

## **Personnel**

### **TEMPORARY/SUBSTITUTE PERSONNEL**

**BP 4121**

The Governing Board recognizes that substitute and temporary personnel perform an essential role in promoting student achievement and desires to employ highly qualified, appropriately credentialed employees to fill such positions.

#### **Hiring**

The Superintendent or designee shall recommend candidates for substitute or temporary positions for Board approval, and shall ensure that all substitute and temporary employees are assigned in accordance with law and the authorizations specified in their credential.

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

In addition, after September 1 of any school year, the Board may employ substitute personnel for the remainder of the school year in 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)

Permanent or probationary certificated employees who were laid off pursuant to Education Code 44955 and who have a preferred right of reappointment shall be given priority for substitute service in the order of their original employment. (Education Code 44956, 44957)

#### **Classification**

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

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

To address the need for additional certificated employees when regular district employees are absent due to leaves or long-term illness, the Board may classify a teacher who is employed for at least one semester and up to one complete school year as a temporary employee. 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

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the number of persons who shall be so employed, which shall not exceed the identified need based on the absence of regular employees. (Education Code 44920)

Additionally, the Board 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 school 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 school 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)
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)
5. Serve only for the first semester, because the district expects a reduction in student enrollment during the second semester due to mid-year graduations (Education Code 44921)

For purposes of classifying employees pursuant to Item #1 or #2 above, the school year shall not be divided into more than two school terms. (Education Code 44919)

Any employee hired to provide services in a categorically funded program or project may be employed for a period less than a full school year. An employee may be classified as a temporary employee if the period of employment will end at the expiration of that program or project. (Education Code 44909)

### **Salary and Benefits**

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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)

Temporary employees **may** participate in the health and welfare plans or other fringe benefits of the district.

#### Paid Sick Leave

Except for a retired annuitant who is not reinstated to the retirement system, any temporary or substitute employee who works for 30 or more days within a year of their employment shall be credited with 40 hours or five days of paid sick leave for that year. Unused sick leave shall not carry over to the following year of employment. (Labor Code 246)

Any temporary or substitute employee may begin to use accrued paid sick days on the 90th day of employment, after which the employee may use the sick days as they are accrued. (Labor Code 246)

A temporary or substitute employee may use accrued sick leave for absences due to: (Labor Code 246.5)

1. The employee's own need or the need of a family member, as defined in Labor Code 245.5, for the diagnosis, care, or treatment of an existing health condition or for preventive care
2. Need of the employee to obtain or seek any relief or medical attention specified in Labor Code 230(c) and 230.1(a) for the health, safety, or welfare of the employee, or the employee's child, when the employee has been a victim of domestic violence, sexual assault, or stalking

No employee shall be denied the right to use accrued sick days and the district shall not in any manner discriminate or retaliate against an employee for using or attempting to use sick leave, filing a complaint with the Labor Commissioner, or alleging district violation of Labor Code 245-249. The Superintendent or designee shall display a poster containing required

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information, provide notice to eligible employees of their sick leave rights, keep records of employees' use of sick leave for three years, and comply with other requirements specified in Labor Code 245-249 and in Administrative Regulation 4161.1/4361.1 - Personal Illness/Injury Leave.

#### **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 regular schools of the district are maintained during one school year. After serving 75 percent of the number of days that district schools are maintained during one school year, a temporary employee may be released as long as the employee is notified, before the last day of June, of the district's decision not to reelect the temporary employee for the following school year. (Education Code 37200, 44954)

#### **Reemployment as a Probationary Employee**

Reemployment provisions contained in Education Code 44918 do not apply to districts with average daily attendance of over 250,000; such districts should modify the following section accordingly.

Unless released from employment pursuant to Education Code 44954, any person employed for one complete school year as a temporary employee shall, if reemployed for the following school year in a vacant position requiring certification qualifications, be classified as a probationary employee. With the exception of on-call, day-to-day substitutes, if a temporary or substitute employee performs the duties normally required of certificated employees for at least 75 percent of the number of days the regular schools of the district were maintained in that school year and is then employed as a probationary employee for the following school year, the employee's previous employment as a temporary or substitute employee shall be credited as one year's employment as a probationary employee for purposes of acquiring permanent status. (Education Code 44917, 44918, 44920)

Vacant position means a position in which the employee is qualified to serve and which is not filled by a permanent or probationary employee. It shall not include a position which would be filled by a permanent or probationary

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employee except for the fact that such employee is on leave. (Education Code 44920, 44921)

A temporary employee hired pursuant to Item #1 or #2 in the section "Classification" above shall be classified as a probationary employee if the duties continue beyond the time limits of the assignment. (Education Code 44919)

A person employed pursuant to Item #5 in the section "Classification" above who is then continued in employment beyond the first semester shall be classified as a probationary employee for the entire school year and shall be reemployed to fill any vacant position 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)

With the exception of on-call, day-to-day substitutes, any temporary or substitute employee who was released pursuant to Education Code 44954 but who has nevertheless served in a certificated position in the district for at least 75 percent of each of two consecutive school years 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)

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#### *Policy Reference Disclaimer:*

*These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.*

#### **State**

5 CCR 5502

5 CCR 5503

5 CCR 5590

5 CCR 80025-80025.5

Ed. Code 22455.5

Ed. Code 22515

Ed. Code 37200

Ed. Code 44252.5

Ed. Code 44300

Ed. Code 44830

Ed. Code 44839.5

#### **Description**

*Filing of notice of physical examination for employment of retired person*

*Physical examination for employment of retired persons*

*Temporary athletic team coach*

*Emergency substitute teaching permits*

[STRS information to potential members](#)

[Irrevocable election to join retirement plan](#)

[School calendar](#)

[State basic skills assessment required for certificated personnel](#)

[Emergency permits](#)

[Employment of certificated persons](#)

[Requirements for employment of retirant](#)

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<i>Ed. Code 44845</i>	<a href="#"><u>Date of employment</u></a>
<i>Ed. Code 44846</i>	<a href="#"><u>Criteria for reemployment preferences</u></a>
<i>Ed. Code 44909</i>	<a href="#"><u>Employees providing services through categorically funded programs</u></a>
<i>Ed. Code 44914</i>	<a href="#"><u>Substitute and probationary employment computation for classification as permanent employee</u></a>
<i>Ed. Code 44915</i>	<a href="#"><u>Classification of probationary employees</u></a>
<i>Ed. Code 44916</i>	<a href="#"><u>Written statement of employment status</u></a>
<i>Ed. Code 44917</i>	<a href="#"><u>Classification of substitute employees</u></a>
<i>Ed. Code 44918</i>	<a href="#"><u>Substitute or temporary employee deemed probationary employee; reemployment rights</u></a>
<i>Ed. Code 44919</i>	<a href="#"><u>Classification of temporary employees; classifications</u></a>
<i>Ed. Code 44920</i>	<a href="#"><u>Employment of certain temporary employees; classifications</u></a>
<i>Ed. Code 44921</i>	<a href="#"><u>Employment of temporary employees; reemployment rights (unified and high school districts)</u></a>
<i>Ed. Code 44953</i>	<a href="#"><u>Dismissal of substitute employees</u></a>
<i>Ed. Code 44954</i>	<a href="#"><u>Nonreelection of temporary employees</u></a>
<i>Ed. Code 44955</i>	<a href="#"><u>Reduction in number of permanent employees</u></a>
<i>Ed. Code 44956</i>	<a href="#"><u>Rights of laid-off permanent employees to substitute positions</u></a>
<i>Ed. Code 44957</i>	<a href="#"><u>Rights of laid-off probationary employees to substitute positions</u></a>
<i>Ed. Code 44977</i>	<a href="#"><u>Salary schedule for substitute employees</u></a>
<i>Ed. Code 45030</i>	<a href="#"><u>Substitutes</u></a>
<i>Ed. Code 45041</i>	<a href="#"><u>Computation of salary</u></a>
<i>Ed. Code 45042</i>	<a href="#"><u>Alternative method of computation for less than one school year</u></a>
<i>Ed. Code 45043</i>	<a href="#"><u>Compensation for employment beginning in the second semester</u></a>
<i>Ed. Code 56060-56063</i>	<a href="#"><u>Substitute teachers in special education</u></a>
<i>Gov. Code 3540.1</i>	<a href="#"><u>Public employment; definitions</u></a>
<i>Lab. Code 220</i>	<a href="#"><u>Sections inapplicable to public employees</u></a>
<i>Lab. Code 230</i>	<a href="#"><u>Accommodations and leave for victims of domestic violence</u></a>
<i>Lab. Code 230.1</i>	<a href="#"><u>Employers with 25 or more employees; domestic violence, sexual assault, and stalking victims; right to time off</u></a>
<i>Lab. Code 233</i>	<a href="#"><u>Leave to attend to family illness</u></a>
<i>Lab. Code 234</i>	<a href="#"><u>Absence control policy</u></a>
<i>Lab. Code 245-249</i>	<a href="#"><u>Healthy Workplaces, Healthy Families Act of 2014</u></a>
<b>Management Resources</b>	<b>Description</b>
<i>Court Decision</i>	<i>Kavanaugh v. West Sonoma Union High School District (2003) 29 Cal.4th 911</i>

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<i>Court Decision</i>	<i>McIntyre v. Sonoma Valley Unified School District (2012)</i> <i>206 Cal.App.4th 170</i>
<i>Court Decision</i>	<i>Neily v. Manhattan Beach Unified School District (2011)</i> <i>192 Cal.App.4th 187</i>
<i>Court Decision</i>	<i>Stockton Teachers Association CTA/NEA v. Stockton</i> <i>Unified School District (2012) 204 Cal.App.4th 446</i>
<i>Court Decision</i>	<i>Bakersfield Elementary Teachers Association v.</i> <i>Bakersfield City School District (2006) 145 Cal.App.4th</i> <i>1260</i>
<i>Court Decision</i>	<i>California Teachers Association v. Vallejo City Unified</i> <i>School District (2007) 149 Cal.App.4th 135</i>
<i>Website</i>	<a href="#"><u>CSBA District and County Office of Education Legal</u></a> <a href="#"><u>Services</u></a>
<i>Website</i>	<a href="#"><u>Commission on Teacher Credentialing</u></a>
<i>Website</i>	<a href="#"><u>CSBA</u></a>

### Cross References

<b>Policy</b>	<b>Description</b>
0500	<a href="#"><u>Accountability</u></a>
4111.2	<a href="#"><u>Legal Status Requirement</u></a>
4111.2	<a href="#"><u>Legal Status Requirement</u></a>
4112	<a href="#"><u>Appointment And Conditions Of Employment</u></a>
4112.1	<a href="#"><u>Contracts</u></a>
4112.2	<a href="#"><u>Certification</u></a>
4112.2	<a href="#"><u>Certification</u></a>
4112.3	<a href="#"><u>Oath Or Affirmation</u></a>
4112.3-E(1)	<a href="#"><u>Oath Or Affirmation</u></a>
4112.4	<a href="#"><u>Health Examinations</u></a>
4112.5	<a href="#"><u>Criminal Record Check</u></a>
4112.5-E(1)	<a href="#"><u>Criminal Record Check</u></a>
4112.9	<a href="#"><u>Employee Notifications</u></a>
4112.9-E(1)	<a href="#"><u>Employee Notifications</u></a>
4113	<a href="#"><u>Assignment</u></a>
4113	<a href="#"><u>Assignment</u></a>
4116	<a href="#"><u>Probationary/Permanent Status</u></a>
4116	<a href="#"><u>Probationary/Permanent Status</u></a>
4117.14	<a href="#"><u>Postretirement Employment</u></a>
4117.3	<a href="#"><u>Personnel Reduction</u></a>
4127	<a href="#"><u>Temporary Athletic Team Coaches</u></a>
4127	<a href="#"><u>Temporary Athletic Team Coaches</u></a>
4140	<a href="#"><u>Bargaining Units</u></a>
4141.6	<a href="#"><u>Concerted Action/ Work Stoppage</u></a>
4141.6	<a href="#"><u>Concerted Action/ Work Stoppage</u></a>
4151	<a href="#"><u>Employee Compensation</u></a>

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4154	<a href="#"><u>Health And Welfare Benefits</u></a>
4154	<a href="#"><u>Health And Welfare Benefits</u></a>
4161.1	<a href="#"><u>Personal Illness/Injury Leave</u></a>
4161.2	<a href="#"><u>Personal Leaves</u></a>
4211.2	<a href="#"><u>Legal Status Requirement</u></a>
4211.2	<a href="#"><u>Legal Status Requirement</u></a>
4212.3	<a href="#"><u>Oath Or Affirmation</u></a>
4212.3-E(1)	<a href="#"><u>Oath Or Affirmation</u></a>
4212.4	<a href="#"><u>Health Examinations</u></a>
4212.5	<a href="#"><u>Criminal Record Check</u></a>
4212.5-E(1)	<a href="#"><u>Criminal Record Check</u></a>
4212.9	<a href="#"><u>Employee Notifications</u></a>
4212.9-E(1)	<a href="#"><u>Employee Notifications</u></a>
4217.3	<a href="#"><u>Layoff/Rehire</u></a>
4227	<a href="#"><u>Temporary Athletic Team Coaches</u></a>
4227	<a href="#"><u>Temporary Athletic Team Coaches</u></a>
4240	<a href="#"><u>Bargaining Units</u></a>
4241.6	<a href="#"><u>Concerted Action/ Work Stoppage</u></a>
4241.6	<a href="#"><u>Concerted Action/ Work Stoppage</u></a>
4251	<a href="#"><u>Employee Compensation</u></a>
4254	<a href="#"><u>Health And Welfare Benefits</u></a>
4254	<a href="#"><u>Health And Welfare Benefits</u></a>
4261.2	<a href="#"><u>Personal Leaves</u></a>
4311.2	<a href="#"><u>Legal Status Requirement</u></a>
4311.2	<a href="#"><u>Legal Status Requirement</u></a>
4312.3	<a href="#"><u>Oath Or Affirmation</u></a>
4312.3-E(1)	<a href="#"><u>Oath Or Affirmation</u></a>
4312.4	<a href="#"><u>Health Examinations</u></a>
4312.5	<a href="#"><u>Criminal Record Check</u></a>
4312.5-E(1)	<a href="#"><u>Criminal Record Check</u></a>
4312.9	<a href="#"><u>Employee Notifications</u></a>
4312.9-E(1)	<a href="#"><u>Employee Notifications</u></a>
4317.14	<a href="#"><u>Postretirement Employment</u></a>
4327	<a href="#"><u>Temporary Athletic Team Coaches</u></a>
4327	<a href="#"><u>Temporary Athletic Team Coaches</u></a>
4340	<a href="#"><u>Bargaining Units</u></a>
4351	<a href="#"><u>Employee Compensation</u></a>
4354	<a href="#"><u>Health And Welfare Benefits</u></a>
4354	<a href="#"><u>Health And Welfare Benefits</u></a>
4361.1	<a href="#"><u>Personal Illness/Injury Leave</u></a>
4361.2	<a href="#"><u>Personal Leaves</u></a>
5141.52	<a href="#"><u>Suicide Prevention</u></a>
5141.52	<a href="#"><u>Suicide Prevention</u></a>
6175	<a href="#"><u>Migrant Education Program</u></a>

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**Policy**

**PASADENA UNIFIED SCHOOL DISTRICT**

**Adopted:** August 28, 2014

Pasadena, California

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