



Flournoy Union  
Elementary School District

PO Box 2260; 15850 Paskenta Rd. Flournoy, CA 96029

[www.flournoyelementary.org](http://www.flournoyelementary.org) 530-833-5331; 530-833-5332 fax

**BOARD MEETING AGENDA**

**Tuesday, March 19, 2024 at 6:15 pm**

**MISSION STATEMENT:** The Mission of Flournoy Elementary School is to provide academic excellence, responsible citizens, and a lifelong desire for learning in a safe environment.

DATE: Tuesday, March 19, 2024 at 6:15 pm  
TYPE: Regular Board Meeting  
LOCATION: Flournoy School District, Building 1

BOARD MEETING AGENDA POSTED: 03/15/2024 Flournoy School, Flournoy Store and Paskenta Store

**1. PUBLIC MEETING CALL TO ORDER BY PRESIDING OFFICER \_\_\_\_\_, at \_\_\_\_\_ p.m.**

**Roll call**

- ☐ Cathy Bjornestad-Tobin
- ☐ Tyson Freund
- ☐ Kay May
- ☐ Mike Sanderson
- ☐ Bryson Schenk

**PUBLIC COMMENT PERTAINING TO AGENDA**

**Comments on Closed Session Agenda Items, (below).** Any person wishing to speak to any item on the Closed Session Agenda will be granted three minutes to make a presentation.

**Comments from the Floor:** At this time, any person wishing to speak to any item not on the Agenda will be granted three minutes to make a presentation. No action may be taken at this meeting on items addressed during these comments.

**Comments on Agenda Items:** At this time, any person wishing to speak to any item on the Agenda will be granted three minutes to make a presentation.

**2. CLOSED SESSION *Closed Session agenda items are confidential in accordance with California Law***

**PUBLIC SESSION**

**3. PLEDGE OF ALLEGIANCE**

**Recognize staff present:**

- ☐ Rachel Davis, Superintendent
- ☐ Melinda Flournoy, Business Manager
- ☐ Heather Flournoy, Teacher
- ☐ Cody Weston, Custodian
- ☐ Mel Vance, Instructional Aide
- ☐ Thalia Souza, Instructional Aide
- ☐ Maria Herrera, Cook/Manager

Motion/Second      Ayes/Noes /Abstain

       /        /        /         
Motion/Second      Ayes/Noes / Abstain

<u>Motion/Second</u>	<u>Ayes/Noes</u>	<u>Abstain</u>
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- /                    /        /         
Motion/Second      Ayes/Noes / Abstain

- /        /                    /        /         
**Motion/Second**      **Ayes/Noes /Abstain**

- Motion/Second      Ayes/Noes      /Abstain

- Motion/Second      Ayes/Noes /Abstain

<u>Motion/Second</u>	<u>Ayes/Noes</u>	<u>/Abstain</u>
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- 6:1E DMA

10. **FURTHER COMMENTS**

1. From members of the Board of Education
2. From the Superintendent
3. From the Business Manager

\_\_\_\_ Adjournment at \_\_\_\_\_ p.m.



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**BOARD MEETING MINUTES**

**Tuesday, February 28, 2024 at 6:15 pm**

**MISSION STATEMENT:** The Mission of Flournoy Elementary School is to provide academic excellence, responsible citizens, and a lifelong desire for learning in a safe environment.

DATE: Tuesday, February 28, 2024 at 6:15 pm  
TYPE: Regular Board Meeting  
LOCATION: Flournoy School District, Building 1

BOARD MEETING AGENDA POSTED: 02/23/2024 Flournoy School, Flournoy Store and Paskenta Store

**1. PUBLIC MEETING CALL TO ORDER BY PRESIDING OFFICER Cathy Tobin, at 6:18 p.m.**

**Roll call**

- ☒ Cathy Bjornestad-Tobin
- ☒ Tyson Freund
- ☐ Kay May
- ☒ Mike Sanderson
- ☒ Bryson Schenk

**PUBLIC COMMENT PERTAINING TO AGENDA**

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**Comments on Agenda Items:** At this time, any person wishing to speak to any item on the Agenda will be granted three minutes to make a presentation.

**2. CLOSED SESSION *Closed Session agenda items are confidential in accordance with California Law*  
**NONE****

**PUBLIC SESSION**

**3. PLEDGE OF ALLEGIANCE**

**Recognize staff present:**

- ☒ Rachel Davis, Superintendent
- ☒ Melinda Flournoy, Business Manager
- ☒ Heather Flournoy, Teacher
- ☐ Cody Weston, Custodian
- ☒ Mei Vance, Instructional Aide
- ☒ Thalia Souza, Instructional Aide
- ☐ Maria Herrera, Cook/Manager

4. APPROVAL OF AGENDA

TF ~ / BS ~ 4 ~ / 0 ~ / 0 ~  
Motion/Second Ayes/Noes / Abstain

5. APPROVAL OF MINUTES FROM THE MEETINGS OF: Tuesday, December 19, 2023

TF ~ / BS ~ 4 ~ / 0 ~ / 0 ~  
Motion/Second Ayes/Noes / Abstain

6. COMMENTS

1. From members of the Board of Education C. Tobint talked about having a Special Board Meeting for a Board Training Session on March 6th at 6:15 pm and Retired Superintendent Steve Kelish will be attending.
2. From the Superintendent and Business Manager R. Davis talked about the Basketball season and 2024 Parent/Community Engagement Survey for our LCAP goals.
3. From the Staff/Teachers **NONE**

7. GENERAL FUNCTION CONSENT ITEMS

1. Bills and warrants for: **January 2024**
2. MOUs/Agreements: **NONE**

8. DISCUSSION/ACTION ITEMS (Attachments)

1. Information only: TCDE Approval of the 2023/24 1st Interim Budget Report
2. Approval of the Mid-Year Outcomes Data Report for the 2023-24 Local Control and Accountability Plan (LCAP) Ed Code 52062(a)(6) MS ~ / TF ~ 4 ~ / 0 ~ / 0 ~  
Motion/Second Ayes/Noes / Abstain
3. Approval of the Comprehensive School Safety Plan for the 2023-24 School Year  
TF ~ / BS ~ 4 ~ / 0 ~ / 0 ~  
Motion/Second Ayes/Noes / Abstain
4. Approval of the 2024-25 Flournoy Academic Calendar  
TF ~ / MS ~ 4 ~ / 0 ~ / 0 ~  
Motion/Second Ayes/Noes / Abstain
5. Presentation from Resolute Dog Training regarding therapy dog visits for our school.
6. Approval of the following Policy Updates
  - **BB 9000 Role of the Board**
  - **BB 9270 Conflict of Interest (Mandate)**
  - **BB 9320 Meetings and Notices (Mandate)**
  - **BB 9322 Agenda/Meeting Materials (Mandate)**
  - **BB 9323 Meeting Conduct (Mandate)**
  - **BP 0410 Nondiscrimination In District Programs And Activities (Mandate)**
  - **BP/AR 0450 Comprehensive Safety Plan**
  - **BP/AR 1250 Visitors/Outsiders**
  - **BP/AR Uniform Complaint Procedures (MANDATE)**
  - **AR 1312.4 Williams Uniform Complaint Procedures (MANDATE)**

- *BP/AR 1330 Use of School Facilities (Mandate)*
- *BP/AR 6163.2 Animals At School*

TF / BS 3 / 0 / 1  
Motion/Second Ayes/Noes / Abstain

7. Approval of the 2023-24 Coaching Stipends Volleyball \$1500.00 and Basketball \$1750.00

TF / MS 4 / 0 / 0  
Motion/Second Ayes/Noes / Abstain

9. **DISCUSSION ON NEXT BOARD MEETING**

1. Next meeting date: Tuesday, March 19, 2024, 6:15 PM
2. Possible items for action/discussion
  - Approve the 2nd Interim Budget Report

10. **FURTHER COMMENTS**

1. From members of the Board of Education
2. From the Superintendent
3. From the Business Manager
  - TCDE School Board Appreciation Dinner invite distributed.

\_\_\_ Adjournment at 7:35 PM p.m.



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**SPECIAL BOARD MEETING MINUTES**  
**Wednesday, March 6, 2024 at 6:15 pm**

**MISSION STATEMENT:** The Mission of Flournoy Elementary School is to provide academic excellence, responsible citizens, and a lifelong desire for learning in a safe environment.

DATE: Wednesday, March 6, 2024 at 6:15 pm  
TYPE: Board Training Session  
LOCATION: Flournoy School District, Building 1

BOARD MEETING AGENDA POSTED: 03/05/2024 Flournoy School, Flournoy Store and Paskenta Store

1. **PUBLIC MEETING CALL TO ORDER BY PRESIDING OFFICER** Cathy Tobin , at 6:22\_ p.m.

**Roll call**

- ☒ ~~Cathy Bjornestad Tobin~~
- ☐ Tyson Freund
- ☒ Kay May
- ☒ ~~Mike Sanderson~~
- ☒ Bryson Schenk

**PUBLIC COMMENT PERTAINING TO AGENDA**

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**Comments on Agenda Items:** At this time, any person wishing to speak to any item on the Agenda will be granted three minutes to make a presentation.

**PUBLIC SESSION**

2. **PLEDGE OF ALLEGIANCE**

**Recognize staff present:**

- ☒ ~~Rachel Davis, Superintendent~~
- ☒ ~~Melinda Flournoy, Business Manager~~
- ☒ ~~Heather Flournoy, Teacher~~
- ☐ Cody Weston, Custodian
- ☒ ~~Mei Vance, Instructional Aide~~
- ☒ ~~Thalia Souza, Instructional Aide~~
- ☐ Maria Herrera, Cook/Manager

3. **APPROVAL OF AGENDA**

BS ~ / MS ~ 3 ~ / 0 ~ / 0 ~  
Motion/Second Ayes/Noes / Abstain

4. **NEW ITEM**

**Board Training Session** – The Role and Responsibilities of elected School Board Members. A presentation by Steve Kelish, Retired Superintendent and former Board Member, Corning Union Elementary School District. **NO ACTION WILL BE TAKEN**

1. **Introduction to school district structure**

- a. State
- b. County
- c. Local

2. **Responsibilities of a School Board Member**

- a. Board Policies
- b. Administrative Regulations
- c. Evaluation

3. **Responsibilities of District Superintendent**

- a. Administrative
- b. Leadership

4. **Discussion - the importance of establishing high levels of trust and communication between the school board and Superintendent by understanding the role each has in the smooth and efficient operations of a school district.**

9. **DISCUSSION ON NEXT BOARD MEETING**

- 1. Next meeting date: Tuesday, March 19, 2024, 6:15 PM
- 2. Possible items for action/discussion
  - Approve the 2nd Interim Budget Report

10. **FURTHER COMMENTS**

- 1. From members of the Board of Education
- 2. From the Superintendent
- 3. From the Business Manager

Kay May ~ Adjournment at 7:46 p.m.



## Checks Dated 02/01/2024 through 02/29/2024

Check Number	Check Date	Pay to the Order of	Fund-Object	Comment	Expensed Amount	Check Amount
40262412	02/08/2024	JACK SCHREDER & ASSOCIATES, IN C.	25-6200	DECEMBER 23 SCHOOL FACILITY PROGRAM		1,803.75
40262413	02/08/2024	PASKENTA COMMUNITY SERVICES DISTRICT	01-5502	ELKINS WATER BILL		70.00
40262414	02/08/2024	AT&T/Calnet	01-5801	PHONE BILL		102.19
40262415	02/08/2024	AULABAUGH INSPECTION, LLC	35-6200	INSPECTION SERVICES TK/K CLASSROOMS		12,000.00
40262416	02/08/2024	Coastal Business Systems Inc.	01-5800	COPIER LEASE/USAGE		855.01
40262417	02/08/2024	CSBA	01-5800	GAMUT/POLICY MEMBER		325.00
40262418	02/08/2024	CSM Consulting	01-5800	E-RATE SERVICES		350.00
40262419	02/08/2024	Earl's Plumbing	01-5600	OCTOBER-DECEMBER 2023 TOILET/URINAL REPAIRS		
40262420	02/08/2024	Green Waste	01-5506	GARBAGE		819.60
40262421	02/08/2024	J.M. Distributing Dairy Prod.	13-4700	MILK FOR LUNCHES		293.92
40262422	02/08/2024	MID PACIFIC ENGINEERING, INC.	35-6200	CONSTRUCTION TESTING GRADING OBSERVATION		547.90
40262423	02/08/2024	Pacific Gas & Electric Co	01-5503	ELECTRIC BILL	41.18	8,831.60
				ELECTRICITY BILL	1,975.19	
40262424	02/08/2024	SEMINGSON ARCHITECTS, INC.	25-6200	ELKINS ELECTRICITY BILL	106.93	2,123.30
				PROFESSIONAL SERVICES THROUGH DECEMBER 2023	4,065.00	
40262425	02/08/2024	TCSIG	35-6200	PG&E Design Deposit	3,000.00	7,065.00
			76-9513	INSURANCE PREMIUMS	3,259.00	
			76-9522	INSURANCE PREMIUMS	936.00	
			76-9552	INSURANCE PREMIUMS	212.00	
			76-9553	INSURANCE PREMIUMS	68.00	4,475.00
40262426	02/08/2024	Tehama Co Dept of Education	01-5800	2ND QTR LAN SUPPORT OCT-DEC 2024	150.00	
				DATA TRACKING SERVICES	175.49	325.49
40262427	02/08/2024	The Danielsen Company	13-4700	FOOD FOR CAFETERIA		1,509.56
40262428	02/08/2024	Triple R Gas	01-5504	FLOURNOY TANK RENTAL		180.00
40262429	02/08/2024	US Bank	01-4300	VARIOUS	1,316.19	
			13-4300	VARIOUS	833.76	
			13-4700	VARIOUS	161.07	2,311.02
40262430	02/08/2024	Woods Pest Control	01-5505	ELKINS GENERAL PEST CONTROL	98.00	
				GENERAL PEST CONTROL	183.00	281.00
Total Number of Checks					19	44,269.34

The preceding Checks have been issued in accordance with the District's Policy and authorization of the Board of Trustees. It is recommended that the preceding Checks be approved.

## Checks Dated 02/01/2024 through 02/29/2024

Check Number	Check Date	Pay to the Order of	Fund-Object	Comment	Expensed Amount	Check Amount
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## Fund Summary

Fund	Description	Check Count	Expensed Amount
01	GENERAL	12	7,041.70
13	CAFETERIA SPEC REV	3	3,052.29
25	CAPITAL FACILITIES	2	5,868.75
35	COUNTY SCH FACILITY	3	23,831.60
76	WARRANT/PASS-THRU	1	4,475.00
Total Number of Checks			44,269.34
Less Unpaid Sales Tax Liability			.00
Net (Check Amount)			44,269.34

The preceding Checks have been issued in accordance with the District's Policy and authorization of the Board of Trustees. It is recommended that the preceding Checks be approved.

908 - Flourmoy School District

Generated for MELINDA FLOURNOY (MFLOURNOY908), Mar 14  
2024 9:45AM

Flourney Union Elementary School  
2023-24 Second Interim Board Comparison Report

8.2

**COMPARISON - Unrestricted Revenues**

	<i>First Interim</i>	<i>Second Interim</i>	<i>Difference</i>
LCFF Sources	\$ 692,451.00	\$ 672,508.00	\$ (19,943.00)
Federal Revenue	\$ -	\$ -	\$ -
Other State Revenue	\$ 9,633.00	\$ 9,920.00	\$ 287.00
Other Local Revenue	\$ 28,361.00	\$ 28,361.00	\$ -
<b>Total Revenues</b>	<b>\$ 730,445.00</b>	<b>\$ 710,789.00</b>	<b>\$ (19,656.00)</b>

**COMPARISON - Unrestricted Expenditures**

Certificated Salaries	\$ 252,867.00	\$ 188,069.00	\$ (64,798.00)
Classified Salaries	\$ 139,550.00	\$ 127,862.00	\$ (11,688.00)
Employee Benefits	\$ 167,257.00	\$ 120,671.00	\$ (46,586.00)
Books & Supplies	\$ 19,354.00	\$ 19,944.00	\$ 590.00
Services	\$ 203,305.00	\$ 237,568.00	\$ 34,263.00
Capital Outlay	\$ -	\$ -	\$ -
Other Outgo/Transfers of Indirect Costs	\$ 100.00	\$ 100.00	\$ -
<b>Total Expenditures</b>	<b>\$ 782,433.00</b>	<b>\$ 694,214.00</b>	<b>\$ (88,219.00)</b>
	\$ 51,988.00	\$ 16,575.00	
Transfers Out	\$ 8,531.00	\$ 3,576.00	\$ (4,955.00)

**COMPARISON - Fund Balance, Reserves**

Beginning Fund Balance	\$ 915,270.00	\$ 915,270.00
Ending Fund Balance	\$ 854,751.00	\$ 928,269.00
Net Increase (Decrease) In Fund Balance	\$ (51,988.00)	\$ 12,999.00
Prepaid Expenses		\$ -
Revolving Cash		\$ 1,500.00
Reserve for Economic Uncertainties		\$ 80,000.00
Other Assignments		\$ 848,269.00
<b>Total Reserves</b>		<b>\$ 929,769.00</b>

Description	Resource Codes	Object Codes	Original Budget (A)	Board Approved Operating Budget (B)	Actuals To Date (C)	Projected Year Totals (D)	Difference (Col B & D) (E)	% Diff Column B & D (F)
<b>A. REVENUES</b>								
1) LCFF Sources		8010-8099	672,323.00	692,451.00	442,258.42	672,508.00	(19,943.00)	-2.9%
2) Federal Revenue		8100-8299	0.00	0.00	0.00	0.00	0.00	0.0%
3) Other State Revenue		8300-8599	9,323.00	9,633.00	6,512.81	9,920.00	287.00	3.0%
4) Other Local Revenue		8600-8799	21,460.00	28,361.00	27,432.49	28,361.00	0.00	0.0%
5) TOTAL, REVENUES			703,106.00	730,445.00	476,203.72	710,789.00		
<b>B. EXPENDITURES</b>								
1) Certificated Salaries		1000-1999	183,126.00	252,867.00	101,380.38	188,069.00	64,798.00	25.6%
2) Classified Salaries		2000-2999	124,707.00	139,550.00	71,704.18	127,862.00	11,688.00	8.4%
3) Employee Benefits		3000-3999	120,461.00	167,257.00	67,380.98	120,671.00	46,586.00	27.9%
4) Books and Supplies		4000-4999	17,193.00	19,354.00	13,892.29	19,944.00	(590.00)	-3.0%
5) Services and Other Operating Expenditures		5000-5999	117,246.00	203,305.00	119,581.47	237,568.00	(34,263.00)	-16.9%
6) Capital Outlay		6000-6999	0.00	0.00	0.00	0.00	0.00	0.0%
7) Other Outgo (excluding Transfers of Indirect Costs)		7100-7299 7400-7499	100.00	100.00	0.00	100.00	0.00	0.0%
8) Other Outgo - Transfers of Indirect Costs		7300-7399	0.00	0.00	0.00	0.00	0.00	0.0%
9) TOTAL, EXPENDITURES			562,833.00	782,433.00	373,939.30	694,214.00		
<b>C. EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES BEFORE OTHER FINANCING SOURCES AND USES (A5 - B9)</b>			140,273.00	(51,988.00)	102,264.42	16,575.00		
<b>D. OTHER FINANCING SOURCES/USES</b>								
1) Interfund Transfers								
a) Transfers In		8900-8929	0.00	0.00	0.00	0.00	0.00	0.0%
b) Transfers Out		7600-7629	10,269.00	8,531.00	0.00	3,576.00	4,955.00	58.1%
2) Other Sources/Uses								
a) Sources		8830-8979	0.00	0.00	0.00	0.00	0.00	0.0%
b) Uses		7630-7699	0.00	0.00	0.00	0.00	0.00	0.0%
3) Contributions		8980-8999	0.00	0.00	0.00	0.00	0.00	0.0%
4) TOTAL, OTHER FINANCING SOURCES/USES			(10,269.00)	(8,531.00)	0.00	(3,576.00)		
<b>E. NET INCREASE (DECREASE) IN FUND BALANCE (C + D4)</b>			130,004.00	(60,519.00)	102,264.42	12,999.00		
<b>F. FUND BALANCE, RESERVES</b>								
1) Beginning Fund Balance								
a) As of July 1 - Unaudited		9791	832,598.00	915,270.00		915,270.00	0.00	0.0%
b) Audit Adjustments		9793	0.00	0.00		0.00	0.00	0.0%
c) As of July 1 - Audited (F1a + F1b)			832,598.00	915,270.00		915,270.00		
d) Other Restatements		9795	0.00	0.00		0.00	0.00	0.0%
e) Adjusted Beginning Balance (F1c + F1d)			832,598.00	915,270.00		915,270.00		
2) Ending Balance, June 30 (E + F1e)			962,602.00	854,751.00		928,269.00		
Components of Ending Fund Balance								
a) Nonspendable								
Revolving Cash		9711	1,500.00	0.00		0.00		
Stores		9712	0.00	0.00		0.00		

Description	Resource Codes	Object Codes	Original Budget (A)	Board Approved Operating Budget (B)	Actuals To Date (C)	Projected Year Totals (D)	Difference (Col B & D) (E)	% Diff Column B & D (F)
Prepaid Items		9713	0.00	0.00		0.00		
All Others		9719	0.00	0.00		0.00		
b) Restricted		9740	0.00	0.00		0.00		
c) Committed								
Stabilization Arrangements		9750	0.00	0.00		0.00		
Other Commitments		9760	0.00	0.00		0.00		
d) Assigned								
Other Assignments		9780	881,102.00	774,751.00		848,269.00		
e) Unassigned/Unappropriated								
Reserve for Economic Uncertainties		9789	80,000.00	80,000.00		80,000.00		
Unassigned/Unappropriated Amount		9790	0.00	0.00		0.00		
<b>LCFF SOURCES</b>								
<b>Principal Apportionment</b>								
State Aid - Current Year		8011	330,882.00	341,771.00	240,703.00	319,150.00	(22,621.00)	-6.6%
Education Protection Account State Aid - Current Year		8012	148,804.00	157,456.00	84,047.00	154,048.00	(3,408.00)	-2.2%
State Aid - Prior Years		8019	0.00	0.00	0.00	0.00	0.00	0.0%
<b>Tax Relief Subventions</b>								
Homeowners' Exemptions		8021	0.00	0.00	994.46	0.00	0.00	0.0%
Timber Yield Tax		8022	0.00	0.00	787.95	0.00	0.00	0.0%
Other Subventions/In-Lieu Taxes		8029	0.00	0.00	0.00	0.00	0.00	0.0%
<b>County &amp; District Taxes</b>								
Secured Roll Taxes		8041	182,637.00	184,178.00	106,189.19	199,310.00	15,132.00	8.2%
Unsecured Roll Taxes		8042	0.00	8,404.00	8,548.88	0.00	(8,404.00)	-100.0%
Prior Years' Taxes		8043	0.00	185.00	230.33	0.00	(185.00)	-100.0%
Supplemental Taxes		8044	0.00	451.00	745.57	0.00	(451.00)	-100.0%
Education Revenue Augmentation Fund (ERAF)		8045	0.00	0.00	0.00	0.00	0.00	0.0%
Community Redevelopment Funds (SB 617/699/1992)		8047	0.00	0.00	0.00	0.00	0.00	0.0%
Penalties and Interest from Delinquent Taxes		8048	0.00	0.00	0.00	0.00	0.00	0.0%
<b>Miscellaneous Funds (EC 41604)</b>								
Royalties and Bonuses		8081	0.00	0.00	0.00	0.00	0.00	0.0%
Other In-Lieu Taxes		8082	0.00	6.00	12.04	0.00	(6.00)	-100.0%
Less: Non-LCFF								
(50%) Adjustment		8089	0.00	0.00	0.00	0.00	0.00	0.0%
Subtotal, LCFF Sources			672,323.00	692,451.00	442,258.42	672,508.00	(19,943.00)	-2.9%
<b>LCFF Transfers</b>								
<b>Unrestricted LCFF</b>								
Transfers - Current Year	0000	8091	0.00	0.00	0.00	0.00	0.00	0.0%
All Other LCFF Transfers - Current Year	All Other	8091	0.00	0.00	0.00	0.00	0.00	0.0%
Transfers to Charter Schools in Lieu of Property Taxes		8096	0.00	0.00	0.00	0.00	0.00	0.0%
Property Taxes Transfers		8097	0.00	0.00	0.00	0.00	0.00	0.0%
LCFF/Revenue Limit Transfers - Prior Years		8099	0.00	0.00	0.00	0.00	0.00	0.0%
TOTAL, LCFF SOURCES			672,323.00	692,451.00	442,258.42	672,508.00	(19,943.00)	-2.9%



Flournoy Union  
Elementary School District  
Rachel Davis, Superintendent

Flournoy, CA 96029

PO Box 2260; 15850 Paskenta Rd.

[www.flournoysschool.org](http://www.flournoysschool.org)

530-833-5331; 530-833-5332 fax

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COACHING STIPEND AND TERMS OF AGREEMENT  
EFFECTIVE 2023-24

A coaching stipend for volunteers will be compensated as follows:

Volleyball - \$1500.00

Basketball - \$1750.00

Softball - \$1500.00

No extra compensation will be paid for away games or for tournaments.

Practices are to be scheduled by the coaches after school hours.

Stipends will be paid upon completion of the season from the District's General Fund unless other outside funding is available. Stipends are not part of an employee's contracted pay schedule and may be discontinued in any year with written notice should the district experience or foresee fiscal distress.

APPROVED BY THE FLOURNOY SCHOOL BOARD OF TRUSTEES ON 03/19/2024

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Signature of Board Clerk

Date

**Policy 3311: Bids****Status:** ADOPTED**Original Adopted Date:** 08/01/2013 | **Last Revised Date:** 12/01/2016 | **Last Reviewed Date:** 09/01/2023

CSBA NOTE: Pursuant to Public Contract Code 20111, public contracts for the lease or purchase of equipment, materials, supplies, or services or for "public projects," as defined, are required to be competitively bid when they involve expenditure of specified amounts.

An alternative procedure for public works projects is provided pursuant to the Uniform Public Construction Cost Accounting Act (Public Contract Code 22000-22045); see BP/AR 3311.1 - Uniform Public Construction Cost Accounting Procedures. Also see AR 3311.2 - Lease-Leaseback Contracts, AR 3311.3 - Design-Build Contracts, and AR 3311.4 - Procurement of Technological Equipment for procedures applicable to those contracts.

The Governing Board is committed to promoting public accountability and ensuring prudent use of public funds. When leasing, purchasing, or contracting for equipment, materials, supplies, or services for the district, including when contracting for public projects involving district facilities, the Board shall explore lawful opportunities to obtain the greatest possible value for its expenditure of public funds. When required by law, or if the Board determines that it is in the best interest of the district, such contracts shall be made using competitive bidding.

No work, project, service, or purchase shall be split or separated into smaller work orders or projects for the purpose of evading legal requirements for competitive bidding. (Public Contract Code 20116)

CSBA NOTE: Requirements for competitive bidding, including notice and advertising, are specified in Public Contract Code 20110-20118.4. See the accompanying administrative regulation.

The Superintendent or designee shall establish comprehensive bidding procedures for the district in accordance with law. The procedures shall include a process for advertising bids, instructions and timelines for submitting and opening bids, and other relevant requirements.

CSBA NOTE: Pursuant to Public Contract Code 20111.5, the district is permitted, but not required, to establish prequalification procedures for any contract for which bids are legally required; see the accompanying administrative regulation. However, pursuant to Public Contract Code 20111.6, a district with average daily attendance of 2,500 or greater is required to prequalify all general contractors and electrical, mechanical, and plumbing subcontractors for public projects of \$1 million or more, if School Facilities Program funds (Education Code 17070.10-17079.30) or other future state school bonds are used. A model prequalification questionnaire is available on the Department of Industrial Relations website.

For award of contracts which, by law or Board policy, require prequalification, the procedures shall identify a uniform system for rating bidders on the basis of a completed questionnaire and financial statements.

CSBA NOTE: Districts should be careful in crafting bid specifications, as a misleading specification that results in a lower bid than might have been made may make the district liable for the extra work done or expenses incurred by the contractor. In *Los Angeles Unified School District v. Great American Insurance Co.*, the California Supreme Court held in favor of a contractor who was misled by the district's nondisclosure of material information that would have affected the contractor's bid.

When calling for bids, the Superintendent or designee shall ensure that the bid specifications clearly describe in appropriate detail the quality, delivery, and service required and include all information which the district knows, or has in its possession, that is relevant to the work to be performed or that may impact the cost of performing the work.

CSBA NOTE: Pursuant to Public Contract Code 20111, a contract required to be put out to bid must be awarded to the lowest responsible bidder. As defined in Public Contract Code 1103, a "responsible bidder" is one who has demonstrated the attribute of trustworthiness and possesses the quality, fitness, capacity, and experience to satisfactorily perform the proposed work.

However, a bid may be awarded to other than the lowest responsible bidder when conditions specified in law exist.

Additionally, pursuant to Public Contract Code 6102, as added by SB 34 (Ch. 297, Statutes of 2022), a contract executed on or after January 1, 2023, including a contract negotiated prior to January 1, 2023, is voidable if entered into in violation of a state or federal crime relating to bribery of a public official, including, but not limited to, a violation of Penal Code 68 or 86.

Except as authorized by law, contracts shall be let to the lowest responsible bidder who shall give such security as the Board requires, or else all bids shall be rejected. (Public Contract Code 20111)

CSBA NOTE: Pursuant to Public Contract Code 20118, districts may be exempt from the bidding requirements and may "piggyback" onto the bid of any public corporation or agency for specific items when the Governing Board determines it is in the best interest of the district. See the accompanying administrative regulation for a list of those items that may be leased or purchased using this procedure.

When the Board has determined that it is in the best interest of the district, the district may piggyback onto the contract of another public agency or corporation to lease or purchase any personal property to the extent authorized by law. (Public Contract Code 20118)

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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.

<b>State</b>	<b>Description</b>
Bus. Code 7056	<u>General engineering contractor</u>
Bus. Code 7057	<u>General building contractor</u>
Code of Civil Procedure 446	<u>Verification of pleadings</u>
Ed. Code 17070.10-17079.30	<u>Leroy F. Greene School Facilities Act</u>
Ed. Code 17250.10-17250.55	<u>Design-build contracts</u>
Ed. Code 17250.60-17250.69	<u>Alternative design-build contracts</u>
Ed. Code 17406	<u>Lease-leaseback contract</u>
Ed. Code 17595	<u>Purchase of supplies through Department of General Services</u>
Ed. Code 17602	<u>Purchase of surplus property from federal agencies</u>
Ed. Code 38083	<u>Purchase of perishable foodstuffs and seasonal commodities</u>
Ed. Code 38110-38120	<u>Apparatus and supplies</u>
Ed. Code 39802	<u>Transportation services</u>
Gov. Code 4217.10-4217.18	<u>Energy conservation contracts</u>
Gov. Code 4330-4334	<u>California made materials</u>
Gov. Code 53060	<u>Special services and advice</u>



Gov. Code 54201-54205	<u>Purchase of supplies and equipment by local agencies</u>
Gov. Code 7920.530	<u>Definition of public record</u>
Pub. Cont. Code 1102	<u>Definition of emergency</u>
Pub. Cont. Code 1103	<u>Definition; responsible bidder</u>
Pub. Cont. Code 12200	<u>Definitions, recycled goods, materials and supplies</u>
Pub. Cont. Code 2000-2002	<u>Responsive bidders</u>
Pub. Cont. Code 20101-20103.7	<u>Public construction projects; requirements for bidding</u>
Pub. Cont. Code 20103.8	<u>Award of contracts</u>
Pub. Cont. Code 20110-20118.4	<u>Local Agency Public Construction Act; school districts</u>
Pub. Cont. Code 20189	<u>Bidder's security; earthquake relief</u>
Pub. Cont. Code 22000-22045	<u>Uniform Public Construction Cost Accounting Act</u>
Pub. Cont. Code 22152	<u>Recycled product procurement</u>
Pub. Cont. Code 3000-3010	<u>Roofing projects</u>
Pub. Cont. Code 3400	<u>Bid specifications</u>
Pub. Cont. Code 3410	<u>U.S. produce and processed foods</u>
Pub. Cont. Code 4113	<u>Prime contractor; subcontractor</u>
Pub. Cont. Code 6102	<u>Bribery of public official; voidable contract</u>
Pub. Cont. Code 6610	<u>Bid visits</u>
<b>Management Resources</b>	<b>Description</b>
Attorney General Opinion	89 Ops.Cal.Atty.Gen. 1 (2006)
CA Department of General Services Publication	<u>Office of Public School Construction, Piggyback Contracts</u>
CA Department of General Services Publication	<u>Office of Public School Construction Notification to School Districts Regarding Use of Piggyback Contracts for SAB- Administered Programs, July 2022</u>
CA Department of Industrial Relations Publication	<u>Model Prequalification Questionnaire</u>
Court Decision	City of Inglewood-Los Angeles County Civic Center Authority v. Superior Court (1972) 7 Cal.3d 861
Court Decision	Great West Contractors Inc. v. Irvine Unified School District (2010) 187 Cal.App.4th 1425
Court Decision	Konica Business Machines v. Regents of the University of California (1988) 206 Cal.App.3d 449
Court Decision	Los Angeles Unified School District v. Great American Insurance Co. (2010) 49 Cal.4th 739
Court Decision	Marshall v. Pasadena Unified School District (2004) 119 Cal.App.4th 1241
Website	<u>CSBA District and County Office of Education Legal Services</u>

Website	<u>California Department of General Services</u>
Website	<u>CSBA</u>
Website	<u>California Department of Education</u>
Website	<u>California Association of School Business Officials</u>

## **Cross References**

<b>Code</b>	<b>Description</b>
0410	<u>Nondiscrimination In District Programs And Activities</u>
1113	<u>District And School Websites</u>
1113	<u>District And School Websites</u>
1113-E(1)	<u>District And School Websites</u>
1340	<u>Access To District Records</u>
1340	<u>Access To District Records</u>
3000	<u>Concepts And Roles</u>
3230	<u>Federal Grant Funds</u>
3230	<u>Federal Grant Funds</u>
3270	<u>Sale And Disposal Of Books, Equipment And Supplies</u>
3270	<u>Sale And Disposal Of Books, Equipment And Supplies</u>
3300	<u>Expenditures And Purchases</u>
3311.1	<u>Uniform Public Construction Cost Accounting Procedures</u>
3311.1	<u>Uniform Public Construction Cost Accounting Procedures</u>
3311.2	<u>Lease-Leaseback Contracts</u>
3311.3	<u>Design-Build Contracts</u>
3311.4	<u>Procurement Of Technological Equipment</u>
3312	<u>Contracts</u>
3314	<u>Payment For Goods And Services</u>
3314	<u>Payment For Goods And Services</u>
3510	<u>Green School Operations</u>
3511	<u>Energy And Water Management</u>
3511	<u>Energy And Water Management</u>
3511.1	<u>Integrated Waste Management</u>
3511.1	<u>Integrated Waste Management</u>
3512	<u>Equipment</u>
3512-E(1)	<u>Equipment</u>

3517	<u>Facilities Inspection</u>
3517-E(1)	<u>Facilities Inspection</u>
3540	<u>Transportation</u>
3551	<u>Food Service Operations/Cafeteria Fund</u>
3551	<u>Food Service Operations/Cafeteria Fund</u>
3580	<u>District Records</u>
3580	<u>District Records</u>
3600	<u>Consultants</u>
6161.1	<u>Selection And Evaluation Of Instructional Materials</u>
6161.1	<u>Selection And Evaluation Of Instructional Materials</u>
6161.1-E(1)	<u>Selection And Evaluation Of Instructional Materials</u>
6161.11	<u>Supplementary Instructional Materials</u>
6163.1	<u>Library Media Centers</u>
7000	<u>Concepts And Roles</u>
7140	<u>Architectural And Engineering Services</u>
7140	<u>Architectural And Engineering Services</u>
9270	<u>Conflict Of Interest</u>
9270-E(1)	<u>Conflict Of Interest</u>
9320	<u>Meetings And Notices</u>
9323.2	<u>Actions By The Board</u>
9323.2-E(1)	<u>Actions By The Board</u>
9323.2-E(2)	<u>Actions By The Board</u>

**Regulation 3311: Bids**

Status: ADOPTED

Original Adopted Date: 10/01/2015 | Last Revised Date: 09/01/2023 | Last Reviewed Date: 09/01/2023

CSBA NOTE: Pursuant to Government Code 54202, districts are mandated to establish bidding procedures governing the purchase of equipment and supplies. The following administrative regulation reflects the competitive bidding procedures applicable to these purchases, as well as contracts for certain services, public works projects, and repairs and maintenance, when the contract exceeds the amount specified in law.

An alternative procedure for public works projects is provided pursuant to the Uniform Public Construction Cost Accounting Act (UPCCAA) (Public Contract Code 22000-22045), which allows public projects of \$60,000 or less to be performed by district employees and public projects of \$200,000 or less to be awarded through an informal bidding process. See BP/AR 3311.1 - Uniform Public Construction Cost Accounting Procedures. Districts that have adopted the UPCCAA procedures should modify the following regulation to delete or revise conflicting provisions related to contracts for public works. Also see AR 3311.2 - Lease-Leaseback Contracts, AR 3311.3 - Design-Build Contracts, and AR 3311.4 - Procurement of Technological Equipment for procedures applicable to those contracts.

**Advertised/Competitive Bids**

The district shall advertise for any of the following: (Public Contract Code 20111)

1. A public project contract that involves an expenditure of \$15,000 or more, including a contract for construction, reconstruction, erection, alteration, renovation, improvement, painting, repainting, demolition, or repair work involving a district owned, leased, or operated facility

CSBA NOTE: For the contracts specified in Item #2a-c below, Public Contract Code 20111 requires the Superintendent of Public Instruction (SPI) to annually establish a bid limit that reflects U.S. Department of Commerce data. The following paragraph allows the amount to escalate automatically once the SPI has made the annual determination. For 2023, the bid limit is \$109,300.

2. A contract that exceeds the amount specified in law, as annually adjusted by the Superintendent of Public Instruction, for any of the following:
  - a. The purchase of equipment, materials, or supplies to be furnished, sold, or leased to the district
  - b. Services, not including construction services or special services and advice in accounting, financial, legal, or administrative matters
  - c. Repairs that are not a public project, including maintenance

*Maintenance* means routine, recurring, and usual work for preserving, protecting, and keeping a district facility operating in a safe, efficient, and continually usable condition for the intended purpose for which it was designed, improved, constructed, altered, or repaired. Maintenance includes, but is not limited to, carpentry, electrical, plumbing, glazing, and other craft work designed to preserve the facility, as well as repairs, cleaning, and other operations on machinery and other permanently attached equipment. Maintenance does not include painting, repainting, or decorating other than touchup, or among other types of work, janitorial or custodial services and protection provided by security forces. (Public Contract Code 20115)

## Instructions and Procedures for Advertised Bids

The Superintendent or designee shall call for bids by placing a notice at least once a week for two weeks in a local newspaper of general circulation published in the district, or if no such newspaper exists, then in some newspaper of general circulation that is circulated in the county. The Superintendent or designee also may post the notice on the district's website or through an electronic portal. The notice shall state the work to be done or materials or supplies to be furnished and the time and place and website where bids will be opened. (Public Contract Code 20112)

CSBA NOTE: Pursuant to Public Contract Code 2600 all bid documents and construction contracts, when applicable, must contain a notice that the project is subject to the skilled and trained workforce requirements specified in Public Contract Code 2600-2603. Skilled and trained workforce requirements are required for lease-leaseback projects, design-build, and alternative design-build projects. Skilled and trained workforce is optional for all other construction delivery methods. See AR 3311.2 Lease-Leaseback Contracts and AR 3311.3 -- Design-Build Contracts for specific bidding requirements.

The notice shall contain the time, date, and location of any mandatory prebid conference, site visit, or meeting and details regarding when and where project documents, including the final plan and specifications, are available. Any such mandatory visit or meeting shall occur not less than five calendar days after the publication of the initial notice. For lease-leaseback, design-build, and alternative design-build projects, the notice shall specify that the project is subject to skilled and trained workforce requirements. (Education Code 17250.25, 17250.62, 17407.5; Public Contract Code 2600, 6610)

Bid instructions and specifications shall include the following requirements and information:

1. All bidders shall certify in writing the minimum, if not exact, percentage of post-consumer materials in products, materials, goods, or supplies offered or sold. (Public Contract Code 22152)
2. All bids for construction work shall be presented under sealed cover. The district may accept a bid that has been submitted electronically or on paper. (Public Contract Code 20111, 20112)

The bid shall be accompanied by a form of bidder's security, including either cash, a cashier's check payable to the district, a certified check made payable to the district, or a bidder's bond executed by an admitted surety insurer and made payable to the district. The security of unsuccessful bidders shall be returned in a reasonable period of time, but in no event later than 60 days after the bid is awarded. (Public Contract Code 20111, 20112)

3. When a standardized proposal form is provided by the district, bids not presented on the standard form shall be disregarded. (Public Contract Code 20111.5)
4. Bids shall not be accepted after the advertised bid opening time, regardless of whether the bids are actually opened at that time. (Public Contract Code 20112)
5. When two or more identical lowest or highest bids are received, the Governing Board may determine by lot which bid shall be accepted. (Public Contract Code 20117)

CSBA NOTE: Public Contract Code 20103.8 specifies that, in those cases when the bid includes items that may be added to or deducted from the scope of the work in the contract, the bid solicitation must specify the method to be used to determine the lowest bid, as detailed below. Districts should consult with CSBA's District and County Office of Education Legal Services or district legal counsel, as appropriate, if they have questions regarding the applicability of this law.

6. If the district requires that the bid include prices for items that may be added to or deducted from the scope of work in the contract, the bid solicitation shall specify which one of the following methods will be used to determine the lowest bid. In the absence of such a specification, only the method

provided in Item #6a below shall be used. (Public Contract Code 20103.8)

- a. The lowest bid shall be the lowest total of the bid prices on the base contract without consideration of the prices on the additive or deductive items.
- b. The lowest bid shall be the lowest total of the bid prices on the base contract and those additive or deductive items that were specifically identified in the bid solicitation as being used for the purpose of determining the lowest bid price.
- c. The lowest bid shall be the lowest total of the bid prices on the base contract and those additive or deductive items that, when taken in order from a specifically identified list of those items in the solicitation, and added to or subtracted from the base contract, are less than or equal to a funding amount publicly disclosed by the district before the first bid is opened.

The lowest bid shall be determined in a manner that prevents any information that would identify any of the bidders or proposed subcontractors or suppliers from being revealed to the district before the ranking of all bidders from lowest to highest has been determined. (Public Contract Code 20103.8)

CSBA NOTE: For a bid to be successful, it must conform to bid specifications (i.e., it must be "responsive") and the bidder must be determined to be able to perform the work (i.e., the bidder must be "responsible" as defined in Public Contract Code 1103). There is no right to a due process hearing when the district has merely found the bid to be nonresponsive. However, the district must be careful in making a determination on the "nonresponsiveness" of a bid based on anything other than the documents submitted. To avoid any confusion, the district should provide clear and comprehensive bid specifications to bidders.

When rejecting the lowest responsive bid on the basis that the bidder is nonresponsive, the district must inform the bidder of the evidence used when making the determination and afford the bidder a hearing with the right to present evidence that the bidder is responsible.

7. In determining the lowest bid, the district shall consider only responsive bids that conform to bid specifications and are submitted by responsible bidders who have demonstrated trustworthiness, quality, fitness, capacity, and experience to satisfactorily perform the public works contract.
  - a. When a bid is determined to be nonresponsive, the Superintendent or designee shall notify the bidder and give the bidder an opportunity to respond to the determination.
  - b. When the lowest bidder is determined to be nonresponsive, the Superintendent or designee shall notify the bidder of the right to present evidence of the bidder's responsibility at a hearing before the Board.
8. After being opened, all submitted bids become public records pursuant to Government Code 7920.530 and shall be made available for public review pursuant to law, Board policy, and administrative regulation.

### Prequalification Procedure

CSBA NOTE: The following section is optional. Pursuant to Public Contract Code 20111.6, a district with average daily attendance (ADA) of 2,500 or greater is required to prequalify all general contractors and electrical, mechanical, and plumbing subcontractors for any public project of \$1,000,000 or more, when the project uses or is reimbursed from School Facilities Program funds (Education Code 17070.10-17079.30) or other future state school bonds. A model prequalification questionnaire is available on the Department of Industrial Relations website.

Additionally, pursuant to Public Contract Code 20111.5, districts are permitted, but not required, to establish prequalification procedures for other contracts which, by law, require competitive bidding.

When required by law or the Board, the Superintendent or designee shall establish a uniform system for rating bidders on the basis of completed questionnaires and financial statements in order to determine the size of contracts on which each bidder is qualified to bid. For this purpose, the Superintendent or designee shall furnish prospective bidders a standardized prequalification questionnaire and financial record which, when completed, shall indicate a bidder's statement of financial ability and experience in performing public works. The bidder's information shall be verified under oath in the manner in which civil law pleadings are verified. The questionnaires and financial statements shall not be public records and shall not be open to public inspection. (Code of Civil Procedure 446; Public Contract Code 20111.5, 20111.6)

When any public project involves an expenditure of \$1,000,000 or more and is funded or reimbursed wholly or partly by the School Facilities Program funds or other future state school bond, the district shall prequalify prospective bidders either quarterly or annually. The prequalification shall be valid for one year and the following requirements shall apply: (Public Contract Code 20111.6)

1. Prospective bidders, including, but not limited to, prime, general engineering, and general building contractors and electrical, mechanical, and plumbing subcontractors, as defined in Public Contract Code 4113 or Business and Professions Code 7056 or 7057, as applicable, shall submit a standardized questionnaire and financial statement 10 or more business days, as determined by the district, before the date fixed for the public opening of sealed bids.
2. Prospective bidders shall be prequalified by the district five or more business days, as determined by the district, before the date fixed for the public opening of sealed bids.

If the project includes electrical, mechanical, or plumbing components that will be performed by electrical, mechanical, or plumbing contractors, the Superintendent or designee shall make available to all bidders a list of prequalified general contractors and electrical, mechanical, and plumbing subcontractors five or more business days, as determined by the district, before the date fixed for the public opening of sealed bids. (Public Contract Code 20111.6)

For all other contracts requiring competitive bidding, the district may establish a procedure for prequalifying bidders on a quarterly basis and may authorize that prequalification be considered valid for up to one calendar year following the date of the initial prequalification. Prospective bidders for such contracts shall submit the questionnaire and financial statement at least five days before the date fixed for public opening of sealed bids and shall be prequalified by the district at least one day before the fixed bid-opening date. (Public Contract Code 20111.5)

### **Award of Contract**

The district shall award each contract to the lowest responsible bidder, except in the following circumstances:

1. When the contract is for the procurement and/or maintenance of electronic data processing systems and supporting software, in which case the Board may contract with any one of the three lowest responsible bidders (Public Contract Code 20118.1)
2. When the contract is for any transportation service which involves an expenditure of more than \$10,000 and which will be made with any person or corporation other than a common carrier, municipally owned transit system, or a parent/guardian of a student who is to be transported, in which case the Board may contract with other than the lowest bidder (Education Code 39802)

CSBA NOTE: The law does not specify a procedure for handling protests by bidders. The following optional section provides one such procedure and should be modified to reflect district practice.

If the bidder believes that the award is not in compliance with law, Board policy, or the bid specification, the bidder may protest the award. A protest must be filed in writing with the Superintendent or designee within five working days after receipt of notification of the contract award and shall include all documents supporting or justifying the protest. A bidder's failure to file the protested documents in a timely manner shall constitute a waiver of the right to protest the award of the contract.

The Superintendent or designee shall review the documents submitted with the bidder's claims and render a decision in writing within 30 working days. The Superintendent or designee may also convene a meeting with the bidder in order to attempt to resolve the problem.

CSBA NOTE: The following paragraph provides a process for appealing a bid award to the Board. Although the law does not specify the notice to be given in this circumstance, CSBA recommends at least three business days which may be modified to reflect district practice.

The bidder may appeal the Superintendent or designee's decision to the Board. The Superintendent or designee shall provide notice to the bidder of the date and time for Board consideration of the protest at least three business days before the Board meeting. The Board's decision shall be final.

### **Limitation on Use of Sole Sourcing**

CSBA NOTE: "Sole sourcing" is the practice by which one brand name product is specified, although comparable, competitive products are available. Public Contract Code 3400 allows sole sourcing in limited circumstances and requires that the specification of the designated product be followed by the words "or equal," so that bidders for such a contract are able to base their bids on the use of other products of equal functionality that may result in cost savings for the district. The following section is optional.

In any contract for the construction, alteration, or repair of school facilities, the Superintendent or designee shall ensure that the bid specification: (Public Contract Code 3002, 3400)

1. Does not directly or indirectly limit bidding to any one specific concern
2. Does not call for a designated material, product, thing, or service by a specific brand or trade name, unless the specification is followed by the words "or equal," so that bidders may furnish any equal material, product, thing, or service

In any such case, the bid specification shall provide a time period, before and/or after the award of the contract, for the contractor to submit data substantiating the request for substituting the designated material, product, thing, or service. If no such time period is specified, the contractor may submit the data within 35 days after the award of the contract.

CSBA NOTE: The following optional paragraph is for use by districts with ADA of more than 2,500. For the repair or replacement of the roof of a public facility, a material must meet the requirements specified below to be considered "equal" pursuant to Public Contract Code 3000-3010.

When the bid is for a roof project, a material, product, thing, or service is considered "equal" to that designated if it is equal in quality, durability, design, and appearance; will perform the intended function equally well; and conforms substantially to the detailed requirements in the bid specification. (Public Contract Code 3002)

However, the Superintendent or designee may designate a specific material, product, thing, or service by brand or trade name, also known as sole sourcing, if the Board has made a finding, described in the invitation for bids or request for proposals (RFP), that a particular material, product, thing, or service is designated for any of the following purposes: (Public Contract Code 3400)



1. To conduct a field test or experiment to determine its suitability for future use
2. To match others in use on a particular public improvement that has been completed or is in the course of completion
3. To obtain a necessary item that is only available from one source
4. To respond to the Board's declaration of an emergency, as long as the declaration has been approved by four-fifths of the Board when issuing the invitation for bid or RFP

### **Bids Not Required**

CSBA NOTE: The following paragraph lists those items that may be purchased through a "piggybacked" bid; see the accompanying Board policy. Many districts have used the piggyback procedure to purchase portable and relocatable buildings. The Attorney General has opined in 89 Ops.Cal.Atty.Gen. 1, 2006 that a district may not rely on the piggyback exception to contract for the acquisition and installation of factory-built modular building components (i.e., roofs and walls) for installation on a permanent foundation. This opinion does not apply to typical portable or relocatable single-classroom buildings, because they lack a permanent foundation and building mobility. Additionally, in 2022 the State Allocation Board (SAB) notified districts that modular school facilities must be competitively bid and districts that use piggyback contracts for modular facilities are ineligible for state funding from SAB administered programs. Districts considering using the piggyback process for relocatables, portables, modulars, and the like should consult CSBA's District and County Office of Education Legal Services or district legal counsel.

Without advertising for bids and upon a determination that it is in the best interest of the district, the Board may "piggyback" by authorizing another public corporation or agency, by contract, lease, requisition, or purchase order, to lease data-processing equipment or to purchase materials, supplies, equipment, automotive vehicles, tractors, and other personal property for the district in the manner that the other public corporation or agency is authorized to make the leases or purchases from a vendor. Alternatively, if the public corporation or agency has an existing contract with a vendor for the lease or purchase of personal property, the district may authorize the lease or purchase of personal property directly from the vendor and make payments under the same terms that are available to the public corporation or agency under the contract. (Public Contract Code 20118)

CSBA NOTE: The following optional paragraph reflects the authority granted to public agencies pursuant to Government Code 4217.10-4217.18 to enter into energy service contracts without competitive bidding when the agency's governing body determines that the contract is in the best interest of the agency based on the "cost-benefit" analysis specified in Government Code 4217.12.

Without advertising for bids, the Board may enter into an energy service contract and any related facility ground lease, when it determines that the terms of the contract and lease are in the best interest of the district and meet the cost effectiveness requirements specified in Government Code 4217.12. The Board's determination shall be made at a regularly scheduled public hearing of which notice is given to the public at least two weeks in advance and shall be based on a cost and saving comparison finding specified in Government Code 4217.12. (Government Code 4217.12)

Supplementary textbooks, library books, educational films, audiovisual materials, test materials, workbooks, instructional computer software packages, or periodicals may be purchased in any amount without taking estimates or advertising for bids. (Public Contract Code 20118.3)

Perishable foodstuffs and seasonal commodities needed in the operations of cafeterias may be purchased through bid or on the open market. (Education Code 38083)

Bids shall not be required for day labor under circumstances specified in Public Contract Code 20114. Day labor shall include the use of maintenance personnel employed on a permanent or temporary basis. (Public Contract Code 20114)

CSBA NOTE: Pursuant to Public Contract Code 20113, a district may award contracts without competitive bidding in emergency situations, as specified below. In *Marshall v. Pasadena Unified School District*, a court held that the definition of "emergency" in Public Contract Code 1102 is applicable. Public Contract Code 1102 defines "emergency" as a "sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services."

In an emergency when any repairs, alterations, work, or improvement to any school facility is necessary to permit the continuance of existing school classes or to avoid danger to life or property, the Board may, by unanimous vote and with the approval of the County Superintendent of Schools, contract for labor and materials or supplies without advertising for or inviting bids or may authorize the use of day labor or force account for the emergency purpose. (Public Contract Code 1102, 20113)

The district may purchase any surplus property from the federal government or any of its agencies in any quantity needed for the operation of its schools without taking estimates or advertising for bids. (Education Code 17602)

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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.

<b>State</b>	<b>Description</b>
Bus. Code 7056	<u>General engineering contractor</u>
Bus. Code 7057	<u>General building contractor</u>
Code of Civil Procedure 446	<u>Verification of pleadings</u>
Ed. Code 17070.10-17079.30	<u>Leroy F. Greene School Facilities Act</u>
Ed. Code 17250.10-17250.55	<u>Design-build contracts</u>
Ed. Code 17250.60-17250.69	<u>Alternative design-build contracts</u>
Ed. Code 17406	<u>Lease-leaseback contract</u>
Ed. Code 17595	<u>Purchase of supplies through Department of General Services</u>
Ed. Code 17602	<u>Purchase of surplus property from federal agencies</u>
Ed. Code 38083	<u>Purchase of perishable foodstuffs and seasonal commodities</u>
Ed. Code 38110-38120	<u>Apparatus and supplies</u>
Ed. Code 39802	<u>Transportation services</u>
Gov. Code 4217.10-4217.18	<u>Energy conservation contracts</u>
Gov. Code 4330-4334	<u>California made materials</u>
Gov. Code 53060	<u>Special services and advice</u>
Gov. Code 54201-54205	<u>Purchase of supplies and equipment by local agencies</u>
Gov. Code 7920.530	<u>Definition of public record</u>
Pub. Cont. Code 1102	<u>Definition of emergency</u>
Pub. Cont. Code 1103	<u>Definition; responsible bidder</u>

bidding requirements that facilitate the participation of minority, women, disabled veteran, and small business enterprises in contracts. Though minorities and women are included in Public Contract Code 2000, Article 1, Section 31(a) of the California Constitution prohibits the granting of preferences based on race, sex, color, ethnicity, or national origin in state employment and contracting. The district should consult with CSBA's District and County Office of Education Legal Services or district legal counsel if there is any question about the granting of preferences to any such business.

3. When the contract is one for which the Board has established goals and requirements relating to participation of disabled veteran or small business enterprises in accordance with Public Contract Code 2000-2002, in which case the Board may contract with the lowest responsible bidder who submits a responsive bid and complies or makes a good faith effort to comply with the goals and requirements (Public Contract Code 2000-2002)
4. When procuring a lease-leaseback contract, in which case the Board shall award the contract based on objective criteria for determining the best combination of price and qualifications in accordance with Education Code 17400 and 17406

CSBA NOTE: Until January 1, 2025, districts may, in accordance with Education Code 17250.25, utilize the design-build method of construction delivery. Pursuant to Education Code 17250.15, design-build means a project delivery process in which both the design and construction of a project are procured from a single entity.

5. When procuring a design-build contract for a public works project in excess of \$1,000,000 in accordance with Education Code 17250.20, in which case the Board may award the contract to either the low bid or the best value to the district, taking into consideration, at a minimum, price, technical design and construction expertise, and life-cycle costs (Education Code 17250.20, 17250.25)

CSBA NOTE: Pursuant to Education Code 17250.60-17250.69, as added by AB 185 (Ch. 571, Statutes of 2022), the district may, until January 1, 2029, utilize alternative design-build contracts for public works projects in excess of \$5,000,000. Pursuant to Education Code 17250.60, alternative design-build means a project delivery process in which both the design and construction of a project are procured from a single design-build entity based on its proposed design cost, general conditions, overhead, and profit as a component of the project price.

A contract for an alternative design-build project must be awarded to either the low bidder or the best value, and is subject to further negotiation and amendment pursuant to Education Code 17250.65. Alternative design-build subcontracts are subject to an open book evaluation by the district and the district sets the price based on this open book evaluation. The alternative design-build contract may be subject to further negotiation or amendment and if the district and the design-build entity are unable to reach an agreement, the district may terminate the contract. A district that utilizes the alternative design-build procurement method is required to submit, by January 1, 2028, a report to the Legislature, as specified in Education Code 17250.67. See AR 3311.3 - Design-Build Contracts for more information specific to design-build and alternative design-build projects.

6. When procuring an alternative design-build contract for a public works project in excess of \$5,000,000 in accordance with Education Code 17250.62, in which case the Board may award the contract to either the low bid or the best value, taking into consideration, at a minimum design cost, general conditions, overhead, and profit as a component of the project price; technical design and construction expertise; and life-cycle costs (Education Code 17250.61, 17250.62)

## Protests by Bidders

Pub. Cont. Code 12200	<u>Definitions, recycled goods, materials and supplies</u>
Pub. Cont. Code 2000-2002	<u>Responsive bidders</u>
Pub. Cont. Code 20101-20103.7	<u>Public construction projects; requirements for bidding</u>
Pub. Cont. Code 20103.8	<u>Award of contracts</u>
Pub. Cont. Code 20110-20118.4	<u>Local Agency Public Construction Act; school districts</u>
Pub. Cont. Code 20189	<u>Bidder's security; earthquake relief</u>
Pub. Cont. Code 22000-22045	<u>Uniform Public Construction Cost Accounting Act</u>
Pub. Cont. Code 22152	<u>Recycled product procurement</u>
Pub. Cont. Code 3000-3010	<u>Roofing projects</u>
Pub. Cont. Code 3400	<u>Bid specifications</u>
Pub. Cont. Code 3410	<u>U.S. produce and processed foods</u>
Pub. Cont. Code 4113	<u>Prime contractor; subcontractor</u>
Pub. Cont. Code 6102	<u>Bribery of public official; voidable contract</u>
Pub. Cont. Code 6610	<u>Bid visits</u>
<b>Management Resources</b>	<b>Description</b>
Attorney General Opinion	89 Ops.Cal.Atty.Gen. 1 (2006)
CA Department of General Services Publication	<u>Office of Public School Construction, Piggyback Contracts</u>
CA Department of General Services Publication	<u>Office of Public School Construction Notification to School Districts Regarding Use of Piggyback Contracts for SAB- Administered Programs, July 2022</u>
CA Department of Industrial Relations Publication	<u>Model Prequalification Questionnaire</u>
Court Decision	City of Inglewood-Los Angeles County Civic Center Authority v. Superior Court (1972) 7 Cal.3d 861
Court Decision	Great West Contractors Inc. v. Irvine Unified School District (2010) 187 Cal.App.4th 1425
Court Decision	Konica Business Machines v. Regents of the University of California (1988) 206 Cal.App.3d 449
Court Decision	Los Angeles Unified School District v. Great American Insurance Co. (2010) 49 Cal.4th 739
Court Decision	Marshall v. Pasadena Unified School District (2004) 119 Cal.App.4th 1241
Website	<u>CSBA District and County Office of Education Legal Services</u>
Website	<u>California Department of General Services</u>
Website	<u>CSBA</u>
Website	<u>California Department of Education</u>
Website	<u>California Association of School Business Officials</u>

## Cross References

Code	Description
0410	<u>Nondiscrimination In District Programs And Activities</u>
1113	<u>District And School Websites</u>
1113	<u>District And School Websites</u>
1113-E(1)	<u>District And School Websites</u>
1340	<u>Access To District Records</u>
1340	<u>Access To District Records</u>
3000	<u>Concepts And Roles</u>
3230	<u>Federal Grant Funds</u>
3230	<u>Federal Grant Funds</u>
3270	<u>Sale And Disposal Of Books, Equipment And Supplies</u>
3270	<u>Sale And Disposal Of Books, Equipment And Supplies</u>
3300	<u>Expenditures And Purchases</u>
3311.1	<u>Uniform Public Construction Cost Accounting Procedures</u>
3311.1	<u>Uniform Public Construction Cost Accounting Procedures</u>
3311.2	<u>Lease-Leaseback Contracts</u>
3311.3	<u>Design-Build Contracts</u>
3311.4	<u>Procurement Of Technological Equipment</u>
3312	<u>Contracts</u>
3314	<u>Payment For Goods And Services</u>
3314	<u>Payment For Goods And Services</u>
3510	<u>Green School Operations</u>
3511	<u>Energy And Water Management</u>
3511	<u>Energy And Water Management</u>
3511.1	<u>Integrated Waste Management</u>
3511.1	<u>Integrated Waste Management</u>
3512	<u>Equipment</u>
3512-E(1)	<u>Equipment</u>
3517	<u>Facilities Inspection</u>
3517-E(1)	<u>Facilities Inspection</u>
3540	<u>Transportation</u>
3551	<u>Food Service Operations/Cafeteria Fund</u>
3551	<u>Food Service Operations/Cafeteria Fund</u>

3580	<u>District Records</u>
3580	<u>District Records</u>
3600	<u>Consultants</u>
6161.1	<u>Selection And Evaluation Of Instructional Materials</u>
6161.1	<u>Selection And Evaluation Of Instructional Materials</u>
6161.1-E(1)	<u>Selection And Evaluation Of Instructional Materials</u>
6161.11	<u>Supplementary Instructional Materials</u>
6163.1	<u>Library Media Centers</u>
7000	<u>Concepts And Roles</u>
7140	<u>Architectural And Engineering Services</u>
7140	<u>Architectural And Engineering Services</u>
9270	<u>Conflict Of Interest</u>
9270-E(1)	<u>Conflict Of Interest</u>
9320	<u>Meetings And Notices</u>
9323.2	<u>Actions By The Board</u>
9323.2-E(1)	<u>Actions By The Board</u>
9323.2-E(2)	<u>Actions By The Board</u>

**Policy 4020: Drug And Alcohol-Free Workplace**

**Status:** ADOPTED

Original Adopted Date: 07/01/2002 | Last Revised Date: 11/01/2010 | Last Reviewed Date: 11/01/2010

CSBA NOTE: Government Code 8355 mandates state grant recipients such as a school district to certify to the state contracting agency (e.g., the California Department of Education (CDE)) that it agrees to provide a drug-free workplace by taking the actions specified below. Federal grantees are also subject to the same requirements and must provide the same certifications under the federal Drug-Free Workplace Act (41 USC 8101-8106).

Federal law contains independent requirements for the drug and alcohol testing of school bus drivers; see BP/AR 4112.42/4212.42/4312.42 - Drug and Alcohol Testing for School Bus Drivers. For language regarding a drug testing program for other employees, see BP/AR 4112.41/4212.41/4312.41 - Employee Drug Testing.

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

An employee shall not unlawfully manufacture, distribute, dispense, possess, or use any controlled substance in the workplace. (Government Code 8355; 41 USC 8103)

CSBA NOTE: The following optional paragraph prohibits an employee from being under the influence of alcohol or a controlled substance while on duty and should be modified to reflect district practice.

Employees are prohibited from being under the influence of controlled substances or alcohol while on duty. For purposes of this policy, on duty means while an employee is on duty during both instructional and noninstructional time in the classroom or workplace, at extracurricular or cocurricular activities, or while transporting students or otherwise supervising them. Under the influence means that the employee's capabilities are adversely or negatively affected, impaired, or diminished to an extent that impacts the employee's ability to safely and effectively perform his/her job.

CSBA NOTE: Government Code 8355 and 41 USC 8103 require the district to certify to the CDE that it has published a statement that notifies employees of the (1) prohibition against drug use, (2) actions that will be taken by the district in the event of a violation, and (3) requirement that employees, as a condition of employment, abide by the district's policy and notify the district in the event of a conviction.

The Superintendent or designee shall notify employees of the district's prohibition against drug use and the actions that will be taken for violation of such prohibition. (Government Code 8355; 41 USC 8103)

An employee shall abide by the terms of this policy and shall notify the district, within five days, of his/her conviction for violation in the workplace of any criminal drug statute. (Government Code 8355; 41 USC 8103)

The Superintendent or designee shall notify the appropriate federal granting or contracting agency within 10 days after receiving notification, from an employee or otherwise, of any conviction for a violation occurring in the workplace. (41 USC 8103)

CSBA NOTE: 41 USC 8104 requires the district, within 30 days of receiving notification from an employee of his/her conviction of a controlled substance offense, to either discipline the employee or require him/her to complete a drug rehabilitation program as specified below. Pursuant to Education Code 44940 and 45304, the district must place an employee on a mandatory leave of absence if he/she is charged

with any offense involving aiding or abetting the unlawful sale, use, or exchange to minors of certain controlled substances listed in Health and Safety Code 11054, 11055, and 11056. In the case of a certificated employee, the district must report the mandatory leave of absence offense to the Commission on Teacher Credentialing (CTC) (see BP 4117.7/4317.7 - Employment Status Reports); if the employee is convicted, the CTC will revoke his/her credential. In addition, pursuant to Education Code 44940 and 45304, district may place a certificated or classified employee on a compulsory leave of absence when he/she is charged with a controlled substance offense as defined in Education Code 44011. If the employee is ultimately convicted of the offense, Education Code 44836 and 45123 require the employee to be dismissed. See AR 4118 - Dismissal/Suspension/Disciplinary Action, and see AR 4218 - Dismissal/Suspension/Disciplinary Action.

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

### **Drug-Free Awareness Program**

The Superintendent or designee shall establish a drug-free awareness program to inform employees about: (Government Code 8355; 41 USC 8103)

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

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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.

<b>State</b>	<b>Description</b>
Ed. Code 44011	<u>Controlled substance offense</u>
Ed. Code 44425	<u>Conviction of a sex or narcotic offense</u>
Ed. Code 44836	<u>Employment of certificated persons convicted of controlled substance offenses</u>
Ed. Code 44940	<u>Compulsory leave of absence for certificated persons</u>
Ed. Code 44940.5	<u>Procedures when employees are placed on compulsory leave of absence</u>
Ed. Code 45123	<u>Employment after conviction of controlled substance offense</u>
Ed. Code 45304	<u>Compulsory leave of absence for classified persons</u>
Gov. Code 8350-8357	<u>Drug-free workplace</u>
<b>Federal</b>	<b>Description</b>
20 USC 7111-7117	Safe and Drug Free Schools and Communities Act



21 CFR 1308.01-1308.49

Schedule of controlled substances

21 USC 812

Schedule of controlled substances

41 USC 8101-8106

Drug-Free Workplace Act

### **Management Resources**

### **Description**

Court Decision

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

Court Decision

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

Website

CSBA District and County Office of Education Legal Services

Website

California Department of Education

Website

California Department of Health Care Services

Website

U.S. Department of Labor

### **Cross References**

### **Code**

### **Description**

3513.4

Drug And Alcohol Free Schools

4032

Reasonable Accommodation

4112

Appointment And Conditions Of Employment

4112.41

Employee Drug Testing

4112.41

Employee Drug Testing

4112.42

Drug And Alcohol Testing For School Bus Drivers

4112.42

Drug And Alcohol Testing For School Bus Drivers

4112.9

Employee Notifications

4112.9-E(1)

Employee Notifications

4118

Dismissal/Suspension/Disciplinary Action

4118

Dismissal/Suspension/Disciplinary Action

4119.21

Professional Standards

4119.21-E(1)

Professional Standards

4159

Employee Assistance Programs

4212

Appointment And Conditions Of Employment

4212.41

Employee Drug Testing

4212.41

Employee Drug Testing

4212.42

Drug And Alcohol Testing For School Bus Drivers

4212.42

Drug And Alcohol Testing For School Bus Drivers

4212.9

Employee Notifications

4212.9-E(1)	<u>Employee Notifications</u>
4218	<u>Dismissal/Suspension/Disciplinary Action</u>
4218	<u>Dismissal/Suspension/Disciplinary Action</u>
4219.21	<u>Professional Standards</u>
4219.21-E(1)	<u>Professional Standards</u>
4259	<u>Employee Assistance Programs</u>
4312.41	<u>Employee Drug Testing</u>
4312.41	<u>Employee Drug Testing</u>
4312.42	<u>Drug And Alcohol Testing For School Bus Drivers</u>
4312.42	<u>Drug And Alcohol Testing For School Bus Drivers</u>
4312.9	<u>Employee Notifications</u>
4312.9-E(1)	<u>Employee Notifications</u>
4319.21	<u>Professional Standards</u>
4319.21-E(1)	<u>Professional Standards</u>
4359	<u>Employee Assistance Programs</u>

**Policy 4030: Nondiscrimination In Employment**

**Status:** ADOPTED

**Original Adopted Date:** 05/01/2016 | **Last Revised Date:** 03/01/2023 | **Last Reviewed Date:** 03/01/2023

CSBA NOTE: The following Board policy and accompanying administrative regulation are mandated pursuant to 2 CCR 11023. The California Fair Employment and Housing Act (FEHA) (Government Code 12900-12996) prohibits districts and district employees from harassing or discriminating against employees and job applicants on the basis of actual or perceived race, color, ancestry, national origin, age, religious creed, marital status, pregnancy, reproductive health decision making, physical or mental disability, medical condition, genetic information, veteran or military status, sex, sexual orientation, gender, gender identity, or gender expression. Pursuant to Government Code 12940, these protections apply to employees, job applicants, persons who serve in an unpaid internship or other limited-duration program to gain unpaid work experience, volunteers, and independent contractors.

Additionally, protections are available under various provisions of federal law, including Title VI of the Civil Rights Act of 1964 (42 USC 2000d-2000d-7), Title VII of the Civil Rights Act of 1964 (42 USC 2000e-2000e-17), Title IX of the Education Amendments of 1972 (20 USC 1681-1688), the Americans with Disabilities Act (42 USC 12101-12213), Section 504 of the Rehabilitation Act of 1973 (29 USC 794), and the Genetic Information Nondiscrimination Act (42 USC 2000ff-2000ff-11).

For policy addressing sexual harassment of and by employees, see BP/AR 4119.11/4219.11/4319.11 - Sexual Harassment.

The Governing Board is determined to provide a safe, positive environment where all district employees are assured of full and equal employment access and opportunities, protection from harassment and intimidation, and freedom from any fear of reprisal or retribution for asserting their employment rights in accordance with law. For purposes of this policy, employees include job applicants, interns, volunteers, and persons who contracted with the district to provide services, as applicable.

No district employee shall be discriminated against or harassed by any coworker, supervisor, manager, or other person with whom the employee comes in contact in the course of employment, on the basis of the employee's actual or perceived race, color, ancestry, national origin, age, religious creed, marital status, pregnancy, physical or mental disability, medical condition, genetic information, veteran or military status, sex, sexual orientation, gender, gender identity, gender expression, or association with a person or group with one or more of these actual or perceived characteristics.

CSBA NOTE: Government Code 12940, as amended by SB 523 (Ch. 630, Statutes of 2022), includes reproductive health decision making as a characteristic for which employment discrimination is prohibited. Pursuant to Government Code 12926(y) "reproductive health decision making" includes a person's decision to use or access a particular drug, device, product, or medical service for reproductive health.

Employers are also prohibited from discrimination against employees or job applicants on the basis of reproductive health decision making, defined as a person's decision to use or access a particular drug, device, product, or medical service for reproductive health. (Government Code 12926, 12940)

CSBA NOTE: 2 CCR 11028 prohibits inquiry into an employee's immigration status or discrimination on the basis of such status, unless the district provides clear and convincing evidence that it is required to do so in order to comply with federal immigration law. Districts should consult CSBA's District and County Office of Education Legal Services or district legal counsel as necessary.

The district shall not inquire into any employee's immigration status nor discriminate against an employee on the basis of immigration status, unless there is clear and convincing evidence that the district is required to do so in order to comply with federal immigration law. (2 CCR 11028)

CSBA NOTE: The following items illustrate unlawful discriminatory practices as specified in Government Code 12940. Labor Code 1197.5 prohibits the payment of different wage rates to employees for similar work based on sex, race, or ethnicity and prohibits the use of prior salary history by itself to justify any disparity in compensation under the bona fide factor exception.

Discrimination in employment based on the characteristics listed above is prohibited in all areas of employment and in all employment-related practices, including the following:

1. Hiring, compensation, terms, conditions, and other privileges of employment

CSBA NOTE: When disciplining an employee, the district must ensure that all the surrounding facts and circumstances are considered and analyzed within the parameters of any applicable constitutional or legal framework. In *Kennedy v. Bremerton School District*, the U.S. Supreme Court held that the district violated the employee's protected free exercise and free speech rights when the district did not rehire the employee, a coach, for refusing to follow the district's direction to refrain from kneeling and praying at the 50-yard line immediately after each football game. The district's direction was based on a concern that the employee's prayer violated the district's religious practices policy and could subject the district to an Establishment Clause violation. Notwithstanding that the prayer occurred at a school event and in the presence of students, the court reasoned that the timing and circumstances indicated that the coach's prayers were offered as a private citizen rather than as a district employee. The Court held that since the prayer occurred during a break, a period when employees would ordinarily be free to engage in personal activities such as speaking with friends, checking email, calling for restaurant reservations, etc., the district's concerns about a possible Establishment Clause violation did not justify restricting the employee's free exercise and free speech rights to offer a private, personal prayer. Employee discipline, especially with respect to suspension and dismissal, involves complex legal considerations and districts are advised to consult CSBA's District and County Office of Education Legal Services or district legal counsel, accordingly.

2. Taking of adverse employment actions such as termination or denial of employment, promotion, job assignment, or training
3. Unwelcome conduct, whether verbal, physical, or visual, that is so severe or pervasive as to adversely affect an employee's employment opportunities or that has the purpose or effect of unreasonably interfering with the employee's work performance or creating an intimidating, hostile, or offensive work environment

CSBA NOTE: Item #4 below lists some, but not all, specific practices prohibited under Government Code 12940 or 2 CCR 11006-11086 in relation to certain protected categories. For example, because "sex" as defined in Government Code 12926 includes pregnancy, childbirth, breastfeeding, or related medical conditions, any of these conditions may be the basis for an employee's sex discrimination claim. As the specific prohibitions are too numerous to list in policy, it is recommended that CSBA's District and County Office of Education Legal Services or district legal counsel be consulted when questions arise as to any specific claim.

4. Actions and practices identified as unlawful or discriminatory pursuant to Government Code 12940 or 2 CCR 11006-11086, such as:
  - a. Sex discrimination based on an employee's pregnancy, childbirth, breastfeeding, or any related medical condition or on an employee's gender, gender expression, or gender identity,

including transgender status

- b. Religious creed discrimination based on an employee's religious belief or observance, including religious dress or grooming practices, or based on the district's failure or refusal to use reasonable means to accommodate an employee's religious belief, observance, or practice which conflicts with an employment requirement
- c. Requiring medical or psychological examination of a job applicant or making an inquiry into whether a job applicant has a mental or physical disability or a medical condition or as to the severity of any such disability or condition, without the showing of a job-related need or business necessity
- d. Failure to make reasonable accommodation for the known physical or mental disability of an employee or to engage in a timely, good faith, interactive process with an employee who has requested such accommodations in order to determine the effective reasonable accommodations, if any, to be provided to the employee

CSBA NOTE: Government 12940, as amended by SB 523, makes it unlawful for an employer to require disclosure of information relating to an applicant's or employee's reproductive health decisionmaking.

- e. Requiring an applicant or employee to disclose information relating to the employee's reproductive health decision making

CSBA NOTE: Retaliation against complainants or other participants in the grievance procedures is prohibited by Government Code 12940 and 34 CFR 110.34. In addition to the general prohibition against retaliation, Government Code 12940 provides that an employee who requests accommodation for a physical or mental disability or religious belief is protected from retaliation as specified below. CSBA recommends that this protection be extended to all protected characteristics, as provided below.

The Board also prohibits retaliation against any district employee who opposes any discriminatory employment practice by the district or its employees, agents, or representatives or who complains, reports an incident, testifies, assists, or in any way participates in the district's complaint process pursuant to this policy. No employee who requests an accommodation for any protected characteristic listed in this policy shall be subjected to any punishment or sanction, regardless of whether the request was granted. (Government Code 12940; 2 CCR 11028)

CSBA NOTE: Pursuant to Government Code 12964.5, the district is prohibited from requiring an employee, in exchange for a raise or bonus or as a condition of employment or continued employment, to sign a no disparagement agreement or similar document that would deny the employee the right to disclose information about unlawful acts in the workplace or requiring an employee to release the right to file a claim or civil action against the district.

Pursuant to Government Code 12964.5, the above prohibition applies not only to claims or complaints of sexual harassment or sexual assault, but to those involving harassment or discrimination based on any protected characteristic and to other unlawful employment practices under FEHA.

No employee shall, in exchange for a raise or bonus or as a condition of employment or continued employment, be required to sign a release of the employee's claim or right to file a claim against the district or a no disparagement agreement or other document that has the purpose or effect of preventing the employee from disclosing information about harassment, discrimination, or other unlawful acts in the workplace, including any conduct that the employee has reasonable cause to believe is unlawful. (Government Code 12964.5)

Complaints concerning employment discrimination, harassment, or retaliation shall immediately be investigated in accordance with procedures specified in the accompanying administrative regulation.

CSBA NOTE: Pursuant to 2 CCR 11019, in certain instances, an employee's (especially a supervisor's) knowledge or notice of prohibited conduct of another employee or individual may subject the district to liability. Therefore, it is recommended that the district require its employees with knowledge of harassment or discrimination to report the incident to the appropriate district authorities. In addition, Government Code 12940 provides that a district may be responsible for harassment of employees by nonemployees when the district knows or should have known of the conduct and failed to take immediate and corrective action, taking into consideration the extent of the district's control and other legal responsibility that the district may have with respect to the conduct of those nonemployees. See also BP/AR 4119.11/4219.11/4319.11 - Sexual Harassment.

See the accompanying administrative regulation for requirements related to the identification of the employee who will be responsible for compliance with nondiscrimination laws.

Any supervisory or management employee who observes or has knowledge of an incident of prohibited discrimination or harassment, including harassment of an employee by a nonemployee, shall report the incident to the Superintendent or designated district coordinator as soon as practical after the incident. All other employees are encouraged to report such incidents to their supervisor immediately.

CSBA NOTE: Government Code 12940 and 2 CCR 11023 require districts to take all reasonable steps to prevent prohibited discrimination and harassment, including, but not limited to, dissemination of the district's policy on the prevention of harassment, discrimination, and retaliation. Government Code 12950 and 2 CCR 11049 require districts to post, in prominent and accessible locations on district premises, posters developed by the California Civil Rights Department (CRD), formerly the Department of Fair Employment and Housing (DFEH), which are available on CRD's web site. In addition, Executive Order 11246 requires contractors and subcontractors who hold a single federal contract or subcontract in excess of \$10,000 or who hold contracts or subcontracts with the federal government in any 12-month period that have a total value of more than \$10,000 to display the U.S. Equal Employment Opportunity Commission "Know Your Rights: Workplace Discrimination is Illegal" poster in conspicuous places available to employees and applicants for employment and representatives of each labor union with which the covered contractor or subcontractor has a collective bargaining agreement. For further information on prevention strategies, see the accompanying administrative regulation.

The Superintendent or designee shall use all appropriate means to reinforce the district's nondiscrimination policy, including providing training and information to employees about how to recognize harassment, discrimination, or other prohibited conduct, how to respond appropriately, and components of the district's policies and regulations regarding discrimination. The Superintendent or designee shall regularly review the district's employment practices and, as necessary, shall take action to ensure district compliance with the nondiscrimination laws.

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

CSBA NOTE: Government Code 12946 makes it an unlawful employment practice for a district to fail to maintain certain records and files for employees, applicants, and terminated employees, as provided in the following paragraph.

The district shall maintain and preserve all applications, personnel, membership, or employment referral records and files for at least four years after the records are initially created or received or, for an applicant or a terminated employee, for four years after the date the employment action was taken. However, when the district is notified that a complaint has been filed with the California Civil Rights Department, records related to the employee involved shall be maintained and preserved until the later of the first date after the time for filing a civil action has expired or the first date after the complaint has been fully and finally disposed of and all administrative proceedings, civil actions, appeals, or related proceedings have been terminated. (Government Code 12946)

**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**

2 CCR 11006-11086

**Description**

Discrimination in employment

2 CCR 11023

Harassment and discrimination prevention and correction

2 CCR 11024

Required training and education on harassment based on sex, gender identity and expression, and sexual orientation

2 CCR 11027-11028

National origin and ancestry discrimination

5 CCR 4900-4965

Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance

CA Constitution Article 1, Section 1

Inalienable rights

Civ. Code 51.7

Freedom from violence or intimidation

Ed. Code 200-262.4

Prohibition of discrimination

Gov. Code 11135

Prohibition of discrimination

Gov. Code 12900-12996

Fair Employment and Housing Act

Gov. Code 12940-12952

Unlawful employment practices

Gov. Code 12960-12976

Unlawful employment practices; complaints

Pen. Code 422.56

Definitions; hate crimes

**Federal**

20 USC 1681-1688

**Description**

Title IX of the Education Amendments of 1972; discrimination based on sex

28 CFR 35.101-35.190

Americans with Disabilities Act

29 USC 621-634

Age Discrimination in Employment Act

29 USC 794

Rehabilitation Act of 1973; Section 504

34 CFR 100.6

Title VI; Compliance information

34 CFR 104.7

Section 504; Designation of responsible employee and adoption of grievances procedures

34 CFR 104.8

Notice of Nondiscrimination on the Basis of Handicap

34 CFR 106.8

Designation of coordinator; dissemination of policy, and adoption of grievance procedures

34 CFR 110.1-110.39

Nondiscrimination on the basis of age

42 USC 12101-12213

Americans with Disabilities Act

42 USC 2000d-2000d-7

Title VI, Civil Rights Act of 1964

42 USC 2000e-2000e-17

Title VII, Civil Rights Act of 1964, as amended

42 USC 2000ff-2000ff-11

Genetic Information Nondiscrimination Act of 2008

42 USC 2000h-2-2000h-6

Title IX of the Civil Rights Act of 1964

42 USC 6101-6107	Age discrimination in federally assisted programs
Executive Order 11246	<u>"Know Your Rights: Workplace Discrimination is Illegal" poster</u>
U.S. Constitution, First Amendment	<u>Free exercise, free speech, and establishment clauses</u>
<b>Management Resources</b>	<b>Description</b>
CA Civil Rights Department Publication	Family Care and Medical Leave and Pregnancy Disability Leave
CA Civil Rights Department Publication	<u>California Law Prohibits Workplace Discrimination and Harassment</u>
CA Civil Rights Department Publication	Transgender Rights in the Workplace
CA Civil Rights Department Publication	Harassment Prevention Guide for California Employers
CA Civil Rights Department Publication	Your Rights and Obligations as a Pregnant Employee
Court Decision	Kennedy v. Bremerton (2022) 142 S.Ct. 2407
Court Decision	Shephard v. Loyola Marymount (2002) 102 Cal.App. 4th 837
Court Decision	Thomson v. North American Stainless LP (2011) 62 U.S. 170
U.S. DOE Office for Civil Rights Publication	Notice of Non-Discrimination, August 2010
U.S. Equal Employment Opportunity Comm Publication	Know Your Rights: Workplace Discrimination is Illegal, October 2022
U.S. Equal Employment Opportunity Comm Publication	Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors, June 1999
U.S. Equal Employment Opportunity Comm Publication	EEOC Compliance Manual
Website	<u>U.S. Department of Labor, Office of Federal Contract Compliance Program</u>
Website	<u>CSBA District and County Office of Education Legal Services</u>
Website	<u>California Civil Rights Department</u>
Website	<u>U.S. Department of Education, Office for Civil Rights</u>
Website	<u>U.S. Equal Employment Opportunity Commission</u>

## Cross References

<b>Code</b>	<b>Description</b>
0410	<u>Nondiscrimination In District Programs And Activities</u>
1113	<u>District And School Websites</u>
1113	<u>District And School Websites</u>
1113-E(1)	<u>District And School Websites</u>
1114	<u>District-Sponsored Social Media</u>
1114	<u>District-Sponsored Social Media</u>
1240	<u>Volunteer Assistance</u>



1240	<u>Volunteer Assistance</u>
1312.1	<u>Complaints Concerning District Employees</u>
1312.1	<u>Complaints Concerning District Employees</u>
1312.3	<u>Uniform Complaint Procedures</u>
1312.3	<u>Uniform Complaint Procedures</u>
1312.3-E(1)	<u>Uniform Complaint Procedures</u>
1312.3-E(2)	<u>Uniform Complaint Procedures</u>
1313	<u>Civility</u>
3312	<u>Contracts</u>
3530	<u>Risk Management/Insurance</u>
3530	<u>Risk Management/Insurance</u>
3580	<u>District Records</u>
3580	<u>District Records</u>
3600	<u>Consultants</u>
4000	<u>Concepts And Roles</u>
4032	<u>Reasonable Accommodation</u>
4033	<u>Lactation Accommodation</u>
4111	<u>Recruitment And Selection</u>
4111.2	<u>Legal Status Requirement</u>
4111.2	<u>Legal Status Requirement</u>
4112.4	<u>Health Examinations</u>
4112.41	<u>Employee Drug Testing</u>
4112.41	<u>Employee Drug Testing</u>
4112.6	<u>Personnel Files</u>
4112.8	<u>Employment Of Relatives</u>
4112.9	<u>Employee Notifications</u>
4112.9-E(1)	<u>Employee Notifications</u>
4113.5	<u>Working Remotely</u>
4114	<u>Transfers</u>
4118	<u>Dismissal/Suspension/Disciplinary Action</u>
4118	<u>Dismissal/Suspension/Disciplinary Action</u>
4119.1	<u>Civil And Legal Rights</u>
4119.11	<u>Sexual Harassment</u>
4119.11	<u>Sexual Harassment</u>

4119.12	<u>Title IX Sexual Harassment Complaint Procedures</u>
4119.12-E(1)	<u>Title IX Sexual Harassment Complaint Procedures</u>
4119.22	<u>Dress And Grooming</u>
4119.23	<u>Unauthorized Release Of Confidential/Privileged Information</u>
4119.41	<u>Employees With Infectious Disease</u>
4131	<u>Staff Development</u>
4144	<u>Complaints</u>
4144	<u>Complaints</u>
4151	<u>Employee Compensation</u>
4154	<u>Health And Welfare Benefits</u>
4154	<u>Health And Welfare Benefits</u>
4161.5	<u>Military Leave</u>
4161.8	<u>Family Care And Medical Leave</u>
4211	<u>Recruitment And Selection</u>
4211.2	<u>Legal Status Requirement</u>
4211.2	<u>Legal Status Requirement</u>
4212.4	<u>Health Examinations</u>
4212.41	<u>Employee Drug Testing</u>
4212.41	<u>Employee Drug Testing</u>
4212.6	<u>Personnel Files</u>
4212.8	<u>Employment Of Relatives</u>
4212.9	<u>Employee Notifications</u>
4212.9-E(1)	<u>Employee Notifications</u>
4213.5	<u>Working Remotely</u>
4218	<u>Dismissal/Suspension/Disciplinary Action</u>
4218	<u>Dismissal/Suspension/Disciplinary Action</u>
4218.1	<u>Dismissal/Suspension/Disciplinary Action (Merit System)</u>
4219.1	<u>Civil And Legal Rights</u>
4219.11	<u>Sexual Harassment</u>
4219.11	<u>Sexual Harassment</u>
4219.12	<u>Title IX Sexual Harassment Complaint Procedures</u>
4219.12-E(1)	<u>Title IX Sexual Harassment Complaint Procedures</u>
4219.22	<u>Dress And Grooming</u>
4219.23	<u>Unauthorized Release Of Confidential/Privileged Information</u>

4219.41	<u>Employees With Infectious Disease</u>
4231	<u>Staff Development</u>
4244	<u>Complaints</u>
4244	<u>Complaints</u>
4251	<u>Employee Compensation</u>
4254	<u>Health And Welfare Benefits</u>
4254	<u>Health And Welfare Benefits</u>
4261.5	<u>Military Leave</u>
4261.8	<u>Family Care And Medical Leave</u>
4311	<u>Recruitment And Selection</u>
4311.2	<u>Legal Status Requirement</u>
4311.2	<u>Legal Status Requirement</u>
4312.4	<u>Health Examinations</u>
4312.41	<u>Employee Drug Testing</u>
4312.41	<u>Employee Drug Testing</u>
4312.6	<u>Personnel Files</u>
4312.8	<u>Employment Of Relatives</u>
4312.9	<u>Employee Notifications</u>
4312.9-E(1)	<u>Employee Notifications</u>
4313.5	<u>Working Remotely</u>
4319.1	<u>Civil And Legal Rights</u>
4319.11	<u>Sexual Harassment</u>
4319.11	<u>Sexual Harassment</u>
4319.12	<u>Title IX Sexual Harassment Complaint Procedures</u>
4319.12-E(1)	<u>Title IX Sexual Harassment Complaint Procedures</u>
4319.22	<u>Dress And Grooming</u>
4319.23	<u>Unauthorized Release Of Confidential/Privileged Information</u>
4319.41	<u>Employees With Infectious Disease</u>
4331	<u>Staff Development</u>
4344	<u>Complaints</u>
4344	<u>Complaints</u>
4351	<u>Employee Compensation</u>
4354	<u>Health And Welfare Benefits</u>
4354	<u>Health And Welfare Benefits</u>

4361.5	<u>Military Leave</u>
4361.8	<u>Family Care And Medical Leave</u>
9000	<u>Role Of The Board</u>
9321	<u>Closed Session</u>
9321-E(1)	<u>Closed Session</u>
9321-E(2)	<u>Closed Session</u>

**Policy 4040: Employee Use Of Technology**

**Status:** ADOPTED

**Original Adopted Date:** 07/01/2001 | **Last Revised Date:** 07/01/2015 | **Last Reviewed Date:** 07/01/2015

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

Employees shall be responsible for the appropriate use of technology and shall use district technology primarily for purposes related to their employment.

District technology includes, but is not limited to, computers, the district's computer network including servers and wireless computer networking technology (wi-fi), the Internet, email, USB drives, wireless access points (routers), tablet computers, smartphones and smart devices, telephones, cellular telephones, personal digital assistants, pagers, MP3 players, wearable technology, any wireless communication device including emergency radios, and/or future technological innovations, whether accessed on or off site or through district-owned or personally owned equipment or devices.

**CSBA NOTE:** The following paragraph is optional and may be revised to reflect district practice. It is recommended that districts develop an Acceptable Use Agreement containing rules for the use of district technology, which should be signed by each employee. See the accompanying Exhibit for an example of an Acceptable Use Agreement for employees.

The Superintendent or designee shall establish an Acceptable Use Agreement which outlines employee obligations and responsibilities related to the use of district technology. Upon employment and whenever significant changes are made to the district's Acceptable Use Agreement, employees shall be required to acknowledge in writing that they have read and agreed to the Acceptable Use Agreement.

**CSBA NOTE:** The following paragraphs may be revised to reflect district practice.

To qualify for federal universal service discounts for Internet access, Internet services, or internal connections (E-rate discounts), districts are mandated by 47 USC 254 to adopt an Internet safety policy that includes, but is not limited to, provisions addressing access by minors to "inappropriate matter" on the Internet; see BP 6163.4 - Student Use of Technology. Consistent with those requirements, the following paragraph provides that employees shall not use district technology to access inappropriate matter. "Inappropriate matter" is not defined in the law and the determination of what matter is considered inappropriate is a local decision to be made by the district. Penal Code 313 provides a definition of "harmful matter" as specified below. Districts that have adopted their own definition should revise the following paragraphs as appropriate.

Employees shall not use district technology to access, post, submit, publish, or display harmful or inappropriate matter that is threatening, obscene, disruptive, sexually explicit, or unethical or that promotes any activity prohibited by law, Board policy, or administrative regulations.

Harmful matter includes matter, taken as a whole, which to the average person, applying contemporary statewide standards, appeals to the prurient interest and is matter which depicts or describes, in a patently offensive way, sexual conduct and which lacks serious literary, artistic, political, or scientific value for minors. (Penal Code 313)

CSBA NOTE: 47 USC 254 mandates that the district's Internet safety policy for E-rate discounts include the operation and enforcement of a "technology protection measure" that protects against Internet access to visual depictions that are obscene, child pornography, or harmful to minors. Similarly, as a condition of using federal Student Support and Academic Achievement Grants (20 USC 7101-7122) for the purpose of purchasing computers with Internet access or paying for direct costs associated with Internet access, 20 USC 7131 mandates that districts adopt an Internet safety policy that includes the operation of a technology protection measure that protects against access to visual depictions that are obscene or child pornography. Although these requirements focus on measures designed to protect students using district technology (see BP 6163.4 - Student Use of Technology), they also require policy that affects Internet access by adults.

The following paragraph is for use by districts that desire to use E-rate or federal technology funding sources and may be adapted by other districts that choose to install technology protection measures

The Superintendent or designee shall ensure that all district computers with Internet access have a technology protection measure that protects against access to visual depictions that are obscene, child pornography, or harmful to minors and that the operation of such measures is enforced. The Superintendent or designee may disable the technology protection measure during use by an adult to enable access for bona fide research or other lawful purpose. (20 USC 7131; 47 USC 254)

CSBA NOTE: The following optional paragraphs may be revised to reflect district practice.

Although 20 USC 7131 and 47 USC 254 require districts receiving Student Support and Academic Achievement Grants or E-rate discounts to enforce the operation of technology protection measures, the legislation clarifies that nothing in the Children's Internet Protection Act shall be construed to require the tracking of individual students' or adults' Internet use. Thus, it appears to be left to the discretion of districts as to whether they wish to track Internet use through personally identifiable web monitoring software or other means.

It is recommended that districts notify employees that they should have no expectation of privacy when using district equipment or technological resources. In *City of Ontario v. Quon*, the U.S. Supreme Court held that a search of an employee's pager messages was reasonable because the search was motivated by a legitimate work-related purpose and was not excessive in scope. In addition, the city had adopted a policy stating that employees should have no expectation of privacy or confidentiality when using city equipment

The Superintendent or designee shall annually notify employees in writing that they have no reasonable expectation of privacy in the use of any equipment or other technological resources provided by or maintained by the district, including, but not limited to, computer files, email, text messages, instant messaging, and other electronic communications, even when provided their own password. To ensure proper use, the Superintendent or designee may monitor employee usage of district technology at any time without advance notice or consent and for any reason allowed by law.

CSBA NOTE: In *City of San Jose v. Superior Court*, the California Supreme Court held that a government employee's communications about public business are not excluded from a request under the California Public Records Act (CPRA) simply because they have been sent or received on a personal account or personal device. Thus, employees should be aware that if they use personal accounts or devices to communicate about district business, they may be required to search their personal communications and provide a sworn declaration stating a sufficient factual basis for determining whether communications are district-related communications subject to the CPRA, personal nondisclosable materials, or materials otherwise exempt under the CPRA. The court observed that the CPRA requires districts to use "reasonable effort" to locate existing records in response to a public records request, but that such searches need not be extraordinary or intrusive. For further information, see CSBA's Legal Alert: Tips for Governing Boards in Response to Public Records Act Ruling on Electronic Communications.

In addition, employees shall be notified that records maintained on any personal device or messages sent or received on a personal device that is being used to conduct district business may be subject to disclosure, pursuant to a subpoena or other lawful request.

Employees shall report any security problem or misuse of district technology to the Superintendent or designee.

Inappropriate use of district technology may result in a cancellation of the employee's user privileges, disciplinary action, and/or legal action in accordance with law, Board policy, and administrative regulation.

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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**

Gov. Code 3543.1

**Description**

Rights of employee organizations

Gov. Code 7920.000-7930.170

California Public Records Act

Pen. Code 502

Computer crimes; remedies

Pen. Code 632

Eavesdropping on or recording confidential communications

Veh. Code 23123

Wireless telephones in vehicles

Veh. Code 23123.5

Mobile communication devices; text messaging while driving

Veh. Code 23125

Wireless telephones in school buses

**Federal**

20 USC 7101-7122

**Description**

Student Support and Academic Enrichment Grants

20 USC 7131

Internet Safety

47 CFR 54.520

Internet safety policy and technology protection measures; E-rate discounts

**Management Resources**

Court Decision

**Description**

City of San Jose v. Superior Court (2017) 2 Cal.5th 608

Court Decision

City of Ontario v. Quon et al. (2010) 000 U.S. 08-1332

Website

CSBA District and County Office of Education Legal Services

Website

Federal Communications Commission

Website

American Library Association

Website

California Department of Education

Website

CSBA

Website

U.S. Department of Education

**Cross References**

**Code**

0410

**Description**

Nondiscrimination In District Programs And Activities

0440

District Technology Plan

0440

District Technology Plan

1100	<u>Communication With The Public</u>
1113	<u>District And School Websites</u>
1113	<u>District And School Websites</u>
1113-E(1)	<u>District And School Websites</u>
1114	<u>District-Sponsored Social Media</u>
1114	<u>District-Sponsored Social Media</u>
1340	<u>Access To District Records</u>
1340	<u>Access To District Records</u>
2121	<u>Superintendent's Contract</u>
3512	<u>Equipment</u>
3512-E(1)	<u>Equipment</u>
3516.2	<u>Bomb Threats</u>
3580	<u>District Records</u>
3580	<u>District Records</u>
4032	<u>Reasonable Accommodation</u>
4113.5	<u>Working Remotely</u>
4118	<u>Dismissal/Suspension/Disciplinary Action</u>
4118	<u>Dismissal/Suspension/Disciplinary Action</u>
4119.1	<u>Civil And Legal Rights</u>
4119.11	<u>Sexual Harassment</u>
4119.11	<u>Sexual Harassment</u>
4119.21	<u>Professional Standards</u>
4119.21-E(1)	<u>Professional Standards</u>
4119.23	<u>Unauthorized Release Of Confidential/Privileged Information</u>
4119.25	<u>Political Activities Of Employees</u>
4119.25	<u>Political Activities Of Employees</u>
4131	<u>Staff Development</u>
4132	<u>Publication Or Creation Of Materials</u>
4136	<u>Nonschool Employment</u>
4213.5	<u>Working Remotely</u>
4218	<u>Dismissal/Suspension/Disciplinary Action</u>
4218	<u>Dismissal/Suspension/Disciplinary Action</u>
4219.1	<u>Civil And Legal Rights</u>
4219.11	<u>Sexual Harassment</u>



4219.11	<u>Sexual Harassment</u>
4219.21	<u>Professional Standards</u>
4219.21-E(1)	<u>Professional Standards</u>
4219.23	<u>Unauthorized Release Of Confidential/Privileged Information</u>
4219.25	<u>Political Activities Of Employees</u>
4219.25	<u>Political Activities Of Employees</u>
4231	<u>Staff Development</u>
4232	<u>Publication Or Creation Of Materials</u>
4236	<u>Nonschool Employment</u>
4313.5	<u>Working Remotely</u>
4319.1	<u>Civil And Legal Rights</u>
4319.11	<u>Sexual Harassment</u>
4319.11	<u>Sexual Harassment</u>
4319.21	<u>Professional Standards</u>
4319.21-E(1)	<u>Professional Standards</u>
4319.23	<u>Unauthorized Release Of Confidential/Privileged Information</u>
4319.25	<u>Political Activities Of Employees</u>
4319.25	<u>Political Activities Of Employees</u>
4331	<u>Staff Development</u>
4332	<u>Publication Or Creation Of Materials</u>
4336	<u>Nonschool Employment</u>
5125	<u>Student Records</u>
5125	<u>Student Records</u>
5125.1	<u>Release Of Directory Information</u>
5125.1	<u>Release Of Directory Information</u>
5125.1-E(1)	<u>Release Of Directory Information</u>
6116	<u>Classroom Interruptions</u>
6162.6	<u>Use Of Copyrighted Materials</u>
6162.6	<u>Use Of Copyrighted Materials</u>
6163.4	<u>Student Use Of Technology</u>
6163.4-E(1)	<u>Student Use Of Technology</u>

**Policy 4115: Evaluation/Supervision**

**Status:** ADOPTED

**Original Adopted Date:** 07/01/2000 | **Last Revised Date:** 08/01/2014 | **Last Reviewed Date:** 08/01/2014

CSBA NOTE: Education Code 35171 mandates that the Governing Board adopt reasonable regulations related to evaluating the performance of certificated personnel. The following policy and accompanying administrative regulation should be revised to reflect district practice and any applicable provisions of collective bargaining agreements. Pursuant to Government Code 3543.2, procedures to be used for the evaluation of employees are conditions of employment subject to negotiation.

For policy related to the evaluation of certificated administrators and supervisory personnel, see BP 4315 - Evaluation/Supervision.

The Governing Board believes that regular, comprehensive evaluations designed to hold instructional staff accountable for their performance are key to improving their teaching skills and raising students' levels of achievement.

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 and encourages them to take initiative to request assistance as necessary, including participation in appropriate staff development and/or individualized teacher support and guidance programs.

CSBA NOTE: Education Code 44662 requires the Board to establish evaluation criteria which, at a minimum, must include the criteria listed in items #1-4 below. The following list may be expanded to include additional criteria adopted by the Board.

The Superintendent 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
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

CSBA NOTE: The following optional paragraph may be revised to reflect district practice. Education Code 44661.5 authorizes the Board, with the agreement of the exclusive representative of the certificated staff, to include any objective evaluation standards from the National Board for Professional Teaching Standards and/or the California Standards for the Teaching Profession, as long as the standards are consistent with Education Code 44660-44665. If the certificated staff do not have an exclusive representative, the Board may adopt objective evaluation and assessment guidelines consistent with Education Code 44661.5. Districts in which there is no exclusive representative should modify the following paragraph accordingly.

With the agreement of the exclusive representative of the certificated staff when applicable, the Superintendent or designee may incorporate objective standards from the National Board for Professional Teaching Standards and/or the California Standards for the Teaching Profession into district evaluation

standards.

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)

The Superintendent or designee shall ensure that evaluation ratings have uniform meaning and are uniformly applied throughout the district.

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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**

Ed. Code 33039

**Description**

State guidelines for teacher evaluation procedures

Ed. Code 35171

Availability of rules and regulations for evaluation of performance

Ed. Code 44660-44665

Evaluation and assessment of performance of certificated employees

Gov. Code 3543.2

Scope of representation

**Management Resources**

Commission on Teacher Credentialing  
Publication

**Description**

California Standards for the Teaching Profession (CSTP), October 2009

Website

CSBA District and County Office of Education Legal Services

Website

National Board for Professional Teaching Standards

Website

Commission on Teacher Credentialing

Website

CSBA

Website

California Department of Education

**Cross References**

**Code**

0500

**Description**

Accountability

4000

Concepts And Roles

4100

Certificated Personnel

4112.21

Interns

4112.21

Interns

4112.6

Personnel Files

4112.8

Employment Of Relatives

4112.9

Employee Notifications

4112.9-E(1)	<u>Employee Notifications</u>
4113	<u>Assignment</u>
4113	<u>Assignment</u>
4113.5	<u>Working Remotely</u>
4116	<u>Probationary/Permanent Status</u>
4116	<u>Probationary/Permanent Status</u>
4117.7	<u>Employment Status Reports</u>
4118	<u>Dismissal/Suspension/Disciplinary Action</u>
4118	<u>Dismissal/Suspension/Disciplinary Action</u>
4119.21	<u>Professional Standards</u>
4119.21-E(1)	<u>Professional Standards</u>
4131	<u>Staff Development</u>
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4140	<u>Bargaining Units</u>
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4212.6	<u>Personnel Files</u>
4212.8	<u>Employment Of Relatives</u>
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4312.8	<u>Employment Of Relatives</u>
4312.9	<u>Employee Notifications</u>
4312.9-E(1)	<u>Employee Notifications</u>
4313.5	<u>Working Remotely</u>
4315	<u>Evaluation/Supervision</u>
4317.7	<u>Employment Status Reports</u>

4319.21	<u>Professional Standards</u>
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4340	<u>Bargaining Units</u>
4359	<u>Employee Assistance Programs</u>
6011	<u>Academic Standards</u>
6020	<u>Parent Involvement</u>
6020	<u>Parent Involvement</u>
6120	<u>Response To Instruction And Intervention</u>
6142.7	<u>Physical Education And Activity</u>
6142.7	<u>Physical Education And Activity</u>
6162.5	<u>Student Assessment</u>
6162.51	<u>State Academic Achievement Tests</u>
6162.51	<u>State Academic Achievement Tests</u>
9000	<u>Role Of The Board</u>
9321	<u>Closed Session</u>
9321-E(1)	<u>Closed Session</u>
9321-E(2)	<u>Closed Session</u>

**Regulation 4115: Evaluation/Supervision**

**Status: ADOPTED**

**Original Adopted Date:** 11/01/2007 | **Last Revised Date:** 07/01/2016 | **Last Reviewed Date:** 07/01/2016

CSBA NOTE: Education Code 3571 Mandates that the Governing Board adopt reasonable regulations related to evaluating the performance of certificated personnel. The following administrative regulation and accompanying Board policy should be revised to reflect district practice and any applicable provisions of collective bargaining agreements.

The following paragraph may be deleted by any district that has not recognized a bargaining unit of certificated employees.

Evaluation of certificated employees shall be conducted in accordance with the procedures established in this administrative regulation and applicable collective bargaining agreements. To the extent that any of those provisions conflict, the procedures in the collective bargaining agreement shall be implemented.

The Superintendent 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)

**Frequency of Evaluations**

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

Each certificated employee with permanent status shall be evaluated and assessed at least every other year. If the employee receives an unsatisfactory evaluation, he/she shall be annually evaluated until he/she achieves a positive evaluation or is separated from the district. (Education Code 44664)

Alternatively, a permanent employee who has been employed by the district at least 10 years and who was rated in his/her previous evaluation as meeting or exceeding standards shall be evaluated at least every five years, if he/she and the evaluator so agree. Either the evaluator or the employee may withdraw consent for the alternative schedule at any time. (Education Code 44664)

**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)

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 Governing Board pursuant to Education Code 44662, the Superintendent or designee shall so notify the employee in writing and shall describe the unsatisfactory performance. The Superintendent 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)

The Superintendent 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)

### Qualifications of Evaluators

CSBA NOTE: The following optional section may be revised to reflect district practice.

The Superintendent or designee shall assign the principal or other appropriate supervisory personnel to evaluate certificated staff. He/she shall ensure that the evaluator:

1. Possesses a valid administrative credential
2. Is competent in the instructional methodologies used by the teachers being evaluated
3. Is skilled in the supervision of instruction and in techniques and procedures related to the evaluation of instruction
4. Is familiar with district curriculum priorities and practices, district standards for student progress, and district policies and procedures related to personnel supervision, performance evaluation, and staff development

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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	Description
Ed. Code 33039	<u>State guidelines for teacher evaluation procedures</u>
Ed. Code 35171	<u>Availability of rules and regulations for evaluation of performance</u>
Ed. Code 44660-44665	<u>Evaluation and assessment of performance of certificated employees</u>
Gov. Code 3543.2	<u>Scope of representation</u>
Management Resources	Description
Commission on Teacher Credentialing Publication	California Standards for the Teaching Profession (CSTP), October 2009
Website	<u>CSBA District and County Office of Education Legal Services</u>
Website	<u>National Board for Professional Teaching Standards</u>
Website	<u>Commission on Teacher Credentialing</u>
Website	<u>CSBA</u>
Website	<u>California Department of Education</u>

### Cross References

<b>Code</b>	<b>Description</b>
0500	<u>Accountability</u>
4000	<u>Concepts And Roles</u>
4100	<u>Certificated Personnel</u>
4112.21	<u>Interns</u>
4112.21	<u>Interns</u>
4112.6	<u>Personnel Files</u>
4112.8	<u>Employment Of Relatives</u>
4112.9	<u>Employee Notifications</u>
4112.9-E(1)	<u>Employee Notifications</u>
4113	<u>Assignment</u>
4113	<u>Assignment</u>
4113.5	<u>Working Remotely</u>
4116	<u>Probationary/Permanent Status</u>
4116	<u>Probationary/Permanent Status</u>
4117.7	<u>Employment Status Reports</u>
4118	<u>Dismissal/Suspension/Disciplinary Action</u>
4118	<u>Dismissal/Suspension/Disciplinary Action</u>
4119.21	<u>Professional Standards</u>
4119.21-E(1)	<u>Professional Standards</u>
4131	<u>Staff Development</u>
4131.1	<u>Teacher Support And Guidance</u>
4131.1	<u>Teacher Support And Guidance</u>
4140	<u>Bargaining Units</u>
4141	<u>Collective Bargaining Agreement</u>
4159	<u>Employee Assistance Programs</u>
4212.6	<u>Personnel Files</u>
4212.8	<u>Employment Of Relatives</u>
4212.9	<u>Employee Notifications</u>
4212.9-E(1)	<u>Employee Notifications</u>
4213.5	<u>Working Remotely</u>
4219.21	<u>Professional Standards</u>
4219.21-E(1)	<u>Professional Standards</u>
4240	<u>Bargaining Units</u>



4241	<u>Collective Bargaining Agreement</u>
4259	<u>Employee Assistance Programs</u>
4312.6	<u>Personnel Files</u>
4312.8	<u>Employment Of Relatives</u>
4312.9	<u>Employee Notifications</u>
4312.9-E(1)	<u>Employee Notifications</u>
4313.5	<u>Working Remotely</u>
4315	<u>Evaluation/Supervision</u>
4317.7	<u>Employment Status Reports</u>
4319.21	<u>Professional Standards</u>
4319.21-E(1)	<u>Professional Standards</u>
4340	<u>Bargaining Units</u>
4359	<u>Employee Assistance Programs</u>
6011	<u>Academic Standards</u>
6020	<u>Parent Involvement</u>
6020	<u>Parent Involvement</u>
6120	<u>Response To Instruction And Intervention</u>
6142.7	<u>Physical Education And Activity</u>
6142.7	<u>Physical Education And Activity</u>
6162.5	<u>Student Assessment</u>
6162.51	<u>State Academic Achievement Tests</u>
6162.51	<u>State Academic Achievement Tests</u>
9000	<u>Role Of The Board</u>
9321	<u>Closed Session</u>
9321-E(1)	<u>Closed Session</u>
9321-E(2)	<u>Closed Session</u>

**Policy 4315: Evaluation/Supervision**

**Status:** ADOPTED

**Original Adopted Date:** 11/01/1986 | **Last Revised Date:** 08/01/2014 | **Last Reviewed Date:** 08/01/2014

CSBA NOTE: Education Code 35171 mandates that the Governing Board adopt reasonable regulations related to evaluating the performance of certificated personnel, including certificated administrative and supervisory personnel. The following policy addresses the evaluation of both certificated and classified administrative and supervisory personnel and should be revised to reflect district practice.

For policy related to the evaluation of the Superintendent, see BP 2140 - Evaluation of the Superintendent.

The Governing Board believes that regular, comprehensive evaluations designed to hold administrative and supervisory staff accountable for their performance are key to improving their instructional leadership and management skills. Evaluations shall be linked to the district's vision and goals and school improvement plans.

Evaluations shall be used to recognize the exemplary skills and accomplishments of administrative and supervisory employees, serve as a criterion for contract renewals, and identify areas needing improvement. When the evaluation indicates areas needing improvement, the Board expects employees to take the initiative to improve their performance and for their supervisors to assist them in obtaining needed job skills.

CSBA NOTE: Administrative and supervisory personnel covered by employee contracts (see BP 4312.1 - Contracts) must be evaluated in accordance with any related contract provisions. If the district has recognized a bargaining unit of supervisory employees (see BP 4140/4240/4340 - Bargaining Units), evaluation procedures for those employees are subject to negotiation pursuant to Government Code 3543.2. The following paragraph should be revised to reflect district practice.

Administrative and supervisory employees shall be evaluated in accordance with provisions of employee contracts and/or applicable collective bargaining agreements as appropriate.

CSBA NOTE: Education Code 35171 requires the district to make available to certificated employees written regulations related to evaluation; see AR 4115 - Evaluation/Supervision and E 4112.9 - Employee Notifications. The following paragraph extends the distribution of these regulations to all administrative and supervisory employees, including classified personnel, and may be revised to reflect district practice.

The Superintendent or designee shall make written evaluation procedures available to all administrative and supervisory employees.

CSBA NOTE: The following optional paragraph, including the frequency of evaluations, should be revised to reflect district practice and any applicable collective bargaining agreement with supervisory employees. Education Code 44670 authorizes the Board to identify an evaluator for each principal, require annual evaluations for the first and second year of employment as a new principal in the district, and establish the frequency of evaluations after the first two years of employment. Education Code 44670 also authorizes the evaluator and principal to agree upon additional evaluations outside of the regular intervals determined by the Board.

An employee shall be evaluated annually for the first and second years of employment as an administrator or supervisor in the district, and at least every two years thereafter, unless otherwise provided for in an employee contract or collective bargaining agreement. Evaluations may occur between scheduled periods at the request of the employee, his/her supervisor, or the Superintendent or designee.

The Superintendent or designee shall establish clear, objective criteria for evaluation based on the job responsibilities of each administrative or supervisory position.

CSBA NOTE: Items #1-9 below are optional and may be revised to reflect district practice. Pursuant to Education Code 44671, criteria for evaluation of principals may be based on the California Professional Standards for Educational Leaders (CPSEL) and the criteria listed below. As adopted by the Commission on Teacher Credentialing in February 2014, the CPSEL describe the knowledge, skills, and abilities needed by school administrators with respect to the development and implementation of a shared vision, instructional leadership, management and learning environment, family and community engagement, ethics and integrity, and external context and policy; see E 4319.21 - Professional Standards.

Evaluation criteria for certificated school site administrators may be based on the California Professional Standards for Educational Leaders (CPSEL) and also may include, but not be limited to, evidence of: (Education Code 44671)

1. Academic growth of students, based on multiple measures which may include student work as well as student and school longitudinal data that demonstrate academic growth over time

Assessments used for this purpose shall be valid and reliable and used for the intended purposes and for the appropriate student populations. Local and state academic assessments may include, but are not limited to, state standardized assessments and formative, summative, benchmark, end-of-chapter, end-of-course, Advanced Placement, International Baccalaureate, college entrance, and performance assessments.

2. Effective and comprehensive teacher evaluations, including, but not limited to, curricular and management leadership, ongoing professional development, teacher-principal teamwork, and professional learning communities
3. Culturally responsive instructional strategies to address and eliminate the achievement gap
4. The ability to analyze quality instructional strategies and provide effective feedback that leads to instructional improvement
5. High expectations for all students and leadership to ensure active student engagement and learning
6. Collaborative professional practices for improving instructional strategies
7. Effective school management, including personnel and resource management, organizational leadership, sound fiscal practices, a safe campus environment, and appropriate student behavior
8. Meaningful self-assessment to improve as a professional educator, which may include, but not be limited to, a self-assessment based on the CPSEL and the identification of areas of strengths and areas for professional growth to engage in activities to foster professional growth
9. Consistent and effective relationships with students, parents/guardians, teachers, staff, and other administrators

The evaluation shall be dated and signed by the employee and evaluator. The employee may respond in writing to the evaluation within a reasonable time after receiving a copy of the evaluation. The response shall be attached to the evaluation and placed in the employee's personnel file.

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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**

**Description**

Ed. Code 35171	<u>Availability of rules and regulations for evaluation of performance</u>
Ed. Code 44660-44665	<u>Evaluation and assessment of performance of certificated employees</u>
Ed. Code 44670-44671	<u>Principal evaluation</u>
Ed. Code 45113	<u>Notification of charges; classified employees</u>
Gov. Code 3540.1	<u>Public employment; definitions</u>
Gov. Code 3543.2	<u>Scope of representation</u>
Gov. Code 3545	<u>Appropriateness of unit; basis</u>
<b>Management Resources</b>	<b>Description</b>
Commission on Teacher Credentialing Publication	California Professional Standards for Educational Leaders, February 2014
Website	<u>CSBA District and County Office of Education Legal Services</u>
Website	<u>Association of California School Administrators</u>
Website	<u>Commission on Teacher Credentialing</u>
Website	<u>CSBA</u>
Website	<u>California Department of Education</u>

#### **Cross References**

<b>Code</b>	<b>Description</b>
0000	<u>Vision</u>
0200	<u>Goals For The School District</u>
0460	<u>Local Control And Accountability Plan</u>
0460	<u>Local Control And Accountability Plan</u>
0500	<u>Accountability</u>
2140	<u>Evaluation Of The Superintendent</u>
4000	<u>Concepts And Roles</u>
4112.6	<u>Personnel Files</u>
4112.8	<u>Employment Of Relatives</u>
4112.9	<u>Employee Notifications</u>
4112.9-E(1)	<u>Employee Notifications</u>
4113.5	<u>Working Remotely</u>
4115	<u>Evaluation/Supervision</u>
4115	<u>Evaluation/Supervision</u>
4119.21	<u>Professional Standards</u>
4119.21-E(1)	<u>Professional Standards</u>

4140	<u>Bargaining Units</u>
4159	<u>Employee Assistance Programs</u>
4212.6	<u>Personnel Files</u>
4212.8	<u>Employment Of Relatives</u>
4213.5	<u>Working Remotely</u>
4219.21	<u>Professional Standards</u>
4219.21-E(1)	<u>Professional Standards</u>
4240	<u>Bargaining Units</u>
4259	<u>Employee Assistance Programs</u>
4300	<u>Administrative And Supervisory Personnel</u>
4300	<u>Administrative And Supervisory Personnel</u>
4301	<u>Administrative Staff Organization</u>
4312.1	<u>Contracts</u>
4312.6	<u>Personnel Files</u>
4312.8	<u>Employment Of Relatives</u>
4313.5	<u>Working Remotely</u>
4319.21	<u>Professional Standards</u>
4319.21-E(1)	<u>Professional Standards</u>
4331	<u>Staff Development</u>
4340	<u>Bargaining Units</u>
4359	<u>Employee Assistance Programs</u>
6020	<u>Parent Involvement</u>
6020	<u>Parent Involvement</u>
6141.5	<u>Advanced Placement</u>
6162.5	<u>Student Assessment</u>
6162.51	<u>State Academic Achievement Tests</u>
6162.51	<u>State Academic Achievement Tests</u>
9000	<u>Role Of The Board</u>
9321	<u>Closed Session</u>
9321-E(1)	<u>Closed Session</u>
9321-E(2)	<u>Closed Session</u>

**Regulation 4161.1: Personal Illness/Injury Leave**

**Status: ADOPTED**

**Original Adopted Date:** 03/01/2017 | **Last Revised Date:** 06/01/2023 | **Last Reviewed Date:** 06/01/2023

CSBA NOTE: The following administrative regulation is subject to collective bargaining. Education Code 44978 provides a minimum of 10 days of personal illness or injury leave (sick leave) per year for certificated employees working five days a week. The Governing Board may allow additional days at its discretion; if it does so, the following paragraph should be revised accordingly.

Labor Code 245-249 (the Healthy Workplaces, Healthy Families Act) require districts to grant a minimum of one hour of paid sick leave for every 30 hours worked to their employees who work for 30 days or more within a year of their employment, including temporary and substitute employees. Pursuant to Labor Code 246, a district may use a different sick leave accrual method which provides for the accrual to be on a regular basis so that employees accrue at least 24 hours of sick leave or paid time off by the 120th calendar day of their employment or each calendar year or 12-month period.

The provisions of Labor Code 245-249 are very broad and only district employees covered by a valid collective bargaining agreement may be exempted from them, if the collective bargaining agreement expressly provides paid sick leave in an amount equal to or exceeding the amount of leave required pursuant to Labor Code 246, includes final and binding arbitration of disputes regarding the application of the paid sick days provisions, and provides premium wage rates for all overtime hours worked and a regular hourly rate of pay of not less than 30 percent more than the state minimum wage rate. Since many districts may not satisfy all of the conditions for this exemption, this administrative regulation has been drafted to include the requirements of Labor Code 245-249. Any district which has a collective bargaining agreement that meets all of the conditions for exemption may modify this administrative regulation accordingly.

For additional requirements of Labor Code 245-249, see the section titled "Healthy Workplaces, Healthy Families Act Requirements" below. For paid sick leave for temporary and substitute certificated employees, see BP/AR 4121 - Temporary/Substitute Personnel. For sick leave for classified employees, see AR 4261.1 - Personal Illness/Injury Leave.

Certificated employees employed five school days per week are entitled to 10 days' leave of absence with full pay for personal illness or injury (sick leave) per school year of service. Employees who work less than five school days per week (part-time employees) shall be granted sick leave in proportion to the time they work. However, any part-time employees who are entitled to less than three days of paid sick leave per year due to the amount of time worked shall be granted sick leave pursuant to Labor Code 246, if they are eligible. (Education Code 44978; Labor Code 245-249)

**Use of Sick Leave**

CSBA NOTE: Items #1-8 below reflect allowable uses of sick leave specified in law. The district may expand this list to include any additional purposes authorized by law, authorized by the district, or included in a bargaining agreement.

Certificated employees may use sick leave for absences due to:

1. Accident or illness, whether or not the absence arises out of and in the course of employment; quarantine which results from contact in the course of employment with other persons having a contagious disease; or temporary inability to perform assigned duties because of illness, accident, or

quarantine (Education Code 44964)

2. Pregnancy, miscarriage, childbirth, and related recovery (Education Code 44965, 44978)
3. Personal necessity (Education Code 44981)

CSBA NOTE: Optional Item #4 below may be revised to specify a different minimum increment for sick leave.

4. Medical and dental appointments, in increments of not less than one hour
5. Industrial accidents or illnesses when leave granted specifically for that purpose has been exhausted (Education Code 44984)

CSBA NOTE: Pursuant to the Family and Medical Leave Act (FMLA) (29 USC 2612) and California Family Rights Act (CFRA) (Government Code 12945.2), a district is required to grant leave to an eligible employee to bond with a child after the birth, adoption, or foster care placement of the child. For this purpose, employees may, but are not required to, use sick leave for any otherwise unpaid FMLA or CFRA leave.

For further information regarding parental leave, see AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave.

6. Need of the employee to bond with a child within one year of the child's birth, adoption, or foster care placement (parental leave) (Education Code 44977.5; Government Code 12945.2; 29 USC 2612; 29 CFR 825.112)

CSBA NOTE: Pursuant to Labor Code 233, any district that provides sick leave to its employees is required to permit an employee to use sick leave, in an amount not less than the sick leave that would be accrued during six months at the employee's then current rate of entitlement, for the purposes specified in Items #7-8 below. Pursuant to Labor Code 233, designation of sick leave taken under this provision is at the sole discretion of the employee. Labor Code 233 does not extend the maximum period of leave to which an employee is entitled under CFRA or FMLA, regardless of whether the employee receives sick leave compensation during that leave.

For the purpose of using sick leave to attend to the health care needs of a family member, as specified in Item #7 below, Labor Code 245.5, as amended by AB 1041 (Ch. 748, Statutes of 2022), includes a designated person in the definition of a "family member," in addition to an employee's spouse, registered domestic partner, child (biological, adopted, or foster child; stepchild; legal ward; or a child to whom the employee stands in loco parentis), parent (biological, adoptive, or foster parent; stepparent; legal guardian of an employee or the employee's spouse or registered domestic partner; or a person who stood in loco parentis when the employee was a minor child), grandparent, grandchild, or sibling. Pursuant to Government Code 12945.2 and Labor Code 245.5, as amended by AB 1041, a "designated person" means any individual related by blood or whose association with the employee is the equivalent of a family relationship. The designated person may be identified by the employee at the time the employee requests the leave, and the district may limit the employee to one designated person per 12-month period for family care and medical leave. For further information regarding medical leave, see AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave.

For additional information about leaves for victims of domestic violence, sexual assault, or stalking granted in accordance with Item #8 below, see AR 4161.2/4261.2/4361.2 - Personal Leaves.

7. Need of the employee or employee's family member, including a designated person, as defined in Labor Code 245.5, for the diagnosis, care, or treatment of an existing health condition or for preventive care (Government Code 12945.2; Labor Code 233, 246.5)
8. Need of the employee to seek or obtain 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 (Labor Code 233, 246.5)

For the purposes specified in Items #7-8, an employee may use, in any calendar year, the amount of sick leave that would be accrued during six months at the employee's then current rate of entitlement. (Labor Code 233)

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)

CSBA NOTE: The following paragraph is optional.

An employee shall reimburse the district for any unearned sick leave used as of the date of termination.

Unused days of sick leave shall be accumulated from year to year without limitation. (Education Code 44978)

CSBA NOTE: The following optional paragraph may be revised to reflect district practice.

At the beginning of each school year, employees shall be notified of the amount of sick leave they have accumulated.

The district shall not require new employees to waive leave accumulated in a previous district. (Education Code 44979, 44980)

CSBA NOTE: Pursuant to Education Code 44979-44980, certificated employees are entitled to have their accumulated sick leave transferred with them in the circumstances specified in the following optional paragraph.

The Superintendent or designee shall notify any certificated employee who leaves the district after at least one school year of employment that if the employee accepts a certificated position in another district, county office of education, or community college district within one year, the employee may request that the district transfer any accumulated sick leave to the new employer. (Education Code 44979, 44980)

### **Additional Leave for Disabled Military Veterans**

In addition to any other entitlement for sick leave with pay, a certificated employee who is a former active duty member of the U.S. Armed Forces or a former or current member of the California National Guard or a federal reserve component shall be entitled to sick leave with pay of up to 10 days for the purpose of undergoing medical treatment, including mental health treatment, for a military service-connected disability rated at 30 percent or more by the U.S. Department of Veterans Affairs. An eligible employee who works less than five days per week shall be entitled to such leave in proportion to the time worked. (Education Code 44978.2)

The amount of leave shall be credited to the employee either on the date the employee receives confirmation of the submission of the disability application to the U.S. Department of Veterans Affairs or on the first day the employee begins or returns to employment after active duty, whichever is later. When the employee receives the disability rating decision, the employee shall report that information to the Superintendent or designee. If the disability rating decision makes the employee eligible for the leave, the time used before the decision shall be counted toward the 10-day maximum leave. If the disability rating decision makes the



employee ineligible for the leave, the district may change the sick leave time used before the disability rating decision to an alternative leave balance. (Education Code 44978.2)

CSBA NOTE: Pursuant to Education Code 44978.2, the district may require proof that a leave granted under this law is used for treatment of a military service-connected disability. The following paragraph may be revised to reflect district practice.

The Superintendent or designee may require verification, in accordance with the section "Verification Requirements" below, that the employee used the leave to obtain treatment of a military service-connected disability.

Leave for military-service connected disability shall be available for 12 months following the first date that the leave was credited. Leave not used during the 12-month period shall not be carried over and shall be forfeited. (Education Code 44978.2)

### **Notification of Absence**

CSBA NOTE: The following optional section may be revised to reflect district practice.

An employee shall notify the Superintendent or designee of the 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 three o'clock in the afternoon of the day preceding the day on which the employee intends to return to work. If the employee fails to notify the district and the failure results in a substitute being secured, the cost of the substitute shall be deducted from the employee's pay.

### **Continued Absence After Available Sick Leave Is Exhausted/Differential Pay**

CSBA NOTE: Pursuant to Education Code 44977, employees who are absent due to illness for up to five months after exhausting all available sick leave must receive their regular salary minus the cost of a substitute. Alternatively, Education Code 44983 allows districts to adopt a rule that gives certificated employees 50 percent or more of their regular salary during the period of absence. When an employee is absent for a cause other than illness, Education Code 44977 and 44983 provide that the amount deducted from the employee's salary shall be determined according to the rules and regulations adopted by the Board as long as such rules are not in conflict with State Board of Education regulations.

Option 1 below is for use by districts that subtract the cost of a substitute from the absent employee's salary pursuant to Education Code 44977. Option 2 is mandated pursuant to Education Code 44983 for districts that choose to give certificated employees 50 percent or more of their regular salary during the period of absence, and may be revised to specify a percentage higher than 50 percent in accordance with district practice.

If not covered in the district's bargaining agreement, the district may add provisions to this section reflecting salary deductions for employees absent longer than five months.

#### **OPTION 1:**

During each school year, when a certificated employee has exhausted all available sick leave, including all accumulated sick leave, and, due to illness or accident, continues to be absent for an additional period of up to five school months, the district shall deduct from the employee's regular salary for that period 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 accident. 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)

OPTION 1 ENDS HERE

OPTION 2:

After a certificated employee has exhausted all available sick leave, including all accumulated sick leave, and, due to illness or accident, continues to be absent for an additional period of up to five months, the employee shall receive at least 50 percent of the employee's regular salary during the additional period of absence. (Education Code 44983)

OPTION 2 ENDS HERE

### **Absence Beyond Five-Month Period/Reemployment List**

CSBA NOTE: The following paragraph is required for districts that select Option 1 (i.e., differential pay) in the section "Continued Absence After Available Sick Leave Is Exhausted/Differential Pay" above and should be carefully considered by districts that select Option 2 (i.e., 50 percent pay). Education Code 44978.1 requires the establishment of a reemployment list for employees who are unable to resume their duties after the five-month period provided pursuant to Education Code 44977.

Although Education Code 44978.1 does not explicitly require a reemployment list for districts selecting Option 2, such districts should be aware that failure to establish a reemployment list may subject employees to termination following a five-month absence. Therefore, any district that selects Option 2 and currently maintains a reemployment list for employees who are absent beyond the five-month period, or that wishes to establish such a list, should consult CSBA's District and County Office of Education Legal Services or district legal counsel before changing its policy or practices.

If a certificated employee is not medically able to return to work after the five-month period provided pursuant to Education Code 44977, the employee shall be placed either in another position or on a reemployment list. Placement on the reemployment list shall be for 24 months for probationary employees or 39 months for permanent employees and shall begin at the expiration of the five-month period. If during this time the employee becomes medically able, the employee shall be returned to employment in a position for which the employee is credentialed and qualified. (Education Code 44978.1)

### **Parental Leave**

CSBA NOTE: The following section is subject to any conflicting provision in a collective bargaining agreement that provides greater parental leave rights.

During each school year, a certificated employee may use all available sick leave, including accumulated sick leave, for the purpose of parental leave for a period of up to 12 work weeks. The 12-week period shall be reduced by any period of sick leave, including accumulated sick leave, taken during a period of such parental leave. (Education Code 44977.5)

CSBA NOTE: Unlike leave taken pursuant to Government Code 12945.2, leave taken pursuant to Education Code 44977.5 does not require an employee to have at least 1,250 hours of service with the district during the previous 12-month period in order to be eligible for parental leave. See AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave for further information on requirements related to the California Family Rights Act.

Eligibility for such leave shall not require 1,250 hours of service with the district during the previous 12 months. (Education Code 44977.5)

CSBA NOTE: Pursuant to Education Code 44977.5, the district is required to provide differential pay to a certificated employee for up to 12 work weeks when the employee has exhausted all available sick leave, including accumulated sick leave, and continues to be absent due to parental leave pursuant to Government Code 12945.2. Such an employee is entitled to receive differential pay, calculated in the same manner described in Option 1 or 2 in the section "Continued Absence After Available Sick Leave Is Exhausted/Differential Pay" above. Education Code 44977.5 requires that, regardless of the type of differential pay system used by the district, employees must receive at least 50 percent of their regular salary for any portion of the 12-week parental leave that remains following the exhaustion of sick leave. The following paragraph may be revised to specify a percentage higher than 50 percent in accordance with district practice.

Since Education Code 44977.5 does not expressly require districts to provide differential pay to employees who are eligible for parental leave pursuant to Government Code 12945.6, it is unclear whether such employees would be entitled to differential pay. Districts should consult CSBA's District and County Office of Education Legal Services or district legal counsel if they have questions regarding differential pay for such employees.

An employee who has exhausted all available sick leave, including accumulated sick leave, and continues to be absent on account of parental leave shall receive differential pay of at least 50 percent of the employee's regular salary for the remainder of the 12 work weeks. (Education Code 44977.5)

Parental leave taken pursuant to Education Code 44977.5 shall run concurrently with the parental leave taken pursuant to Government Code 12945.2 or 12945.6, and the aggregate amount of parental leave shall not exceed 12 work weeks in a 12-month period. (Education Code 44977.5; Government Code 12945.2, 12945.6)

### **Verification Requirements**

CSBA NOTE: Education Code 44978 mandates the Board to adopt regulations requiring proof of illness or injury and prescribing the means of verification. However, Education Code 44978 provides that these regulations shall not discriminate against evidence of treatment and the need for treatment by the practice of a well-recognized religion. For verification requirements for employees on leave pursuant to the Family and Medical Leave Act, see AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave. The following section should be modified to reflect district practice and any procedures which have been specified in bargaining agreements.

Labor Code 233 requires districts to allow their employees to use sick leave for the purposes specified in Labor Code 246.5. Because Labor Code 246.5 is silent on requests for verification, and requires an employer to provide an employee with paid sick days upon oral or written request, districts should be cautious in requiring verification for sick leave used for the purposes specified in Labor Code 246.5 (Items #7-8 in the section "Use of Sick Leave" above). Although a district is permitted to require verification from an employee who is a victim of domestic violence, sexual assault, or stalking, pursuant to Labor Code 230 and 230.1, a general insistence on verification could be deemed a violation of Labor Code 246.5. Any district with questions regarding its authority related to verification should consult CSBA's District and County Office of Education Legal Services or district legal counsel.

After any absence due to illness or injury, the employee shall verify the absence by submitting a completed and signed district absence form to the employee's immediate supervisor.

The Superintendent or designee may require verification whenever an employee's absence record shows chronic absenteeism or a pattern of absences immediately before or after weekends and/or holidays or whenever available evidence clearly indicates that an absence is not related to illness or injury.

In addition, the Superintendent 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 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 or designee may, after giving notice to the employee, deny further leave.

CSBA NOTE: 42 USC 2000ff-1, the Genetic Information Nondiscrimination Act, and its implementing regulations, 29 CFR 1635.1-1635.12, specify that it is unlawful for a district to request, require, or purchase employees' or their family member's individual genetic information except in complying with the medical certification requirements for family care and medical leave purposes or with the employee's prior written authorization. See AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave. Pursuant to 29 CFR 1635.9, any such information received by the district must be kept confidential as specified below.

Any district request for additional verification by an employee's physician or a district-selected physician shall be in writing and shall specify that the report to be submitted to the district should not contain the employee's genetic information. Any genetic information received by the district on behalf of an employee shall be treated as a confidential medical record, maintained in a file separate from the employee's personnel file, and not be disclosed except in accordance with 29 CFR 1635.9.

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 a physician stating that the employee is able to return to duty and stipulating any necessary restrictions or limitations.

### **Healthy Workplaces, Healthy Families Act Requirements**

CSBA NOTE: Pursuant to Labor Code 245-249, all employers, including those that provide paid time off to their employees under existing policy or other law, must comply with the requirements specified in the following section. Pursuant to Labor Code 248.5, noncompliance with the Healthy Workplaces, Healthy Families Act could result in an enforcement action against the employer, including the imposition of civil and monetary penalties. Any district with questions regarding the applicability of this law should consult CSBA's District and County Office of Education Legal Services or district legal counsel.

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.

To ensure the district's compliance with Labor Code 245-249, the Superintendent or designee shall:

1. At a conspicuous location in each workplace, display a poster on paid sick leave that includes the following information:
  - a. That an employee is entitled to accrue, request, and use paid sick days
  - b. The number of sick days provided by Labor Code 245-249
  - c. The terms of use of paid sick days
  - d. That discrimination or retaliation against an employee for requesting and/or using sick leave is prohibited by law and that an employee has the right to file a complaint with the Labor Commissioner if the district discriminates or retaliates against the employee
2. Provide at least 24 hours or three days of paid sick leave to each eligible employee to use per year and allow eligible employees to use accrued sick leave upon reasonable request
3. Provide eligible employees written notice, on their pay stub or other document issued with their pay check, of the amount of paid sick leave they have available
4. Keep a record documenting the hours worked and paid sick days accrued and used by each eligible employee for three years

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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.

<b>State</b>	<b>Description</b>
5 CCR 5601	Transfer of accumulated sick leave
Ed. Code 44964	<u>Power to grant leaves of absence for accident, illness, or quarantine</u>
Ed. Code 44965	<u>Granting of leaves of absence for pregnancy and childbirth</u>
Ed. Code 44976	<u>Transfer of leave rights when school is transferred to another district</u>
Ed. Code 44977	<u>Salary schedule for substitute employees</u>
Ed. Code 44977.5	<u>Differential pay during parental leave up to 12 weeks after sick leave is exhausted</u>
Ed. Code 44978	<u>Sick leave; certificated employees</u>
Ed. Code 44978.1	<u>Inability to return to duty; placement in another position or on reemployment list</u>
Ed. Code 44978.2	<u>Leave for military service-connected disability</u>
Ed. Code 44979	<u>Transfer of accumulated sick leave to another district</u>
Ed. Code 44980	<u>Transfer of accumulated sick leave to a county office of education</u>
Ed. Code 44981	<u>Leave of absence for personal necessity</u>
Ed. Code 44983	<u>Compensation during leave; certificated employees</u>
Ed. Code 44984	<u>Required rules for industrial accident and illness leave</u>
Ed. Code 44986	<u>Leave of absence; state disability benefits</u>
Gov. Code 12945.1-12945.2	<u>California Family Rights Act</u>
Gov. Code 12945.6	Parental leave
Lab. Code 220	<u>Sections inapplicable to public employees</u>
Lab. Code 230	<u>Accommodations and leave for victims of domestic violence</u>
Lab. Code 230.1	<u>Employers with 25 or more employees; domestic violence, sexual assault, and stalking victims; right to time off</u>
Lab. Code 233	<u>Leave to attend to family illness</u>
Lab. Code 234	<u>Absence control policy</u>
Lab. Code 245-249	<u>Healthy Workplaces, Healthy Families Act of 2014</u>
<b>Federal</b>	<b>Description</b>
29 CFR 1635.1-1635.12	Genetic Information Nondiscrimination Act of 2008
29 CFR 825.100-825.702	Family and Medical Leave Act of 1993
29 USC 2601-2654	Family Care and Medical Leave Act

**Management Resources**

Court Decision

**Description**

Veguez v. Governing Board of Long Beach Unified School District (2005) 127 Cal.App.4th 406

Website

CSBA District and County Office of Education Legal Services**Cross References****Code**

2121

**Description**Superintendent's Contract

4032

Reasonable Accommodation

4112.2

Certification

4112.2

Certification

4112.42

Drug And Alcohol Testing For School Bus Drivers

4112.42

Drug And Alcohol Testing For School Bus Drivers

4112.9

Employee Notifications

4112.9-E(1)

Employee Notifications

4113.4

Temporary Modified/Light-Duty Assignment

4113.5

Working Remotely

4116

Probationary/Permanent Status

4116

Probationary/Permanent Status

4117.11

Preretirement Part-Time Employment

4119.41

Employees With Infectious Disease

4121

Temporary/Substitute Personnel

4121

Temporary/Substitute Personnel

4141.6

Concerted Action/Work Stoppage

4141.6

Concerted Action/Work Stoppage

4154

Health And Welfare Benefits

4154

Health And Welfare Benefits

4157.1

Work-Related Injuries

4159

Employee Assistance Programs

4161

Leaves

4161

Leaves

4161.11

Industrial Accident/Illness Leave

4161.2

Personal Leaves

4161.5

Military Leave

4161.8	<u>Family Care And Medical Leave</u>
4161.9	<u>Catastrophic Leave Program</u>
4161.9	<u>Catastrophic Leave Program</u>
4212.42	<u>Drug And Alcohol Testing For School Bus Drivers</u>
4212.42	<u>Drug And Alcohol Testing For School Bus Drivers</u>
4212.9	<u>Employee Notifications</u>
4212.9-E(1)	<u>Employee Notifications</u>
4213.4	<u>Temporary Modified/Light-Duty Assignment</u>
4213.5	<u>Working Remotely</u>
4219.41	<u>Employees With Infectious Disease</u>
4241.6	<u>Concerted Action/Work Stoppage</u>
4241.6	<u>Concerted Action/Work Stoppage</u>
4254	<u>Health And Welfare Benefits</u>
4254	<u>Health And Welfare Benefits</u>
4257.1	<u>Work-Related Injuries</u>
4259	<u>Employee Assistance Programs</u>
4261	<u>Leaves</u>
4261	<u>Leaves</u>
4261.11	<u>Industrial Accident/Illness Leave</u>
4261.2	<u>Personal Leaves</u>
4261.5	<u>Military Leave</u>
4261.8	<u>Family Care And Medical Leave</u>
4261.9	<u>Catastrophic Leave Program</u>
4261.9	<u>Catastrophic Leave Program</u>
4312.42	<u>Drug And Alcohol Testing For School Bus Drivers</u>
4312.42	<u>Drug And Alcohol Testing For School Bus Drivers</u>
4312.9	<u>Employee Notifications</u>
4312.9-E(1)	<u>Employee Notifications</u>
4313.4	<u>Temporary Modified/Light-Duty Assignment</u>
4313.5	<u>Working Remotely</u>
4317.11	<u>Preretirement Part-Time Employment</u>
4319.41	<u>Employees With Infectious Disease</u>
4354	<u>Health And Welfare Benefits</u>
4354	<u>Health And Welfare Benefits</u>

4357.1	<u>Work-Related Injuries</u>
4359	<u>Employee Assistance Programs</u>
4361	<u>Leaves</u>
4361	<u>Leaves</u>
4361.11	<u>Industrial Accident/Illness Leave</u>
4361.2	<u>Personal Leaves</u>
4361.5	<u>Military Leave</u>
4361.8	<u>Family Care And Medical Leave</u>
4361.9	<u>Catastrophic Leave Program</u>
4361.9	<u>Catastrophic Leave Program</u>



**Regulation 4261.1: Personal Illness/Injury Leave**

**Status: ADOPTED**

**Original Adopted Date:** 03/01/2017 | **Last Revised Date:** 06/01/2023 | **Last Reviewed Date:** 06/01/2023

CSBA NOTE: The following administrative regulation is subject to collective bargaining. Education Code 45191 provides a minimum of 12 days of personal illness or injury leave (sick leave) per year for classified employees working five days a week, in both merit and non-merit system districts. The Governing Board may allow more sick leave at its discretion; if it does so, the following paragraph should be revised accordingly.

Labor Code 245-249 (the Healthy Workplaces, Healthy Families Act) require districts to grant a minimum of one hour of paid sick leave for every 30 hours worked to their employees who work for 30 days within a year of employment, including classified employees. Pursuant to Labor Code 246, a district may use a different sick leave accrual method which provides for the accrual to be on a regular basis so that employees accrue at least 24 hours of sick leave or paid time off by the 120th calendar day of employment or each calendar year or 12-month period.

The provisions of Labor Code 245-249 are very broad and only district employees covered by a valid collective bargaining agreement may be exempted from them, if the collective bargaining agreement expressly provides paid sick leave in an amount equal to or exceeding the amount of leave required pursuant to Labor Code 246, includes final and binding arbitration of disputes regarding the application of the paid sick days provisions, and provides premium wage rates for all overtime hours worked and a regular hourly rate of pay of not less than 30 percent more than the state minimum wage rate. Since many districts may not satisfy all of the conditions for this exemption, this administrative regulation reflects the requirements of Labor Code 245-249. Any district which has a collective bargaining agreement that meets all of the conditions for exemption may modify this administrative regulation accordingly.

For additional requirements of Labor Code 245-249, see sections titled "Short-Term and Substitute Employees" and "Healthy Workplaces, Healthy Families Act Requirements" below. For sick leave for certificated employees, see AR 4161.1/4361.1 - Personal Illness/Injury Leave.

Classified employees employed five days a week are entitled to 12 days' leave of absence with full pay for personal illness or injury (sick leave) per fiscal year. Employees who work less than a full fiscal year or fewer than five days a week (part-time employees) shall be granted sick leave in proportion to the time they work. However, part-time employees who are entitled to less than 24 hours of paid sick leave per fiscal year due to the amount of time worked shall be granted sick leave pursuant to Labor Code 246, if they are eligible. (Education Code 45191; Labor Code 245-249)

**Use of Sick Leave**

CSBA NOTE: Items #1-8 below reflect allowable uses of sick leave specified in law. The district may expand this list to include any additional purposes authorized by law, authorized by the district, or included in a bargaining agreement.

A classified employee may use sick leave for absences due to:

1. Accident or illness, whether or not the absence arises out of or in the course of employment, or by quarantine which results from contact in the course of employment with other persons having a contagious disease (Education Code 45199)

CSBA NOTE: Although Education Code 45193 does not expressly provide classified employees leave for miscarriage, in order to treat employees consistently, the Board may grant leave to classified employees for miscarriage as provided for certificated employees pursuant to Education Code 44965 and 44978.

2. Pregnancy, miscarriage, childbirth, and related recovery (Education Code 45193)
3. Personal necessity (Education Code 45207)

CSBA NOTE: Optional Item #4 below may be revised to specify a different minimum increment.

4. Medical and dental appointments, in increments of not less than one hour
5. Industrial accident or illness when leave granted specifically for that purpose has been exhausted (Education Code 45192)

CSBA NOTE: Pursuant to the Family and Medical Leave Act (FMLA) (29 USC 2612) and California Family Rights Act (CFRA) (Government Code 12945.2), a district is required to grant leave to an eligible employee to bond with a child after the birth, adoption, or foster care placement of the child. For this purpose, employees may, but are not required to, use sick leave for any otherwise unpaid FMLA or CFRA leave.

For further information regarding parental leave, see AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave.

6. Need of an employee to bond with a child within one year of the child's birth, adoption, or foster care placement (parental leave) (Education Code 45196.1; Government Code 12945.2; 29 USC 2612; 29 CFR 825.112)

CSBA NOTE: Pursuant to Labor Code 233, any district that provides sick leave to its employees is required to permit an employee to use sick leave, in an amount not less than the sick leave that would be accrued during six months at the employee's then current rate of entitlement, for the purposes specified in Items #7-8 below. Pursuant to Labor Code 233, designation of sick leave taken under this provision is at the sole discretion of the employee. Labor Code 233 does not extend the maximum period of leave to which an employee is entitled under CFRA or FMLA, regardless of whether the employee receives sick leave compensation during that leave.

For the purpose of using sick leave to attend to the health care needs of a family member, as specified in Item #7 below, Labor Code 245.5, as amended by AB 1041 (Ch. 748, Statutes of 2022), includes a designated person in the definition of a "family member," in addition to an employee's spouse, registered domestic partner, child (biological, adopted, or foster child; stepchild; legal ward; or a child to whom the employee stands in loco parentis), parent (biological, adoptive, or foster parent; stepparent; legal guardian of an employee or the employee's spouse or registered domestic partner; or a person who stood in loco parentis when the employee was a minor child), grandparent, grandchild, or sibling. Government Code 12945.2, as amended by AB 1041, defines a "designated person" as any individual related by blood or whose association with the employee is the equivalent of a family relationship. The designated person may be identified by the employee at the time the employee requests the leave, and the district may limit the employee to one designated person per 12-month period for family care and medical leave. For further information regarding medical leave, see AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave.

For additional information about leaves for victims of domestic violence, sexual assault, or stalking granted in accordance with Item #8 below, see AR 4161.2/4261.2/4361.2 - Personal Leaves.

7. Need of the employee or the employee's family member, including a designated person, as defined in Labor Code 245.5, for the diagnosis, care, or treatment of an existing health condition or for preventive care (Government Code 12945.2; Labor Code 233, 246.5)
8. Need of the employee to seek or obtain 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 (Labor Code 233, 246.5)

For the purposes specified in Items #7-8, an employee may use, in any calendar year, the amount of sick leave that would be accrued during six months at the employee's then current rate of entitlement. (Labor Code 233)

An employee may take leave for personal illness or injury at any time during the year, even if credit for such leave has not yet been accrued. However, a new full-time classified employee shall not be entitled to more than six days of sick leave, or the proportionate amount to which the employee may be entitled, until the first day of the month after the employee has completed six months of active service with the district. (Education Code 45191)

Unused days of sick leave shall be accumulated from year to year without limitation. (Education Code 45191)

**CSBA NOTE:** The following paragraph is optional.

An employee shall reimburse the district for any unearned sick leave used as of the date of termination.

The district shall not require newly employed classified employees to waive leave accumulated in a previous district. However, if the employee's previous employment was terminated for cause, the transfer of the accumulated leave shall be made only if approved by the Governing Board. (Education Code 45202)

**CSBA NOTE:** Pursuant to Education Code 45202, classified employees who are terminated after at least one year of employment for any reason unrelated to discipline are entitled to have their accumulated sick leave transferred with them in certain circumstances. The following paragraph, which provides for the notification of employees as a way to implement this provision, is optional and may be revised to reflect district practice.

The Superintendent or designee shall notify any classified employee whose employment with the district is terminated after at least one calendar year for reasons other than for cause that, if the employee accepts employment in another district, county office of education, or community college district within one year of the termination of employment, the employee may request that the district transfer any accumulated sick leave to the new employer. (Education Code 45202)

#### **Additional Leave for Disabled Military Veterans**

In addition to any other entitlement for sick leave with pay, a classified employee who is a former active duty member of the U.S. Armed Forces or a former or current member of the California National Guard or a federal reserve component shall be entitled to sick leave with pay of up to 12 days for the purpose of undergoing medical treatment, including mental health treatment, for a military service-connected disability rated at 30 percent or higher by the U.S. Department of Veterans Affairs. An eligible employee who works less than five days per week shall be entitled to such leave in proportion to the time worked. (Education Code 45191.5)

The amount of leave shall be credited to the employee either on the date the employee receives confirmation of the submission of the disability application to the U.S. Department of Veterans Affairs or on the first day the employee begins or returns to employment after active duty, whichever is later. When the employee receives the disability rating decision, the employee shall report that information to the Superintendent or

designee. If the disability rating decision makes the employee eligible for the leave, the time used before the decision shall be counted toward the 12-day maximum leave. If the disability rating decision makes the employee ineligible for the leave, the district may change the sick leave time used before the disability rating decision to an alternative leave balance. (Education Code 45191.5)

CSBA NOTE: Pursuant to Education Code 45191.5, the district may require proof that a leave granted under this law is used for treatment of a military service-connected disability. The following paragraph may be revised to reflect district practice.

The Superintendent or designee may require verification, in accordance with the section "Verification Requirements" below, that the employee used the leave to obtain treatment of a military service-connected disability.

Leave for military-service connected disability shall be available for 12 months following the first date that the leave was credited. Leave not used during the 12-month period shall not be carried over and shall be forfeited. (Education Code 45191.5)

### **Notification of Absence**

CSBA NOTE: The following optional section may be revised to reflect district practice.

An employee shall notify the Superintendent or the designated manager or supervisor of the need to be absent as soon as such need is known so that the services of a substitute may be secured as necessary. This notification shall include an estimate of the expected duration of absence. If the absence becomes longer than estimated, the employee shall so notify the district. If the duration of absence becomes shorter than estimated, the employee shall notify the district not later than three o'clock in the afternoon of the day preceding the day on which the employee intends to return to work. If the employee fails to notify the district and the failure results in a substitute being secured, the cost of the substitute shall be deducted from the employee's pay.

### **Continued Absence After Available Sick Leave Is Exhausted/Differential Pay**

CSBA NOTE: Pursuant to Education Code 45196, districts may choose one of two methods for compensating classified employees who have exhausted their paid leaves and continue to be absent due to illness or injury.

Option 1 below is for use by districts that subtract the actual cost of a substitute from the absent employee's salary for up to five months. Pursuant to Education Code 45196, the amount paid to a substitute must be less than the absent employee's salary unless the Board has adopted a salary schedule for substitutes. In *California School Employees Association v. Tustin Unified School District*, the court ruled that a district could deduct from the absent employee's salary only the cost of an outside substitute employee, not the cost of existing classified employee(s) working additional hours to fill the position during the absence.

Option 2 is mandated pursuant to Education Code 45196 for districts that annually credit regular classified employees with at least 100 working days of paid sick leave and, after they have exhausted all fully paid leaves, compensate them at 50 percent or more of their regular salary for the remainder of the 100 working days. Option 2 may be revised to specify more than 100 working days and/or the level of compensation the district will pay an employee, if it chooses to pay more than 50 percent of the employee's salary.

Districts that maintain a catastrophic leave program for their classified employees should specify how the program will affect the differential leave pay to which the employee may be entitled.

#### **OPTION 1:**

When a classified employee has exhausted all paid leaves, including sick leave, and continues to be absent on account of illness or injury for a period of five months or less, the district shall deduct from the

employee's regular salary for that period an amount that does not exceed the actual cost of a substitute to fill the position. (Education Code 45196)

The five-month period shall commence on the first day of the leave of absence and shall run concurrently with any other paid leave.

OPTION 1 ENDS HERE

OPTION 2:

Each year, each regular classified employee shall be credited with no fewer than 100 working days of paid leave for personal illness or injury, including current year and accumulated days of leave. When the current year and accumulated days at full pay are exhausted, the remainder of the 100 days shall be compensated at least 50 percent of the employee's regular salary. Any of the 100 days of leave not used during the year in which they are credited shall be forfeited and shall not accumulate from year to year. This paid leave shall be exclusive of any other paid leave, holidays, vacation, or compensatory time to which the employee may be entitled. (Education Code 45196)

OPTION 2 ENDS HERE

### **Parental Leave**

CSBA NOTE: The following section is subject to any conflicting provision in a collective bargaining agreement that provides greater parental leave rights.

During each school year, a classified employee may use all available sick leave, including accumulated sick leave, for the purpose of parental leave for a period of up to 12 work weeks. The 12-week period shall be reduced by any period of sick leave, including accumulated sick leave, taken during a period of such parental leave. (Education Code 45196.1)

CSBA NOTE: Unlike leave taken pursuant to Government Code 12945.2, leave taken pursuant to Education Code 45196.1 does not require an employee to have at least 1,250 hours of service with the district during the previous 12-month period in order to be eligible for parental leave. See AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave for further information on requirements related to the California Family Rights Act.

Eligibility for such leave shall not require 1,250 hours of service with the district during the previous 12 months. (Education Code 45196.1)

CSBA NOTE: Pursuant to Education Code 45196.1, the district is required to provide differential pay to a classified employee for up to 12 work weeks when the employee has exhausted all available sick leave, including accumulated sick leave, and continues to be absent due to parental leave pursuant to Government Code 12945.2. Such an employee is entitled to receive differential pay, calculated in the same manner described in Option 1 or 2 in the section "Continued Absence After Available Sick Leave Is Exhausted/Differential Pay" above. Education Code 45196.1 requires that, regardless of the type of differential pay system used by the district, employees must receive at least 50 percent of their regular salary for any portion of the 12-week parental leave that remains following the exhaustion of sick leave. The following paragraph may be revised to specify a percentage higher than 50 percent in accordance with district practice.

Since Education Code 45196.1 does not expressly require districts to provide differential pay to employees who are eligible for parental leave pursuant to Government Code 12945.6, it is unclear whether such employees would be entitled to differential pay. Districts should consult CSBA's District and County Office of Education Legal Services or district legal counsel if they have questions regarding differential pay for such employees.

An employee who has exhausted all available sick leave, including accumulated sick leave, and continues to be absent on account of parental leave shall receive differential pay of at least 50 percent of the employee's regular salary for the remainder of the 12 work weeks. (Education Code 45196.1)

Parental leave taken pursuant to Education Code 45196.1 shall run concurrently with the parental leave taken pursuant to Government Code 12945.2 or 12945.6, and the aggregate amount of parental leave shall not exceed 12 work weeks in a 12-month period. (Education Code 45196.1; Government Code 12945.2, 12945.6)

### **Extension of Leave**

**CSBA NOTE:** Pursuant to Education Code 45195, the following extension of leave may be either paid or unpaid, and the Board may grant full pay for the full 18 months' allowable absence, if desired.

A permanent employee who is absent because of a personal illness or injury and who has exhausted all available sick leave, vacation, compensatory overtime, and any other paid leave shall be so notified, in writing, and offered an opportunity to request additional leave. The Board may grant the employee additional leave, paid or unpaid, for a period not to exceed six months and may renew this leave for two additional six-month periods or for lesser periods. The total additional leave granted shall not exceed 18 months. (Education Code 45195)

If the employee is still unable to return to work after all available paid and unpaid leaves have been exhausted, the employee shall be placed on a reemployment list for a period of 39 months. If during this time the employee becomes medically able, the employee shall be offered reemployment in the first vacancy in the classification of the employee's previous assignment. During the 39 months, the employee's reemployment shall take preference over all other applicants except those laid off for lack of work or lack of funds, in which case the employee shall be ranked according to seniority. (Education Code 45195)

### **Verification Requirements**

**CSBA NOTE:** Education Code 45191 mandates the Board to adopt regulations that require proof of illness or injury and prescribe the means of verification. However, Education Code 45191 provides that these regulations shall not discriminate against evidence of treatment and the need for treatment by the practice of a well-recognized religion. The following section should be modified to reflect district practice and any procedures that have been specified in bargaining agreements.

Labor Code 233 requires districts to allow their employees to use sick leave for the purposes specified in Labor Code 246.5. Because Labor Code 246.5 is silent on requests for verification, and requires an employer to provide an employee with paid sick days upon oral or written request, districts should be cautious in requiring verification for sick leave used for the purposes specified in Labor Code 246.5 (Items #7-8 in the section "Use of Sick Leave" above). Although a district is permitted to require verification from an employee who is a victim of domestic violence, sexual assault, or stalking, pursuant to Labor Code 230 and 230.1, a general insistence on verification could be deemed a violation of Labor Code 246.5. Any district with questions regarding its authority related to verification should consult CSBA's District and County Office of Education Legal Services or district legal counsel.

After any absence due to illness or injury, the employee shall submit a completed and signed district absence form to the employee's immediate supervisor.

The Superintendent or designee may require verification whenever an employee's absence record shows chronic absenteeism or a pattern of absences immediately before or after weekends and/or holidays or whenever available evidence clearly indicates that an absence is not related to illness or injury.

In addition, the Superintendent 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 additional 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 or designee may, after giving notice to the employee, deny the request for additional leave.

CSBA NOTE: 42 USC 2000ff-1, the Genetic Information Nondiscrimination Act, and its implementing regulations, 29 CFR 1635.1-1635.12, specify that it is unlawful for a district to request, require, or purchase an employee's or family member's individual genetic information except in complying with the medical certification requirements for family care and medical leave purposes or with the employee's prior written authorization. See AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave. Pursuant to 29 CFR 1635.9, any such information received by the district must be kept confidential as specified below.

Any district request for additional verification by an employee's physician or a district-selected physician shall be in writing and shall specify that the report to be submitted to the district should not contain the employee's genetic information. Any genetic information received by the district on behalf of an employee shall be treated as a confidential medical record, maintained in a file separate from the employee's personnel file, and shall not be disclosed except in accordance with 29 CFR 1635.9.

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 a physician stating that the employee is able to return to work and stipulating any necessary restrictions or limitations.

### **Short-Term and Substitute Employees**

CSBA NOTE: Pursuant to Labor Code 245-249, the district is required to grant a minimum of one hour of paid sick leave for every 30 hours worked by an employee who works for 30 days within a year of employment. In implementing this requirement, Labor Code 246 permits the district to use any of the options specified below. Option 1 provides for paid leave accrual based on one hour for every 30 hours worked. Option 2 allows an accrual method that provides for a regular accrual basis and ensures that the employee receives 24 hours of paid sick leave by the 120th calendar day of employment or each calendar year or 12-month period. Option 3 is for any district that credits employees with 24 hours or three days of paid sick leave at the beginning of each year and does not allow unused sick leave to carry over to the next year. In addition, pursuant to Labor Code 245.5, retired annuitants who have not reinstated to the applicable public retirement system are excluded from participation in these leave benefit provisions. The district should select the option below which corresponds to its approach under Labor Code 246.

See section below titled "Healthy Workplaces, Healthy Families Act Requirements" for additional requirements.

#### **OPTION 1:**

Except for a retired annuitant who is not reinstated to the retirement system, short-term or substitute employees who work for 30 or more days within a year of their employment shall be entitled to one hour of paid sick leave for every 30 hours worked. Accrued paid sick days shall carry over to the following year of employment, up to a maximum of 48 hours. (Labor Code 246)

#### **OPTION 1 ENDS HERE**

#### **OPTION 2:**

Except for a retired annuitant who is not reinstated to the retirement system, short-term or substitute employees who work for 30 or more days within a year of their employment shall accrue, on a regular basis, paid sick leave of up to 24 hours by the 120th calendar day of their employment or each calendar year or 12-month period. Accrued paid sick days shall carry over to the following year of employment, up to a maximum of 48 hours. (Labor Code 246)

#### **OPTION 2 ENDS HERE**

### OPTION 3:

Except for a retired annuitant who is not reinstated to the retirement system, short-term or substitute employees who work for 30 or more days within a year of their employment shall be credited with 24 hours or three days of paid sick leave for that year. Unused sick leave shall not carry over to the following year of employment. (Labor Code 246)

### OPTION 3 ENDS HERE

**CSBA NOTE:** The following paragraph applies to all the above options.

Short-term or substitute employees may begin to use accrued paid sick days on the 90th day of their employment, after which they may use the sick days as they are accrued. (Labor Code 246)

**CSBA NOTE:** The following paragraph applies to all of the above options and reflects the intent of the Healthy Workplaces, Healthy Families Act to enable California workers to address their own and their family's health needs and to provide them with economic security when they need to take time off work for reasons of domestic violence, sexual assault, or stalking. The following paragraph may be revised to include additional reasons for which short-term or substitute employees may use sick leave, pursuant to district policy or practice. Pursuant to Labor Code 247.5, a district is not required to inquire into the purposes for which an employee uses paid leave.

A short-term 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

### Healthy Workplaces, Healthy Families Act Requirements

**CSBA NOTE:** Pursuant to Labor Code 245-249, all employers, including those that provide paid time off to their employees under existing policy or other law, must comply with the requirements specified in the following section. Pursuant to Labor Code 248.5, noncompliance with the Healthy Workplaces, Healthy Families Act could result in an enforcement action against the employer, including the imposition of civil and monetary penalties. Any district with questions regarding the applicability of this law should consult CSBA's District and County Office of Education Legal Services or district legal counsel.

No employee, including a short-term or substitute 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.

To ensure the district's compliance with Labor Code 245-249, the Superintendent or designee shall:

1. At a conspicuous location in each workplace, display a poster on paid sick leave that includes the following information:
  - a. That an employee is entitled to accrue, request, and use paid sick days
  - b. The number of sick days provided by Labor Code 245-249
  - c. The terms of use of paid sick days



- d. That discrimination or retaliation against an employee for requesting and/or using sick leave is prohibited by law and that an employee has the right to file a complaint with the Labor Commissioner if the district discriminates or retaliates against the employee
2. Provide at least 24 hours or three days of paid sick leave to each eligible employee to use per year and allow eligible employees to use accrued sick leave upon reasonable request
3. Provide eligible employees written notice, on their pay stub or other document issued with their pay check, of the amount of paid sick leave they have available
4. Keep a record documenting the hours worked and paid sick days accrued and used by each eligible employee for three years

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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.

<b>State</b>	<b>Description</b>
Ed. Code 45103	<u>Classified service in districts not incorporating the merit system</u>
Ed. Code 45190	<u>Leaves of absence and vacations; classified</u>
Ed. Code 45191	<u>Personal illness and injury leave; classified employees</u>
Ed. Code 45191.5	<u>Leave for military service-connected disability</u>
Ed. Code 45193	<u>Leave of absence for pregnancy; use of sick leave under certain circumstance</u>
Ed. Code 45195	<u>Additional leave</u>
Ed. Code 45196	<u>Salary deductions during sick leave; classified employees</u>
Ed. Code 45196.1	<u>Differential pay during parental leave up to 12 weeks after sick leave is exhausted</u>
Ed. Code 45202	<u>Transfer of accumulated sick leave and other benefits</u>
Gov. Code 12945.1-12945.2	<u>California Family Rights Act</u>
Gov. Code 12945.6	<u>Parental leave</u>
Lab. Code 230	<u>Accommodations and leave for victims of domestic violence</u>
Lab. Code 230.1	<u>Employers with 25 or more employees; domestic violence, sexual assault, and stalking victims; right to time off</u>
Lab. Code 233	<u>Leave to attend to family illness</u>
Lab. Code 245-249	<u>Healthy Workplaces, Healthy Families Act of 2014</u>
<b>Federal</b>	<b>Description</b>
29 CFR 1635.1-1635.12	Genetic Information Nondiscrimination Act of 2008
29 CFR 825.100-825.702	Family and Medical Leave Act of 1993
29 USC 2601-2654	Family Care and Medical Leave Act
42 USC 2000ff-2000ff-11	Genetic Information Nondiscrimination Act of 2008
<b>Management Resources</b>	<b>Description</b>

Court Decision	California School Employees Association v. Colton Joint Unified School District (2009) 170 Cal.App.4th 957
Court Decision	California School Employees Association v. Tustin Unified School District (2007) 148 Cal.App.4th 510
Website	<u>CSBA District and County Office of Education Legal Services</u>

## **Cross References**

<b>Code</b>	<b>Description</b>
4032	<u>Reasonable Accommodation</u>
4112.42	<u>Drug And Alcohol Testing For School Bus Drivers</u>
4112.42	<u>Drug And Alcohol Testing For School Bus Drivers</u>
4112.9	<u>Employee Notifications</u>
4112.9-E(1)	<u>Employee Notifications</u>
4113.4	<u>Temporary Modified/Light-Duty Assignment</u>
4113.5	<u>Working Remotely</u>
4119.41	<u>Employees With Infectious Disease</u>
4141.6	<u>Concerted Action/Work Stoppage</u>
4141.6	<u>Concerted Action/Work Stoppage</u>
4154	<u>Health And Welfare Benefits</u>
4154	<u>Health And Welfare Benefits</u>
4159	<u>Employee Assistance Programs</u>
4161	<u>Leaves</u>
4161	<u>Leaves</u>
4161.11	<u>Industrial Accident/Illness Leave</u>
4161.2	<u>Personal Leaves</u>
4161.5	<u>Military Leave</u>
4161.8	<u>Family Care And Medical Leave</u>
4161.9	<u>Catastrophic Leave Program</u>
4161.9	<u>Catastrophic Leave Program</u>
4212.42	<u>Drug And Alcohol Testing For School Bus Drivers</u>
4212.42	<u>Drug And Alcohol Testing For School Bus Drivers</u>
4212.9	<u>Employee Notifications</u>
4212.9-E(1)	<u>Employee Notifications</u>
4213.4	<u>Temporary Modified/Light-Duty Assignment</u>
4213.5	<u>Working Remotely</u>

4216	<u>Probationary/Permanent Status</u>
4217.3	<u>Layoff/Rehire</u>
4219.41	<u>Employees With Infectious Disease</u>
4241.6	<u>Concerted Action/Work Stoppage</u>
4241.6	<u>Concerted Action/Work Stoppage</u>
4254	<u>Health And Welfare Benefits</u>
4254	<u>Health And Welfare Benefits</u>
4259	<u>Employee Assistance Programs</u>
4261	<u>Leaves</u>
4261	<u>Leaves</u>
4261.11	<u>Industrial Accident/Illness Leave</u>
4261.2	<u>Personal Leaves</u>
4261.5	<u>Military Leave</u>
4261.8	<u>Family Care And Medical Leave</u>
4261.9	<u>Catastrophic Leave Program</u>
4261.9	<u>Catastrophic Leave Program</u>
4312.42	<u>Drug And Alcohol Testing For School Bus Drivers</u>
4312.42	<u>Drug And Alcohol Testing For School Bus Drivers</u>
4312.9	<u>Employee Notifications</u>
4312.9-E(1)	<u>Employee Notifications</u>
4313.4	<u>Temporary Modified/Light-Duty Assignment</u>
4313.5	<u>Working Remotely</u>
4319.41	<u>Employees With Infectious Disease</u>
4354	<u>Health And Welfare Benefits</u>
4354	<u>Health And Welfare Benefits</u>
4359	<u>Employee Assistance Programs</u>
4361	<u>Leaves</u>
4361	<u>Leaves</u>
4361.11	<u>Industrial Accident/Illness Leave</u>
4361.2	<u>Personal Leaves</u>
4361.5	<u>Military Leave</u>
4361.8	<u>Family Care And Medical Leave</u>
4361.9	<u>Catastrophic Leave Program</u>
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