employment impossible or unreasonable, such as a reduction in force that would have included the employee. (38 USC 4312; 20 CFR 1002.139)

2. The accommodation, training, or effort described in 38 USC 4313(a)(3), (a)(4), or (b)(2)(B) would impose an undue hardship on the district as defined in 20 CFR 1002.5 or 1002.198. (38 USC 4312; 20 CFR 1002.139)

3. The employee's position was for a brief, nonrecurrent period and there was no reasonable expectation that such employment will continue indefinitely or for a significant period. (38 USC 4312; 20 CFR 1002.139)

4. The employee's cumulative length of absence and length of all previous military leave while employed with the district exceeds five years, excluding those training and service obligations specified in 38 USC 4312(c). (38 USC 4312; 20 CFR 1002.99-1002.103)

5. The employee was separated from military service with a disqualifying discharge or under other than honorable conditions. (Military and Veterans Code 395.1; 20 USC 4304, 4312; 20 CFR 1002.134-1002.138)

Notices

The Superintendent/Principal or designee shall provide employees a notice of the rights, benefits, and obligations of employees granted military leave and of the district under the Uniformed Services Employment and Reemployment Rights Act (USERRA), 38 USC 4301-4334. (38 USC 4334)

This requirement may be met by posting the notice where the district customarily places notices for employees. (38 USC 4334)

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

Legal Reference: (see next page)

Legal Reference:
EDUCATION CODE

22850-22856 Pension benefits, STRS members on military leave
44018 Compensation for employees on active military duty
44800 Effect of active military service on status of employees
45059 Employee ordered to military/naval duty - computation of salary
GOVERNMENT CODE
18540 Definition of armed forces
18540.3 Recognized military service
20990-21013 Pension benefits, PERS members on military leave
MILITARY AND VETERANS CODE
146 Events justifying calling of militia into active service
389 Definitions; temporary military leave
394 Nondiscrimination based on military service
395-395.9 Military leave
UNITED STATES CODE, TITLE 38
4301-4334 Uniformed Services Employment and Reemployment Rights Act of 1994
CODE OF FEDERAL REGULATIONS, TITLE 20
1002.1-1002.314 Uniformed Services Employment and Reemployment Rights Act of 1994
COURT DECISIONS
Wright v. City of Santa Clara (1989) 213 Cal. App.3d 1503
Bowers v. San Buenaventura (1977) 75 Cal. App.3d 65
ATTORNEY GENERAL OPINIONS
77 Ops.Cal.Atty.Gen. 209 (1994)
69 Ops.Cal.Atty.Gen. 185 (1986)
63 Ops.Cal.Atty.Gen. 924 (1978)
19 Ops.Cal.Atty.Gen. 132 (1952)
18 Ops.Cal.Atty.Gen. 178 (1951)

Management Resources:
U.S. DEPARTMENT OF LABOR PUBLICATIONS
A Non-Technical Resource Guide to the Uniformed Services Employment and Reemployment Rights Act (USERRA), rev. April 2005
NATIONAL SCHOOL BOARDS ASSOCIATION PUBLICATIONS
The Uniformed Services Employment and Reemployment Rights Act (USERRA), NSBA Federal File: Guidance on Federal School Law, 2003
WEB SITES
National Committee for Employer Support of the Guard and Reserve: http://www.esgr.org
National School Boards Association: http://www.nsba.org
U.S. Department of Labor, USERRA: http://www.dol.gov/vets/programs/userra

Regulation approved:
All Personnel

CHUALAR UNION ELEMENTARY SCHOOL DISTRICT
Chualar, California
AR 4161.8(a)
4261.8
4361.8

FAMILY CARE AND MEDICAL LEAVE

The district shall not interfere with, restrain, or deny the exercise of any right for family care and medical leave provided to an eligible employee, as defined below, under the law. In addition, the district shall not discharge or discriminate against any employee for opposing any practice made unlawful by, or because of, his/her involvement in any inquiry or

proceeding related to the family care and medical leave. (29 USC 2615; Government Code 12945.2)

(cf. 4030 - Nondiscrimination in Employment)

Definitions

Any word or phrase defined below shall have the same meaning throughout this administrative regulation except where otherwise specifically defined.

Child means a biological, adopted, or foster child; a stepchild; a legal ward; or a child of a person standing in loco parentis as long as the child is under 18 years of age or an adult dependent child. (29 USC 2611; Government Code 12945.2)

Eligible employee means an employee who has been employed with the district for at least 12 months and who has at least 1,250 hours of service with the district during the previous 12-month period. (29 USC 2611; 29 CFR 825.110; Government Code 12945.2)

Parent means a biological, foster, or adoptive parent; a stepparent; a legal guardian; or another person who stood in loco parentis to the employee when the employee was a child. Parent does not include a spouse's parents. (29 USC 2611; 29 CFR 825.122; Government Code 12945.2; 2 CCR 7297.0)

Serious health condition means an illness, injury, impairment, or physical or mental condition that involves either of the following: (29 USC 2611; 29 CFR 825.113, 825.114, 825.115; Government Code 12945.2)

1. Inpatient care in a hospital, hospice, or residential health care facility

2. Continuing treatment or continuing supervision by a health care provider, including one or more of the following:

   a. A period of incapacity of more than three consecutive full days

   b. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition

   c. For purposes of leave under the Family and Medical Leave Act (FMLA), any period of incapacity due to pregnancy or for prenatal care

d. Any period of incapacity which is permanent or long term due to a condition for which treatment may not be effective

e. Any period of absence to receive multiple treatments, including recovery, by a health care provider

Spouse means a partner in marriage as defined in Family Code 300 or 1 USC 7. In addition, for purposes of rights under the California Family Rights Act (CFRA), a registered domestic partner shall have the same rights, protections, and benefits as a spouse and protections provided to a spouse's child shall also apply to a child of a registered domestic partner. (1 USC 7; 29 CFR 825.122; Family Code 297.5, 300; 2 CCR 7297.0)

Eligibility

The district shall grant family care and medical leave to eligible employees for the following reasons: (29 USC 2612; 29 CFR 825.112; Family Code 297.5; Government Code 12945.2)

1. Because of the birth of a child of the employee or placement of a child with the employee in connection with the employee's adoption or foster care of the child

2. To care for the employee's child, parent, or spouse with a serious health condition

3. Because of the employee's own serious health condition that makes him/her unable to perform one or more essential functions of his/her position, except that CFRA leave shall not cover an employee's disability on account of pregnancy, childbirth, or related medical conditions

4. Because of any qualifying exigency arising out of the fact that the employee's spouse, child, or parent is a covered military member on covered active duty (or has been notified of an impending call or order to covered active duty)

5. To care for a covered servicemember with a serious injury or illness if the employee is the spouse, child, parent, or next of kin, as defined, of the servicemember

In addition to FMLA leave for disability on account of a pregnancy, childbirth, or related medical conditions pursuant to item #3 above, a female employee disabled by pregnancy, childbirth, or related medical conditions may be entitled to take leave for a reasonable period of time, not to exceed four months. (Government Code 12945)

Terms of Leave

An eligible employee shall be entitled to a total of 12 work weeks of family care and medical leave during any 12-month period, except in the case of leave to care for a covered servicemember as provided under "Military Caregiver Leave" below. (29 USC 2612; Government Code 12945.2)

This 12-month period shall be measured forward from the date the employee's first family care and medical leave begins. (29 CFR 825.200)

CFR 825.200)

Leave taken pursuant to the CFRA shall run concurrently with leave taken pursuant to the FMLA, except in the following circumstances:

1. Leave taken to care for a registered domestic partner or a child of a domestic partner. Such leave shall count as leave under the CFRA only. (Family Code 297.5)

2. Leave taken for disability on account of pregnancy, childbirth, or related medical conditions. FMLA leave taken for these purposes shall run concurrently with the California pregnancy disability leave granted pursuant to Government Code 12945. CFRA leave related to the birth of a child shall not commence until the expiration of the pregnancy disability leave. (Government Code 12945, 12945.2; 2 CCR 7297.6)

(cf. 4161.1/4361.1 - Personal Illness/Injury Leave)
(cf. 4261.1 - Personal Illness/Injury Leave)

Leave taken for the birth or placement of a child must be concluded within the 12-month period beginning on the date of the birth or placement of the child. Such leave does not need to be taken in one continuous period of time. The basic minimum duration of the leave for birth or placement of a child shall be two weeks. However, the district shall grant a request for leave of less than two weeks' duration on any two occasions. (29 USC 2612; 2 CCR 7297.3)

FAMILY CARE AND MEDICAL LEAVE (continued)

If both parents of a child work for the district, their family care and medical leave related to the birth or placement of the child shall be limited to a combined total of 12 weeks. This restriction shall apply whether or not the parents are married, not married, or registered domestic partners. (29 USC 2612; Government Code 12945.2)

Use/Substitution of Paid Leave

Except for pregnancy disability leave, during the period of family care and medical leave, the district shall require the employee to use his/her accrued vacation leave, other accrued time off, and any other paid or unpaid time off negotiated with the district. If the leave is because of the employee's own serious health condition, the employee shall use accrued sick leave pursuant to the collective bargaining agreement and/or Board policy. (29 USC 2612; Government Code 12945.2)

(cf. 4141/4241 - Collective Bargaining Agreement)
(cf. 4161/4261/4361 - Leaves)

Intermittent Leave/Reduced Leave Schedule

Leave related to the serious health condition of the employee or his/her child, parent, or spouse may be taken intermittently or on a reduced leave schedule when medically necessary, as determined by the health care provider of the person with the serious health condition. However, the district may limit leave increments to the shortest period of time that the district's payroll system uses to account for absences or use of leave. (29 USC 2612; 2 CCR 7297.3)

If an employee needs intermittent leave or leave on a reduced work schedule that is foreseeable based on planned medical treatment for the employee or a family member, the district may require the employee to transfer temporarily to an available alternative position. This alternative position must have equivalent pay and benefits, the employee must be qualified for the position, and the position must better accommodate recurring periods of leave than the employee's regular job. Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent leave or a reduced leave schedule. (29 USC 2612; 2 CCR 7297.3)

AR 4161.8(e)
4261.8
4361.8

FAMILY CARE AND MEDICAL LEAVE (continued)

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

Request for Leave

An employee shall provide at least verbal notice sufficient to make the district aware that he/she needs family care and medical leave and the anticipated timing and duration of the leave. The employee need not expressly assert or mention FMLA/CFRA to satisfy this requirement; however, he/she must state the reason the leave is needed (e.g., birth of child, medical treatment). If more information is necessary to determine whether the employee is eligible for family care and medical leave, the Superintendent/Principal or designee shall inquire further and obtain the necessary details of the leave to be taken. (2 CCR 7297.4)

Based on the information provided by the employee, the Superintendent/Principal or designee shall designate the leave, paid or unpaid, as FMLA/CFRA qualifying leave and shall give notice of such designation to the employee. (2 CCR 7297.4)

When the need for the leave is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment for a serious health condition of the employee or a family member, the employee shall provide the district with at least 30 days advance notice before the leave. The employee shall consult with the district and make a reasonable effort to schedule, subject to the health care provider's approval, any planned medical treatment or supervision so as to minimize disruption to district operations. (Government Code 12945.2; 2 CCR 7297.4)

When the 30 days notice is not practicable because of a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, the employee shall provide the district with notice as soon as practicable. (2 CCR 7297.4)

Certification of Health Condition

At the time of the employee's request for leave for his/her own or his/her child's, parent's, or spouse's serious health condition, or within five business days of the request, the Superintendent/Principal or designee shall request that the employee provide certification by a health care provider of the need for leave. Upon receiving the district's request, the employee shall provide the certification within 15 days, unless either the Superintendent/Principal or designee provides additional time or it is not practicable under the particular circumstances, despite the employee's diligent, good faith efforts. (29 CFR 825.305; 2 CCR 7297.4)

The certification shall include the following: (29 USC 2613; Government Code 12945.2; 2 CCR 7297.0)

FAMILY CARE AND MEDICAL LEAVE (continued)

1. The date on which the serious health condition began

2. The probable duration of the condition

3. If the employee is requesting leave to care for a child, parent, or spouse with a serious health condition, both of the following:

    a. Statement that the serious health condition warrants the participation of a family member to provide care during a period of the treatment or supervision of the child, parent, or spouse

b. Estimated amount of time the health care provider believes the employee needs to care for the child, parent, or spouse

4. If the employee is requesting leave because of his/her own serious health condition, a statement that due to the serious health condition, he/she is unable to work at all or is unable to perform one or more essential functions of his/her job

5. If the employee is requesting leave for intermittent treatment or is requesting leave on a reduced leave schedule for planned medical treatment, a statement of the medical necessity for the leave, the dates on which treatment is expected to be given, the duration of such treatment, and the expected duration of the leave

The Superintendent/Principal or designee shall not request any genetic information, as defined in 42 USC 2000ff, from any employee or his/her family member except as necessary to comply with a certification requirement for FMLA/CFRA leave purposes or with the prior written authorization of the employee. Any such genetic information received by the district shall be kept confidential in accordance with law. (42 USC 2000ff-1, 2000ff-5)

When an employee has provided sufficient medical certification to enable the district to determine whether the employee's leave request is FMLA-eligible, the Superintendent/Principal or designee shall notify the employee within five business days whether the leave is FMLA-eligible. The Superintendent/Principal or designee may also retroactively designate leave as FMLA/CFRA as long as there is no individualized harm to the employee. (29 CFR 825.301)

FAMILY CARE AND MEDICAL LEAVE (continued)

If the Superintendent/Principal or designee doubts the validity of a certification that accompanies a request for leave for the employee's own serious health condition, he/she may require the employee to obtain a second opinion from a district-approved health care provider, at district expense. If the second opinion is contrary to the first, the Superintendent/Principal or designee may require the employee to obtain a third medical opinion from a third health care provider approved by both the employee and the district, again at district expense. The opinion of the third health care provider shall be final and binding. (29 USC 2613; Government Code 12945.2)

If additional leave is needed when the time estimated by the health care provider expires, the district may require the employee to provide recertification in the manner specified in items #1-5 above. (29 USC 2613; Government Code 12945.2)

Fitness for Duty Upon Return to Work

Upon expiration of leave taken for his/her own serious health condition, an employee shall present certification from his/her health care provider that he/she is able to resume work.

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

The certification from the employee's health care provider shall address the employee's ability to perform the essential functions of his/her job.

Rights to Reinstatement and Maintenance of Benefits

Upon granting an employee's request for family care and medical leave, the Superintendent/Principal or designee shall guarantee to reinstate the employee in the same or a comparable position when the leave ends. (29 USC 2614; Government Code 12945.2)

However, the district may refuse to reinstate an employee returning from leave to the same or a comparable position if all of the following apply: (29 USC 2614; Government Code 12945.2)

1. The employee is a salaried "key employee" who is among the highest paid 10 percent of those district employees who are employed within 75 miles of the employee's worksite.

2. The refusal is necessary to prevent substantial and grievous economic injury to district operations.

FAMILY CARE AND MEDICAL LEAVE (continued)

3. The district informs the employee of its intent to refuse reinstatement at the time it determines that the refusal is necessary, and the employee fails to immediately return to service.

(cf. 4117.3 - Personnel Reduction)
(cf. 4217.3 - Layoff/Rehire)

During the period when an employee is on family care and medical leave, he/she shall maintain his/her status with the district and the leave shall not constitute a break in service

for purposes of longevity, seniority under any collective bargaining agreement, or any employee benefit plan. (29 USC 2614; Government Code 12945.2)

For a period of 12 work weeks, the district shall continue to provide an eligible employee on family care and medical leave the group health plan coverage that was in place before he/she took the leave. The employee shall reimburse the district for premiums paid during the family care and medical leave if he/she fails to return to district employment after the expiration of the leave and the failure is for any reason other than the continuation, recurrence, or onset of a serious health condition or other circumstances beyond his/her control. (29 USC 2614; 29 CFR 825.213; Government Code 12945.2)

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

In addition, during the period when an employee is on family care and medical leave, he/she shall be entitled to continue to participate in other employee benefit plans including life insurance, short-term or long-term disability insurance, accident insurance, pension and retirement plans, and supplemental unemployment benefit plans to the same extent and under the same conditions as apply to an unpaid leave taken for any other purpose. However, for purposes of pension and retirement plans, the district shall not be required to make plan payments for an employee during the leave period and the leave period shall not be counted for purposes of time accrued under the plan. (Government Code 12945.2)

Military Family Leave Resulting from Qualifying Exigencies

An eligible employee may take up to 12 work weeks of unpaid leave during the 12-month period established by the district while a covered military member is on covered active duty or call to covered active duty status for one or more qualifying exigencies. (29 USC 2612)

Covered military member means an employee's spouse, son, daughter, or parent on covered active duty or call to covered active duty status. (29 CFR 825.126)

FAMILY CARE AND MEDICAL LEAVE (continued)

Covered active duty means duty during the deployment of a member of the regular Armed Forces to a foreign country or duty during the deployment of a member of the National Guard or Reserves to a foreign country under a call or order to active duty. (29 USC 2611)

Qualifying exigencies include time needed to: (29 CFR 825.126)

1. Address issues arising from short notice deployment (up to seven calendar days from the date of receipt of call or order of short notice deployment)

2. Attend military events and related activities, such as any official ceremony or family assistance program related to the active duty or call to active duty status

3. Arrange childcare or attend school activities arising from the active duty or call to active duty, such as arranging for alternative childcare, enrolling or transferring a child to a new school, or attending meetings

4. Make or update financial and legal arrangements to address a covered military member's absence

5. Attend counseling provided by someone other than a health care provider

6. Spend time (up to five days of leave per instance) with a covered military member who is on short-term temporary rest and recuperation leave during deployment

7. Attend to certain post-deployment activities, such as arrival ceremonies or reintegration briefings

8. Address any other event that the employee and district agree is a qualifying exigency

The employee shall provide the Superintendent/Principal or designee with notice of the need for the qualifying exigency leave as soon as practicable, regardless of how far in advance such leave is foreseeable. (29 CFR 825.302)

An employee who is requesting such leave for the first time shall provide the Superintendent/Principal or designee with a copy of the covered military member's active duty orders, or other documentation issued by the military, and the dates of the service. In addition, the employee shall provide the Superintendent/Principal or designee with certification of the qualifying exigency necessitating the leave. The certification shall contain the information specified in 29 CFR 825.309.

FAMILY CARE AND MEDICAL LEAVE (continued)

The employee's qualifying exigency leave may be taken on an intermittent or reduced leave schedule basis. (29 CFR 825.302)

During the period of qualified exigency leave, the district's rule regarding an employee's use of his/her accrued vacation leave and any other accrued paid or unpaid time off, as specified in "Use/Substitution of Paid Leave" above, shall apply.

Military Caregiver Leave

The district shall grant up to a total of 26 work weeks of leave during a single 12-month period, measured forward from the first date of leave taken, to an eligible employee to care for a covered servicemember with a serious illness or injury. In order to be eligible for such military caregiver leave, an employee must be the spouse, son, daughter, parent, or next of kin of the covered servicemember. This 26-week period is not in addition to, but rather is inclusive of, the 12 work weeks of leave that may be taken for other FMLA qualifying reasons. (29 USC 2611, 2612; 29 CFR 825.127)

Covered servicemember may be either: (29 USC 2611)

1. A member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy; is otherwise in outpatient status; or is otherwise on the temporary disability retired list for a serious injury or illness

2. A veteran who, within the five years preceding his/her undergoing of medical treatment, recuperation, or therapy for a serious injury or illness, was a member of the Armed Forces, including the National Guard or Reserves

Son or daughter of a covered servicemember means the biological, adopted, or foster child, stepchild, legal ward, or a child of any age for whom the covered servicemember stood in loco parentis. (29 CFR 825.127)

Parent of a covered servicemember means the covered servicemember's biological, adopted, step or foster parent, or any other individual who stood in loco parentis to the covered servicemember (except "parents in law"). (29 CFR 825.127)

Next of kin means the nearest blood relative to the covered servicemember, or as designated in writing by the covered servicemember. (29 USC 2611, 2612)

FAMILY CARE AND MEDICAL LEAVE (continued)

Outpatient status means the status of a member of the Armed Forces assigned to a military medical treatment facility as an outpatient or a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients. (29 USC 2611; 29 CFR 825.127)

Serious injury or illness means: (29 USC 2611; 29 CFR 825.127)

1. For a member of the Armed Forces, an injury or illness incurred or aggravated by the member's service in the line of duty while on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating

2. For a veteran, an injury or illness incurred or aggravated by the member's service in the line of duty on active duty in the Armed Forces, including the National Guard or Reserves, that manifested itself before or after the member became a veteran

The employee shall provide reasonable and practicable notice of the need for the leave in accordance with the procedures in the section entitled "Request for Leave" above.

An employee requesting leave to care for a covered servicemember with a serious injury or illness shall provide the Superintendent/Principal or designee with certification from an authorized health care provider of the servicemember that contains the information specified in 29 CFR 825.310.

The leave may be taken intermittently or on a reduced schedule when medically necessary. An employee taking military caregiver leave in combination with other leaves pursuant to this administrative regulation shall be entitled to a combined total of 26 work weeks of leave during a single 12-month period. When both spouses work for the district and both wish to take such leave, the spouses are limited to a maximum combined total of 26 work weeks during a single 12-month period. (29 USC 2612)

During the period of military caregiver leave, the district's rule regarding an employee's use of his/her accrued vacation leave and other accrued paid or unpaid time off, as specified in "Use/Substitution of Paid Leave" above, shall apply.

Notifications

The Superintendent/Principal or designee shall provide the following notifications about state and federal law related to FMLA/CFRA:

1. **General Notice:** Information explaining the provisions of the FMLA/CFRA and employee rights and obligations shall be posted in a conspicuous place on district premises, or electronically, and shall be included in employee handbooks. (29 USC 2619; 2 CCR 7297.9)

The general notice shall also explain an employee's obligation to provide the Superintendent/Principal or designee with at least 30 days notice of the need for the leave, when the need for the leave is reasonably foreseeable. (2 CCR 7297.4)

2. **Eligibility Notice:** When an employee requests leave or when the Superintendent/Principal or designee acquires knowledge that an employee's leave may be for an FMLA/CFRA qualifying reason, the Superintendent/Principal or designee shall, within five business days, provide notification to the employee of his/her eligibility to take such leave. (29 CFR 825.300)

3. **Rights and Responsibilities Notice:** Each time the eligibility notice is provided to an employee, the Superintendent/Principal or designee shall provide written notification explaining the specific expectations and obligations of the employee, including any consequences for a failure to meet those obligations. Such notice shall include, as appropriate: (29 CFR 825.300)

   a. A statement that the leave may be designated and counted against the employee's annual FMLA/CFRA leave entitlement and the appropriate 12-month entitlement period, if qualifying

   b. Any requirements for the employee to furnish medical certification of a serious health condition, serious injury or illness, or qualifying exigency arising out of active duty or call to active duty status and the consequences of failing to provide the certification

   c. The employee's right to substitute paid leave, whether the district will require substitution of paid leave, conditions related to any substitution, and the employee's entitlement to take unpaid leave if the employee does not meet the conditions for paid leave

   d. Any requirements for the employee to make any premium payments to maintain health benefits, the arrangement for making such payments, and the possible consequences of failure to make payments on a timely basis

   e. If applicable, the employee's status as a "key employee," potential consequence that restoration may be denied following the FMLA leave, and explanation of the conditions required for such denial

f. The employee's right to maintenance of benefits during the leave and restoration to the same or an equivalent job upon return from leave

g. The employee's potential liability for health insurance premiums paid by the district during the employee's unpaid FMLA leave should the employee not return to service after the leave

Any time the information provided in the above notice changes, the Superintendent/Principal or designee shall, within five business days of his/her receipt of an employee's first notice of need for leave, provide the employee with a written notice referencing the prior notice and describing any changes to the notice. (29 CFR 825.300)

4. **Designation Notice:** When the Superintendent/Principal or designee has information (e.g., sufficient medical certification) to determine whether the leave qualifies as FMLA/CFRA leave, he/she shall, within five business days, provide written notification designating the leave as FMLA/CFRA qualifying or, if the leave will not be so designated, the reason for that determination. (29 CFR 825.300)

If the amount of leave needed is known, the notice shall include the number of hours, days, or weeks that will be counted against the employee's FMLA/CFRA entitlement. If it is not possible to provide that number at the time of the designation notice, notification shall be provided of the amount of leave counted against the employee's entitlement upon request by the employee and at least once in every 30-day period if leave was taken in that period. (29 CFR 825.300)

If the district requires paid leave to be substituted for unpaid family care and medical leave, the notice shall so specify. If the district requires an employee to present a fitness-for-duty certification that addresses the employee's ability to perform the essential functions of the job, the notice shall also specify that requirement.

Any time the information provided in the designation notice changes, the Superintendent/Principal or designee shall, within five business days, provide the employee with written notice referencing the prior notice and describing any changes to the notice. (29 CFR 825.300)

Records

The Superintendent/Principal or designee shall maintain records pertaining to an individual employee's use of family care and medical leave in accordance with law. (29 USC 2616; 42 USC 2000ff-1; 29 CFR 825.500; Government Code 12946)

Legal Reference:

EDUCATION CODE
44965 Granting of leaves of absence for pregnancy and childbirth
FAMILY CODE
297-297.5 Rights, protections and benefits under law; registered domestic partners
300 Validity of marriage
GOVERNMENT CODE
12940 Unlawful employment practices
12945 Pregnancy; childbirth or related medical condition; unlawful practice
12945.1-12945.2 California Family Rights Act
CODE OF REGULATIONS, TITLE 2
7291.2-7291.16 Sex discrimination: pregnancy and related medical conditions
7297.0-7297.11 Family care leave
UNITED STATES CODE, TITLE 1
7 Definition of marriage, spouse
UNITED STATES CODE, TITLE 29
2601-2654 Family and Medical Leave Act of 1993, as amended
UNITED STATES CODE, TITLE 42
2000ff-1-2000ff-11 Genetic Information Nondiscrimination Act of 2008
CODE OF FEDERAL REGULATIONS, TITLE 29
825.100-825.800 Family and Medical Leave Act of 1993
COURT DECISIONS
Faust v. California Portland Cement Company, (2007) 150 Cal.App.4th 864
Tellis v. Alaska Airlines, (9th Cir., 2005) 414 F.3d 1045

Management Resources:

FEDERAL REGISTER
Final Rule and Supplementary Information, November 17, 2008. Vol. 73, No. 222, pages 67934-68133
U.S. DEPARTMENT OF LABOR PUBLICATIONS
Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers
WEB SITES
California Department of Fair Employment and Housing: http://www.dfeh.ca.gov
U.S. Department of Labor, FMLA: http://www.dol.gov/whd/fmla

Regulation approved:
All Personnel

CHUALAR UNION ELEMENTARY SCHOOL DISTRICT
Chualar, California
BP 4161.9
4261.9
4361.9

CATASTROPHIC LEAVE PROGRAM

When a catastrophic illness or injury incapacitates an employee or a member of his/her family for an extended period of time and the employee has exhausted all paid leaves of absence, other employees may donate accrued vacation and/or sick leave credits to that employee under the specific requirements of the district's catastrophic leave program.

Donations made under the catastrophic leave program shall be strictly voluntary.

(cf. 4161/4261/4361 - Leaves)
(cf. 4161.1/4361.1 - Personal Illness/Injury Leave)
(cf. 4261.1 - Personal Illness/Injury Leave)

Legal Reference:
EDUCATION CODE
44043.5 Catastrophic leave

Policy adopted: **CHUALAR UNION ELEMENTARY SCHOOL DISTRICT**
Chualar, California
All Personnel AR 4161.9
4261.9
4361.9

CATASTROPHIC LEAVE PROGRAM

When an employee or a member of his/her family experiences a catastrophic illness or injury which requires the employee to take time off from work for an extended period of time, and the employee has exhausted all available sick leave and other paid time off, he/she may request donations of accrued vacation or sick leave credits. (Education Code 44043.5)

In making such a request, the employee shall provide verification of the catastrophic injury or illness. (Education Code 44043.5)

Verification shall be made by means of a letter, dated and signed by the sick or injured person's physician, indicating the incapacitating nature and probable duration of the illness or injury.

Upon determination that the employee is unable to work due to his/her own or a family member's catastrophic illness or injury, any other employee, upon written notice to the Board of Trustees, may donate accrued vacation and/or sick leave credits to the requesting employee. Donations shall be at a minimum of eight hours, and in hour increments thereafter. (Education Code 44043.5)

To ensure that employees retain sufficient accrued sick leave to meet their own needs, donors shall not reduce their accumulated sick leave to fewer than _40__ hours.

All transfers of eligible leave credit shall be irrevocable. (Education Code 44043.5)

The Superintendent/Principal or designee shall ensure that all donations are confidential.

The employee who is the recipient of the donated leave credits shall use those credits within 12 consecutive months.

If donated credits are not used by the employee within 12 consecutive months, the credits shall be placed in a pool that will be available to the next eligible employee who requests catastrophic leave.

An employee who receives paid catastrophic leave shall use any leave credits that he/she continues to accrue on a monthly basis before receiving paid leave pursuant to this program. (Education Code 44043.5)