

**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.

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.

**CLASSIFICATION**

At the time of initial employment and each July thereafter, the Board shall classify substitute and temporary employees as such.

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

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.

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

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
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
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
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

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.

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.

#### **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.

Temporary employees shall participate in the health and welfare plans or other fringe benefits of the district.

#### **PAID SICK LEAVE**

Except for a retired annuitant who is not reinstated to the retirement system, any temporary or substitute employee who works for 30 or more days within a year of his/her employment shall be entitled to one hour of paid sick leave for every 30 hours worked. Accrued paid sick days shall carry over to the following year of employment, up to a maximum of 48 hours.

Any temporary or substitute employee may begin to use accrued paid sick days on the 90th day of his/her employment, after which he/she may use the sick days as they are accrued.

A temporary or substitute employee may use accrued sick leave for absences due to:

1. His/her own need or the need of a family member, as defined in Labor Code 245.5, for the diagnosis, care, or treatment of an existing health condition or for preventive care

2. Need of the employee to obtain or seek any relief or medical attention specified in Labor Code 230(c) and 230.1(a) for the health, safety, or welfare of the employee, or his/her child, when the employee has been a victim of domestic violence, sexual assault, or stalking

No employee shall be denied the right to use accrued sick days and the district shall not in any manner discriminate or retaliate against an employee for using or attempting to use sick leave, filing a complaint with the Labor Commissioner, or alleging district violation of Labor Code 245-249. The Superintendent or designee shall display a poster containing required information, provide notice to eligible employees of their sick leave rights, keep 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.

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.

#### **REEMPLOYMENT AS A PROBATIONARY EMPLOYEE**

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.

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.

#### **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

**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>