

**All Personnel**

SP 4112.61

4212.61

**EMPLOYMENT REFERENCES changes current practice**

4312.61

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

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

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

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

*Legal Reference:*

LABOR CODE

*1050-1054 Reemployment privileges*

CIVIL CODE

*47 Privileged communication*

CODE OF CIVIL PROCEDURE

*527.3 Labor disputes*

CODE OF REGULATIONS, TITLE 5

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

COURT DECISIONS

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

**All Personnel**

AR 4112.61

4212.61

**EMPLOYMENT REFERENCES**

4312.61

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

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

**All Personnel**

AR 4112.62(a)

4212.62

**MAINTENANCE OF CRIMINAL OFFENDER RECORDS**

4312.62

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

*(cf. 1240 - Volunteer Assistance)*

*(cf. 3515.6 - Criminal Background Checks for Contractors)*

*(cf. 4112.5/4312.5 - Criminal Record Check)*

*(cf. 4112.6/4212.6/4312.6 - Personnel Records)*

*(cf. 4212.5 - Criminal Record Check)*

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

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

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

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

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

**Custodian of Records**

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

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

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

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

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

**Interagency Agreements**

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

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

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

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

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

*Legal Reference: (see next page)*

AR 4112.62(c)  
4212.62  
4312.62

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

*Legal Reference:*

EDUCATION CODE

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

PENAL CODE

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

CODE OF REGULATIONS, TITLE 11

701-708 *Criminal offender record information*

All Personnel

E 4112.62(a)

4212.62

MAINTENANCE OF CRIMINAL OFFENDER RECORDS

4312.62

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

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

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

Civil Code 1798.53, Invasion of Privacy, states:

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

CIVIL, CRIMINAL, AND ADMINISTRATIVE PENALTIES:

- Penal Code 11141: DOJ furnishing to unauthorized person (misdemeanor)
- Penal Code 11142: Authorized person furnishing to other (misdemeanor)
- Penal Code 11143: Unauthorized person in possession (misdemeanor)
- California Constitution, Article I, Section 1 (Right to Privacy)
- Civil Code 1798.53, Invasion of Privacy
- Title 18 USC 641, 1030, 1951, and 1952

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

E 4112.62(b)  
4212.62  
4313.62

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

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

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

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

\_\_\_\_\_

A copy of this form shall be filed in the employees personnel file.

**All Personnel**

SP 4112.8(a)

4212.8

**EMPLOYMENT OF RELATIVES**

4312.8

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

*(cf. 4030 - Nondiscrimination in Employment)*

*(cf. 9270 - Conflict of Interest)*

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

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

*(cf. 4115 - Evaluation/Supervision)*

*(cf. 4215 - Evaluation/Supervision)*

*(cf. 4315 - Evaluation/Supervision)*

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

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

*(cf. 4031 - Complaints Concerning Discrimination in Employment)*

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

*Legal Reference: (see next page)*



SP 4112.8(b)  
4212.8  
4312.8

**EMPLOYMENT OF RELATIVES (continued)**

*Legal Reference:*

EDUCATION CODE

35107 School district employees

FAMILY CODE

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

GOVERNMENT CODE

1090-1098 Prohibitions applicable to specified officers

12940 Unlawful employment practices

CODE OF REGULATIONS, TITLE 2

7292.0-7292.6 Marital status discrimination, especially:

7292.5 Employee selection

**All Personnel**

AR 4112.9(a)

4212.9

**EMPLOYEE NOTIFICATIONS**

4312.9

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

**Acknowledgments Required by Law**

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

*(cf. 5141.4 - Child Abuse Prevention and Reporting)*

2. Oath or affirmation of allegiance required of public employees

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

3. Hepatitis B vaccine declination

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

4. The SCCOE's school bus driver drug and alcohol testing policy, regulations and related information

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

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

*(cf. 4313.2 - Demotion/Reassignment)*

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

*(cf. 4212 - Appointment and Conditions of Employment)*

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

**Acknowledgments Not Required by Law**

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

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

2. The SCCOE's nonsmoking policy

*(cf. 3513.3 - Tobacco-Free Schools)*

**EMPLOYEE NOTIFICATIONS** (continued)

3. Prohibition of sexual harassment

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

4. The certificated employee's employment status and salary

*(cf. 4112.1 - Contracts)*

5. State disability insurance rights and benefits

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

6. Certificated employee evaluations

*(cf. 4115 - Evaluation/Supervision)*

*(cf. 4315 - Evaluation/Supervision)*

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

*(cf. 4112.2 - Certification)*

8. Notice of layoff

*(cf. 4117.3 - Personnel Reduction)*

*(cf. 4217.3 - Layoff/Rehire)*

9. Derogatory information to be placed in personnel file

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

10. Exhaustion of classified employee's paid leave

*(cf. 4261.1 - Personal Illness/Injury Leave)*

*(cf. 4261.11 - Industrial Accident/Illness Leave)*

11. Notice of charges related to disciplinary action

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

12. Notice of intention to dismiss

*(cf. 4118 - Suspension/Disciplinary Action)*

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

**EMPLOYEE NOTIFICATIONS** (continued)

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

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

*Legal Reference:*

EDUCATION CODE

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

GOVERNMENT CODE

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

PENAL CODE

11166.5 *Employment; statement of knowledge of duty to report*

UNEMPLOYMENT INSURANCE CODE

2613 *Notice of rights and benefits*

CODE OF REGULATIONS, TITLE 5

80026.1 *Information to applicants*

CODE OF REGULATIONS, TITLE 8

5193 *California bloodborne pathogens standard*

CODE OF FEDERAL REGULATIONS, TITLE 49

382.601 *Controlled substance and alcohol use and testing notifications*

**ASSIGNMENT**

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

*(cf. 4112.2 - Certification)*

*(cf. 4112.21 - Interns)*

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

*(cf. 4112.23 - Special Education Staff)*

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

Teachers may be assigned to any school within the SCCOE in accordance with the collective bargaining agreement or Santa Clara County Office of Education policy.

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

**Assignment to Courses/Classes**

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

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

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

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

The County Superintendent or designee may assign a teacher, with his/her consent, to a position outside his/her credential authorization when specifically authorized by law or regulation, and in accordance with the local teaching assignment options described in the Commission on Teacher Credentialing Administrator's Assignment Manual. In such cases, the County Superintendent or designee shall reference in SCCOE records the statute or regulation under which the assignment is authorized.

**ASSIGNMENT** (continued)

*(cf. 3580 - SCCOE Records)*

**Equitable Distribution of Qualified Teachers**

In order to ensure that highly qualified and experienced teachers are equitably distributed among SCCOE schools/programs, including those with higher than average levels of low-income, minority, and/or academically underperforming students, the County Superintendent or designee shall:

1. Verify that all teachers of core academic subjects possess the qualifications of highly qualified teachers as required by NCLB or develop immediate and long-term solutions for ensuring that all core academic classes will be taught by highly qualified teachers
2. Not assign teachers with provisional internship permits, short-term staffing permits, or credential waivers to schools that have 40 percent or higher poverty or are ranked in deciles 1-3 on the statewide Academic Performance Index
3. Not place interns in high-poverty, low-performing schools in greater numbers than in schools with low poverty or higher academic achievement
4. Compare teacher retention rates across SCCOE schools and develop strategies to recruit and retain experienced and effective teachers in hard-to-staff schools

*(cf. 4111 - Recruitment and Selection)*

*(cf. 4114 - Transfers)*

*(cf. 4131 - Staff Development)*

*(cf. 4131.1 - Beginning Teacher Support/Induction)*

*(cf. 4138 - Mentor Teachers)*

*Legal Reference: (see next page)*

**ASSIGNMENT** (continued)

*Legal Reference:*

EDUCATION CODE

33126 *School accountability report card*

35035 *Additional powers and duties of County Superintendent*

35186 *Complaint process*

37616 *Assignment of teachers to year-round schools*

44225.6 *Commission report to the legislature re: teachers*

44250-44277 *Credentials and assignments of teachers*

44314 *Subject matter programs, approved subjects*

44395-44398 *Incentives for assigning NBPTS-certified teachers to high-priority schools*

44824 *Assignment of teachers to weekend classes*

44955 *Reduction in number of employees*

GOVERNMENT CODE

3543.2 *Scope of representation*

CODE OF REGULATIONS, TITLE 5

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

80003-80005 *Credential authorizations*

80020-80020.5 *Additional assignment authorizations*

80335 *Performance of unauthorized professional services*

80339-80339.6 *Unauthorized certificated employee assignment*

UNITED STATES CODE, TITLE 20

6311 *State plan*

6319 *Highly qualified teachers*

6601-6651 *Teacher and Principal Training and Recruiting Fund*

7801 *Definitions, highly qualified teacher*

CODE OF FEDERAL REGULATIONS, TITLE 34

200.55-200.57 *Highly qualified teachers*

**All Personnel**

SP 4113.4(a)

4213.4

**TEMPORARY MODIFIED/LIGHT-DUTY ASSIGNMENT**

4313.4

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

*(cf. 3530 - Risk Management/Insurance)*

*(cf. 4157.1/4257.1/4357.1 - Work-Related Injuries)*

*(cf. 4161.1/4361.1 - Industrial Accident/Illness Leave)*

*(cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)*

*(cf. 4261.8 - Industrial Accident/Illness Leave)*

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

*(cf. 4032 - Reasonable Accommodation)*

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

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

*Legal Reference: (see next page)*



SP 4113.4(b)  
4213.4  
4313.4

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

*Legal Reference:*

EDUCATION CODE

44984 *Required rules for industrial accident and illness leave*

45192 *Industrial accident and illness leave for classified employees*

GOVERNMENT CODE

12900-12996 *Fair Employment and Housing Act*

12945.1-12945.2 *California Family Rights Act*

UNITED STATES CODE, TITLE 29

2601-2654 *Family Care and Medical Leave Act*

UNITED STATES CODE, TITLE 42

12101-12213 *Americans with Disabilities Act*

COURT DECISIONS

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

**TRANSFERS**

The County Superintendent or designee may transfer a teacher from one SCCOE school to another when he/she determines the transfer is in the best interest of the SCCOE. (Education Code 35035)

*(cf. 4030 - Nondiscrimination in Employment)*  
*(cf. 4113 - Assignment)*

Such transfers shall be determined in accordance with the SCCOE's collective bargaining agreement with certificated employees.

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

**Voluntary Transfers**

The County Superintendent or designee may establish processes and deadlines for the submission of transfer requests to facilitate staff assignments with minimal disruption to the educational program.

Upon receipt of a written transfer request by a teacher, the County Superintendent or designee may consider the input of the principals at the current school and the requested school, alignment of the teacher's qualifications with needs of the school(s), and opportunities for the professional growth of the teacher.

*(cf. 4112.2 - Certification)*  
*(cf. 4112.22 - Staff Teaching Students of Limited English Proficiency)*  
*(cf. 4112.23 - Special Education Staff)*  
*(cf. 4112.24 - Teacher Qualifications Under the No Child Left Behind Act)*

However, if the principal of a school ranked in deciles 1-3 on the Academic Performance Index refuses to accept a transfer request, the County Superintendent or designee shall not transfer the teacher. (Education Code 35036)

*(cf. 0500 - Accountability)*  
*(cf. 0520.1 - High Priority Schools Grant Program)*  
*(cf. 0520.2 - Title I Program Improvement Schools)*  
*(cf. 0520.4 - Quality Education Investment Schools)*

**TRANSFERS** (continued)

**Involuntary Transfers**

Involuntary transfers may become necessary when programs are reduced or cancelled, when schools are closed, or when otherwise required in order to accommodate the school's staffing needs.

*(cf. 4117.3 - Personnel Reduction)*

*Legal Reference:*

EDUCATION CODE

35035 *Additional powers and duties of County Superintendent, transfer authority*

35036 *Voluntary transfers*

35186 *Complaint process, teacher vacancy or misassignment*

37616 *Assignment of teachers to year-round schools*

44395-44398 *Incentives for assigning NBPTS-certified teachers to high-priority schools*

GOVERNMENT CODE

3543.2 *Scope of representation*

**EVALUATION/SUPERVISION**

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

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

*Legal Reference:*

EDUCATION CODE

33039 *State guidelines for teacher evaluation procedures*

35171 *Availability of rules and regulations for evaluation of performance*

44500-44508 *Peer assistance and review program for teachers*

44660-44665 *Evaluation and assessment of performance of certificated employees (the Stull Act)*

GOVERNMENT CODE

3543.2 *Scope of representation*

UNITED STATES CODE, TITLE 20

6319 *Highly qualified teachers*

7801 *Definition of highly qualified teacher*

**EVALUATION/SUPERVISION**

The County 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)

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

Certificated staff shall receive information regarding the County Superintendent's evaluation criteria and procedures upon employment with the Santa Clara County Office of Education and whenever the criteria are revised.

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

**Frequency of Evaluations**

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

*(cf. 4116 - Probationary/Permanent Status)*

In addition, probationary teachers shall be formally observed and given constructive feedback at least twice and more often when necessary, as part of the evaluation process. Within the number of school days specified in the collective bargaining agreement of each formal observation, a conference shall be held between the evaluator and the probationary teacher.

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

1. At least every other year
2. At least every five years if all of the following conditions are met:
  - a. The employee has been employed by the SCCOE at least 10 years.
  - b. The employee meets the qualifications of a highly qualified teacher as defined in 20 USC 7801 of the federal No Child Left Behind Act, if 20 USC 6319 requires that his/her position be filled by a highly qualified teacher.
  - c. The employee's previous evaluation rated him/her as meeting or exceeding standards.
  - d. The evaluator and the employee agree to this schedule. Either the evaluator or the employee may withdraw consent at any time.

## **EVALUATION/SUPERVISION** (continued)

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

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

*(cf. 4117.4 - Dismissal)*

### **Evaluation Criteria**

The County 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 SCCOE standards of expected achievement for their grade level in each area of study and, if applicable, towards the state-adopted content standards as measured by state-adopted criterion-referenced assessments

*(cf. 6011 - Academic Standards)*

*(cf. 6162.5 - Student Assessment)*

2. The instructional techniques and strategies used by the employee
3. The employee's adherence to curricular objectives
4. The establishment and maintenance of a suitable learning environment within the scope of the employee's responsibilities
5. Other criteria established by the Office.

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

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

### **Evaluation Results**

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

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

**EVALUATION/SUPERVISION** (continued)

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

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

Evaluations shall include recommendations, if necessary, as to areas in need of improvement in the employee's performance. If an employee is not performing satisfactorily according to teaching standards approved by the SCCOE pursuant to Education Code 44662, the County Superintendent or designee shall so notify the employee in writing and shall describe the unsatisfactory performance. The County 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)

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

*(cf. 4139 - Peer Assistance and Review)*

The County 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 SCCOE's instructional objectives. (Education Code 44664)

*(cf. 4131 - Staff Development)*

*(cf. 4138 - Mentor Teachers)*

**PROBATIONARY/PERMANENT STATUS**

**Probationary Status**

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

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

*(cf. 4115 - Evaluation/Supervision)*

*(cf. 4131 - Staff Development)*

**Permanent Status**

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

*(cf. 4117.4 - Dismissal)*

*(cf. 4117.6 - Decision Not to Rehire)*

*Legal Reference:*

EDUCATION CODE

44466 Status of university interns

44850.1 No tenure in administrative or supervisory position

44885.5 Status of district interns

44908 Complete year for probationary employees

44911-44913 Service not computed in eligibility for permanent status

44915 Classification of probationary employees

44917-44921 Status of substitute or temporary employees

44929.20 Continuing contracts (not to exceed four years - ADA under 250)

44929.21 Districts of 250 ADA or more

44929.23 Districts with less than 250 ADA

44929.28 Employment by another district

44930-44988 Resignations, dismissals and leaves of absence, especially:

44948.2 Election to use provisions of Section 44948.3

44948.3 Dismissal of probationary employees



**PROBATIONARY/PERMANENT STATUS**

**Permanent Status**

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

*(cf. 4115 - Evaluation/Supervision)*

*(cf. 4117.4 - Dismissal)*

*(cf. 4117.6 - Decision Not to Rehire)*

*(cf. 4121 - Temporary/Substitute Personnel)*

**Permanency Achieved in Other Districts**

A person who has achieved permanent status as a certificated employee in a school district may be employed by the SCCOE as a permanent certificated employee. (Education Code 44929.28)

**Interns**

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

*(cf. 4112.21 - Interns)*

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

**PRERETIREMENT PART-TIME EMPLOYMENT**

On a case-by-case basis, the Santa Clara County Superintendent of Schools or designee may allow a certificated employee to reduce his/her workload from full time to part time when doing so does not disrupt the educational program and is in the best interests of the SCCOE including not exceeding by more than \$2,000 the “cost neutral” requirements of the statute Education Sec. 44922 and other criteria established in the collective bargaining agreement.

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

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

1. The option to reduce the employee's workload shall be exercised at the request of the employee and can be revoked only with the mutual consent of the County Superintendent or designee and the employee. The agreement to reduce the workload shall be in effect at the beginning of the school year.
2. Prior to the reduction in workload, the employee shall have performed creditable service on a full-time basis for a minimum of 10 years, of which the immediately preceding five years were full-time employment.
3. The employee shall not have had a break in service during the five years immediately preceding the reduction in workload. Sabbaticals, other approved leaves of absence, and unpaid absences for personal reasons from full-time employment shall not constitute a break in service. However, the period of time during which a member is retired shall constitute a break in service and an employee who reinstates from retirement shall be required to be employed in creditable service on a full-time basis for at least five school years preceding the workload reduction.

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

4. The employee shall have reached the age of 55 years prior to the workload reduction.
5. The employee shall not hold a position with a salary above that of a school principal.
6. The period of the reduced workload shall not exceed 10 years.
7. The reduced workload shall be equal to at least one-half of the full-time equivalent required by the employee's contract of employment in accordance with Education Code 22138.5 during his/her final year of full-time employment.
8. The employee shall be paid compensation that is the pro rata share of the compensation the employee would have earned had he/she not opted to reduce his/her workload.

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

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

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

*Legal Reference:*

EDUCATION CODE

22119.5 *Creditable service, definition*

22138.5 *Full-time, definition*

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

44922 *Regulations; reduction to part-time employment*

GOVERNMENT CODE

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

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

**EARLY RETIREMENT OPTION**

When it is beneficial to the Santa Clara County Office of Education, the County Superintendent may offer certificated employees the option to retire early in accordance with law.

**Two Years of Service Credit Retirement Incentive**

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

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

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

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

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

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

*Legal Reference: (see next page)*

**EARLY RETIREMENT OPTION** (continued)

*Legal Reference:*

EDUCATION CODE

22714 *Service credit under STRS; additional two years*

44929 *Service credit under STRS; additional two years*

UNITED STATES CODE, TITLE 20

6319 *Highly qualified teachers*

COURT DECISIONS

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

**POSTRETIREMENT EMPLOYMENT**

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

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

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

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

**Postretirement Compensation Limitation**

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

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

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

**Consultancy Contracts**

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

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

*Legal Reference:*

EDUCATION CODE

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

**All Personnel**

SP 4117.2

4217.2

**RESIGNATION**

4317.2

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

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

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

*(cf. 4117.7 - Employment Status Reports)*

*Legal Reference:*

EDUCATION CODE

35161 Board delegation of any powers or duties

44242.5 Reports of change in employment status, alleged misconduct

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

44433 Unauthorized departure from service as unprofessional conduct

44930 Acceptance and date of resignation

45201 Power to accept resignation

CODE OF REGULATIONS, TITLE 5

80303 Reports of change in employment status

80304 Notice of sexual misconduct

COURT DECISIONS

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



**PERSONNEL REDUCTION**

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

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

**Seniority**

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

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

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

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

**PERSONNEL REDUCTION** (continued)

determining the order of termination and the application of the criteria in ranking the employee relative to the other employees in the group. (Education Code 44955)

*(cf. 4113 - Assignment)*

*(cf. 4115 - Evaluation/Supervision)*

*(cf. 4117.4 - Dismissal)*

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

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

**Notice and Hearing Rights**

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

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

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

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

**PERSONNEL REDUCTION** (continued)**Special Procedure Based Upon Late Adoption of the State Budget**

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

**Reappointment**

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

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

*(cf. 4112.2 - Certification)*

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

*(cf. 4113 - Assignment)*

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

*Legal Reference: (see next page)*

**PERSONNEL REDUCTION** (continued)

*Legal Reference:*

EDUCATION CODE

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

GOVERNMENT CODE

3543.2 *Scope of representation*

COURT DECISIONS

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

**DISMISSAL**

**Permanent Employees**

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

*(cf. 4116 - Probationary/Permanent Status)*

**Probationary Employees**

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

*(cf. 4115 - Evaluation/Supervision)*

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

*Legal References:*

EDUCATION CODE

*44660-44665 Evaluation and assessment of performance*

*44842 Automatic declining of employment*

*44918 Substitute or temporary employee; reemployment rights*

*44929.21 Districts with 250 ADA or more; notice of reelection decision.*

*44929.23 Districts with daily attendance less than 250*

*44932-44947 Suspension and/or dismissal of permanent employees*

*44948 Dismissal or suspension of probationary employees during school year*

*44948.2 Election to use provisions of Education Code 44948.3*

*44948.3 Dismissal of probationary employees (over 250 ADA)*

*44948.5 Dismissal of probationary employees (under 250 ADA)*

*44949 Cause, notice and right to hearing for dismissal of probationary employee*

*44953 Dismissal of substitute employees*

*44955 Reduction in number of permanent employees*

GOVERNMENT CODE

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

**All Personnel**

AR 4117.5

4217.5

**TERMINATION AGREEMENTS**

4317.5

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

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

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

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

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

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

*Legal Reference:*

CIVIL CODE

47 Privileged communication

GOVERNMENT CODE

53260-53264 Employment contracts

LABOR CODE

1198.5 Inspection of personnel files by employees

CODE OF REGULATIONS, TITLE 5

80303 Reports of dismissal, resignation and other terminations for cause

80332 Professional honesty in letters of employment recommendation

COURT DECISIONS

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

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

**DECISION NOT TO REHIRE**

The Santa Clara County Superintendent of Schools or designee shall provide the Santa Clara County Office of Education with his/her recommendations regarding the rehiring of probationary certificated personnel.

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

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

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

*Legal Reference:*

EDUCATION CODE

- 44885.5 District interns
- 44929.21 Districts with 250 ADA or more; notice of reelection decision
- 44929.23 Districts with daily attendance less than 250
- 44948.2 Election to use provisions of Education Code 44948.3
- 44948.3 Dismissal of probationary employees (over 250 ADA)
- 44949 Cause, notice and right to hearing required for dismissal of probationary employee
- 44955 Reduction in number of permanent employees

COURT DECISIONS

- Hoschler v. Sacramento City Unified School District, (2007) 149 Cal. App. 4<sup>th</sup> 258
- Fischer v. Los Angeles Unified School District (1999) 70 Cal.App.4<sup>th</sup> 87
- Bellflower Education Assn. v. Bellflower Unified School District (1991) 228 Cal.App.3d 805
- Fontana Teachers Assn. v. Fontana Unified School District (1988) 201 Cal.App.3d 1517
- Grimsley v. Board of Trustees (1987) 189 Cal.App.3d 1440

**EMPLOYMENT STATUS REPORTS**

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

1. Dismissal

*(cf. 4117.4 - Dismissal)*

2. Nonreelection/nonreemployment

*(cf. 4117.6 - Decision Not to Rehire)*

3. Suspension for more than 10 days

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

5. Resignation, retirement, or other departure from employment

*(cf. 4117.2 - Resignation)*

6. Termination by a decision not to employ or reemploy

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

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

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

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

Within 10 days after receipt of a complaint, information, or indictment regarding an employee who has been charged with a "mandatory leave of absence offense" (defined as a sex or drug offense specified in Education Code 44940), the County Superintendent or



**EMPLOYMENT STATUS REPORTS** (continued)

designee shall forward a copy of the received documents to the CTC. In addition, he/she shall report to the CTC any action taken in connection with extending the employee's mandatory leave beyond the initial period. (Education Code 44940, 44940.5)

*(cf. 4118 - Suspension/Disciplinary Action)*

**Notice of Other Violations**

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

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

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

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

*(cf. 1312.1 - Complaints Concerning SCCOE Employees)*

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

*(cf. 5145.7 - Sexual Harassment)*

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

*Legal Reference: (see next page)*

**EMPLOYMENT STATUS REPORTS (continued)**

*Legal Reference:*

EDUCATION CODE

*44009 Conviction of specified crimes*

*44010 Sex offense - definitions*

*44011 Controlled substance offense - definitions*

*44225 Powers and duties of the CTC*

*44242.5 Reports and review of alleged misconduct*

*44420-44440 Adverse actions by CTC against credential holder*

*44940 Sex offenses and narcotic offenses; compulsory leave of absence*

*44940.5 Compulsory leave of absence*

CODE OF REGULATIONS, TITLE 5

*80303 Reports of change in employment status, alleged misconduct*

*80304 Notice of sexual misconduct*

**SUSPENSION/DISCIPLINARY ACTION**

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

*(cf. 4000 - Concepts and Roles)*  
*(cf. 4112.5/4312.5 - Criminal Record Check)*  
*(cf. 4117.4 - Dismissal)*  
*(cf. 4119.21/4219.21/4319.21 - Professional Standards)*  
*(cf. 4141/4241 - Collective Bargaining Agreement)*

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

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

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

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

*(cf. 4117.7 - Employment Status Reports)*

*Legal Reference: (see next page)*

**SUSPENSION/DISCIPLINARY ACTION (continued)**

*Legal Reference:*

EDUCATION CODE

44008 *Effect of termination of probation*  
44009 *Conviction of specified crimes*  
44010 *Sex offense - definitions*  
44011 *Controlled substance offense - definitions*  
44242.5 *Reports and review of alleged misconduct*  
44425 *Conviction of a sex or narcotic offense*  
44660-44665 *Evaluation and assessment of performance of certificated employees*  
44830.1 *Criminal record summary certificated employees*  
44930-44988 *Resignations, dismissal, and leave of absence, especially:*  
44940 *Sex offenses and narcotic offenses; compulsory leave of absence*  
44940.5 *Compulsory leave of absence*  
45055 *Drawing of warrants for teachers*  
48907 *Exercise of free speech, expression*  
48950 *Speech and other communication*  
51530 *Advocacy or teaching of communism*

GOVERNMENT CODE

3543.2 *Scope of representation*

HEALTH AND SAFETY CODE

11054 *Schedule I; substances included*  
11055 *Schedule II, substances included*  
11056 *Schedule III, substances included*  
11357-11361 *Marijuana*  
11363 *Peyote*  
11364 *Opium*  
11370.1 *Possession of controlled substances with a firearm*

PENAL CODE

187 *Murder*  
291 *School employees arrest for sex offense*  
667.5 *Prior prison terms, enhancement of prison terms*  
1192.7 *Plea bargaining limitation*

CODE OF REGULATIONS, TITLE 5

80303 *Reports of change in employment status*  
80304 *Notice of sexual misconduct*

COURT DECISIONS

*Crowl v. Commission on Professional Competence, (1990) 225 Cal. App. 3d 334*

**SUSPENSION/DISCIPLINARY ACTION**

**Suspension Without Pay**

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

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

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

1. Indicate the nature of the employee's unprofessional conduct
2. Cite specific instances of unprofessional behavior
3. Give the employee a 45-day opportunity to correct the misconduct and overcome the ground(s) for the charge(s)
4. Include the evaluation made pursuant to Education Code 44660-44665, if applicable

*(cf. 4115 - Evaluation/Supervision)*

**Mandatory Leave of Absence**

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

1. Any sex offense as defined in Education Code 44010
2. Any offense involving the unlawful sale, use, or exchange to minors of controlled substances as listed in Health and Safety Code 11054, 11055, and 11056, with the exception of marijuana, mescaline, peyote, or tetrahydrocannabinols

*(cf. 4117.7 - Employee Status Reports)*

Upon receipt of notification from the Department of Justice by telephone that a current temporary, substitute, or probationary employee serving before March 15 of the his/her second probationary year has been convicted of a violent or serious felony, that employee shall be immediately placed on leave without pay. Upon receipt of written electronic

## **SUSPENSION/DISCIPLINARY ACTION** (continued)

notification of the conviction from the Department of Justice, such employee shall be automatically terminated and without regard to any other termination procedure. (Education Code 44830.1)

*(cf. 4112.5/4312.5 - Criminal Record Check)*

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

*(cf. 4117.4 - Dismissal)*

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

### **Optional Leave of Absence**

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

### **Protection of a Student's Free Speech or Press Rights**

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

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

*(cf. 5145.2 - Freedom of Speech/Expression)*

**All Personnel**

SP 4119.1(a)  
4219.1  
4319.1

**CIVIL AND LEGAL RIGHTS**

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

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

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

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

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

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

**Whistleblower Protection**

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

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

## **CIVIL AND LEGAL RIGHTS** (continued)

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

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

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

*(cf. 1312.1 - Complaints Concerning SCCOE Employees)*  
*(cf. 1312.3 - Uniform Complaint Procedures)*  
*(cf. 4144/4244/4344 - Complaints)*

### **Protection Against Liability**

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

*(cf. 3320 - Claims and Actions Against the SCCOE)*  
*(cf. 9260 - Legal Protection)*

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

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



**CIVIL AND LEGAL RIGHTS (continued)**

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

*Legal Reference:*

EDUCATION CODE

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

CIVIL CODE

51 *Unruh Civil Rights Act*

GOVERNMENT CODE

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

LABOR CODE

1102.5-1106 *Whistleblower protections*

UNITED STATES CODE, TITLE 18

16 *Crime of violence defined*

UNITED STATES CODE, TITLE 20

6731-6738 *Teacher liability protection*

UNITED STATES CODE, TITLE 42

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

COURT DECISIONS

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

**All Personnel**

SP 4119.11(a)

4219.11

**SEXUAL HARASSMENT**

4319.11

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

*(cf. 0410 - Nondiscrimination in SCCOE Programs and Activities)*

*(cf. 4030 - Nondiscrimination in Employment)*

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

1. Providing training to employees in accordance with law and administrative regulation
2. Publicizing and disseminating the SCCOE's sexual harassment policy to staff

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

3. Ensuring prompt, thorough, and fair investigation of complaints
4. Taking timely and appropriate corrective/remedial action(s), which may require interim separation of the complainant and the alleged harasser and subsequent monitoring of developments

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

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

A supervisor, principal or other SCCOE administrator who receives a harassment complaint shall promptly notify the County Superintendent or designee.

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

*(cf. 4031 - Complaints Concerning Discrimination in Employment)*

## **SEXUAL HARASSMENT (continued)**

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

*(cf. 4117.4 - Dismissal)*

*(cf. 4118 - Suspension/Disciplinary Action)*

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

### *Legal Reference:*

#### EDUCATION CODE

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

#### GOVERNMENT CODE

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

12940 *Prohibited discrimination*

12950.1 *Sexual harassment training*

#### LABOR CODE

1101 *Political activities of employees*

1102.1 *Discrimination: sexual orientation*

#### CODE OF REGULATIONS, TITLE 2

7287.8 *Retaliation*

7288.0 *Sexual harassment training and education*

#### CODE OF REGULATIONS, TITLE 5

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

#### UNITED STATES CODE, TITLE 42

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

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

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

#### CODE OF FEDERAL REGULATIONS, TITLE 34

106.9 *Dissemination of policy*

#### COURT DECISIONS

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

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

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

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

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

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

**All Personnel**

AR 4119.11(a)

4219.11

**SEXUAL HARASSMENT**

4319.11

**Definitions**

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

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

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

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

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

## **SEXUAL HARASSMENT** (continued)

### **Training**

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

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

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

### **Notifications**

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

1. Be displayed in a prominent location in the main administrative building, SCCOE office, or other area of the office/school where notices of SCCOE rules, regulations, procedures, and standards of conduct are posted
2. Be provided to each faculty member, all members of the administrative staff, and all members of the support staff at the beginning of the first quarter or semester of the school year or whenever a new employee is hired

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

3. Appear in any school or SCCOE publication that sets forth the school's or SCCOE's comprehensive rules, regulations, procedures, and standards of conduct

**SEXUAL HARASSMENT** (continued)

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

1. The illegality of sexual harassment.
2. The definition of sexual harassment under applicable state and federal law.
3. A description of sexual harassment, with examples.
4. The SCCOE's complaint process available to the employee.

*(cf. 4031 - Complaints Concerning Discrimination in Employment)*

5. The legal remedies and complaint process available through DFEH and the Equal Employment Opportunity Commission. (EEOC)
6. Directions on how to contact DFEH and the EEOC.
7. The protection against retaliation provided by 2 CCR 7287.8 for opposing harassment prohibited by law or for filing a complaint with or otherwise participating in an investigation, proceeding, or hearing conducted by DFEH and the EEOC.

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

## **All Personnel**

SP 4119.21(a)

4219.21

## **PROFESSIONAL STANDARDS**

4319.21

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

*(cf. 0200 - Goals for the SCCOE)*

*(cf. 4112.2 - Certification)*

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

*(cf. 4131 - Staff Development)*

*(cf. 4231 - Staff Development)*

*(cf. 4331 - Staff Development)*

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

*(cf. 2111 - County Superintendent Governance Standards)*

*(cf. 9005 - Governance Standards)*

### **Staff Conduct with Students**

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

*(cf. 0410 - Nondiscrimination in SCCOE Programs and Activities)*

*(cf. 4040 - Employee Use of Technology)*

*(cf. 5131 - Conduct)*

*(cf. 6163.4 - Student Use of Technology)*

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

*(cf. 5141.4 - Child Abuse Prevention and Reporting)*

SP 4119.21(b)  
4219.21  
4319.21

**PROFESSIONAL STANDARDS** (continued)

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

*(cf. 4118 - Suspension/Disciplinary Action)*

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

*Legal Reference:*

EDUCATION CODE

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

PENAL CODE

11164-11174.4 *Child Abuse and Neglect Reporting Act*

CODE OF REGULATIONS, TITLE 5

80331-80338 *Rules of conduct for professional educators*



**PROFESSIONAL STANDARDS**

**CODE OF ETHICS OF THE EDUCATION PROFESSION**

**Preamble**

The educator, believing in the worth and dignity of each human being, recognizes the supreme importance of the pursuit of truth, devotion to excellence, and the nurturing of democratic principles. Essential to these goals is the protection of freedom to learn and to teach and the guarantee of equal educational opportunity for all. The educator accepts the responsibility to adhere to the highest ethical standards.

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

**Principle I. Commitment to the Student**

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

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

1. Shall not unreasonably restrain the student from independent action in the pursuit of learning.
2. Shall not unreasonably deny the student access to varying points of view
3. Shall not deliberately suppress or distort subject matter relevant to the student's progress.
4. Shall make reasonable effort to protect the student from conditions harmful to learning or to health and safety.
5. Shall not intentionally expose the student to embarrassment or disparagement.
6. Shall not on the basis of race, color, creed, gender, national origin, marital status, political or religious beliefs, family, social, or cultural background, or sexual orientation, unfairly:
  - a. Exclude any student from participation in any program
  - b. Deny benefits to any student

**PROFESSIONAL STANDARDS** (continued)

- c. Grant any advantage to any student
- 7. Shall not use professional relationships with students for private advantage.
- 8. Shall not disclose information in the course of professional service unless disclosure serves a compelling professional purpose or is required by law.

**Principle II. Commitment to the Profession**

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

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

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

- 1. Shall not in any application for a professional position deliberately make a false statement or fail to disclose a material fact related to competency and qualifications.
- 2. Shall not misrepresent his/her professional qualifications.
- 3. Shall not assist any entry into the profession of a person known to be unqualified in respect to character, education, or other relevant attribute.
- 4. Shall not knowingly make a false statement concerning the qualifications of a candidate for a professional position.
- 5. Shall not assist a noneducator in the unauthorized practice of teaching.
- 6. Shall not disclose information about colleagues obtained in the course of professional service unless disclosure serves a compelling professional purpose or is required by law.
- 7. Shall not knowingly make false or malicious statements about a colleague.
- 8. Shall not accept any gratuity, gift, or favor that might impair or appear to influence professional decisions or action.

*Source: National Education Association, 1975*

**All Personnel**

SP 4119.22

4219.22

**DRESS AND GROOMING**

4319.22

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

*(cf. 4118 - Suspension/Disciplinary Action)*

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

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

*(cf. 5132 - Dress and Grooming)*

*Legal Reference:*

EDUCATION CODE

35160 Authority of governing boards

35160.1 Broad authority of school districts

GOVERNMENT CODE

3543.2 Scope of representation

12949 Dress standards, consistency with gender identity

COURT DECISIONS

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

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

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

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

PUBLIC EMPLOYMENT RELATIONS BOARD DECISIONS

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

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

**All Personnel**

SP 4119.23(a)

4219.23

**UNAUTHORIZED RELEASE OF CONFIDENTIAL/  
PRIVILEGED INFORMATION**

4319.23

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

**Disclosure of Closed Session Information**

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

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

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

*(cf. 9321 - Closed Session Purposes and Agendas)*

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

*(cf. 4118 - Suspension/Disciplinary Action)*

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

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

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

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

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

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

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

**Other Disclosures**

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

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

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

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

*(cf. 4143/4243 - Negotiations/Consultation)*

*(cf. 5125 - Student Records)*

*(cf. 5125.1 - Release of Directory Information)*

*(cf. 5141.4 - Child Abuse Prevention and Reporting)*

*(cf. 6164.2 - Guidance/Counseling Services)*

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

*Legal Reference: (see next page)*

SP 4119.23(c)  
4219.23  
4319.23

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

*Legal Reference:*

EDUCATION CODE

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

35146 *Closed sessions*

35160 *Authority of governing boards*

44031 *Personnel file contents and inspection*

44932 *Grounds for dismissal of permanent employees*

44933 *Other grounds for dismissal*

45113 *Rules and regulations for classified service*

49060-49079 *Pupil records*

GOVERNMENT CODE

1098 *Public officials and employees: confidential information*

6250-6270 *Inspection of public records*

54950-54963 *Brown Act*

UNITED STATES CODE, TITLE 20

1232g *Family Education Rights and Privacy Act*

**All Personnel**

SP 4119.25

4219.25

**POLITICAL ACTIVITIES OF EMPLOYEES**

4319.25

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

*(cf. 1160 - Political Processes)*

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

*(cf. 1330 - Use of School Facilities)*

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

*(cf. 1325 - Advertising and Promotion)*

*(cf. 4118 - Suspension/Disciplinary Action)*

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

*Legal Reference:*

EDUCATION CODE

7050-7057 Political activities of school officers and employees

38130-38139 Civic Center Act

51520 Prohibited solicitations on school premises

GOVERNMENT CODE

3543.1 Rights of employee organizations

COURT DECISIONS

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

California Teachers Association v. Governing Board of San Diego Unified School District, (1996) 45 Cal.App. 4th 1333

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

ATTORNEY GENERAL OPINIONS

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

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

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

PERB RULINGS

California Federation of Teachers, Local 1931 v. San Diego Community College District (2001) PERB Order #1467 (26 PERC 33014)

**All Personnel**

AR 4119.25(a)  
4219.25  
4319.25

**POLITICAL ACTIVITIES OF EMPLOYEES**

Santa Clara County Office of Education employees shall not:

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

*(cf. 1160 - Political Processes)*

2. During working hours and on SCCOE property, solicit or receive any political funds or contributions to promote the passage or defeat of a ballot measure that would affect the rate of pay, hours of work, retirement, civil service or other working conditions. (Education Code 7056)
3. During working hours and on SCCOE property, solicit or receive any political funds or contributions to promote the passage or defeat of other types of ballot measures.
4. Use SCCOE time to urge the passage or defeat of any ballot measure or candidate.
5. Use SCCOE equipment for the preparation or reproduction of political campaign materials, even if the SCCOE is reimbursed.

*(cf. 3512 - Equipment)*

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

*(cf. 4040 - Employee Use of Technology)*

8. Use students to write, address or distribute political campaign materials.
9. Present viewpoints on particular candidates or ballot measures in the classroom without giving equal time to the presentation of opposing views.

*(cf. 6144 - Controversial Issues)*

10. Wear buttons or articles of clothing that express political opinions on ballot measures or candidates during instructional time.

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

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



AR 4119.25(b)  
4219.25  
4319.25

**POLITICAL ACTIVITIES OF EMPLOYEES** (continued)

**Employee Organizations**

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

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

*(cf. 4140/4240 - Bargaining Units)*

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

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

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

**All Personnel**

SP 4119.41(a)

4219.41

**EMPLOYEES WITH INFECTIOUS DISEASE**

4319.41

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

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

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

*(cf. 4261.1 - Personal Illness/Injury Leave)*

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

*(cf. 0410 - Nondiscrimination in SCCOE Programs and Activities)*

*(cf. 4030 - Nondiscrimination in Employment)*

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

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

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

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

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

SP 4119.41(b)  
4219.41  
4319.41

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

This report shall be forwarded to Human Resources for confidential review and action.

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

### **Confidentiality**

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

#### *Legal Reference:*

CIVIL CODE

56-56.37 Confidentiality of medical information

GOVERNMENT CODE

12900-12996 Fair Employment and Housing Act

HEALTH AND SAFETY CODE

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

CODE OF REGULATIONS, TITLE 2

7293.5 et seq.

UNITED STATES CODE, TITLE 29

701 et seq. Rehabilitation Act

UNITED STATES CODE, TITLE 42

12101-12213 Americans With Disabilities Act

COURT DECISIONS

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

**All Personnel**

SP 4119.42

4219.42

**EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS**

4319.42

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

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

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

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

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

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

*Legal Reference:*

LABOR CODE

*142.3 Authority of Cal/OSHA to adopt standards*

*144.7 Requirement to amend standards*

CODE OF REGULATIONS, TITLE 8

*3204 Access to employee exposure and medical records*

*5193 California bloodborne pathogens standards*

CODE OF FEDERAL REGULATIONS, TITLE 29

*1910.1030 OSHA bloodborne pathogens standards*