

CONCEPTS AND ROLES

The Governing Board believes that the academic achievement, personal growth, and well-being of district students, and the success of district programs, hinges on district 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 Board of Trustees recognizes that every employee has a role 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 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.

The district's relationship with its collective bargaining units is critical to enhancing organizational effectiveness and improving student outcomes. Whenever possible, it is the intent of the Board that the district communicate and collaborate regularly with the representatives of collective bargaining units to resolve conflict.

As the legal representative of the district in negotiations with employee representatives, the Board shall set goals and guidelines for collective bargaining and take action on any tentative agreement. Additionally, the Board, in conjunction with the Superintendent, shall select the district's bargaining team and maintain communications with the negotiating team during the bargaining process.

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. Additionally, 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 responsibility for overseeing district personnel. 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 - Recruitment and Selection)

(cf. 4211 - Recruitment and Selection)

CONCEPTS AND ROLES (continued)

The Superintendent or designee shall assign and supervise the work of all employees and shall evaluate their work in accordance with all applicable collective bargaining agreements and any accountability systems approved by the Board. Additionally, the Superintendent or designee 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 - Suspension/Disciplinary Action)

(cf. 4215 - Evaluation/Supervision)

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

(cf. 4315 - Evaluation/Supervision)

The Superintendent or designee shall establish procedures whereby the Superintendent or designee 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

DRUG AND ALCOHOL-FREE WORKPLACE

The Board of Trustees 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 701)

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 701)

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 701)

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 701)

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. 4117.4 - Dismissal)

(cf. 4118 - Suspension/Disciplinary Action)

(cf. 4212 - Appointment and Conditions of Employment)

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

DRUG AND ALCOHOL-FREE WORKPLACE (continued)

Drug-Free Awareness Program

The Superintendent or designee shall establish a drug-free awareness program to inform employees about: (Government Code 8355; 41 USC 701)

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

701-707 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 Alcohol and Drug Programs: <http://www.adp.ca.gov>

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

U.S. Department of Labor: <http://www.dol.gov>

NONDISCRIMINATION IN EMPLOYMENT

The Board of Trustees is determined to provide a safe, positive environment where all district employees are assured of full and equal employment access and opportunities, protection from harassment and intimidation, and freedom from any fear of reprisal or retribution for asserting their employment rights in accordance with law. For purposes of this policy and accompanying administrative regulation, employees include interns, volunteers, contractors, job applicants, and other persons with an employment relationship with the district.

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 one, or a combination of two or more, protected characteristics which include, but may not be limited to, the employee's actual or perceived race or ethnicity, color, ancestry, ethnic group identification, nationality, national origin, immigration status, sex, sexual orientation, sex stereotypes, gender, gender identity, gender expression, religion, religious creed, age, disability, medical condition, genetic information, pregnancy, false pregnancy, childbirth, termination of pregnancy, or related conditions or recovery, reproductive health decision-making, breastfeeding or related medical conditions, and parental, marital, and family status, or association with a person or group with one or more of these actual or perceived characteristics.

The district shall not inquire into any employee's immigration status nor discriminate against an employee on the basis of immigration status, unless there is clear and convincing evidence that such an inquiry is necessary to comply with federal immigration law. (2 CCR 11028)

In addition, unless otherwise provided for in law, the district may not discriminate against an employee in any term or condition of employment, or otherwise penalize a person, including termination, based on the person's use of cannabis off the job and away from the workplace, or on a drug screening which finds that the person has nonpsychoactive cannabis metabolites in the person's hair, blood, urine, or other bodily fluid. However, the district retains the right to maintain drug-free schools or prohibit employees from possessing, being impaired by, or using cannabis while on the job. (Government Code 12954)

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. Hiring, compensation, terms, conditions, and other privileges of employment
2. Taking adverse employment actions such as termination or denial of employment, promotion, job assignment, or training

NONDISCRIMINATION IN EMPLOYMENT (continued)

3. Unwelcome conduct, whether verbal, physical, or visual, that is offensive and 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 employee'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 one, or a combination of two or more protected characteristics, which include, but may not be limited to, an employee's pregnancy, childbirth, breastfeeding, or any related medical condition, or on an employee's gender, gender expression, gender identity, or sexual orientation
 - b. Religious creed discrimination based on an employee's religious belief, observance, and practice, including 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. Requiring medical or psychological examination of a job applicant or making 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
 - d. 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 who has requested such accommodations in order to determine the effective reasonable accommodations, if any, to be provided to the employee
 - e. Requiring an applicant or employee to disclose information relating to the employee's reproductive health decision-making
 - f. Including a statement in a job advertisement, posting, application, or other material that an applicant is required to have a driver's license, unless the district reasonably expects driving to be one of the job functions for the position and reasonably believes that satisfying the job function using an alternative form of transportation would not be comparable in travel time or cost to the district

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, reports an incident, testifies, assists, or in any way participates in the district's complaint process pursuant to this policy. No employee who

NONDISCRIMINATION IN EMPLOYMENT (continued)

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; 2 CCR 11028)

No employee shall, in exchange for a raise or bonus or as a condition of employment or continued employment, be required to sign a release of the employee's claim or right to file a claim against the district or a nondisparagement agreement or other document that has the purpose or effect of preventing the employee from disclosing information about harassment, discrimination, or other unlawful acts in the workplace, including any conduct that the employee has reasonable cause to believe is unlawful. (Government Code 12964.5)

Any supervisory or management employee who observes or has knowledge of an incident of prohibited discrimination or harassment, including harassment of an employee by a nonemployee, shall report the incident to the Superintendent or designated district coordinator within one workday. All other employees shall report such incidents to their supervisor or designated district coordinator within one workday.

The Superintendent or designee shall use all appropriate means to reinforce the district's nondiscrimination policy, including providing training and information to employees about how to recognize harassment, discrimination, or other prohibited 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.

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.

Complaints concerning employment discrimination, harassment, or retaliation shall immediately be investigated in accordance with procedures specified in the accompanying administrative regulation. However, complaints alleging sex discrimination under Title IX shall be investigated and resolved in accordance with the procedures specified in Administrative Regulation 4119.12/4219.12/4319.12– Title IX Sexual Harassment Complaint Procedures.

The district shall maintain and preserve all applications, personnel, membership, or employment referral records and files for at least four years after the records are initially created or received or, for an applicant or a terminated employee, for four years after the date the employment action was taken. However, when the district is notified that a complaint has been filed with the California Civil Rights Department, records related to the employee involved shall be maintained and preserved until the later of the first date after the time for filing a civil action has expired or the first date after the complaint has been fully and finally disposed of and all administrative proceedings, civil actions, appeals, or related proceedings have been terminated. (Government Code 12946)

NONDISCRIMINATION IN EMPLOYMENT (continued)

State	Description
2 CCR 11006-11086	Discrimination in employment
2 CCR 11023	Harassment and discrimination prevention and correction
2 CCR 11024	Required training and education on harassment based on sex, gender identity and expression, and sexual orientation
2 CCR 11027-11028	National origin and ancestry discrimination
5 CCR 4900-4965	Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance
CA Constitution Article 1, Section 1	Inalienable rights
Civ. Code 51.7	Freedom from violence or intimidation
Ed. Code 200-262.4	Prohibition of discrimination
Gov. Code 11135	Prohibition of discrimination
Gov. Code 11138	Rules and regulations
Gov. Code 12900-12996	Fair Employment and Housing Act
Gov. Code 12940-12952	Unlawful employment practices
Gov. Code 12960-12976	Unlawful employment practices; complaints
Pen. Code 422.56	Definitions, hate crimes
20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
28 CFR 35.101-35.190	Americans with Disabilities Act
29 USC 621-634	Age Discrimination in Employment Act
29 USC 794	Rehabilitation Act of 1973; Section 504
34 CFR 100.6	Compliance information
34 CFR 104.7	Designation of responsible employee for Section 504
34 CFR 104.8	Notice
34 CFR 106.8	Designation of responsible employee and adoption of grievance procedures
34 CFR 106.9	Severability
34 CFR 110.1-110.39	Nondiscrimination on the basis of age
42 USC 12101-12213	Americans with Disabilities Act
42 USC 2000d-2000d-7	Title VI, Civil Rights Act of 1964
42 USC 2000e-2000e-17	Title VII, Civil Rights Act of 1964, as amended
42 USC 2000ff-2000ff-11	Genetic Information Nondiscrimination Act of 2008
42 USC 2000h-2-2000h-6	Title IX of the Civil Rights Act of 1964
42 USC 6101-6107	Age discrimination in federally assisted programs
U.S. Constitution Amendment 1,	Free exercise, free speech, and establishment clauses
Management Resources	Description
CA Dept of Fair Employment and Housing Publication	California Law Prohibits Workplace Discrimination and Harassment
CA Dept of Fair Employment and Housing Publication	Transgender Rights in the Workplace
CA Dept of Fair Employment and Housing Publication	Workplace Harassment Guide for California Employers
CA Dept of Fair Employment and Housing Publication	Your Rights and Obligations as a Pregnant Employee
Court Decision	Kennedy v. Bremerton (2022) 142 S.Ct. 2407
Court Decision	Shephard v. Loyola Marymount, (2002)
	Cal.Appl 4th 837
Court Decision	Thomson v. North American Stainless LP, (2011)

BIGGS UNIFIED SCHOOL DISTRICT

Biggs, California

Adopted: January 4, 2012

Last Revised: October 12, 2022

Revised: April 19, 2023

Revised: July, 2024

Revised: June 25, 2025

NONDISCRIMINATION IN EMPLOYMENT

All complaints alleging discrimination in employment, as defined in the accompanying Board policy, shall be investigated and resolved in accordance with procedures specified in this administrative regulation. However, complaints alleging sexual harassment under Title IX shall be investigated and resolved in accordance with the procedures specified in Administrative Regulation 4119.12/4219.12/4319.12 – Title IX Sexual Harassment Complaint Procedures.

(cf. [0410](#) - *Nondiscrimination in District Programs and Activities*)

(cf. [1240](#) - *Volunteer Assistance*)

(cf. [3312](#) - *Contracts*)

(cf. [3600](#) - *Consultants*)

(cf. [4032](#) - *Reasonable Accommodation*)

The district designates the position identified below as its coordinator for nondiscrimination in employment (coordinator) to organize and manage 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:

HR Director
300 B STREET
BIGGS, CA 95917
530-868-1281

Measures to Prevent Discrimination

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

1. Display in a prominent and accessible location at every work site where the district has employees, and post electronically in a conspicuous location on computers for employee use, up-to-date California Civil Rights Department (CRD) posters on the prohibition of workplace discrimination and harassment, the rights of transgender employees, and the rights and obligations of employees who are pregnant, have a related medical condition, or are recovering from childbirth (Government Code [12950](#); 2 CCR [11013](#), [11023](#), [11049](#))

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

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

2. Publicize the district's nondiscrimination policy and regulation, including the complaint procedures and the coordinator's contact information, by: (Education Code 234.1, 5 CCR [4960](#); 34 CFR [100.6](#), [106.8](#))

NONDISCRIMINATION IN EMPLOYMENT (continued)

- a. Including them in each announcement, bulletin, or application form that is used in employee recruitment
- b. Posting them in all district schools and offices, including staff lounges 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)

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

- 3. Disseminate the district's nondiscrimination policy and administrative regulation to all employees by one or more of the following methods: (2 CCR [11023](#))
 - a. Printing and providing a copy to all employees, with an acknowledgment form for each employee to sign and return
 - b. Sending a copy via email with an acknowledgment return form
 - c. Posting a copy on the district intranet with a tracking system ensuring all employees have read and acknowledged receipt of the policies
 - d. Discussing the policy and regulation 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)

- 4. Provide to employees a handbook which contains information that clearly describes the district's nondiscrimination policy, procedures for filing a complaint, and resources available to employees who believe they have been the victim of any discriminatory or harassing behavior
- 5. Provide training 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

The district may also provide bystander intervention training to employees that includes information and practical guidance on how to recognize potentially problematic behaviors and which may motivate them to take action when they observe such behaviors. The training and education may include exercises to provide employees with the skills and confidence to intervene as appropriate and to provide them with resources they can call upon that support their intervention. (Government Code 12950.2)

NONDISCRIMINATION IN EMPLOYMENT (continued)

6. 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 and Board Policy 4111- Recruitment and Selection
7. 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 (2 CCR [11023](#))

Complaint Procedure

Any complaint alleging unlawful discrimination or harassment covered by this administrative regulation and accompanying Board policy shall be addressed in accordance with the following procedures:

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

The complainant's direct supervisor may be bypassed in filing a complaint when the supervisor is the subject of the complaint.

The complainant may first attempt to resolve the situation informally with the complainant's supervisor before filing a complaint.

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 complaint.

The 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, any available evidence of the discrimination or harassment, and any other pertinent information which may assist in investigating and resolving the complaint.

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 complaint has been filed or whether the 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. The coordinator shall also inform the parties that the investigation

NONDISCRIMINATION IN EMPLOYMENT (continued)

will be kept confidential to the extent possible, but that some information may be disclosed as necessary to conduct an effective investigation.

If the coordinator determines that a detailed fact-finding investigation is necessary, the investigation shall begin immediately. As part of this investigation, the coordinator should interview the complainant, the person(s) 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 the 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 shall also determine whether interim measures, such as scheduling changes, transfers, or leaves, need to be taken before the investigation is completed in order to prevent further incidents. 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 the findings.

This timeline may be extended by the coordinator 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 shall also 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 Superintendent or designee.

A summary of the findings shall be presented to the complainant and the person accused.

4. **Appeal to the Governing Board:** The complainant or any of the person(s) 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 and the Board shall schedule a hearing as soon as practicable. Any complaint against a district employee shall be addressed in closed

NONDISCRIMINATION IN EMPLOYMENT (continued)

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)

Other Remedies

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

1. For filing a complaint with CRD alleging a violation of Government Code [12940-12952](#), within three years of the alleged discriminatory act(s), unless an exception exists pursuant to Government Code [12960](#) (Government Code [12960](#))
2. For filing a complaint with EEOC, within 180 days of the alleged discriminatory act(s) (42 USC [2000e-5](#))
3. For filing a complaint with EEOC after first filing a complaint with CRD, within 300 days of the alleged discriminatory act(s) or within 30 days after the termination of proceedings by CRD, whichever is earlier (42 USC [2000e-5](#))

An employee may also file a complaint with the Wage and Hour Division of the U.S. Department of Labor for an alleged violation of the PUMP Act and/or the Equal Employment Opportunity Commission for failure to provide reasonable accommodations pursuant to the Pregnant Workers Fairness Act. (29 USC 218c, 218d, 42 USC 2000gg-2)

Additionally, an employee may file a complaint with the Labor Commissioner at the California Department of Industrial Relations for any alleged violation of Labor Code 1030-1034. (Labor Code 1034)

Regulation

Approved: February 3, 2016

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Revised: June 25, 2025

BIGGS UNIFIED SCHOOL DISTRICT

Biggs, California

COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT

Complaint Procedure

Any complaint by an employee or job applicant alleging discrimination or harassment shall be addressed in accordance with the following procedures:

1. **Notice and Receipt of Complaint:** Any employee or job applicant (the "complainant") who believes he/she has been subjected to prohibited discrimination or harassment shall promptly inform his/her supervisor, the district's Coordinator for Nondiscrimination in Employment, or the Superintendent.

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. 4030 - Nondiscrimination in Employment)

(cf. 4032 - Reasonable Accommodation)

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

2. **Investigation Process:** The Coordinator shall initiate an impartial investigation of an allegation of discrimination or harassment within five school days of receiving notice of the 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 allegations 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)

COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT (continued)

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.

When necessary to carry out his/her investigation or to protect employee or student 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 do not occur. The Coordinator shall ensure that such interim measures do not constitute retaliation.

3. **Written Report on Findings and Corrective Action:** No more than 30 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 complainant 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, correct the effect on the complainant, and ensure that retaliation or further discrimination or harassment does not occur.

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

4. **Appeal to the Board of Trustees:** The complainant or the person accused may appeal any findings to the Board within 10 working 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 working days.

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 9321 - Closed Session Purposes and Agendas)

COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT (continued)

Other Remedies

In addition to filing a discrimination or harassment complaint with the district, a person may also 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 (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)

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination

GOVERNMENT CODE

12920-12921 Nondiscrimination

12940-12948 Discrimination prohibited; unlawful practices, generally

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

2001d-2001d-7 Title VI, Civil Rights Act of 1964

2001e-2001e-17 Title VII, Civil Rights Act of 1964, as amended

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

2001h-2-2001h-6 Title IX of the Civil Rights Act of 1964

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

106.8 Designation of responsible employee for Title IX

Management Resources: (see next page)

COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT (continued)

Management Resources:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONS

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

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

REASONABLE ACCOMMODATION

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)

(cf. 4031 - Complaints Concerning Discrimination in Employment)

Definitions

Disability, with respect to an individual, is defined as any of the following: (Government Code 12926; 20 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

REASONABLE ACCOMMODATION (continued)

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.

REASONABLE ACCOMMODATION (continued)

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, 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 Records)

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

REASONABLE ACCOMMODATION (continued)

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.

REASONABLE ACCOMMODATION (continued)

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 Board of Trustees 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: (see next page)

REASONABLE ACCOMMODATION (continued)

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>

LACTATION ACCOMMODATION

The Board of Trustees recognizes the immediate and long-term health benefits of breast milk and desires to provide a supportive environment for any district employee to express breast milk for an infant child upon returning to work following the birth of the child. The Board prohibits discrimination, harassment, and/or retaliation against any district employee for seeking an accommodation to express breast milk for an infant child while at work.

(cf. [4030](#) - *Nondiscrimination in Employment*)

An employee shall notify the employee's supervisor or other appropriate district administrator in advance of the intent to request an accommodation. The supervisor or appropriate district administrator shall respond to the request and shall work with the employee to make arrangements. If needed, the supervisor or appropriate district administrator shall address scheduling in order to ensure that the employee's essential job duties are covered during the break time.

Lactation accommodations shall be granted unless there exists limited circumstances, as specified in law. (Labor Code [1031](#), [1032](#); 29 USC [218d](#), 42 USC [2000gg-1](#))

Before a determination is made to deny lactation accommodations to an employee, the employee's supervisor shall consult with the Superintendent or designee. When lactation accommodations are denied, the Superintendent or designee shall document the options that were considered and the reasons for denying the accommodations.

The Superintendent or designee shall provide a written response to any employee who was denied the accommodation(s). (Labor Code 1034)

The district shall include this policy in its employee handbook or in any set of policies that the district makes available to employees. In addition, the Superintendent or designee shall distribute the policy to new employees upon hire and when an employee makes an inquiry about or requests parental leave. (Labor Code 1034)

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

Break Time and Location Requirements

For at least a year after the birth of a child, the district shall provide a reasonable amount of break time to accommodate an employee each time the employee has a need to express breast milk for an infant child. (Labor Code [1030](#); USC 2000gg-1)

To the extent possible, any break time granted for lactation accommodation shall run concurrently with the break time already provided to the employee. Any additional break

LACTATION ACCOMMODATION (continued)

time used by a non-exempt employee for this purpose shall be unpaid. (Labor Code [1030](#); 29 USC [218d](#))

The employee shall be provided a lactation space which may be used by the employee for expressing breast milk as needed. The lactation space shall be a private room or location, other than a bathroom, which may be the employee's work area or another location that is in close proximity to the employee's work area and shall meet the following requirements: (Labor Code 1031; 29 USC 218d)

1. Is shielded from view and free from intrusion while the employee is expressing breast milk
2. Is safe, clean, and free of hazardous materials, as defined in Labor Code [6382](#)
3. Contains a place to sit and a surface to place a breast pump and personal items
4. Has access to electricity or alternative devices, including, but not limited to, extension cords or charging stations, needed to operate an electric or battery-powered breast pump
5. Has access to a sink with running water and a refrigerator or, if a refrigerator cannot be provided, another cooling device suitable for storing breast milk in close proximity to the employee's workspace

If a multipurpose room is used for lactation, among other uses, the use of the room for lactation shall take precedence over other uses for the time it is in use for lactation purposes. (Labor Code [1031](#))

Dispute Resolution

An employee may file a complaint with the Labor Commissioner at the California Department of Industrial Relations for any alleged violation of Labor Code 1030-1034. (Labor Code 1034)

Additionally, an employee may file a complaint with the Wage and Hour Division of the U.S. Department of Labor for an alleged violation of the Providing Urgent Maternal Protections for Nursing Mothers Act and/or the Equal Employment Opportunity Commission for failure to provide reasonable accommodations pursuant to the Pregnant Worker's Fairness Act. (29 USC 218c, 218d, 42 USC 2000gg-2).

(cf. [4144/4244/4344](#) - Complaints)

Legal Reference:

EDUCATION CODE

[200-262.4](#) Educational equity; prohibition of discrimination on the basis of sex

LACTATION ACCOMMODATION (continued)

CIVIL CODE

[43.3](#) *Right of mothers to breastfeed in any public or private location*

GOVERNMENT CODE

[12926](#) *Definition of sex; breastfeeding*

[12940](#) *Unlawful discriminatory employment practices*

[12945](#) *Unlawful discrimination based on pregnancy, childbirth, or related medical conditions*

LABOR CODE

[1030-1034](#) *Lactation accommodation*

[6382](#) *Procedure for listing hazardous substances*

CODE OF REGULATIONS, TITLE 2

[11035-11051](#) *Unlawful sex discrimination; pregnancy and related medical conditions*

UNITED STATES CODE, TITLE 29

[207](#) *Fair Labor Standards Act; lactation accommodation*

Management Resources:

CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS PUBLICATIONS

Rest Periods/Lactation Accommodation, Frequently Asked Questions

CALIFORNIA DEPARTMENT OF PUBLIC HEALTH PUBLICATIONS

Lactation Accommodation for Employers

CENTERS FOR DISEASE CONTROL AND PREVENTION PUBLICATIONS

Lactation Support Program Toolkit

FEDERAL REGISTER

Reasonable Break Time for Nursing Mothers, December 21, 2010, Vol. 75, No. 244, pages 80073-80079

OFFICE OF THE SURGEON GENERAL PUBLICATIONS

The Surgeon General's Call to Action to Support Breastfeeding, 2011

HEALTH RESOURCES AND SERVICES ADMINISTRATION PUBLICATIONS

The Business Case for Breastfeeding: Steps for Creating a Breastfeeding Friendly Worksite, Toolkit, 2008

U.S. DEPARTMENT OF LABOR, WAGE AND HOUR DIVISION, PUBLICATIONS

Frequently Asked Questions- Break Time for Nursing Mothers

Fact Sheet #73: Break Time for Nursing Mothers under the FLSA, rev. April 2018

WEB SITES

California Department of Industrial Relations, Division of Labor and Standards

Enforcement: <http://www.dir.ca.gov/dlse> California Department of Public

Health: <http://www.cdph.ca.gov>

California Women, Infants and Children Program: <http://www.wicworks.ca.gov>

Centers for Disease Control and Prevention: <http://www.cdc.gov>

Health Resources and Services Administration: <http://www.hrsa.gov>

Office of the Surgeon General: <http://www.surgeongeneral.gov>

U.S. Department of Labor, Wage and Hour Division, Break Time for Nursing Mothers: <http://www.dol.gov/whd/nursingmothers>

(7/11) 12/19

Policy

Adopted: February 13, 2020

Revised: July, 2024

Revised: June 25, 2025

BIGGS UNIFIED SCHOOL DISTRICT

Biggs, California

EMPLOYEE USE OF TECHNOLOGY

The Board of Trustees 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; enriching curriculum; and enhancing student learning.

District technology includes, but is not limited to, computer hardware, software, or software as a service provided or paid for by the district, whether accessed on or off site or through district-owned or personally owned equipment or devices, including tablets and laptops; computer servers, wireless access points (routers), and wireless computer networking technology (wi-fi) the internet; email; applications (apps), including artificial intelligence (AI) apps; telephones, cellular or mobile telephones, smartphones, smart devices, and wearable technology; or any wireless communication device, including radios.

Employees shall review the prohibited and permitted uses of technology as specified in Board Policy 5131.9 - Academic Honesty, be responsible for the appropriate use of technology, and use district technology primarily for purposes related to their employment consistent with board policies and administrative regulations.

An employee may use technology, including AI apps, to assist the employee in the performance of the employee's professional duties, including, but not limited to, the following specific tasks: developing syllabi, creating curriculum, reviewing student work, suggesting instructional strategies, and researching academic content or instructional techniques. Any employee using technology, including AI, shall review and be responsible for any final product or document; not share confidential student records with a third party, such as an AI app, except as permitted by law; use the technology in accordance with Board Policy 6162.6 - Use of Copyrighted Materials, and in a manner otherwise consistent with law, board policies, and administrative regulations. If an employee is unsure about the appropriate use of technology, the employee shall confer with the Superintendent or designee before using.

(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)

As determined by the Superintendent or designee, employees shall receive professional development in the appropriate use of these resources, including in the use of AI apps.

(cf. [0410](#) - Nondiscrimination in District Programs and Activities)
(cf. [4119.11/4219.11/4319.11](#) - Sexual Harassment)

EMPLOYEE USE OF TECHNOLOGY (continued)

(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)

The Superintendent or designee shall establish an Acceptable Use Agreement which outlines employee obligations and responsibilities related to the use of district technology, including the use of AI apps. 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, display, or otherwise engage with 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 [6777](#); 47 USC 254)

The Superintendent or designee shall regularly review current guidance regarding cybersecurity, data privacy, and digital media awareness and incorporate recommended practices into the district's processes and procedures related to the protection of the district's network infrastructure, the monitoring and response to cyberattacks, ensuring data privacy, and managing suspicious and/or threatening digital media content, in accordance with Board Policy 3580 -District Records.

The Superintendent or designee shall annually notify employees in writing that they have no reasonable expectation of privacy in the use of any district technology, as defined above, even when using their personal devices. 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.

EMPLOYEE USE OF TECHNOLOGY (continued)

In addition, employees shall be notified that records, including communications, maintained on any personal accounts or devices used to conduct district business are subject to disclosure at the district's request, and 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.

Employees may access their mobile or other communications device if there is a need to seek emergency assistance, assess the safety of a situation, or communicate with a person to confirm the person's safety. (Labor Code 1139)

(cf. [4118](#) - Dismissal/Suspension/Disciplinary Action)

(cf. [4218](#) - Dismissal/Suspension/Disciplinary Action)

Legal Reference:

EDUCATION CODE

[52295.10-52295.55](#) Implementation of Enhancing Education Through Technology grant program

GOVERNMENT CODE

[3543.1](#) Rights of employee organizations

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

[6751-6777](#) Enhancing Education Through Technology Act, Title II, Part D, especially:

[6777](#) 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 Ontario v. Quon et al. (2010) 000 U.S. 08-1332

EMPLOYEE USE OF TECHNOLOGY (continued)

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>

(7/01 7/07) 7/15

Policy
adopted: January 4, 2012
revised: September 24, 2015
revised: September 11, 2024

BIGGS UNIFIED SCHOOL DISTRICT
Biggs, California

EMPLOYEE USE OF TECHNOLOGY

Online/Internet Services: User Obligations and Responsibilities

Employees are authorized to use district equipment to access the Internet or other online services in accordance with Board policy, the district's Acceptable Use Agreement, and the user obligations and responsibilities specified below.

1. The employee in whose name an online services account is issued is responsible for its proper use at all times. Employees shall keep account information, home addresses, and telephone numbers private. They shall use the system only under the account number to which they have been assigned.
2. Employees shall use the system safely, responsibly, and primarily for work-related purposes.
3. Employees shall not access, post, submit, publish, or display harmful or inappropriate matter that is threatening, obscene, disruptive, or sexually explicit, or that could be construed as harassment or disparagement of others based on their race, ethnicity, national origin, sex, gender, sexual orientation, age, disability, religion, or political beliefs.

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4031 - Complaints Concerning Discrimination in Employment)

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

4. Employees shall not use the system to promote unethical practices or any activity prohibited by law, Board policy, or administrative regulations.

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

5. Employees shall not use the system to engage in commercial or other for-profit activities without permission of the Superintendent or designee.
6. Copyrighted material shall be posted online only in accordance with applicable copyright laws.

(cf. 6162.6 - Use of Copyrighted Materials)

7. Employees shall not attempt to interfere with other users' ability to send or receive email, nor shall they attempt to read, delete, copy, modify, or forge other users' email.
8. Employees shall not develop any classroom or work-related web sites, blogs, forums, or similar online communications representing the district or using district equipment or resources without permission of the Superintendent or designee. Such sites shall be subject to rules and guidelines established for district online publishing activities

EMPLOYEE USE OF TECHNOLOGY (continued)

including, but not limited to, copyright laws, privacy rights, and prohibitions against obscene, libelous, and slanderous content. Because of the unfiltered nature of blogs, any such site shall include a disclaimer that the district is not responsible for the content of the messages. The district retains the right to delete material on any such online communications.

(cf. 1113 - District and School Web Sites)

9. Users shall report any security problem or misuse of the services to the Superintendent or designee.

EMPLOYEE USE OF TECHNOLOGY

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

The BIGGS UNIFIED SCHOOL DISTRICT authorizes district employees to use district technology, as defined in Board Policy 4040 – Employee Use of Technology. 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. However, the district shall not prevent or restrict access to an employee's mobile or other communications devices(s) if there is a need to seek emergency assistance, assess the safety of a situation, or communicate with a person to confirm the person's safety.

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, or misuse, of the system.

Each employee who is authorized to use district technology shall sign this Acceptable Use Agreement, which indicates that the employee has read and understands this Agreement and Board Policy 4040 – Employee Use of Technology.

Employee Obligations and Responsibilities

Employees are expected to use district technology safely, responsibly, and primarily for work-related purposes and in accordance with the accompanying board policy and applicable copyright laws. 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

EMPLOYEE USE OF TECHNOLOGY continued

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, including sharing confidential information or personally identifiable information with an open artificial intelligence system
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, Internet searches, browsing history, use of artificial intelligence, 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.

EMPLOYEE USE OF TECHNOLOGY continued

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, the employee 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 (including, but not limited to, a cyberattack, phishing, or any compromise of the confidentiality of any login or account information), or misuse of district technology, the employee 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 on next page

EMPLOYEE USE OF TECHNOLOGY continued

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, its personnel, and the Governing Board 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)

School/Work Site: _____

Signature: _____ Date: _____

AMENITIES

Admission to Athletic Contests

It is the Board of Trustee's intent to encourage participation by school employees at athletic contests.

With the exception of tournaments sponsored through admission and/or post-league California Interscholastic play-off events, all district employees shall be admitted free along with one guest to athletic events. In addition, community members who work for one-half of the competition either by assisting with the game (e.g., operating a scoreboard) or by operating a concession shall receive free admittance. This policy extends to any contest occurring within the district boundaries and subject to control by Board Policies and Administrative Regulations.

CERTIFICATED PERSONNEL

The Board of Trustees 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

RECRUITMENT AND SELECTION

The Board of Trustees is committed to employing suitable, qualified individuals to effectively carry out the district's vision, mission, and goals, and believes that students benefit when district staff reflects the racial, ethnic, linguistic, and cultural diversity of the district.

(cf. 0000 - Vision)

(cf. 0200 - Goals for the School District)

(cf. 4000 - Concepts and Roles)

(cf. 4100 - Certificated Personnel)

(cf. 4200 - Classified Personnel)

(cf. 4300 - Administrative and Supervisory Personnel)

The Superintendent or designee shall develop equitable, fair, and transparent recruitment and selection processes and procedures that ensure individuals are selected for employment in the district based on demonstrated knowledge, skills, and competence and not on any bias, personal preference, or unlawful discrimination.

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

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4032 - Reasonable Accommodation)

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

Additionally, the Superintendent or designee shall, through the recruitment and selection processes and procedures, seek to establish and maintain a diverse staff, including the active recruitment from institutions and organizations that serve populations underrepresented among district employees.

When a vacancy occurs, the Superintendent or designee shall review, as appropriate, the job description for the position to ensure that it accurately describes the major functions and duties of the position. The Superintendent or designee shall also disseminate job announcements to ensure a wide range of candidates.

When posting an employment opportunity, the Superintendent or designee shall include the pay scale for the open position. (Labor Code 432.2)

The Superintendent shall develop and maintain appropriate hiring procedures to identify the best possible candidates for a position. In doing so, an interview committee may be established to rank candidates and recommend finalists.

During job interviews, applicants may be asked to describe or demonstrate how they will be able to perform the duties of the job. All discussions and recommendations shall be confidential and consistent with law.

No inquiry shall be made about any information prohibited by state or federal nondiscrimination laws.

RECRUITMENT AND SELECTION (continued)

Unless otherwise provided for in law, the district may not discriminate against a person in hiring based on the person's use of cannabis off the job and away from the workplace, including that the district may not request information from an applicant related to the applicant's prior use of cannabis, apart from the applicant's criminal history, or penalize an applicant based on a drug screening which finds that the applicant has nonpsychoactive cannabis metabolites in the applicant's hair, blood, urine, or other bodily fluid. (Government Code 12954)

However, the district retains the right to maintain drug-free schools or prohibit employees from possessing, being impaired by, or using cannabis while on the job. (Government Code 12954)

The Superintendent or designee shall not inquire, orally or in writing, about an applicant's salary history information, including compensation and benefits. Additionally, the Superintendent or designee shall also not rely on salary history information as a factor in determining whether to offer employment to an applicant or the salary to offer. However, the Superintendent or designee may consider salary information that is disclosable under state or federal law or that the applicant discloses voluntarily and without prompting. (Labor Code 432.3)

For each position, the Superintendent or designee shall present to the Board one candidate who meets all qualifications established by law and the Board for the position. No person shall be employed by the Board without the recommendation or endorsement of the Superintendent or designee.

(cf. 4112 - Appointment and Conditions of Employment)

(cf. 4112.2 - Certification)

(cf. 4112.22 - Staff Teaching English Learners)

(cf. 4112.23 - Special Education Staff)

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

(cf. 4212 - Appointment and Conditions of Employment)

(cf. 4312.1 - Contracts)

Incentives

With Board approval and in accordance with district needs and any applicable collective bargaining agreements, the district may provide incentives to recruit teachers, administrators, or other employees, such as signing bonuses, assistance with beginning teacher induction and/or credential costs, mentoring, additional compensation, and/or subsidized housing.

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination

35035 Responsibilities of superintendent

44066 Limitations on certification requirement

44259 Teaching credential; exception; designated subjects; minimum requirements

RECRUITMENT AND SELECTION (continued)

44750 Teacher recruitment resource center
 44830-44831 Employment of certificated persons
 44858 Age or marital status in certificated positions
 44859 Prohibition against certain rules and regulations re: residency
 45103-45139 Employment (classified employees)
 49406 Examination for tuberculosis

GOVERNMENT CODE

815.2 Liability of public entities and public employees
 6250-6276.48 Public Records Act
 12900-12996 Fair Employment and Housing Act, including:
 12940-12957 Discrimination prohibited; unlawful practices

HEALTH AND SAFETY CODE

53570-53574 Teacher Housing Act of 2016

LABOR CODE

432.3 Salary information

UNITED STATES CODE, TITLE 5

552 Freedom of Information Act

UNITED STATES CODE, TITLE 8

1324a Unlawful employment of aliens

1324b Unfair immigration related employment practices

UNITED STATES CODE, TITLE 20

1681-1688 Title IX prohibition against discrimination

UNITED STATES CODE, TITLE 42

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

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

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

106.51-106.61 Nondiscrimination on the basis of sex in employment in education program or activities

COURT DECISIONS

C.A. v William S. Hart Union High School District et al., (2012) 138 Cal.Rptr.3d 1

Policy
 adopted: January 4, 2012
 revised: April 2, 2014
 revised: April 4, 2018
 revised: April 10, 2024

BIGGS UNIFIED SCHOOL DISTRICT
 Biggs, California

All Personnel

BP 4111.2

4211.2

LEGAL STATUS REQUIREMENT

4311.2

The Board of Trustees 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 - Recruitment and Selection)

(cf. 4211 - Recruitment and Selection)

(cf. 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>

APPOINTMENT AND CONDITIONS OF EMPLOYMENT

Upon recommendation from the Superintendent or designee, the Board of Trustees shall approve the appointment of all certificated personnel. The position and the salary classification shall be reported to the Board at a regular meeting.

(cf. 4111 - Recruitment and Selection)

(cf. 4121 - Temporary/Substitute Personnel)

Individuals appointed to the certificated staff shall:

1. Possess the appropriate certification qualifications and register the certification document in accordance with law and Board policy (Education Code 44250-44279, 44330)

(cf. 4112.2 - Certification)

(cf. 4112.21 - Interns)

2. Demonstrate proficiency in basic skills as required by law and Board policy (Education Code 44252.5, 44830)
3. Submit to fingerprinting as required by law (Education Code 44830.1)
4. Not have been convicted of a violent or serious felony as defined in Penal Code 667.5 or 1192.7, unless the individual has received a certificate of rehabilitation and pardon (Education Code 44830.1)

(cf. 4112.5/4312.5 - Criminal Record Check)

(cf. 4118 - Suspension/Disciplinary Action)

5. Not have been convicted of any sex offense as defined in Education Code 44010 (Education Code 44836)
6. Not have been required to register as a sex offender pursuant to Penal Code 290 because of a conviction for a crime where the victim was a minor under the age of 16 (Penal Code 290.95)

(cf. 3515.5 - Sex Offender Notification)

7. Not have been determined to be a sexual psychopath pursuant to Welfare and Institutions Code 6300-6332 (Education Code 44837)
8. Not have been convicted of any controlled substance offense as defined in Education Code 44011 (Education Code 44836)

APPOINTMENT AND CONDITIONS OF EMPLOYMENT (continued)

9. Submit to a physical examination, tuberculosis testing and/or provide a medical certificate as required by law and Board policy (Education Code 44839, 49406)

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

10. Furnish a statement of military service and, if any was rendered, a copy of the discharge or release from service or, if no such document is available, other suitable evidence of the termination of service (Education Code 44838)

11. File the oath or affirmation of allegiance required by Government Code 3100-3109

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

12. Fulfill any other requirements as specified by law, collective bargaining agreement, Board policy or administrative regulation

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

Legal Reference: (see next page)

APPOINTMENT AND CONDITIONS OF EMPLOYMENT (continued)

Legal Reference:

EDUCATION CODE

35161 Powers and duties

44008 Effect of termination of probation

44009 Conviction of specified crimes; definitions

44010 Sex offense

44011 Controlled substance offense

44066 Limitation on certification requirements

44250-44277 Credential types

44330 Effect of registration of certification document

44830.1 Felons; certificated positions; criminal record summary; fingerprints

44836 Employment of person convicted of sex offenses or controlled substance offenses

44837 Employment of sexual sociopath

44838 Statement of military service

44839 Medical certificate

44839.5 Medical certificate for retirant

49406 Examination for tuberculosis

GOVERNMENT CODE

3100-3109 Oaths or affirmations of allegiance for disaster service workers and public employees

12940-12950 Unlawful employment practices

PENAL CODE

290 Registration of sex offenders

290.95 Disclosure by persons required to register as sex offenders

667.5 Prior prison terms, enhancement of prison terms

1192.7 Plea bargaining limitation

WELFARE AND INSTITUTIONS CODE

6300-6332 Sexual psychopaths

CODE OF REGULATIONS, TITLE 5

6100-6125 Teacher qualifications, No Child Left Behind Act

UNITED STATES CODE, TITLE 20

6319 Highly qualified teachers

7801 Definitions, highly qualified teacher

CODE OF FEDERAL REGULATIONS, TITLE 34

200.55-200.57 Highly qualified teachers

CONTRACTS

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)

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. 4117.4 - Dismissal)

(cf. 9122 - Secretary)

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

CERTIFICATION

The Board of Trustees 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 who is authorized in the subject or setting for each assignment or, when necessary, a fully prepared teacher serving on a local assignment option. Whenever a teacher with a clear or preliminary credential is not available, and the Board adopts a resolution that it has made reasonable efforts to recruit a fully prepared teacher for the assignment, 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 internship 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 is granted a provisional internship permit (PIP) or short-term staff permit issued by the CTC

The Board shall take action to approve, at an open Board meeting, a notice of its intent to employ a PIP applicant for a specific position. (5 CCR [80021.1](#))

CERTIFICATION (continued)

3. An individual who has been granted a credential waiver by the CTC

Annually, the Board shall, prior to requesting that CTC issue an emergency permit or limited assignment permit, 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 open 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 and limited assigned 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. It shall also specify each subject to be listed on the General Education Limited Assignment Single Subject Teaching Permits and the target language on emergency Bilingual Permits. 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 Superintendent or designee shall promote a career continuum that includes participation of district teachers in professional learning that supports their completion of advanced certification awarded by the National Board for Professional Teaching Standards (NBPTS). The Superintendent or designee may coordinate a cohort of teachers through school or district programs or other available networks.

With Board approval and funding, and consistent with the collective bargaining agreement and applicable law, the Superintendent may provide an incentive program for teacher participation in NBPTS certification, which may include:

1. Defraying, subsidizing, or reimbursing the registration, certification, or maintenance fees for NBPTS certification
2. Providing bonuses, step increases, or differential pay for teachers who maintain their certification and continue to teach in the district, with priority given to teachers at Title I schools and schools serving a majority of low-income students
3. Providing substitute teachers to provide release time for participating teachers

CERTIFICATION (continued)

4. Providing stipends for teacher participation that match other professional development stipends
5. Compensating mentor teachers who support other teachers' professional learning aligned to NBPTS standards

(cf. [4161.3](#) - Professional Leaves)

Parental Notifications

At the beginning of each school year, the Superintendent or designee shall notify the parents/guardians of each student attending a school receiving Title I funds that they may request information regarding the professional qualifications of their child's classroom teacher including, but not limited to, whether the teacher: (20 USC [6312](#))

1. Has met state qualification and licensing criteria for the grade levels and subject areas in which the teacher provides instruction
2. Is teaching under emergency or other provisional status through which state qualification or licensing criteria have been waived
3. Is teaching in the field of discipline of the teacher's certification

(cf. [5145.6](#) - Parental Notifications)

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

CERTIFICATION (continued)

[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

Credential Information Guide

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

Waiver Requests Guidebook, 2015

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

NATIONAL BOARD FOR PROFESSIONAL TEACHING STANDARDS PUBLICATIONS

Considerations for Using Federal Funds to Support National Board Certification, 2018

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>

National Board Resource Center: nbc.alistrong.net

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

(8/14 7/16) 3/20

Policy
adopted: January 4, 2012
revised: 10/1/2014; 11/2/2016
revised: May 6, 2020
revised: June 14, 2023

BIGGS UNIFIED SCHOOL DISTRICT
Biggs, California

CERTIFICATION

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)

The Superintendent or designee shall verify that any person who is employed by the district while CTC is processing the application for certification 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.

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)

A person may demonstrate basic skills proficiency in reading, writing, and mathematics by:

1. Passage of the California Basic Educational Skills Test (CBEST) (Education Code 44252.5)
2. Passage of the California Subject Examinations for Teachers plus Writing Skills Examination
3. Passage of the California State University (CSU) Early Assessment Program or the CSU Placement Examinations (Education Code 44252)
4. Achieving a qualifying score on the Scholastic Aptitude Test or the American College Test (Education Code 44252)
5. Achieving a qualifying score on College Board Advanced Placement Examinations

CERTIFICATION (continued)

6. Passage of a basic skills examination from another state
7. Qualifying coursework (Education Code 44252)
8. Qualifying coursework and exams (Education Code 44252)

The district may hire a certificated employee who has not taken a test of basic skills proficiency if the employee has not yet been afforded the opportunity to take the test, provided that the employee takes the test at the earliest opportunity. The employee may remain employed by the district pending the receipt of the 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 CTC unless the teacher has completed a basic skills proficiency test in another state, passed a basic skills proficiency test developed and administered by the district, by cooperating districts or by the county office of education (COE), 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)

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 persons being tested 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 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 internship program

CERTIFICATION (continued)

4. Inability of the applicant to enroll in an approved internship program due to timelines or lack of space in the program
5. Unavailability of a third-year extension of an internship program or the applicant's withdrawal from an internship 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 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
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

Before requesting that 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)

Whenever a suitable credentialed teacher cannot be found after a diligent search, the Superintendent or designee may request that 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)

CERTIFICATION (continued)

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 will 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 COE and who has completed at least three years of full-time classroom teaching experience.

3. The district will 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 will 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 an open Governing Board meeting which states 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 the applicant 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)

CERTIFICATION (continued)**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, administrative leave related to dismissal and suspension proceedings, military 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 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 CTC, the district shall provide the applicant with 45 hours of preparation in the content areas listed in 5 CCR 80022. (5 CCR 80022)

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 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 and 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)

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)

CERTIFICATION (continued)**Long-Term Emergency Permits**

As necessary, the Superintendent or designee may request that CTC issue an emergency resource specialist permit, emergency teacher librarian services permit, emergency crosscultural language and academic development permit (CLAD), 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 beginning 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 COE and who has completed at least three years of full-time classroom teaching experience. (5 CCR 80026.5)

Early Childhood Education Emergency Specialist Permit/Emergency Transitional Kindergarten Permit (ETK)

If, after conducting a diligent search, the district has been unable to recruit a sufficient number of certificated teachers, including teacher candidates pursuing full certification through internship, district internship, or other alternative routes established by CTC, the Superintendent or designee may request CTC to issue a one-year early childhood education (ECE) emergency specialist permit that authorizes the teacher to teach all subjects in a self-contained transitional kindergarten (TK) general education classroom. (Education Code 44300)

The request to CTC shall include the following justifications for the need for the ECE emergency specialist permit: (Education Code 44300)

1. Annual documentation that the district has adopted in policy and practice a process for conducting a diligent search as defined in Education Code 44300
2. A Declaration of Need for Fully Qualified Educators based on the documentation set forth in Item #1, and adopted by the Board at a regularly scheduled Board meeting
3. Verification that the district will provide the required orientation, mentoring, and support
4. The Board's receipt, at a regularly scheduled Board meeting, of a

CERTIFICATION (continued)

report on the orientation, mentoring, and support described in Item #3

The district may request CTC to renew the ECE emergency specialist permit for one additional year provided the following occurs: (Education Code 44300)

1. The applicant verifies current enrollment in a commission-approved teacher preparation program that will result in a credential authorizing teaching TK
2. The district submits a Declaration of Need for Fully Qualified Educators in the same manner as described in Item #2, above
3. The district verifies that the applicant continues to successfully serve in the assignment on the basis of the ECE emergency specialist permit
4. The district verifies continued orientation, mentoring, and support, with reporting to the Board in the same manner as described in Item #3, above

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 CBEST, shall not serve as a substitute for more than 30 days for any one teacher during the school year or 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)

State

5 CCR 80001-80674.6
Ed. Code 32340-32341
Ed. Code 35186
Ed. Code 44066
Ed. Code 44200-44418
Ed. Code 44250-44277
Ed. Code 44300-44302
Ed. Code 44325-44328
Ed. Code 44330-44355
Ed. Code 44420-44440
Ed. Code 44450-44468
Ed. Code 44830-44929

Ed. Code 56060-56063
Ed. Code 8295-8305

Federal

20 USC 6312
34 CFR 200.61

Management Resources

Commission on Teacher Credentialing
Publication

Commission on Teacher Credentialing
Publication

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Description

Commission on Teacher Credentialing
Unlawful issuance of a credential
Complaints regarding teacher vacancy or misassignment
Limitations on certification requirements
Teacher credentialing
Credentials and assignment of teachers
Emergency permit
District interns
Certificates and credentials
Revocation and suspension of credentials
University internship program
Employment of certificated persons; requirement of proficiency in basic skills
Substitute teachers in special education
Child development program personnel qualifications

Description

Title I local educational agency plans; notifications regarding teacher qualifications
Parent notification regarding teacher qualifications

Description

Proposed Amendments and Additions to Title 5 of the California Code of Regulations Pertaining to Subject Matter Competence, Coded Correspondence 21-06, September 20, 2021
Assembly Bill 320: Regional Accreditation for Coursework and Degrees Used for Certification Purposes, Credential Information Alert 22-02, March 1, 2022
Waiver Requests Guidebook, 2015

Credential Information Guide

Hiring Hierarchy in Education Code 44225.7, Coded Correspondence 13-01, January 30, 2013
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, Aug 23, 2016
California Standards for the Teaching Profession (CSTP), 2009

CL-667 Basic Skills Requirement

CL-856 Provisional Internship Permit

CL-858 Short-Term Staff Permit

Subject Matter Authorization Guideline Book, December 2019

<i>Publication</i>	<i>Supplementary Authorization Guideline Book, December 2019</i>
<i>Commission on Teacher Credentialing</i>	
<i>Publication</i>	
<i>Commission on Teacher Credentialing</i>	<i>The Administrator's Assignment Manual, 2021</i>
<i>Publication</i>	
<i>Court Decision</i>	<i>Association of Mexican-American Educators et al. v. State of California and the Commission on Teacher Credentialing, (1993) 836 F.Supp. 1534</i>
<i>Nat'l Board for Prof. Teaching Stds. Publication</i>	<i>Using Federal Funds for National Board Activities: An Action-Planning Guide</i>
<i>Nat'l Board for Prof. Teaching Stds. Publication</i>	<i>Considerations for Using Federal Funds to Support National Board Certification</i>
<i>Website</i>	<u>California Department of Education, CA NBPTS Certification Incentive Program 2021-26</u>
<i>Website</i>	<u>National Board Resource Center</u>
<i>Website</i>	<u>National Board for Professional Teaching Standards</u>
<i>Website</i>	<u>Commission on Teacher Credentialing</u>
<i>Website</i>	<u>Commission on Teacher Credentialing. Credential Information Guide (for employers' use only)</u>
<i>Website</i>	<u>CSBA</u>
<i>Website</i>	<u>U.S. Department of Education</u>

Regulation
approved: January 4, 2012
revised: Oct. 1, 2014; Oct. 4, 2017
revised: August 10, 2022
revised: June 14, 2023

BIGGS UNIFIED SCHOOL DISTRICT
Biggs, California

INTERNS

The district may employ interns as necessary to fulfill the need for sufficient instructional staff and to provide future teachers an opportunity to link teaching theory with practice in order to meet state credentialing requirements. In addition, the district may employ teachers who already possess a preliminary or clear credential and are pursuing a credential in a different specialization as interns for positions that require such other credential.

(cf. 4112.2 - Certification)

(cf. 4112.22 - Staff Teaching English Language Learners)

(cf. 4112.23 - Special Education Staff)

The district may enter into partnership agreements with one or more approved teacher preparation programs sponsored by colleges or universities and/or may provide a district intern program with approval of the Commission on Teacher Credentialing (CTC). Any intern program in which the district participates shall be aligned with the preconditions and program standards adopted by the CTC.

The Superintendent or designee shall make reasonable efforts to recruit an intern from an approved program within the region whenever a teacher with a preliminary or clear credential is not available for a position requiring certification. (Education Code 44225.7)

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

The Superintendent or designee shall ensure that any intern employed by the district possesses an appropriate intern credential and is adequately prepared for the responsibilities of the position.

An intern may be assigned to provide the same service as a holder of a regular multiple subject, single subject, or education specialist credential in accordance with the authorizations and grade/age level specified on the intern credential. (Education Code 44454, 44325, 44326, 44830.3)

(cf. 4113 - Assignment)

Terms of employment for interns shall be consistent with law and the district's collective bargaining agreement, as applicable.

(cf. 4116 - Probationary/Permanent Status)

(cf. 4141/4241 - Collective Bargaining Agreement)

Interns shall receive intensive, structured supervision and ongoing support by qualified personnel in order to enhance their instructional skills and knowledge. The Superintendent or designee shall ensure that district staff serving as supervisors, mentor teachers, or other support providers receive appropriate training to fulfill their responsibilities and that they maintain frequent communication with the interns they are assigned to assist.

INTERNS (continued)

(cf. 4131 - Staff Development)

(cf. 4131.1 - Teacher Support and Guidance)

Interns shall be provided with ongoing feedback regarding their performance and shall be formally evaluated in accordance with Board policy and the district's collective bargaining agreement.

(cf. 4115 - Evaluation/Supervision)

Upon receiving notification from the Superintendent or designee that an intern has successfully completed the program, the Governing Board may recommend to the CTC that the intern be awarded a preliminary credential. (Education Code 44328, 44468, 44830.3)

The Board shall regularly evaluate the effectiveness of the intern program(s) to determine whether changes are needed in the support and/or assignment of interns. The Board's evaluation shall be based on a report by the Superintendent or designee, including, but not limited to, data on student performance in classes taught by interns, feedback from interns and supervisors, and the number of interns who successfully complete the program and obtain general education or education specialist credentials.

(cf. 0500 - Accountability)

Legal Reference:

EDUCATION CODE

300-340 English language education for immigrant children

44225 Credentials, responsibilities of Commission on Teacher Credentialing

44225.7 Priority for hiring fully prepared teacher

44253.3-44253.4 Certificate to provide services to English learners

44253.10 Qualifications to provide specially designed academic instruction in English

44259 Minimum requirements for teaching credential

44314 Diversified or liberal arts program

44321 CTC approval of intern programs

44325-44328 District interns

44339-44341 Teacher fitness

44450-44468 Teacher Education Internship Act of 1967 (university interns)

44830.3 Employing district interns

44885.5 District interns classified as probationary employees

INTERNS (continued)

Legal References: (Continued)

CODE OF REGULATIONS, TITLE 5

6100-6126 *No Child Left Behind teacher requirements*

80021.1 *Provisional internship permit*

80033 *Intern teaching credential*

80055 *Intern credential, extension for extenuating circumstances*

UNITED STATES CODE, TITLE 20

6319 *Highly qualified teachers*

7801 *Definitions, highly qualified teacher*

7801 *Note Applicability of federal regulation defining interns as highly qualified teachers*

COURT DECISIONS

Renee v. Duncan, 686 F.3d 1002 (2012)

Management Resources:

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

CL-840 *Early Completion Option*

SB 2042 *Multiple Subject and Single Subject Preliminary Credential Program Standards, rev. February 2014*

Intern Preservice, Support and Supervision Requirements: Preparation to Teach English Learners, Program Sponsor Alert 13-06, June 3, 2013

Education Specialist Teaching and Other Related Services Credential Program Standards, rev. May 2013

California Standards for the Teaching Profession, October 2009

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

Administrator's Assignment Manual, 2008

Preparation of Intern Credential Holders Prior to Service as Teacher of Record as an Intern, Coded Correspondence 08-03, March 3, 2008

U.S. DEPARTMENT OF EDUCATION GUIDANCE

Improving Teacher Quality State Grants, rev. October 5, 2006

WEB SITES

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

Commission on Teacher Credentialing, Interns: <http://www.ctc.ca.gov/educator-prep/intern>

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

(7/07 11/08) 8/14 5/16

Policy
adopted: January 4, 2012
revised: October 1, 2014
revised: June 29, 2016

BIGGS UNIFIED SCHOOL DISTRICT
Biggs, California

INTERNS

Memorandum of Understanding

Before interns employed by the district assume daily teaching responsibilities, a signed memorandum of understanding shall be in place between the district and the partner college/university detailing the support and supervision that will be provided to interns. (5 CCR 80033)

(cf. 4112.2 - Certification)

The memorandum of understanding shall include, but not be limited to:

1. Specific responsibilities of the program supervisor
2. Qualifications, identification, terms of employment, roles and responsibilities, and training of individual(s) to provide on-site support to interns
3. Allocation of additional personnel, time, and resources for interns who have not yet earned an English learner authorization
4. Expectations regarding the type and frequency of support
5. The process of communication between the program supervisor and on-site support personnel
6. Documentation, monitoring, and evaluation of site support

The district may enter into an agreement to employ college/university staff to supervise interns and may pay for the supervision of interns out of district funds. Salary payments may be met by proportionately reducing the salaries of paid interns, provided that no more than eight interns are supervised by one staff member, the district salary normally paid to interns is not reduced by more than one-eighth, and the intern is not paid less than the minimum salary required by the state for a regularly certificated teacher. (Education Code 44461-44462)

Support and Supervision of Interns

The Superintendent or designee shall collaborate with the college/university teacher preparation program to design structured guidance of interns, regular site-based support and supervision, and a sequence of supervised fieldwork that includes planned observations, consultations, reflections, and individual and small-group teaching opportunities.

(cf. 4131 - Staff Development)

(cf. 4131.1 - Teacher Support and Guidance)

INTERNS (continued)

Support and supervision provided to interns shall include the following: (Education Code 44830.3; 5 CCR 80033)

1. Professional Development Plan: The Superintendent or designee shall, in cooperation with the college/university, counsel each intern and, with the concurrence of the intern, shall develop a plan for the intern to complete the requirements to earn a credential in the content or specialty area(s) of the intern credential.

The plan shall include the components described in Education Code 44830.3, including, but not limited to, provisions for at least 120 clock hours (or the semester or quarter unit equivalent) of mandatory preservice training tailored to the grade level or class to be taught, additional instruction during the first semester or first year of service when required, and an annual evaluation of the intern.

2. Assignment of Mentor Teacher: Before an intern assumes daily teaching responsibilities, the Superintendent or designee shall assign him/her a mentor teacher who possesses a valid corresponding life or clear teaching credential and a minimum of three years of successful teaching experience.

The intern shall receive support from a mentor teacher who is assigned to the same school. If two or more mentor teachers are assigned to an intern, at least one of them shall be experienced in the curricular area(s) of the intern's assignment.

3. Support During School Year: Support and supervision shall include coaching, modeling, and demonstrating within the classroom. In addition, the intern shall receive assistance with course planning and with problem-solving regarding students, curriculum, and effective teaching methodologies.

Such support and supervision shall be provided for a minimum of 144 hours per school year or, for late hires, four hours multiplied by the number of instructional weeks remaining in the school year. At least two hours of support and supervision shall be provided every five instructional days.

4. Additional Support Addressing the Needs of English Learners: For any intern who enters the intern program without a valid English learner authorization, bilingual authorization, or crosscultural, language, and academic development certificate, the Superintendent or designee shall identify an individual who will be immediately available to assist the intern with planning lessons that are appropriately designed and differentiated for English learners, for assessing language needs and progress, and for support of language-accessible instruction through in-classroom modeling and coaching as needed. This individual may be the same mentor identified in item #2 above, provided he/she possesses an English learner authorization and will be immediately available to assist the intern.

INTERNS (continued)

In addition, the district and college/university shall provide such interns with additional support and supervision, including in-classroom coaching, specific to the needs of English learners. Such support and supervision shall be provided for 45 hours per school year or, for late hires, five hours multiplied by the number of months remaining in the school year.

An intern who passes the California Teaching English Learners examinations may be exempted from these requirements.

(cf. 4112.22 - Staff Teaching English Language Learners)

Early Completion Option

The Superintendent or designee shall inform qualified interns preparing for a multiple or single subject credential of the early completion option which allows them to challenge certain requirements of the intern program in areas where they have demonstrated competence.

In order to complete the intern program early and be recommended for a preliminary credential, candidates shall meet all requirements of the intern credential and the additional assessments and coursework specified in Education Code 44468.

(11/07 11/08) 8/14

STAFF TEACHING STUDENTS OF LIMITED ENGLISH PROFICIENCY**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)

STAFF TEACHING STUDENTS OF LIMITED ENGLISH PROFICIENCY
(continued)

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: See next page

STAFF TEACHING STUDENTS OF LIMITED ENGLISH PROFICIENCY
(continued)

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>

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SPECIAL EDUCATION STAFF

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.

SPECIAL EDUCATION STAFF (continued)

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

SPECIAL EDUCATION STAFF (continued)

7. Providing services for secondary students that emphasize academic achievement, career and vocational development, and preparation for adult life

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)

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 References: See next page

SPECIAL EDUCATION STAFF (continued)

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

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[56440-56441.7](#) Programs for individuals between the ages of three and five years; caseloads

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[3051.1-3051.24](#) Staff qualifications to provide related services to students with disabilities

[3100](#) Waivers of maximum caseload for resource specialists

[6100-6126](#) Teacher qualifications, No Child Left Behind Act

[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, especially:

[1401](#) Definition of highly qualified special education teacher

[6319](#) Highly qualified teachers

[7801](#) Definitions, highly qualified teacher

CODE OF FEDERAL REGULATIONS, TITLE 34

[200.55-200.57](#) Highly qualified teachers

[300.8](#) Definition of autism

[300.18](#) Highly qualified special education teachers

[300.34](#) Related services

[300.156](#) Special education personnel requirements

Management Resources: See next page

SPECIAL EDUCATION STAFF (continued)

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>

(11/09 11/10 10/15) 5/16

Regulation

approved: January 4, 2012

revised: December 14, 2105

revised: June 29, 2016

BIGGS UNIFIED SCHOOL DISTRICT

Biggs, California

All Personnel

AR 4112.3(a)

4212.3

OATH OR AFFIRMATION

4312.3

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, 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: (see next page)

AR 4112.3(b)
4212.3
4313.3

OATH OR AFFIRMATION (continued)

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

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

All Personnel

E 4112.3

4212.3

OATH OR AFFIRMATION

4312.3

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)

All Personnel

AR 4112.4(a)

4212.4

HEALTH EXAMINATIONS

4312.4

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)

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

HEALTH EXAMINATIONS (continued)

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 inflicted 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)

HEALTH EXAMINATIONS (continued)

Mental Examination for Certificated Employees

Whenever the Board is considering the suspension or transfer of a certificated employee based on its reasonable belief that the employee is suffering from mental illness of such a degree as to render him/her incompetent to perform his/her duties, the employee shall be offered the opportunity of being examined by a three-member panel of psychiatrists and psychologists in accordance with Education Code 44942. The employee shall select the members of the panel from a list of psychiatrists and psychologists provided by the district. The examination shall be conducted, at district expense, within 15 days of the ordered suspension or transfer. The employee shall submit to the examination, but shall also be entitled to present a report of any psychiatrist, psychologist, or physician of his/her own choice. (Education Code 44942)

(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: on next page

AR 4112.4(d)
4212.4
4312.4

HEALTH EXAMINATIONS (continued)

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>

(11/09 11/10) 12/14

Regulation
approved: January 4, 2012
revised: April 8, 2015

BIGGS UNIFIED SCHOOL DISTRICT
Biggs, California

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS

The Board of Trustees desires to ensure that district-provided transportation is safe for students, staff, and the public. To that end, the Superintendent or designee shall establish a drug and alcohol testing program designed to prevent the operation of buses or the performance of other safety-sensitive functions by a driver who is under the influence of drugs or alcohol, including a driver of a school bus, student activity bus, or other school transportation vehicle or any other employee who holds a commercial driver's license which is necessary to perform duties related to district employment.

A driver shall not report for duty or remain on duty when the driver has used any drug listed in 21 CFR 1308.11. A driver is also prohibited from reporting for duty or remaining on duty when the driver has used any drug listed in 21 CFR 1308.12-1308.15, unless the driver is using the drug under the direction of a physician who has advised the driver that the substance will not adversely affect the driver's ability to safely operate a bus. (49 CFR 382.213)

In addition, a driver shall not consume alcohol while on duty and/or performing safety-sensitive functions, or for four hours prior to on-duty time. (49 CFR 382.205, 382.207)

Drivers shall submit to drug and alcohol testing as required under federal law and specified in the accompanying administrative regulation. The district's testing program for drivers shall include pre-employment drug testing and reasonable suspicion, random, post-accident, return-to-duty, and follow-up drug and alcohol testing of drivers. (49 USC 31306; 49 CFR 382.301-382.311)

The Board shall contract for testing services upon verifying that the personnel are appropriately qualified and/or certified and that testing procedures conform to federal regulations.

Except as otherwise provided by law, the Superintendent or designee shall not release individual test results or medical information about a driver to a third party without the driver's specific written consent. (49 CFR 40.321)

Consequences Based on Test Results

No driver shall be temporarily removed from the performance of safety-sensitive functions based only on a laboratory report of a confirmed positive test for a drug or drug metabolite

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

before the certified medical review officer has completed verification of the test results, unless the district has obtained a waiver from the Federal Motor Carrier Safety Administration. (49 CFR 40.3, 40.21, 382.107, 382.119)

Any driver for whom the district receives a verified positive drug test result or who is found to have a blood alcohol concentration of 0.04 or higher shall be immediately removed from performing safety-sensitive functions in accordance with 49 CFR 40.23 and 382.211. An alcohol concentration between 0.02 and 0.04 requires temporary removal of the bus driver for a 24-hour period following the test. Any driver who refuses to take a required drug or alcohol test shall not be permitted to perform or continue to perform safety-sensitive functions. (49 CFR 40.23, 382.211)

Not later than five days after receiving notification of the test result or refusal to comply, the Superintendent or designee shall report any refusal, failure to comply, or positive test result to the California Department of Motor Vehicles (DMV) using a form approved by the DMV. (Vehicle Code 13376)

A driver who has violated federal drug and alcohol regulations may be subject to disciplinary action up to and including dismissal in accordance with law, administrative regulations, and the district's collective bargaining agreement.

Any driver provided with an opportunity to return to a safety-sensitive duty following a violation shall be evaluated by a qualified substance abuse professional and complete the evaluation recommendations before returning to such duty. (49 CFR 40.289)

If the substance abuse professional recommends that further and ongoing services are needed to assist the driver to maintain sobriety or abstinence from drug use, the Superintendent or designee shall require the driver to participate in the recommended services as part of a return-to-duty agreement and shall monitor the driver's compliance. Any drop from a rehabilitation or return-to-duty program or a subsequent positive test result shall be reported to the DMV. (Vehicle Code 13376; 49 CFR 40.285, 40.287, 40.303, 382.605)

Voluntary Self-Identification

Whenever a driver admits to alcohol or drug misuse under the district's voluntary self-identification program, the Superintendent or designee shall ensure all of the following: (49 CFR 382.121)

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

1. No adverse action shall be taken against the driver by the district.
2. The driver shall be allowed sufficient opportunity to seek evaluation, education, or treatment to establish control over the drug or alcohol problem.
3. The driver shall be permitted to participate in safety-sensitive functions only after:
 - a. Successfully completing an education or treatment program, as determined by a drug and alcohol abuse evaluation expert, such as an employee assistance professional, substance abuse professional, or qualified drug and alcohol counselor
 - b. Undergoing a return-to-duty test with a result indicating an alcohol concentration of less than 0.02 and/or a verified negative result for drug use

A driver who admits to alcohol or drug misuse shall not be subject to federal requirements related to referral, evaluation, and treatment, provided that the driver does not self-identify in order to avoid drug or alcohol testing, makes the admission prior to performing a safety-sensitive function, and does not perform a safety-sensitive function until the driver has been evaluated and has successfully completed education or treatment requirements in accordance with program guidelines. (49 CFR 382.121)

<u>State</u>	<u>Description</u>
13 CCR 1200-1293	Motor carrier safety
13 CCR 1212-1228	School bus driver requirements
Ed. Code 35160	Authority of governing boards
Gov. Code 8355	Certification of drug-free workplace, including notification
Veh. Code 13376	Driver certificates; revocation or suspension
Veh. Code 34500-34520.5	Safety regulations

<u>Federal</u>	<u>Description</u>
21 CFR 1308.11-1308.15	Controlled substances
41 USC 8101-8106	Drug-Free Workplace Act
49 CFR 382.101-382.605	Controlled substance and alcohol use and testing
49 CFR 382.205	On-duty use
49 CFR 382.207	Pre-duty use
49 CFR 382.209	Use following an accident
49 CFR 40.1-40.413	Procedures for transportation workplace drug and alcohol testing programs
49 USC 31306	Alcohol and drug testing

BP 4112.42(d)
4212.42
4312.42

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

Management Resources

California Highway Patrol Publication Controlled Substances and Alcohol Testing Compliance Checklist, 2007

*Website AASA The School Superintendents Association
phic Leave Program*

Policy
adopted: January 4, 2012
revised: December 4, 2013
revised: August 4, 2021

BIGGS UNIFIED SCHOOL DISTRICT
Biggs, California

Personnel

AR 4112.42(a)
4212.42
4312.42

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS

Definitions

For purposes of drug testing required by the U.S. Department of Transportation (DOT), drugs include marijuana, cocaine, amphetamines, phencyclidine (PCP), and opioids. (49 CFR 40.3, 40.85, 382.107)

Alcohol concentration (or content) means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test. (49 CFR 40.3, 382.107)

Safety-sensitive function means all time from the time the driver begins to work or is required to be in readiness to work until the time the driver is relieved from work and all responsibility for performing work. Safety-sensitive functions include, but are not limited to, all time driving or otherwise in the bus or other school transportation vehicle; waiting at a district facility to be dispatched; inspecting, servicing, or conditioning the vehicle or vehicle equipment; loading or unloading the vehicle; supervising or assisting in the loading or unloading of the vehicle; and repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle. (49 CFR 382.107)

Designated Employer Representative

The Superintendent or designee shall identify a designated employer representative who is authorized to take immediate action to remove drivers from safety-sensitive functions and to make required decisions in the testing and evaluation processes. The designated employer representative shall also be responsible for receiving test results and other communications. The name and telephone number of the designated employer representative shall be provided to the testing contractor to contact about any problems or issues that may arise during the testing process. (49 CFR 40.35, 40.215)

Pre-employment Testing

When hiring a new driver, the Superintendent or designee shall, with the driver's written consent, conduct a pre-employment query using the Commercial Driver's License Drug and Alcohol Clearinghouse to obtain information about whether the driver has committed a violation of federal drug or alcohol regulations. (49 CFR 382.701)

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

The Superintendent or designee shall also, with the driver's consent, request the driver's past drug and alcohol testing record, as specified in 49 CFR 40.25 and 382.413, from any employer who has employed the driver at any time during the previous three years. To the extent practicable, the Superintendent or designee shall obtain and review such information before the driver first performs safety-sensitive functions. In addition, the Superintendent or designee shall ask the driver if there was a positive test, or a refusal to test, on any pre-employment drug or alcohol test that was administered during the past two years in the course of applying for another safety-sensitive transportation position that was not obtained. (49 CFR 40.25, 382.413)

The driver shall not be permitted to perform safety-sensitive functions if the driver refuses to provide consent to obtain the information from previous employers or from the Clearinghouse; the information from previous employers is not received within 30 days of the date on which the driver first performed safety-sensitive functions for the district; or the driver, the Clearinghouse, or a previous employer reports a violation of a drug or alcohol regulation without subsequent completion of the return-to-duty process. (49 CFR 40.25, 382.413, 382.701, 382.703)

A driver whom the district intends to hire or use shall undergo testing for drugs and receive a verified negative test result prior to the first time the driver performs safety-sensitive functions for the district. This testing requirement may be waived if all of the following conditions exist: (49 CFR 382.301)

1. The driver has participated in a qualified drug testing program within the previous 30 days.
2. While participating in the program, the driver either was tested within the past six months from the date of application or participated in a random drug testing program for the previous 12 months from the date of application.
3. No prior employer of the driver of whom the district has knowledge has records of the driver's violation of federal drug testing regulations within the previous six months.

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

The Superintendent or designee shall contact the testing program(s) in which the driver has participated and obtain information about the program and the driver's participation as specified in 49 CFR 382.301.

In addition, the Superintendent or designee shall require the driver to undergo pre-employment alcohol testing in accordance with the procedures in 49 CFR 40.1-40.605 and to receive a test result indicating an alcohol concentration of less than 0.04. (49 CFR 382.301)

Post-Accident Testing

As soon as practicable following an accident involving a school bus or student activity bus, the Superintendent or designee shall ensure that the driver involved is tested for alcohol and/or drugs under either of the following conditions: (49 CFR 382.303)

1. The accident involved loss of human life.
2. The driver receives a citation for a moving traffic violation within eight hours of the accident and the accident involved bodily injury to a person who required immediate medical treatment away from the scene of the accident and/or disabling damage to one or more vehicles requiring towing.

The Superintendent or designee shall attempt to administer a required alcohol test up to eight hours following the accident and/or a drug test up to 32 hours following the accident. The results of an alcohol or drug test conducted by federal, state, or local officials having independent authority for the test shall be considered to meet this requirement. If the alcohol test is not administered within two hours following the accident, or the test for drugs is not administered within 32 hours following the accident, the Superintendent or designee shall make a record stating the reasons the test was not promptly administered. (49 CFR 382.303)

No driver required to take a post-accident alcohol test pursuant to 49 CFR 382.303 shall use alcohol for eight hours following the accident or until the driver undergoes a post-accident alcohol test, whichever occurs first. (49 CFR 382.209)

Random Testing

The Superintendent or designee shall ensure that random, unannounced drug and alcohol tests of bus drivers are conducted on testing dates reasonably spread throughout the year.

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

Such tests shall be unannounced and conducted during, immediately before, or immediately after the performance of safety-sensitive functions. (49 CFR 382.305)

The Superintendent or designee shall ensure that the percentage of district drivers randomly tested for drugs and alcohol meets or exceeds the minimum annual percentage rates specified in 49 CFR 382.305 or subsequently published in the Federal Register.

Each driver selected for random testing shall have an equal chance of being tested each time selections are made. (49 CFR 382.305)

Each driver who is selected for testing shall proceed to the test site immediately or, if performing a safety-sensitive function other than driving a bus, then as soon as possible after ceasing that function. (49 CFR 382.305)

Reasonable Suspicion Testing

A driver shall be required to submit to a drug or alcohol test whenever the Superintendent or designee has reasonable suspicion that the driver has violated the prohibitions against the use of drugs or alcohol. Such reasonable suspicion shall be based on specific, contemporaneous, articulable observations, conducted during, immediately before, or immediately after the performance of safety-sensitive functions, concerning the driver's appearance, behavior, speech, and/or body odors. Reasonable suspicion of drug use may also include indications of the chronic and withdrawal effects of drugs. (49 CFR 382.307)

The person who makes the required observations for reasonable suspicion testing for drugs or alcohol shall be trained in accordance with 49 CFR 382.603. The person who makes the determination that reasonable suspicion exists to conduct an alcohol test shall not be the same person who conducts the alcohol test. (49 CFR 382.307)

Within 24 hours of the observed behavior or before the results of the drug or alcohol test are released, whichever is earlier, a written record of the observations leading to a reasonable suspicion test shall be made and signed by the person who made the observations. (49 CFR 382.307)

An alcohol test required as a result of reasonable suspicion shall be administered within eight hours following the determination of reasonable suspicion. If the test is not administered within two hours, the Superintendent or designee shall prepare and maintain on file a record stating the reasons the test was not promptly administered. (49 CFR 382.307)

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

In the absence of a reasonable suspicion alcohol test, the district shall take no action against a driver based solely on the driver's behavior and appearance, except that the driver shall not be allowed to report for or remain on safety-sensitive functions until an alcohol test is administered and the results show a concentration less than 0.02 or 24 hours have elapsed following the determination of reasonable suspicion. (49 CFR 382.307)

Return-to-Duty Testing

Note: Pursuant to 49 CFR 40.305, the district may return a driver to safety-sensitive functions after the driver completes required education and treatment services as described in the accompanying Board policy and a return-to-duty drug or alcohol test. Such personnel decisions may be subject to collective bargaining or other legal requirements.

The Superintendent or designee may permit a driver who has violated federal drug or alcohol regulations to return to safety-sensitive functions after the driver has successfully complied with the education and treatment services prescribed by a substance abuse professional and has taken a return-to-duty drug or alcohol test. The driver shall not resume performance of safety-sensitive functions unless the drug test shows a negative result and/or the alcohol test shows a concentration of less than 0.02. (49 CFR 40.305, 382.309)

Follow-Up Testing

Upon receiving a written follow-up testing plan from a substance abuse professional, the Superintendent or designee shall determine the actual dates for follow-up testing consistent with those recommendations and shall ensure that such tests are unannounced and follow no discernable pattern as to their timing. No additional tests beyond those included in the plan shall be imposed by the district. (49 CFR 40.307-40.309, 382.111)

Mandatory Reporting and Annual Queries to the Drug and Alcohol Clearinghouse

The Superintendent or designee shall report to the Clearinghouse any violation of federal drug and alcohol regulations, any refusal to test, and other required information by the close of the third business day following the date on which the information was obtained. (49 CFR 382.705)

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

The Superintendent or designee shall conduct a query using the Clearinghouse at least once a year for all drivers to determine whether information exists in the Clearinghouse about the drivers. (49 CFR 382.701)

In lieu of a full query, the Superintendent or designee may obtain the individual driver's consent to conduct a limited query that is effective for more than one year and informs the district about whether there is information about the driver in the Clearinghouse without releasing that information to the district. If the limited query shows that information exists in the Clearinghouse about the individual driver, the Superintendent or designee shall conduct a full query within 24 hours of conducting the limited query. If a full query is not conducted within 24 hours, the driver may not perform any safety-sensitive function until the results from a full query confirm that the driver may perform such functions. (49 CFR 382.701)

A driver may not perform any safety-sensitive function if the results of a Clearinghouse query demonstrate that the driver has committed a violation of federal drug or alcohol regulations. (49 CFR 382.701)

Notifications

The Superintendent or designee shall provide each driver with materials explaining the federal regulations and the district's policy and procedure related to drug and alcohol testing and shall notify representatives of employee organizations of the availability of this information. This information shall include a detailed discussion of at least the following: (49 CFR 382.113, 382.303, 382.601)

1. The identity of the person designated by the district to answer driver questions about the materials
2. The categories of drivers who are subject to drug and alcohol testing
3. Sufficient information about the safety-sensitive functions performed by those drivers to make clear what period of the workday the driver is required to be in compliance
4. Specific information concerning prohibited driver conduct
5. The circumstances under which a driver will be tested for drugs and/or alcohol, including post-accident testing

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

6. The procedures that will be used to test for the presence of drugs and alcohol, protect the driver and the integrity of the testing processes, safeguard the validity of the test results, and ensure that those results are attributed to the correct driver
7. The requirement that a driver submit to drug and alcohol tests
8. An explanation of what constitutes a refusal to submit to a drug or alcohol test and the attendant consequences
9. The consequences for drivers found to have violated the prohibitions against drug or alcohol use, including the circumstances under which drivers will be removed immediately from safety-sensitive functions and the requirements for education, treatment, and return-to-duty testing
10. The consequences for drivers found to have a blood alcohol concentration between 0.02 and 0.04
11. Information concerning the effects of drug and alcohol use on an individual's health, work, and personal life; signs and symptoms of a drug or alcohol problem (the driver's or a co-worker's); and available methods of intervening when a drug or alcohol problem is suspected, including confrontation, referral to any employee assistance program, and/or referral to management
12. The requirement that personal information collected and maintained pursuant to 49 CFR 382 shall be reported to the Clearinghouse

Each driver shall sign a statement certifying receipt of a copy of the above materials. The Superintendent or designee shall maintain the original of the signed certificate and may provide a copy of the certificate to the driver. (49 CFR 382.601)

In addition, prior to administering each alcohol or drug test, the driver shall be notified that the test is required pursuant to Title 49, Part 382, of the Code of Federal Regulations. (49 CFR 382.113)

The driver shall be notified of the results of drug and alcohol tests in accordance with 49 CFR 382.411.

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

Records

The Superintendent or designee shall maintain records of the district's drug and alcohol testing program in accordance with 49 CFR 40.333 and 382.401. Such records shall be maintained in a secure location with controlled access and shall be disclosed only in accordance with 49 CFR 382.405.

<i>State</i>	<i>Description</i>
<i>13 CCR 1200-1293</i>	<i>Motor carrier safety</i>
<i>13 CCR 1212-1228</i>	<i>School bus driver requirements</i>
<i>Ed. Code 35160</i>	<i>Authority of governing boards</i>
<i>Gov. Code 8355</i>	<i>Certification of drug-free workplace, including notification</i>
<i>Veh. Code 13376</i>	<i>Driver certificates; revocation or suspension</i>
<i>Veh. Code 34500-34520.5</i>	<i>Safety regulations</i>
<i>Federal</i>	<i>Description</i>
<i>21 CFR 1308.11-1308.15</i>	<i>Controlled substances</i>
<i>41 USC 8101-8106</i>	<i>Drug-Free Workplace Act</i>
<i>49 CFR 382.101-382.605</i>	<i>Controlled substance and alcohol use and testing</i>
<i>49 CFR 382.205</i>	<i>On-duty use</i>
<i>49 CFR 382.207</i>	<i>Pre-duty use</i>
<i>49 CFR 382.209</i>	<i>Use following an accident</i>
<i>49 CFR 40.1-40.413</i>	<i>Procedures for transportation workplace drug and alcohol testing programs</i>
<i>49 USC 31306</i>	<i>Alcohol and drug testing</i>
<i>Management Resources</i>	
<i>California Highway Patrol Publication</i>	<i>Controlled Substances and Alcohol Testing Compliance Checklist, 2007</i>
<i>Website AASA</i>	<i>The School Superintendents Association</i>

Regulation:
approved: December 4, 2013
revised: August 4, 2021

BIGGS UNIFIED SCHOOL DISTRICT
Biggs, California

Personnel

AR 4112.5(a)
4212.5
4312.5

CRIMINAL RECORD CHECK

Applicants for Employment

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 solely on the basis that the person has been: (Education Code 44830.1, 44836, 45122.1, 45123)

1. Convicted of a violent or serious felony, controlled substance offense, or sex offense, and the conviction 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. Convicted of a violent or serious felony and has obtained a certificate of rehabilitation or a pardon.
3. Convicted of a serious felony, that is not also a violent felony, and has proven to the sentencing court that rehabilitation for purposes of school employment has been attained for at least one year.
4. Convicted of a controlled substance offense and is applying for or is employed in a certificated position and has a credential issued by the Commission on Teacher Credentialing.
5. Convicted of a controlled substance offense and 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)

CRIMINAL RECORD CHECK (continued)

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 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 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 the employee's 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)

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CRIMINAL RECORD CHECK (continued)

(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 the employee's 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 an understanding of the laws prohibiting misuse of CORI. In addition, the custodian of records shall ensure that any individual with access to CORI has on file a signed Employee Statement Form.

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)

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CRIMINAL RECORD CHECK (continued)

(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

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CRIMINAL RECORD CHECK (continued)

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>

(10/98 7/02) 12/14

Regulation

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BIGGS UNIFIED SCHOOL DISTRICT

Biggs, California

Personnel

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CRIMINAL RECORD CHECK

USE OF CRIMINAL JUSTICE INFORMATION

As an employee/volunteer of Biggs Unified 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.

Exhibit
version: April 8, 2015
revised: April 10, 2024

BIGGS UNIFIED SCHOOL DISTRICT
Biggs, California

All Personnel

AR 4112.6(a)

4212.6

PERSONNEL FILES

4312.6

The Superintendent or designee shall maintain personnel files for all current employees at the district's central office.

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*)

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](#) - *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

PERSONNEL FILES (continued)

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 FILES (continued)

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](#))

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PERSONNEL FILES (continued)

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)

(3/01 7/12) 3/16

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BIGGS UNIFIED SCHOOL DISTRICT
Biggs, California