

Since 1862

Board of Trustees

Michelle Rutledge, *Board President* ~ Elaine Doss, *Trustee* ~ Mark Burton, *Trustee*

AGENDA

Regular Meeting

Tuesday, May 7, 2019 5pm

Nicasio School Library, 5555 Nicasio Valley Road, California

OPEN SESSION

1. **Call to Order** (*Michelle Rutledge – Board President*)
 - a. Patriotic Moment
 - b. Roll Call
 - c. Trustee/Superintendent Announcements (*Trustees and Jan Derby, Ed.D., Interim Superintendent*)
 - d. Principal Announcements (*Barbara Snekkevik, Principal*)
2. **Approval and Adoption of Agenda** (*Board President Rutledge*)
3. **Public Comment**

Public Comment is only for items not on the agenda. No formal action will be taken. Board members or district staff may, but are not obligated to, briefly respond to statements made or question posed by the public about items not appearing on the agenda. Designated amount of time to address the Board is limited to three minutes per individual. Concerns about individual employees shall not be discussed in public at school board meetings. Please contact the superintendent with specific concerns.
4. **Consent Agenda**
 - a. Approval of Minutes: April 3, 2019 Regular Meeting of the Board of Trustees (*Interim Supt. Derby*)
 - b. Ratify Warrants Paid: April, 2019 (*Margie Bonardi, Chief Business Official*)
5. **Student Recognition** (*Interim Supt. Derby*)
5. **Action**
 - a. Bright Schools Program Application for Energy Audit Funding (*Interim Supt. Derby*)
 - b. Resolution 2018-19 #4 for Adopting California Energy Commission Bright Schools Program (*Interim Supt. Derby*)
 - c. Resolution 2018-19 #5 - CSBA Resolution Regarding Full and Fair School Funding Model (*Interim Supt. Derby*)
 - d. Revision of BP 1330 Use of School Facilities (*Interim Supt. Derby*)
 - e. BP 4000s – Personnel (*Interim Supt. Derby*)
7. **Conclusion**
 - a. Agenda items for upcoming Board Agenda: June 5, 2019 5pm
 - b. Adjournment

If you need assistance to access the Board meeting room or to otherwise participate at the meeting, please submit a written request to Nicasio School District Superintendent at P.O. Box 711, Nicasio, CA 94946 or office@nicasioschool.org. Notification at least 48 hours prior to the meeting will better enable the District to make reasonable accommodations in accordance with the Americans with Disabilities Act.

Nicasio School District

Since 1862

Board of Trustees

Michelle Rutledge, *Board President* ~ Elaine Doss, *Trustee* ~ Mark Burton, *Trustee*

Agenda Item # 4a

MINUTES

Regular Meeting

Wednesday, April 3, 2019 5pm

Nicasio School Library, 5555 Nicasio Valley Road, California

OPEN SESSION

1. **Call to Order** at 5:02pm

- a. **Patriotic Moment** Appreciation was expressed for the numerous members of the public in attendance.
- b. **Roll Call** In attendance: **Trustees Michelle Rutledge, Elaine Doss and Mark Burton** *Also in attendance: Interim Superintendent Jan Derby, Ed.D., Principal Barbara Snekkevik, Chief Business Official Margie Bonardi and District Secretary/Office Manager Mikki McIntyre*
- c. **Trustee/Superintendent Announcements** *Interim Superintendent Derby reported on the following items:*
 - Board Meeting Date Change - The May 2 meeting was changed to May 7.
 - Board Superintendent Dinner - The presentation by Dr. Nancy Dome was focused on looking at all aspects of district policies and practices with an equity lens.
 - GAMUT Policies - Board Policies for 4000s Personnel will be reviewed and presented at the meeting on May 7, 2019.
 - Special Education Excess Costs - Excess costs for special education were discussed at an increase of \$31,140 for a total annual cost of \$130,140 for 2019-20.
 - West Marin Fund - The West Marin Fund has announced that they are implementing an initiative beyond their current funding areas of focus to promote Universal PreK for all West Marin students.
 - CSBA and JLAC - CSBA has developed a resolution requesting an equitable funding model for public education in California. A resolution will be brought to the May 7, 2019 meeting for consideration.
 - Social Emotional Development - The need for mental health services in Marin is increasing significantly.
 - FCMAT Sacramento Legislative Updates - Governor Gavin Newsom has made several changes to the Education Department including personnel and legislative changes.
 - MMUD Rate Increases - Marin Municipal Water District has proposed increased rates for its customers in Nicasio's neighboring districts.
 - Annual Marin Community United Dinner April 24 - The annual gathering of Mayors, Council Members, Trustees and Superintendents will focus on vaping as a community issue to resolve jointly.

d. **Principal Announcements** *Principal Snekkevik reported on the following school updates:*

- Events and Activities - Student and family activities included a variety of learning and interactions including student field trips and Parent Club events.
- Student Updates and Achievements - The March Life Skill focused on Perseverance with an assembly to recognize students. The April focus will be Sense of Humor. CAASPP testing begins April 30. Life Skills, upcoming CAASPP assessments, and library services were discussed.
- Staff Updates - Teacher Ellian Klein received the Golden Bell nomination and will be honored May 23 at Dominican University at 4:30pm.
- Site Update - An annual fire inspection was successfully completed.

2. **Approval and Adoption of Agenda**

Action: **M/S: Doss/Burton** to approve and adopt Open Session Agenda with the modification to the agenda of moving Student Recognition (Agenda Item #5) forward. **Vote: 3/0 Ayes:** Doss/Burton/Rutledge; **Noes:** None

3. **Student Recognition** *(This agenda item was re-ordered)*

Interim Superintendent Derby announced the implementation of a Student Recognition Program. The following students were recognized for their academic achievements in poetry at the 2019 Marin County Farm Day: Leo Dixon-Perdomo (Gr. 4), 1st place; Francesca Meckfessel (Gr. 4), 3rd place; and Eva Taylor (Gr. 5), 1st place. Recipients who were not present included Kate Kozubik (Gr. 4), 2nd place and Akina Remer (Gr. 5), 3rd place. The trustees expressed their pride in all of the students.

4. **Public Comment** *There were no public comments.*

5. **Consent Agenda**

- a. Approval of Minutes: March 7, 2019 Regular Meeting of the Board of Trustees
- b. Ratify Warrants Paid: March, 2019
- c. Quarterly Report on Williams Uniform Complaints (Jan.-Mar. 2019)
- d. Personnel Action
- e. Disposal of Library Books in accordance with BP 3270

Action: **M/S: Burton/Doss** to approve **Vote: 3/0 Ayes:** Doss/Burton/Rutledge; **Noes:** None

6. **Presentations**

a. **Marin County Free Library Update**

Raemona Little Taylor, West Marin Library Manager, thanked the board for allowing the partnership between Nicasio School and the Marin County Free Library (MCFL). The following actions were discussed: purchase of 212 new books at a 50% library discount; preparation for student and family library card distribution; and student input for the library structure. The library was restructured for ease of use and to attract students to areas of interest, with a special middle school section as recommended by the middle school students. Trustees also discussed the desire to have all families have access to the Internet from home. The Nicasio Foundation and Marin County Library have expressed interest in addressing access for 2019-20. Principal Snekkevik recognized the library team from Marin County Free Library as a "superstar team" who enhanced the Nicasio School library. Trustees expressed appreciation for Ms. Little Taylor and her team.

b. **Spring 2019 Parent Survey Results**

Principal Snekkevik discussed the implementation of the Annual Parent Survey in both

electronic and hard copy to ensure ease of completion. The survey was modified to have one survey per family. Areas to celebration and enhance are as follows: 1) increase communication regarding conflict resolution; 2) celebrate the excellent parent participation at Open House; 2) encourage parent participation in the classroom; and 3) increase communication among Trustees, Foundation, Parent Club and families. All input will be utilized un future planning and goal setting.

7. Action

- a. **Revision of BP 1330 Use of School Facilities** *Discussion:* Interim Supt. Derby said staff reviewed the facility use policies of several neighboring districts and confirmed that NSD's existing fee schedule is comparable to other districts. Keenan and Associates will be contacted regarding liability insurance and use of facilities by outside groups. BP 1330 will be presented at the May 7, 2019 meeting with input from Keenan and Assoc. regarding liability and use of personnel to be present for outside users.

There was no action: BP 1330 will be discussed as an action item on May 7.

- b. **BP 3000s – Business and Non-instructional Operations**

Action: **M/S: Burton/Doss** to approve BP 3000s – Business and Non-instructional Operations

Vote: 3/0 Ayes: Rutledge, Doss, Burton; Noes: None

- c. **Potential Energy Audit and Solar Application for Funding** *Discussion:* Trustees discussed the benefits of applying for a free energy audit as long as there were no obligations to take action. The Board directed staff for apply to Bright Schools for a free energy audit.

Action: **M/S:Doss/Burton** to approve Energy Audit and Solar Application for Funding **Vote: 3/0**

Ayes: Rutledge, Doss, Burton; Noes: None

6. Conclusion

- a. Agenda items for upcoming Board Agenda: May 7, 2019 5pm

- Full and Fair Resolution CSBA
- BP 1330 Use of School Facilities
- Pre-K Application Update
- BP 4000s
- Student Recognition: National Mythology Exam results

- b. Adjournment

Action: **M/S: Doss/Burton** to adjourn meeting at 7:02pm **Vote: 3/0** Ayes: Rutledge, Doss, Burton;

Noes: None

Respectfully Submitted,

Mikki McIntyre

☐ Unadopted

☐ Adopted

Elaine Doss, Board Clerk

Nicasio School District

Since 1862

Agenda Item #

46

Board of Trustees

Michelle Rutledge, *Board President* ~ Elaine Doss, *Trustee* ~ Mark Burton, *Trustee*

To: Nicasio School District Board of Trustees
From: Margie Bonardi, Interim CBO
Date: May 7, 2019
Re: Approval of Warrants

Objective: To approve monthly warrants

Background: Warrants are processed monthly and reflect expenditures for Nicasio School and District. November warrants include: employee payroll, district operations, safety, instructional materials, supplies, and state and county required expenditures.

Funding Source/Cost: LCFF Funds/ April 2019 Total for all batches: \$18,482.22
Batches: 39 through 43

Recommendation: Staff recommends approval of Warrants.

APY250 L.00.05

Marin County Office of Education
COMMERCIAL WARRANT REGISTER
FOR WARRANTS DATED 04/03/2019

04/30/19 PAGE 1

DISTRICT: 031 NICASIO SCHOOL DISTRICT

BATCH: 0039 GF 04-03-19

FUND : 01 GENERAL FUND

WARRANT	VENDOR/ADDR	NAME (REMIT)	DEPOSIT TYPE	ABA NUM	ACCOUNT NUM	AMOUNT
REQ#	REFERENCE	LN	FD RESC Y OBJT SO GOAL FUNC LOC ACT GRP	DESCRIPTION		
20229561	001162/	CDW GOVERNMENT INC				
		PO-190202	1. 01-0000-0-4410.00-1110-1010-000-333-000	RKR0078-RKS3176		561.43
			WARRANT TOTAL			\$561.43
20229562	001149/	MARIN COUNTY OFFICE OF ED				
		PV-190059	01-0000-0-9521.00-0000-0000-000-000-000	ROGERS COBRA		1,070.25
			01-0000-0-9526.00-0000-0000-000-000-000	KAISER		2,073.03
			01-0000-0-9529.00-0000-0000-000-000-000	VISION		93.99
			WARRANT TOTAL			\$3,237.27
20229563	000012/	P G & E				
		PO-190026	1. 01-0000-0-5510.00-0000-8200-000-000-000	4964672870-6		91.49
			WARRANT TOTAL			\$91.49
20229564	001204/	PROTECTION ONE ALARM MONITORIN				
		PO-190029	1. 01-0000-0-5620.00-0000-8300-000-000-000	12789148		99.99
			WARRANT TOTAL			\$99.99
20229565	001450/	SCHOOL FIX CATALOG				
		PO-190206	1. 01-0000-0-4300.00-0000-8200-000-000-000	289185A		68.14
		PO-190207	1. 01-0000-0-4300.00-0000-2700-000-000-000	ORDER 289218A		160.63
			WARRANT TOTAL			\$228.77
20229566	001376/	SAMANTHA SHURA				
		PV-190060	01-6500-0-5800.00-5770-3140-000-000-000	MARCH 2019 CHARGES		1,211.25
			WARRANT TOTAL			\$1,211.25
*** FUND	TOTALS ***		TOTAL NUMBER OF CHECKS:	6	TOTAL AMOUNT OF CHECKS:	\$5,430.20*
			TOTAL ACH GENERATED:	0	TOTAL AMOUNT OF ACH:	\$0.00*
			TOTAL EFT GENERATED:	0	TOTAL AMOUNT OF EFT:	\$0.00*
			TOTAL PAYMENTS:	6	TOTAL AMOUNT:	\$5,430.20*

APY250 L.00.05

Marin County Office of Education
 COMMERCIAL WARRANT REGISTER
 FOR WARRANTS DATED 04/03/2019

04/30/19 PAGE 2

DISTRICT: 031 NICASIO SCHOOL DISTRICT

BATCH: 0039 GF 04-03-19

FUND : 14 DEFERRED MAINTENANCE FUND

WARRANT	VENDOR/ADDR	NAME (REMIT)	DEPOSIT TYPE	ABA NUM	ACCOUNT NUM	AMOUNT								
REQ#	REFERENCE	LN	FD	RESC	Y	OBJT	SO	GOAL	FUNC	LOC	ACT	GRP	DESCRIPTION	AMOUNT
20229567	001158/	PAUL DOLCINI SEWER SVC & PLUMB												
		PO-190215	1.	14-0000-0-5610.00-0000-8100-000-000-000									11174	2,197.56
													WARRANT TOTAL	\$2,197.56
*** FUND	TOTALS ***													
													TOTAL NUMBER OF CHECKS:	1
													TOTAL AMOUNT OF CHECKS:	\$2,197.56*
													TOTAL ACH GENERATED:	0
													TOTAL AMOUNT OF ACH:	\$.00*
													TOTAL EFT GENERATED:	0
													TOTAL AMOUNT OF EFT:	\$.00*
													TOTAL PAYMENTS:	1
													TOTAL AMOUNT:	\$2,197.56*
***	BATCH TOTALS ***													
													TOTAL NUMBER OF CHECKS:	7
													TOTAL AMOUNT OF CHECKS:	\$7,627.76*
													TOTAL ACH GENERATED:	0
													TOTAL AMOUNT OF ACH:	\$.00*
													TOTAL EFT GENERATED:	0
													TOTAL AMOUNT OF EFT:	\$.00*
													TOTAL PAYMENTS:	7
													TOTAL AMOUNT:	\$7,627.76*

APY250 L.00.05

Marin County Office of Education
 COMMERCIAL WARRANT REGISTER
 FOR WARRANTS DATED 04/03/2019

04/30/19 PAGE 3

DISTRICT: 031 NICASIO SCHOOL DISTRICT
 BATCH: 0040 PG&E 04/03/19
 FUND : 01 GENERAL FUND

WARRANT	VENDOR/ADDR	NAME (REMIT)	DEPOSIT TYPE	ABA NUM	ACCOUNT NUM	AMOUNT
REQ#	REFERENCE	LN	FD RESC Y OBJT SO GOAL FUNC LOC ACT GRP	DESCRIPTION		
20229568	000012/	P G & E				
		PO-190026	1. 01-0000-0-5510.00-0000-8200-000-000-000	8516765363-4		753.79
			WARRANT TOTAL			\$753.79
*** FUND	TOTALS ***		TOTAL NUMBER OF CHECKS:	1	TOTAL AMOUNT OF CHECKS:	\$753.79*
			TOTAL ACH GENERATED:	0	TOTAL AMOUNT OF ACH:	\$.00*
			TOTAL EFT GENERATED:	0	TOTAL AMOUNT OF EFT:	\$.00*
			TOTAL PAYMENTS:	1	TOTAL AMOUNT:	\$753.79*
*** BATCH TOTALS ***			TOTAL NUMBER OF CHECKS:	1	TOTAL AMOUNT OF CHECKS:	\$753.79*
			TOTAL ACH GENERATED:	0	TOTAL AMOUNT OF ACH:	\$.00*
			TOTAL EFT GENERATED:	0	TOTAL AMOUNT OF EFT:	\$.00*
			TOTAL PAYMENTS:	1	TOTAL AMOUNT:	\$753.79*
*** DISTRICT TOTALS ***			TOTAL NUMBER OF CHECKS:	8	TOTAL AMOUNT OF CHECKS:	\$8,381.55*
			TOTAL ACH GENERATED:	0	TOTAL AMOUNT OF ACH:	\$.00*
			TOTAL EFT GENERATED:	0	TOTAL AMOUNT OF EFT:	\$.00*
			TOTAL PAYMENTS:	8	TOTAL AMOUNT:	\$8,381.55*

APY250 L.00.05

Marin County Office of Education
COMMERCIAL WARRANT REGISTER
FOR WARRANTS DATED 04/10/2019

04/30/19 PAGE 1

DISTRICT: 031 NICASIO SCHOOL DISTRICT
BATCH: 0041 GF 04/10/19
FUND : 01 GENERAL FUND

WARRANT	VENDOR/ADDR	NAME (REMIT)	DEPOSIT TYPE	ABA NUM	ACCOUNT NUM	AMOUNT
REQ#	REFERENCE	LN	FD RESC Y OBJT SO GOAL FUNC LOC ACT GRP	DESCRIPTION		
20230324	001422/	AAERO HEATING & SHEET METAL IN				
		PO-190216	1. 01-0000-0-5610.00-0000-8100-000-000-000	90711		325.00
		WARRANT TOTAL				\$325.00
20230325	001351/	EDJOIN				
		PO-190009	1. 01-0000-0-5803.00-0000-7100-000-000-000	1820104		450.00
		WARRANT TOTAL				\$450.00
20230326	000586/	FISHMAN SUPPLY COMPANY				
		PO-190214	1. 01-0000-0-4300.00-0000-8200-000-000-000	1182951		125.27
		WARRANT TOTAL				\$125.27
20230327	000807/	JERRY & DON'S PUMP & WELL				
		PO-190012	1. 01-0000-0-5535.00-0000-8200-000-000-000	0133461-IN		991.55
		WARRANT TOTAL				\$991.55
20230328	000007/	OFFICE DEPOT				
		PO-190204	1. 01-9327-0-4300.00-1110-1010-000-000-000	290770033001		299.09
		PO-190209	1. 01-1100-0-4300.00-1110-1010-000-678-000	290482034001		65.53
		WARRANT TOTAL				\$364.62
20230329	001185/	STEPHEN ROATCH ACCOUNTANCY COR				
		PO-190035	1. 01-0000-0-5809.00-0000-7191-000-000-000	PROGRESS BILLING #1		875.00
		WARRANT TOTAL				\$875.00
*** FUND	TOTALS ***		TOTAL NUMBER OF CHECKS:	6	TOTAL AMOUNT OF CHECKS:	\$3,131.44*
			TOTAL ACH GENERATED:	0	TOTAL AMOUNT OF ACH:	\$.00*
			TOTAL EFT GENERATED:	0	TOTAL AMOUNT OF EFT:	\$.00*
			TOTAL PAYMENTS:	6	TOTAL AMOUNT:	\$3,131.44*
*** BATCH TOTALS ***			TOTAL NUMBER OF CHECKS:	6	TOTAL AMOUNT OF CHECKS:	\$3,131.44*
			TOTAL ACH GENERATED:	0	TOTAL AMOUNT OF ACH:	\$.00*
			TOTAL EFT GENERATED:	0	TOTAL AMOUNT OF EFT:	\$.00*
			TOTAL PAYMENTS:	6	TOTAL AMOUNT:	\$3,131.44*
*** DISTRICT TOTALS ***			TOTAL NUMBER OF CHECKS:	6	TOTAL AMOUNT OF CHECKS:	\$3,131.44*
			TOTAL ACH GENERATED:	0	TOTAL AMOUNT OF ACH:	\$.00*
			TOTAL EFT GENERATED:	0	TOTAL AMOUNT OF EFT:	\$.00*
			TOTAL PAYMENTS:	6	TOTAL AMOUNT:	\$3,131.44*

APY250 L.00.05

Marin County Office of Education
 COMMERCIAL WARRANT REGISTER
 FOR WARRANTS DATED 04/17/2019

04/30/19 PAGE 1

DISTRICT: 031 NICASIO SCHOOL DISTRICT
 BATCH: 0042 GENERAL FUND 04/17/19
 FUND : 01 GENERAL FUND

WARRANT	VENDOR/ADDR	NAME (REMIT)	DEPOSIT TYPE	ABA NUM	ACCOUNT NUM	AMOUNT
	REQ#	REFERENCE LN	FD RESC Y OBJT SO GOAL FUNC LOC ACT GRP		DESCRIPTION	
20230971	001376/	SAMANTHA SHURA				
		PV-190062	01-6500-0-5800.00-5770-3140-000-000-000		FEB. 2019	427.50
			WARRANT TOTAL			\$427.50
20230972	001260/	SILYCO				
		PO-190033	2. 01-0000-0-5840.00-0000-2700-000-000-000		MARCH 2019 PAYMENT	700.00
			WARRANT TOTAL			\$700.00
20230973	000024/	STATE OF CALIFORNIA				
		PV-190061	01-0000-0-9515.00-0000-0000-000-000-000		QT ENDED 04/30 SUI	66.49
			WARRANT TOTAL			\$66.49
*** FUND	TOTALS ***		TOTAL NUMBER OF CHECKS:	3	TOTAL AMOUNT OF CHECKS:	\$1,193.99*
			TOTAL ACH GENERATED:	0	TOTAL AMOUNT OF ACH:	\$.00*
			TOTAL EFT GENERATED:	0	TOTAL AMOUNT OF EFT:	\$.00*
			TOTAL PAYMENTS:	3	TOTAL AMOUNT:	\$1,193.99*
*** BATCH TOTALS ***			TOTAL NUMBER OF CHECKS:	3	TOTAL AMOUNT OF CHECKS:	\$1,193.99*
			TOTAL ACH GENERATED:	0	TOTAL AMOUNT OF ACH:	\$.00*
			TOTAL EFT GENERATED:	0	TOTAL AMOUNT OF EFT:	\$.00*
			TOTAL PAYMENTS:	3	TOTAL AMOUNT:	\$1,193.99*
*** DISTRICT TOTALS ***			TOTAL NUMBER OF CHECKS:	3	TOTAL AMOUNT OF CHECKS:	\$1,193.99*
			TOTAL ACH GENERATED:	0	TOTAL AMOUNT OF ACH:	\$.00*
			TOTAL EFT GENERATED:	0	TOTAL AMOUNT OF EFT:	\$.00*
			TOTAL PAYMENTS:	3	TOTAL AMOUNT:	\$1,193.99*

J28213

ACCOUNTS PAYABLE PRELIST
BATCH: 0043 GF 04/24/19
FUND : 01 GENERAL FUND

APY500 L.00.12 04/22/19 22:35 PAGE 1
 << Held for Audit >>

Vendor/Addr	Remit name	Tax ID num	Deposit type	ABA num	Account num							Liq Amt	Net Amount
Req Reference	Date	Description	FD RESC Y	OBJT SO GOAL FUNC LOC ACT GRP T9MPS									
000922/00		AMERIGAS PO BOX 7155 PASADENA, CA 91109-7155											
PO-190001	04/04/2019	3090834652	1	01-0000-0-5505.00-0000-8200-000-000-000 NN P							714.06	714.06	
		GAS											
		TOTAL PAYMENT AMOUNT						714.06 *					714.06
001177/00		COUNTY OF MARIN ENVIR HLTH SVC 3501 CIVIC CENTER DRIVE ROOM 236 SAN RAFAEL, CA 94903											
PO-190008	04/01/2019	BILL #22269	1	01-0000-0-5839.00-0000-8200-000-000-000 NN F							1,800.00	625.00	
		OTHER FEES											
		TOTAL PAYMENT AMOUNT						625.00 *					625.00
001449/00		INYO PO BOX 513868 LOS ANGELES, CA 90051-3868											
PO-190192	04/01/2019	32001551193	1	01-1400-0-5940.00-1110-1010-000-000-000 NN P							975.00	975.00	
		INTERNET											
		TOTAL PAYMENT AMOUNT						975.00 *					975.00
001149/00		MARIN COUNTY OFFICE OF ED ATTN: ACCOUNTS RECEIVABLE P O BOX 4925 SAN RAFAEL, CA 94913-4925											
PO-190015	04/22/2019	DATA PROCESSING	1	01-0000-0-5840.00-0000-2700-000-000-000 NN C							1,300.00	0.00	
		OTHER CONTRACT SERVICES											
PO-190019	04/22/2019	EXCESS COST PD E BULLETIN	1	01-6500-0-7142.00-5770-9200-000-000-000 NN C							122,858.00	0.00	
		OTH TUIT,EXC CST PMT TO COE											
		TOTAL PAYMENT AMOUNT						0.00 *					0.00

031 Nicasio School District
NICASIO

J28213

ACCOUNTS PAYABLE PRELIST
BATCH: 0043 GF 04/24/19
FUND : 01 GENERAL FUND

APY500 L.00.12 04/22/19 22:35 PAGE 2
<< Held for Audit >>

Vendor/Addr	Remit name	Tax ID num	Deposit type	ABA num	Account num		
Req Reference	Date	Description	FD RESC Y OBJT SO GOAL FUNC LOC ACT GRP T9MPS	Liq Amt	Net Amount		
001180/00	MCINTYRE, MICHELLE 58 SHIELDS LANE NOVATO, CA 94947						
PV-190063	04/22/2019	BOARD MEETING SUPPLIES	01-0000-0-4300.00-0000-2700-000-000-000 NN		101.21		
		MATERIALS & SUPPLIES					
		TOTAL PAYMENT AMOUNT	101.21 *		101.21		
001323/00	NORTH BAY TAXI 757 LINCOLN AVENUE, SUITE 30 SAN RAFAEL, CA 94901						
PO-190039	04/11/2019	MARCH 2019 BILLING	1 01-6500-0-5840.00-5770-3600-000-707-000 NN P	2,835.00	2,835.00		
		OTHER CONTRACT SERVICES					
		TOTAL PAYMENT AMOUNT	2,835.00 *		2,835.00		
000007/00	OFFICE DEPOT PO BOX 70025 LOS ANGELES, CA 90074-0025						
PO-190217	04/02/2019	296709744001	1 01-0000-0-4300.00-0000-2700-000-000-000 NN P	194.17	194.17		
		MATERIALS & SUPPLIES					
PO-190217	04/02/2019	296708075001	1 01-0000-0-4300.00-0000-2700-000-000-000 NN F	9.62	9.62		
		MATERIALS & SUPPLIES					
PO-190218	04/09/2019	298017444001	1 01-0000-0-4300.00-0000-2700-000-000-000 NN P	101.09	101.09		
		MATERIALS & SUPPLIES					
PO-190218	04/04/2019	298016499001	1 01-0000-0-4300.00-0000-2700-000-000-000 NN P	40.17	40.17		
		MATERIALS & SUPPLIES					
PO-190218	04/22/2019	CLOSE PO	1 01-0000-0-4300.00-0000-2700-000-000-000 NN C	62.53	0.00		
		MATERIALS & SUPPLIES					
		TOTAL PAYMENT AMOUNT	345.05 *		345.05		
001418/00	SNEKKEVIK, BARBARA 225 COBBLESTONE DR SAN RAFAEL, CA 94903						
PV-190064	04/22/2019	CLASSROOM/EVENT SUPPLIES	01-0000-0-4300.00-0000-2700-000-000-000 NN		119.90		
		MATERIALS & SUPPLIES					
PV-190064	04/22/2019	CLASSROOM/EVENT SUPPLIES	01-1100-0-4300.00-1110-1010-000-000-000 NN		60.02		
		MATERIALS & SUPPLIES					
		TOTAL PAYMENT AMOUNT	179.92 *		179.92		
		TOTAL FUND	PAYMENT	5,775.24 **		5,775.24	
		TOTAL BATCH PAYMENT		5,775.24 ***	0.00	5,775.24	

J28213

ACCOUNTS PAYABLE PRELIST
BATCH: 0043 GF 04/24/19
FUND : 01 GENERAL FUND

APY500 L.00.12 04/22/19 22:35 PAGE 3
<< Held for Audit >>

[illegible]

TOTAL DISTRICT PAYMENT	5,775.24 ****	0.00	5,775.24
TOTAL FOR ALL DISTRICTS:	5,775.24 ****	0.00	5,775.24

Number of checks to be printed: 7, not counting voids due to stub overflows.
Number of zero dollar checks: 1, will be printed.

Nicasio School District

Since 1862

Board of Trustees
Michelle Rutledge, *Board President* ~ Elaine Doss, *Trustee* ~ Mark Burton, *Trustee*

To: Nicasio School District Board of Trustees
From: Jan La Torre-Derby, Ed.D. Interim Superintendent
Date: May 7, 2019
Re: Action: Bright Schools Program Application-California Energy Commission

Objective:

To submit an application to Bright Schools Program to access a free energy audit

Background:

Sage Renewables provided an overview to Trustees of potential state funding for solar projects. David Willard CEO of Sage Renewables shared "free" opportunities for a free Energy Audit which is required for any districts interested in access a state loan for solar projects. Trustees directed staff to submit an application to the California Energy Commission to determine if a free Energy Audit could be approved for Nicasio School District.

Key components of the application are required.

1. Trustee Resolution
2. 12 months of PGE /Propane bills showing energy costs
3. Hours of Operation
4. Past Energy Studies within the last 3 years
5. Facilities Map

There is a wait period to receive notification of the acceptance of the application and the award of a free energy audit. If a free energy audit is approved by the California Energy Commission, an audit would be conducted.

Funding Source/Cost:

NA

Recommendation:

Staff recommends approval of submitting a request for a free Energy Audit by the California Energy Commission.

Technical Assistance Application Bright Schools Program California Energy Commission

Eligible Applicants:

K-12 Public School Districts /Charter Schools/
Community Colleges, State Special Schools, and
County Offices of Education

1. Applicant Information

Name of Local Education Agency (LEA) or Community College: Nicasio School District	CDE code: (if applicable) 65409	County: Marin
Is the applicant a Charter School? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	If yes, has the Charter's term been renewed? <input type="checkbox"/> Yes, Date of renewal: _____ <input type="checkbox"/> No	
Mailing Address: P.O. Box 711	City: Nicasio	Zip: 94946
Street Address (if different) : 5555 Nicasio Valley Road	City: Nicasio	Zip: 94946
Contact Person: Jan La Torre-Derby, Ed.D. Margie Bonardi	Title: Interim Superintendent Chief Business Official	Department:
Phone Number: (415) 662-2184	Email: janlatorre@marinschools.org mbonardi@nicasioschool.org	

2. Attach the following information:

xGoverning Board Resolution (a sample template available at:

<http://www.energy.ca.gov/efficiency/brightschoools/>)

xCopies of latest 12 months electric and gas or propane bills showing energy cost / detailed usage information for each facility listed in Table 5. **OR**

☐ Or Utility data release form - allowing the Energy Commission to access both 12 months of historical (and future) utility billing data and time-of-use interval data

x Hours of operation

xPast energy studies (if applicable) within last 3 years

xSite Map of facilities (e.g. 1As or a fire evacuation map)

- ☐ Only for schools with on-site solar systems:

Provide the Solar/photovoltaic (PV) on-site electric production (kWh) for the same 12-month period reported above. LEAs may obtain this information as follows: 1) For LEAs with power purchase agreement (PPA), provide the PPA bills, which report the annually purchased kWh.

OR

2) For LEAs with school-owned solar systems, provide the above information via a report from the solar production tracking system.

3. Project Description:

Type of assistance needed. (Please choose **one**):

xEnergy audit – evaluate energy efficiency opportunities at existing facilities

- ☐ Review existing proposals and designs
- ☐ Develop equipment performance specifications
- ☐ Review equipment bid specifications
- ☐ Other (please describe):

Are there any specific equipment or proposed project(s) for which you are requesting technical assistance: (please describe)

Based on the audit, Nicasio School District wishes to determine if a solar project would be a cost savings and if the addition of a generator would allow school to remain open during power outage. With the recent weather conditions, Nicasio School had to be closed. When the power is out the generator cannot pump water for use of restroom facilities. Additionally, there is a potential annual savings should the heating system operate on other resources than propene.

Describe how you plan to implement the energy recommendations that may be identified:

☐ Proposition 39 Award

X Other funding -please describe See below

Do you have any current (or upcoming) working relationships with consultants, energy services companies, utilities, architects, or others that pertain to this request for Technical Assistance? If yes, please describe:

David Willard, Sage Renewable, provided a presentation to Trustees in February to share information regarding upcoming funding sources and the application for a free audit through Bright Schools.

Nicasio School District has been in operation since 1862 with a population as large as 65 students to its current enrollment of 40 students. Nicasio School is the heart of the Nicasio community and due to its size it is difficult to complete all the tasks and projects without financial support. The budget is solvent due to the talents of Nicasio's CFO, thoughtful budgeting, and ongoing oversight by the Trustees. Being awarded funds for solar projects, if the audit indicates short and long term cost savings could be a benefit to the district. Annual propane costs exceed \$10,000 which is the source utilized for heating the school buildings.

Sage Renewables stated they could not assist Nicasio School as a client, due to the small size of the district. Nicasio would need some creative options for oversight and operations, should funding become available and Trustees consider a long term commitment for a solar project.

What is the expected project start date: TBD :

What is the expected project completion TBD

4. Project Team

Title	Name	Phone No	E-Mail
Project Manager	Jan La Torre-Derby Ed.D.	415 662-2184	janlatorre@marinschools.org
Business Manager or Finance Officer	Margie Bonardi	415 662-2184	mbonardi@nicasioschool.org
Electric and Gas Utility Representative	TBD		
Consultant/Contractor (if known)	TBD		

5. Provide the following information. If you are requesting assistance for more than one site, please prioritize from highest to lowest. Attach additional pages if needed.

6. NA

Facility Name and Address	Year Built (excluding portables)	Estimated Building Size (sq. ft.)
Nicasio School 5555 Nicasio Valley Rd., Nicasio, CA 94946	2002	

I certify to the best of my knowledge that the data in this application are correct and complete.

Authorized Representative*

Name: Jan La Torre-Derby, Ed.d. Title-Interim Superintendent

Signature: _____ Date _____

*Authorized Representative is the one designated by the governing body, in your Resolution, to execute documents in the name of the applicant.

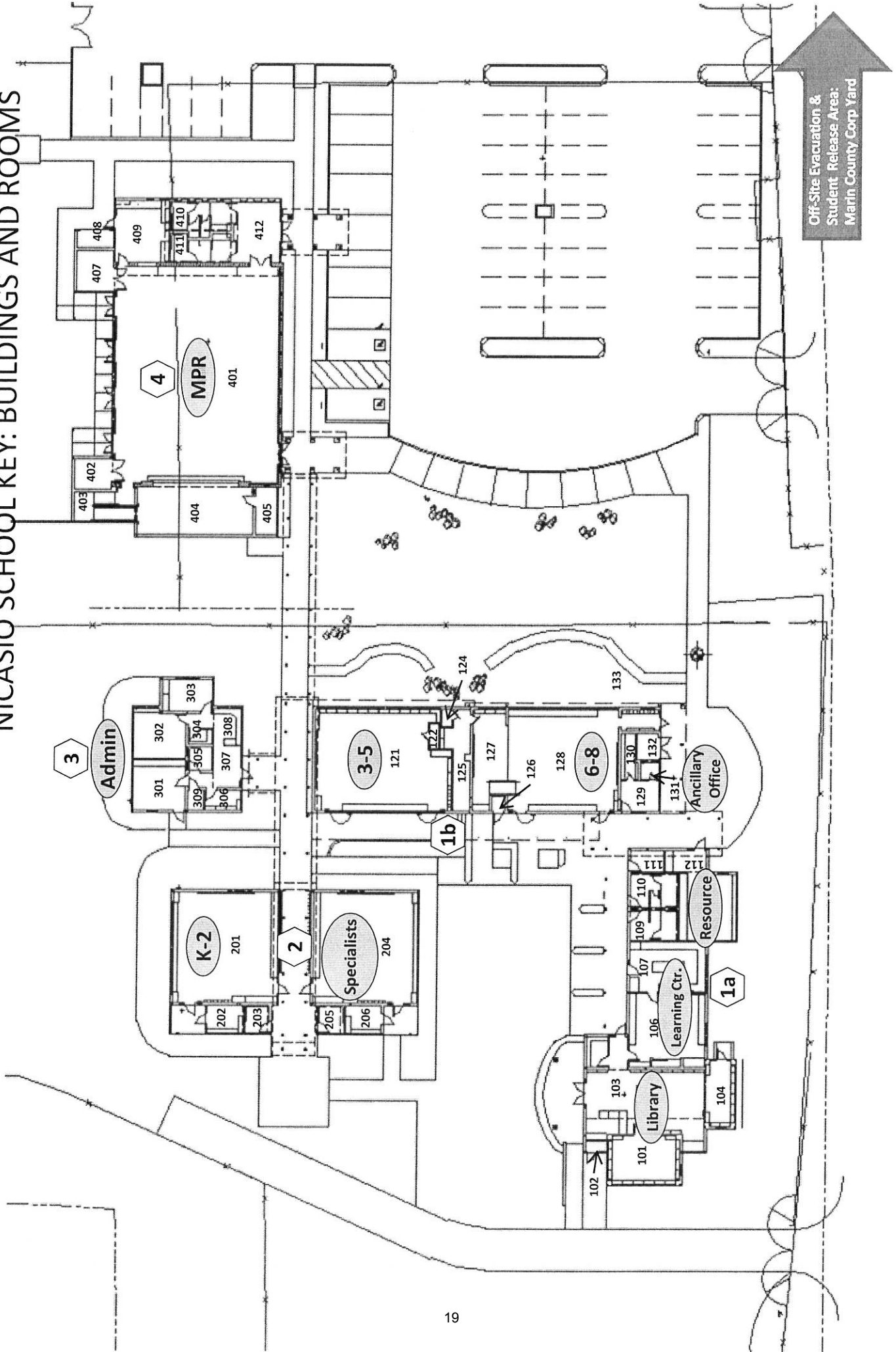
Jan La Torre-Derby, Ed.d.

Edmund G. Brown Jr. Governor	California Energy Commission Local Assistance & Financing Office 1516 Ninth Street, MS 23 Sacramento, CA 95814-5512 (916) 654-5153	California Energy Commission Chairman Robert B. Weisenmiller, Ph.D.	Lead Commissioner J. Andrew McAllister, Ph.D	Executive Director Robert Oglesby
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<http://www.energy.ca.gov/efficiency/financing/index.html>

NICASIO SCHOOL KEY: BUILDINGS AND ROOMS



Proposition 39 Energy Management Study

For

Nicasio School District

Nicasio School



Prepared for:

Kate Lane, Senior Director, Business Services
Marin County Office of Education

Presented by:

Marin Energy Management Team

September 30, 2014

Program Contacts

Primary Contact

Omar Peña, Planner
County of Marin
Marin Energy Management Team
415-473-2797
opena@marincounty.org

Mechanical Systems Auditor

Tim Holmes, P.E.
Kenwood Energy
Marin Energy Management Team
707-833-1028
timholmes@kenwoodenergy.com

Lighting Auditor

Rianto Lie, Sales Manager
Community Energy Services Corp.
SmartLights
510-981-7755
rianto@ebenergy.org

PG&E Representative

Lindsey Knaebel
Pacific Gas and Electric Company
415-320-4182
Lindsey.Knaebel@pge.com



The Marin Energy Management Team (MarinEMT) is a part of Marin County Energy Watch, a joint project of Pacific Gas and Electric Company, the County of Marin and local energy-efficiency experts. MarinEMT is funded by California utility customers and administered by PG&E under the auspices of the California Public Utilities Commission.

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Executive Summary

The Marin Energy Management Team (MarinEMT), a program of the Marin Energy Watch partnership between the County of Marin and Pacific Gas and Electric Company (PG&E), provides no-cost energy management services to Marin County local educational agencies (LEA) including services specifically tailored to meet Proposition 39 energy efficiency project planning and implementation requirements.

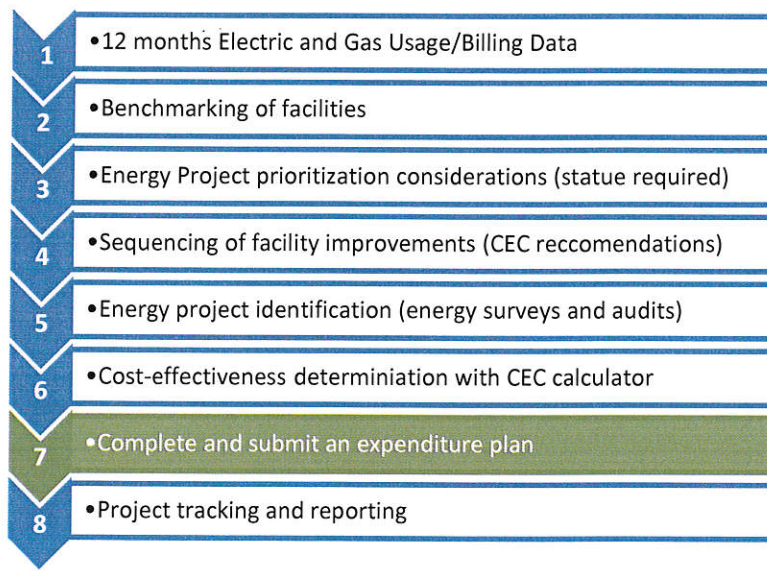
MarinEMT initially consulted with Nicasio School District (Marin Office of Education) on November 13, 2013 to discuss Proposition 39 and the LEAs potential energy efficiency opportunities. In May 2014, energy audits were conducted at Nicasio Elementary.

This report is a summary of the audit findings as well as an overview of the draft Energy Expenditure Plan application MarinEMT has drafted for your LEA. Your LEA can now focus on what's most important; choosing the projects you'd like to move forward with first.

Key Audit Findings

- In the 2012-2013 fiscal year, Nicasio School District spent **\$6,000** on electricity
- MarinEMT has identified **five** recommended energy efficiency measures and **one** renewable energy measure.
- Annualized savings for all energy efficiency measures totals **\$12,427**.
- Estimated simple payback for all energy efficiency measures is **17.6** years.

Your LEA is currently on Step 7 on the California Energy Commission's (CEC) pathway to energy funding.



Summary of Identified Energy Efficiency Measures

MarinEMT has completed its preliminary energy audits for Nicasio School District. The following section summarizes the cost and savings of the energy efficiency opportunities identified for your facilities. See provided supporting documentation for more detailed information on recommended measures.

2013-2014 Total Allocation ¹	Total Cost of All Identified Measures	Estimated Five Year Allocation ²
\$30,064	\$218,688	\$75,160

To assist you with planning and prioritizing projects, MarinEMT has provided you with a Microsoft Excel based project planning tool so that you can adjust your plan based on your desired budget and workload for 2013-2014.

If your full 2013-2014 award is not budgeted for, the balance of your award will remain available for future energy expenditure plan requests. In the subsequent four fiscal years, 2014-2015 through 2017-2018, LEAs can expect to receive awards of approximately the same amount. Award calculations will be completed by the California Department of Education on November 30th annually.

MarinEMT can assist you with identifying additional opportunities and developing a long-term energy efficiency plan for your LEA that covers all Proposition 39 funding years.

¹ LEA approved to receive two-year funding allocation during first year request.

² Estimated five year allocation figure includes official 2013-2014 total allocation. Subsequent allocation amounts are not guaranteed and will fluctuate based on decreases in State funding, average daily attendance, and other factors.

Measure	kW Saved	Therms Saved	kWh Saved	Cost Savings	Installation Cost	Rebate	Net Cost ³	SPB	SIR
Lighting retrofit (See attached report for details)	2.9	-	5,184	\$986	\$7,532	\$1,061	\$6,470	6.6	2.45
Replace one, five gallon electric water heater with instant hot water heater	0.0	-	701	\$119	\$910	\$0	\$910	7.6	2.71
Replace eight propane furnaces with heat pumps	0.0	1,966.1	(16,384)	\$2,523	\$66,733	\$0	\$66,733	26.4	0.78
Replace seven HVAC thermostats	0.0	1.0	788	\$292	\$1,365	\$0	\$1,365	4.7	2.44
Replace all north facing windows on original building with high efficiency windows	0.0	168.5	-	\$455	\$53,945	\$0	\$53,945	118.6	0.46
Install 20 kW solar energy system (Shade structure over children's eating area)	20.5	-	31,613	\$8,051	\$89,265	\$0	\$89,265	11.1	1.25
Total	23.4	2,135.6	21,902	\$12,427	\$219,750	\$1,061	\$218,688	17.6	n/a

Summary Table Notes

Contingencies

Mechanical projects also include a 30% design and construction contingency to reflect a total installed cost.

Savings Investment Ratio (SIR)

The CEC requires that a project must achieve a minimum savings-to-investment ratio of 1.05 to be approved for a Proposition 39 award. This ratio compares the investment the LEA will make now with the amount of dollar savings the LEA will obtain from the energy savings of the eligible energy project using the measure's life cycle costs and estimated total installation cost. Simplified, for every dollar invested in the eligible energy project, the LEA must accrue \$1.05 in savings. If an individual measure does not meet the required \$1.05, the measure can be bundled with other measures that achieve a higher SIR to increase the project site's overall SIR.

³ Mechanical Measures include a 30% design and construction contingency.

Draft Energy Expenditure Plan Application Overview

MarinEMT has completed your draft CEC Energy Expenditure Plan application for your LEA so you can focus on what's most important, choosing the project's that your LEA would like to move forward with. The CEC requires that all of the materials covered in this section be submitted prior to releasing your LEA's award funds. Please review this section and address the required verifications in each section. MarinEMT is also available to update any of the required forms to reflect changes in your plan.

Expenditure Plan General Form A

Form A provides a financial summary of how your LEA intends to spend its Proposition 39 award funds and the overall job creation estimates for all of the LEA's energy projects. This form must be uploaded in its original Microsoft Excel format. Form A also includes a list of all your LEA's schools or sites where eligible energy projects will be implemented. Only one Form A is required for each Energy Expenditure Plan.

LEA Required Verifications:

- ☐ Confirm LEA Authorized Representative and Project Manager Information
- ☐ Review Self-Certifications

Expenditure Plan Project Summary Form B

This form describes the eligible energy project proposed at each of your LEA's schools or sites. One Form B must be completed and submitted for each school or site listed on the accompanying Form A in the Energy Expenditure Plan. Form B will contain all the information required for each school site. All Form B's must be uploaded to the Energy Commission in its original Microsoft Excel format.

LEA Required Verifications:

- ☐ Confirm estimated project start and completion dates
- ☐ Confirm square footage of schools/sites
- ☐ Confirm propane and other fuel use

Utility Data Release Authorization Form

Public Resources Code 26240(a) requires LEAs receiving Proposition 39 fund awards to authorize their electric and gas utilities to release certain past and ongoing energy usage and billing record data to the Energy Commission. The Energy Commission's Utility Data Release Authorization form is used by the LEA to authorize and instruct its electric and/or natural gas utility(ies). When your LEA uses the Energy Commission's Utility Data Release Authorization form, it will only need to submit the form once to the Commission and the utilities.

Supporting Documentation

Kenwood Energy Calculation Workbooks

This calculator includes the technical background information on the savings estimates for identified mechanical energy efficiency opportunities. They include detailed information on existing and proposed replacement equipment. They must be uploaded because they validate the energy savings calculations in applicable Form Bs.

SmartLights Customer Reports

These customer reports include project summaries for each project site's lighting audit. The reports include a list of existing and proposed equipment by location. A list of equipment with estimated unit and labor costs is also included. All reports must be uploaded because they validate the energy savings calculations in applicable Form Bs.

Next Steps

Next steps include reviewing the recommendations included in this report as well as the Energy Expenditure Plan application materials drafted for your LEA. MarinEMT can assist you with making any changes in your application materials based on your LEAs decisions on which projects it would like to move forward with for this funding year.

Once your review is complete, you can finalize your Energy Expenditure Plan and follow the instructions for uploading your plan listed below.

Uploading Energy Expenditure Plan

The Energy Commission has sent all LEAs listed on the California School Directory the upload link where they shall submit their Energy Expenditure Plans. The upload link is included in the "Welcome" e-mail sent to all LEA contacts on January 31, 2014. The person who will be submitting the Energy Expenditure Plan must obtain the upload link from those contacts.

Energy Expenditure Plan Checklist

- ☐ Expenditure Plan General Form A (Excel File)
- ☐ Expenditure Plan Project Summary Form (Excel files) – note that there are multiple form B files
- ☐ Utility Data Release Authorization Form
- ☐ Energy Audits (Kenwood Energy Calculation Workbooks and SmartLights Customer Reports)

Please refer to the CEC Energy Expenditure Plan Handbook for complete uploading instructions.

Project Implementation

MarinEMT can continue to assist your LEA throughout the project implementation process.

Lighting Measures

To receive the lighting rebates included in this report, please initial and sign the last two pages of the report included in your SmartLights Customer Reports titled 'Customer Participation Agreement' and 'Customer Work Order', then simply fax these two pages to SmartLights at 510-981-0102. At any point, feel free to contact your auditor with any questions. SmartLights staff will work with you to ensure that the project meets your specific needs.

Mechanical Measures

MarinEMT can assist your LEA with equipment specification, proposal review and analysis. The team can also assist with completion of financing and rebate applications.

For further assistance, please contact Omar Peña at 415-473-2797.

Disclaimer

MarinEMT is a part of Marin County Energy Watch, a joint project of Pacific Gas and Electric Company, the County of Marin and local energy-efficiency experts. MarinEMT is funded by California utility ratepayers and administered by Pacific Gas and Electric Company under the auspices of the California Public Utilities Commission. MarinEMT, its employees, or subcontractors, do not imply any guarantees. This report is only intended to help you select various energy-efficiency measures identified in this study.

MarinEMT efforts were conducted in full compliance with the California Energy Commission (CEC) "Proposition 39: California Clean Energy Jobs Act – 2013 Program Implementation Guidelines" and "Proposition 39: California Clean Energy Jobs Act - 2013 Energy Expenditure Plan Handbook".

Energy savings are estimated using standard engineering and CEC methodologies. MarinEMT may have relied on facility engineering and management staff for much of the operating and equipment use information used in the energy analysis. Electric and natural gas cost and savings are based on historical energy use and cost data.

MarinEMT is not liable for the improper installation of DIY equipment. Preapproval, Project Agreements, and post work inspections are required to receive rebates or other incentives reflected in the cost benefit analysis.

Smart Lights Program

1013 Pardee Street, Berkeley, CA 94710

Fax (510) 981-0102

Tel (510) 981-7750

www.smartlights.org



To: Christy Stocker
415-662-2184

Hello Christy:

The following is the SmartLights Customer Report for **Nicasio Elementary**. A glossary of abbreviations and terminology is included for your convenience.

To help you implement your energy efficiency upgrade, SmartLights will provide you with a rebate of **\$1,061.25**. The rebate is part of the **\$7,531.53** total cost of the project.

The proposed project will save you an estimated **\$986.30** per year in electricity costs, with a payback of approximately 6.6 years, based on wattage reduction identified by SmartLights and the operating schedules you provided. Please verify these schedules in the report to ensure their accuracy. With a return on investment of 15%, this is one of the best investments you can make today and it will reduce your yearly carbon footprint by 2,809 lbs of CO2!

To reserve your rebate and begin project installation, please sign and date the final two pages of the report, titled 'Customer Participation Agreement' and 'Customer Work Order'. Then simply fax or mail it to us at the number/address listed above.

You may also modify the proposed project to ensure that it meets your needs and budget. Possible options include reducing the scope of the project, using your own contractor, or installing the equipment yourself. Whatever your concerns, I will work with you to ensure that the project meets your specific needs.

As a courtesy to you, the SmartLights rebate quoted above is available to your business for 30 days. If I don't hear back from you within that period, I may need to make your rebate available to other businesses. Funding for this extremely popular program is limited, and services and incentives are available on a first-come, first-served basis.

Please call me by November 30th to let me know if you would like to proceed with the installation, or to discuss any questions or concerns you might have about the proposed project. I can be reached at 510-981-7755.

Thank you for your interest in the SmartLights Program. I look forward to working with you!

Cordially,

Rianto Lie

Customer Report

Nicasio Elementary
5555 Nicasio Valley Rd
Nicasio, CA 94946



Presented To

Christy Stocker
Principal
5555 Nicasio Valley Rd
Nicasio CA 94946

Site Contact

Christy Stocker
Principal
5555 Nicasio Valley Rd
Nicasio CA 94946

Audit Number 12622
Audit Type Lighting
Rebate Code 2013-14 CLP MARIN
Program Marin Energy Watch 2013

Utility & Rate PG&E
Business Type EPR
Survey Date 3/10/2014
Report Date 3/11/2014

A-1

Project Summary - Lighting

Total Install Cost	\$ 7,531.53
Total Rebate	\$ 1,061.25
Final Cost	\$ 6,470.28

Estimated Savings	\$ 986.30	Per Year
--------------------------	------------------	----------

Simple Payback	6.6	Years
Return on Investment	15%	
Rebate % of Total Cost	14.09%	
Estimated Monthly Savings	\$ 82.19	
Estimated Energy Savings	5,184	kWh/year
Power Reduction	2.924	kW
CO2 Emissions Reduction	2,809.643	lbs CO2/year

In order to minimize potential change orders, please make sure you fully understand the proposed measures outlined in this report. The SmartLighting specialist will be more than happy to discuss these measures with you. Please retain this report for your records, as it will be very helpful when ordering replacement products.

Calculations based on per kWh and **2013-14 MARIN Prop 39 Calculated Lighting Project Rebate - \$0.16/kWh; LED Kicker - \$0.19/kWh**

Program Manager

Erin Fisher
Program Manager
Community Energy Services Corp.
1013 Pardee Street, Suite 201
Berkeley CA 94710
erin@ebenergy.org
510-981-7754

Auditor

Rianto Lie
Project Manager
Community Energy Services Corp.
1013 Pardee Street, Suite 201
Berkeley CA 94710
rianto@ebenergy.org
510-981-7755

Contractor

California consumers are not obligated to purchase any full fee service or other service not funded by this Program. This Program is funded by California utility ratepayers under the auspices of the California Public Utilities Commission (CPUC).

01 | Main - ReceptionistExisting / **Proposed**

Schedule

Total Cost

Rebate

Net Cost

(1) T8 4' 32E2E2-4L-NPO

A

\$73.51

\$12.34

\$61.17

(1) T8 4' 28E4-4L-LPO-5000 °K

A

- 1 Remove existing (4) 4' lamps and (2) ballasts; install (4) 4' T8 28w lamps and (1) LPO/4L electronic ballast

02 | Main - CopierExisting / **Proposed**

Schedule

Total Cost

Rebate

Net Cost

(3) T8 4' 32E2-2L-NPO

A

\$164.97

\$18.51

\$146.46

(3) T8 4' 28E2-2L-PREM-LPO-5000 °K

A

- 3 Remove existing (2) 4' lamps and (1) ballast; install (2) 4' T8 28w lamps and (1) LPO/2L electronic ballast

03 | Main - Rest RoomExisting / **Proposed**

Schedule

Total Cost

Rebate

Net Cost

(1) T8 4' 32E2-2L-NPO

A

\$54.99

\$6.17

\$48.82

(1) T8 4' 28E2-2L-PREM-LPO-5000 °K

A

- 1 Remove existing (2) 4' lamps and (1) ballast; install (2) 4' T8 28w lamps and (1) LPO/2L electronic ballast

04 | Main - KitchenExisting / **Proposed**

Schedule

Total Cost

Rebate

Net Cost

(2) T8 4' 32E2E2-4L-NPO

A

\$147.02

\$24.68

\$122.34

(2) T8 4' 28E4-4L-LPO-5000 °K

A

- 2 Remove existing (4) 4' lamps and (2) ballasts; install (4) 4' T8 28w lamps and (1) LPO/4L electronic ballast

05 | Main - Book StorageExisting / **Proposed**

Schedule

Total Cost

Rebate

Net Cost

(1) T8 4' 32E2-2L-NPO	A	\$54.99	\$6.17	\$48.82
(1) T8 4' 28E2-2L-PREM-LPO-5000 °K	A			

- 1 Remove existing (2) 4' lamps and (1) ballast; install (2) 4' T8 28w lamps and (1) LPO/2L electronic ballast

06 | Main - Principal Room

Existing / Proposed	Schedule	Total Cost	Rebate	Net Cost
----------------------------	----------	------------	--------	----------

(2) T8 4' 32E2E2-4L-NPO	A	\$147.02	\$24.68	\$122.34
(2) T8 4' 28E4-4L-LPO-5000 °K	A			

- 2 Remove existing (4) 4' lamps and (2) ballasts; install (4) 4' T8 28w lamps and (1) LPO/4L electronic ballast

06 | Main - Conference Room

Existing / Proposed	Schedule	Total Cost	Rebate	Net Cost
----------------------------	----------	------------	--------	----------

(2) T8 4' 32E2E2-4L-NPO	A	\$147.02	\$24.68	\$122.34
(2) T8 4' 28E4-4L-LPO-5000 °K	A			

- 2 Remove existing (4) 4' lamps and (2) ballasts; install (4) 4' T8 28w lamps and (1) LPO/4L electronic ballast

07 | Classroom # 1

Existing / Proposed	Schedule	Total Cost	Rebate	Net Cost
----------------------------	----------	------------	--------	----------

(9) T8 4' 32E2E2-4L-NPO	A	\$661.59	\$111.06	\$550.53
(9) T8 4' 28E4-4L-LPO-5000 °K	A			

- 9 Remove existing (4) 4' lamps and (2) ballasts; install (4) 4' T8 28w lamps and (1) LPO/4L electronic ballast

08 | Classroom #1 - Water Heater

Existing / Proposed	Schedule	Total Cost	Rebate	Net Cost
----------------------------	----------	------------	--------	----------

(1) T8 4' 32E2-2L-NPO	A	\$54.99	\$6.17	\$48.82
(1) T8 4' 28E2-2L-PREM-LPO-5000 °K	A			

- 1 Remove existing (2) 4' lamps and (1) ballast; install (2) 4' T8 28w lamps and (1) LPO/2L electronic ballast

09 | Classroom # 3Existing / **Proposed**

Schedule Total Cost Rebate Net Cost

(6) T8 4' 32E2E2-4L-NPO

A

\$441.06

\$74.04

\$367.02

(6) T8 4' 28E4-4L-LPO-5000 °K

A

- 6 Remove existing (4) 4' lamps and (2) ballasts; install (4) 4' T8 28w lamps and (1) LPO/4L electronic ballast

(12) T8 4' 32E2-2L-NPO

A

\$659.88

\$74.04

\$585.84

(12) T8 4' 28E2-2L-PREM-LPO-5000 °K

A

- 12 Remove existing (2) 4' lamps and (1) ballast; install (2) 4' T8 28w lamps and (1) LPO/2L electronic ballast

10 | Classroom # 4Existing / **Proposed**

Schedule Total Cost Rebate Net Cost

(5) T8 4' 32E2E2-4L-NPO

A

\$367.55

\$61.70

\$305.85

(5) T8 4' 28E4-4L-LPO-5000 °K

A

- 5 Remove existing (4) 4' lamps and (2) ballasts; install (4) 4' T8 28w lamps and (1) LPO/4L electronic ballast

(13) T8 4' 32E2-2L-NPO

A

\$714.87

\$80.21

\$634.66

(13) T8 4' 28E2-2L-PREM-LPO-5000 °K

A

- 13 Remove existing (2) 4' lamps and (1) ballast; install (2) 4' T8 28w lamps and (1) LPO/2L electronic ballast

10 | Classroom # 4 - StorageExisting / **Proposed**

Schedule Total Cost Rebate Net Cost

(2) T8 4' 32E2-2L-NPO

A

\$109.98

\$12.34

\$97.64

(2) T8 4' 28E2-2L-PREM-LPO-5000 °K

A

- 2 Remove existing (2) 4' lamps and (1) ballast; install (2) 4' T8 28w lamps and (1) LPO/2L electronic ballast

11 | Classroom # 4 - Locker Room

Existing / Proposed	Schedule	Total Cost	Rebate	Net Cost
(3) T8 4' 32E2-2L-NPO	A	\$164.97	\$18.51	\$146.46
(3) T8 4' 28E2-2L-PREM-LPO-5000 °K	A			
3 Remove existing (2) 4' lamps and (1) ballast; install (2) 4' T8 28w lamps and (1) LPO/2L electronic ballast				

12 | Classroom # 2

Existing / Proposed	Schedule	Total Cost	Rebate	Net Cost
(9) T8 4' 32E2E2-4L-NPO	A	\$661.59	\$111.06	\$550.53
(9) T8 4' 28E4-4L-LPO-5000 °K	A			
9 Remove existing (4) 4' lamps and (2) ballasts; install (4) 4' T8 28w lamps and (1) LPO/4L electronic ballast				

13 | Classroom # 2 Closet

Existing / Proposed	Schedule	Total Cost	Rebate	Net Cost
(1) T8 4' 32E2-2L-NPO	A	\$54.99	\$6.17	\$48.82
(1) T8 4' 28E2-2L-PREM-LPO-5000 °K	A			
1 Remove existing (2) 4' lamps and (1) ballast; install (2) 4' T8 28w lamps and (1) LPO/2L electronic ballast				

14 | Library - Main

Existing / Proposed	Schedule	Total Cost	Rebate	Net Cost
(4) T8 4' 32E2E2-4L-NPO	A	\$294.04	\$49.36	\$244.68
(4) T8 4' 28E4-4L-LPO-5000 °K	A			
4 Remove existing (4) 4' lamps and (2) ballasts; install (4) 4' T8 28w lamps and (1) LPO/4L electronic ballast				

15 | Library - Board Room

Existing / Proposed	Schedule	Total Cost	Rebate	Net Cost
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(2) T8 4' 32E2E2-4L-NPO	A	\$147.02	\$24.68	\$122.34
(2) T8 4' 28E4-4L-LPO-5000 °K	A			

- 2 Remove existing (4) 4' lamps and (2) ballasts; install (4) 4' T8 28w lamps and (1) LPO/4L electronic ballast

16 | Library - Room 5

Existing / Proposed	Schedule	Total Cost	Rebate	Net Cost
(5) T8 4' 32E2E1-3L-NPO	A	\$334.00	\$49.00	\$285.00
(5) T8 4' 28E3-3L-PREM-LPO	A			

- 5 Remove existing (3) 4' lamps and (2) ballasts; install (3) 4' T8 28w lamps and (1) LPO/3L electronic ballast

17 | Library - Hallway

Existing / Proposed	Schedule	Total Cost	Rebate	Net Cost
(1) T8 4' 32E2E1-3L-NPO	A	\$66.80	\$9.80	\$57.00
(1) T8 4' 28E3-3L-PREM-LPO	A			

- 1 Remove existing (3) 4' lamps and (2) ballasts; install (3) 4' T8 28w lamps and (1) LPO/3L electronic ballast

18 | Library - Closet

Existing / Proposed	Schedule	Total Cost	Rebate	Net Cost
(1) T8 4' 32E2E1-3L-NPO	A	\$66.80	\$9.80	\$57.00
(1) T8 4' 28E3-3L-PREM-LPO	A			

- 1 Remove existing (3) 4' lamps and (2) ballasts; install (3) 4' T8 28w lamps and (1) LPO/3L electronic ballast

19 | Resource Room

Existing / Proposed	Schedule	Total Cost	Rebate	Net Cost
(6) T8 4' 32E2E1-3L-NPO	A	\$400.80	\$58.80	\$342.00
(6) T8 4' 28E3-3L-PREM-LPO	A			

- 6 Remove existing (3) 4' lamps and (2) ballasts; install (3) 4' T8 28w lamps and (1) LPO/3L electronic ballast

20 | Resource Room - Rest Room (W)

Existing / **Proposed** Schedule Total Cost Rebate Net Cost

(3) T8 4' 32E2-2L-NPO A \$164.97 **\$18.51** \$146.46

(3) T8 4' 28E2-2L-PREM-LPO-5000 °K A

- 3 Remove existing (2) 4' lamps and (1) ballast; install (2) 4' T8 28w lamps and (1) LPO/2L electronic ballast

21 | Resource Room - Rest Room (M)

Existing / **Proposed** Schedule Total Cost Rebate Net Cost

(3) T8 4' 32E2-2L-NPO A \$164.97 **\$18.51** \$146.46

(3) T8 4' 28E2-2L-PREM-LPO-5000 °K A

- 3 Remove existing (2) 4' lamps and (1) ballast; install (2) 4' T8 28w lamps and (1) LPO/2L electronic ballast

22 | Custodian Closet

Existing / **Proposed** Schedule Total Cost Rebate Net Cost

(1) T8 4' 32E2-2L-NPO A \$54.99 **\$6.17** \$48.82

(1) T8 4' 28E2-2L-PREM-LPO-5000 °K A

- 1 Remove existing (2) 4' lamps and (1) ballast; install (2) 4' T8 28w lamps and (1) LPO/2L electronic ballast

23 | Art Room

Existing / **Proposed** Schedule Total Cost Rebate Net Cost

(2) T8 4' 32E2E2-4L-NPO A \$147.02 **\$24.68** \$122.34

(2) T8 4' 28E4-4L-LPO-5000 °K A

- 2 Remove existing (4) 4' lamps and (2) ballasts; install (4) 4' T8 28w lamps and (1) LPO/4L electronic ballast

(5) T8 4' 32E2-2L-NPO	A	\$274.95	\$30.85	\$244.10
(5) T8 4' 28E2-2L-PREM-LPO-5000 °K	A			
5 Remove existing (2) 4' lamps and (1) ballast; install (2) 4' T8 28w lamps and (1) LPO/2L electronic ballast				

24 | Special Ed Director

Existing / Proposed	Schedule	Total Cost	Rebate	Net Cost
(3) T8 4' 32E2-2L-NPO	A	\$164.97	\$18.51	\$146.46
(3) T8 4' 28E2-2L-PREM-LPO-5000 °K	A			
3 Remove existing (2) 4' lamps and (1) ballast; install (2) 4' T8 28w lamps and (1) LPO/2L electronic ballast				

25 | Special Ed Director - Rest Room

Existing / Proposed	Schedule	Total Cost	Rebate	Net Cost
(1) T8 4' 32E2-2L-NPO	A	\$54.99	\$6.17	\$48.82
(1) T8 4' 28E2-2L-PREM-LPO-5000 °K	A			
1 Remove existing (2) 4' lamps and (1) ballast; install (2) 4' T8 28w lamps and (1) LPO/2L electronic ballast				

26 | Multi Purpose Building

Note: This area has efficient Compact Fluorescent recess can fixtures , no retrofit necessary.

27 | Multi Purpose - Kitchen

Existing / Proposed	Schedule	Total Cost	Rebate	Net Cost
(4) T8 4' 32E2E1-3L-NPO	A	\$267.20	\$39.20	\$228.00
(4) T8 4' 28E3-3L-PREM-LPO	A			
4 Remove existing (3) 4' lamps and (2) ballasts; install (3) 4' T8 28w lamps and (1) LPO/3L electronic ballast				

28 | Multi Purpose - Hall

Existing / Proposed	Schedule	Total Cost	Rebate	Net Cost
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(2) T8 4' 32E2E2-4L-NPO	A	\$147.02	\$24.68	\$122.34
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(2) T8 4' 28E4-4L-LPO-5000 °K	A
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- 2 Remove existing (4) 4' lamps and (2) ballasts; install (4) 4' T8 28w lamps and (1) LPO/4L electronic ballast

29 | Exterior - Parking Lot

Note: The customer is interested to get the wiring problem fixed instead of changing their existing lights due to the complains from the neighbors. Contractor to provide separate cost to fix the wiring problem on the exterior fixtures.

Measure Schedules

(A) Mon-Thur: 8:30AM-5PM – average rate \$.19/kwh, 1772.86 hrs/yr

(B) 3 Hour / Month – average rate \$.185/kwh, 36.5 hrs/yr

Smart Lights Program

1013 Pardee Street, Berkeley, CA 94710

Fax (510) 981-0102

Tel (510) 981-7750

www.smartlights.org



Abbreviations and Terminology used in this Report:

- **(#)** = Quantity of Existing and/or Proposed fixture included in Measure.
- **Schedule** = The letter in the column corresponds with a schedule that is detailed at the end of the Areas and Measures Report.
- **Change Orders: [#]** = If a change order has been created this title will appear before the explanation of the change.
- **Custom** = Custom equipment descriptions indicate that the upgrade is a custom measure created specifically for this project; this upgrade may include custom wattages, costs and/or specifications.
- **INC** = Incandescent, the typical inefficient old-style light bulb.
- **CFL** = Compact Fluorescent Lamp, typically a screw-in fluorescent lamp with miniature straight or twisted tubes that replaces an incandescent. These come in a variety of shapes and sizes, including candle, globe, pear, track, and reflector.
- **LED** = Light-Emitting Diode, the newest energy efficient option can replace any existing lighting technology. LED upgrades can be either retrofits or new fixtures.
- **T8** = Tubular fluorescent, 1" diameter, the industry standard efficient lamp that can be retrofitted into existing fixtures in conjunction with electronic ballasts.
- **PREM** = Premium, high efficiency electronic ballast, uses less watts than a first-generation electronic ballast, improves performance, and is the SmartLights standard ballast.
- **E** = Electronic ballast, which is used to upgrade fluorescent, CFL and HID fixtures.
- **TAND** = "Tandem"-wired ballast, shared between fixtures; for example, a 4-lamp ballast used for two 2-lamp fixtures.
- **LPO** = Low Power Output ballast (i.e. low ballast factor), used to reduce the energy consumption and light output of the newer T8 lamps, in order to maximize savings or where high light levels are not necessary.
- **NPO** = Normal Power Output ballast (i.e. normal or standard ballast factor), used to match the light output of new standard fluorescent lamps.
- **HPO** = High Power Output ballast (i.e. high ballast factor), used to increase the light output of T8 lamps where more light is needed, or where two T8 lamps might replace 3 or 4 lamps.
- **FIXT** = New Fixture, this prefix indicates that the upgrade is a new, complete fixture. The next piece of text often specifies what type of fixture will be installed (i.e. AREA or POLE).
- **BILEVEL** = Bi-level operation, means that the fixture operates at a high and low level based on occupancy (triggered by a motion sensor).
- **Color Temperature** = The "warm" or "cool" appearance of a light source, where the lower numbers (in temperature degrees Kelvin) are considered "warm", and the higher numbers "cool". Example: incandescent lighting has a color temp of about 2700°K and is considered very "warm", while typical office "cool white" fluorescent lamps are about 5000°K.
- **Any struck out text** = Any text that is struck out indicated that the Area, Measure, and/or Fixture has been inactivated and is no longer included in the project scope or calculations.

Equipment List

Qty		Unit Labor	Unit Equip	Labor Cost	Equip Cost	Total Cost
53	T8 4' 28E2-2L-LPO	\$21.38	\$33.61	\$1,133.14	\$1,781.33	\$2,914.47
	Remove existing (2) 4' lamps and (1) ballast; install (2) 4' T8 28w lamps and (1) LPO/2L electronic ballast					
17	T8 4' 28E3-3L-LPO	\$26.51	\$40.29	\$450.67	\$684.93	\$1,135.60
	Remove existing (3) 4' lamps and (2) ballasts; install (3) 4' T8 28w lamps and (1) LPO/3L electronic ballast					
46	T8 4' 28E4-4L-LPO	\$25.79	\$47.72	\$1,186.34	\$2,195.12	\$3,381.46
	Remove existing (4) 4' lamps and (2) ballasts; install (4) 4' T8 28w lamps and (1) LPO/4L electronic ballast					

Notes:

Costs include disposal and tax

Custom = custom priced item

SetUp Fee = extra fee for contractor travel, setup, materials and recycling

Access Labor = extra labor costs for areas with difficult access

Ceiling Labor = extra labor costs for high ceiling installations

Installation Preference = extra labor costs for any unique installation requests

Set Up Fee	\$100.00
Total Base Labor	\$2,770.15
Extra Access Labor	\$0.00
Extra Ceiling Labor	\$0.00
Installation Preference	
Total Equipment	\$4,661.38
Extra Cost	
Total	\$7,531.53

SmartLights Customer Participation Agreement

I, the undersigned, on behalf of the business customer identified below, acknowledge and agree to the following:

Eligibility

I am an electric or natural gas Customer of PG&E with an active meter serviced by PG&E. If I have an existing on-site cogeneration or self generation, the SmartLights program will not pay incentives for energy savings that exceed my annual energy usage from PG&E.

Project Completion

I have reviewed the recommendations in the Customer Report and Work Order. I hereby authorize the SmartLights Program of Community Energy Services Corp. ('CESC') to contact a participating licensed contractor ("Installation Contractor") to complete the recommended energy efficiency project. I have obtained any necessary authorization from the landlord or property manager to complete the project. In most cases, the project should be completed within 3 weeks of signing the attached Customer Work Order. Work will occur during a time that is mutually agreeable to both me and the Installation Contractor. Labor for work performed outside of the normal work week will be charged accordingly. I understand that I am responsible for paying my portion of the project costs (total costs minus the Instant Rebate), and that my portion is due to the Installation Contractor upon project completion and receipt of the project invoice. I, as a California consumer, am not obligated to purchase any full fee service or other service not funded by this Program. Los consumidores en California no están obligados a comprar servicios completos o adicionales que no estén cubiertos bajo este programa. Funding for the Program is limited. Instant Rebates will be paid on a first-come, first-served basis until 12/31/2014 or until funds are depleted, whichever occurs first. Rebates are considered taxable income. Prices and rebates subject to change if I delay installation by more than 2 months after contract signing.

Correction of Electrical Code Violations is Not Covered

Although code violation are rarely found, if any code violations are found that affect the completion of the project, I can either opt to (1) have the Installation Contractor stop work and charge me only for completed work, or (2) have the Installation Contractor provide an additional estimate for correcting the code violations. Costs for correcting the code violations are solely my responsibility and are outside the scope of this contract.

Role of Administrators and Contractors, Access Agreement

I will be signing a Customer Work Order contract (attached) with the Installation Contractor for work recommended in the Customer Report and Work Order. In the event of any defect in the work (including equipment and installation), I will look solely to the equipment manufacturer or Installation Contractor and I absolve CESC and its employees of any liability with respect to the work. I agree to allow CESC staff and/or external PG&E-approved verifiers access to the facility should external inspection be required for purposes of verification, monitoring, and program evaluation. The rebate is subject to change if any equipment is not found installed as specified. This Program is funded by California utility ratepayers under the auspices of the California Public Utilities Commission. Este programa está financiado por los usuarios de servicios públicos en California bajo la jurisdicción de la Comisión de Servicios Públicos de California.

Estimate Energy Savings

The estimated energy savings quoted in the Customer Report and Work Order are based on the equipment operating schedules that are included in the proposal and an averaged PG&E utility rate. I believe these schedules accurately describe how the equipment is operated at the facility listed in this document. Since many factors contribute to energy use in any facility, and the installed equipment is only one factor, I understand that CESC and the Installation Contractor assigned to me do not guarantee that a specific level of energy or cost savings will result from the implementation of energy conservation measures funded under this Program.

Life of Product

I understand incentive payments are based on related energy benefits over the life of the product. I agree if 1) I do not provide PG&E with 100% of the related benefits for the life of the product or a period of 5 years, whichever is less, or 2) I cease to be a distribution Customer of PG&E during said time period, then I shall refund a prorated amount of incentive payment(s) to PG&E based on the actual period of time for which I provided the related energy benefits as an electric Customer of PG&E.

"Double Dipping"

I can only use the SmartLights Program rebates to offset costs for the work and equipment specified as part of the project. I will not be able to apply financial incentives offered by another utility, state, or manufacturer program funded by California ratepayers under the auspices of the California Public Utilities Commission towards work or equipment that is covered by this Agreement. I agree not to apply for or receive incentives or services for the project work or equipment from another utility, state, or manufacturer program.

Limitation of PG&E Liability

Neither PG&E nor any of its employees make any warranty, express or implied, nor assume any legal liability or responsibility for the accuracy, completeness, or usefulness of any data, information, method, product or process disclosed in this document and other Program documents (the "disclosed items"). In addition, PG&E and its employees do not represent that use of the disclosed items will not infringe any privately-owned rights, including, but not limited to, patents, trademarks, or copyrights.

Parallel Review

(RL)

All proposed projects containing calculated lighting measures are subject to the CPUC Energy Division's (ED) Parallel Review process. With the pending approval of the Lighting Calculator, SmartLights Program has received approval to pilot a streamlined "modified review" process, in order to reduce the amount of time and resources required by the ED process. Utilizing the process includes inherent risks related to changes in savings values and incentive values, in any case that changes are made to the Lighting Calculator and/or my project. I agree to allow SmartLights to submit information pertinent to my project to the CPUC ED to implement this review.

Project Permits

After energy-saving measures are installed and operable and before incentive or rebates are paid, recipients must comply with the following terms, as applicable, and will be required to certify after installation:

For HVAC measures installations contractor shall certify that appropriate permits have been obtained, if applicable, and contractor must document permit number, permitting agency, contractor name, signature and date.

For all rebates or incentives offered by PG&E for an energy efficiency improvement or installation of energy efficient components, equipment, or appliances, the recipient must certify that appropriate permits have been obtained and, if a contractor performed the installation or improvement, that the contractor holds the appropriate license for the work performed. In the case of Direct Install measures in which the Third Party Implementer or contractor/installer is the recipient of the rebate or incentive, the Implementer shall certify that permitting requirements have been met.

Signature of Authorized Business Representative

Date

Christy Stocker
Principal
5555 Nicasio Valley Rd

(RL)

Customer Work Order and Contractor Work Agreement

Customer Work Order

I, the undersigned, on behalf of the business customer identified below, acknowledge and agree to the following:

I hereby authorize the licensed Installation Contractor below to perform work as recommended in the Customer Report and Work Order and to use such labor and material as deemed advisable. I will be invoiced for the Customer Net Cost of \$6,470.28, which is equal to the Total Installed Cost minus the Instant Rebate. Payment is due to the Installation Contractor immediately upon completion of the installation, unless otherwise arranged with the Installation Contractor. All goods remain the property of the Installation Contractor until paid in full. Invoices aged over 30 days from date of invoice will become past due and a monthly service charge of 1.5% may be added to any outstanding balance, and may incur legal action.

Warranties

Per the equipment and installation standards of the SmartLights Program, the Installation Contractor will provide me with the following manufacturer warranties:

- New LED luminaries shall be warranted by the manufacturer for a period not less than 5 years.
- New LED lamps shall be warranted by the manufacturer for a period not less than 3 years.
- Ballasts for tubular fluorescent lamps shall be warranted by the manufacturer for a period of not less than 5 years.
- Tubular and compact fluorescent lamps (CFLs) shall be warranted by the manufacturer for a period of not less than 1 year.
- New fixtures shall be warranted by the manufacturer for a period of not less than 1 year.
- Exit signs shall be warranted by the manufacturer for a period of not less than 10 years.
- Photocells, time clocks, and occupancy sensors shall be warranted by the manufacturer for a period of not less than 3 years.

In addition, the Installation Contractor will warrant the labor portion on all installed products for one year after project completion.

I understand that, after the 1-year contractor labor warranty expires and for any product that is not covered by the above, it is my responsibility to contact the manufacturer of any failed equipment to take advantage of the manufacturer's warranty.

Change Orders

Proposed changes adding more than \$25 to the original estimate must be approved in writing by me before proceeding. It is the responsibility of the Installation Contractor to identify any discrepancies in fixture quantities and any issues affecting retrofit viability prior to or during construction of each space and to notify SmartLights staff in writing of any proposed changes in scope. It is also the responsibility of the Installer to notify me of any proposed changes to the scope, and to get my signed approval on the change order provided to the contractor by SmartLights staff.

The SmartLights Customer Work Order is part of this direct agreement with the Installation Contractor. I agree to sign the forms necessary for the Installation Contractor to receive the rebate funds when the work is complete.

I have read, understood, and accept all of the above terms and conditions; I authorize the work to proceed; and I shall be bound by all of the terms and conditions as ordered by the undersigned and his/her agents.

Signature of Authorized Business Representative

_____ Date _____

*** CUSTOMER DO NOT WRITE IN THIS BOX***

Contractor Work Agreement

I, the undersigned, on behalf of the Installation Contractor identified below, acknowledge and agree to the following:

The price and specifications of this bid proposal are satisfactory and are hereby accepted by the Installation Contractor. The cost of the work included in this bid proposal is not to exceed \$7,531.53 unless a customer signed and approved change order is received by the SmartLights Project Manager. I agree to honor the terms and conditions of the accompanying Customer Work Order.

All work will be completed within 3 weeks of the project start date shown below or by an agreed upon alternate date provided to SmartLights, in writing, by me.

All work will be completed pursuant to the SmartLights Program Manual and Installation Standards. In order for the SmartLights Program to release the project for invoicing, the undersigned will provide to the customer warranty information for all equipment installed, and submit to the Program a completed Project Completion and Acceptance Certificate, as well as itemized invoices for the applicable equipment and labor.

☐ Yes, I accept the project, to start on: _____

☐ No, I do not accept the project - state reasons below: _____

Signature of Contractor Representative: _____

Date: _____

Print name: _____

Company: _____

Address: _____

City, State, Zip: _____

(RL)

**Marin Energy Management Team
Proposition 39 Master Project Planner**

Education Agency (LEA) Name: Nicasio

Fiscal Year: 2013-2014

Annual Award: \$15,032

Est. Five Year Balance: \$75,160

Site Num	School Site	Measure	Enable Y/N	kW Saved	Therms Saved	kWh Saved
1	Nicasio School	Lighting Retrofit	y	2.9	-	5,184
1	Nicasio School	Hot Water Heater Replacement	y	0.0	-	701
1	Nicasio School	Propane Furnace to Heat Pump	y	0.0	1,966.1	(16,384)
1	Nicasio School	Thermostat Replacement	y	0.0	1.0	788
1	Nicasio School	Window Replacement	y	0.0	168.5	-
1	Nicasio School	Solar Energy System (20 kW)	y	20.5	-	31,613
District Totals				23.4	2,135.6	21,902

Annual Cost Savings	Installation Cost	Rebate	Net Cost	SPB	Site SIR	District SIR
\$986	\$7,532	\$1,061	\$6,470	6.6	2.45	0.96
\$119	\$910	\$0	\$910	7.6	2.71	
\$2,523	\$66,733	\$0	\$66,733	26.4	0.78	
\$292	\$1,365	\$0	\$1,365	4.7	2.44	
\$455	\$53,945	\$0	\$53,945	118.6	0.46	
\$8,051	\$89,265	\$0	\$89,265	11.1	1.25	
\$12,427	\$219,750	\$1,061	\$218,688	17.6	n/a	

Five Year Balance Remaining: (\$143,528.41)

b
c
d
e
f
g

Invoice

AmeriGas®

Page 1 of

ACCT#/PO#: 201858891 / B2 SEQ 50
INVOICE AMT DUE: \$300.86
DUE DATE: 02/15/2018

INVOICE NO: 3073835718

INVOICE DATE: 01/16/2018

NAME: NICASIO SCHOOL DISTRICT
SERVICE ADDRESS: 5555 NICASIO VALLEY RD
NICASIO CA 94946-9701

SENT

JAN 26 2018

RECEIVED

Previous Balance	Payments	Adjustments/Credits	New Charges	Account Balance Due	Invoice Amount Due
\$2,757.65	-\$764.49	\$0.00	\$300.86	\$2,294.02	\$300.86

Account Activity

Date	Ref No.	Description	Quantity	Price	Amount
01/15/18	626545923	Propane	79.9	\$3.27/GAL	\$261.27
		SITE:102106876			
		HazMat Fee - T			\$10.99
		Fuel Recovery Fee-T			\$5.67
		State Sales Tax			\$16.68
		County Sales Tax			\$3.48
		Local Sales Tax 1			\$2.77
		TOTAL NEW CHARGES			\$300.86

Account Balance Due includes all outstanding charges for which we have not received payment and may not reflect payments sent.

MESSAGES

Your safety is our priority! For helpful tips for a worry-free winter, visit the Propane/Consumer Safety section of our company website.

We periodically review and revise our standard Terms & Conditions. Visit our company website to read the T&C that apply.

Contact Us: Billing, Service & Delivery: 707-795-7998
Pay Online or Enroll in our Automatic Payment program: www.amerigas.com

THANK YOU FOR YOUR BUSINESS!

DISTRICT: 31 Nicasio School District
MARIN SCHOOLS VENDOR SYSTEM
COMBINED SCHOOLS VENDOR ACCOUNT

TREASURER, COUNTY OF MARIN
SAN RAFAEL, CALIFORNIA

VOID SIX MONTHS AFTER DATE OF ISSUE - GOVERNMENT CODE 29802

11-35/1210

CHECK NUMBER 20186964

Issue Date

01/31/2018

THREE HUNDRED AND 86/100 DOLLARS

BANK OF AMERICA, NA
SAN RAFAEL MAIN OFFICE
SAN RAFAEL, CALIFORNIA

Check Amount
\$300.86**

PAY TO THE ORDER OF

AMERIGAS
PO BOX 7155
PASADENA CA 91109-7155

EXAMINED AND APPROVED BY
MARY JANE BURKE
COUNTY SUPERINTENDENT OF SCHOOLS

COPY - NOT NEGOTIABLE
COPY - NOT NEGOTIABLE
COPY - NOT NEGOTIABLE
COPY - NOT NEGOTIABLE

Gas - 1030
86 Portal St.
Cotati CA 94931-3013
707-795-7998
www.amerigas.com

SENT

FEB 15 2018

Invoice

AmeriGas®

ACCT#/PO#:

by Nicasio School

201858891 / B2 SEC 50

INVOICE AMT DUE:

\$1,346.78

DUE DATE:

03/09/2018

FEB 12 2018

INVOICE NO: 3074905238

INVOICE DATE: 02/07/2018

NAME:

SERVICE ADDRESS:

NICASIO SCHOOL DISTRICT
5555 NICASIO VALLEY RD
NICASIO CA 94946-9701

by Nicasio School

APD# 180-001

Previous Balance	Payments	Adjustments/Credits	New Charges	Account Balance Due	Invoice Amount Due
\$300.86	-\$300.86	\$0.00	\$1,346.78	\$1,346.78	\$1,346.78

Account Activity

Date	Ref No.	Description	Quantity	Price	Amount
02/05/18	627682316	Propane	386.0	\$3.18/GAL	\$1,227.48
		SITE:102106876			
		HazMat Fee - T			\$10.99
		Fuel Recovery Fee-T			\$5.67
		State Sales Tax			\$74.65
		County Sales Tax			\$15.55
		Local Sales Tax 1			\$12.44
TOTAL NEW CHARGES					\$1,346.78

Account Balance Due includes all outstanding charges for which we have not received payment and may not reflect payments sent.

MESSAGES

Your safety is our priority! For helpful tips for a worry-free winter, visit the Propane/Consumer Safety section of our company website.
We periodically review and revise our standard Terms & Conditions. Visit our company website to read the T&C that apply.



Contact Us: Billing, Service & Delivery: 707-795-7998



Pay Online or Enroll in our Automatic Payment program: www.amerigas.com

THANK YOU FOR YOUR BUSINESS!

Gas - 1030
6 Portal St.
Cotati CA 94931-3013
707-795-7998
www.amerigas.com

SENT

FEB 15 2018

Credit Memo

AmeriGas®

by Nicasio School

Page 1 of 1

ACCT#/PO#: 201858891 / B2 SEQ 50
INVOICE AMT DUE: \$0.00
DUE DATE: FEB 12 2018

INVOICE NO: 403376905 INVOICE DATE: 02/08/2018
NAME: NICASIO SCHOOL DISTRICT
SERVICE ADDRESS: 5555 NICASIO VALLEY RD
NICASIO CA 94946-9701

by Nicasio School

APO 180-0001

Previous Balance	Payments	Adjustments/Credits	New Charges	Account Balance Due	Invoice Amount Due
\$1,346.78	\$0.00	\$0.00	-\$0.52	\$1,346.26	\$0.00

Account Activity

Date	Ref No.	Description	Quantity	Price	Amount
02/08/18	628193697	Fuel Recovery Fee Adjustment SITE:102106876	1.0	\$(0.52/EA)	-\$0.52
TOTAL NEW CHARGES					-\$0.52

Account Balance Due includes all outstanding charges for which we have not received payment and may not reflect payments sent.

MESSAGES

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THANK YOU FOR YOUR BUSINESS!

AMERIGAS - 1030
496 PORTAL ST.
COTATI CA 94931-3013

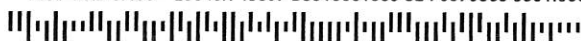
Account No.	Invoice No.	Invoice Date	Due Date	Amount Due
201858891	403376905	02/08/2018		\$0.00

TOTAL AMOUNT ENCLOSED \$

Please return this portion with your payment

☐ Account or user address change?
If yes, please check box and complete reverse side.

1201 1 AB 0.408 E0040X I0067 D3319561353 S2 P5078369 0001:0001 H1



NICASIO SCHOOL DISTRICT
~
PO BOX 711
NICASIO CA 94946-0711



REMIT TO
PO BOX 7155
PASADENA CA 91109-7155

02018588910000403376905000000000000521

Invoice

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Page 1 of 1

ACCT#/PO#: 201858891 / B2 SEQ 50
INVOICE AMT DUE: \$1,775.11
DUE DATE: 03/30/2018

INVOICE NO: 3075674529
NAME: NICASIO SCHOOL DISTRICT
SERVICE ADDRESS: 5500 NICASIO VALLEY RD
NICASIO CA 94946-9701

INVOICE DATE: 02/28/2018

AP0180001

Previous Balance	Payments	Adjustments/Credits	New Charges	Account Balance Due	Invoice Amount Due
\$1,346.26	\$0.00	\$0.00	\$1,775.11	\$3,121.37	\$1,775.11

Account Activity

Date	Ref No.	Description	Quantity	Price	Amount
02/27/18	628635774	Propane	520.2	\$3.12/GAL	\$1,623.02
		SITE:102106876			
		HazMat Fee - T			\$10.99
		Fuel Recovery Fee-T			\$5.81
		State Sales Tax			\$98.39
		County Sales Tax			\$20.50
		Local Sales Tax 1			\$16.40
		TOTAL NEW CHARGES			\$1,775.11

RECEIVED

MAR - 6 2018

by Nicasio School

Account Balance Due includes all outstanding charges for which we have not received payment and may not reflect payments sent.

MESSAGES

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DISTRICT: 31 Nicasio School District
**MARIN SCHOOLS VENDOR SYSTEM
COMBINED SCHOOLS VENDOR ACCOUNT**

TREASURER, COUNTY OF MARIN
SAN RAFAEL, CALIFORNIA

11-35/1210

CHECK NUMBER 20191245

VOID SIX MONTHS AFTER DATE OF ISSUE - GOVERNMENT CODE 29802

Issue Date
03/14/2018

ONE THOUSAND SEVEN HUNDRED SEVENTY FIVE AND 11/100 DOLLARS

Check Amount
\$1775.11**

BANK OF AMERICA, NA
SAN RAFAEL MAIN OFFICE
SAN RAFAEL, CALIFORNIA

PAY TO THE ORDER OF

AMERIGAS
PO BOX 7155
PASADENA CA 91109-7155

EXAMINED AND APPROVED BY
MARY JANE BURKE
COUNTY SUPERINTENDENT OF SCHOOLS

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Cotati CA 94931-3013
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MAR 26 2018

Invoice

APC 180-001

SEN **AmeriGas®**

by Nicasio School

MAR 29 2018

Page 1 of

ACCT#/PO#: 201858891 / B2 SEQ 50
INVOICE AMT DUE: \$1,350.77
DUE DATE: 04/21/2018

INVOICE NO: 3076549425

INVOICE DATE: 03/22/2018

NAME: Nicasio School District
SERVICE ADDRESS: 5555 NICASIO VALLEY RD
NICASIO CA 94946-9701

Previous Balance	Payments	Adjustments/Credits	New Charges	Account Balance Due	Invoice Amount Due
\$3,121.37	-\$3,121.37	\$0.00	\$1,350.77	\$1,350.77	\$1,350.77

Account Activity

Date	Ref No.	Description	Quantity	Price	Amount
03/20/18	629633086	Propane	369.7	\$3.33/GAL	\$1,231.10
		SITE:102106876			
		HazMat Fee - T			\$10.99
		Fuel Recovery Fee-T			\$5.73
		State Sales Tax			\$74.87
		County Sales Tax			\$15.60
		Local Sales Tax 1			\$12.48
TOTAL NEW CHARGES					\$1,350.77

Account Balance Due includes all outstanding charges for which we have not received payment and may not reflect payments sent.

MESSAGES

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THANK YOU FOR YOUR BUSINESS!

DISTRICT: 31 Nicasio School District
**MARIN SCHOOLS VENDOR SYSTEM
COMBINED SCHOOLS VENDOR ACCOUNT**

TREASURER, COUNTY OF MARIN
SAN RAFAEL, CALIFORNIA

11-35/1210

CHECK
NUMBER 20193574

VOID SIX MONTHS AFTER DATE OF ISSUE - GOVERNMENT CODE 29802

Issue Date
04/04/2018

ONE THOUSAND THREE HUNDRED FIFTY AND 77/100 DOLLARS

BANK OF AMERICA, NA
SAN RAFAEL MAIN OFFICE
SAN RAFAEL, CALIFORNIA

Check Amount
\$1350.77**

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PASADENA CA 91109-7155

EXAMINED AND APPROVED BY
MARY JANE BURKE
COUNTY SUPERINTENDENT OF SCHOOLS

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MAY 3 2018

APR 30 2018

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ACCT#/PO#: 201858891 / B2 SEQ 50
INVOICE AMT DUE: \$1,174.80
DUE DATE: 05/25/2018

by Nicasio School
INVOICE NO: 3077796733
INVOICE DATE: 04/25/2018
NAME: NICASIO SCHOOL DISTRICT
SERVICE ADDRESS: 5555 NICASIO VALLEY RD
NICASIO CA 94946-9701

Page 1 of 1

APR 186.00

Previous Balance	Payments	Adjustments/Credits	New Charges	Account Balance Due	Invoice Amount Due
\$1,350.77	-\$1,350.77	\$0.00	\$1,174.80	\$1,174.80	\$1,174.80

Account Activity

Date	Ref No.	Description	Quantity	Price	Amount
04/24/18	631587379	Propane	374.9	\$2.85/GAL	\$1,068.47
		SITE:102106876			
		HazMat Fee - T			\$10.99
		Fuel Recovery Fee-T			\$5.81
		State Sales Tax			\$65.11
		County Sales Tax			\$13.57
		Local Sales Tax 1			\$10.85
TOTAL NEW CHARGES					\$1,174.80

Account Balance Due includes all outstanding charges for which we have not received payment and may not reflect payments sent.

MESSAGES

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We periodically review and revise our standard Terms & Conditions. Visit our company website to read the T&C that apply.

Contact Us: Billing, Service & Delivery: 707-795-7998
Pay Online or Enroll in our Automatic Payment program: www.amerigas.com

THANK YOU FOR YOUR BUSINESS!

DISTRICT: 31 Nicasio School District
MARIN SCHOOLS VENDOR SYSTEM
COMBINED SCHOOLS VENDOR ACCOUNT

TREASURER, COUNTY OF MARIN
SAN RAFAEL, CALIFORNIA

CHECK NUMBER 20198010
11-35/1210

VOID SIX MONTHS AFTER DATE OF ISSUE - GOVERNMENT CODE 29802

Issue Date
05/16/2018

ONE THOUSAND ONE HUNDRED SEVENTY FOUR AND 80/100 DOLLARS

BANK OF AMERICA, NA
SAN RAFAEL MAIN OFFICE
SAN RAFAEL, CALIFORNIA

Check Amount
\$1174.80**

PAY TO THE ORDER OF

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PASADENA CA 91109-7155

EXAMINED AND APPROVED BY
MARY JANE BURKE
COUNTY SUPERINTENDENT OF SCHOOLS

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JUN 14 2018

Page 1 of 1

ACCT#/PO#: 201858891 / B2 SEQ 50
INVOICE AMT DUE: \$421.48
DUE DATE: 07/08/2018

INVOICE NO: 3079431265

JUN 14 2018

INVOICE DATE: 06/08/2018

NAME: *by Nicasio School* NICASIO SCHOOL DISTRICT
SERVICE ADDRESS: 5555 NICASIO VALLEY RD
NICASIO CA 94946-9701

PO 180.001

Previous Balance	Payments	Adjustments/Credits	New Charges	Account Balance Due	Invoice Amount Due
\$1,174.80	-\$1,174.80	\$0.00	\$421.48	\$421.48	\$421.48

Account Activity

Date	Ref No.	Description	Quantity	Price	Amount
06/07/18	632939207	Propane	128.4	\$2.90/GAL	\$372.36
		SITE:102106876			
		HazMat Fee - T			\$10.99
		Fuel Recovery Fee-T			\$6.01
		State Sales Tax			\$23.36
		County Sales Tax			\$4.87
		Local Sales Tax 1			\$3.89
		TOTAL NEW CHARGES			\$421.48

Account Balance Due includes all outstanding charges for which we have not received payment and may not reflect payments sent.

MESSAGES

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THANK YOU FOR YOUR BUSINESS!

DISTRICT: 31 Nicasio School District
**MARIN SCHOOLS VENDOR SYSTEM
COMBINED SCHOOLS VENDOR ACCOUNT**

TREASURER, COUNTY OF MARIN
SAN RAFAEL, CALIFORNIA

11-35/1210

CHECK NUMBER 20201777

VOID SIX MONTHS AFTER DATE OF ISSUE - GOVERNMENT CODE 29802

Issue Date
06/20/2018

FOUR HUNDRED TWENTY ONE AND 28/100 DOLLARS

Check Amount
\$421.28**

BANK OF AMERICA, NA
SAN RAFAEL MAIN OFFICE
SAN RAFAEL, CALIFORNIA

PAY TO THE ORDER OF

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PO BOX 7155
PASADENA CA 91109-7155

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COUNTY SUPERINTENDENT OF SCHOOLS

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Invoice

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Page 1 of 1

ACCT#/PO#: 201858891 / B2 SEQ 50
INVOICE AMT DUE: \$436.34
DUE DATE: 10/27/2018

INVOICE NO: 3082979204

INVOICE DATE: 09/27/2018

NAME: NICASIO SCHOOL DISTRICT
SERVICE ADDRESS: 5555 NICASIO VALLEY RD
NICASIO CA 94946-9701

SENT

OCT -3 2018

APD # 190-001

Previous Balance	Payments	Adjustments/Credits	New Charges	Account Balance Due	Invoice Amount Due
\$421.48	-\$421.28	\$0.00	\$436.34	\$436.54	\$436.34

Account Activity

Date	Ref No.	Description	Quantity	Price	Amount
09/26/18	637493391	Propane	126.1	\$3.06/GAL	\$385.87
		SITE:102106876			
		HazMat Fee - T			\$10.99
		Fuel Recovery Fee-T			\$6.23
		State Sales Tax			\$24.17
		County Sales Tax			\$5.04
		Local Sales Tax 1			\$4.04
		TOTAL NEW CHARGES			\$436.34

Account Balance Due includes all outstanding charges for which we have not received payment and may not reflect payments sent.

MESSAGES

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Invoice

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NOV 28 2018

Page 1 of 1

ACCT#/PO#: 201858891 / B2 SEQ 50
INVOICE AMT DUE: \$1,403.24
DUE DATE: 12/21/2018

INVOICE NO: 3085027779
INVOICE DATE: 11/21/2018
NAME: NICASIO SCHOOL DISTRICT
SERVICE ADDRESS: 5555 NICASIO VALLEY RD
NICASIO CA 94946-9701

APO # 190-001

Previous Balance	Payments	Adjustments/Credits	New Charges	Account Balance Due	Invoice Amount Due
\$436.54	-\$436.34	\$0.00	\$1,403.24	\$1,403.44	\$1,403.24

Account Activity

Date	Ref No.	Description	Quantity	Price	Amount
11/19/18	639967909	Propane	403.4	\$3.17/GAL	\$1,278.78
		SITE:102106876			
		HazMat Fee - T			\$10.99
		Fuel Recovery Fee-T			\$6.53
		State Sales Tax			\$77.78
		County Sales Tax			\$16.20
		Local Sales Tax 1			\$12.96
		TOTAL NEW CHARGES			\$1,403.24

Account Balance Due includes all outstanding charges for which we have not received payment and may not reflect payments sent.

MESSAGES

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THANK YOU FOR YOUR BUSINESS!

Invoice

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Page 1 of 1

ACCT#/PO#: 201858891 / B2 SEQ-50

INVOICE NO: 3086010946

INVOICE DATE: 12/12/2018

INVOICE AMT DUE: \$1,053.29

NAME: NICASIO SCHOOL DISTRICT

DUE DATE: 01/11/2019

SERVICE ADDRESS: 5555 NICASIO VALLEY RD
NICASIO CA 94946-9701

DEC 19 2018

by Nicasio School

APO 190-001

Previous Balance	Payments	Adjustments/Credits	New Charges	Account Balance Due	Invoice Amount Due
\$1,403.44	\$0.00	\$0.00	\$1,053.29	\$2,456.73	\$1,053.29

SENT

Account Activity

Date	Ref No.	Description	Quantity	Price	Amount
12/10/18	641122798	Propane	294.0	\$3.25/GAL	\$955.50
		SITE:102106876			
		HazMat Fee - T			\$10.99
		Fuel Recovery Fee-T			\$6.53
		State Sales Tax			\$58.38
		County Sales Tax			\$12.16
		Local Sales Tax 1			\$9.73
TOTAL NEW CHARGES					\$1,053.29

Account Balance Due includes all outstanding charges for which we have not received payment and may not reflect payments sent.

MESSAGES

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THANK YOU FOR YOUR BUSINESS!

NICASIO SCHOOL DISTRICT BOARD OF TRUSTEES

Nicasio, California

Resolution 2018-19 #4

Resolution for Adopting California Energy Commission

Bright Schools Program

Whereas, the California Energy Commission's Bright Schools Program provides technical assistance to school districts; and Whereas the Nicasio School District Board of Trustees authorizes Nicasio School District to apply for technical assistance and whereas, the Nicasio School District recognized that the California Energy Commission has limited funds available to provide technical assistance and that the primary consideration will be given to those school districts that have a desire and willingness to seek funding to implement the feasible recommended energy-efficiency measures:

Now, Therefore Be it Resolved, that Nicasio School District is willing to seek funding to implement viable energy-saving measures and therefore requests technical assistance to identify such measures as may be economically feasible.

Be it Also Resolved, that Nicasio School District, Interim Superintendent is hereby authorized and empowered to execute in the name of Nicasio School District all the necessary documents to implement and carry out the purpose of this resolution.

Passed, Approved, and Adopted this 7th day of May, 2019.

Signatures of Nicasio School District Board of Trustees

Michelle Rutledge, Nicasio School District Board President

Elaine Doss, Nicasio School District Board Clerk

Mark Burton, Nicasio School District Board Member

Nicasio School District

Since 1862

Board of Trustees

Michelle Rutledge, *Board President* ~ Elaine Doss, *Trustee* ~ Mark Burton, *Trustee*

To: Nicasio School District Board of Trustees
 From: Jan La Torre-Derby, Ed. D. Interim Superintendent
 Date: May 7, 2019
 Re: Action: Adoption of Resolution 2018-19 #5 - CSBA Resolution regarding Full and Fair School Funding Model

Objective

To approve CSBA Resolution Calling for Full and Fair Funding of California's Public Schools

Background

California school funding for public education has had a significant change since 1976 and the Passage of Proposition 13, which changed the model for property taxes as related to public school funding. Since that, parcel taxes have been implemented to enhance funding available for public school programs and operations. LCFF legislation supports two systems of funding for California schools; one is Revenue Limit which depends Average Daily Attendance and Proposition 98 funding to determine how much state funding is allotted for public school operations. The other funding model is Basic Aid, which depends on local property taxes and any state one time enhancements for all California district to benefit from additional state funding. There are approximately 250 Basic Aid districts in California of the 1000 established districts. All districts are Basic Aid in Marin except Novato Unified, San Rafael Elementary, Ross Valley, which Dixie and Larkspur moving in and out of Basic Aid based on property tax values. That is 16/19 districts are Basic Aid in Marin.

The CSBA resolution for Full and Fair Funding includes the following concepts.

1. Address California's ranking for public school funding as 45th nationally for percentage of taxable income spent on education.
2. LCFF has returned funding to the 2007 level only and needs to be increased
3. Health care, pension costs, transportation, and utilities have increased significantly
4. 58% of California public schools are eligible for Free and Reduced Lunch; 23% are English Learners, which is more than twice the national average
5. California's wealth, as a state, and public school funding are not aligned
6. \$17 billion is designated to meeting the State Board of Education achievement targets

Funding Source/Cost:

NA

Recommendation:

Staff recommends the approval of CSBA's "Resolution Calling for Full and Fair Funding of California's Public Schools.

NICASIO SCHOOL DISTRICT BOARD OF TRUSTEES

Nicasio, California

Resolution 2018-19 #5

RESOLUTION CALLING FOR FULL AND FAIR FUNDING OF CALIFORNIA'S PUBLIC SCHOOLS

WHEREAS, California has the sixth largest economy in the world, and the largest Gross Domestic Product (GDP) of any state in the nation; and

WHEREAS, despite California's leadership in the global economy, the state falls in the nation's bottom quintile on nearly every measure of public K-12 school funding and school staffing; and

WHEREAS, California ranks 45th nationally in the percentage of taxable income spent on education, 41st in per-pupil funding, 45th in pupil-teacher ratios and 48th in pupil-staff ratios; and

WHEREAS, K-12 school funding has not substantially increased, on an inflation-adjusted basis, for more than a decade; and

WHEREAS, under the Local Control Funding Formula (LCFF), state funding for K-12 schools has only recently returned to levels predating the Great Recession of 2007; and

WHEREAS, the modest revenue increases since the implementation of LCFF have been eroded by rapidly increasing costs for health care, pensions, transportation and utilities; and

WHEREAS, 58 percent of California's public school students are eligible for free and reduced-price lunch - 13 percent above the national average - and 23 percent of California students are English learners, more than twice the national average; and

WHEREAS, California's investment in public schools is out of alignment with its wealth, its ambitions, its demographics and the demands of a 21st-century education; and

WHEREAS, in 2007, a bipartisan group of California leaders commissioned a report titled Getting Down to Facts, which stated it would take an additional \$17 billion annually to meet the State Board of Education achievement targets for K-12 schools; and

WHEREAS, in 2016, a California School Boards Association (CSBA) report, California's Challenge: Adequately Funding Education in the 21st Century, updated the Getting Down to Facts data and determined that, adjusting for inflation, an additional \$22 billion to \$40 billion annually would be required to provide all public school students with access to a high-quality education; and

WHEREAS, California funds schools at roughly \$1,961 per student less than the national average, which translates to approximately \$3,462 per student when adjusted for California being a high-cost state; and

WHEREAS, California trails the average of the top 10 states by almost \$7,000 in per-pupil funding; and

WHEREAS, in Robles-Wong v. State of California, a group of plaintiffs led by CSBA argued that California’s school funding system violated Article IX of the State Constitution by denying all students access to an education that prepares them for economic security and full participation in our democratic institutions; and

WHEREAS, the California Supreme Court declined to hear the case by a 4-3 margin, prompting Justice Goodwin H. Liu to write: “It is regrettable that this court, having recognized education as a fundamental right in a landmark decision 45 years ago [Serrano v. Priest (1971) 5 Cal.3d 584], should now decline to address the substantive meaning of that right.”; and

WHEREAS, in order to prepare our students for participation in a democratic society and an increasingly competitive, technology-driven global economy, California must fund schools at a level sufficient to support student success; and

WHEREAS, despite its vast wealth, California has consistently underfunded public education while widening its scope, adding new requirements and raising standards without providing appropriate resources to prepare all students for college, career and civic life; and

WHEREAS, if California is to close opportunity and achievement gaps and create a public school system that offers consistently high levels of education, the State must provide schools with the resources to meet the needs of their specific populations;

NOW, THEREFORE BE IT RESOLVED, that the governing board of Nicasio School District urges the State Legislature to fund California public schools at the national average or higher by the year 2020, and at a level that is equal to or above the average of the top 10 states nationally by 2025 and to maintain, at a minimum, this level of funding until otherwise decreed.

Adopted this 7th day of the month of **May** in **2019**.

Motion made by: _____

Second made by: _____

Members voting “aye” _____

Members voting “no” _____

Members abstaining: _____

Members not present: _____

Michelle Rutledge, Board President

ATTEST

Dr. Jan La Torre-Derby, Interim Superintendent

Nicasio School District

Since 1862

Board of Trustees

Michelle Rutledge, *Board President* ~ Elaine Doss, *Trustee* ~ Mark Burton, *Trustee*

To: Nicasio School District Board of Trustees
From: Jan La Torre-Derby, Ed.D. Interim Superintendent
Date: May 7, 2019
Re: Action: Approval of Board Policy 1330 Use of School Facilities

Objective:

To review and approve revisions to Board Policy 1330 Use of School Facilities

Background:

At the March 7, 2019 board meeting, Trustees and staff discussed BP 1330 Use of School Facilities. Recommendations for changes were made particularly addressing the fee schedule and comparison of neighboring districts. Each of the policies follows the Civic Center Act requirements. The revised policy which aligns with the Civic Center Act, also protects the district from excess costs should staff be required to ensure use of the facility, set up, or clean up, for particular user groups. The discrepancy lies with excess costs should district staff be required. Currently, fees are only charged for particular groups. The Civic Center Act does not require "student group" users to pay fees, however, Nicasio School District, does have fees allowable as part of the policy, should a staff member be required at a particular scheduled event.

Funding Source/Cost:

NA

Recommendation:

Staff recommends final reading and approval of BP 1330 as aligned with Keenan and Associates and Civic Center Act requirements.

NICASIO SCHOOL DISTRICT

Board Policy

Series 1000: Community Relations

BP 1330

USE OF SCHOOL FACILITIES

The Governing Board believes that school facilities and grounds are a vital community resource which should be used to foster community involvement and development. Therefore, the Board authorizes the use of school facilities by district residents and community groups for purposes specified in the Civic Center Act, to the extent that such use does not interfere with school activities or other school-related uses.

The Superintendent or designee shall give priority to school-related activities in the use of school facilities and grounds. Other uses authorized under the Civic Center Act shall be on a first-come, first-served basis.

For the effective management and control of school facilities and grounds, the Superintendent or designee shall maintain procedures and regulations that: (Education Code 38133)

1. Aid, encourage, and assist groups desiring to use school facilities for approved activities
2. Preserve order in school facilities and on school grounds and protect school facilities, designating a person to supervise this task, if necessary
3. Ensure that the use of school facilities or grounds is not inconsistent with their use for school purposes and does not interfere with the regular conduct of school work

Subject to prior approval by the Board, the Superintendent or designee may grant the use of school facilities or grounds on those days on which district schools are closed. (Education Code 37220)

There shall be no advertising on school facilities and grounds except as allowed by district policy specified in BP 1325 - Advertising and Promotion.

As necessary to ensure efficient use of school facilities, the Superintendent or designee may, with the Board's approval, enter into an agreement for the joint use of any school facilities or grounds. The Board shall approve any such agreement only if it determines that it is in the best interest of the district and the community.

Fees

The Board shall adopt a comprehensive schedule of fees to be charged for community use of school facilities and grounds, including, but not limited to, the multipurpose room(s), playing or athletic field(s), track and field venue(s), tennis court(s), and outdoor basketball court(s). The schedule of fees shall be prepared in accordance with 5 CCR 14037-14041. (5 CCR 14041)

(Amount not exceeding direct costs to all community groups)

The Board believes that the use of school facilities or grounds should not result in an expense to the district. The Superintendent or designee shall charge all groups granted the use of school facilities or grounds under the Civic Center Act an amount not exceeding direct costs determined in accordance with 5 CCR 14037-14041. (Education Code 38134)

The Board authorizes the use of school facilities or grounds, without charge, by nonprofit organizations and by clubs or associations organized to promote youth and school activities, including, but not limited to, Girl Scouts, Boy Scouts, Camp Fire USA, YMCA, parent-teacher associations, school-community advisory councils, and recreational youth sports leagues that charge participants no more than an average of \$60 per month. Other groups that request the use of school facilities under the Civic Center Act shall be charged an amount not exceeding direct costs determined in accordance with 5 CCR 14037-14041. (Education Code 38134)

Additionally, when any use of school facilities or grounds is for religious services, the district shall charge an amount at least equal to the district's direct costs. (Education Code 38134)

Groups shall be charged fair rental value when using school facilities or grounds for entertainment or meetings where admission is charged or contributions solicited and net receipts are not to be expended for charitable purposes or for the welfare of the district's students. (Education Code 38134)

Calculating Direct Costs

Direct costs to be charged for community use of each, or each type of, school facility or grounds shall be calculated in accordance with 5 CCR 14038 and may reflect the community's proportionate share of the following costs: (Education Code 38134; 5 CCR 14038-14041)

1. Capital direct costs calculated in accordance with 5 CCR 14039, including the estimated costs of maintenance, repair, restoration, and refurbishment of non-classroom space school facilities or grounds
2. Operational direct costs calculated in accordance with 5 CCR 14040, including estimated costs of supplies, utilities, janitorial services, other services performed by district employees and/or contracted workers, and salaries and benefits paid to district employees directly associated with the administration of the Civic Center Act to operate and maintain school facilities and grounds

Direct cost fees shall not be discounted to any group or organization except when the discount is specifically authorized in the adopted fee schedule. (5 CCR 14041)

Expending Funds Collected as Capital Direct Costs

Any funds collected as capital direct costs shall be deposited into a special fund to be used only for capital maintenance, repair, restoration, and refurbishment of school facilities and grounds. (5 CCR 14042)

Use of School Facility as Polling Place

The Board may authorize the use of school buildings as polling places on any election day, and may also authorize the use of school buildings, without cost, for the storage of voting machines

and other vote-tabulating devices. However, if a city or county elections official specifically requests the use of a school building as a polling place, the Board shall allow its use for such purpose. If school will be in session, the Superintendent or designee shall identify to elections officials the specific areas of the school buildings not occupied by school activities that will be allowed for use as polling places. (Elections Code 12283)

When a school is used as a polling place, the Superintendent or designee shall provide the elections official a site with an adequate amount of space that will allow the precinct board to perform its duties in a manner that will not impede, interfere, or interrupt the normal process of voting and shall make a telephone line for Internet access available for use by local elections officials if so requested. He/she shall make a reasonable effort to ensure that the site is accessible to persons with disabilities. (Elections Code 12283)

The Superintendent or designee shall establish procedures to ensure student safety and minimize disruptions whenever school is in session while the facilities are being used as a polling place.

Legal Reference:

EDUCATION CODE

10900-10914.5 Community recreation programs

32282 School safety plan

37220 School holidays

38130-38138 Civic Center Act, use of school property for public purposes

BUSINESS AND PROFESSIONS CODE

25608 Alcoholic beverages on school premises

ELECTIONS CODE

12283 Polling places: schools

GOVERNMENT CODE

54950-54963 The Ralph M. Brown Act

MILITARY AND VETERANS CODE

1800 Definitions

CODE OF REGULATIONS, TITLE 5

14037-14042 Proportionate direct costs for use of school facilities and grounds

UNITED STATES CODE, TITLE 20

7905 Equal access to public school facilities

COURT DECISIONS

Good News Club v. Milford Central School, (2001) 533 U.S. 98

Lamb's Chapel v. Center Moriches Union Free School District, (1993) 508 U.S. 384

Cole v. Richardson, (1972) 405 U.S. 676

Connell v. Higgenbotham, (1971) 403 U.S. 207

ACLU v. Board of Education of Los Angeles, (1961) 55 Cal .2d 167

Ellis v. Board of Education, (1945) 27 Cal.2d 322

ATTORNEY GENERAL OPINIONS

82 Ops.Cal.Atty.Gen. 90 (1999)

79 Ops.Cal.Atty.Gen. 248 (1996)

Management Resources:**CSBA PUBLICATIONS**

Maximizing Opportunities for Physical Activity Through Joint Use of Facilities, Policy Brief, February 2010

Building Healthy Communities: A School Leader's Guide to Collaboration and Community Engagement, 2009

First/Final Reading: , 2019

Board Approved

NICASIO SCHOOL DISTRICT

Administrative Regulations

Series 1000: Community Relations

AR 1330

USE OF SCHOOL FACILITIES

Application for Use of Facilities

Any person applying for the use of any school facilities or grounds on behalf of any society, group, or organization shall present written authorization from the group or organization to make the application.

Persons or organizations applying for the use of school facilities or grounds shall submit a facilities use statement indicating that they uphold the state and federal constitutions and do not intend to use school premises or facilities to commit unlawful acts.

Civic Center Use

Subject to district policies and regulations, school facilities and grounds shall be available to citizens and community groups as a civic center for the following purposes: (Education Code 32282, 38131)

1. Public, literary, scientific, recreational, educational, or public agency meetings
2. The discussion of matters of general or public interest
3. The conduct of religious services for temporary periods, on a one-time or renewable basis, by any church or religious organization
4. Child care programs to provide supervision and activities for children of preschool and elementary school age
5. The administration of examinations for the selection of personnel or the instruction of precinct board members by public agencies
6. Supervised recreational activities, including, but not limited to, sports league activities that are arranged for and supervised by entities, including religious organizations or churches, and in which youth may participate regardless of religious belief or denomination
7. A community youth center
8. Mass care and welfare shelters during disasters or other emergencies affecting the public health and welfare

9. A ceremony, patriotic celebration, or related educational assembly conducted by a veterans' organization

- a. A veterans' organization means the American Legion, Veterans of Foreign Wars, Disabled American Veterans, United Spanish War Veterans, Grand Army of the Republic, or other duly recognized organization of honorably discharged soldiers, sailors, or marines of the United States, or any of their territories. (Military and Veterans Code 1800)

10. Other purposes deemed appropriate by the Governing Board

Restrictions

School facilities or grounds shall not be used for any of the following activities:

1. Any use by an individual or group for the commission of any crime or any act prohibited by law
2. Any use which is inconsistent with the use of school facilities for school purposes or which interferes with the regular conduct of school or school work
3. Any use which involves the possession, consumption, or sale of drugs or any restricted substances, including tobacco
4. Any use which involves the possession, consumption, or sale of alcoholic beverages.

Categories of Use

Category 1

School-related activities and organizations, including, without limitation, school clubs, the school board, site council, and school sponsored after-school programs

Category 2

Local non-profit organizations, clubs and associations that are specifically organized to promote activities for youth and/or the Nicasio community. These include, without limitation, the Nicasio School Foundation, the Nicasio 4-H Club, the Nicasio Volunteer Fire Department (including Disaster Council and Ladies Auxiliary), the Nicasio Land Owners Association, Nicasio Land Preserve, Nicasio Historical Society, St. Mary's Church, Red Cross, and District Elections.

Category 3

Other non-profit organizations, clubs and associations contemplated by the Civic Center Act, including, but not limited to:

- a. Public, literary, scientific, recreational, education or public agency meetings.
- b. The discussion of matters of general or public interest.
- c. The conduct of religious services for temporary period, on a one-time or renewable basis, by any church or religious organization.
- d. Childcare programs to provide supervision and activities for children of preschool and elementary school age.
- e. The administration of examinations for the selection of personnel or the instruction of precinct board members by public agencies.
- f. Supervised recreational activities including, but not limited to, sports league activities that are arranged for and supervised by entities, including religious organizations, etc.

Category 4

For-profit organizations and groups which use school facilities or grounds for entertainment or meetings where admission is charged or contributions are solicited and net receipts are not to be expended for charitable purposes or for the welfare of the District's students. Private individuals and groups, at the site administrator's discretion, may rent campus facilities, the fee for which will be determined by the site administrator.

Priorities

1. No use shall interfere with the regular conduct of school or school work.
2. Category 1 shall have first priority in the use of District facilities.
3. Other Categories may use district facilities in accordance with this policy if and when available.
4. As a general rule, no use of district facilities will be granted to individuals or unrecognized groups for personal or private functions.

Rental Fees and Other Charges

No rental fees will be charged to organizations that fall under Category 1 or Category 2. Category 3 users will be charged rental fees based on the direct cost of using the district facilities. Users belonging to Category 4 will be charged rental fees based on fair rental value.

Rental Fees

Rental areas and associated fees listed below may be modified at the discretion of the District to accommodate for special circumstances and use.

The rental areas and associated fees may not include the use of water and/or bathrooms due to the District's limited supply of well water. In such cases, the sponsoring organization will be responsible for arranging for and providing onsite portable toilets.

Facility	Category 3	Category 4
Classroom	\$30/hour	\$50/hour
Library	\$30/hour	\$50/hour
Library w/ Computer Lab	\$50/hour	\$95/hour
Multi-Purpose Room (MPR) Auditorium/Stage (no kitchen)	\$40/hour	\$75/hour
Multi-Purpose Room (MPR) w/ Kitchen	\$50/hour	\$95/hour
Large Field/Track/Basketball Court	\$40/hour	\$75/hour
Small Field/Playground	\$40/hour	\$75/hour
Parking Lot When not used in conjunction with another use listed above	\$75/day Daytime Use	\$100/day Daytime Use
	\$100/day Nighttime Use	\$125/day Nighttime Use
Parking Lot w/ Exterior Power When not used in conjunction with another use listed above	\$100/day Daytime Use	\$125/day Daytime Use
	\$125/day Nighttime Use	\$150/day Nighttime Use
Daytime Use: Between 9am and 5pm		
Nighttime Use: Between 5pm and 9am		

(Nighttime use fees includes any daytime hours used in addition to nighttime hours within a 24-hour period)

Other Charges

Unless waived by the District, all Categories of users other than Category 1, will be required to pay for the time of the District Point Person, based on the personnel costs incurred by the district. All Categories of users will be required to pay for any damages they cause to district facilities.

Damage and Liability

Groups, organizations, or persons using school facilities or grounds shall be liable for any property damage caused by the activity. The district may charge the amount necessary to repair the damages and may deny the group further use of school facilities or grounds. (Education Code 38134)

Any group or organization using school facilities or grounds shall be liable for any injuries resulting from its negligence during the use of district facilities or grounds. The group shall bear the cost of insuring against this risk and defending itself against claims arising from this risk. (Education Code 38134)

Groups or organizations shall provide the district with evidence of insurance against claims arising out of the group's own negligence when using school facilities. (Education Code 38134)

Groups or persons using district facilities shall be liable for any injuries and/or property damage caused by their use and shall bear the cost of insuring against such risks and defending themselves against claims arising from such risks. Unless waived by the District's Superintendent or designee, all groups or persons using district facilities are required to carry liability insurance policies with a combined single limit of at least \$1,000,000 per occurrence, to cause the District to be designated as an additional insured on such policy, and to provide the District with a certificate evidencing that such insurance is in place. The District's Superintendent or designee may require a hold harmless agreement when warranted by the type of activity or the specific facility being used.

Application Process

A group or person wishing to use district facilities ("Applicant") must complete the District's application form and submit it to the District at least thirty (30) days in advance of the first date of use being requested. The person signing the form on behalf of the Applicant must be authorized by the Applicant to act on behalf of the Applicant and to bind the Applicant to the terms contained in the Application and other agreements between the District and the Applicant relating to the proposed use.

Applicants shall be notified in writing whether the application is approved or denied. If approved, a copy of the application signed by the District's representative together with special requirements shall be provided to the applicant.

Applicable fees must be received by the District at least ten (10) days prior to the scheduled use. Checks should be made payable to "Nicasio School District." There will be no refunds for cancellations made less than two (2) days before the scheduled event.

Implementation of Policy

The Superintendent or designee shall develop and maintain application procedures and regulations (AR 1330) to implement this policy which:

1. Encourage and assist groups desiring to use school facilities for approved activities, consistent with this policy;
2. Preserve order in district buildings and on district grounds and protect district facilities; and
3. Ensure that the use of district facilities and grounds is not inconsistent with the use of the school facilities for school purposes and does not interfere with the regular conduct of schoolwork.

As permitted, the Superintendent or designee may require a hold harmless agreement and indemnification when warranted by the type of activity or the specific facilities being used.

Board Approved: May 7, 2019

Nicasio School District

Since 1862

Board of Trustees

Michelle Rutledge, Board President ~ Elaine Doss, Trustee ~ Mark Burton, Trustee

To: Nicasio School District Board of Trustees
From: Jan La Torre-Derby, Ed.D. Interim Superintendent
Date: May 7, 2019
Re: Action: Approval of BP 4000s Personnel

Objective:

To review and approve policies 4000s Personnel which align with district practice and state and federal mandates

Background:

Michelle Rutledge, Nicasio School District Board President, and the Nicasio staff continue to review board policies to update and align mandates and district practice. The 4000s are state and federal requirements regarding Personnel Practices as outlined in law. The first round of policies brought forward range from BP 4000-BP/AR 4119.11 (See next page for policies to be reviewed and approved.)

Funding Source/Cost:

NA

Recommendation:

Staff recommends revision/additions/approval of mandated Board Policies listed above as a first/final reading.

BP/AR/Ex	Personnel Practices
BP 4000 Concepts and Roles	Ex 4112.9 Ex 4212.9 Ex 4312.9 Employee Notification
BP 4020 Drug and Alcohol-Free Workplace	BP 4113 Assignment
BP 4030 Non-discrimination In Employment	AR 4113 Assignment
AR 4030 Non-discrimination In Employment	BP 4113.4 BP 4213.4 BP 4313.4 Temporary Modification/Light Duty Assignment
AR 4032 Reasonable Accommodations	BP 4115 Evaluation/Supervision
BP 4040 Employee Use of Technology	AR 4115 Evaluation/Supervision
Ex 4040 Employee Use of Technology	BP 4116 Probationary/Permanent Status
BP 4100 Certificated Personnel	AR 4116 Probationary/Permanent Status
BP 4111.2 BP 4112.2 BP 4113.2 Legal Status Requirement	BP 4117.3 Personnel Reduction
AR Legal Status Requirement	AR 4117.14 AR 4317.14 Pre-Retirement Employment
AR 4112.1 Contracts	BP 4117.13 BP 43117.13 Early Retirement Options
BP 4112.2 Certification	BP 4117.2 BP 42117.2 BP 4317.2 Resignation
AR 4112.2 Certification	AR 4117.5 AR 4217.5 AR 4317.5 Termination Agreements
BP 4112.22 Staff Teaching English Learners	AR 4117.74 AR4317.74 Employment Status Reports
AR 4112.3 Special Education Staff	BP 4118 Dismissal /Suspension/Disciplinary Action
AR 4112.3 AR 4212.3 AR 4312.3 Oath or Affirmation	AR 4118 Dismissal /Suspension/Disciplinary Action
AR 4112.4 AR 4212.3 AR 4312.3 Health Exams (e.g. TB Testing)	BP 4119.11 BP 4219.11 BP 4319.11 Sexual Harassment
AR 4112.5 AR 4212.5 AR 4312.5 Criminal Records	BP 4119.11 BP 4219.11 BP 4319.11 Sexual Harassment
Ex 4112.5 Ex 4212.5 Ex 4312.5 Criminal Records	
AR 4112.6 BP 4212.6 BP 4312.6 Personnel Files	
BP 4112.9 BP 4212.9 BP 4312.9 Employee Notification	

Board Policy

Concepts And Roles

BP 4000

Personnel

The Governing Board recognizes that the success of district students and programs hinges on effective personnel. The Board desires to establish safe and supportive working conditions that will attract and retain staff members who are highly qualified and dedicated to the education and welfare of students. The district's personnel policies and related regulations shall be designed to ensure a supportive, positive climate and shall be consistent with collective bargaining agreements and in conformance with state and federal law and regulations.

As the legal representative of the district in negotiations with employee representatives, the Board shall set goals and guidelines for collective bargaining and maintain communications during the bargaining process, and adopt the negotiated contract. Terms and conditions of employment which have been negotiated and stated in employee contracts shall have the force of policy. The Board shall hear employee complaints and appeals when such hearings are in accordance with Board policy or negotiated agreements. The Board shall also adopt wage and salary schedules and shall commit budget funds for staff development so that staff members may continue developing their skills.

- (cf. 4131 - Staff Development)
- (cf. 4141/4241 - Collective Bargaining Agreement)
- (cf. 4143/4243 - Negotiations/Consultation)
- (cf. 4144/4244/4344 - Complaints)
- (cf. 4231 - Staff Development)
- (cf. 4331 - Staff Development)
- (cf. 9000 - Role of the Board)

The Superintendent has primary responsibility for overseeing the district's personnel system. To support this effort, the Board shall approve a framework for sound hiring practices. The Superintendent shall nominate all personnel for employment, and the Board shall approve only those persons so recommended. Individuals who approach Board members regarding prospective employment shall be referred to the Superintendent or designee.

- (cf. 4030 - Nondiscrimination in Employment)
- (cf. 4111/4211/4311 - Recruitment and Selection)

The Superintendent or designee shall assign and supervise the work of all employees and shall evaluate their work in accordance with effective accountability systems approved by the Board. The Superintendent or designee also shall recommend disciplinary action which the Board may take against employees when warranted pursuant to Board policy, administrative regulations and/or state or federal law.

(cf. 4115 - Evaluation/Supervision)
(cf. 4118 - Dismissal/Suspension/Disciplinary Action)
(cf. 4215 - Evaluation/Supervision)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)
(cf. 4315 - Evaluation/Supervision)

The Board recognizes that every employee has a stake in the district's successful operation. The Board encourages all district employees to express their ideas, concerns and proposals related to the improvement of working conditions and the total educational program. The Superintendent or designee shall establish procedures whereby he/she will receive and consider employee suggestions and submit them, when appropriate, for consideration by the Board.

Legal Reference:

EDUCATION CODE

35020 Duties of employees fixed by governing board

35035 Powers and duties of superintendent

35160 Powers of governing board

GOVERNMENT CODE

3540-3549.3 Public education employer-employee relations

Board Policy

Drug And Alcohol-Free Workplace

BP 4020

Personnel

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

(cf. 4112.41/4212.41/4312.41 - Employee Drug Testing)

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

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

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

(cf. 4032 - Reasonable Accommodation)

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

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

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

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

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

(cf. 4112 - Appointment and Conditions of Employment)
(cf. 4118 - Dismissal/Suspension/Disciplinary Action)
(cf. 4212 - Appointment and Conditions of Employment)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

Drug-Free Awareness Program

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

1. The dangers of drug abuse in the workplace
2. The district's policy of maintaining a drug-free workplace
3. Available drug counseling, rehabilitation, and employee assistance programs

(cf. 4159/4259/4359 - Employee Assistance Programs)

4. The penalties that may be imposed on employees for drug abuse violations occurring in the workplace

Legal Reference:

EDUCATION CODE

44011 Controlled substance offense
44425 Conviction of controlled substance offenses as grounds for revocation of credential
44836 Employment of certificated persons convicted of controlled substance offenses
44940 Compulsory leave of absence for certificated persons
44940.5 Procedures when employees are placed on compulsory leave of absence
45123 Employment after conviction of controlled substance offense
45304 Compulsory leave of absence for classified persons

GOVERNMENT CODE

8350-8357 Drug-free workplace
UNITED STATES CODE, TITLE 20
7111-7117 Safe and Drug Free Schools and Communities Act
UNITED STATES CODE, TITLE 21
812 Schedule of controlled substances
UNITED STATES CODE, TITLE 41
8101-8106 Drug-Free Workplace Act

CODE OF FEDERAL REGULATIONS, TITLE 21
1308.01-1308.49 Schedule of controlled substances

COURT DECISIONS

Cahoon v. Governing Board of Ventura USD, (2009) 171 Cal.App.4th 381
Ross v. RagingWire Telecommunications, Inc., (2008) 42 Cal.4th 920

Management Resources:

WEB SITES

California Department of Education: <http://www.cde.ca.gov>
California Department of Health Care Services: <http://dhcs.ca.gov>
U.S. Department of Labor: <http://www.dol.gov>

Board Policy

Nondiscrimination In Employment

BP 4030

Personnel

The Governing Board is determined to provide district employees, interns, volunteers, and job applicants a safe, positive environment where they are assured of full and equal employment access and opportunities, protection from harassment or intimidation, and freedom from any fear of reprisal or retribution for asserting their employment rights in accordance with law. This policy shall apply to all district employees and, to the extent required by law, to interns, volunteers, and job applicants.

(cf. 1240 - Volunteer Assistance)

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

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

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

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

1. Discrimination in hiring, compensation, terms, conditions, and other privileges of employment
2. Taking of an adverse employment action, such as termination or the denial of employment, promotion, job assignment, or training

(cf. 4151/4251/4351 - Employee Compensation)

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

3. Unwelcome conduct, whether verbal, physical, or visual, that is so severe or pervasive as to adversely affect an employee's employment opportunities, or that has the purpose or effect of unreasonably interfering with the individual's work performance or creating an intimidating, hostile, or offensive work environment

4. Actions and practices identified as unlawful or discriminatory pursuant to Government

Code 12940 or 2 CCR 11006-11086, such as:

a. Sex discrimination based on an employee's pregnancy, childbirth, breastfeeding, or any related medical condition or on an employee's gender, gender expression, or gender identity, including transgender status

(cf. 4033 - Lactation Accommodation)

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

b. Religious creed discrimination based on an employee's religious belief or observance, including his/her religious dress or grooming practices, or based on the district's failure or refusal to use reasonable means to accommodate an employee's religious belief, observance, or practice which conflicts with an employment requirement.

c. Disability discrimination based on a district requirement for a medical or psychological examination of a job applicant, or an inquiry into whether a job applicant has a mental or physical disability or a medical condition or as to the severity of any such disability or condition, without the showing of a job-related need or business necessity

(cf. 4119.41/4219.41/4319.41 - Employees with Infectious Disease)

d. Disability discrimination based on the district's failure to make reasonable accommodation for the known physical or mental disability of an employee or to engage in a timely, good faith, interactive process with an employee, to determine effective reasonable accommodations for the employee, when he/she has requested reasonable accommodation for a known physical or mental disability or medical condition

(cf. 4032 - Reasonable Accommodation)

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

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

Any supervisory or management employee who observes or has knowledge of an incident of prohibited discrimination or harassment shall report the incident to the Superintendent or designated district coordinator as soon as practical after the incident. All other employees are encouraged to report such incidents to their supervisor immediately. The district shall protect any employee who reports such incidents from retaliation.

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

In addition, the Superintendent or designee shall post, in a conspicuous place on district premises, the California Department of Fair Employment and Housing publication on workplace discrimination and harassment issued pursuant to 2 CCR 11013.

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

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

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

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination

CIVIL CODE

51.7 Freedom from violence or intimidation

GOVERNMENT CODE

11135 Unlawful discrimination

11138 Rules and regulations

12900-12996 Fair Employment and Housing Act

PENAL CODE

422.56 Definitions, hate crimes

CODE OF REGULATIONS, TITLE 2

11006-11086 Discrimination in employment

11013 Recordkeeping

11019 Terms, conditions and privileges of employment

11023 Harassment and discrimination prevention and correction

11024 Sexual harassment training and education

CODE OF REGULATIONS, TITLE 5

4900-4965 Nondiscrimination in elementary and secondary education programs

UNITED STATES CODE, TITLE 20

1681-1688 Title IX of the Education Amendments of 1972

UNITED STATES CODE, TITLE 29

621-634 Age Discrimination in Employment Act

794 Section 504 of the Rehabilitation Act of 1973

UNITED STATES CODE, TITLE 42

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

2000e-2000e-17 Title VII, Civil Rights Act of 1964, as amended
2000ff-2000ff-11 Genetic Information Nondiscrimination Act of 2008
2000h-2-2000h-6 Title IX of the Civil Rights Act of 1964
6101-6107 Age discrimination in federally assisted programs
12101-12213 Americans with Disabilities Act
CODE OF FEDERAL REGULATIONS, TITLE 28
35.101-35.190 Americans with Disabilities Act
CODE OF FEDERAL REGULATIONS, TITLE 34
100.6 Compliance information
104.7 Designation of responsible employee for Section 504
104.8 Notice
106.8 Designation of responsible employee and adoption of grievance procedures
106.9 Dissemination of policy
110.1-110.39 Nondiscrimination on the basis of age
COURT DECISIONS
Thompson v. North American Stainless LP, (2011) 131 S.Ct. 863
Shephard v. Loyola Marymount, (2002) 102 Cal.App.4th 837

Management Resources:

CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING PUBLICATIONS
California Law Prohibits Workplace Discrimination and Harassment, December 2014
U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS
Notice of Non-Discrimination, August 2010
U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONS
Questions and Answers: Religious Discrimination in the Workplace, 2008
New Compliance Manual Section 15: Race and Color Discrimination, April 2006
Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors, June 1999

WEB SITES

California Department of Fair Employment and Housing: <http://www.dfeh.ca.gov>
U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/about/offices/list/ocr>
U.S. Equal Employment Opportunity Commission: <http://www.eeoc.gov>

Administrative Regulation

Nondiscrimination In Employment

AR 4030

Personnel

All allegations of discrimination in employment, including those involving an intern, volunteer, or job applicant, shall be investigated and resolved in accordance with procedures specified in this administrative regulation.

The district designates the position identified below as its coordinator for nondiscrimination in employment (coordinator) to coordinate the district's efforts to comply with state and federal nondiscrimination laws and to answer inquiries regarding the district's nondiscrimination policies. The coordinator may be contacted at:

(position title)

(address)

(telephone number)

(email)

Measures to Prevent Discrimination

To prevent unlawful discrimination, harassment, and retaliation in district employment, the Superintendent or designee shall implement the following measures:

1. Publicize the district's nondiscrimination policy and regulation, including the complaint procedures and the coordinator's contact information, by: (5 CCR 4960; 34 CFR 100.6, 106.9)
 - a. Including them in each announcement, bulletin, or application form that is used in employee recruitment
 - b. Posting them in district office, including staff lounge and other prominent locations
 - c. Posting them on the district's web site and providing easy access to them through district-supported social media, when available

(cf. 1113 - District and School Web Sites)

(cf. 1114 - District-Sponsored Social Media)

2. Disseminate the district's nondiscrimination policy to all employees by one or more of the following methods: (2 CCR 11023)

- a. Printing and providing a copy of the policy to all employees, with an acknowledgment form for each employee to sign and return
- b. Sending the policy via email with an acknowledgment return form
- c. Posting the policy on the district intranet with a tracking system ensuring all employees have read and acknowledged receipt of the policies
- d. Discussing the policy with employees upon hire and/or during a new hire orientation session
- e. Any other way that ensures employees receive and understand the policy

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

3. Provide to employees a handbook that contains information that clearly describes the district's nondiscrimination policy, procedures for filing a complaint, and resources available to anyone who feels that he/she has been the victim of any discriminatory or harassing behavior

4. Provide training to employees, volunteers, and interns regarding the district's nondiscrimination policy, including what constitutes unlawful discrimination, harassment, and retaliation and how and to whom a report of an incident should be made

Training for supervisors shall include the requirement to report any complaint of misconduct to a designated representative, such as the coordinator, human resources manager, or Superintendent or designee as a topic in the sexual harassment prevention training required pursuant to 2 CCR 11024 (2 CCR 11023)

(cf. 1240 - Volunteer Assistance)

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

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

5. Periodically review the district's recruitment, hiring, and promotion processes and regularly monitor the terms, conditions, and privileges of employment to ensure district compliance with law

6. For any district facility where 10 percent of employees have a language other than English as their spoken language, translate the policy into every language spoken by at least 10 percent of the workforce

Complaint Procedure

Any complaint alleging unlawful discrimination or harassment shall be addressed in accordance with the following procedures:

1. Notice and Receipt of Complaint: A complainant may inform his/her direct supervisor, another supervisor, the coordinator, the Superintendent or, if available, a complaint hotline or an ombudsman.

The complainant may file a written complaint in accordance with this procedure, or if he/she is an employee, may first attempt to resolve the situation informally with his/her supervisor.

A supervisor or manager who has received information about an incident of discrimination or harassment, or has observed such an incident, shall report it to the coordinator, whether or not the complainant files a written complaint.

The written complaint should contain the complainant's name, the name of the individual who allegedly committed the act, a description of the incident, the date and location where the incident occurred, any witnesses who may have relevant information, other evidence of the discrimination or harassment, and any other pertinent information which may assist in investigating and resolving the complaint.

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

(cf. 4032 - Reasonable Accommodation)

2. Investigation Process: The coordinator shall initiate an impartial investigation of an allegation of discrimination or harassment within five business days of receiving notice of the alleged discriminatory or harassing behavior, regardless of whether a written complaint has been filed or whether the written complaint is complete.

The coordinator shall meet with the complainant to describe the district's complaint procedure and discuss the actions being sought by the complainant in response to the allegation. The coordinator shall inform the complainant that the investigation of the allegations will be fair, timely, and thorough and will be conducted in a manner that provides all parties due process and reaches reasonable conclusions based on the evidence collected. He/she shall also inform the parties that the investigation will be kept confidential to the extent possible, but that some information may be revealed as necessary to conduct an effective investigation.

(cf. 3580 - District Records)

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

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

If the coordinator determines that a detailed fact-finding investigation is necessary, he/she shall begin the investigation immediately. As part of this investigation, the coordinator should interview the complainant, the person accused, and other persons who could be expected to have relevant information.

The coordinator shall track and document the progress of the investigation to ensure reasonable progress and shall inform the parties as necessary.

When necessary to carry out his/her investigation or to protect employee safety, the coordinator may discuss the complaint with the Superintendent or designee, district legal counsel, or the district's risk manager.

The coordinator also shall determine whether interim measures, such as scheduling changes, transfers, or leaves, need to be taken before the investigation is completed to ensure that further incidents are prevented. The coordinator shall ensure that such interim measures do not constitute retaliation.

3. **Written Report on Findings and Remedial/Corrective Action:** No more than 20 business days after receiving the complaint, the coordinator shall conclude the investigation and prepare a written report of his/her findings. This timeline may be extended for good cause. If an extension is needed, the coordinator shall notify the parties and explain the reasons for the extension.

The report shall include the decision and the reasons for the decision and shall summarize the steps taken during the investigation. If a determination has been made that discrimination or harassment occurred, the report also shall include any corrective action(s) that have been or will be taken to address the behavior, provide appropriate options for remedial actions and resolutions for the complainant, and ensure that retaliation or further discrimination or harassment is prevented.

The report shall be presented to the complainant, the person accused, and the Superintendent or designee.

4. **Appeal to the Governing Board:** The complainant or the person accused may appeal any findings to the Board within 10 business days of receiving the written report of the coordinator's findings. The Superintendent or designee shall provide the Board with all information presented during the investigation. Upon receiving an appeal, the Board shall schedule a hearing as soon as practicable. Any complaint against a district employee shall be addressed in closed session in accordance with law. The Board shall render its decision within 10 business days.

(cf. 1312.1 - Complaints Concerning District Employees)
(cf. 9321 - Closed Session Purposes and Agendas)

Other Remedies

In addition to filing a discrimination or harassment complaint with the district, a person may file a complaint with either the California Department of Fair Employment and Housing (DFEH) or the Equal Employment Opportunity Commission (EEOC). The time limits for filing such complaints are as follows:

1. To file a valid complaint with DFEH, within one year of the alleged discriminatory act(s),

unless an exception exists pursuant to Government Code 12960

2. To file a valid complaint directly with EEOC, within 180 days of the alleged discriminatory act(s) (42 USC 2000e-5)
3. To file a valid complaint with EEOC after first filing a complaint with DFEH, within 300 days of the alleged discriminatory act(s) or within 30 days after the termination of proceedings by DFEH, whichever is earlier (42 USC 2000e-5)

Administrative Regulation

Reasonable Accommodation

AR 4032

Personnel

Except when undue hardship would result to the district, the Superintendent or designee shall provide reasonable accommodation:

1. In the job application process, to any qualified job applicant with a disability
2. To enable any qualified employee with a disability to perform the essential functions of the position he/she holds or desires to hold or to enjoy equal benefits or other terms, conditions, and privileges of employment as other similarly situated employees without disabilities

No employee or job applicant who requests an accommodation for his/her physical or mental disability shall be subjected to discrimination or to any punishment or sanction, regardless of whether the request for accommodation was granted. (Government Code 12940)

The district designates the position specified in AR 4030 - Nondiscrimination in Employment as the coordinator of its efforts to comply with the Americans with Disabilities Act (ADA) and to investigate any and all related complaints.

(cf. 4030 - Nondiscrimination in Employment)

Definitions

Disability, with respect to an individual, is defined as any of the following: (Government Code 12926; 29 CFR 1630.2)

1. A physical or mental impairment that limits one or more of the major life activities
2. A record of such an impairment
3. Being regarded as having such an impairment

Limits shall be determined without regard to mitigating measures such as medications, assistive devices, prosthetics or reasonable accommodations, unless the mitigating measure itself limits a major life activity. (Government Code 12926)

Essential functions are the fundamental job duties of the position the individual with a disability holds or desires. The term does not include the marginal functions of the position. (Government Code 12926; 29 CFR 1630.2)

Reasonable accommodation means: (Government Code 12926; 29 CFR 1630.2)

1. For a qualified job applicant with a disability, modifications or adjustments to the job application process that enable him/her to be considered for the position he/she desires
2. For a qualified employee with a disability, modifications or adjustments to the work environment, or to the manner or circumstances under which the position the employee holds or desires is customarily performed, that enable him/her to perform the essential functions of that position or to enjoy equal benefits and privileges of employment as are enjoyed by the district's other similarly situated employees without disabilities

Qualified individual with a disability means a job applicant or employee with a disability who: (29 CFR 1630.15, 1630.2)

1. Satisfies the requisite skill, experience, education, and other job-related requirements of the employment position he/she holds or desires
2. Can perform the essential functions of the position with or without reasonable accommodation
3. Would not pose a significant risk of substantial harm, which cannot be eliminated or reduced by reasonable accommodation, to himself/herself or others in the job he/she holds or desires

Undue hardship is a determination based on an individualized assessment of current circumstances that shows that the provision of a specific accommodation would cause significant difficulty or expense to the district. (29 CFR 1630.2)

Request for Reasonable Accommodation

When requesting reasonable accommodation, an employee or his/her representative shall inform the employee's supervisor that he/she needs a change at work for a reason related to a medical condition. The supervisor shall inform the coordinator of the employee's request as soon as practicable.

When requesting reasonable accommodation for the hiring process, a job applicant shall inform the coordinator that he/she will need a reasonable accommodation during the process.

When the disability or the need for accommodation is not obvious, the coordinator may ask the employee to supply reasonable documentation about his/her disability. In requesting this documentation, the coordinator shall specify the types of information that are being sought about the employee's condition, the employee's functional limitations, and the need for reasonable accommodation. The employee may be asked to sign a limited release allowing the coordinator to submit a list of specific questions to his/her health care or vocational professional.

If the documentation submitted by the employee does not indicate the existence of a qualifying disability or explain the need for reasonable accommodation, the coordinator shall request additional documentation that specifies the missing information. If the employee does not submit

such additional documentation in a timely manner, the coordinator may require him/her to submit to an examination by a health care professional selected and paid for by the district.

The district may make a medical or psychological inquiry of a job applicant or require him/her to submit to a medical or psychological examination after he/she has been given a conditional offer of employment but before the commencement of his/her job duties, provided the inquiry or examination is job-related, consistent with business necessity, and required for all incoming employees in the same job classification. (Government Code 12940)

The coordinator shall not request any job applicant's or employee's genetic information except as authorized by law. (42 USC 2000ff-1, 42 USC 2000ff-5)

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

In accordance with law, the coordinator shall take steps to ensure the confidentiality of information related to medical conditions or history. As applicable, he/she shall notify the supervisor or manager of the qualified individual of any reasonable accommodation granted the individual and may notify first aid and safety personnel when the disability of the qualified individual may require emergency treatment. (42 USC 12112)

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

Granting Reasonable Accommodation

Upon receiving a request for reasonable accommodation from a qualified individual with a disability, the coordinator shall:

1. Determine the essential functions of the job involved
2. Engage in an informal, interactive process with the individual to review the request for accommodation, identify the precise limitations resulting from the disability, identify potential accommodations, and assess their effectiveness
3. Develop a plan for reasonable accommodation which will enable the individual to perform the essential functions of the job or gain equal access to a benefit or privilege of employment without imposing undue hardship on the district

A determination of undue hardship should be based on several factors, including: (29 CFR 1630.2)

- a. The nature and net cost of the accommodation needed, taking into consideration the availability of tax credits and deductions and/or outside funding
- b. The overall financial resources of the facility making the accommodation, the number of persons employed at this facility, and the effect on expenses and resources of the facility

- c. The overall financial resources, number of employees, and the number, type, and location of facilities of the district
- d. The type of operation of the district, including the composition, structure, and functions of the workforce and the geographic separateness and administrative or fiscal relationship of the facility making the accommodation to other district facilities
- e. The impact of the accommodation on the operation of the facility, including the impact on the ability of other employees to perform their duties and the impact on the facility's ability to conduct business

The coordinator may confer with the site administrator, any medical advisor chosen by the district, and/or other district staff before making a final decision as to the accommodation.

Reasonable Accommodation Committee

The coordinator may appoint a committee to review or assist in the development of appropriate plans to reasonably accommodate qualified individuals who request modifications or adjustments in their work duties or environment because of known physical or mental disabilities.

Committee members shall be selected on the basis of their knowledge of the specific functions and duties required in the position, the physical work environment, available accommodations, and other relevant issues. The committee may include a district administrator, site administrator, medical advisor or rehabilitation specialist, and as necessary, a certificated and/or classified employee. Membership may change on a case-by-case basis.

At the coordinator's discretion, the employee or applicant requesting accommodation may participate in the committee's meetings. If the employee or applicant is excluded from the committee's meetings, the coordinator shall communicate with him/her so that he/she has the opportunity to interact and contribute to planning the reasonable accommodation.

Appeal Process

Any qualified individual with a disability who is not satisfied with the decision of the coordinator may appeal in writing to the Superintendent or designee. This appeal shall be made within 10 working days of receiving the decision and shall include:

1. A clear, concise statement of the reasons for the appeal
2. A statement of the specific remedy sought

The Superintendent or designee shall consult with the coordinator and review the appeal, together with any available supporting documents. The Superintendent or designee shall give the individual his/her decision within 15 working days of receiving the appeal.

Any further appeal for reasonable accommodation shall be considered a complaint concerning discrimination in employment and may be taken to the Governing Board in accordance with the district's procedure for such complaints.

Legal Reference:

CIVIL CODE

51 Unruh Civil Rights Act

GOVERNMENT CODE

12900-12996 Fair Employment and Housing Act

UNITED STATES CODE, TITLE 29

701-794e Vocational Rehabilitation Act

UNITED STATES CODE, TITLE 42

2000ff-1-2000ff-11 Genetic Information Nondiscrimination Act of 2008

12101-12213 Americans with Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 28

35.101-35.190 Americans with Disabilities Act, especially:

35.107 Designation of employee

36.101-36.608 Nondiscrimination on the basis of disability by public facilities

CODE OF FEDERAL REGULATIONS, TITLE 29

1630.2 Definitions

COURT DECISIONS

A.M. v. Albertsons, LLC, (2009) Cal.App.4th 455

Colmenares v. Braemar Country Club, Inc., (2003) 29 Cal.4th 1019

Chevron USA v. Echazabal, (2002) 536 U.S. 73, 122 S.Ct. 2045

US Airways, Inc. v. Barnett, (2002) 535 U.S. 391, 122 S.Ct. 1516

Management Resources:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONS

Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act, October 2002

WEB SITES

Department of Fair Employment and Housing: <http://www.dfeh.ca.gov>

Equal Employment Opportunity Commission: <http://www.eeoc.gov>

U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/about/offices/list/ocr>

Board Policy

Employee Use Of Technology

BP 4040

Personnel

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

(cf. 0440 - District Technology Plan)
(cf. 1100 - Communication with the Public)
(cf. 1113 - District and School Web Sites)
(cf. 1114 - District-Sponsored Social Media)
(cf. 4032 - Reasonable Accommodation)
(cf. 4131 - Staff Development)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)

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

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)
(cf. 4119.21/4219.21/4319.21 - Professional Standards)
(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)
(cf. 4119.25/4219.25/4319.25 - Political Activities of Employees)
(cf. 5125 - Student Records)
(cf. 5125.1 - Release of Directory Information)
(cf. 6162.6 - Use of Copyrighted Materials)
(cf. 6163.4 - Student Use of Technology)

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

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

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

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

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

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

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

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

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

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

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

Legal Reference:

GOVERNMENT CODE

3543.1 Rights of employee organizations

6250-6270 California Public Records Act

PENAL CODE

502 Computer crimes, remedies

632 Eavesdropping on or recording confidential communications

VEHICLE CODE

23123 Wireless telephones in vehicles

23123.5 Mobile communication devices; text messaging while driving

23125 Wireless telephones in school buses

UNITED STATES CODE, TITLE 20

7101-7122 Student Support and Academic Enrichment Grants

7131 Internet safety

UNITED STATES CODE, TITLE 47

254 Universal service discounts (E-rate)

CODE OF FEDERAL REGULATIONS, TITLE 47

54.520 Internet safety policy and technology protection measures, E-rate discounts

COURT DECISIONS

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

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

Management Resources:

WEB SITES

CSBA: <http://www.csba.org>

American Library Association: <http://www.ala.org>

California Department of Education: <http://www.cde.ca.gov>

Federal Communications Commission: <http://www.fcc.gov>

U.S. Department of Education: <http://www.ed.gov>

Exhibit

Employee Use Of Technology

E 4040

Personnel

ACCEPTABLE USE AGREEMENT AND RELEASE OF DISTRICT FROM LIABILITY (EMPLOYEES)

The Nicasio School District authorizes district employees to use technology owned or otherwise provided by the district as necessary to fulfill the requirements of their position. The use of district technology is a privilege permitted at the district's discretion and is subject to the conditions and restrictions set forth in applicable Board policies, administrative regulations, and this Acceptable Use Agreement. The district reserves the right to suspend access at any time, without notice, for any reason.

The district expects all employees to use technology responsibly in order to avoid potential problems and liability. The district may place reasonable restrictions on the sites, material, and/or information that employees may access through the system.

The district makes no guarantee that the functions or services provided by or through the district will be without defect. In addition, the district is not responsible for financial obligations arising from unauthorized use of the system.

Each employee who is authorized to use district technology shall sign this Acceptable Use Agreement as an indication that he/she has read and understands the agreement.

Definitions

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

Employee Obligations and Responsibilities

Employees are expected to use district technology safely, responsibly, and primarily for work-related purposes. Any incidental personal use of district technology shall not interfere with district business and operations, the work and productivity of any district employee, or the safety and security of district technology. The district is not responsible for any loss or damage incurred by an employee as a result of his/her personal use of district technology.

The employee in whose name district technology is issued is responsible for its proper use at all times. Employees shall not share their assigned online services account information, passwords, or other information used for identification and authorization purposes, and shall use the system only under the account to which they have been assigned. Employees shall not gain unauthorized access to the files or equipment of others, access electronic resources by using another person's name or electronic identification, or send anonymous electronic communications. Furthermore, employees shall not attempt to access any data, documents, emails, or programs in the district's system for which they do not have authorization.

Employees are prohibited from using district technology for improper purposes, including, but not limited to, use of district technology to:

1. Access, post, display, or otherwise use material that is discriminatory, defamatory, obscene, sexually explicit, harassing, intimidating, threatening, or disruptive
2. Disclose or in any way cause to be disclosed confidential or sensitive district, employee, or student information without prior authorization from a supervisor
3. Engage in personal commercial or other for-profit activities without permission of the Superintendent or designee
4. Engage in unlawful use of district technology for political lobbying
5. Infringe on copyright, license, trademark, patent, or other intellectual property rights
6. Intentionally disrupt or harm district technology or other district operations (such as destroying district equipment, placing a virus on district computers, adding or removing a computer program without permission, changing settings on shared computers)
7. Install unauthorized software
8. Engage in or promote unethical practices or violate any law or Board policy, administrative regulation, or district practice

Privacy

Since the use of district technology is intended for use in conducting district business, no employee should have any expectation of privacy in any use of district technology.

The district reserves the right to monitor and record all use of district technology, including, but not limited to, access to the Internet or social media, communications sent or received from district technology, or other uses within the jurisdiction of the district. Such monitoring/recording may occur at any time without prior notice for any legal purposes including, but not limited to, record retention and distribution and/or investigation of improper, illegal, or prohibited activity. Employees should be aware that, in most instances, their use of district technology (such as web searches or emails) cannot be erased or deleted.

All passwords created for or used on any district technology are the sole property of the district. The creation or use of a password by an employee on district technology does not create a reasonable expectation of privacy.

Personally Owned Devices

If an employee uses a personally owned device to access district technology or conduct district business, he/she shall abide by all applicable Board policies, administrative regulations, and this Acceptable Use Agreement. Any such use of a personally owned device may subject the contents of the device and any communications sent or received on the device to disclosure pursuant to a lawful subpoena or public records request.

Records

Any electronically stored information generated or received by an employee which constitutes a district or student record shall be classified, retained, and destroyed in accordance with BP/AR 3580 - District Records, BP/AR 5125 - Student Records, or other applicable policies and regulations addressing the retention of district or student records.

Reporting

If an employee becomes aware of any security problem (such as any compromise of the confidentiality of any login or account information) or misuse of district technology, he/she shall immediately report such information to the Superintendent or designee.

Consequences for Violation

Violations of the law, Board policy, or this Acceptable Use Agreement may result in revocation of an employee's access to district technology and/or discipline, up to and including termination. In addition, violations of the law, Board policy, or this agreement may be reported to law enforcement agencies as appropriate.

Employee Acknowledgment

I have received, read, understand, and agree to abide by this Acceptable Use Agreement, BP 4040 - Employee Use of Technology, and other applicable laws and district policies and regulations governing the use of district technology. I understand that there is no expectation of privacy when using district technology or when my personal electronic devices use district technology. I further understand that any violation may result in revocation of user privileges, disciplinary action, and/or appropriate legal action.

I hereby release the district and its personnel from any and all claims and damages arising from my use of district technology or from the failure of any technology protection measures employed by the district.

Name: _____ Position: _____
(Please print)

Nicasio School District Superintendent/Designee

Signature: _____ Date: _____

Board Policy

Certificated Personnel

BP 4100
Personnel

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

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

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

The Board strongly encourages certificated staff to continually improve their skills and pursue excellence within their profession.

(cf. 4131 - Staff Development)

Policies, rules and regulations related to certificated personnel shall be available to all concerned and shall be administered in a fair and equitable manner.

Legal Reference:
EDUCATION CODE
90 Definition, certificated and certified
44006 Certificated person
GOVERNMENT CODE
3543.2 Scope of representation

Board Policy

Legal Status Requirement

BP 4111.2 4211.2, 4311.2

Personnel

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

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

In accordance with law, the Superintendent or designee shall ensure that district employment practices do not unlawfully discriminate on the basis of citizenship status or national origin, including, but not limited to, discrimination against any refugees, grantees of asylum, or persons qualified for permanent or temporary residency.

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

(cf. 4030 - Nondiscrimination in Employment)

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

Legal Reference:

UNITED STATES CODE, TITLE 8

1324a Unlawful employment of aliens

1324b Unfair immigrant-related employment practices

CODE OF FEDERAL REGULATIONS, TITLE 8

274a.1-274a.14 Control of Employment of Aliens

Management Resources:

U.S. CITIZENSHIP AND IMMIGRATION SERVICES PUBLICATIONS

Handbook for Employers: Instructions for Completing Form I-9, April 2009

WEB SITES

U.S. Citizenship and Immigration Services: <http://www.uscis.gov>

Administrative Regulation

Legal Status Requirement

AR 4111.2 4211.2, 4311.2

Personnel

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

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4032 - Reasonable Accommodation)

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

1. Ensure that the documents presented appear to be genuine and relate to the individual
2. Complete the "Employer Review and Verification" section and sign the attestation with a handwritten signature or electronic signature on Form I-9

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

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

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

The district shall retain an individual's Form I-9 for three years after the date of the hire or for one year after the date his/her employment is terminated, whichever is later. (8 CFR 274a.2)
(cf. 3580 - District Records)

The Superintendent or designee shall copy documents presented by an individual for verification and shall retain them with the individual's Form I-9. The documents shall be kept confidential and used only as needed to help justify the district's past decision to accept the documents as valid.
(cf. 4112.6/4212.6/4312.6 - Personnel Files)

Administrative Regulation

Contracts

AR 4112.1

Personnel

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

(cf. 4121 - Temporary/Substitute Personnel)

Length of Contract (Districts with less than 250 ADA)

Any certificated employee may be offered a continuing contract covering a period longer than one year but not exceeding four years. (Education Code 44929.20)

(cf. 4312.1 - Contracts)

Reemployment Notices

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

(cf. 4113 - Assignment)

(cf. 4117.2/4217.2/4317.2 - Resignation)

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

(cf. 9122 - Secretary)

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

Employee Notification

By May 15 of each year, each classroom teacher shall notify the Superintendent or designee of his/her intent to return to a teaching position for the next school year. (Education Code 44832)

An employee on leave of absence shall notify the district of his/her intent to remain in service the following year in accordance with law, Board policy and administrative regulation.

(cf. 4161/4261/4361 - Leaves)

Legal Reference:

EDUCATION CODE

- 44832 Teachers; notice of intent to return
- 44842 Failure to provide notice or to report to work
- 44843 Notice of employment (to county superintendent)
- 44916 Time of classification; statement of employment status
- 44929.20 Continuing contract-districts w/less than 250 ADA
- 44955 Reduction in number of employees

Board Policy

Certification

BP 4112.2

Personnel

The Governing Board recognizes that the district's ability to provide a high-quality educational program is dependent upon the employment of certificated staff who are adequately prepared and have demonstrated proficiency in basic skills and in the subject matter to be taught. The Superintendent or designee shall ensure that persons employed to fill positions requiring certification qualifications possess the appropriate credential, permit, or other certification document from the Commission on Teacher Credentialing (CTC) and fulfill any additional state, federal, or district requirements for the position.

(cf. 4111/4211/4311 - Recruitment and Selection)
(cf. 4112.21 - Interns)
(cf. 4112.22 - Staff Teaching English Learners)
(cf. 4112.23 - Special Education Staff)
(cf. 4112.5/4212.5/4312.5 - Criminal Record Check)
(cf. 4113 - Assignment)
(cf. 4121 - Temporary/Substitute Personnel)
(cf. 5148 - Child Care and Development)
(cf. 6178 - Career Technical Education)
(cf. 6200 - Adult Education)

The Superintendent or designee shall provide assistance and support to teachers holding preliminary credentials to enable them to meet the qualifications required for the clear credential.

(cf. 4131 - Staff Development)
(cf. 4131.1 - Teacher Support and Guidance)

Priorities for Hiring Based on Unavailability of Credentialed Teacher

The Superintendent or designee shall make reasonable efforts to recruit a fully prepared teacher for each assignment. Whenever a teacher with a clear or preliminary credential is not available, the Superintendent or designee shall make reasonable efforts to recruit an individual for the assignment in the following order: (Education Code 44225.7)

1. A candidate who enrolls in an approved intern program in the region of the district and possesses an intern credential
2. A candidate who is scheduled to complete preliminary credential requirements within six months and who holds a provisional internship permit (PIP) or short-term staff permit issued by the CTC

The Board shall approve, as an action item at a public Board meeting, a notice of its intent to employ a PIP applicant for a specific position. (5 CCR 80021.1)

3. An individual who holds an emergency permit or for whom a credential waiver has been granted by the CTC

Prior to requesting that the CTC issue an emergency permit pursuant to item #3 above or a limited assignment permit which allows a fully credentialed teacher to teach outside of his/her area of certification while working toward an added or supplementary authorization, the Board shall annually approve a Declaration of Need for Fully Qualified Educators. The Declaration of Need shall be approved by the Board as an action item at a regularly scheduled public Board meeting, with the entire Declaration of Need being included in the Board agenda. (Education Code 44225, 44225.7; 5 CCR 80023.2, 80026, 80027, 80027.1)

The Declaration of Need shall certify that there is an insufficient number of certificated persons who meet the district's specified employment criteria for the position(s) and that the district has made reasonable efforts to recruit individuals who meet the qualifications specified in items #1-2 above. The Declaration of Need shall also indicate the number and type of emergency permits that the district estimates it will need during the valid period of the Declaration of Need, based on the previous year's actual needs and projections of enrollment. Whenever the actual number of permits needed exceeds the estimate by 10 percent, the Board shall revise and resubmit the Declaration of Need. (5 CCR 80026)

Whenever it is necessary to employ noncredentialed teachers to fill a position requiring certification qualifications, the Superintendent or designee shall provide support and guidance in accordance with law to ensure the quality of the instructional program.

National Board for Professional Teaching Standards Certification

The Board encourages district teachers to voluntarily complete the requirements for the advanced certification awarded by the National Board for Professional Teaching Standards.

The Superintendent or designee shall inform all teachers about the program and how to acquire the necessary application and information materials. In accordance with the collective bargaining agreement and the district budget, the Superintendent or designee may provide release time, fee support, a stipend upon completion, or other support to teachers participating in the program.

(cf. 4161.3 - Professional Leaves)

In addition, the Superintendent or designee shall notify parents/guardians in a timely manner whenever their child has been assigned, or has been taught for four or more consecutive weeks by, a teacher who does not meet applicable state certification or licensure requirements at the grade level and subject area to which the teacher has been assigned. (20 USC 6312)

Legal Reference:

EDUCATION CODE

8360-8370 Qualifications of child care personnel

32340-32341 Unlawful issuance of a credential

35186 Complaints regarding teacher vacancy or misassignment

44066 Limitations on certification requirements

44200-44399.1 Teacher credentialing, especially:

44250-44277 Credential types; minimum requirements

44300-44302 Emergency permit

44325-44328 District interns

44330-44355 Certificates and credentials

44420-44440 Revocation and suspension of credentials

44450-44468 University intern program

44830-44929 Employment of certificated persons; requirement of proficiency in basic skills

56060-56063 Substitute teachers in special education

CODE OF REGULATIONS, TITLE 5

80001-80674.6 Commission on Teacher Credentialing

UNITED STATES CODE, TITLE 20

6312 Title I local educational agency plans; notifications regarding teacher qualifications

CODE OF FEDERAL REGULATIONS, TITLE 34

200.48 Parent notification regarding teacher qualifications

COURT DECISIONS

Association of Mexican-American Educators et al. v. State of California and the Commission on Teacher Credentialing, (1993) 836 F.Supp. 1534

Management Resources:

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

CL-667 Basic Skills Requirement

CL-856 Provisional Internship Permit

CL 858 Short-Term Staff Permit

Approved Addition and Amendments to Title 5 of the California Code of Regulations Pertaining to Teaching Permit for Statutory Leave (TPSL), Coded Correspondence 16-10, August 23, 2016

Hiring Hierarchy in Education Code 44225.7, Coded Correspondence 13-01, January 30, 2013

Subject Matter Authorization Guideline Book, 2012

Supplementary Authorization Guideline Book, 2012

California Standards for the Teaching Profession, 2009

The Administrator's Assignment Manual, rev. September 2007

WEB SITES

CSBA: <http://www.csba.org>

Commission on Teacher Credentialing: <http://www.ctc.ca.gov>

Commission on Teacher Credentialing, Credential Information Guide (for employers' use only):
<http://www.ctc.ca.gov/credentials/cig>

National Board for Professional Teaching Standards: <http://www.nbpts.org>

U.S. Department of Education: <http://www.ed.gov>

Administrative Regulation

Certification

AR 4112.2
Personnel

Verification of Credentials

The Superintendent or designee shall verify that each employee in a position requiring certification qualifications possesses a valid certification document issued by the Commission on Teacher Credentialing (CTC). Such verification shall occur not later than 60 days after the commencement of employment or the renewal of a credential. (Education Code 44857)

(cf. 4112.21 - Interns)
(cf. 4112.22 - Staff Teaching English Learners)
(cf. 4112.23 - Special Education Staff)
(cf. 4121 - Temporary/Substitute Personnel)
(cf. 5148 - Child Care and Development)
(cf. 6178 - Career Technical Education)
(cf. 6200 - Adult Education)

The Superintendent or designee shall verify that any person who is employed by the district while his/her application for certification is being processed by the CTC possesses a temporary certificate based on a demonstration of basic skills and completion of a criminal background check. (Education Code 44332, 44332.5, 44332.6)

The Superintendent or designee shall maintain records of the appropriate certification of all employees serving in certificated positions.

(cf. 3580 - District Records)
(cf. 4112.6/4212.6/4312.6 - Personnel Files)

Basic Skills Proficiency

The district shall not initially hire a person in a position requiring certification, on a permanent, temporary, or substitute basis, unless that person has demonstrated basic skills proficiency in reading, writing, and mathematics or is specifically exempted from the requirement by law. (Education Code 44252, 44252.6, 44830)

The district may hire a certificated employee who has not taken a test of basic skills proficiency if he/she has not yet been afforded the opportunity to take the test, provided that he/she takes the test at the earliest opportunity. The employee may remain employed by the district pending the receipt of his/her test results. (Education Code 44830)

An out-of-state prepared teacher shall meet the basic skills requirement within one year of being

issued a California preliminary credential by the CTC unless he/she has completed a basic skills proficiency test in another state or is otherwise exempted by law. The district shall develop a basic skills proficiency test, which shall be at least equivalent to the district test required for high school graduation, for purposes of assessing out-of-state prepared teachers pending completion of the basic skills requirement. (Education Code 44252, 44274.2; 5 CCR 80071.4, 80413.3)

(cf. 6146.1 - High School Graduation Requirements)

(cf. 6146.2 - Certificate of Proficiency)

(cf. 6162.5 - High School Exit Examination)

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

The district may charge a fee to cover the costs of developing, administering, and grading the district proficiency test. (Education Code 44252, 44830)

Short-Term Staff Permit

The district may request that the CTC issue a short-term staff permit (STSP) to a qualified applicant whenever there is a need to immediately fill a classroom based on unforeseen circumstances, including, but not limited to: (5 CCR 80021)

1. Enrollment adjustments requiring the addition of another teacher
2. Inability of the teacher of record to finish the school year due to approved leave or illness
3. The applicant's need for additional time to complete preservice requirements for enrollment into an approved intern program
4. Inability of the applicant to enroll in an approved intern program due to timelines or lack of space in the program
5. Unavailability of a third-year extension of an intern program or the applicant's withdrawal from an intern program

The Superintendent or designee shall ensure that the applicant possesses a bachelor's or higher degree from a regionally accredited college or university, has met the basic skills proficiency requirement unless exempted by state law or regulations, and has satisfied the coursework/experience requirements specified in 5 CCR 80021 for the multiple subject, single subject, or education specialist STSP as appropriate. (5 CCR 80021)

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

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

requested

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

(cf. 4131 - Staff Development)

(cf. 4131.1 - Teacher Support and Guidance)

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

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

Provisional Internship Permit

Note: 5 CCR 80021.1 establishes the provisional internship permit (PIP) to staff classrooms when appropriately credentialed teachers cannot be found after a diligent search. 5 CCR 80021.1 provides that the PIP will be issued for one calendar year and may not be renewed.

Before requesting that the CTC issue a provisional internship permit (PIP), the district shall conduct a diligent search for a suitable credentialed teacher or intern, including, but not limited to, distributing job announcements, contacting college and university placement centers, and advertising in print or electronic media. (5 CCR 80021.1)

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

Whenever a suitable credentialed teacher cannot be found after a diligent search, the Superintendent or designee may request that the CTC issue a PIP to an applicant who possesses a bachelor's or higher degree from a regionally accredited college or university, has met the basic skills proficiency requirement unless exempted by state law or regulations, and has satisfied the coursework/experience requirements specified in 5 CCR 80021.1 for the multiple subject, single subject, or education specialist PIP as appropriate. (5 CCR 80021.1)

When submitting the request for a PIP, the district shall provide verification of all of the following: (5 CCR 80021.1, 80026.5)

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

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

The orientation shall include, but not be limited to, an overview of the curriculum the permit holder is expected to teach and effective instruction and classroom management techniques at the

permit holder's assigned level. The permit holder also shall receive guidance and assistance from an experienced educator who is a certificated district employee or a certificated retiree from a California district or county office of education and who has completed at least three years of full-time classroom teaching experience.

3. The district shall assist the permit holder in developing a personalized plan through a district-selected assessment that would lead to subject-matter competence related to the permit.
4. The district shall assist the permit holder to seek and enroll in subject-matter training, such as workshops or seminars and site-based courses, along with training in test-taking strategies, and shall assist the permit holder in meeting the credential subject-matter competence requirement related to the permit.
5. A notice of intent to employ the applicant in the identified position has been made public.

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

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

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

Teaching Permit for Statutory Leave

Whenever there is an anticipated need for the district to temporarily fill the teaching assignment of a teacher of record who will be on sick leave, differential sick leave, industrial accident or illness leave, pregnancy disability leave, or family care and medical leave under the federal Family and Medical Leave Act or California Family Rights Act, the Superintendent or designee may request that the CTC issue a Teaching Permit for Statutory Leave (TPSL) to a qualified individual who will be serving as the interim teacher of record. Prior to submitting an application to the CTC, the district shall provide the applicant with 45 hours of preparation in the content areas listed in 5 CCR 80022. (5 CCR 80022)

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

(cf. 4161.11/4261.11/4361.11 - Industrial Accident/Illness Leave)

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

A request for the TPSL shall only be submitted if the district has made reasonable efforts to hire a substitute with a full teaching credential that matches the setting and/or subject for the statutory leave position and no such candidate is available. (5 CCR 80022)

The district shall verify to the CTC that it will provide the interim teacher: (5 CCR 80022)

1. An orientation to the assignment before or during the first month of service in the statutory leave assignment
2. An average of two hours of mentoring, support, and/or coaching per week through a system of support coordinated and/or provided by a mentor who possesses a valid life or clear credential that would also authorize service in the statutory leave assignment
3. Lesson plans for the first four weeks of the assignment as well as continued assistance in the development of curriculum, lesson planning, and individualized education programs

The holder of the TPSL may serve as the interim teacher of record for up to the full length of the leave(s) during the school year. (5 CCR 80022)

The Superintendent or designee shall maintain documentation on the assignment in accordance with 5 CCR 80022. He/she shall annually report data on the use of the TPSL to the County Superintendent of Schools for assignment monitoring pursuant to Education Code 44258.9. (5 CCR 80022)

(cf. 4113 - Assignment)

The Superintendent or designee may annually request renewal of the TPSL, provided that no substitute with a full teaching credential is available for the assignment. The application for each reissuance shall include verification that the interim teacher has completed an additional 45 hours of preparation and the district is continuing to provide mentoring in accordance with items #2-3 above. (5 CCR 80022)

Long-Term Emergency Permits

As necessary, the Superintendent or designee may request that the CTC issue an emergency resource specialist permit, emergency teacher librarian services permit, emergency crosscultural language and academic development permit, or emergency bilingual authorization permit. (5 CCR 80024.3.1, 80024.6, 80024.7, 80024.8)

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

(cf. 4117.14/4317.14 - Postretirement Employment)

Substitute Teaching Permits

The district may employ a person whose credential or permit authorizes substitute teaching services, provided that:

1. A person holding an emergency 30-day substitute teaching permit, STSP, PIP, TPSL, or any valid teaching or services credential that requires at least a bachelor's degree and completion of the California Basic Educational Skills Test, shall not serve as a substitute for more than 30 days for any one teacher during the school year. He/she shall not serve as a substitute in a special education classroom for more than 20 days for any one teacher during the school year. (5 CCR 80025, 80025.3, 80025.4)
2. A person with an emergency career substitute teaching permit shall not serve as a substitute for more than 60 days for any one teacher during the school year. (5 CCR 80025.1)
3. A person with an emergency substitute teaching permit for prospective teachers shall not serve as a substitute for more than 30 days for any one teacher during the school year and not more than 90 days total during the school year. (5 CCR 80025.2)
4. A person with an emergency designated subjects 30-day substitute teaching permit for career technical education shall teach only in a program of technical, trade, or vocational education and shall not serve as a substitute for more than 30 days for any one teacher during the school year. (5 CCR 80025.5)

Before employing a person with an emergency substitute permit pursuant to item #1 or 4 above, the Superintendent or designee shall prepare and keep on file a signed Statement of Need for the school year. The Statement of Need shall describe the situation or circumstances that necessitate the use of a 30-day substitute permit holder and state either that a credentialed person is not available or that the available credentialed person does not meet the district's specified employment criteria. (5 CCR 80025, 80025.5)

Administrative Regulation

Staff Teaching English Learners

AR 4112.22

Personnel

Definitions

English learner means a student who is age 3-21 years, who is enrolled or is preparing to enroll in an elementary or secondary school, and whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the student the ability to meet state academic standards, the ability to successfully achieve in classrooms where the language of instruction is English, or the opportunity to participate fully in society. An English learner may include a student who was not born in the United States or whose native language is a language other than English; a student who is Native American or Alaska Native, or a native resident of the outlying areas, who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or a student who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant. (Education Code 306; 20 USC 7801)

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

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

Primary language instruction includes both primary language development designed to develop English learners' listening, speaking, reading, and writing skills in their primary language and content instruction delivered in the primary language in any subject area. (Education Code 44253.2)

(cf. 6174 - Education for English Learners)

Teacher Qualifications

Only a teacher who possesses an appropriate authorization issued by the Commission on Teacher Credentialing (CTC) shall provide ELD, SDAIE, and/or primary language instruction in a class with one or more English learners.

(cf. 1312.4 - Williams Uniform Complaint Procedures)

(cf. 4112.2 - Certification)

(cf. 4112.21 - Interns)
(cf. 4113 - Assignment)
(cf. 4131 - Staff Development)
(cf. 4222 - Teacher Aides/Paraprofessionals)

The district may, for the purpose of providing primary language instruction, hire bilingual teachers who are employed in public or private schools of a foreign country, state, territory, or possession, provided such teachers speak English fluently and hold the necessary sojourn credential issued by the CTC. After the initial two-year sojourn credential expires, the teacher may annually apply to the CTC for an extension for a total period of not more than five years. Any application for renewal shall include verification by the Superintendent or designee that termination of the employment would adversely affect an existing bilingual program and that attempts to secure the employment of a qualified certificated California teacher have been unsuccessful. (Education Code 44856)

Legal Reference:

EDUCATION CODE

306 Definition, English learner
44253.1-44253.11 Qualifications of teachers of English learners
44258.9 County superintendent review of teacher assignments
44259.5 Standards for teachers of all students, including English language learners
44380-44386 Alternative certification
44856 Employment of teachers from foreign countries
52160-52178 Bilingual-Bicultural Act of 1976
62001-62005. 5 Evaluation and sunseting of programs

CODE OF REGULATIONS, TITLE 5

80015 Requirements for the CLAD certification or English learner authorization
80015.1-80015.4 Requirements for CLAD, English learner authorization or bilingual authorization
80021 Short-Term Staff Permit
80021.1 Provisional Internship Program
80024.7-80024.8 Emergency CLAD and bilingual permits

UNITED STATES CODE, TITLE 20

6601-6651 Training and recruiting high-quality teachers
6801-7014 Language instruction for English learners and immigrant students
7801 Definition of English learner

COURT DECISIONS

Teresa P. et al v. Berkeley Unified School District et al (1989) 724 F.Supp. 698

Management Resources:

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

Administrator's Assignment Manual

Frequently Asked Questions Concerning Appropriate Assignment and Authorizations to Serve English Learners in California

CL-622 Serving English Learners

CL-626B Bilingual Authorizations

CL-626C Crosscultural, Language and Academic Development (CLAD) Certificate

CL-568 The Sojourn Certificated Employee Credential

CL-824 Certificate of Completion of Staff Development

WEB SITES

CSBA: <http://www.csba.org>

California Association for Bilingual Education: <http://www.gocabe.org>

California Department of Education, English Learners: <http://www.cde.ca.gov/sp/el>

California Teachers of English to Speakers of Other Languages: <http://www.catesol.org>

Commission on Teacher Credentialing: <http://www.ctc.ca.gov>

U.S. Department of Education: <http://www.ed.gov>

Administrative Regulation

Special Education Staff

AR 4112.23

Personnel

Qualifications/Assignment of Special Education Teachers

Any teacher assigned to serve students with disabilities shall possess an appropriate credential or other authorization issued by the Commission on Teacher Credentialing (CTC) that specifically authorizes him/her to teach students with the primary disability within the program placement recommended in the students' individualized education program (IEP). (5 CCR 80046.1-80048.9.4)

(cf. 4112.2 - Certification)

(cf. 4113 - Assignment)

(cf. 6159 - Individualized Education Program)

(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)

(cf. 6164.6 - Identification and Education Under Section 504)

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

(cf. 4112.21 - Interns)

The Superintendent or designee may request that the CTC issue a special education limited assignment teaching permit which authorizes a qualified special education teacher, with his/her written consent, to serve outside the specialty area of his/her credential. If the teacher has not yet obtained permanent status, the Superintendent or designee shall assign one or more experienced educators in the special education subject area(s) of the permit, who have at least three years of full-time teaching experience in each of the subject area(s) of the permit, to provide guidance and assistance to the permit holder. (5 CCR 80026, 80027.1)

As needed, the district may apply to the CTC for an emergency permit for resource specialist services pursuant to 5 CCR 80023.2 and 80024.3.1.

When requesting either a limited assignment teaching permit or an emergency resource specialist permit, the Superintendent or designee shall submit a Declaration of Need for Fully Qualified Educators that satisfies the requirements of 5 CCR 80026 and has been approved by the Board at a regularly scheduled Board meeting. (5 CCR 80026)

If there is a need to immediately fill a classroom vacancy or a suitable credentialed teacher cannot be found after a diligent search, the Superintendent or designee may, as appropriate, apply to the CTC for a short-term staff permit pursuant to 5 CCR 80021, a provisional internship permit pursuant to 5 CCR 80021.1, or, as a last resort, a credential waiver.

Individuals providing related services to students with disabilities, including developmental, corrective, and other supportive and related services, shall meet the applicable qualifications specified in 5 CCR 3051-3051.24. (5 CCR 3051; 34 CFR 300.34, 300.156)

(cf. 3312 - Contracts)

(cf. 3600 - Consultants)

The Superintendent or designee shall provide ongoing professional development as needed to assist special education staff in updating and improving their knowledge and skills.

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

Whenever a candidate for a clear education specialist credential is employed by the district, the Superintendent or designee shall, within 60 days of employment, collaborate with the candidate and, as applicable, with the college or university to develop an individualized induction plan including supported induction and job-related course of advanced preparation. (5 CCR 80048.8.1)

(cf. 4131.1 - Teacher Support and Guidance)

Resource Specialists

The duties of resource specialists shall include, but are not limited to: (Education Code 56362; 5 CCR 80070.5)

1. Providing instruction and services for students with disabilities whose needs have been identified in an IEP
2. Conducting educational assessments
3. Providing information and assistance for students with disabilities and their parents/guardians
4. Providing consultation, resource information, and material regarding students with disabilities to staff members in the regular education program and the students' parents/guardians
5. Coordinating special education services with the regular school program for each student with disabilities enrolled in the resource specialist program
6. Monitoring student progress on a regular basis, participating in the review and revision of

IEPs as appropriate, and referring students who do not demonstrate appropriate progress to the IEP team

Any student who receives resource specialist services shall be assigned to regular classroom teacher(s) for a majority of the school day, unless his/her IEP team approves enrollment in the resource specialist program for a majority of the school day. (Education Code 56362; 5 CCR 80070.5)

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

The district's resource specialist program shall be under the direction of a resource specialist who possesses the qualifications specified in Education Code 56362.

Caseloads

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

(cf. 0430 - Comprehensive Local Plan for Special Education)

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 4141/4241 - Collective Bargaining Agreement)

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

(cf. 1431 - Waivers)

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

Legal Reference:

EDUCATION CODE

8264.8 Staffing ratios

44250-44279 Credentials, especially:

44256 Credential types, specialist instruction

44258.9 Assignment monitoring
44265-44265.9 Special education credential
44325-44328 District interns
44830.3 District interns, supervision and professional development
56000-56865 Special education, especially:
56195.8 Adoption of policies
56361 Program options
56362-56362.5 Resource specialist program
56363.3 Maximum caseload; language, speech, and hearing specialists
56440-56441.7 Programs for individuals between the ages of three and five years; caseloads
CODE OF REGULATIONS, TITLE 5
3051.1-3051.24 Staff qualifications to provide related services to students with disabilities
3100 Waivers of maximum caseload for resource specialists
80021 Short-term staff permit
80021.1 Provisional internship permit
80023.2 Emergency permits
80025.4 Substitute teaching, special education
80026 Declaration of need for fully qualified educators
80027.1 Special education limited assignment teaching permit
80046.1 Adapted physical education specialist
80046.5 Credential holders authorized to serve students with disabilities
80047-80047.9 Credentials to provide instructional services to students with disabilities
80048-80048.9.4 Credential requirements and authorizations
80070.1-80070.6 Resource specialists
UNITED STATES CODE, TITLE 20
1400-1482 Individuals with Disabilities Education Act
CODE OF FEDERAL REGULATIONS, TITLE 34
300.8 Definition of autism
300.34 Related services
300.156 Special education personnel requirements

Management Resources:

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

Special Education Teaching and Services Credentials, Added Authorizations in Special Education, and Limited Assignment Permits for California Prepared Teachers: Frequently Asked Questions, May 26, 2014

Education Specialist Teaching and Other Related Services Credential Program Standards, 2012

WEB SITES

California Association of Resource Specialists and Special Education Teachers:

<http://www.carsplus.org>

California Department of Education, Special Education: <http://www.cde.ca.gov/sp/se>

California Speech-Language-Hearing Association: <http://www.csha.org>

Commission on Teacher Credentialing: <http://www.ctc.ca.gov>

National Association of Special Education Teachers: <http://www.naset.org>

Administrative Regulation

Oath Or Affirmation

AR 4112.3 4212.3, 4312.3

Personnel

All district employees are declared by law to be disaster service workers and thus shall take the oath or affirmation required for disaster service workers before beginning employment with the district. In the event of natural, manmade or war-caused emergencies which result in conditions of disaster or extreme peril to life, property and resources, all district employees are subject to disaster service activities as assigned to them by their supervisors or by law. (Government Code 3100-3102)

(cf. 3516 - Emergencies and Disaster Preparedness Plan)
(cf. 9224 - Oath or Affirmation)

Legally employed noncitizens shall be exempt from taking this oath. (Government Code 3101)

At the advice of legal counsel, the Superintendent or designee may exempt an employee from taking the oath if he/she raises a valid religious objection.

The Superintendent, deputy or assistant superintendent, principal or other person authorized in Education Code 60 shall administer the oath or affirmation when a district employee is hired.

In the case of intermittent, temporary, emergency or successive employments, the Superintendent or designee may determine that the oath shall be effective for all successive periods of employment which begin within one calendar year from the date that the oath was subscribed. (Government Code 3102)

(cf. 4121 - Temporary/Substitute Personnel)

The Superintendent or designee shall file the executed oath or affirmation within 30 days of the date on which it is taken and subscribed. An employee's oath or affirmation may be destroyed five years after the termination of employment. (Government Code 3105)

Reimbursement of Expenses for Disaster Service Workers

Whenever an employee seeks compensation or reimbursement of expenses as a disaster service worker, the Superintendent or designee shall ascertain and certify that the employee has taken the oath or affirmation. (Government Code 3107)

Legal Reference:

EDUCATION CODE

60 Persons authorized to administer and certify oaths

44334 Oath or affirmation required for credential

44354 Administration of oath required for credential

GOVERNMENT CODE

3100-3109 Oath or affirmation of allegiance

LABOR CODE

3211.9-3211.93a Disaster service, definitions for workers' compensation

CALIFORNIA CONSTITUTION

Article 20, Section 3 Oath of office

COURT DECISIONS

Chilton v. Contra Costa Community College District 55 Cal. App. 3d 544 (1976)

Vogel v. County of Los Angeles (1967) 68 Cal. 2d 18, 22

Exhibit

Oath Or Affirmation

E 4112.3 4212.3, 4312.3

Personnel

I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

I understand that as a public employee I am a disaster service worker pursuant to Government Code 3100 and 3102 and that I am required to take this oath before entering the duties of my employment. In the event of natural, manmade or war-caused emergencies which result in conditions of disaster or extreme peril to life, property and resources, I am subject to disaster services activities assigned to me by my supervisor.

(Signature)

Certified by:

(Person who administers the oath)

Administrative Regulation

Health Examinations

AR 4112.4 4212.4, 4312.4

Personnel

Tuberculosis Tests

No applicant shall be initially employed by the district, or employed under contract, in a classified or certificated position unless he/she has submitted to a tuberculosis risk assessment within the past 60 days and, if tuberculosis risk factors are identified, has submitted to an intradermal or other approved tuberculosis examination to determine that he/she is free of infectious tuberculosis. If the results of the examination are positive, the applicant shall obtain an x-ray of the lungs. At his/her discretion, an applicant may choose to submit to the examination instead of the risk assessment. (Education Code 49406)

(cf. 1240 - Volunteer Assistance)

(cf. 4112 - Appointment and Conditions of Employment)

(cf. 4119.41/4219.41/4319.41 - Employees with Infectious Disease)

(cf. 4212 - Appointment and Conditions of Employment)

Prior to employment by the district, an applicant shall submit a certificate from an authorized health provider stating that the applicant was assessed and/or examined and found to be free of infectious tuberculosis. (Education Code 49406)

An applicant who was previously employed in another school district or private or parochial school shall be deemed to have fulfilled the tuberculosis testing requirement if he/she produces a certificate showing that he/she was found to be free of infectious tuberculosis within 60 days of initial hire or if his/her previous employer verifies that it has a certificate on file showing that the applicant is free from infectious tuberculosis. (Education Code 49406)

Thereafter, each district employee who was found free of infectious tuberculosis shall undergo a tuberculosis risk assessment, and an examination whenever risk factors are identified, at least once every four years or more often when required by the Governing Board upon recommendation of the county health officer. However, once an employee has a documented positive test for tuberculosis infection followed by an x-ray, he/she shall no longer be required to submit to the tuberculosis risk assessment but shall be referred to the county health officer within 30 days of the examination to determine the need for follow-up care. (Education Code 49406)

The cost of the pre-employment tuberculosis risk assessment and/or examination shall be paid by the applicant, unless the Board has determined that the district will reimburse an applicant who is subsequently hired by the district. The district shall reimburse the employee for the cost, if any, of subsequent tuberculosis risk assessments and examinations. The district may provide for the risk assessment and examination or may establish a reasonable fee for the examination that is reimbursable to the employee. (Education Code 49406)

Whenever the district contracts for the transportation of students, the contract shall require that all drivers who will be transporting students complete the tuberculosis risk assessment and, if indicated, the examination for infectious tuberculosis within 60 days of initial hire. (Education Code 49406)

(cf. 3312 - Contracts)

(cf. 3540 - Transportation)

(cf. 3542 - School Bus Drivers)

The following applicants or employees shall be exempted from the requirement to submit to a tuberculosis risk assessment and/or examination: (Education Code 49406)

1. An applicant/employee who files an affidavit stating that he/she adheres to the faith or teachings of a well-recognized religious sect, denomination, or organization and, in accordance with its creed, tenets, or principles, depends for healing upon prayer in the practice of religion and that, to the best of his/her knowledge and belief, he/she is free from infectious tuberculosis

Such an exemption shall be allowed only if the Board determines by resolution, after a hearing, that the health of students would not be jeopardized. If at any time there is probable cause to believe that the applicant/employee is afflicted with infectious tuberculosis, he/she may be excluded from service until the Board is satisfied that he/she is not afflicted.

(cf. 4030 - Nondiscrimination in Employment)

2. A classified employee who is employed for less than a school year and whose functions do not require frequent or prolonged contact with students

3. A pregnant employee who has positive results on a tuberculosis skin test, in which case she shall be exempted from the requirement to follow up with an x-ray of the lungs for a period not to exceed 60 days after the end of the pregnancy

4. A private contracted driver who transports students infrequently without prolonged contact with students

Examination of Certificated Employees for Disabling Diseases

To fill a certificated position with an applicant who has not previously been employed in a certificated position in California, or with a retirant who has not been employed as a retirant, the district shall have on file a medical certification indicating that the applicant or retirant is free from any disabling disease which would render him/her unfit to instruct or associate with children. (Education Code 44839, 44839.5)

(cf. 4117.14/4317.14 - Postretirement Employment)

The certificate shall be completed and submitted directly to the district by an authorized health care provider. The medical examination referenced in the certificate must have been conducted

within six months of the date that the certificate is filed. (Education Code 44839, 44839.5; 5 CCR 5503)

Applicants and retirants shall pay for the cost of obtaining the medical certification. (Education Code 44849, 44839.5)

Certificated employees and/or retirants shall be required to periodically undergo, at district expense, a medical examination pursuant to Education Code 44839 or 44839.5 to determine that they are free from any communicable disease making them unfit to instruct or associate with children. (Education Code 44839, 44839.5)

(cf. 4032 - Reasonable Accommodation)

(cf. 4114 - Transfers)

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

Legal Reference:

EDUCATION CODE

44839 Medical certificate; periodic medical examination

44839.5 Requirements for employment of retirant

44932 Grounds for dismissal of permanent employee

44942 Suspension or transfer of certificated employee on ground of mental illness

45122 Physical examinations

49406 Examination for tuberculosis

BUSINESS AND PROFESSIONS CODE

2700-2838 Nurses

3500-3546 Physician assistants

HEALTH AND SAFETY CODE

121525 Private and parochial school employees, examination for tuberculosis

CODE OF REGULATIONS, TITLE 5

5502 Filing of notice of physical examination for employment of retired persons

5503 Physical examination for employment of retired persons

5504 Medical certification procedures

COURT DECISIONS

Doe v. Lincoln Unified School District, (2010) 188 Cal.App.4th 758

Leonel v. American Airlines, Inc., (2005) 400 F.3d. 702

Raven v. Oakland Unified School District, (1989) 213 Cal.App.3d 1347

Management Resources:

WEB SITES

California Department of Public Health: <http://www.cdph.ca.gov>

Centers for Disease Control and Prevention: <http://www.cdc.gov>

Public Health Institute: <http://www.phi.org>

U.S. Food and Drug Administration: <http://www.fda.gov>

Administrative Regulation

Criminal Record Check

AR 4112.5 4212.5, 4312.5

Personnel

The Superintendent or designee shall not hire or retain in employment, in a certificated or classified position, a person who has been convicted of a violent or serious felony as defined in Penal Code 667.5(c) or 1192.7(c), a controlled substance offense as defined in Education Code 44011, or a sex offense as defined in Education Code 44010. However, the Superintendent or designee shall not deny or terminate employment if: (Education Code 44830.1, 44836, 45122.1, 45123)

1. The conviction for a violent or serious felony, controlled substance offense, or sex offense is reversed and the person is acquitted of the offense in a new trial or the charges against the person are dismissed, unless the sex offense for which the conviction is dismissed pursuant to Penal Code 1203.4 involves a victim who was a minor.
2. A person convicted of a violent or serious felony has obtained a certificate of rehabilitation or a pardon.
3. A person who has been convicted of a serious felony, that is not also a violent felony, proves to the sentencing court that he/she has been rehabilitated for purposes of school employment for at least one year.
4. A person who has been convicted of a controlled substance offense is applying for or is employed in a certificated position and has a credential issued by the Commission on Teacher Credentialing.
5. A person who has been convicted of a controlled substance offense is applying for or is employed in a classified position and has been determined by the Governing Board, from the evidence presented, to have been rehabilitated for at least five years.

(cf. 4112 - Appointment and Conditions of Employment)

(cf. 4112.2 - Certification)

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

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

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

A certificated employee may be hired by the district without obtaining a criminal record summary if that employee is employed as a certificated employee in another California school district and became a permanent employee of another California school district as of October 1, 1997. (Education Code 44830.1, 44836)

The Superintendent or designee shall not issue a temporary certificate of clearance to a person whose application for a credential, certificate, or permit is being processed by the Commission on Teacher Credentialing if that person has been convicted of a violent or serious felony, unless the person is otherwise exempt pursuant to Education Code 44332.6 or 44830.1. (Education Code 44332.5, 44332.6)

Pre-Employment Record Check

The Superintendent or designee shall require each person to be employed by the district to submit his/her fingerprints electronically through the Live Scan system so that a criminal record check may be conducted by the Department of Justice (DOJ). The Superintendent or designee shall provide the applicant with a Live Scan request form and a list of nearby Live Scan locations.

When a person is applying for a classified position, the Superintendent or designee shall request that the DOJ also obtain a criminal record check through the Federal Bureau of Investigation whenever the applicant meets one of the following conditions: (Education Code 45125)

1. The applicant has not resided in California for at least one year immediately preceding the application for employment.
2. The applicant has resided in California for more than one year, but less than seven years, and the DOJ has ascertained that the person was convicted of a sex offense where the victim was a minor or a drug offense where an element of the offense is either the distribution to or the use of a controlled substance by a minor.

The Superintendent or designee shall immediately notify the DOJ when an applicant who has submitted his/her fingerprints to the DOJ is not subsequently employed by the district. (Penal Code 11105.2)

Subsequent Arrest Notification

The Superintendent or designee shall enter into a contract with the DOJ to receive notification of subsequent arrests resulting in conviction of any person whose fingerprints have been submitted to the DOJ. (Education Code 44830.1, 45125; Penal Code 11105.2)

Upon telephone or email notification by the DOJ that a current temporary employee, substitute employee, or probationary employee serving before March 15 of his/her second probationary year has been convicted of a violent or serious felony, the Superintendent or designee shall immediately place that employee on leave without pay. (Education Code 44830.1, 45122.1)

(cf. 4116 - Probationary/Permanent Status)
(cf. 4121 - Temporary/Substitute Personnel)

When the district receives written electronic notification by the DOJ of the fact of conviction, the temporary employee, substitute employee, or probationary employee serving before March 15 of his/her second probationary year shall be terminated automatically unless the employee challenges

the DOJ record and the DOJ withdraws its notification in writing. Upon receipt of the written withdrawal of notification by the DOJ, the Superintendent or designee shall immediately reinstate that employee with full restoration of salary and benefits for the period of time from the suspension without pay to the reinstatement if the employee is still employed by the district. (Education Code 44830.1, 45122.1)

The Superintendent or designee shall immediately notify the DOJ whenever a person whose fingerprints are maintained by the DOJ is terminated. (Penal Code 11105.2)

Notification of Applicant/Employee

The Superintendent or designee shall expeditiously furnish a copy of any DOJ notification to the applicant or employee to whom it relates if the information is a basis for an adverse employment decision. The copy shall be delivered in person or to the last contact information provided by the applicant or employee. (Penal Code 11105, 11105.2)

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

Maintenance of Records

The Superintendent shall designate at least one custodian of records who shall be responsible for the security, storage, dissemination, and destruction of all Criminal Offender Record Information (CORI) furnished to the district and shall serve as the primary contact for the DOJ for any related issues. (Penal Code 11102.2)

An 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 his/her 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.

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)

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

Once a hiring determination is made, the applicant's CORI 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)

The 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 Agreement

Subject to an interagency agreement with other school districts, the district shall submit and receive CORI on behalf of all participating districts. (Education Code 44830.2, 45125.01)

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

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

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

The district shall maintain a record of all persons to whom the information has been shown and shall make this record available to the DOJ. (Education Code 44830.2, 45125.01)

Legal Reference:

EDUCATION CODE

44010 Sex offense

44011 Controlled substance offense

44332-44332.6 Temporary certificate of clearance

44346.1 Applicants for credential, conviction of a violent or serious felony

44830.1 Certificated employees, conviction of a violent or serious felony

44830.2 Certificated employees; interagency agreement for sharing criminal record information

44836 Conviction of a sex or controlled substance offense

44932 Grounds for dismissal of permanent certificated employees

45122.1 Classified employees, conviction of a violent or serious felony

45125 Use of personal identification cards to ascertain conviction of crime

45125.01 Classified employees; interagency agreement for sharing criminal record information

45125.5 Automated records check

45126 Duty of Department of Justice to furnish information

49024 Activity supervisor clearance certificates

PENAL CODE

667.5 Violent felonies

1192.7 Serious felonies

1203.4 Dismissal of conviction
11075-11081 Criminal record dissemination
11102.2 Maintenance of criminal offender records; custodian of records
11105 Access to criminal history information
11105.2 Subsequent arrest notification
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
720-724 Incomplete criminal history information
994-994.15 Certification of individuals who take fingerprint impressions

COURT DECISIONS

Central Valley Chapter of the 7th Step Foundation Inc. v. Evelle J. Younger, (1989) 214 Cal. App.
3d 145

Management Resources:

WEB SITES

Office of the Attorney General, Department of Justice, Background Checks:
<http://www.oag.ca.gov/fingerprints>

Exhibit

Criminal Record Check

E 4112.5 4212.5, 4312.5

Personnel

SAMPLE EMPLOYEE STATEMENT FORM USE OF CRIMINAL JUSTICE INFORMATION

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

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

Civil Code 1798.53, Invasion of Privacy, states:

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

CIVIL, CRIMINAL, AND ADMINISTRATIVE PENALTIES:

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

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

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

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

* Civil Code 1798.53, Invasion of Privacy

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

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

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

Signature Date
Printed Name Title
Name of District

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

Administrative Regulation

Personnel Files

AR 4112.6 4212.6, 4312.6

Personnel

The Superintendent or designee shall maintain personnel files for all current employees at the district's central office or at the location where the employee works.

The Superintendent or designee shall determine the types of information to be included in personnel files, including, but not limited to, records required by law, and shall process all material to be placed in such files.

(cf. 4112.5/4212.5/4312.5 - Criminal Record Check)

Personnel files for district police or security officers shall be maintained and accessed in accordance with Government Code 3305-3306.5 and AR 3515.3 - District Police/Security Department.

(cf. 3515.3 - District Police/Security Department)

Placement of Material in Personnel Files

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

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

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

An employee may initiate a written reaction or response to his/her performance evaluation. The response shall be permanently attached to the evaluation and placed in the employee's personnel file.

(cf. 4115 - Evaluation/Supervision)

(cf. 4215 - Evaluation/Supervision)

(cf. 4315 - Evaluation/Supervision)

Derogatory Information

Information of a derogatory nature shall not be entered into an employee's personnel file unless and until the employee is given notice and an opportunity to review and comment on that

information. Such a review shall take place during normal business hours. The employee shall be released from duty for this purpose without a salary reduction. The employee may enter his/her own comments and have them attached to the derogatory statement. (Education Code 44031)

(cf. 1312.1 - Complaints Concerning District Employees)
(cf. 4112.9/4212.9/4312.9 - Employee Notifications)
(cf. 4118 - Dismissal/Suspension/Disciplinary Action)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)
(cf. 5141.4 - Child Abuse Prevention and Reporting)

Persons with Authorized Access

The Superintendent or designee shall maintain the confidentiality of any personnel records which, if inappropriately disclosed, would constitute an unwarranted invasion of the employee's privacy.

Access to an employee's personnel file shall be granted only to the employee, persons authorized by the employee, district personnel, and others with a valid "right to know" or "need to know" who are authorized access by the Superintendent or designee.

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

Individual Governing Board members shall not be allowed to access personnel files, but the Board may request pertinent information from an employee's file in cases of personnel action.

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

Any authorized reviewer shall maintain strict confidence of the contents of a personnel file. Personnel files shall be reviewed and replaced within the shortest time possible. In no case shall a personnel file be left unattended or left unsecured overnight.

File Review by Employee

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

With the exceptions noted below, all personnel records related to the employee's performance or to any grievance concerning the employee shall be made available for inspection by the employee. Noncredentialed employees shall have access to any numerical scores obtained as a result of written examinations. (Education Code 44031; Labor Code 1198.5)

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

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

2. Letters of reference

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

(cf. 4112.41/4212.41/4312.41 - Employee Drug Testing)

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

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

1. Keep a copy of each employee's personnel records at the place where the employee reports to work
2. Make the employee's personnel records available at the place where the employee reports to work within a reasonable period of time following the employee's request
3. Permit the employee to inspect the personnel records at the location where the district stores the personnel records, with no loss of compensation to the employee

The employee may be accompanied by a representative of his/her choice while reviewing his/her personnel records.

Inspection shall take place in the presence of the Superintendent or designee. The Superintendent or designee shall keep a record of the date and time the file was reviewed and the name and title of the person(s) present during the review.

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

Record Retention

Personnel records for current and former employees shall be retained in accordance with 5 CCR 16023.

(cf. 3580 - District Records)

The Superintendent or designee shall not expunge from an employee's personnel file, nor enter into an agreement that would authorize expunging from an employee's personnel file, credible complaints of, substantiated investigations into, or discipline for egregious misconduct as defined

in Education Code 44932. However, such documentation may be removed if, during a hearing before the Board, an arbiter, personnel commission, Commission on Professional Competence, or administrative law judge, the employee prevailed, the allegations were determined to be false, not credible, or unsubstantiated, or a determination was made that the discipline was not warranted. (Education Code 44939.5)

Legal Reference:

EDUCATION CODE

- 35253 Regulations to destroy records
- 44031 Personnel file contents and inspection
- 44663 Performance appraisals and related materials

GOVERNMENT CODE

- 3305-3306.5 District police officers; personnel files
- 6250-6270 California Public Records Act, especially:
 - 6254 Exemption for personnel records if invasion of personal privacy
 - 6254.3 Disclosure of home address and phone number

LABOR CODE

- 1198.5 Inspection of personnel files

PENAL CODE

- 11165.14 Report of investigation of child abuse complaint

CODE OF REGULATIONS, TITLE 5

- 16020-16022 Records, general provisions
- 16023-16027 Retention of records

COURT DECISIONS

- Marken v. Santa Monica-Malibu Unified School District, (2012) 202 Cal.App.4th 1250
- Bakersfield City School District v. Superior Ct. (2004) 118 Cal.App.4th 1041

ATTORNEY GENERAL OPINIONS

- Cal. Atty. Gen., Indexed Letter, no. IL 75-73 (June 6, 1975)

Board Policy

Employee Notifications

BP 4112.9 4212.9, 4312.9

Personnel

The Governing Board believes that providing clear communications to staff is essential to establishing a professional, positive work environment and enhancing their job performance. The Superintendent or designee shall provide district employees all notifications required by law and any other notifications he/she believes will promote staff knowledge of the district's policies, programs, activities, and operations.

When required by law, Board policy, or administrative regulation, district employees shall be asked to sign an acknowledgment indicating receipt of the notification. Such acknowledgments shall be retained in each employee's personnel file.

(cf. 3580 - District Records)

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

Legal Reference:

EDUCATION CODE

- 231.5 Sexual harassment policy
- 17612 Notification of pesticide use
- 22455.5 STRS information to potential members
- 22461 Postretirement compensation limitation
- 35031 Nonreelection of superintendent, assistant superintendent, or manager of classified services
- 35171 Notice of regulations pertaining to certificated employee evaluations
- 37616 Notice of public hearing on year-round schedule
- 44031 Personnel file contents, inspection
- 44663-44664 Evaluation of certificated employees
- 44842 Reemployment notices, certificated employees
- 44896 Transfer of administrator or supervisor to teaching position
- 44916 Written statement of employment status
- 44929.21 Reelection or nonreelection of probationary employee after second year
- 44934 Notice of disciplinary action for cause
- 44938 Notice of unprofessional conduct and opportunity to correct
- 44940.5-44941 Notification of suspension and intent to dismiss
- 44948.3-44948.5 Dismissal of probationary employees
- 44949 Cause, notice and right to hearing
- 44951 Continuation in position unless notified, administrative or supervisory personnel
- 44954 Nonreelection of temporary employees
- 44955 Reduction in number of employees

45113 Notification of charges, classified employees
 45117 Notice of layoff, classified employees
 45169 Employee salary data, classified employees
 45192 Industrial and accident leave
 45195 Additional leave
 46162 Notice of public hearing on block schedule
 49013 Complaints regarding student fees
 49079 Notification to teacher; student who has engaged in acts re: grounds suspension or expulsion
 49414 Epinephrine auto-injectors
 49414.3 Administration of opioid antagonist
 CIVIL CODE
 1798.29 District records, breach of security
 GOVERNMENT CODE
 1126 Incompatible activities of employees
 21029 Retirement credit for period of military service
 3100-3109 Oath or affirmation of allegiance
 8355 Certification of drug-free workplace, including notification
 12950 Sexual harassment
 54957 Complaints against employees; right to open session
 54963 Unauthorized disclosure of confidential information
 HEALTH AND SAFETY CODE
 1797.196 Automated external defibrillators; notification of use and locations
 104420 Tobacco-free schools
 120875 Information on AIDS, AIDS-related conditions, and hepatitis B
 120880 Notification to employees re AIDS, AIDS-related conditions, and hepatitis B
 LABOR CODE
 2800.2 Notification of availability of continuation health coverage
 3550-3553 Notifications re: workers' compensation benefits
 5401 Workers' compensation; claim form and notice of potential eligibility
 PENAL CODE
 11165.7 Child Abuse and Neglect Reporting Act; notification requirement
 11166.5 Employment; statement of knowledge of duty to report child abuse or neglect
 UNEMPLOYMENT INSURANCE CODE
 2613 Disability insurance; notice of rights and benefits
 CODE OF REGULATIONS, TITLE 2
 11023 Nondiscrimination in employment
 11024 Sexual harassment
 11049 Notice of right to request pregnancy disability leave or transfer
 11091 California Family Rights Act, designation notice
 11096 Notice of right to request family care leave
 CODE OF REGULATIONS, TITLE 5
 4622 Uniform complaint procedures
 80303 Reports of change in employment status, alleged misconduct
 CODE OF REGULATIONS, TITLE 8
 3204 Employees exposed to bloodborne pathogens, access to exposure and medical records

5191 Chemical hygiene plan
5193 California bloodborne pathogens standard
5194 Hazard communication program
CODE OF REGULATIONS, TITLE 13
1234 Reports regarding school buses and bus drivers
2480 Vehicle idling, limitations
UNITED STATES CODE, TITLE 38
4334 Uniformed Services Employment and Reemployment Rights Act, notice requirement
UNITED STATES CODE, TITLE 41
8101-8106 Drug-Free Workplace Act
CODE OF FEDERAL REGULATIONS, TITLE 29
825.300 Family and Medical Leave Act; notice requirement
CODE OF FEDERAL REGULATIONS, TITLE 34
84.205-84.210 Drug-free workplace statement
104.8 Nondiscrimination
106.9 Dissemination of policy, nondiscrimination on basis of sex
CODE OF FEDERAL REGULATIONS, TITLE 40
763.84 Asbestos inspections, response actions and post-response actions
763.93 Asbestos management plans
CODE OF FEDERAL REGULATIONS, TITLE 49
382.601 Controlled substance and alcohol use and testing notifications

Exhibit

Employee Notifications

E 4112.9 4212.9, 4312.9

Personnel

I. To All Employees

When/Whom to Notify: At the beginning of school year or upon employment

Education or Other Legal Code: Education Code 231.5, Government Code 12950, 2 CCR 11024

Board Policy/Administrative Regulation #: See AR 4119.11/4219.11/4319.11

Subject: The district's policy on sexual harassment, legal remedies, complaints

When/Whom to Notify: Annually to all employees and 72 hours before pesticide application

Education or Other Legal Code: Education Code 17612

Board Policy/Administrative Regulation #: See AR 3514.2

Subject: Use of pesticide product, active ingredients, Internet address to access information

When/Whom to Notify: To all employees, prior to implementing year-round schedule

Education or Other Legal Code: Education Code 37616

Board Policy/Administrative Regulation #: See BP 6117

Subject: Public hearing on year-round implementing year-round program schedule

When/Whom to Notify: To all employees, prior to implementing alternative schedule

Education or Other Legal Code: Education Code 46162

Board Policy/Administrative Regulation #: See AR 6112

Subject: Public hearing on alternative schedule

When/Whom to Notify: To all employees

Education or Other Legal Code: Education Code 49013; 5 CCR 4622

Board Policy/Administrative Regulation #: See AR 1312.3; See BP 0460; See BP 3260

Subject: Uniform complaint procedures, appeals, civil law remedies, coordinator, complaints about student fees and local control accountability plan

When/Whom to Notify: To all employees

Education or Other Legal Code: Education Code 49414

Board Policy/Administrative Regulation #: See AR 5141.21

Subject: Request for volunteers to be trained to administer epinephrine auto-injectors

When/Whom to Notify: At least once per year

Education or Other Legal Code: Education Code 49414.3

Board Policy/Administrative Regulation #: See AR 5141.21

Subject: Request for volunteers to be trained to administer opioid antagonist

When/Whom to Notify: To all employees

Education or Other Legal Code: Government Code 1126
Board Policy/Administrative Regulation #: See BP 4136/4236/4336
Subject: Prohibition of activities that are inconsistent, incompatible, in conflict with, or inimical to duties; discipline; appeal

When/Whom to Notify: Prior to beginning employment
Education or Other Legal Code: Government Code 3102
Board Policy/Administrative Regulation #: See AR 4112.3/4212.3/4312.3
Subject: Oath or affirmation of allegiance required of disaster service workers

When/Whom to Notify: To all employees
Education or Other Legal Code: Government Code 8355; 41 USC 8102; 34 CFR 84.205, 84.210
Board Policy/Administrative Regulation #: See BP 4020, See BP 4159/4259/4359
Subject: District's drug- and alcohol-free workplace; actions that will be taken if violated; available employee assistance programs

When/Whom to Notify: Upon employment
Education or Other Legal Code: Government Code 21029
Board Policy/Administrative Regulation #: None
Subject: Right to purchase PERS service credit for military service performed prior to public employment

When/Whom to Notify: Upon placement of automated external defibrillator (AED) in school, annually thereafter
Education or Other Legal Code: Health and Safety Code 1797.196
Board Policy/Administrative Regulation #: See AR 5141
Subject: Proper use of AED; location of all AEDs on campus, sudden cardiac arrest, school's emergency response plan

When/Whom to Notify: To all employees, if the district receives Tobacco-Use Prevention Education funds
Education or Other Legal Code: Health and Safety Code 104420
Board Policy/Administrative Regulation #: See AR 3513.3
Subject: District's tobacco-free schools policy and enforcement procedures

When/Whom to Notify: Annually to all employees, or more frequently if there is new information
Education or Other Legal Code: Health and Safety Code 120875, 120880
Board Policy/Administrative Regulation #: See AR 4119.43/4219.43/4319.43
Subject: AIDS and hepatitis B, methods to prevent exposure

When/Whom to Notify: To all employees, with each paycheck
Education or Other Legal Code: Labor Code 246
Board Policy/Administrative Regulation #: See AR 4161.1/4361.1 and see AR 4261.1
Subject: Amount of sick leave available

When/Whom to Notify: To covered employees and former employees

Education or Other Legal Code: Labor Code 2800.2

Board Policy/Administrative Regulation #: See AR 4154/4254/4354

Subject: Availability of COBRA/Cal-COBRA continuation and conversion coverage; statement encouraging careful examination of options before declining coverage

When/Whom to Notify: To every new employee, either at the time employee is hired or by end of first pay period

Education or Other Legal Code: Labor Code 3551

Board Policy/Administrative Regulation #: See BP 4157.1/4257.1/4357.1

Subject: Workers' compensation benefits, how to obtain medical care, role of primary physician, form for reporting personal physician/chiropractor

When/Whom to Notify: Prior to beginning employment

Education or Other Legal Code: Penal Code 11165.7, 11166.5

Board Policy/Administrative Regulation #: See AR 5141.4

Subject: Status as a mandated reporter of child abuse, reporting obligations, confidentiality rights, copy of law

When/Whom to Notify: Upon employment, and when employee goes on leave for specified reasons

Education or Other Legal Code: Unemployment Insurance Code 2613

Board Policy/Administrative Regulation #: See AR 4154/4254/4354

Subject: Disability insurance rights and benefits

When/Whom to Notify: To all employees and job applicants

Education or Other Legal Code: 2 CCR 11023; 34 CFR 104.8, 106.9

Board Policy/Administrative Regulation #: See BP 0410, See BP 4030

Subject: District's policy on nondiscrimination and related complaint procedures

When/Whom to Notify: To all employees via employee handbook, or to each new employee

Education or Other Legal Code: 2 CCR 11091, 11095; 29 CFR 825.300

Board Policy/Administrative Regulation #: See AR 4161.8/4261.8/4361.8

Subject: Benefits through Family and Medical Leave Act (FMLA) and California Family Rights Act (CFRA); obligation to provide 30 days' notice of need for leave when possible

When/Whom to Notify: Annually to all employees

Education or Other Legal Code: 40 CFR 763.84, 763.93

Board Policy/Administrative Regulation #: See AR 3514

Subject: Availability of asbestos management plan; any inspections, response actions or post-response actions planned or in progress

II. To Certificated Employees

When/Whom to Notify: To eligible certificated employees in a timely manner, and to part-time and substitute certificated employees within 30 days of hire

Education or Other Legal Code: Education Code 22455.5

Board Policy/Administrative Regulation #: See AR 4121
Subject: Criteria for membership in retirement system; right to elect membership at any time

When/Whom to Notify: Upon employment of a retired certificated individual
Education or Other Legal Code: Education Code 22461
Board Policy/Administrative Regulation #: See AR 4117.14/4317.14
Subject: Postretirement earnings limitation or employment restriction; monthly report of compensation

When/Whom to Notify: To certificated employees
Education or Other Legal Code: Education Code 35171
Board Policy/Administrative Regulation #: See AR 4115, See BP 4315
Subject: District regulations related to performance evaluations

When/Whom to Notify: 30 days before last day of school year for instructional staff, or by June 30 for noninstructional certificated staff, in any year in which employee is evaluated
Education or Other Legal Code: Education Code 44663
Board Policy/Administrative Regulation #: See AR 4115
Subject: Copy of employee's evaluation

When/Whom to Notify: To a certificated employee with unsatisfactory evaluation, once per year for probationary employee or at least once every other year for permanent employee
Education or Other Legal Code: Education Code 44664
Board Policy/Administrative Regulation #: See AR 4115
Subject: Notice and description of the unsatisfactory performance

When/Whom to Notify: By May 30, if district elects to issue reemployment notices to certificated employees
Education or Other Legal Code: Education Code 44842
Board Policy/Administrative Regulation #: See AR 4112.1
Subject: Request that the employee notify district of intent to remain in service next year

When/Whom to Notify: To certificated employees upon employment and to nonpermanent employees in July of each school year
Education or Other Legal Code: Education Code 44916
Board Policy/Administrative Regulation #: See AR 4112.1, See AR 4121
Subject: Employment status and salary

When/Whom to Notify: To probationary employees in district with ADA of 250 or more, by March 15 of employee's second consecutive year of employment
Education or Other Legal Code: Education Code 44929.21
Board Policy/Administrative Regulation #: See AR 4117.6
Subject: Whether or not employee is reelected for next school year

When/Whom to Notify: When certificated employee is subject to disciplinary action for cause, at any time of year or, for charge of unsatisfactory performance, during instructional year

Education or Other Legal Code: Education Code 44934, 44934.1, 44936
Board Policy/Administrative Regulation #: See BP 4118; See AR 4118
Subject: Notice of charges, procedures, and employee rights; intent to dismiss or suspend 30 days after notice

When/Whom to Notify: To certificated employee charged with unprofessional conduct, at least 45 days prior to suspension/dismissal notice

Education or Other Legal Code: Education Code 44938
Board Policy/Administrative Regulation #: See BP 4118
Subject: Notice of deficiency and opportunity to correct

When/Whom to Notify: To certificated employee charged with unsatisfactory performance, at least 90 days prior to suspension/dismissal notice or prior to last quarter of school year

Education or Other Legal Code: Education Code 44938
Board Policy/Administrative Regulation #: See BP 4118
Subject: Notice of deficiency and opportunity to correct

When/Whom to Notify: To certificated employee charged with mandatory leave of absence offense, within 10 days of entry of judgment in proceedings

Education or Other Legal Code: Education Code 44940.5
Board Policy/Administrative Regulation #: See AR 4118
Subject: Notice of intent to dismiss 30 days from notice unless employee demands hearing

When/Whom to Notify: To probationary employees 30 days prior to dismissal during school year, but not later than March 15 for second- year probationary employees

Education or Other Legal Code: Education Code 44948.3
Board Policy/Administrative Regulation #: See AR 4118
Subject: Reasons for dismissal and opportunity to appeal

When/Whom to Notify: By March 15 when necessary to reduce certificated personnel, with final notice by May 15

Education or Other Legal Code: Education Code 44949, 44955
Board Policy/Administrative Regulation #: See BP 4117.3
Subject: Reasons for personnel reduction and employees' right to hearing; final notice of Board decision re: termination

When/Whom to Notify: On or before June 30, to temporary employee who served 75 percent of school year but will be released

Education or Other Legal Code: Education Code 44954
Board Policy/Administrative Regulation #: See BP 4121
Subject: District's decision not to reelect employee for following school year

When/Whom to Notify: To teacher, when a student engages in or is reasonably suspected of specified acts

Education or Other Legal Code: Education Code 49079
Board Policy/Administrative Regulation #: See AR 4158/4258/4358

Subject: Student has committed specified act that constitutes ground for suspension or expulsion

When/Whom to Notify: To certificated employee upon change in employment status due to alleged misconduct

Education or Other Legal Code: 5 CCR 80303

Board Policy/Administrative Regulation #: See AR 4117.7/4317.7

Subject: Contents of state regulation re: report to Commission on Teacher Credentialing

III. To Classified Employees

When/Whom to Notify: To classified employee charged with mandatory leave of absence offense, in merit system district

Education or Other Legal Code: Education Code 44940.5

Board Policy/Administrative Regulation #: See AR 4218

Subject: Notice of intent to dismiss in 30 days

When/Whom to Notify: When classified employee is subject to disciplinary action for cause, in nonmerit district

Education or Other Legal Code: Education Code 45113

Board Policy/Administrative Regulation #: See AR 4218

Subject: Notice of charges, procedures, and employee rights

When/Whom to Notify: To classified employees at least 60 days prior to layoff, or by April 29 if specially funded program that expires at end of school year

Education or Other Legal Code: Education Code 45117

Board Policy/Administrative Regulation #: See AR 4217.3

Subject: Notice of layoff and reemployment rights

When/Whom to Notify: To classified employees upon employment and upon each change in classification

Education or Other Legal Code: Education Code 45169

Board Policy/Administrative Regulation #: See AR 4212

Subject: Employee's class specification, salary data, assignment or work location, duty hours, prescribed workweek

When/Whom to Notify: To classified permanent employee whose leave is exhausted

Education or Other Legal Code: Education Code 45192, 45195

Board Policy/Administrative Regulation #: See AR 4261.1, See AR 4261.11

Subject: Exhaustion of leave, opportunity to request additional leave

When/Whom to Notify: To school bus drivers and school activity bus drivers prior to expiration of specified documents

Education or Other Legal Code: 13 CCR 1234

Board Policy/Administrative Regulation #: See AR 3542

Subject: Expiration date of driver's license, driver's certificate and medical certificate; need to renew

When/Whom to Notify: To school bus drivers and school activity bus drivers upon employment and at least once per year thereafter

Education or Other Legal Code: 13 CCR 2480

Board Policy/Administrative Regulation #: See AR 3542

Subject: Limitations on vehicle idling; consequences of not complying

When/Whom to Notify: To school bus drivers, prior to district drug testing program and thereafter upon employment

Education or Other Legal Code: 49 CFR 382.601

Board Policy/Administrative Regulation #: See BP 4112.42/4212.42/4312.42

Subject: Explanation of federal requirements for drug testing program and district's policy

IV. To Administrative/Supervisory Personnel

When/Whom to Notify: To deputy, associate, or assistant superintendent or senior manager of classified service, at least 45 days before expiration of contract

Education or Other Legal Code: Education Code 35031

Board Policy/Administrative Regulation #: See BP 4312.1

Subject: Decision not to reelect or reemploy upon expiration of contract or term

When/Whom to Notify: Upon request by administrative or supervisory employee transferred to teaching position

Education or Other Legal Code: Education Code 44896

Board Policy/Administrative Regulation #: See AR 4313.2

Subject: Statement of the reasons for the release or reassignment

When/Whom to Notify: By March 15 to employee who may be released/reassigned the following school year

Education or Other Legal Code: Education Code 44951

Board Policy/Administrative Regulation #: See AR 4313.2

Subject: Notice that employee may be released or reassigned the following school year

V. To Individual Employees Under Special Circumstances

When/Whom to Notify: In the event of a breach of security of district records to affected employees

Education or Other Legal Code: Civil Code 1798.29

Board Policy/Administrative Regulation #: See BP 3580

Subject: Types of records affected, date of breach, description of incident, and, as applicable, contact information for credit reporting agencies

When/Whom to Notify: Prior to placing derogatory information in personnel file

Education or Other Legal Code: Education Code 44031

Board Policy/Administrative Regulation #: See AR 4112.6/4212.6/4312.6

Subject: Notice of derogatory information, opportunity to review and comment

When/Whom to Notify: To employees who volunteer to administer epinephrine auto-injector
Education or Other Legal Code: Education Code 49414
Board Policy/Administrative Regulation #: See AR 5141.21
Subject: Defense and indemnification from civil liability by the district

When/Whom to Notify: To employees returning from military leave of absence, within 30 days of return
Education or Other Legal Code: Government Code 20997
Board Policy/Administrative Regulation #: See AR 4161.5/4261.5/4361.5
Subject: Right to receive PERS service credit for military service; application form

When/Whom to Notify: 24 hours before Board meets in closed session to hear complaints or charges against employee
Education or Other Legal Code: Government Code 54957
Board Policy/Administrative Regulation #: See BB 9321
Subject: Employee's right to have complaints/charges heard in open session

When/Whom to Notify: When taking disciplinary action against employee for disclosure of confidential information
Education or Other Legal Code: Government Code 54963
Board Policy/Administrative Regulation #: See BP 4119.23/4219.23/4319.23
Subject: Law prohibiting disclosure of confidential information obtained in closed session

When/Whom to Notify: Within one working day of work-related injury or victimization of crime
Education or Other Legal Code: Labor Code 3553, 5401
Board Policy/Administrative Regulation #: See BP 4157.1/4257.1/4357.1
Subject: Potential eligibility for workers' compensation benefits, claim form

When/Whom to Notify: When adverse employment action is based on DOJ criminal history information or subsequent arrest notification
Education or Other Legal Code: Penal Code 11105, 11105.2
Board Policy/Administrative Regulation #: See AR 4112.5/4212.5/4312.5
Subject: Copy of DOJ notification

When/Whom to Notify: To any employee with exposure to blood or potentially infectious materials, upon initial employment and at least annually thereafter
Education or Other Legal Code: 8 CCR 3204, 5193
Board Policy/Administrative Regulation #: See AR 4119.42/4219.42/4319.42
Subject: The existence, location, and availability of exposure and medical records; person responsible for maintaining and providing access to records; right to access records

When/Whom to Notify: To any employee assigned to a work area where hazardous chemical are present, upon initial assignment and upon new exposure situation
Education or Other Legal Code: 8 CCR 5191
Board Policy/Administrative Regulation #: See AR 3514.1

Subject: Location and availability of chemical hygiene plan, exposure limits, signs and symptoms of exposure, location of reference material

When/Whom to Notify: To any employee who may be exposed to hazardous substances in the work area, upon initial assignment and when new hazard is introduced into work area

Education or Other Legal Code: 8 CCR 5194

Board Policy/Administrative Regulation #: See AR 3514.1

Subject: Any presence of hazardous substances in the work area, location and availability of hazard communication program, new material safety data sheet, employee rights

When/Whom to Notify: To employee eligible for military leave

Education or Other Legal Code: 38 USC 4334

Board Policy/Administrative Regulation #: See AR 4161.5/4261.5/4361.5

Subject: Notice of rights, benefits, and obligations under military leave

When/Whom to Notify: Within five days of employee's request for family care and medical leave, receipt of supporting information, or district's knowledge that the requested leave may qualify as FMLA leave

Education or Other Legal Code: 29 CFR 825.300; 2 CCR 11049, 11091

Board Policy/Administrative Regulation #: See AR 4161.8/4261.8/4361.8

Subject: Designation of leave as FMLA or non-FMLA; if not eligible, reason not eligible; requirement to use paid leave; any requirement for fitness-for-duty certification; any subsequent changes in designation notice

When/Whom to Notify: Whenever notice of eligibility for FMLA is provided to employee

Education or Other Legal Code: 29 CFR 825.300

Board Policy/Administrative Regulation #: See AR 4161.8/4261.8/4361.8

Subject: Rights and responsibilities re: use of FMLA; consequences of failure to meet obligations

Board Policy

Assignment

BP 4113

Personnel

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

(cf. 4112.2 - Certification)

(cf. 4112.21 - Interns)

(cf. 4112.22 - Staff Teaching English Learners)

(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 district in accordance with the collective bargaining agreement or Board policy.

(cf. 4141/4241 - Collective Bargaining Agreement)

Assignment to Courses/Classes

The 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 Superintendent or designee shall select the credentialed teacher whose knowledge and skills best prepare him/her to provide instruction in that subject.

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

(cf. 3580 - District Records)

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

(cf. 1312.4 - Williams Uniform Complaint Procedures)

Equitable Distribution of Qualified Teachers

The Superintendent or designee shall ensure that highly qualified and experienced teachers are equitably distributed among district schools, including those with higher than average levels of low-income, minority, and/or academically underperforming students. He/she shall annually report to the Board comparisons of teacher qualifications across district schools, including the number of teachers serving under a provisional internship permit, short-term staff permit, intern credential, emergency permit, or credential waiver.

Strategies for ensuring equitable access to experienced teachers may include, but are not limited to, incentives for voluntary transfers, provision of professional development, and/or programs to recruit and retain effective teachers.

(cf. 0460 - Local Control and Accountability Plan)

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

(cf. 4114 - Transfers)

(cf. 4131 - Staff Development)

(cf. 4131.1 - Teacher Support and Guidance)

(cf. 6171 - Title I Programs)

Legal Reference:

EDUCATION CODE

33126 School accountability report card

35035 Additional powers and duties of superintendent

35186 Complaint process

37616 Assignment of teachers to year-round schools

44225.6 Commission report to the legislature re: teachers

44250-44277 Credentials and assignments of teachers

44314 Subject matter programs, approved subjects

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

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

6312 Local educational agency plans

6601-6651 Teacher and Principal Training and Recruiting Fund

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

California State Plan to Ensure Equitable Access to Excellent Educators

Every Student Succeeds Act 2016-17 School Year Transition Plan, April 2016

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

Administrator's Assignment Manual - Updates and Revisions, May 2014

The Administrator's Assignment Manual, rev. September 2007

U.S. DEPARTMENT OF EDUCATION GUIDANCE

Transitioning to the Every Student Succeeds Act (ESSA): Frequently Asked Questions, rev. May 4, 2016

Improving Teacher Quality State Grants: ESEA Title II, Part A, rev. October 5, 2006

WEB SITES

CSBA: <http://www.csba.org>

California Department of Education: <http://www.cde.ca.gov>

Commission on Teacher Credentialing: <http://www.ctc.ca.gov>

U.S. Department of Education: <http://www.ed.gov>

Administrative Regulation

Assignment

AR 4113

Personnel

Assignment to Departmentalized Classes Outside Credential Authorization

Any holder of a credential other than an emergency permit may be assigned, with his/her consent, to teach departmentalized classes in grades K-12 regardless of the designations on his/her teaching credential, provided that their subject matter knowledge is verified prior to the assignment. (Education Code 44258.3)

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

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

1. One or more of the following ways in which subject matter competence shall be assessed:
 - a. Observation by subject matter specialists
 - b. Oral interviews
 - c. Demonstration lessons
 - d. Presentation of curricular portfolios
 - e. Written examinations
2. Specific criteria and standards for verifying subject matter knowledge by any of the above methods. These criteria shall include, but need not be limited to, evidence of the individual's knowledge of the subject matter to be taught, including demonstrated knowledge of the curriculum framework for the subject and the specific content of the district's course of study for the subject at the grade level to be taught.

(cf. 4115 - Evaluation/Supervision)

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

(cf. 4140/4240/4340 - Bargaining Units)

Board Policy

Temporary Modified/Light-Duty Assignment

BP 4113.4 4213.4, 4313.4

Personnel

The Governing Board recognizes that, when employees have temporarily disabling medical conditions, temporary modified or light-duty assignments can allow the district to continue to use their valuable knowledge, skills, and abilities while minimizing time away from work.

Temporary modified/light-duty assignments may also serve to facilitate the employee's transition back to his/her regular duties or full-time work.

(cf. 3530 - Risk Management/Insurance)

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

(cf. 4161.11/4261.11/4361.11 - Industrial Accident/Illness Leave)

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

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

(cf. 4032 - Reasonable Accommodation)

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

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

Legal Reference:

EDUCATION CODE

44984 Required rules for industrial accident and illness leave

45192 Industrial accident and illness leave for classified employees

GOVERNMENT CODE

12900-12996 Fair Employment and Housing Act

12945.1-12945.2 California Family Rights Act
UNITED STATES CODE, TITLE 29
2601-2654 Family Care and Medical Leave Act
UNITED STATES CODE, TITLE 42
12101-12213 Americans with Disabilities Act
COURT DECISIONS
Raine v. City of Burbank, (2006) 135 Cal.App.4th 1215

Management Resources:

WEB SITES

California Department of Fair Employment and Housing: <http://www.dfeh.ca.gov>

Equal Employment Opportunity Commission: <http://www.eeoc.gov>

Board Policy

Evaluation/Supervision

BP 4115

Personnel

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

(cf. 4141/4241 - Collective Bargaining Agreement)

(cf. 4315 - Evaluation/Supervision)

Evaluations shall be used to recognize the exemplary skills and accomplishments of staff and to identify areas needing improvement. When areas needing improvement are identified, the Board expects employees to accept responsibility for improving their performance and encourages them to take initiative to request assistance as necessary, including participation in appropriate staff development and/or individualized teacher support and guidance programs.

(cf. 4117.6 - Decision Not to Rehire)

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

(cf. 4131 - Staff Development)

(cf. 4131.1 - Teacher Support and Guidance)

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

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

(cf. 6011 - Academic Standards)

(cf. 6162.5 - Student Assessment)

(cf. 6162.51 - State Academic Achievement Tests)

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

Teaching Profession, as long as the standards are consistent with Education Code 44660-44665. If the certificated staff do not have an exclusive representative, the Board may adopt objective evaluation and assessment guidelines consistent with Education Code 44661.5. Districts in which there is no exclusive representative should modify the following paragraph accordingly.

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

(cf. 4119.21/4219.21/4319.21 - Professional Standards)
(cf. 4140/4240/4340 - Bargaining Units)

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

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

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

Legal Reference:

EDUCATION CODE

33039 State guidelines for teacher evaluation procedures

35171 Availability of rules and regulations for evaluation of performance

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

GOVERNMENT CODE

3543.2 Scope of representation

Management Resources:

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

California Standards for the Teaching Profession, 2009

WEB SITES

CSBA: <http://www.csba.org>

California Department of Education: <http://www.cde.ca.gov>

Commission on Teacher Credentialing: <http://www.ctc.ca.gov>

National Board for Professional Teaching Standards: <http://www.nbpts.org>

Administrative Regulation

Evaluation/Supervision

AR 4115

Personnel

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

(cf. 4141/4241 - Collective Bargaining Agreement)

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

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

Frequency of Evaluations

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

(cf. 4116 - Probationary/Permanent Status)

(cf. 4117.6 - Decision Not to Rehire)

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

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

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

Evaluation Results

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

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

Instructional and non-instructional 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 Governing Board pursuant to Education Code 44662, the Superintendent or designee shall so notify the employee in writing and shall describe the unsatisfactory performance. The Superintendent or designee shall confer with the employee, make specific recommendations as to areas needing improvement, and endeavor to provide assistance to the employee in his/her performance. (Education Code 44664)

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

(cf. 4131 - Staff Development)

(cf. 4131.1 - Teacher Support and Guidance)

Qualifications of Evaluators

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

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

Board Policy

Probationary/Permanent Status

BP 4116

Personnel

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. In-service 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)

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

Administrative Regulation

Probationary/Permanent Status

AR 4116

Personnel

Permanent Status (Districts with Less than 250 ADA)

Permanent status shall not be granted to certificated district employees. (Education Code 44929.23)

(cf. 4115 - Evaluation/Supervision)
(cf. 4117.6 - Decision Not to Rehire)
(cf. 4118 - Dismissal/Suspension/Disciplinary Action)
(cf. 4121 - Temporary/Substitute Personnel)

Interns

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

(cf. 4112.21 - Interns)

Board Policy

Early Retirement Option

BP 4117.13 4317.13

Personnel

When it is beneficial to the district, the Governing Board 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 Board 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 Board shall determine that encouraging early retirement would be in the best interest of the district 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 district. The Board shall demonstrate and certify to the County Superintendent of Schools that the formal action taken would result in a net savings to the district. (Education Code 22714, 44929)

The Board may also consider the impact of the early retirement option on the staffing needs of district schools.

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 Board takes formal action to implement the option. (Education Code 22714)

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

Two + Two Retirement Incentive: 2 Years of Service Credit + 2 Years of Age Credit

As an incentive to early retirement for certificated employees participating in the State Teachers' Retirement System, the Board may offer an additional two years of service credit and two years of age credit to employees who retire within the "window period" established by the Board in a Memorandum of Understanding or by Board action prior to January 1, 2005 pursuant to repealed Education Code 22714.5.

Legal Reference:

EDUCATION CODE

22714 Service credit under STRS; additional two years

44929 Service credit under STRS; additional two years

COURT DECISIONS

United Teacher of Los Angeles v. Los Angeles Unified School District (1994) 24 Cal.App. 4th 1510

Management Resources:

CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM PUBLICATIONS

Retirement Incentive Program, Frequently Asked Questions

WEB SITES

California State Teachers' Retirement System: <http://www.calstrs.com>

Administrative Regulation

Postretirement Employment

AR 4117.14 4317.14

Personnel

When necessary, the Governing Board may hire a qualified retired certificated individual who possesses the knowledge and experience needed to perform creditable service for the district as an employee, the employee of a third party, or an independent contractor/consultant, provided that all applicable restrictions specified by the California State Teachers' Retirement System (CalSTRS) are met. Applicable CalSTRS restrictions include, but are not limited to, a requirement that a retired member be paid compensation comparable to that for active employees for comparable duties and prohibitions against the hiring of a retired member within 180 days of his/her retirement and for the classified service, except as an aide pursuant to Education Code 45134. Additional restrictions and rules may apply to other employment situations, such as when CalSTRS retired members are employed as employees of third parties, independent contractors, or consultants. The Superintendent or designee should consult legal counsel when dealing with such employment situations. (Education Code 22119.5, 22164.5, 24214, 24214.5)

(cf. 3600 - Consultants)

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

(cf. 4112 - Appointment and Conditions of Employment)

Any retired member of the defined benefit program of CalSTRS who is hired by the district to perform retired member activities as defined pursuant to Education Code 22164.5 shall be paid at an annualized rate of pay that shall not be below the minimum or exceed the maximum paid to other district employees performing comparable duties. However, such a retired individual shall not make contributions to the CalSTRS retirement fund or accrue service credit based on compensation earned from the retired member activity. (Education Code 24214)

No retired member of the CalSTRS defined benefit program shall be hired by the district for at least 180 calendar days after his/her retirement from service, unless he/she has attained the normal retirement age and qualifies for an exemption to the 180-day waiting period. To seek this exemption, the Board shall, during the open session of a Board meeting, adopt a resolution which shall include the following information and findings: (Education Code 24214.5)

1. A statement expressing the Board's intent to seek an exemption to the 180-day waiting period
2. A description of the nature of the employment of the retiree
3. A finding that the retiree has reached the normal retirement age
4. A finding that the appointment of the retiree is necessary to fill a critically needed position before the 180-day waiting period has passed

5. A finding that the retired individual did not receive additional service credit pursuant to Education Code 22714 or 22715 or any financial inducement to retire. Financial inducement to retire shall include, but is not limited to, cash or any form of compensation or other payment directly or indirectly paid by any public employer to the retired individual before or after his/her retirement, if the individual retires for service on or before a specific date or range of dates established by the public employer on or before the date the inducement is offered

6. A finding that the retired individual's termination of employment with the district is not the basis for the need to acquire the services of the retired individual

The resolution shall not be adopted through the Board's consent agenda. (Education Code 24214.5)

(cf. 9320 - Meetings and Notices)

When employing a retired individual who is eligible for exemption from the 180-day waiting period, the Superintendent or designee shall submit all required documentation to substantiate eligibility for the exemption to CalSTRS before the retired member begins performing any retired member activities. The Superintendent or designee may contact

CalSTRS to request information as to whether the retired member qualifies for the exemption after 30 days of submitting the required documentation to CalSTRS. (Education Code 24214.5)

All CalSTRS retirees performing creditable service for the district shall be subject to the applicable CalSTRS earnings limit. Monies earned in excess of the limit may subject the CalSTRS retiree to a reduction in his/her retirement allowance. Compensation subject to the earnings limitation includes, but is not limited to, salary or wages, deferred compensation plans, purchase of an annuity contract, tax-deferred retirement plan or insurance program, and other plans or contributions when the cost is covered by a district. (Education Code 22119.5, 22164.5, 24214)

Whenever the district retains the services of a CalSTRS retiree as a district employee, employee of a third party, or an independent contractor, the Superintendent or designee shall: (Education Code 22461, 24214)

1. Advise the retired individual of the postretirement earnings limitation or employment restriction set forth in Education Code 22714, 24214, or 24214.5 or any other applicable law

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

2. Maintain accurate records of the retired individual's compensation and report it monthly to CalSTRS and the individual, regardless of the method of payment or the fund from which the payments are made

Legal Reference:

EDUCATION CODE

- 22119.5 Creditable service, definition
- 22131 Employer; employing agency, definition
- 22164.5 Retired member activities, definition
- 22461 Notice of earnings limitation
- 22714 Encouragement of retirement
- 22715 Additional service credit
- 22716 Unpaid services
- 24214 Creditable service by retiree
- 24214.5 Postretirement compensation limit; members below normal retirement age
- 26113 Creditable service, definition
- 35046 Consultancy contracts
- 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
- 45134 Age limits

CODE OF REGULATIONS, TITLE 5

- 27000-27009 Penalties and interests for late remittances and late and unacceptable reporting by employers

Management Resources:

WEB SITES

California State Teachers' Retirement System: <http://www.calstrs.com>

Board Policy

Resignation

BP 4117.2 4217.2, 4317.2

Personnel

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

The Board authorizes the Superintendent or designee to accept an employee's written resignation and to set its effective date. Once the 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 Board may agree that a resignation will be accepted at a mutually agreed upon date not later than two years beyond the close of the school year during which the resignation is received by the Board. (Education Code 44930, 45201)

(cf. 4117.7/4317.7- Employment Status Reports)

Legal Reference:

EDUCATION CODE

35161 Board delegation of any powers or duties

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

Board Policy

Personnel Reduction

BP 4117.3

Personnel

The Governing Board may reduce the number of probationary and permanent certificated employees when, in its opinion, any of the following conditions makes such reduction necessary:

1. Average daily attendance (ADA) in all of the schools in the district during the first six months of the school year has declined below the level for the same period in either of the previous two school years. (Education Code 44955)
2. A particular kind of service is to be reduced or discontinued not later than the beginning of the following school year. (Education Code 44955)
3. Attendance in the district will decline in the following year as a result of the termination of an interdistrict tuition agreement. (Education Code 44955)
4. An amendment of state law requires modification of the curriculum. (Education Code 44955)
5. During the time period between five days after the enactment of the Budget Act and August 15 of that fiscal year, the Board determines that the district's total revenue limit per ADA for the fiscal year of that Budget Act has not increased by at least two percent. (Education Code 44955.5)

Determination of the Order of Layoffs

When it is necessary to reduce the number of certificated employees for any of the reasons listed above, the services of employees shall be terminated in the inverse of the order in which they were employed by the district in probationary status, except as otherwise authorized by law. (Education Code 44844, 44955)

The Superintendent or designee shall maintain the seniority list for this purpose and shall make it available upon request.

Unless otherwise provided by law, a permanent employee shall have the right to be retained over a probationary employee or any employee with less seniority if the position is one for which he/she is certificated and competent to render service. (Education Code 44955)

(cf. 4112.2 - Certification)

(cf. 4112.22 - Staff Teaching English Learners)

(cf. 4112.23 - Special Education Staff)

(cf. 4113 - Assignment)

(cf. 4116 - Probationary/Permanent Status)

To determine the order of termination between employees who first rendered paid service on the same date, the Board shall rank order those employees solely on the basis of the needs of the district and students. Upon the request of an employee whose order of termination is to be determined based on such ranking, the Board shall furnish the employee, no later than five days prior to the commencement of the administrative hearing on the layoff, a written statement of the specific criteria used in determining the order of termination and the application of the criteria in ranking the employee relative to the other employees in the group. (Education Code 44955)

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

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

Notice and Hearing Rights

When it becomes necessary to reduce the number of permanent and/or probationary employees pursuant to Education Code 44955 as specified in items #1-4 above, the district shall give notice to the affected employees, no later than March 15, stating the reasons for the action and the employees' right to a hearing. The district shall adhere to the notice, hearing, and layoff procedures in Education Code 44949, 44955, and other applicable provisions of law.

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

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

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

Following the Board's decision, the Superintendent or designee shall give final notice, in the manner specified, to the affected employees before May 15 unless the parties agree otherwise in accordance with procedures required by law. (Education Code 44955)

When layoffs become necessary pursuant to Education Code 44955.5 as specified in item #5 above, layoff proceedings shall be carried out as required by law but in accordance with a schedule

of notice and hearing adopted by the Board. (Education Code 44955.5)

Reappointment

If the number of employees is increased or the discontinued service reestablished, permanent certificated employees shall have the right to reappointment, in order of seniority, for 39 months from the date of termination. Probationary certificated employees shall have the same right for 24 months after being terminated, subject to the prior reappointment rights of permanent employees. (Education Code 44846, 44956, 44957)

***Note: Education Code 44956 and 44957 grant priority for substitute service to employees who have been laid off pursuant to Education Code 44955, during the period of preferred right to reappointment, as provided below and in BP 4121 - Temporary/Substitute Personnel. Education Code 44957 gives permanent employees first priority for substitute service over probationary employees. However, Education Code 44918 and 44957 give probationary employees laid off pursuant to Education Code 44955 first rights to any vacant position in which they are qualified to serve over other employees whose right to a substitute position is derived from Education Code 44918 (i.e., substitute or temporary employees who become probationary employees after serving for at least 75 percent of the school days in a school year). ***

During the period of the preferred right to reappointment, permanent certificated employees shall, in the order of original employment, be offered first opportunity for substitute service during the absence of any employee who has been granted a leave of absence or who is temporarily absent from duty. Such substitute service may be terminated upon the return to duty of the other employee. Such substitute service shall not affect the retention of the employees' previous classification and rights. Probationary certificated employees shall have the same right to substitute service during the period of preferred right to reappointment to the extent required by law, subject to the rights of permanent certificated employees. (Education Code 44918, 44956, 44957)

(cf. 4121 - Temporary/Substitute Employees)

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

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:
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

UNEMPLOYMENT INSURANCE CODE

1089 Notification of unemployment insurance benefits

CODE OF REGULATIONS, TITLE 22

1089-1 Notification of unemployment insurance benefits

COURT DECISIONS

California Teachers Association v. Vallejo City Unified School District, (2007) 149 Cal.App.4th 135

Bakersfield Elementary Teachers Association v. Bakersfield City School District, (2006) 145 Cal.App.4th 1260

Cousins v. Weaverville Elementary School District, (1994) 24 Cal.App.4th 1846

Forker v. Board of Trustees, (1984) 160 Cal.App.3d 13

Moreland Teachers Assoc. v. Kurze, (1980) 109 Cal.App.3d 648

King v. Berkeley Unified School District, (1979) 89 Cal.App.3d 1016

Management Resources:

WEB SITES

CSBA: <http://www.csba.org>

Administrative Regulation

Termination Agreements

AR 4117.5 4217.5, 4317.5

Personnel

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

(cf. 1340 - Access to District Records)

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

(cf. 4112.61/4212.61/4312.61 - Employment References)

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

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

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

(cf. 2121 - Superintendent's Contract)

(cf. 4312.1 - Contracts)

Legal Reference:

CIVIL CODE

47 Privileged communication

GOVERNMENT CODE

53260-53264 Employment contracts

LABOR CODE

1198.5 Inspection of personnel files by employees

CODE OF REGULATIONS, TITLE 5

80303 Reports of dismissal, resignation and other terminations for cause

80332 Professional honesty in letters of employment recommendation

COURT DECISIONS

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

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

Administrative Regulation

Employment Status Reports

AR 4117.7 4317.7

Personnel

The Superintendent shall report to the Commission on Teacher Credentialing (CTC) any change in the employment status of a certificated employee who, while working in a position requiring a credential and as a result of an allegation of misconduct or while an allegation of misconduct is pending: (Education Code 44030.5, 44242.5; 5 CCR 80303)

1. Is dismissed or nonreelected

(cf. 4116 - Probationary/Permanent Status)

(cf. 4117.6 - Decision Not to Rehire)

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

2. Resigns

(cf. 4117.2/4217.2/4317.2 - Resignation)

3. Is suspended or placed on unpaid administrative leave for more than 10 days as a final adverse employment action

4. Retires

5. Is otherwise terminated by a decision not to employ or reemploy

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

(cf. 5141.4 - Child Abuse Prevention and Reporting)

This report is not required when the change in employment status is due solely to unsatisfactory performance pursuant to Education Code 44932 or a reduction in force pursuant to Education Code 44955-44958. (Education Code 44030.5, 44242.5; 5 CCR 80303)

(cf. 4115 - Evaluation/Supervision)

(cf. 4117.3 - Personnel Reduction)

When required, the report of a change in employment status shall be submitted not later than 30 days after the employment action. The report shall be made using a form provided by the CTC and shall include all known information about each alleged act of misconduct by the employee. The report shall contain the name and current address of the certificated employee, name of the district, last school or district assignment, an explanation of the allegation of misconduct or pending allegation of misconduct, current contact information for all persons who may have information relating to the alleged misconduct, and any and all documentation related to the case. (Education

Code 44030.5; 5 CCR 80303)

Upon a change in employment status as a result of alleged misconduct or while an allegation of misconduct is pending, the Superintendent shall, in writing, inform the employee of the contents of 5 CCR 80303. (5 CCR 80303)

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

Additional Reports of Employee Misconduct

The Superintendent or designee shall submit a report to the CTC, using a form provided by the CTC and attaching all relevant documents, whenever:

1. An employee, by complaint, information, or indictment filed in court, is charged with a "mandatory leave of absence offense," defined as a sex or drug offense specified in Education Code 44940. (Education Code 44242.5, 44940, 44940.5)

Not later than 10 days after receipt of such a complaint, information, or indictment regarding an employee, the Superintendent or designee shall forward a copy of the received documents to the CTC. In addition, he/she shall report to the CTC any action taken in connection with extending the employee's mandatory leave beyond the initial period. (Education Code 44940, 44940.5)

If the offense results in a change in employment status, the Superintendent shall submit an employment status report in addition to the report of the mandatory leave of absence offense.

2. An employee refuses, without good cause, to fulfill a valid employment contract, or departs from district service without the consent of the Superintendent or Governing Board. (Education Code 44242.5, 44420)

As appropriate, the Superintendent or designee also shall notify the CTC of any of the following:

1. A complaint filed with the district regarding a certificated employee's alleged sexual misconduct (Education Code 44242.5)

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

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

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

2. An employee's knowing and willful use of school records of student data in connection with, or in implicit or explicit attempts to recruit a student to be a customer for, any business owned by the certificated employee or in which the certificated employee is an employee (Education Code 44242.5, 44421.1)

(cf. 5125 - Student Records)

3. An employee's knowing and willful reporting of false fiscal expenditure data relative to the conduct of any educational program (Education Code 44242.5, 44421.5)

4. An employee's subversion or attempt to subvert any licensing examination or the administration of an examination (Education Code 44242.5, 44439)

Legal Reference:

EDUCATION CODE

44009 Conviction of specified crimes
44010 Sex offense, definitions
44011 Controlled substance offense, definitions
44030.5 Employment status reports
44225 Powers and duties of the CTC
44242.5 Reports and review of alleged misconduct
44420-44440 Adverse actions by CTC against credential holder
44932 Causes for dismissal
44940 Sex offenses and narcotic offenses; compulsory leave of absence
44940.5 Compulsory leave of absence
44955-44958 Reduction in force
CODE OF REGULATIONS, TITLE 5
80303 Reports of change in employment status, alleged misconduct
80304 Notice of sexual misconduct

Management Resources:

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

California's Laws and Rules Pertaining to the Discipline of Professional Certificated Personnel,
2013

WEB SITES

CSBA: <http://www.csba.org>

Commission on Teacher Credentialing: <http://www.ctc.ca.gov>

Board Policy

Dismissal/Suspension/Disciplinary Action

BP 4118

Personnel

The Governing Board expects all employees to perform their jobs satisfactorily, exhibit professional and appropriate conduct, and serve as positive role models both at school and in the community. A certificated employee may be disciplined for conduct or performance in accordance with law, the applicable collective bargaining agreement, Board policy, and administrative regulation.

(cf. 4000 - Concepts and Roles)
(cf. 4112.5/4212.5/4312.5 - Criminal Record Check)
(cf. 4119.21/4219.21/4319.21 - Professional Standards)
(cf. 4141/4241 - Collective Bargaining Agreement)

Disciplinary action shall be based on the particular facts and circumstances involved and the severity of the conduct or performance. Disciplinary actions may include, but are not limited to, verbal warnings, written warnings, reassignment, suspension, freezing or reduction of wages, compulsory leave, or dismissal.

(cf. 4114 - Transfers)

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

(cf. 1312.1 - Complaints Concerning District Employees)
(cf. 4030 - Nondiscrimination in Employment)
(cf. 4112.6/4212.6/4312.6 - Personnel Files)
(cf. 4119.1/4219.1/4319.1 - Civil and Legal Rights)
(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

Suspension/Dismissal Procedures

The Superintendent shall notify the Board whenever he/she believes that there is cause to suspend or dismiss an employee pursuant to Education Code 44932 or 44933.

When the Board finds that there is cause to suspend or dismiss an employee pursuant to Education Code 44932 or 44933, it may formulate a written statement of charges specifying instances of behavior and the acts or omissions constituting the charge, the statutes and rules that the employee is alleged to have violated when applicable, and the facts relevant to each charge. The Board shall also review any duly signed and verified written statement of charges filed by any other person. (Education Code 44934, 44934.1)

Based on the written statement of charges, the Board may, upon majority vote, give notice to the

employee of its intention to suspend or dismiss him/her at the expiration of 30 days from the date the notice is served. (Education Code 44934, 44934.1)

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

Prior to serving a suspension or dismissal notice that includes a charge of unsatisfactory performance, the district shall give the employee written notice of the unsatisfactory performance that specifies the nature of the unsatisfactory performance with such specific instances of behavior and with such particularity as to furnish the employee an opportunity to correct his/her faults and overcome the grounds for any unsatisfactory performance charges and, if applicable, that includes the evaluation made pursuant to Education Code 44660-44665. The written notice of the unsatisfactory performance shall be provided at least 90 days prior to the filing of the suspension or dismissal notice or prior to the last one-fourth of the school days in the year. (Education Code 44938)

(cf. 4115 - Evaluation/Supervision)

Prior to serving a suspension or dismissal notice that includes a charge of unprofessional conduct, the district shall give the employee written notice that describes the nature of the unprofessional conduct with such specific instances of behavior and with such particularity as to furnish the employee an opportunity to correct his/her faults and overcome the grounds for any unprofessional conduct charges and, if applicable, that includes the evaluation made pursuant to Education Code 44660-44665. The written notice of the unprofessional conduct shall be provided at least 45 days prior to the filing of the suspension or dismissal notice. (Education Code 44938)

Except for notices that only include charges of unsatisfactory performance, the written suspension or dismissal notice may be served at any time of year. Such notice shall be served upon the employee personally if given outside of the instructional year or, if given during the instructional year, may be served personally or by registered mail to the employee's last known address. Notices with a charge of unsatisfactory performance shall be given only during the instructional year of the school site where the employee is physically employed, and may be served personally or by registered mail to the employee's last known address. (Education Code 44936)

If an employee has been served notice and demands a hearing pursuant to Government Code 11505 and 11506, the Board shall either rescind its action or schedule a hearing on the matter. (Education Code 44941, 44941.1, 44943, 44944)

Pending suspension or dismissal proceedings for an employee who is charged with egregious misconduct, immoral conduct, conviction of a felony or of any crime involving moral turpitude, incompetency due to mental disability, or willful refusal to perform regular assignments without reasonable cause as prescribed by district rules and regulations, the Board may, if it deems it necessary, immediately suspend the employee from his/her duties. If the employee files a motion with the Office of Administrative Hearings for immediate reversal of the suspension based on a cause other than egregious misconduct, the Board may file a written response before or at the time of the hearing. (Education Code 44939, 44939.1, 44940)

When a suspension or dismissal hearing is to be conducted by a Commission on Professional Competence, the Board shall, no later than 45 days before the date set for the hearing, select one person with a currently valid credential to serve on the Commission. The appointee shall not be an employee of the district and shall have at least three years' experience within the past 10 years at the same grade span or assignment as the employee, as defined in Education Code 44944. (Education Code 44944)

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
44929.21 Notice of reelection decision; districts with 250 ADA or more
44929.23 Reelection and dismissal of probationary employees; districts with ADA less than 250
44930-44988 Resignations, dismissal, and 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

1028 Advocacy of communism
3543.2 Scope of representation
11505-11506 Hearing

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
11165.2-11165.6 Child abuse or neglect; definitions

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

Morrison v. State Board of Education (1969) 1 Cal.3d 214

Management Resources:

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

California's Laws and Rules Pertaining to the Discipline of Professional Certificated Personnel,
2007

WEB SITES

CSBA: <http://www.csba.org>

Commission on Teacher Credentialing: <http://www.ctc.ca.gov>

Administrative Regulation

Dismissal/Suspension/Disciplinary Action

AR 4118

Personnel

Causes for Suspension or Dismissal

A certificated employee with permanent status may be suspended without pay or dismissed only for one or more of the following causes: (Education Code 44932)

1. Immoral conduct including, but not limited to, egregious misconduct that is the basis for a sex offense or controlled substance offense described in Education Code 44010 or 44011 or child abuse and neglect as described in Penal Code 11165.2-11165.6
2. Unprofessional conduct
3. Commission, aiding, or advocating the commission of acts of criminal syndicalism
4. Dishonesty
5. Unsatisfactory performance
6. Evident unfitness for service
7. Physical or mental condition unfitting the employee to instruct or associate with children
(cf. 4112.4/4212.4/4312.4 - Health Examinations)
8. Persistent violation of or refusal to obey the school laws or regulations of the state or district
9. Conviction of a felony or of any crime involving moral turpitude
10. Violation of Education Code 51530 or Government Code 1028 (advocacy of communism)
11. Alcoholism or other drug abuse that makes the employee unfit to instruct or associate with children

(cf. 4115 - Evaluation/Supervision)

An employee may be suspended or dismissed on grounds of unprofessional conduct consisting of acts or omissions not listed above if the charge specifies instances of behavior deemed to constitute unprofessional conduct. (Education Code 44933)

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)

Suspension/Dismissal of Permanent Employees

When a permanent certificated employee is charged with one or more of the offenses specified in the section "Causes for Suspension or Dismissal" above, the following procedures shall apply:

1. The person preparing a written statement of charges that there is cause to suspend or dismiss an employee shall submit the signed statement to the Governing Board. (Education Code 44934, 44934.1)
2. Upon receiving notice of the Board's intent to suspend or dismiss him/her, the employee may request a hearing on the matter. The hearing shall be conducted by the Commission on Professional Competence, except that any case involving only egregious misconduct shall be heard instead by an administrative law judge and, in any other case, the hearing may be conducted by an administrative law judge when both the district and employee so stipulate. (Education Code 44943, 44944, 44944.05, 44944.1, 44944.3)
3. Except when an employee is charged solely with egregious misconduct, the district may amend the charges less than 90 days before the hearing only upon showing of good cause and upon approval of the administrative law judge. (Education Code 44934)
4. The employee shall be suspended or dismissed when the Commission on Professional Competence or administrative law judge has issued its decision supporting suspension or dismissal or, if the employee did not request a hearing, at the expiration of 30 days after service of the notice of intent to suspend or dismiss. (Education Code 44941, 44943, 44944)

The Superintendent or designee shall notify the Commission on Teacher Credentialing when the employment status of a certificated employee has been changed as a result of alleged misconduct or while an allegation of misconduct is pending. (Education Code 44030.5, 44242.5, 44940; 5 CCR 80303)

(cf. 4117.7/4317.7 - Employment Status Reports)

Suspension/Dismissal of Probationary Employees

The district may choose not to rehire probationary employees for the following school year without giving a statement of reasons provided that it is done in accordance with AR 4117.6 -Decision Not to Rehire and proper notice is provided by March 15. (Education Code 44929.21, 44929.23)
(cf. 4116 - Probationary/Permanent Status)

(cf. 4117.6 - Decision Not to Rehire)

During the school year, probationary employees may be dismissed only for one or more of the causes listed in items #1-11 in the section "Causes for Suspension or Dismissal" above.

Whenever a probationary employee is so charged, dismissal procedures shall be those set forth in Education Code 44934 and 44934.1 as described in the section "Suspension/Dismissal of Permanent Employee" above.

Compulsory Leave of Absence

Upon being informed by law enforcement that a certificated employee has been charged with a "mandatory leave of absence offense," the 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. Violation or attempted violation of Penal Code 187 (murder)
3. 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

If an employee is charged with an offense that falls into both the mandatory and optional leave of absence definitions, the offense shall be treated as a mandatory leave of absence offense. (Education Code 44940)

An employee's compulsory leave for a mandatory or optional leave of absence offense may extend for not more than 10 days after the entry of judgment in the criminal proceedings. However, the compulsory leave may be extended if the Board gives 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)

During the period of compulsory leave, the employee shall be compensated in accordance with Education Code 44940.5.

Upon receipt of telephone or electronic notification from the Department of Justice that a current temporary, substitute, or probationary employee serving before March 15 of his/her second probationary year has been convicted of a violent or serious felony, the Superintendent or designee shall immediately place the employee on leave without pay. Upon receipt of electronic notification of the conviction from the Department of Justice, such employee shall be automatically terminated and without regard to any other termination procedure. (Education Code 44830.1)
(cf. 4112.5/4212.5/4312.5 - Criminal Record Check)

Board Policy

Sexual Harassment

BP 4119.11 4219.11, 4319.11

Personnel

The Governing Board is committed to providing a safe work environment that is free of harassment and intimidation. The Board prohibits sexual harassment against district employees and retaliatory behavior or action against any person who complains, testifies, or otherwise participates in the complaint process established for the purpose of this policy.

Sexual harassment includes, but is not limited to, harassment that is based on the gender, gender identity, gender expression, or sexual orientation of the victim.

This policy shall apply to all district employees and to other persons on district property or with some employment relationship with the district, such as interns, volunteers, contractors, and job applicants.

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 4030 - Nondiscrimination in Employment)

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

(cf. 4117.7/4317.7 - Employment Status Reports)
(cf. 4118 - Dismissal/Suspension/Disciplinary Action)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

The 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 district's sexual harassment policy to employees and others to whom the policy may apply

(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

The Superintendent or designee shall periodically evaluate the effectiveness of the district's strategies to prevent and address harassment. Such evaluation may involve conducting regular anonymous employee surveys to assess whether harassment is occurring or is perceived to be tolerated, partnering with researchers or other agencies with the needed expertise to evaluate the district's prevention strategies, and using any other effective tool for receiving feedback on systems and/or processes. As necessary, changes shall be made to the harassment policy, complaint procedures, or training.

Sexual Harassment Reports and Complaints

Any district employee who feels that he/she has been sexually harassed in the performance of his/her district responsibilities or who has knowledge of any incident of sexual harassment by or against another employee shall immediately report the incident to his/her direct supervisor, another supervisor, the district's coordinator for nondiscrimination, the Superintendent, or, if available, a complaint hotline or an ombudsman. A supervisor or administrator who receives a harassment complaint shall promptly notify the coordinator.

Complaints of sexual harassment shall be filed and investigated in accordance with the complaint procedure specified in AR 4030 - Nondiscrimination in Employment. An employee may bypass his/her supervisor in filing a complaint where the supervisor is the subject of the complaint.

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. (2 CCR 11023)

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 Sexual harassment; distribution of information

12950.1 Sexual harassment training

LABOR CODE

1101 Political activities of employees

1102.1 Discrimination: sexual orientation

CODE OF REGULATIONS, TITLE 2

11009 Employment discrimination

11021 Retaliation

11023 Harassment and discrimination prevention and correction

11024 Sexual harassment training and education

11034 Terms, conditions, and privileges of employment

CODE OF REGULATIONS, TITLE 5

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

financial assistance

UNITED STATES CODE, TITLE 20

1681-1688 Title IX prohibition against discrimination

UNITED STATES CODE, TITLE 42

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

CODE OF FEDERAL REGULATIONS, TITLE 34

106.1-106.9 Nondiscrimination on the basis of sex in education programs or activities

106.51-106.61 Nondiscrimination on the basis of sex in employment in education program or activities

COURT DECISIONS

Department of Health Services v. Superior Court of California, (2003) 31 Cal.4th 1026

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

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

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

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

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

Management Resources:

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONS

Promising Practices for Preventing Harassment, November 2017

WEB SITES

California Department of Fair Employment and Housing: <http://www.dfeh.ca.gov>

Equal Employment Opportunity Commission: <http://www.eeoc.gov>

U.S. Department of Education, Office for Civil Rights:

<http://www.ed.gov/about/offices/list/ocr/index.html>

Administrative Regulation

Sexual Harassment

AR 4119.11 4219.11, 4319.11

Personnel

This administrative regulation shall apply to all allegations of sexual harassment involving employees, interns, volunteers, and job applicants, but shall not be used to resolve any complaint by or against a student.

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; Government Code 12940; 2 CCR 11034)

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 the conduct is used as the basis for an employment decision affecting the individual.
3. Submission to or rejection of the conduct is used as the basis for any decision affecting the individual regarding benefits, services, honors, programs, or activities available at or through the district.

Prohibited sexual harassment also includes conduct which, regardless of whether or not it is motivated by sexual desire, is so severe or pervasive as to unreasonably interfere with the victim's work performance or create an intimidating, hostile, or offensive work environment.

Examples of actions that might constitute sexual harassment in the work or educational setting, whether committed by a supervisor, a co-worker, or a non-employee, 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

Training

The Superintendent or designee shall ensure that all employees receive training regarding the district's sexual harassment policies when hired and periodically thereafter. The training shall include how to recognize prohibited or harassing conduct, the procedures for reporting and/or filing complaints involving an employee, employees' duty to use the district's complaint procedures, and employee obligations when a sexual harassment report involving a student is made to the employee. The training shall also include information about processes for employees to informally share or obtain information about harassment without filing a complaint.

(cf. 1312.3 - Uniform Complaint Procedures)
(cf. 4030 - Nondiscrimination in Employment)
(cf. 5145.7 - Sexual Harassment)

Every two years, the Superintendent 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 such newly hired or promoted employees shall receive training within six months of their assumption of the new position. (Government Code 12950.1)

A supervisory employee is any employee having the authority, in the interest of the district, to hire, transfer, suspend, lay off, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct them, adjust their grievances, or effectively recommend such action, when the exercise of the authority is not of a merely routine or clerical nature, but requires the use of independent judgment. (Government Code 12926)

(cf. 4300 - Administrative and Supervisory Personnel)

The district's sexual harassment training and education program for supervisory employees shall be aimed at assisting them in preventing and effectively responding to incidents of sexual harassment, as well as implementing mechanisms to promptly address and correct wrongful behavior. The training shall include, but is not limited to, the following: (Government Code 12950.1; 2 CCR 11024)

1. Information and practical guidance regarding federal and state laws on the prohibition, prevention, and correction of sexual harassment, the remedies available to sexual harassment victims in civil actions, and potential district and/or individual exposure or liability
2. The types of conduct that constitute sexual harassment and practical examples which illustrate sexual harassment, discrimination, and retaliation using training modalities such as role plays, case studies, and group discussions, based on factual scenarios taken from case law, news and media accounts, and hypotheticals based on workplace situations and other sources
3. A supervisor's obligation to report sexual harassment, discrimination, and retaliation of which he/she becomes aware and what to do if the supervisor himself/herself is personally accused of harassment

4. Strategies for preventing harassment, discrimination, and retaliation and appropriate steps to ensure that remedial measures are taken to correct harassing behavior, including an effective process for investigation of a complaint

5. The essential elements of the district's anti-harassment policy, including the limited confidentiality of the complaint process and resources for victims of unlawful sexual harassment, such as to whom they should report any alleged sexual harassment, and how to use the policy if a harassment complaint is filed

6. A copy of the district's sexual harassment policy and administrative regulation, which each participant shall acknowledge in writing that he/she has received

7. The definition and prevention of abusive conduct that addresses the use of derogatory remarks, insults, or epithets, other verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, and the gratuitous sabotage or undermining of a person's work performance

Note: Item #8 below is required pursuant to Government Code 12950.1, as amended by SB 396 (Ch. 858, Statutes of 2017).

8. Practical examples of harassment based on gender identity, gender expression, and sexual orientation

The Superintendent or designee shall retain for at least two years the records of any training provided to supervisory employees. Such records shall include the names of trained employees, date of the training, the type of training, and the name of the training provider. (2 CCR 11024)

Notifications

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

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

2. Be provided to every district employee 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 district publication that sets forth the school's or district's comprehensive rules, regulations, procedures, and standards of conduct

All employees shall receive a copy of an information sheet prepared by the California Department

of Fair Employment and Housing (DFEH) or the district that contains, at a minimum, components on: (Government Code 12950)

1. The illegality of sexual harassment
2. The definition of sexual harassment under applicable state and federal law
3. A description of sexual harassment, with examples
4. The district's complaint process available to the employee
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 11021 for opposing harassment prohibited by law or for filing a complaint with or otherwise participating in an investigation, proceeding, or hearing conducted by DFEH and the EEOC

In addition, the district shall post, in a prominent and accessible location, the DFEH poster on discrimination in employment and the illegality of sexual harassment and the DFEH poster regarding transgender rights. (Government Code 12950)