

TEMPORARY/SUBSTITUTE PERSONNEL

Hiring

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

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

(cf. 4117.14/4317.14 - Postretirement Employment)

Classification

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

The SCCOE may also classify as a temporary employee a teacher who is employed at least one semester and up to one complete school year. Any person whose service begins in the second semester and before March 15 may be classified as a temporary employee even if employed for less than a semester. The SCCOE shall determine the number of persons who shall be so employed based on the absence of regular employees due to leaves or long-term illness. (Education Code 44920) SCCOE may classify as a temporary employee a teacher who is employed pursuant to Ed Code 1294.1.

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

1. Serve from day-to-day during the first three months of any term to teach temporary classes which shall not exist after that time, or perform any other duties which do not last longer than the first three months of any term. (Education Code 44919)
2. Teach in special day and evening classes for adults or in schools of migratory population for not more than four months of any school term. (Education Code 44919)
3. Serve in a limited assignment supervising student athletic activities provided such assignments have first been made available to teachers presently employed in the SCCOE. (Education Code 44919)

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

TEMPORARY/SUBSTITUTE PERSONNEL (continued)

4. Serve in a position for a period not to exceed 20 working days in order to prevent the stoppage of SCCOE business during an emergency when persons are not immediately available for probationary classification. (Education Code 44919)
5. Are employed only for the first semester because the SCCOE expects a reduction in student enrollment during the second semester due to midyear graduations. (Education Code 44921)

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

Before his/her first day of work, each new substitute and temporary employee shall receive a written statement at the time of initial employment during each school year confirming his/her employment status and salary. This statement shall clearly indicate the temporary nature of the employment and the length of time for which the person is being employed. (Education Code 44916)

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

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

(cf. 4113 - Assignment)

(cf. 4115 - Evaluation/Supervision)

(cf. 4131 - Staff Development)

Qualifications

Any person employed on a substitute or temporary basis in a position requiring certification qualifications shall possess the appropriate credential or permit authorizing his/her employment in such position and shall meet all other requirements of law for certificated positions.

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

(cf. 4112.2 - Certification)

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

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

(cf. 4112.5/4312.5 - Criminal Record Check)

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

TEMPORARY/SUBSTITUTE PERSONNEL (continued)

Qualifications for Special Education

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

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

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

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

Granting Probationary Status

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

(cf. 4116 - Probationary/Permanent Status)

TEMPORARY/SUBSTITUTE PERSONNEL (continued)

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

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

Release from Employment/Dismissal

The County Superintendent or designee may dismiss a substitute employee at any time at his/her discretion. (Education Code 44953)

The County Superintendent or designee may release a temporary employee at his/her discretion if the employee has served less than 75 percent of the number of days the regular schools of the SCCOE are maintained.

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

Reemployment Rights

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

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

A person employed for only the first semester because of anticipated midyear high school graduations shall be reemployed to fill any vacant positions in the SCCOE for which the employee is certified. (Education Code 44921)

Legal Reference: (see next page)

TEMPORARY/SUBSTITUTE PERSONNEL (continued)

Legal Reference:

EDUCATION CODE

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

CODE OF REGULATIONS, TITLE 5

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

COURT DECISIONS

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

STAFF DEVELOPMENT

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

(cf. 6111 - School Calendar)

The Santa Clara County Office of Education's staff development program shall assist certificated staff in developing knowledge and skills, including, but not limited to:

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

(cf. 6011 - Academic Standards)

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

(cf. 6142.3 - Civic Education)

(cf. 6142.5 - Environmental Education)

(cf. 6142.6 - Visual and Performing Arts Education)

(cf. 6142.7 - Physical Education and Activity)

(cf. 6142.8 - Comprehensive Health Education)

(cf. 6142.91 - Reading/Language Arts Instruction)

(cf. 6142.92 - Mathematics Instruction)

(cf. 6142.93 - Science Instruction)

2. Use of effective, subject-specific teaching methods, strategies, and skills
3. Use of technologies to enhance instruction

(cf. 0440 - SCCOE Technology Plan)

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

STAFF DEVELOPMENT (continued)

(cf. 4112.22 - Staff Teaching Students of Limited English Proficiency)
(cf. 4112.23 - Special Education Staff)
(cf. 5147 - Dropout Prevention)
(cf. 5149 - At-Risk Students)
(cf. 6141.5 - Advanced Placement)
(cf. 6171 - Title I Programs)
(cf. 6172 - Gifted and Talented Student Program)
(cf. 6173 - Education for Homeless Children)
(cf. 6173.1 - Education for Foster Youth)
(cf. 6174 - Education for English Language Learners)
(cf. 6175 - Migrant Education Program)

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

(cf. 6178 - Career Technical Education)

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

(cf. 1240 - Volunteer Assistance)
(cf. 5020 - Parent Rights and Responsibilities)
(cf. 6020 - Parent Involvement)

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

(cf. 5137 - Positive School Climate)
(cf. 5138 - Conflict Resolution/Peer Mediation)
(cf. 5145.9 - Hate-Motivated Behavior)

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

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

(cf. 5121 - Grades/Evaluation of Student Achievement)
(cf. 6162.5 - Student Assessment)

10. Knowledge of topics related to student health, safety, and welfare

(cf. 0450 - Comprehensive Safety Plan)
(cf. 3515.5 - Sex Offender Notification)
(cf. 5030 - Student Wellness)
(cf. 5131.6 - Alcohol and Other Drugs)
(cf. 5131.63 - Steroids)

STAFF DEVELOPMENT (continued)

(cf. 5141.21 - Administering Medication and Monitoring Health Conditions)
(cf. 5141.4 - Child Abuse Prevention and Reporting)
(cf. 5141.52 - Suicide Prevention)
(cf. 5145.3 - Nondiscrimination/Harassment)
(cf. 5145.7 - Sexual Harassment)

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

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

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

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

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

(cf. 4115 - Evaluation/Supervision)
(cf. 4139 - Peer Assistance and Review)

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

(cf. 0000 - Vision)
(cf. 0200 - Goals for the SCCOE)
(cf. 0420 - School Plans/Site Councils)
(cf. 0420.1 - School-Based Program Coordination)
(cf. 0520.2 - Title I Program Improvement Schools)

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

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

STAFF DEVELOPMENT (continued)

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

(cf. 0500 - Accountability)

*Legal Reference:*EDUCATION CODE

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

41530-41533 Professional Development Block Grant

44032 Travel expense payment

44259.5 Standards for teacher preparation

44277 Professional growth programs for individual teachers

44279.1-44279.7 Beginning Teacher Support and Assessment Program

44325-44328 District interns

44450-44468 University internship program

44560-44562 Certificated Staff Mentoring Program

44570-44578 Inservice training, secondary education

44580-44591 Inservice training, elementary teachers

44630-44643 Professional Development and Program Improvement Act of 1968

44700-44705 Classroom teacher instructional improvement program

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

45028 Salary schedule and exceptions

48980 Notification of parents/guardians: schedule of minimum days

52055.600-52055.662 High Priority Schools Grant Program

56240-56245 Staff development; service to persons with disabilities

99200-99206 Subject matter projects

99220-99227 California Professional Development Institutes

99230-99242 Mathematics and Reading Professional Development Program

REPEALED EDUCATION CODE FOR CATEGORICAL PROGRAMS

44579-44579.6 Instructional Time and Staff Development Reform Program

GOVERNMENT CODE

3543.2 Scope of representation of employee organization

CODE OF REGULATIONS, TITLE 5

11980-11985.6 Mathematics and Reading Professional Development Program

13025-13044 Professional development and program improvement

UNITED STATES CODE, TITLE 20

6319 Highly qualified teachers

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

PUBLIC EMPLOYMENT RELATIONS BOARD DECISIONS

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

STAFF DEVELOPMENT

Approved Activities

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

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

(cf. 6141 - Curriculum Development and Evaluation)

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

(cf. 4112.21 - Interns)

(cf. 4131.1 - Beginning Teacher Support/Induction)

(cf. 4139 - Peer Assistance and Review)

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

STAFF DEVELOPMENT (continued)

(cf. 1700 - Relations Between Private Industry and the Schools)
(cf. 6178 - Career Technical Education)
(cf. 6178 - Work Experience Education)
(cf. 6178.2 - Regional Occupational Center/Program)

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

(cf. 4161.3 - Professional Leaves)

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

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

Mathematics and Reading Professional Development Program

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

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

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

1. Are in their first or second year of teaching.
2. Are assigned to high-priority schools ranked in deciles 1-5 of the state's Academic Performance Index.
3. Are assigned to schools that are under state sanctions in the High Priority Schools Grant Program pursuant to Education Code 52055.650

(cf. 0520.1 - High Priority Schools Grant Program)

4. Have recently changed teaching assignments.

The program shall provide 40 hours of professional development per subject area focused primarily on the statewide academic content standards for mathematics or English language arts, state curriculum frameworks for mathematics or English language arts, and instructional

STAFF DEVELOPMENT (continued)

materials aligned to mathematics or English language arts content standards. The program shall include instructional strategies designed to help all students gain mastery of the state content standards, with special emphasis on English language learners and students with disabilities. (Education Code 99237; 5 CCR 11984)

(cf. 6011 - Academic Standards)

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

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

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

1. The number of hours of training attended
2. Attendance records
3. Subject content
4. The dates of each training session taken by teachers and paraprofessionals
5. The name(s) of the providers

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

BEGINNING TEACHER SUPPORT/INDUCTION

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

(cf. 4131 - Staff Development)

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

(cf. 4112.2 - Certification)

(cf. 4112.21 - Interns)

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

Sponsored BTSA Induction Program

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

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

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

BEGINNING TEACHER SUPPORT/INDUCTION (continued)

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

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

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

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

(cf. 4115 - Evaluation/Supervision)

(cf. 4117.4 - Dismissal)

*Legal Reference:*EDUCATION CODE

41520-41522 *Teacher Credentialing Block Grant*

41530-41532 *Professional Development Block Grant*

44259 *Credential requirements*

44259.5 *Standards for professional preparation programs*

44275.4 *Credential requirements, induction, out-of-state teachers*

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

44325-44328 *District interns*

44380-44386 *Alternative certification*

44450-44468 *University interns*

44560-44562 *Certificated Staff Mentoring Program*

CODE OF REGULATIONS, TITLE 5

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

80055 *Internship credential*

80413 *Credential requirements*

80413.3 *Credential requirements; teachers with out-of-state credentials*

UNITED STATES CODE, TITLE 20

6319 *Highly qualified teachers*

6601-6702 *Preparing, training and recruiting high quality teachers and principals*

7801 *Definitions, highly qualified teacher*

Policy

adopted: April 30, 2012

SANTA CLARA COUNTY OFFICE OF EDUCATION

San Jose, California

All Personnel

SP 4132(a)

4232

PUBLICATION OR CREATION OF MATERIALS

4332

The County Superintendent recognizes the importance of creating a work environment that encourages employee innovation in creating and developing high-quality materials to improve student achievement and the efficiency of Santa Clara County Office of Education operations.

(cf. 4119.21/4219.21/4319.21 - Professional Standards)

(cf. 6162.6 - Use of Copyrighted Materials)

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

(cf. 3600 - Consultants)

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

(cf. 1113 - SCCOE Web Sites)

(cf. 4040 - Employee Use of Technology)

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

(cf. 6161 - Equipment, Books and Materials)

(cf. 6161.11 - Supplementary Instructional Materials)

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

(cf. 3312 - Contracts)

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

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

Legal Reference: (see next page)

SP 4132(b)
4232
4332

PUBLICATION OR CREATION OF MATERIALS (continued)

Legal Reference:

EDUCATION CODE

32360 Copyrights; use of funds

32361 Copyrights; use of employee work time

35170 Authority to secure copyrights

35182 Marketing or licensing noneducational mainframe electronic data-processing software

60076 Royalties or other compensation

LABOR CODE

2870-2872 Inventions made by an employee

UNITED STATES CODE, TITLE 17

101-122 Subject matter and scope of copyright

201 Copyright ownership and transfer

COURT DECISIONS

Community for Creative Non-Violence v. Reid, (1989) 490 U.S. 730

All Personnel

SP 4135

4235

SOLICITING AND SELLING

4335

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

(cf. 1325 - Advertising and Promotion)

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

(cf. 4136/4236/4336 - Nonschool Employment)

(cf. 5022 - Student and Family Privacy Rights)

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

(cf. 5125.1 - Release of Directory Information)

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

(cf. 3312.2 - Educational Travel Program Contracts)

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

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

Legal Reference:

EDUCATION CODE

51520 Prohibited solicitations on school premises

All Personnel

SP 4136(a)

4236

NONSCHOOL EMPLOYMENT

4336

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

(cf. 4119.21/4219.21/4319.21 - Professional Standards)

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

(cf. 9270 - Conflict of Interest)

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

1. Requires time periods that interfere with the proper, efficient discharge of the employee's duties.
2. Entails compensation from an outside source for activities which are part of the employee's regular duties.
3. Involves using the SCCOE's name, prestige, time, facilities, equipment, or supplies for private gain.
4. Involves service which will be wholly or in part subject to the approval or control of another SCCOE employee or Santa Clara County Board of Education member.

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

(cf. 3300 - Expenditures and Purchases)

(cf. 4040 - Employee Use of Technology)

(cf. 4132/4232/4332 - Publication or Creation of Materials)

(cf. 4135/4235/4335 - Soliciting and Selling)

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

An employee wishing to accept outside employment that may be inconsistent, incompatible, in conflict with, or inimical to the employee's duties shall file a written request with his/her immediate supervisor describing the nature of the employment and the time required. The supervisor shall evaluate each request based on the employee's specific duties within the SCCOE and determine whether to grant authorization for such employment.

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

The supervisor shall inform the employee whether the outside employment is prohibited. The employee may appeal a supervisor's denial of authorization to the County Superintendent or designee. An employee who continues to pursue a prohibited activity may be subject to disciplinary action.

NONSCHOOL EMPLOYMENT (continued)

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

Tutoring

A certificated employee shall not accept any compensation or other benefit for tutoring a student enrolled in his/her class(es). An employee who wishes to tutor another SCCOE student shall first request authorization from his/her supervisor in accordance with this SCCOE policy. If authorization is granted, the employee shall not use SCCOE facilities, equipment, or supplies when providing the tutoring service.

Legal Reference:

EDUCATION CODE

35160 Authority of governing boards
35160.1 Broad authority of school districts
51520 Prohibited solicitation on school premises

GOVERNMENT CODE

1126 Incompatible activities of employees
1127 Incompatible activities; off duty work
1128 Incompatible activities, attorney

CODE OF REGULATIONS, TITLE 5

80334 Unauthorized private gain or advantage

ATTORNEY GENERAL OPINIONS

70 Ops.Cal.Atty.Gen. 157 (1987)

PEER ASSISTANCE AND REVIEW

In order to assist teachers who may need additional development in subject matter knowledge and/or teaching strategies, the Santa Clara County Office of Education shall work with the local teachers' organization to establish and maintain a program of peer assistance and review linking participating teachers with exemplary teachers serving as consulting teachers. Consulting teachers shall provide sustained, intensive support including, but not limited to, multiple classroom observations, recommendations for staff development and regular meetings with participating teachers.

(cf. 4140/4240 - Bargaining Units)

(cf. 4141/4241 - Collective Bargaining Agreement)

The County Superintendent or designee shall establish in accordance with law a joint teacher-administrator peer review panel to manage the program.

County Superintendent or designee decisions regarding the continued employment of an individual participating teacher shall include consideration of the results of the individual's participation in the peer assistance and review program and the recommendations of the consulting teacher and review panel.

(cf. 4115 - Evaluation/Supervision)

(cf. 4117.4 - Dismissal)

The County Superintendent or designee shall coordinate policies and procedures related to the SCCOE's peer assistance and review program with other SCCOE activities for staff development, teacher support and staff evaluation.

(cf. 4131 - Staff Development)

(cf. 4315.1 - Staff Evaluating Teachers)

Legal Reference: (see next page)

PEER ASSISTANCE AND REVIEW (continued)

Legal Reference:

EDUCATION CODE

44279.1-44279.7 Beginning teacher support and assessment

44325-44328 District intern program

44500-44508 Peer assistance and review program

44560-44562 Certificated Staff Mentoring Program

44662 Evaluation of certificated employees

44664 Evaluation

PEER ASSISTANCE AND REVIEW

Joint Teacher-Administrator Peer Review Panel

The joint teacher-administrator peer review panel shall: (Education Code 44502)

1. Select teachers to serve as consulting teachers
2. Review peer review reports prepared by consulting teachers
3. Make recommendations to the County Superintendent or designee regarding participants in the peer assistance and review program including forwarding to the County Superintendent the names of individuals who, after sustained assistance, have been unable to demonstrate satisfactory improvement
4. Annually evaluate the impact of the program in order to improve the program, including but not limited to, interviews or surveys of program participants, and submit any recommendations for improvement to the County Superintendent and exclusive representative of certificated employees in the Santa Clara County Office of Education

(cf. 4140/4240 - Bargaining Units)

The majority of the panel shall be composed of certificated classroom teachers chosen by other certificated classroom teachers. The remainder of the panel shall be composed of school administrators chosen by the County Superintendent or designee. (Education Code 44502).

Program Participation

Teachers may volunteer to participate in the program or may be referred as a result of an unsatisfactory rating in their performance evaluation. Teachers also may be referred pursuant to a collective bargaining agreement. (Education Code 44500)

(cf. 4115 - Evaluation/Supervision)

(cf. 4141/4241 - Collective Bargaining Agreement)

(cf. 4315.1 - Staff Evaluating Teachers)

PEER ASSISTANCE AND REVIEW (continued)

A teacher participating in the program shall be a permanent employee of the SCCOE. (Education Code 44500)

(cf. 4116 - Probationary/Permanent Status)

Selection of Consulting Teachers

Consulting teachers shall be selected by the majority vote of the joint teacher-administrator peer review panel. The selection process shall include provisions for the panel to observe the candidate's classroom. (Education Code 44502)

A teacher selected to serve as a consulting teacher shall: (Education Code 44501)

1. Have substantial recent experience in classroom instruction
2. Have demonstrated exemplary teaching ability as indicated by, at a minimum, effective communication skills, subject matter knowledge, and mastery of a range of teaching strategies necessary to meet the needs of students in different contexts
3. Be a credentialed classroom teacher with permanent status in the SCCOE

Program Components

The SCCOE's peer assistance and review program shall include: (Education Code 44500)

1. Written performance goals for an individual teacher that are clearly stated, aligned with student learning and consistent with the evaluation criteria specified in Education Code 44662
2. Assistance and review through multiple observations of a teacher during periods of classroom instruction
3. A cooperative relationship between the consulting teacher and the principal with respect to the process of peer assistance and review
4. Sufficient staff development activities to assist a teacher to improve his/her teaching skills and knowledge
5. A monitoring component with a written record

The final evaluation of a teacher's participation in the program shall be made available for placement in the teacher's personnel file. (Education Code 44500)

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

BARGAINING UNITS

The County Superintendent recognizes the right of public school employees to form bargaining units, select an employee organization as the exclusive representative of their unit, and be represented by that organization in their employment relationship with the Santa Clara County Office of Education. The County Superintendent is committed to negotiating in good faith with the employee organizations and respecting the rights of employees and employee organizations.

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

The County Superintendent shall negotiate only with the exclusive representative of each bargaining unit. (Government Code 3543.3)

Certificated and classified employees shall not be included in the same bargaining unit. (Government Code 3545)

The SCCOE shall not dominate or interfere with the formation or administration of any employee organization or contribute financial or other support to it. (Government Code 3543.5)

Neither the SCCOE nor the employee organization shall impose or threaten to impose reprisals on employees, discriminate or threaten to discriminate against employees, or otherwise interfere with, restrain, or coerce employees because of their membership or nonmembership in an employee organization. (Government Code 3543.5, 3543.6)

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

Management and Supervisory Employees

Employees serving in a management, senior management, or confidential position shall not be represented by an exclusive representative. Such employees may represent themselves individually or may be represented by an employee organization whose membership is composed entirely of employees designated as holding those positions, but that organization shall not meet and negotiate with the SCCOE. (Government Code 3543.4)

However, the SCCOE may recognize a bargaining unit of supervisors if that unit includes all supervisory employees and if the unit does not represent the employee whom the supervisors supervise. (Government Code 3545)

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

1. *Management employee* means any employee who has significant responsibilities for formulating SCCOE policies or administering SCCOE programs, and whose position is designated as a management position by the County Superintendent.

BARGAINING UNITS (continued)

2. *Supervisory employee* means any employee, regardless of job description, having the authority, in the interest of the SCCOE, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, discipline, assign work, direct, adjust grievance of other employees, or effectively recommend that action. The exercise of this authority shall not be merely routine or clerical in nature, but shall require the use of independent judgment.

(cf. 4301 - *Administrative Staff Organization*)

3. *Confidential employee* means any employee who is required to develop or present management positions with respect to employer-employee relations or whose duties normally require access to confidential information that is used to contribute significantly to the development of management positions.

Legal Reference:

EDUCATION CODE

45060-45061.5 *Deduction of fees from salary or wage payment, certificated employees*

45168 *Deduction of fees from salary or wage payment, classified employees*

45220-45320 *Merit system, classified employees*

GOVERNMENT CODE

3540-3549.3 *Educational Employment Relations Act*

CODE OF REGULATIONS, TITLE 8

33015-33490 *Recognition of exclusive representative; proceedings*

33700-33710 *Severance of established unit*

34020 *Petition to rescind organizational security arrangement*

34055 *Reinstatement of organizational security arrangement*

COLLECTIVE BARGAINING AGREEMENT

The County Superintendent recognizes that collective bargaining agreements are legally binding, bilateral agreements with the exclusive representatives of employees pertaining to terms and conditions of employment. The County Superintendent is committed to carrying out the provisions of each agreement and expects the agreements to be consistently and uniformly administered.

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

Following adoption of the collective bargaining agreement, the County Superintendent or designee shall review related Santa Clara County Office of Education policies and recommend any action needed to maintain consistency with the agreement. Whenever a SCCOE policy conflicts with a provision in the collective bargaining agreement, the agreement shall be binding for those employees covered by the terms of the agreement.

If the SCCOE has adopted a merit system pursuant to Education Code 45220-45320, then its classified employees are subject to the rules prescribed by the SCCOE's personnel commission, except when the subject matter is within the scope of representation and is included in a negotiated agreement.

(cf. 9310 - Board Policies)

Upon request by the Public Employment Relations Board, the County Superintendent or designee shall provide, within 15 days of the request, a copy of the written agreement and any amendments. (8 CCR 32120)

Legal Reference:

EDUCATION CODE

35035 *Additional powers and duties of superintendent, transfer authority*

35036 *Voluntary transfers*

35160 *Authority of governing boards*

35160.1 *Broad authority of school districts*

45220-45320 *Merit system, classified employees*

GOVERNMENT CODE

3540-3549.3 *Educational Employment Relations Act*

CODE OF REGULATIONS, TITLE 8

31001-32997 *Regulations of employee relations boards*

CONCERTED ACTION/WORK STOPPAGE

The County Superintendent recognizes the importance of maintaining ongoing positive relations with employees and engaging in fair, respectful negotiations with employee organizations. The County Superintendent desires to reach agreement on employment contracts in a manner that does not disrupt school operations or impact student achievement.

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

The County Superintendent recognizes that advance planning is necessary to ensure that students receive the education to which they are entitled in the event of a work slowdown, sickout, strike, or other concerted activity by employees. The County Superintendent or designee shall develop a written plan which shall include strategies for the provision of internal and external communications, preservation of student and staff safety, maintenance of Santa Clara County Office of Education operations, and appropriate student instruction and supervision during a work slowdown or stoppage.

(cf. 0450 - Comprehensive Safety Plan)
(cf. 1100 - Communications with the Public)
(cf. 1112 - Media Relations)
(cf. 9000 - Role of the Board)

If an employee organization gives notice that it intends to strike, the County Superintendent or designee shall notify the Public Employment Relations Board, Employment Development Department, employees in the striking unit, employees in the nonstriking unit, parents/guardians, students, law enforcement, the media, and others as appropriate.

Employees should be held accountable for their behavior during any labor dispute. The SCCOE may take disciplinary action against any employee who engages in an unlawful concerted action or in unlawful behavior in an otherwise protected activity, taking into account the seriousness of the behavior and the SCCOE's efforts to rebuild relations following the withholding of services by employees.

(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4119.25/4219.25/4319.25 - Political Activities of Employees)
(cf. 4218 - Suspension/Disciplinary Action)

Legal Reference: (see next page)

CONCERTED ACTION/WORK STOPPAGE (continued)

Legal Reference:

EDUCATION CODE

35204 *Contract with attorney in private practice*

35205 *Contract for legal services*

37200-37202 *Instructional days*

GOVERNMENT CODE

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

3543.5-3543.6 *Unfair labor practices*

3548-3548.8 *Impasse procedures*

INSURANCE CODE

10116 *Employee continuation of insurance coverage*

UNITED STATES CODE, TITLE 29

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

PUBLIC EMPLOYMENT RELATIONS BOARD DECISIONS

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

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

CONCERTED ACTION/WORK STOPPAGE

Maintenance of District Operations

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

(cf. 4113 - Assignment)

(cf. 4121 - Temporary/Substitute Personnel)

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

(cf. 6111 - School Calendar)

Strike Plan

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

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

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

CONCERTED ACTION/WORK STOPPAGE (continued)

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

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

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

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

(cf. 4261.1 - Personal Illness/Injury Leave)

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

(cf. 1100 - Communications with the Public)

(cf. 1112 - Media Relations)

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

8. Equipment and supply needs

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

(cf. 6145 - Extracurricular and Cocurricular Activities)

10. Contingency plans for transportation

(cf. 3541 - Transportation Routes and Services)

11. Contingency plans for the provision of food services

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

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

13. Coordination with law enforcement and other agencies

(cf. 1020 - Youth Services)

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

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

CONCERTED ACTION/WORK STOPPAGE (continued)

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

(cf. 0450 - Comprehensive Safety Plan)

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

(cf. 4143/4243 - Negotiations/Consultation)

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

Activities of Employees

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

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

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

(cf. 3512 - Equipment)

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

CONCERTED ACTION/WORK STOPPAGE (continued)

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

(cf. 6144 - Controversial Issues)

Salary and Benefits

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

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

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

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

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

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

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

NEGOTIATIONS/CONSULTATION

The County Superintendent recognizes a responsibility to represent the public's interests in the collective bargaining process. In negotiating agreements on employee contracts, the County Superintendent shall balance the needs of staff and the priorities of the Santa Clara County Office of Education in order to provide students with a high-quality instructional program based on a sound, realistic budget.

(cf. 0200 - Goals for the SCCOE)
(cf. 3100 - Budget)
(cf. 4140/4240 - Bargaining Units)
(cf. 4141/4241 - Collective Bargaining Agreement)

The County Superintendent or designee shall negotiate in good faith with exclusive employee representatives on wages, hours of employment, and other terms and conditions of employment identified in law as being within the scope of representation. (Government Code 3543.2)

In the event of an impasse in negotiations, the County Superintendent or designee shall participate in good faith in state mediation and fact-finding procedures pursuant to Government Code 3548-3548.8. (Government Code 3543.5)

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

Following adoption of the collective bargaining agreement, any subsequent amendments shall be executed in writing by the County Superintendent or designee and the employees' exclusive representative.

Legal Reference:
GOVERNMENT CODE
3540-3549.3 Educational Employment Relations Act

PUBLIC NOTICE - PERSONNEL NEGOTIATIONS

Public Notice/Sunshining of Initial Proposals

All initial contract proposals of the County Superintendent and an employee organization which relate to matters within the scope of representation shall be presented at a public Santa Clara County Board of Education meeting and shall thereafter be public records. (Government Code 3547)

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

Public Disclosure of Proposed Agreement

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

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

(cf. 3460 - Financial Reports and Accountability)

Legal Reference: (see next page)

PUBLIC NOTICE - PERSONNEL NEGOTIATIONS (continued)

Legal Reference:

EDUCATION CODE

42130-42134 *Financial reports and certifications*

GOVERNMENT CODE

3540.2 *Meeting and negotiating in public educational employment*

3547 *Proposals relating to representation; informing public*

3547.5 *Major provisions of agreement with exclusive representative*

CODE OF REGULATIONS, TITLE 8

32075 *PERB regional office defined*

All Personnel

SP 4144

4244

COMPLAINTS

4344

The County Superintendent recognizes the need to establish a process to allow employees and job applicants to have their concerns heard in an expeditious and unbiased manner. The County Superintendent expects that employees will make every effort to resolve complaints and disagreements informally before filing a formal complaint.

- (cf. 1312.3 - Uniform Complaint Procedures)*
- (cf. 1312.4 - Williams Uniform Complaint Procedures)*
- (cf. 4031 - Complaints Concerning Discrimination in Employment)*
- (cf. 4119.11/4219.11/4319.11 - Sexual Harassment)*

The County Superintendent prohibits retaliation against complainants. The County Superintendent or designee may keep a complainant's identity confidential, except to the extent necessary to investigate the complaint.

- (cf. 4119.1/4219.1/4319.1 - Civil and Legal Rights)*
- (cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)*

All matters related to a complaint shall be kept confidential and any document, communication, or record regarding the complaint shall be placed in a separate file and shall not be placed in an employee's personnel file.

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

Legal Reference:

EDUCATION CODE

- 200-262.4 Prohibition of discrimination on the basis of sex*
- 35186 Williams uniform complaint procedures*
- 44110-44114 Reporting by school employees of improper governmental activity*

GOVERNMENT CODE

- 3543 Public school employees' rights*
- 3543.1 Rights of employee organizations*
- 53296-53299 Disclosure of confidential information; whistleblower*
- 54957 Closed session; personnel matters*

LABOR CODE

- 1102.5-1106 Whistleblower protections*

CODE OF REGULATIONS, TITLE 5

- 4900-4965 Nondiscrimination in district programs and activities*

All Personnel

AR 4144(a)

4244

COMPLAINTS

4344

Except as specified below, the following procedure shall be used for any complaint by an employee alleging misapplication of the Santa Clara County Office of Education's policies, regulations, rules, or procedures or for "whistleblower" complaints by an employee or job applicant regarding an improper SCCOE activity including, but not limited to, an allegation of gross mismanagement, a significant waste of funds, an abuse of authority, or a specific danger to public health or safety.

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

Complaints alleging unlawful discrimination on any basis specified in the SCCOE's nondiscrimination policies, including complaints of sexual harassment, shall be resolved in accordance with the SCCOE's procedure for complaints regarding discrimination in employment.

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

(cf. 4031 - Complaints Concerning Discrimination in Employment)

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

Complaints regarding unlawful discrimination in SCCOE programs or the SCCOE's failure to comply with state or federal laws regarding educational programs shall be resolved in accordance with the SCCOE's Uniform Complaint Procedures. Complaints regarding sufficiency of textbook materials, teacher vacancy or misassignment, an urgent or emergency facility condition, or the failure to provide intensive instruction to students who did not pass the high school exit examination by the end of grade 12 shall be resolved in accordance with the SCCOE's Williams Uniform Complaint Procedures. (Education Code 35186; 5 CCR 4621)

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 1312.4 - Williams Uniform Complaint Procedures)

For complaints regarding working conditions or other subjects of negotiation, the employee shall use the grievance procedure specified in the applicable collective bargaining agreement.

Any of the time limits specified in this procedure may be extended by written agreement between the SCCOE and complainant.

Step 1: Informal Complaint Process

Prior to instituting a formal, written complaint, the employee shall first discuss the issue with his/her supervisor or the principal/site administrator of the school/program where the alleged act took place. Formal complaint procedures shall not be initiated until the employee has first attempted to resolve the complaint informally.

COMPLAINTS (continued)

Step 2: Site Level Formal Complaint Process

If a complaint has not been satisfactorily resolved through the informal process in Step 1, the complainant may file a written complaint with his/her immediate supervisor or principal within 60 days of the act or event which is the subject of the complaint. If an employee fails to file a written complaint within 60 days, the complaint shall be considered settled on the basis of the answer given at the preceding step.

In the written complaint, the employee shall specify the nature of the problem, including names, dates, locations, witnesses, the remedy sought by the employee, and a description of informal efforts to resolve the issue.

Within 10 working days of receiving the complaint, the immediate supervisor or principal/site administrator shall conduct any necessary investigation and meet with the complainant in an effort to resolve the complaint. Within five working days after the meeting, he/she shall prepare and send a written response to the complainant.

Step 3: SCCOE Level Appeal

If a complaint has not been satisfactorily resolved at Step 2, the complainant may file the written complaint with the County Superintendent or designee within five working days of receiving the written response from the immediate supervisor or the principal. The complainant shall include all information presented to the immediate supervisor or principal at Step 2.

Within 10 working days of receiving the complaint, the County Superintendent or designee shall conduct any necessary investigation, including reviewing the investigation and written response by the immediate supervisor or principal at Step 2, and shall meet with the complainant in an effort to resolve the complaint. Within five working days after the meeting, he/she shall prepare and send a written response to the complainant. The County Superintendent's decision is final.

All Personnel

SP 4151(a)

4251

EMPLOYEE COMPENSATION

4351

In order to recruit and retain employees committed to the Santa Clara County Office of Education's goals for student learning, the County Superintendent recognizes the importance of offering a competitive compensation package which includes salaries and health and welfare benefits.

(cf. 3100 - Budget)

(cf. 3400 - Management of SCCOE Assets/Accounts)

(cf. 4000 - Concepts and Roles)

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

The County Superintendent shall adopt separate salary schedules for certificated, classified, and supervisory and administrative personnel. These schedules shall comply with law and negotiated agreements and shall be printed and made available for review at the SCCOE office. (Education Code 45023, 45028)

(cf. 4121 - Temporary/Substitute Personnel)

(cf. 4141/4241 - Collective Bargaining Agreement)

(cf. 4143/4243 - Negotiations/Consultation)

Salary schedules for staff who are not a part of a bargaining unit shall be determined by the County Superintendent or designee.

(cf. 4312.1 - Contacts)

The County Superintendent or designee shall ensure that the SCCOE's payroll system complies with all applicable laws and bargaining agreements, including, but not limited to, timelines regarding payment of compensation and deductions of dues for employee organizations.

(cf. 4140/4240 - Bargaining Units)

Legal Reference: (see next page)

EMPLOYEE COMPENSATION (continued)

Legal Reference:

EDUCATION CODE

45022-45061.5 Salaries, especially:

45023 Availability of salary schedule

45028 Salary schedule for certificated employees

45160-45169 Salaries for classified employees

45268 Salary schedule for classified service in merit system districts

GOVERNMENT CODE

3540-3549 Meeting and negotiating, especially:

3543.2 Scope of representation

3543.7 Duty to meet and negotiate in good faith

LABOR CODE

226 Employee access to payroll records

232 Disclosure of wages

UNITED STATES CODE, TITLE 26

409A Deferred compensation plans

CODE OF FEDERAL REGULATIONS, TITLE 26

1.409A-1 Definitions and covered plans

All Personnel

SP 4154(a)
4254
4354

HEALTH AND WELFARE BENEFITS

The Santa Clara County Office of Education shall provide health and welfare benefits for certificated and classified employees in bargaining units in accordance with state and federal law and subject to negotiated employee agreements.

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

For purposes of granting benefits pursuant to state law, a registered domestic partner and his/her child shall have the same rights, protections, and benefits as a spouse and spouse's child. (Family Code 297.5)

The County Superintendent or designee shall not use or disclose any medical information the SCCOE possesses pertaining to an employee without the employee's authorization obtained in accordance with Civil Code 56.21, except for the purpose of administering and maintaining employee benefit plans and for other purposes specified in law. (Civil Code 56.20)

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

Continuation of Coverage

Retired employees, other employees who would otherwise lose coverage due to a qualifying event specified in law and administrative regulation, and their qualified beneficiaries may continue to participate in the SCCOE's group health and welfare benefits in accordance with state and federal law.

To receive continuation coverage, covered employees and their qualified beneficiaries shall pay the premiums, dues, and other charges, including any increases in premiums, dues, and costs incurred by the SCCOE in administering this program.

Legal Reference: (see next page)

HEALTH AND WELFARE BENEFITS (continued)

Legal Reference:

EDUCATION CODE

7000-7008 Health and welfare benefits, retired certificated employees

17566 Self-insurance fund

35208 Liability insurance

35214 Liability insurance (self-insurance)

44041-44042 Payroll deductions for collection of premiums

44986 Leave of absence, state disability benefits

45136 Benefits for classified employees

CIVIL CODE

56.10-56.16 Disclosure of information by medical providers

56.20-56.245 Use and disclosure of medical information by employers

FAMILY CODE

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

GOVERNMENT CODE

22750-22944 Public Employees' Medical and Hospital Care Act

53200-53210 Group insurance

HEALTH AND SAFETY CODE

1366.20-1366.29 Cal-COBRA program, health insurance

1367.08 Disclosure of fees and commissions paid related to health care service plan

1373 Health services plan, coverage for dependent children over 18 who are full-time students

1373.621 Continuation coverage, age 60 or older after five years with district

1374.58 Coverage for registered domestic partners, health service plans and health insurers

INSURANCE CODE

10116.5 Continuation coverage, age 60 or older after five years with district

10128.50-10128.59 Cal-COBRA program, disability insurance

10277-10278 Group and individual health insurance, coverage for dependent children

10604.5 Annual disclosure of fees and commissions paid

12670-12692.5 Conversion coverage

LABOR CODE

2800.2 Notification of conversion and continuation coverage

4856 Health benefits for spouse of peace officer killed in performance of duties

UNEMPLOYMENT INSURANCE CODE

2613 Education program; notice of rights and benefits

Legal Reference continued: (see next page)

HEALTH AND WELFARE BENEFITS (continued)

Legal Reference: (continued)

UNITED STATES CODE, TITLE 1

7 Definition of marriage, spouse

UNITED STATES CODE, TITLE 26

139C COBRA premium assistance, elimination of subsidy for high-income individuals

4980B COBRA continuation coverage

6432 COBRA premium assistance

6720C COBRA premium assistance, failure to notify health plan of cessation of eligibility

UNITED STATES CODE, TITLE 29

1161-1168 COBRA continuation coverage

UNITED STATES CODE, TITLE 42

1395-1395g Medicare benefits

CODE OF FEDERAL REGULATIONS, TITLE 26

54.4980B-1-54.4980B-10 COBRA continuation coverage

CODE OF FEDERAL REGULATIONS, TITLE 45

164.500-164.534 Health Insurance Portability and Accountability Act (HIPAA)

All Personnel

AR 4154(a)

4254

HEALTH AND WELFARE BENEFITS

4354

Retired Employees

Any former employee who retired from the Santa Clara County Office of Education under any public retirement system and his/her spouse/domestic partner shall be permitted at the time of retirement to enroll in the health and welfare plans currently provided for employees.

A retired employee or surviving spouse/domestic partner shall be allowed to enroll in the coverage within 30 days of losing active employee coverage.

COBRA/Cal-COBRA Continuation Coverage

Covered SCCOE employees and their qualified beneficiaries shall be offered the opportunity to continue health insurance coverage when they otherwise would lose coverage due to one of the following qualifying events: (Health and Safety Code 1366.21, 1366.23, 1373; Insurance Code 10128.51, 10128.53, 10277; 26 USC 4980B; 26 CFR 54.4980B-4)

1. Death of the covered employee
2. Termination or reduction in hours of the covered employee's employment, other than termination by reason of the employee's gross misconduct

(cf. 4117.4 - Dismissal)

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

3. Divorce or legal separation of the covered employee
4. Covered employee's becoming entitled to Medicare benefits
5. A dependent child becoming age 26

Continuation health coverage shall be the same as provided to similarly situated individuals under the group benefit plan. (Health and Safety Code 1366.23; Insurance Code 10128.53; 26 USC 4980B)

The County Superintendent or designee shall notify the Human Resources Benefits Unit of a qualifying event listed in item #1, 2, or 4 above, within 30 days of the event. A covered employee or qualified beneficiary shall notify the Human Resources Benefits Unit of a qualifying event listed in item #3 or 5 above within 60 days of the event or of the date that the beneficiary would lose coverage, whichever is later. (26 USC 4980B; 29 USC 1163, 1166; 26 CFR 54.4980B-6)

HEALTH AND WELFARE BENEFITS (continued)

Continuation coverage shall be terminated in accordance with the SCCOE's insurance plan and federal and state law. (26 USC 4980B; 26 CFR 54.4980B-6; Health and Safety Code 1373.621; Insurance Code 10116.5)

The County Superintendent or designee shall notify covered employees and qualified beneficiaries of the availability of conversion and continuation coverage. This notification shall include the statement in Labor Code 2800.2 encouraging individuals to examine their options carefully before declining such coverage. (Labor Code 2800.2)

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

Disability Insurance

The County Superintendent or designee shall give notice of disability insurance rights and benefits to each new eligible employee and each eligible employee leaving work due to pregnancy, nonoccupational illness or injury, or the need to provide care for any sick or injured family member, or the need to bond with a minor child within the first year of the child's birth or placement in connection with foster care or adoption. (Unemployment Insurance Code 2613)

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

(cf. 4161/4261/4361 - Leaves)

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

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

(cf. 4261.1 - Personal Illness and Injury Leave)

When disabled by an injury resulting from a violent act sustained while performing duties within the scope of employment and performing creditable employment, a certificated or classified employee may continue in the SCCOE health and dental care plans upon meeting criteria specified by law. The employee shall pay all employer and employee premiums and related administrative costs. (Education Code 7008)

All Personnel

SP 4156.2(a)
4256.2
4356.2

AWARDS AND RECOGNITION

The County Superintendent values the Santa Clara County Office of Education instructional and noninstructional staff and desires to recognize their outstanding service in order to increase employee morale and encourage creative and innovative performance.

(cf. 1150 - Commendations and Awards)
(cf. 5126 - Awards for Achievement)

The County Superintendent encourages recognition of all staff during days of significance designated by the Santa Clara County Board of Education, state law, or state resolution.

(cf. 6115 - Ceremonies and Observances)

The Santa Clara County Office of Education authorizes awards to individual employees who: (Education Code 44015)

1. Propose procedures or ideas that result in eliminating or reducing SCCOE expenditures or improving SCCOE operations
2. Perform special acts or services in the public interest
3. By their superior accomplishments, make exceptional contributions to the efficiency, economy, or other improvement in SCCOE operations

As the SCCOE budget permits, the County Superintendent or designee may recognize such employees by issuing service pins, certificates, plaques, and/or other mementos. In addition, he/she may recommend employees to the County Board for recognition at a public County Board meeting.

(cf. 3100 - Budget)
(cf. 3300 - Expenditures and Purchases)

The County Superintendent or designee shall establish procedures for the selection of individual employees to receive awards.

Legal Reference: (see next page)

SP 4156.2(b)
4256.2
4356.2

AWARDS AND RECOGNITION (continued)

Legal Reference:

EDUCATION CODE

35160 Authority of governing boards

35160.1 Broad authority of school districts

35161 Powers and duties generally

37222.10 Days of significance, including Day of the Teacher

44015 Awards to employees

45460 Classified School Employee Week