

**TEMPORARY/SUBSTITUTE PERSONNEL**

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

**Hiring**

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

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

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

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

**Classification**

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

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

To address the need for additional certificated employees when regular district employees are absent due to leaves or long-term illness, the Board may classify a teacher who is employed for at least one semester and up to one complete school year as a temporary employee. Any person whose service begins in the second semester and before March 15 may be classified as a temporary employee even if employed for less than a semester. The Board shall determine the number of persons who shall be so employed, which shall not exceed the identified need based on the absence of regular employees. (Education Code 44920)

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

1. Serve from day to day during the first three months of any school term to teach temporary classes which shall not exist after that time, or perform any other duties which do not last longer than the first three months of any school term (Education Code 44919)

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2. Teach in special day and evening classes for adults or in schools of migratory population for not more than four months of any school term (Education Code 44919)
3. Serve in a limited assignment supervising student athletic activities provided such assignments have first been made available to teachers presently employed in the district (Education Code 44919)
4. Serve in a position for a period not to exceed 20 working days in order to prevent the stoppage of district business during an emergency when persons are not immediately available for probationary classification (Education Code 44919)
5. Serve only for the first semester because the district expects a reduction in student enrollment during the second semester due to mid-year graduations (Education Code 44921)

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

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

**Salary and Benefits**

The Board shall adopt and make public a salary schedule setting the daily or pay period rate(s) for substitute employees for all categories or classes of certificated employees of the district. (Education Code 44977, 45030)

Temporary employees who meet eligibility requirements consistent with locally bargained agreements may elect to participate in the health and welfare plans or other fringe benefits of the district.

Substitute employees shall not participate in the health and welfare plans or other fringe benefits of the district.

**Non-bargaining Unit Employees Paid Sick Leave**

The Governing Board will provide paid sick leave for eligible non-bargaining unit employees by using the accrual model or advance model in compliance with AB 1522 – Healthy Workplace, Health Families Act of 2014 as amended. The Superintendent or designee has the right to change the process and method used. One of the following methods will be used:

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1. Employees who have worked for the District for 30 days shall be entitled to accrue paid sick leave of one (1) hour for each thirty (30) hours worked. Such employees shall be entitled to accrue up to forty-eight (48) hours or six (6) days each year but may carry over to the next year no more than twenty-four (24) hours or three (3) days; or
2. The District shall advance to eligible non-bargaining unit employees twenty-four (24) hours or three (3) days of paid sick leave each year. Such paid sick leave shall not accumulate or carry over to a subsequent year.

Paid sick leave shall be provided to eligible non-bargaining unit employees each year, which shall be defined as a fiscal year, July 1 through June 30, inclusive. An eligible non-bargaining unit employee shall be entitled to use no more than twenty-four (24) hours or three (3) days of paid sick leave in any fiscal year.

Each non-bargaining unit employment category will have specific procedures regarding paid sick leave. Such categories may include; Substitute Teachers, Substitute Classified Employees, Walk-on Coaches, Student Workers, Workability Students and any other employee not covered by a bargaining unit agreement.

An eligible non-bargaining unit employee shall not be entitled to use paid sick leave under this section until he or she has worked for the District ninety (90) or more days.

The District may determine a reasonable minimum increment each category will use when requesting paid sick leave, not to exceed two (2) hours.

The District will pay the employee at his or her current hourly wage, not later than the next regular payroll period after the leave was taken and form is submitted to Human Resources for processing. The Superintendent or designee shall develop appropriate procedures to ensure that all non-bargaining unit employees are receiving appropriate paid sick leave and notifications.

Copies of all paid leave records will be kept confidential and stored and maintained in the Human Resources Development and Fiscal Services Department.

Any temporary or substitute employee who works for 30 or more days within a year of his/her employment shall be credited with 24 hours of paid sick leave for that year. Unused sick leave shall not carry over to the following year of employment. (Labor Code 246)

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

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

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No employee shall be denied the right to use accrued sick days and the district shall not in any manner discriminate or retaliate against any employee for using or attempting to use sick leave, filing a complaint with the Labor Commissioner, or alleging district violation of Labor Code 245-249. The Superintendent or designee shall display a poster containing required information, provide notice to eligible employees of their sick leave rights, keep of records of employees' use of sick leave for three years, and comply with other requirements specified in Labor Code 245-249 and in AR 4161.1/4361.1 - Personal Illness/Injury Leave.

**Release from Employment/Dismissal**

The Board may dismiss a substitute employee at any time at its discretion. (Education Code 44953)

The Board may release a temporary employee at its discretion if the employee has served less than 75 percent of the number of days the regular schools of the district are maintained during one school year. After serving 75 percent of the number of days that district schools are maintained during one school year, a temporary employee may be released as long as he/she is notified, before the last day of June, of the district's decision not to reelect him/her for the following school year. (Education Code 37200, 44954)

**Reemployment as a Probationary Employee**

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

Vacant position means a position in which the employee is qualified to serve and which is not filled by a permanent or probationary employee. It shall not include a position which would be filled by a permanent or probationary employee except for the fact that such employee is on leave. (Education Code 44920, 44921)

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

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

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he/she is certified. Preference for available positions shall be determined by the Board as prescribed by Education Code 44845 and 44846. (Education Code 44921)

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

***Legal Reference:***

EDUCATION CODE

- 22455.5 Provision of retirement plan information to potential members*
- 22515 Irrevocable election to join retirement plan*
- 37200 School calendar*
- 44252.5 State basic skills assessment required for certificated personnel*
- 44300 Emergency teaching or specialist permits*
- 44830 Employment of certificated persons; requirements of proficiency in basic skills*
- 44839.5 Employment of retirant*
- 44845 Date of employment*
- 44846 Criteria for reemployment preferences*
- 44909 Employees providing services through categorically funded programs*
- 44914 Substitute and probationary employment computation for classification as permanent employee*
- 44915 Classification of probationary employees*
- 44916 Time of classification; statement of employment status*
- 44917 Classification of substitute employees*
- 44918 Substitute or temporary employee deemed probationary employee; reemployment rights*
- 44919 Classification of temporary employees*
- 44920 Employment of certain temporary employees; classifications*
- 44921 Employment of temporary employees; reemployment rights (unified and high school districts)*
- 44953 Dismissal of substitute employees*
- 44954 Release of temporary employees*
- 44955 Layoff of permanent and probationary employees*
- 44956 Rights of laid-off permanent employees to substitute positions*
- 44957 Rights of laid-off probationary employees to substitute positions*
- 44977 Salary schedule for substitute employees*
- 45030 Substitutes*
- 45041 Computation of salary*
- 45042 Alternative method of computation for less than one school year*
- 45043 Compensation for employment beginning in the second semester*
- 56060-56063 Substitute teachers in special education*

GOVERNMENT CODE

- 3540.1 Educational Employment Relations Act, definitions*

LABOR CODE

- 220 Sections inapplicable to public employees*
- 230 Jury duty; legal actions by domestic violence, sexual assault and stalking victims, right to time off*
- 230.1 Employers with 25 or more employees; domestic violence, sexual assault and stalking victims, right to time off*
- 233 Illness of child, parent, spouse or domestic partner*
- 234 Absence control policy*
- 245-249 Healthy Workplaces, Healthy Families Act of 2014*

**TEMPORARY/SUBSTITUTE PERSONNEL**

*CODE OF REGULATIONS, TITLE 5*

*5502 Filing of notice of physical examination for employment of retired person*

*5503 Physical examination for employment of retired persons*

*5590 Temporary athletic team coach*

*80025-80025.5 Emergency substitute teaching permits*

*COURT DECISIONS*

*McIntyre v. Sonoma Valley Unified School District (2012) 206 Cal.App.4th 170*

*Stockton Teachers Association CTA/NEA v. Stockton Unified School District (2012) 204 Cal.App.4th 446*

*Neily v. Manhattan Beach Unified School District, (2011) 192 Cal.App.4th 187*

*California Teachers Association v. Vallejo City Unified School District, (2007) 149 Cal.App.4th 135*

*Bakersfield Elementary Teachers Assn. v. Bakersfield City School District, (2006) 145 Cal.App.4th 1260, 1277*

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

**Management Resources:**

*WEB SITES*

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

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