

DEL MAR UNION SCHOOL DISTRICT

ARTICLE 4

PERSONNEL

(Series 4000)

NOTE: The CSBA comprehensive index/table of contents is widely used by districts throughout the state. It provides a standard index system designed to accommodate future policies/regulations and at the same time provides a table of contents for this manual. This manual contains only those Board policies (BP), administrative regulations (AR) and exhibits (E) specified in the right-hand column.

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***DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL***

BOARD POLICY 4100: CERTIFICATED PERSONNEL

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

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

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

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

44490-44497 Mentor teacher program

GOVERNMENT CODE

3543.2 Scope of representation

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

BOARD POLICY 4111: RECRUITMENT AND SELECTION

The Governing Board desires to employ the most highly qualified and appropriate person available for each open position in order to improve student achievement and efficiency in district operations.

The Superintendent or designee shall recruit candidates for open positions based on an assessment of the district's needs for specific skills, knowledge and abilities. He/she shall develop job descriptions that accurately describe all essential and marginal functions and duties of each position, and shall disseminate job announcements to ensure a wide range of candidates.

The Superintendent or designee shall develop selection procedures that identify the best possible candidate for each position based on screening processes, interviews, observations and recommendations from previous employers. He/she may establish an interview committee, as appropriate, to rank candidates and recommend finalists. All discussions and recommendations shall be confidential in accordance with law.

During job interviews, applicants may be asked to describe or demonstrate how they will be able to perform the duties of the job. No inquiry shall be made with regard to any category of discrimination prohibited by state or federal law.

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.

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination on the basis of sex
44066 Limitations on certification requirement
44259 Teaching credential; exception; designated subjects; minimum requirements
44735 Incentive grants for recruiting teachers for low-performing schools
44750-44754.5 Regional teacher recruitment centers
44830-44831 Employment of certificated persons
44858 Age or marital status in certificated positions
44859 Prohibition against certain rules and regulations re residency
45103-45138 Employment (classified employees)
49406 Examination for tuberculosis
52051 Academic Performance Index

GOVERNMENT CODE

12900-12996 Fair Employment and Housing Act, including:
12940-12956 Discrimination prohibited; unlawful practices

UNITED STATES CODE, TITLE 8

1324a Unlawful employment of aliens
1324b Unfair immigration related practices

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
2000h-2-2000h-6 Title IX, 1972 Education Act Amendments
12101-12213 Americans with Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 28

35.101-35.190 Americans with Disabilities Act

Management Resources:

CSBA PUBLICATIONS

Maximizing School Board Leadership: Human Resources, 1996

WEB SITES

Equal Employment Opportunity Commission: <http://www.eeoc.gov>
Department of Fair Employment and Housing: <http://www.dfeh.ca.gov>
CalTeach: <http://www.calteach.org>
Education Job Opportunities Information Network: <http://www.edjoin.org>

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

BOARD POLICY 4111.2: LEGAL STATUS REQUIREMENT

The district shall hire only citizens and aliens who are lawfully authorized to work in the United States. 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.

All new employees shall show appropriate documents, which certify that they are legally eligible to work in the United States, as required by law and in accordance with administrative regulation.

Legal Reference:

UNITED STATES CODE, TITLE 8

1324(a)(b) *Immigration and Nationality Act, as amended by Immigration Reform and Control Act of 1986 and Immigration Act of 1990*

CODE OF FEDERAL REGULATIONS, TITLE 8

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

Management Resources:

WEB SITES

Immigration and Naturalization Service: <http://www.ins.usdoj.gov>

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

ADMINISTRATIVE REGULATION TO BOARD POLICY 4111.2:
LEGAL STATUS REQUIREMENT

Within three business days of hire, the Superintendent or designee shall physically examine the documentation presented by the employee establishing his/her identity and employment eligibility as set forth in INS Form I-9. The Superintendent or designee shall (1) ensure that the documents presented appear to be genuine and relate to the individual and (2) complete the "Employer Review and Verification" section of the Form I-9. (8 CFR 274a.2)

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

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

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

After examining the documents presented, the Superintendent or designee shall copy them. Such copies shall be retained with the individual's I-9 form. The documents shall be kept confidential and used only as needed to help justify the district's past decision to accept the documents as valid.

The district shall retain the I-9 forms for three years after the date of the hire or for one year after the date the individual's employment is terminated, whichever is later. (8 CFR 274a.2)

***DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL***

**ADMINISTRATIVE REGULATION 4112:
APPOINTMENT AND CONDITIONS OF EMPLOYMENT**

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

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)
2. Demonstrate proficiency in basic skills as required by law and Board policy (Education Code 44252.5, 44830)
3. When required by the federal No Child Left Behind Act for teachers of core academic subjects, possess the qualifications of "highly qualified" teachers as defined in law, Board policy and administrative regulations (20 USC 6319)
4. Submit to fingerprinting as required by law (Education Code 44830.1)
5. 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)
6. Not have been convicted of any sex offense as defined in Education Code 44010 (Education Code 44836)
7. 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)
8. Not have been determined to be a sexual psychopath pursuant to Welfare and Institutions Code 6300-6332 (Education Code 44837)
9. Not have been convicted of any controlled substance offense as defined in Education Code 44011 (Education Code 44836)
10. Submit to a physical examination, tuberculosis testing and/or provide a medical certificate as required by law and Board policy (Education Code 44839, 49406)

11. Submit to drug and alcohol testing as required by Board policy
12. 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)
13. File the oath or affirmation of allegiance required by Government Code 3100-3109
14. Fulfill any other requirements as specified by law, collective bargaining agreement, Board policy or administrative regulation

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
44250-44279 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

***DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL***

ADMINISTRATIVE REGULATION 4112.1: 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)

Employee Notification

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

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*

**DEL MAR UNION SCHOOL DISTRICT
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BOARD POLICY 4112.2: CERTIFICATION

The Superintendent or designee shall ensure that persons employed in positions requiring certification qualifications possess the appropriate credential or permit from the Commission on Teacher Credentialing (CTC) authorizing their employment in such positions.

When a fully credentialed teacher is not available, the district may employ a person with a short-term staff permit or provisional internship permit under the conditions and limitations provided in state and federal law.

As necessary, all teachers of core academic subjects shall meet the requirements of the No Child Left Behind Act. (20 USC 6319, 7801; 5 CCR 6100-6125)

National Board for Professional Teaching Standards Certification

The Board encourages district teachers to voluntarily seek additional certification from the National Board for Professional Teaching Standards, which demonstrates advanced knowledge and teaching skills.

The Superintendent or designee shall inform all teachers about the program and how to acquire the necessary application and information materials. The Superintendent or designee may provide release time, fee support, a stipend upon completion, or other support to teachers participating in the program contingent upon funding.

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*

42647 *Drawing of warrants*

44066 *Limitations on certification requirements*

44200-44405 *Teacher credentialing, especially:*

44225.6 *CTC annual report on availability of teachers*

44251 *Period of credentials*

44252 *Standards and procedures for issuance; proficiency testing of basic skills*

44252.5 *State basic skills assessment required for certificated personnel*

44258.9 *Monitoring of teacher assignments by county superintendent*

44259 *Minimum requirements for teaching credential*

44259.5 *Standards for teachers of all students, including English language learners*

44270.3-44270.4 *Out-of-state credentials, administrative services*

44274-44274.5 *Out-of-state credentials*

44275.3 *Employment of teachers with out-of-state credentials*
44277 *Requirements for maintaining valid credentials*
44278 *Credential appeal*
44325-44329 *District interns*
44330-44355 *Certificates and credentials*
44395-44399 *National Board for Professional Teaching Standards*
44464 *Period of validity of internship credential*
44468 *Early completion of internship program*
44500-44508 *Peer Assistance and Review Program for Teachers*
44662 *Performance evaluation; Stull Act review*
44735 *Teaching as a priority block grant*
44830-44929 *Employment of certificated persons; requirement of proficiency in basic skills*
56060-56063 *Substitute teachers in special education*
90530 *Recruitment Centers*

CODE OF REGULATIONS, TITLE 5

6100-6125 *Teacher qualifications, No Child Left Behind Act*
80001-80674.6 *Commission on Teacher Credentialing*

UNITED STATES CODE, TITLE 20

6311 *Parental notifications*
6312 *District Title I plan*
6319 *Highly qualified teachers*
7801 *Definitions, highly qualified teacher*

CODE OF FEDERAL REGULATIONS, TITLE 34

200.55-200.57 *Highly qualified teachers*
200.61 *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:

CSBA POLICY ADVISORIES

Teacher Credentialing Commission Eliminates Emergency Permits, August 2003

COMMISSION ON TEACHER CREDENTIALING CODED CORRESPONDENCE

03-0021 Alignment of Emergency Permits and Credential Waivers with No Child Left Behind

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

Standards of Quality and Effectiveness for Professional Teacher Induction Programs, March 2002

Standards of Quality and Effectiveness for Professional Teacher Preparation Programs, September 2001

California Standards for the Teaching Profession, July 1997

U.S. DEPARTMENT OF EDUCATION GUIDANCE

Improving Teacher Quality State Grants, December 19, 2002

WEB SITES

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

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

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

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

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4112.2:
CERTIFICATION**

Registration

Each person employed by the district for a position requiring certification qualifications shall, within 60 days after beginning employment, register with the county office of education a valid credential authorizing the person to work in that position. Certificated employees also shall register renewed credentials within 60 days after the renewal. (Education Code 44330, 44857)

Basic Skills Proficiency Test

Prior to being hired by the Governing Board, all certificated persons, whether hired on a permanent, temporary, or substitute basis, shall demonstrate basic skills proficiency in reading, writing, and mathematics, unless specifically exempted from this requirement by Education Code 44830. (Education Code 44830)

Certificated persons who have not held a position requiring certification within 39 months of employment and who have not taken the state basic skills proficiency test may be hired as temporary employees, provided they pass a basic skills proficiency test developed and administered by the district. Such employees shall subsequently take the state test within one year of employment. (Education Code 44830)

Out-of-State/Country Credentials

The district may employ an out-of-state applicant who has met the requirements of Education Code 44274.2, 44275.3, or 44275.4 and obtained a preliminary or professional clear credential from the Commission on Teacher Credentialing (CTC).

To be eligible for a professional clear credential, teachers prepared out of state or out of the country must meet legal requirements for basic skill proficiency, subject matter competence, course completion, and either a fifth-year postsecondary program or an induction program for beginning teachers. (Education Code 44274, 44275.3, 44275.4)

Emergency Substitute Teaching Permits

The district may employ, at any grade level, a person with an emergency substitute permit issued by the CTC with the following restrictions:

1. A person with a 30-day emergency substitute permit shall not serve as a substitute for more than 30 days for any one teacher during the school year. (5 CCR 80025)

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 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 authorized for day-to-day substitute teaching shall not serve as a special education substitute for more than 20 days for any one teacher during the school year. (5 CCR 80025.4)
5. A person with an emergency substitute permit for vocational education 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 any person pursuant to 5 CCR 80025 or 80025.5, the Superintendent or designee shall prepare and keep on file a signed statement of need. 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)

Short-Term and Provisional Internship Permits

Whenever there is a need to fill a classroom immediately based on an unforeseen need, the district may request that the CTC issue a short-term staff permit to an applicant who meets the qualifications specified in 5 CCR 80021. In such cases, the district shall: (5 CCR 80021)

1. Verify that it has conducted a local recruitment for the short-term staff permit being requested
2. Verify that it 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. Submit written justification for the permit signed by the Superintendent or designee

The district may request that the CTC issue a provisional internship permit to an applicant who meets the qualifications specified in 5 CCR 80021.1 whenever a suitable credentialed teacher cannot be found after a diligent search. The district shall verify each of the following: (5 CCR 80021.1)

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

The search shall include, but not be limited to, distributing job announcements, contacting college and university placement centers, and advertising in print or electronic media.

2. That 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 teacher is expected to teach and effective instruction and classroom management techniques at the permit holder's assigned level. The Superintendent or designee shall assign an experienced educator to guide and assist each permit holder. (5 CCR 80026.5)

3. That the district will assist the permit holder in developing a personalized plan through a district-defined assessment that would lead to subject-matter competence related to the permit
4. That 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 will assist the permit holder in meeting the credential subject-matter competence requirement related to the permit
5. That a notice of intent to employ the applicant in the identified position has been made public

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

6. That the candidate has been apprised of steps to earn a credential and enroll in an internship program

***DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL***

BOARD POLICY 4112.21: INTERNS

The Governing Board supports the use of interns to fulfill the district's need for additional instructional resources and to enable future teachers to fulfill state credentialing requirements and link teaching theory with practice.

The Superintendent or designee may enter into an agreement with an accredited college or university to jointly provide supervised teaching experiences within the district as part of a teacher preparation program. He/she shall collaborate with the college or university in the selection, placement, support and performance assessment of interns.

Interns shall not be assigned to teach any classes outside the subject area, grade levels or classes authorized by their credential.

In order to be hired to teach core academic subjects, as defined in law, in a program supported by federal Title I funds, or to teach core academic subjects in any classroom after the end of the 2005-06 school year, an intern shall meet the definition of a "highly qualified" teacher adopted by the State Board of Education. (20 USC 6319, 7801; 5 CCR 6100-6112)

Terms of employment for interns shall be consistent with law and/or the district's collective bargaining agreement.

Interns shall be provided with ongoing feedback regarding their performance in order to enhance their skills and shall be formally evaluated at least once every year.

The Superintendent or designee shall coordinate services offered to interns with services offered to beginning teachers in the district in order to provide continuity of preparation, support and assessment.

Legal Reference:

EDUCATION CODE

300-340 English language education for immigrant children
44259 Minimum requirements for teaching credential
44279.1-44279.7 Beginning Teacher Support and Assessment System
44305-44308 Pre-Internship Teaching Program
44314 Diversified or liberal arts program
44321 CTC approval of internship programs
44325-44329 District interns
44450-44468 Teacher Education Internship Act of 1967 (university interns)
44830.3 Employing district interns
44885.5 District interns classified as probationary employees

CODE OF REGULATIONS, TITLE 5

6100-6125 No Child Left Behind teacher requirements
13000-13017 New Careers Program
80055 Internship credential

UNITED STATES CODE, TITLE 20

6319 Highly qualified teachers
7801 Definitions, highly qualified teacher

Management Resources:

CTC PUBLICATIONS

CTC Credential Handbook, revised 1997
California's Future: Highly Qualified Teachers for All Students, November 1997 (contains California Standards for the Teaching Profession)
Standards of Program Quality and Effectiveness for District Intern Programs, revised 1996

CTC CODED CORRESPONDENCE

03-0028 Changes in district intern programs as a result of Senate Bill 187, December 22, 2003
03-0006 Announcement of the availability of Individualized Internship Certificate, March 3, 2003

U.S. DEPARTMENT OF EDUCATION GUIDANCE

Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance, revised January 16, 2004

CSBA ADVISORIES

New Law Amends District Intern Program, September 2003

WEB SITES

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

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

ADMINISTRATIVE REGULATION TO BOARD POLICY 4112.21: INTERNS

University Internship Program

The Governing Board may employ persons with an appropriate internship credential from the Commission on Teacher Credentialing (CTC) to provide the same service at the same levels as the regular credential authorizes. (Education Code 44454)

The Superintendent or designee shall seek the assistance of the college or university in coordinating the intern's program. (Education Code 44465)

The Superintendent or designee may enter into agreements to employ competent and qualified college and university staff members to supervise and guide interns as they pursue their district responsibilities. (Education Code 44461)

A university intern may choose an early completion option leading to a five-year preliminary credential by demonstrating competence through assessments and observations in accordance with Education Code 44468. (Education Code 44468)

Prior to enrollment in any college or university program to renew the internship credential, the Superintendent or designee shall counsel with the intern and jointly plan a total program for the first and subsequent renewals. The program shall meet the instructional or service needs of the district with the primary objective being to increase the effectiveness of the intern in the district. (Education Code 44457, 44458)

District Internship Program

The Board may, in consultation with an accredited college or university offering an approved program of teacher preparation, employ individuals with an appropriate credential from the Commission on Teacher Credentialing (CTC) to teach as district interns in any classes in grades K-6, in bilingual education classes or in special education programs for students with mild and moderate disabilities. (Education Code 44830.3)

Each district intern shall be assisted and guided by one of the following: (Education Code 44326, 44830.3)

1. A certificated employee who possesses valid certification at the same level or of the same type of credential as the district intern he/she serves, and who is selected through a competitive process adopted by the Board after consultation with the exclusive teacher representative unit
2. Personnel employed by the college or university to supervise student teachers

The Superintendent or designee shall, in consultation with the college or university, develop and implement a professional development plan for each district intern. This plan shall include but not necessarily be limited to the components described in Education Code 44830.3, including provisions for mandatory preservice training tailored to the grade level or class to be taught, additional instruction during the first year of service when required, and an annual evaluation of the district intern. (Education Code 44830.3)

As an alternative to the coursework requirements described in Education Code 44830.3, a district intern may choose an early completion option leading to a five-year preliminary credential by demonstrating competence through assessments and observations in accordance with Education Code 44468. (Education Code 44468)

The Superintendent or designee shall ensure that appropriate records are maintained, showing the credit earned by each district intern. (Education Code 44327)

When a district intern's credential expires, the Superintendent or designee may recommend to the CTC that the intern credential be extended for one year. (Education Code 44325)

When a district intern has successfully completed service sufficient to meet program standards and performance assessments, the Board may recommend to the CTC that the intern be awarded a preliminary credential. The Board may recommend issuance of a professional clear credential if the program includes an approved induction plan or CTC-approved advanced coursework meeting the requirements of Education Code 44259(c) for the professional clear credential. (Education Code 44328, 44468, 44830.3)

Individualized Internship Certificate

The Superintendent or designee, in cooperation with a postsecondary teacher preparation program, may apply for an individualized internship certificate for an employee teaching in any of grades K-12 or in special education classes who is not currently enrolled in a university or district internship program, has met all the college or university admission requirements for a teacher certification program, and has fulfilled other requirements of the CTC.

Within the first 90 days of the intern's admission into this program, the Superintendent or designee, teacher preparation program advisor and intern candidate shall develop an individualized teacher preparation plan which includes courses, exams and field experiences to be completed; provision and schedule for completing the appropriate teaching performance assessment; and provision for the intern candidate to move into a teacher induction program.

The Superintendent or designee shall identify a support provider to regularly assist and guide the intern with his/her teaching responsibilities.

***DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL***

ADMINISTRATIVE REGULATION 4112.22:

STAFF TEACHING STUDENTS OF LIMITED ENGLISH PROFICIENCY

Definitions

Instruction for English language development means instruction designed specifically for limited-English-proficient students 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 limited-English-proficient students. (Education Code 44253.2)

Content instruction delivered in the primary language means instruction in a subject area delivered in the primary language of the student. (Education Code 44253.2)

Teacher Qualifications

The Superintendent or designee shall ensure that a teacher providing instruction for English language development, specially designed academic instruction in English (SDAIE), and/or content instruction in any student's primary language possesses the appropriate authorization(s) issued by the Commission on Teacher Credentialing (CTC).

A teacher may be provisionally assigned to provide instruction for English language development or SDAIE during the period that he/she is pursuing training to complete a Certificate of Completion of Staff Development pursuant to Education Code 44253.10.

Legal Reference:

EDUCATION CODE

10600-10610 California Education Information System
44225 Duties of the Commission on Teacher Credentialing
44253.1-44253.10 Certification for bilingual-crosscultural competence
44258.9 County superintendent review of teacher assignment
44259.5 Standards for teachers of all students, including English language learners
44380-44386 Alternative certification
44760-44763 Teacher supply and demand reporting
52160-52178 Bilingual-Bicultural Act of 1976
52180-52186 Bilingual teacher training assistance program
62001-62005.5 Evaluation and sunseting of programs

CODE OF REGULATIONS, TITLE 5

6100-6125 Teacher qualifications, No Child Left Behind Act
80016 Certificate of completion of staff development to teach English learners

UNITED STATES CODE, TITLE 20

1701-1704 Equal educational opportunities
6319 Highly qualified teachers
6601-6651 Training and recruiting high-quality teachers
6801-7014 Language instruction for English learners and immigrant students
7801 Definitions, highly qualified teacher

CODE OF FEDERAL REGULATIONS, TITLE 34

200.55-200.57 Highly qualified teachers

COURT DECISIONS

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

Management Resources:

CDE PROGRAM ADVISORIES

0300.97 Programs for English learners

CTC PUBLICATIONS

Languages Other than English Single Subject Matter Standards for the Single Subject Teaching Credential, May 2004

CL-622 Serving English Learners, February 2004

CTC CODED CORRESPONDENCE

04-0001 Clarification of authorizations to teach English learners, January 12, 2004

02-0006 Authorization to teach English learners pursuant to SB 2042, April 24, 2002

U.S. DEPARTMENT OF EDUCATION GUIDANCE

Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance, revised January 16, 2004

WEB SITES

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

***DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL***

BOARD POLICY 4112.23: SPECIAL EDUCATION STAFF

Resource Specialists

The Governing Board shall employ certificated resource specialists to provide services, where required by law, for students who have exceptional needs, their parents/guardians, and school staff.

The resource specialist program shall be directed by a resource specialist fully qualified in accordance with law.

Caseloads for special day classes are not set by law and may be determined through certificated collective bargaining agreements. Other special education caseloads are specified in Education Code 56362 and 56363.3. Guidelines regarding caseloads may be included in the SELPA's plan.

Legal Reference:

EDUCATION CODE

56195.8 Adoption of policies

56361 Program options

56362 Resource specialist program, contents, direction; resource specialists, case-loads, assignments, instructional aide; pupil enrollment

56362.1 Caseload

56362.5 Resource specialist certificate of competence

56362.7 Bilingual-crosscultural certificate of assessment competence

56363.3 Average caseload limits

56441.7 Maximum caseload (programs for individuals with exceptional needs between the ages of three and five inclusive)

56728.6 Instructional personnel funding

56728.8 Instructional personnel funding; services to infants

CODE OF REGULATIONS, TITLE 5

3051.1 Language, speech and hearing development and remediation; appropriate credential

**DEL MAR UNION SCHOOL DISTRICT
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ADMINISTRATIVE REGULATION 4112.3: OATH OR AFFIRMATION

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)

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

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

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

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

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

Reimbursement of Expenses for Disaster Service Workers

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

Legal Reference:

EDUCATION CODE

60 Persons authorized to administer and certify oaths

44334 Oath or affirmation required for credential

44354 Administration of oath required for credential

GOVERNMENT CODE

3100-3109 Oath or affirmation of allegiance

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

OATH OR AFFIRMATION • EXHIBIT 1

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)

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

BOARD POLICY 4112.4: HEALTH EXAMINATIONS

New Employees

The Superintendent or designee shall ensure that new district employees comply with all the health examination requirements of California law.

In addition, the Superintendent or designee may require applicants for employment in classified positions to undergo a pre-employment physical examination to show that they are physically able to perform the duties of specific jobs. (Education Code 45122)

Continuing Employees

Continuing employees shall undergo periodic tuberculosis tests once every four years in accordance with law. (Education Code 49406)

The Governing Board is concerned about the prevalence of tuberculosis in our community and may require continuing employees to undergo tuberculosis tests when warranted upon the recommendation of the local health officer.

Employees may be required to pass a physical and/or psychological examination any time such an examination appears necessary to preserve the health and welfare of district students and employees or to furnish medical proof of physical or mental ability to perform satisfactorily the assigned duties of an individual's position. (Education Code 44839, 45122)

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, psychiatric examination; mandatory sick leave

45122 Physical examinations

49406 Examination for tuberculosis

CODE OF REGULATIONS, TITLE 5

5502-5503 Physical examination for retirants employed as substitute teacher, etc.

5504 Medical certification procedures

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4112.4:
HEALTH EXAMINATIONS**

New Employees

1. No person shall be initially employed unless he/she has placed on file with the district a certificate from a physician licensed under the Business and Professions Code indicating that a tuberculosis examination within the past 60 days shows that he/she is free from active tuberculosis. The tuberculosis examination shall consist of an approved intradermal tuberculin test. An x-ray of the lungs shall be required only if the intradermal test is positive. (Education Code 49406)

Persons transferring from another district may fulfill tuberculosis examination requirements in either of the following ways: (Education Code 49406)

- a. By producing a certificate showing that the employee was examined within the last four years and found free of active tuberculosis, or
- b. By having the last employing school verify that it has on file a current certificate which contains that showing.

2. When a new employee in a position requiring certification has not previously been employed in such a position in California, he/she must have a medical certificate on file with the district. The certificate will state that the employee is free from any disabling disease which would render him/her unfit to instruct or associate with children. The certificate form may be obtained from the employee's physician or health clinic office. It must be filled out by a licensed physician and returned to the human resources office by the physician. The medical examination referred to in the certificate must have been conducted within six months of the time when the certificate is filed. (Education Code 44839)

The cost of pre-employment examinations shall be borne by the applicant. (Education Code 44839, 45122, 49406)

When an employee's religious belief prevents him/her from undergoing a physical examination, the district shall follow provisions of Education Code 49406.

Continuing Employees

Continuing employees who test negative on tuberculin skin tests shall undergo a tuberculosis examination at least once every four years. (Education Code 49406)

Tuberculosis tests and other medical examinations required by the Superintendent or designee shall be administered by a physician licensed under the Business and Professions Code and shall be provided by the district or at district expense. (Education Code 44839, 45122, 49406)

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

BOARD POLICY 4112.41: EMPLOYEE DRUG TESTING

The Governing Board maintains a drug and alcohol-free workplace. In accordance with law, all employees shall render service without using, possessing, being impaired by or being under the influence of alcohol or drugs.

Pre-Employment Drug/Alcohol Testing

Once a conditional offer of employment has been made, prospective employees shall undergo a pre-employment drug and alcohol screening for any substance which could impair their ability to safely and effectively perform their job functions. This screening shall be part of the employee's pre-employment physical examination.

All medical examinations shall be conducted in accordance with state and federal law, and in accordance with Board policy and administrative regulation.

Legal Reference:

EDUCATION CODE

44839 Medical certificate; periodic medical examination

45122 Physical examinations

GOVERNMENT CODE

8350-8357 Drug-free workplace

12940 Unlawful employment practices

CODE OF REGULATIONS, TITLE 5

5504 Medical certification procedures

UNITED STATES CODE, TITLE 20

7101-7184 Safe and Drug-Free Schools and Communities Act

UNITED STATES CODE, TITLE 41

701-707 Drug-Free Workplace Act

COURT DECISIONS

Loder v. City of Glendale, (1997) 14 Cal. 4th 846

Vernonia School District 47J v. Acton, (1995) 115 S.Ct. 2386

International Brotherhood of Teamsters v. Department of Transportation, (1991) 932 F.2d 1292

Skinner v. Railway Labor Executives' Assn., (1989) 489 U.S. 602

National Treasury Employees Union v. Von Raab, (1989) 109 S.Ct. 1384

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4112.41:
EMPLOYEE DRUG TESTING**

Pre-Employment Drug/Alcohol Screening

Final selection of a job applicant for a position shall not be made until the applicant has successfully completed a drug and alcohol screening required as part of the pre-employment physical examination.

Applicants shall sign a form consenting to the drug and alcohol testing. The consent form shall authorize release of the test results to the district.

To ensure the privacy of the drug and alcohol screening of job applicants, the district will not use test results for any purpose other than those stated in Governing Board policy and administrative regulation. The district shall maintain the confidentiality of screening records and shall not disclose these records unless the applicant has consented to the disclosure or the Superintendent or designee is presented with a court order requiring the disclosure.

All initial screening tests shall be conducted at the district's expense. If an applicant's initial test is positive, the district may request a second test. A second test shall be administered as soon as possible to confirm the results. This test also shall be conducted at the district's expense.

Upon obtaining a second positive result, the applicant may seek an independent drug and alcohol screening from a recognized medical laboratory at his/her own expense. Any applicant who fails to provide the district with a negative drug and alcohol screening report within five working days of a confirmed positive result shall be determined to have failed the screening and shall not be employed.

Failure to submit to the process or to complete the process shall preclude the applicant from being hired into the position. Disqualified applicants shall not be prohibited from applying for another job within the district.

***DEL MAR UNION SCHOOL DISTRICT
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ADMINISTRATIVE REGULATION 4112.5: CRIMINAL RECORD CHECK

Applicants for Employment

The Superintendent or designee shall ensure that each person to be employed submits fingerprints, either electronically through the Live Scan system or on fingerprint identification cards, for processing by the Department of Justice. If the district is using the Live Scan system, the Superintendent or designee shall also provide the applicant with a Live Scan request form and a list of nearby Live Scan locations.

The Superintendent or designee shall ensure that no person is hired in a position requiring certification qualifications or supervising positions requiring certification qualifications who has been convicted of a violent or serious felony as listed in Penal Code 667.5(c) or 1192.7(c), unless that person has obtained a certificate of rehabilitation and a pardon. (Education Code 44830.1)

Subsequent Arrest Notification

The Superintendent or designee shall request subsequent arrest notification from the Department of Justice as provided under Penal Code 11105.2. (Education Code 44830.1)

Current Employees

The Superintendent or designee shall not retain in employment any current certificated employee who is a temporary employee, substitute employee or probationary employee serving before March 15 of the employee's second probationary year if he/she has been convicted of a violent or serious felony. (Education Code 44830.1)

Upon notification by the Department of Justice of such conviction, the Superintendent or designee shall immediately place that employee on leave without pay. (Education Code 44830.1)

When the district receives written electronic notification of the fact of conviction from the Department of Justice, the Superintendent or designee shall terminate that employee without regard to any other procedure for termination specified in the Education Code or district procedures, unless that employee has received a certificate of rehabilitation and a pardon. (Education Code 44830.1)

If the employee challenges the Department of Justice record and the Department of Justice withdraws in writing its notification, 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. (Education Code 44830.1)

Legal Reference:

EDUCATION CODE

44010 Sex offense

44332 Temporary certificate

44332.5 Registering certificates by certain districts

44332.6 Criminal record check, county board of education

44346.1 Applicants for credential, conviction of a violent or serious felony

44830.1 Certificated employees, conviction of a violent or serious felony

44830.2 Certificated employees; interagency agreement

44836 Conviction of a sex offense

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 agreements

45125.5 Automated records check

45126 Duty of Department of Justice to furnish information

PENAL CODE

667.5 Prior prison terms, enhancement of prison terms

1192.7 Plea bargaining limitation

11105.2 Subsequent arrest notification

CODE OF REGULATIONS, TITLE 11

703 Release of criminal offender record information

708 Destruction of criminal offender record information

Management Resources:

WEB SITES

Department of Justice/Attorney General's Office: <http://www.caag.state.ca.us/app>

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

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

BOARD POLICY 4112.61: EMPLOYMENT REFERENCES

At his/her discretion, the Superintendent or administrative designee may provide letters of recommendation for current or past employees that provide a careful, truthful and complete account of the employee's job performance and qualifications.

It is District policy that any letter or memorandum which intentionally omits significant facts, or which states as facts matters which the writer does not know of his/her own knowledge to be true, relating to the professional qualifications or personal fitness to perform certificated services of any person who the writer knows will use the letter or memorandum to obtain professional employment is prohibited. (5 CCR, Section 80332)

No employee shall agree to provide a positive letter of recommendation, which misrepresents facts as a condition of another employee's resigning or withdrawing action against the district. (5 CCR, Section 80332)

Legal Reference:

LABOR CODE

1050-1054 Reemployment privileges

CIVIL CODE

47 Privileged communication

CODE OF CIVIL PROCEDURE

527.3 Labor disputes

CODE OF REGULATIONS, TITLE 5

80332 Professional candor and honesty in letters or memoranda of employment recommendation

COURT DECISIONS

Randi W. v. Muroc Joint Unified School District et al., (1997) 14 Cal. 4th 1066

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

ADMINISTRATIVE REGULATION 4112.62:
MAINTENANCE OF CRIMINAL OFFENDER RECORDS

Maintenance of Criminal Offender Records

All information received from the Department of Justice is confidential. (Education Code 44830.1, 45125)

The Superintendent shall designate an employee as record custodian of all confidential fingerprint and criminal record history who shall be responsible for the administration of the information. Any questions regarding Criminal Offender Record Information shall be resolved by the record custodian.

Criminal Offender Record Information shall be accessible only to the record custodian and shall be kept in a locked file separate from other files. The contents of these records shall not be disclosed and shall not be reproduced. (Education Code 44830.1, 45125)

The record custodian shall be fingerprinted and processed through the California Department of Justice. He/she shall sign an Employee Statement Form, acknowledging an understanding of the laws regarding Criminal Offender Record Information.

These records shall be used only for the purpose for which they were requested.

Upon a hiring determination, the records 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)

Violation of this administrative regulation may result in suspension, dismissal and/or criminal or civil prosecution.

The record custodian shall ensure that the district complies with destruction, storage, dissemination, auditing, backgrounding and training requirements as set forth in 11 CCR 700-708 and the rules regarding use and security of these records as set forth in Penal Code 11077. (Education Code 44830.1, 45125)

Interagency Agreements

Upon receipt from the Department of Justice of a criminal history record or report of subsequent arrest for any person on a common list of persons eligible for employment, the designated district shall give notice to the Superintendent or 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 written designee. The

report shall be made available at the office of the designated district for 30 days following the receipt of the notice. (Education Code 44830.2, 45125.01)

The designated district shall not release a copy of that information to any participating district or any other person. In addition, the designated 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 designated district shall maintain a record of all persons to whom the information has been shown. This record shall be available to the Department of Justice. (Education Code 44830.2, 45125.01)

The designated district shall submit an interagency agreement to the Department of Justice to establish authorization to submit and receive this information. (Education Code 44830.2, 45125.01)

Legal Reference:

EDUCATION CODE

44332 Temporary certificate

44332.6 Criminal record check, county board of education

44346.1 Applicants for credential, conviction of a violent or serious felony

44830.1 Certificated employees, conviction of a violent or serious felony

44830.2 Interagency agreements

45122.1 Classified employees, conviction of a violent or serious felony

45125 Use of personal identification cards to ascertain conviction of crime

45125.01 Interagency agreements

45125.5 Automated records check

45126 Duty of Department of Justice to furnish information

PENAL CODE

667.5 Prior prison terms, enhancement of prison terms

1192.7 Plea bargaining limitation

11075-11081 Criminal record dissemination

11105 State criminal history information; furnishing to authorized persons

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

700-708 Criminal offender record information

MAINTENANCE OF CRIMINAL OFFENDER RECORDS • EXHIBIT 1

**EMPLOYEE STATEMENT FORM REGARDING
USE OF CRIMINAL JUSTICE INFORMATION**

As an employee of Del Mar Union School District, you may have access to confidential criminal record information, which is controlled by statute. Misuse of such information may adversely affect the individual's civil rights and violates the law. Penal Code 502 prescribes the penalties related to computer crimes. Penal Code 11105 and 13300 identify who has access to criminal history information and under what circumstances it may be released. Penal Code 11140-11144 and 13301-13305 prescribe penalties for misuse of criminal history information. Government Code 6200 prescribes the felony penalties for misuse of public record and CLETS (California Law Enforcement Telecommunication System) information. Penal Code 11142 and 13303 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.

Any employee who is responsible for such misuse may be subject to immediate dismissal. Violations of this law may also result in criminal and/or civil action.

I HAVE READ THE ABOVE AND UNDERSTAND THE POLICY REGARDING MISUSE OF CRIMINAL RECORD INFORMATION.

Signature: _____

Date: _____

***DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL***

BOARD POLICY 4112.8: EMPLOYMENT OF RELATIVES

In order to preclude situations which could bring about a conflict of interest for members of the administrative staff, an employee shall not be appointed to a position where a member of his/her immediate family maintains supervisory or evaluation responsibilities for the position.

Immediate family members may be employed at the same department or work location with the approval of the Superintendent or designee.

Legal Reference:

GOVERNMENT CODE

12940 Unlawful employment practices, exceptions

***DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL***

ADMINISTRATIVE REGULATION 4112.9: EMPLOYEE NOTIFICATIONS

The district shall provide employees with the following notifications and shall obtain signed acknowledgments that the notifications were received when so required by law or by district policy or regulations.

Acknowledgments Required by Law

1. Legal obligation to report known or suspected instances of child abuse
2. Oath or affirmation of allegiance required of public employees
3. Hepatitis B vaccine declination
4. Notice of release from position requiring an administrative or supervisory credential
5. The classified employee's class specification, salary data, assignment or work location, duty hours and prescribed workweek
6. Information about certificated employee membership in the State Teachers' Retirement System

Acknowledgments Not Required by Law

1. The district's drug- and alcohol-free workplace
2. The district's nonsmoking policy
3. Prohibition of sexual harassment
4. The certificated employee's employment status and salary
5. State disability insurance rights and benefits
6. Certificated employee evaluations
7. Requirements and information pertinent to emergency teaching or specialist permit applicants
8. Notice of layoff
9. Derogatory information to be placed in personnel file

10. Exhaustion of classified employee's paid leave
11. Notice of charges related to disciplinary action
12. Notice of intention to dismiss
13. Students whose actions could constitute grounds for suspension or expulsion, except for possession or use of tobacco

Legal Reference:

EDUCATION CODE

231.5 Sexual harassment policy
22455.5 STRS information to potential members
22515 Irrevocable election to join STRS
44031 Personnel file contents, inspection
44663 Evaluation and assessment; copy to certificated employee
44916 Written statement of employment status
44940.5-44941 Notification of suspension and intent to dismiss
44949 Cause, notice and right to hearing
44951 Continuation in position unless notified
44955 Reduction in number of employees
45113 Notification of charges
45117 Notice of layoff
45169 Employee salary data
45192 Industrial and accident leave
45195 Additional leave
49079 Notification to teacher

GOVERNMENT CODE

3100-3109 Oath or affirmation of allegiance
8355 Certification of drug-free workplace, including notification

PENAL CODE

11166.5 Employment; statement of knowledge of duty to report

UNEMPLOYMENT INSURANCE CODE

2613 Notice of rights and benefits

CODE OF REGULATIONS, TITLE 5

80026.1 Information to applicants

CODE OF REGULATIONS, TITLE 8

5193 California bloodborne pathogens standard

CODE OF FEDERAL REGULATIONS, TITLE 49

382.601 Controlled substance and alcohol use and testing notifications

***DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL***

BOARD POLICY 4113: ASSIGNMENT

In order to serve the best interests of students and the educational program, the Governing Board authorizes the Superintendent or designee to assign certificated personnel to positions for which their preparation, certification, experience, and aptitude qualify them.

Teachers may be assigned to any school within the district in accordance with the collective bargaining agreement.

The Board encourages the assignment of experienced and fully credentialed teachers, including those who have attained National Board for Professional Teaching Standards certification, to schools with the greatest need to improve student achievement.

Teachers shall be assigned to teach core academic subjects in Title I and non-Title I programs in accordance with the requirements of the No Child Left Behind Act pertaining to teacher qualifications. (20 USC 6319, 7801; 5 CCR 6100-6126)

The Superintendent or designee may assign holders of a credential other than an emergency permit, with their consent, to teach subjects outside their credential authorization in departmentalized classes. The Superintendent or designee shall, with the assistance of subject matter specialists, develop procedures to verify the subject matter knowledge of the teacher before any such assignment is made. (Education Code 44258.3)

The Superintendent or designee shall periodically report to the Board on any teacher misassignments or vacancies. He/she shall report to the Board the results of the County Superintendent's review of district misassignments and vacancies, and shall provide recommendations for remedying any identified issues.

Committee on Assignments

The Superintendent or designee may establish a committee on assignments, which may grant approval for the voluntary assignment of full-time teachers to teach one or more elective courses outside their credential authorization in an area for which they have special skills or preparation. (Education Code 44258.7)

Legal Reference:

EDUCATION CODE

- 33126 School accountability report card
- 35035 Additional powers and duties of superintendent
- 35186 Complaint process
- 37616 Assignment of teachers to year-round schools
- 44225.6 Commission report to the legislature re: teachers
- 44250-44279 Credentials and assignments of teachers
- 44395-44398 Incentives for assigning NBPTS-certified teachers to high-priority schools
- 44824 Assignment of teachers to weekend classes
- 44955 Reduction in number of employees

GOVERNMENT CODE

- 3543.2 Scope of representation

CODE OF REGULATIONS, TITLE 5

- 6100-6126 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

Management Resources:

WEB SITES

- CSBA: <http://www.csba.org>
- California Department of Education: <http://www.cde.ca.gov>
- Commission on Teacher Credentialing: <http://www.ctc.ca.gov>

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

ADMINISTRATIVE REGULATION TO BOARD POLICY 4113: ASSIGNMENT

Procedures for Verifying Subject Matter Knowledge

With the involvement of appropriate subject matter specialists, the Superintendent or designee shall develop and employ procedures for verifying the subject matter knowledge of teachers assigned to teach in departmentalized classes outside their credential authorization pursuant to Education Code 44258.3. For the purposes of these procedures, subject matter specialists are curriculum specialists, resource teachers, classroom teachers certified to teach a subject, staff to regional subject matter projects or curriculum institutes, or college faculty. (Education Code 44258.3)

Procedures to be used for this purpose shall specify: (Education Code 44258.3)

1. One or more of the following ways in which subject matter competence shall be assessed:
 - a. Observation by subject matter specialists
 - b. Oral interviews
 - c. Demonstration lessons
 - d. Presentation of curricular portfolios
 - e. Written examinations
2. Specific criteria and standards for verifying subject matter knowledge by any of the above methods. These criteria shall include, but need not be limited to, evidence of the individual's knowledge of the subject matter to be taught, including demonstrated knowledge of the curriculum framework for the subject and the specific content of the district's course of study for the subject at the grade level to be taught.

Whenever a teacher is assigned to teach departmentalized classes pursuant to Education Code 44258.3, the Superintendent or designee shall notify the exclusive representative of the district's certificated employees. (Education Code 44258.3)

Verification of the subject matter competence of teachers assigned to core academic subjects in Title I and non-Title I programs shall be based on procedures and criteria specified in 5 CCR 6100-6115.

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

BOARD POLICY 4113.4:

TEMPORARY MODIFIED/LIGHT-DUTY ASSIGNMENT

The Governing Board recognizes that when employees suffer work-related injuries, modified or light-duty assignments minimize lost time and may serve to facilitate the transition back to the employee's regular duties or full-time work. Whenever possible, the Superintendent or designee shall offer such employees this kind of temporary assignment.

Modified or light-duty assignments shall be designed to accommodate medical restrictions specified by the employee's physician. They may include work in the same job classification or a different job classification at the employee's regular salary rate.

Modified or light-duty assignments are intended to address short-term medical restrictions and will normally extend for less than eight weeks' duration. These assignments shall not be used as a means to establish new assignments or displace other employees.

Legal Reference:

EDUCATION CODE

44984 *Required rules for industrial accident and illness leave*

45192 *Industrial accident and illness leave for classified employees*

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4113.4:
TEMPORARY MODIFIED/LIGHT-DUTY ASSIGNMENT**

Any employee who suffers a work-related injury shall provide the district with medical verification of his/her physical condition. Unless the treating physician provides a full release from work, the employee may be considered eligible for a temporary modified or light-duty assignment. If the treating physician does not specify work restrictions, the Superintendent or designee may contact the physician to see if modified or light-duty work might be appropriate.

The Superintendent or designee shall meet with the employee and his/her supervisor to determine whether the employee can return to his/her regular job with the medical restrictions specified by the physician.

If the employee is not able to return to his/her regular job with restrictions, the Superintendent or designee shall seek a temporary modified or light-duty assignment for the employee. Employees who are given such assignments shall receive written notification of the assignment.

If no temporary modified or light-duty assignment can be found, the employee will be placed on temporary disability, sick leave, or other available leave to the extent available until an appropriate position within the medical restrictions is found, or until the medical restrictions are lifted. The Superintendent or designee shall also monitor the status of any employee for whom the physician provided a full release from work to see if the employee could return to a temporary modified or light-duty assignment at a later date.

If an employee rejects a temporary modified or light-duty assignment, this refusal may provide a basis for terminating temporary disability benefits.

The Superintendent or designee shall monitor all modified and light-duty assignments and may contact the physician for assistance in determining when the employee is ready to resume his/her regular duties.

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

BOARD POLICY: EVALUATION/SUPERVISION

The Governing Board believes that regular and comprehensive evaluations can help instructional staff improve their teaching skills and raise students' levels of achievement. Evaluations also serve to hold staff accountable for their performance. The Superintendent or designee shall evaluate the performance of certificated staff members in accordance with law, negotiated employee contracts and Board-adopted evaluation standards.

Evaluation procedures may include observation of teacher performance in the classroom.

The Superintendent or designee shall ensure that evaluation ratings have uniform meaning throughout the district.

Evaluations shall be used to recognize the exemplary skills and accomplishments of staff and to identify areas needing improvement. When areas needing improvement are identified, the Board expects employees to accept responsibility for improving their performance. The Superintendent or designee shall assist employees in improving their performance and may require participation in appropriate programs. Staff members are encouraged to take initiative to request assistance as necessary to promote effective teaching.

Legal Reference:

EDUCATION CODE

33039 *State guidelines for teacher evaluation procedures*

35171 *Availability of rules and regulations for evaluation of performance*

44500-44508 *Peer assistance and review program for teachers*

44660-44665 *Evaluation and assessment of performance of certificated employees (the Stull Act)*

GOVERNMENT CODE

3543.2 *Scope of representation*

UNITED STATES CODE, TITLE 20

7801 *Definition of highly qualified teacher*

Management Resources:

CTC PUBLICATIONS

Standards for the Quality and Effectiveness for Beginning Teacher Support and Assessment Programs, 1997

California Standards for the Teaching Profession, 1997

WEB SITES

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

CDE: <http://www.cde.ca.gov>

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

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

***DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL***

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4115:
EVALUATION/SUPERVISION**

The Superintendent or designee shall print and make available to certificated employees written regulations related to the evaluation of their performance in their assigned duties. (Education Code 35171)

Certificated staff shall receive information regarding the district's evaluation criteria and procedures upon employment with the district and whenever the criteria in the negotiated contract are revised.

Certificated employee performance shall be evaluated and assessed on a continuing basis as follows: (Education Code 44664)

1. At least once each school year for probationary personnel.
2. At least every other year for personnel with permanent status.

Permanent employees who receive an unsatisfactory evaluation shall be assessed annually until they receive a satisfactory evaluation or are separated from the district. (Education Code 44664)

The Superintendent or designee shall assess the performance of certificated instructional staff as it reasonably relates to the following criteria: (Education Code 44662)

1. Students' progress toward district standards of expected achievement for their grade level in each area of study and, if applicable, towards the state-adopted content standards as measured by state-adopted criterion-referenced assessments
2. The instructional techniques and strategies used by the employee
3. The employee's adherence to curricular objectives
4. The establishment and maintenance of a suitable learning environment within the scope of the employee's responsibilities

The evaluation of certificated employee performance shall not include the use of publishers' norms established by standardized tests. (Education Code 44662)

Non-instructional certificated employees shall be evaluated on their performance in fulfilling their defined job responsibilities. (Education Code 44662)

Evaluations shall include recommendations, if necessary, as to areas in need of improvement in the employee's performance. If an employee is not performing satisfactorily according to teacher standards approved by the Board pursuant to Education Code 44662, the Superintendent or designee shall so notify the employee in writing and describe the unsatisfactory performance. The Superintendent or designee shall confer with the employee, make specific recommendations as to areas needing improvement and endeavor to provide assistance to the employee in his/her performance. (Education Code 44664)

Any employee who receives an unsatisfactory rating in the area of teaching methods or instruction shall participate in the district's peer assistance and review program. (Education Code 44662, 44664)

The Superintendent or designee may require any instructional employee who receives an unsatisfactory rating in the area of teaching methods or instruction to participate in a program designed to improve appropriate areas of performance and to further student achievement and the district's instructional objectives. (Education Code 44664)

Certificated instructional employees shall receive a written copy of their evaluation no later than 30 days before the last day of the school year in which the evaluation takes place. Before the last day of the school year, the employee and the evaluator shall meet to discuss the evaluation. (Education Code 44663)

Non-instructional certificated staff members employed on a 12-month basis shall receive a copy of their evaluation no later than June 30 of the year in which the evaluation takes place. Before July 30, the employee and the evaluator shall meet to discuss the evaluation. (Education Code 44663)

Instructional and non-instructional certificated employees shall have the right to respond in writing to their evaluation. This response shall become a permanent attachment to the employee's personnel file. (Education Code 44663)

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

BOARD POLICY 4116: PROBATIONARY/PERMANENT STATUS

Probationary Status

Probationary employees shall receive training, assistance and evaluations consistent with their needs as new teachers. Such training and assistance may consist of inservice training and/or meetings with the employee's evaluator to discuss areas of strength and areas requiring improvement. Inservice training may be provided during school hours as part of a comprehensive staff development program.

The performance of each probationary employee shall be evaluated and assessed at least once every school year.

Permanent Status

Granting of permanent status shall be based on completion of the probationary period in accordance with applicable law. Employees granted permanent status acquire specific rights under the Education Code, including those relating to discipline and dismissal. (Education Code 44932-44988)

Legal Reference:

EDUCATION CODE

- 44466 Status of university interns
- 44850.1 No tenure in administrative or supervisory position
- 44885.5 Status of district interns
- 44908 Complete year for probationary employees
- 44911-44913 Service not computed in eligibility for permanent status
- 44915 Classification of probationary employees
- 44917-44921 Status of substitute or temporary employees
- 44929.20 Continuing contracts (not to exceed four years - ADA under 250)
- 44929.21 Districts of 250 ADA or more
- 44929.23 Districts with less than 250 ADA
- 44929.28 Employment by another district
- 44930-44988 Resignations, dismissals and leaves of absence, especially:
- 44948.2 Election to use provisions of Section 44948.3
- 44948.3 Dismissal of probationary employees

***DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL***

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4116:
PROBATIONARY/PERMANENT STATUS**

Permanent Status

A probationary teacher who has been employed by the district in a position or positions requiring certification for two complete consecutive school years and is then rehired for the next succeeding school year shall become a permanent employee at the beginning of the third year. (Education Code 44929.21)

Interns

A person employed as a district or university intern shall be classified as a probationary employee. Following completion of the internship, if he/she is reelected by the district to serve in a position requiring certification qualifications for the next succeeding school year, he/she shall continue to be classified as a probationary employee during that year. (Education Code 44466, 44885.5)

A person who has completed an internship and at least one complete school year in a position requiring certification qualifications within the district shall be granted permanent status when he/she is reelected for the next succeeding school year to a position requiring certification qualifications. (Education Code 44466, 44885.5)

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

BOARD POLICY 4117.11: PRERETIREMENT PART-TIME EMPLOYMENT

The Governing Board may allow certificated employees the opportunity to work on a part-time basis before retirement without jeopardizing full retirement credit.

The Superintendent or designee may establish regulations which allow certificated employees who are members of the State Teachers Retirement System (STRS) or Public Employee Retirement System (PERS) to reduce their workload from full to part time, receive service credit and maintain the retirement benefits the employee would have received if the employee had been employed on a full-time basis.

Legal Reference:

EDUCATION CODE

22713 *Part-time employment; reduction of workload from full-time; credit*

44922 *Regulations; reduction to part-time employment*

GOVERNMENT CODE

20815 *Part-time employee; retirement with benefits based upon salary on full-time basis*

53201 *Health and welfare benefits: election by officers and employees; deduction of premiums or charges from salaries*

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4117.11:
PRERETIREMENT PART-TIME EMPLOYMENT**

A certificated employee may be allowed to work on a part-time basis without losing retirement benefits as follows: (Education Code 22713, 44922)

1. The employee shall have his/her retirement allowance, as well as other benefits to which the employee is entitled, based upon the compensation that the employee would have received if he/she had been employed on a full-time basis.
2. The option to reduce the employee's workload shall be exercised at the request of the employee and can be revoked only with the mutual consent of the Superintendent or designee and the employee.
3. The employee shall have been employed full-time to perform creditable service for a minimum of 10 years including five years immediately preceding the reduction in workload.
4. The employee shall not have had a break in service during the five years immediately preceding the reduction in workload. Sabbaticals, other approved leaves of absence, and unpaid absences for personal reasons shall not constitute a break in service. However, time on a sabbatical or other approved leave of absence shall not be used in computing the five-year full-time requirement.
5. The employee shall have reached the age of 55 years prior to the reduction in workload.
6. The period of the reduced workload shall not exceed 10 years.
7. The reduced workload shall be equal to one-half of the full-time equivalent required by the employee's contract of employment in accordance with Education Code 22138.5 during his/her final year of full-time employment.
8. The employee shall be paid a compensation that is the pro rata share of the compensation the employee would have earned had the employee not opted to reduce his/her workload.

The Superintendent or designee shall verify the employee's eligibility prior to the reduction of an employee's workload. This shall be done in conjunction with the administrative staff of the State Teachers' Retirement System and Public Employees' Retirement System, in accordance with law. (Education Code 22713)

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

BOARD POLICY 4117.12: RETIREMENT CONSULTANCY CONTRACTS

The Governing Board recognizes that because of their experience and knowledge retired certificated employees may be uniquely suited to performing specialized work of limited duration. In order to help perform this specialized work, the Board may offer retirement consultancy contracts to certificated individuals who meet the qualifications required by law and administrative regulation.

Legal Reference:

EDUCATION CODE

22119.5 Creditable service
22461 Notice of earnings limitation
22714 Encouragement of retirement
22714.5 2+2 service and year credit option under STRS
22715 Additional service credit
22716 Unpaid services
24214 Reemployment of retirant
24216 Payments to retirants in excess of limitation
35046 Consultancy contracts
41320.1 Appointment of trustee
42120-42128 Budget completion
44929 Service credit under STRS; additional two years
44929.1 2+2 service and year credit option under STRS

Management Resources:

WEB SITES

California State Teachers' Retirement System: <http://www.calstrs.com>

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4117.12:
RETIREMENT CONSULTANCY CONTRACTS**

Retired certificated employees serving as consultants shall be retained as employees, and their services shall be limited in accordance with retirement system rules and regulations. (Education Code 35046)

To be eligible for consideration for a retirement consultancy contract, the retired certificated employee must have served the district or the county superintendent of schools for at least 10 years and be at least 55 years of age. (Education Code 35046)

Retirement consultancy contracts are renewable annually for up to five years or until the employee reaches age 65, whichever comes first. (Education Code 35046)

A retiree employed under this program shall not make contributions to the retirement fund or accrue service credit based on compensation earned from program service. (Education Code 24214)

A retiree employed under this program shall be paid at a rate commensurate with that of other employees performing comparable duties. The employee may earn compensation for creditable service up to the limitation specified by law. This limit applies only to earnings for service that would be creditable for State Teachers' Retirement System purposes if performed by a current employee. (Education Code 22119.5, 24214, 35046)

Emergency Exemptions from Postretirement Compensation Limitation

A retiree shall be exempt from the above limitation for a maximum period of two years if appointed by the Superintendent of Public Instruction as a trustee or administrator pursuant to Education Code 41320.1 or if assigned to a position by the County Superintendent of Schools pursuant to Education Code 42120-42129. (Education Code 24216)

Until January 1, 2008, a retiree shall also be exempt from the above limitation up to an additional one-half of the full-time equivalent for the same position when employed in an emergency situation to fill a vacant administrative position requiring highly specialized skills, provided that all of the following conditions are met: (Education Code 24216)

1. The vacancy occurred due to circumstances beyond the district's control.
2. The recruitment process to fill the vacancy on a permanent basis is expected to extend over several months.

3. The employment is reported in a public meeting of the Governing Board.

The above exemptions shall not apply to any retiree who has received additional retirement service credit pursuant to Education Code 22714, 22714.5, 22715 or 22716. (Education Code 24216)

When employing a retiree eligible for any of the above exemption, the Superintendent or designee shall submit all required documentation to substantiate this eligibility. (Education Code 24216)

***DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL***

BOARD POLICY 4117.13: EARLY RETIREMENT OPTION

The Governing Board may offer certificated employees the option to retire early in accordance with law when it is beneficial to the district.

As an incentive to early retirement for certificated employees participating in the State Teachers' Retirement System (STRS), the Board may offer such employees an additional two years of service credit. (Education Code 22714, 22714.5, 44929, 44929.1)

Before taking formal action to approve an early retirement incentive, the Board shall determine that encouraging early retirement would be in the best interest of the district due to the curtailment of services or changes in the manner in which services are performed and that the retirement will result in a net savings to the district. (Education Code 22714, 22714.5, 44929)

The Board may also consider the impact of the early retirement options on the staffing needs of district schools and the ability to satisfy federal requirements for highly qualified teachers pursuant to 20 USC 6319.

The Board shall demonstrate and certify to the County Superintendent that the formal action taken would result in a net savings to the district. (Education Code 22714, 22714.5)

To be eligible for the two years of service credit option, the employee must have five or more years of service credit and must retire during a period of 60 to 120 days after the Board takes formal action to implement the option. (Education Code 22714)

In providing the early retirement options, the district shall meet all conditions as specified in Education Code 22714, 22714.5, 44929, and 44929.1.

Legal Reference:

EDUCATION CODE

22714 Service credit under STRS; additional two years

22714.5 2+2 service and year credit option under STRS

44929 Service credit under STRS; additional two years

44929.1 2+2 service and year credit option under STRS

UNITED STATES CODE, TITLE 20

6319 Highly qualified teachers

COURT DECISIONS

United Teachers-Los Angeles. v. Los Angeles Unified School District (1994) 24 Cal.App. 4th 1510

Management Resources:

WEB SITES

California State Teachers' Retirement System: <http://www.calstrs.com>

***DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL***

**ADMINISTRATIVE REGULATION 4117.14:
EMPLOYMENT OF RETIRED TEACHERS**

Any retired teacher employed by the district shall be exempt from the limitation on earnings specified in Education Code 24214(d), (f), and (g) for members of the State Teachers Retirement System (STRS) provided that the teacher retired from service with an effective date on or before January 1, 2004 and is employed to provide any of the following services: (Education Code 24216.5, 24216.6)

1. Direct classroom instruction to students in grades K-12
2. Support and assessment for new teachers through the Beginning Teacher Support and Assessment System pursuant to Education Code 44279.1-44279.7
3. Support to individuals completing student teaching assignments
4. Support to individuals participating in a pre-internship teaching program (Education Code 44305-44308), an alternative certification program (Education Code 44380-44386), or a school paraprofessional teacher training program (Education Code 44390-44393)
5. Instruction and student services provided to students enrolled in special education programs pursuant to Education Code 56000-56885
6. Instruction to students enrolled in English language learner programs pursuant to Education Code 400-410 and 430-446
7. Direct remedial instruction to students in grades 2-6 for the programs specified in Education Code 37252 and 37252.2

Any retired teacher may also be exempt from the limitation on earnings if the teacher returned to work after the date of retirement and, for a period of at least 12 months, has not performed creditable service as defined in Education Code 22119.5 as an employee or independent contractor within the California public school system. (Education Code 24214)

Retired teachers who are exempt from the limitation on earnings shall be treated as part of a distinct class of temporary employees within the existing bargaining unit whose service shall not be included in computing the service required as a prerequisite to attainment of or eligibility for classification as a permanent employee of the district. The compensation shall be agreed to in the collective bargaining agreement between the district and the exclusive representative for the bargaining unit and shall not be less than

the minimum nor exceed that paid by the district to other employees performing comparable duties. (Education Code 24214, 24216.5, 24216.6)

The Superintendent or designee shall submit documentation required by STRS to substantiate the eligibility of the temporary employment of a retired teacher for the exemption from the limitation on earnings. (Education Code 24216.5, 24216.6)

The Superintendent or designee shall maintain accurate records of the retired teacher's compensation earned and shall report that compensation monthly to STRS regardless of the method of payment or the source of funds from which the compensation is paid. (Education Code 24216.5, 24216.6)

Legal Reference:

EDUCATION CODE

400-410 *English language acquisition program*
430-446 *English learner and immigrant student federal conformity act*
22119.5 *Creditable service, definition*
24214 *Creditable service by retiree*
24216.5 *Exemption from earnings limitation*
24216.6 *Exemption from earnings limitation*
37252-37253.5 *Supplemental instruction*
44279.1-44279.7 *Beginning Teacher Support and Assessment System*
44305-44308 *Pre-internship teaching program*
44380-44386 *Alternative certification program*
44390-44393 *School paraprofessional teacher training program*
44830 *Employment of certificated employees*
44830.3 *Employment of district interns*
56000-56885 *Special education*

Management Resources:

WEB SITES

California State Teachers' Retirement System: <http://www.calstrs.com>

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

BOARD POLICY 4117.2: RESIGNATION

Any district employee who desires to resign his/her position shall submit, in writing, a letter of resignation, which indicates the date which the employee intends as his/her last day at work. The Governing Board encourages employees to provide advance notice that is appropriate for the position they hold.

The Board authorizes the Superintendent or designee to accept an employee's written resignation and to set its effective date. Once the Superintendent or designee has accepted and set an effective date for this resignation, the resignation may not thereafter be withdrawn by the employee.

The effective date of the resignation shall be a date not later than the close of the school year during which the resignation is received. However, an employee and the Board may agree that a resignation will be accepted at a mutually agreed upon date not later than two years beyond the close of the school year during which the resignation is received by the Board. (Education Code 44930, 45201)

Legal Reference:

EDUCATION CODE

35161 Board delegation of any powers or duties

44242.5 Reports of change in employment status, alleged misconduct

44420 Failure to fulfill contract as ground for suspension of diplomas and certificates

44433 Unauthorized departure from service as unprofessional conduct

44930 Acceptance and date of resignation

45201 Power to accept resignation

CODE OF REGULATIONS, TITLE 5

80303 Reports of change in employment status

80304 Notice of sexual misconduct

COURT DECISIONS

American Federation of Teachers, Local #1050 v. Board of Education of Pasadena Unified School District, (1980) 107 Cal.App.3d 829

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

ADMINISTRATIVE REGULATION 4117.4: DISMISSAL

Permanent Employees

Permanent employees shall not be dismissed from their position except when cause for dismissal can be shown. Cause and procedures for dismissal are defined by provisions of Education Code 44932 et seq.

Probationary Employees

During the school year, certificated probationary employees may be dismissed for causes specified in Education Code 44932 or for unsatisfactory performance determined pursuant to Education Code 44660-44665. Procedures and time limits for such action shall be those set forth in Education Code 44948.3.

At the end of the school year, the Governing Board may decide not to rehire probationary employees without a statement of reasons, giving notice in accordance with Education Code 44929.21.

Legal References:

EDUCATION CODE

- 44660-44665 Evaluation and assessment of performance
- 44842 Automatic declining of employment
- 44918 Substitute or temporary employee; reemployment rights
- 44929.21 Districts with 250 ADA or more; notice of reelection decision.
- 44929.23 Districts with daily attendance less than 250
- 44932-44947 Suspension and/or dismissal of permanent employees
- 44948 Dismissal or suspension of probationary employees during school year
- 44948.2 Election to use provisions of Education Code 44948.3
- 44948.3 Dismissal of probationary employees (over 250 ADA)
- 44948.5 Dismissal of probationary employees (under 250 ADA)
- 44949 Cause, notice and right to hearing for dismissal of probationary employee
- 44953 Dismissal of substitute employees
- 44955 Reduction in number of permanent employees

GOVERNMENT CODE

- 3543.2 Scope of representation (re duty of district to meet and negotiate regarding causes and procedures for discipline less than dismissal)

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

ADMINISTRATIVE REGULATION 4117.5: TERMINATION AGREEMENTS

If a termination settlement agreement has been made with an employee, the Superintendent or designee shall inform prospective employers, upon request for an employment reference, that an agreement exists and that he/she may only provide information as provided for in the agreement.

Cash settlements made upon the termination of a contract shall never exceed an amount equal to the employee's monthly salary multiplied by the number of months, up to 18, in the unexpired term of the contract. This amount is a maximum ceiling, not to be construed as a target amount for settlement agreements. (Government Code 53260)

Settlement agreements shall not include noncash items other than health benefits, which the district may offer to continue for the unexpired term up to 18 months or until the employee finds other employment, whichever comes first. (Government Code 53261)

Copies of settlement agreements with a superintendent, deputy superintendent, assistant superintendent, associate superintendent or other similar chief administrative officer or chief executive officer shall be made available to the public upon request. (Government Code 53262)

Legal Reference:

CIVIL CODE

47 Privileged communication

GOVERNMENT CODE

53260-53264 Employment contracts

LABOR CODE

1198.5 Inspection of personnel files by employees

CODE OF REGULATIONS, TITLE 5

80303 Reports of dismissal, resignation and other terminations for cause

80332 Professional honesty in letters of employment recommendation

COURT DECISIONS

Randi W. v. Muroc Joint Unified School District, (1997) 14 Cal.4th 1066

Board of Trustees of Leland Stanford Junior University v. Superior Court, (1981) 119 Cal. App. 3d 516

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

ADMINISTRATIVE REGULATION 4117.6: DECISION NOT TO REHIRE

The Superintendent or designee shall provide the Governing Board with his/her recommendations regarding the rehiring of probationary certificated personnel.

The Board may decide not to rehire a probationary employee for a second school year and give written notice of its decision to the employee at any time during his/her first year of employment. If the Board does not give written notice, the employee shall be deemed reelected for the next succeeding school year.

The Board may decide not to rehire a probationary employee for a third year and give written notice to the employee on or before March 15 of his/her second complete consecutive school year of employment. If the Board does not give written notice on or before March 15, the employee shall be deemed reelected for the next succeeding school year. (Education Code 44929.21, 44929.23)

Legal Reference:

EDUCATION CODE

44885.5 District interns

44929.21 Districts with 250 ADA or more; notice of reelection decision

44929.23 Districts with daily attendance less than 250

44948.2 Election to use provisions of Education Code 44948.3

44948.3 Dismissal of probationary employees (over 250 ADA)

44949 Cause, notice and right to hearing required for dismissal of probationary employee

44955 Reduction in number of permanent employees

COURT DECISIONS

Fischer v. Los Angeles Unified School District (1999) 70 Cal.App.4th 87

Bellflower Education Assn. v. Bellflower Unified School District (1991) 228 Cal.App.3d 805

Fontana Teachers Assn. v. Fontana Unified School District (1988) 201 Cal.App.3d 1517

Grimsley v. Board of Trustees (1987) 189 Cal.App.3d 1440

***DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL***

ADMINISTRATIVE REGULATION 4117.7: EMPLOYMENT STATUS REPORTS

Within 30 days of any change in the employment status of a credential holder working in a position requiring a credential made as a result of an allegation of misconduct, the Superintendent shall report the change to the Commission on Teacher Credentialing. The report shall be made whenever one of the following actions is taken as a result of alleged misconduct: (Education Code 44242.5; 5 CCR 80303)

1. Dismissal
2. Nonreelection/nonreemployment
3. Suspension for more than 10 days
4. Placement on unpaid administrative leave for more than 10 days pursuant to a final adverse employment action
5. Resignation or other departure from employment

The report shall contain all known information about each alleged act of misconduct by the employee. (5 CCR 80303)

The report shall be made regardless of any proposed or actual agreement, settlement or stipulation between the district and the employee not to make such a report. The report shall also be made if the allegations are withdrawn in consideration of the employee's resignation, retirement or other failure to contest the truth of the allegations. (5 CCR 80303)

The Superintendent shall inform the employee in writing of the contents of 5 CCR 80303 upon a change in employment status as a result of alleged misconduct. (5 CCR 80303)

Notice of Other Violations

The Superintendent or designee may notify the Commission on Teacher Credentialing of any of the following: (Education Code 44242.5)

1. A complaint received by the district regarding a credential holder's alleged sexual misconduct

The notice shall contain all of the following information: (5 CCR 80304)

- a. Name of the employee alleged to have engaged in the sexual misconduct

- b. Name, age and address of each victim of the alleged sexual misconduct
 - c. A summary of all information known to the district regarding the alleged sexual misconduct
 - d. A summary of the action, if any, taken at the district level in response to the complaint of sexual misconduct
- 2. Refusal, without good cause, to fulfill a valid employment contract, or departure from district service without the consent of the Superintendent or Board (Education Code 44420)
 - 3. Knowing and willful use of student records in connection with, or in implicit or explicit attempts to recruit a student to be a customer for, any business owned by the credential holder or in which the credential holder is an employee (Education Code 44421.1)
 - 4. Knowing and willful reporting of false fiscal expenditure data relative to the conduct of any educational program (Education Code 44421.5)

Legal Reference:

EDUCATION CODE

44225 Powers and duties of the Commission on Teacher Credentialing

44242.5 Reports and review of alleged misconduct

44420-44440 Adverse actions by CTC against credential holder

CODE OF REGULATIONS, TITLE 5

80303 Reports of change in employment status, alleged misconduct

80304 Notice of sexual misconduct

Management Resources:

WEB SITES

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

CTC: <http://www.ctc.ca.gov>

***DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL***

BOARD POLICY 4118: SUSPENSION/DISCIPLINARY ACTION

The Governing Board desires that all employees exhibit professional and appropriate conduct and serve as positive role models at school and in the community. Unacceptable conduct shall be subject to disciplinary action in accordance with law, collective bargaining agreement, Board policy and administrative regulations.

The Superintendent or designee shall develop administrative regulations that identify types of misconduct and possible consequences. Disciplinary actions may include, but not be limited to, verbal warnings, written warnings, reassignment, suspension, freezing or reduction of wages, compulsory leave and dismissal.

The Superintendent or designee may take disciplinary action as he/she deems appropriate in light of the particular facts and circumstances involved. He/she shall ensure that disciplinary actions are taken in a consistent, nondiscriminatory manner and are appropriately documented.

Legal Reference:

EDUCATION CODE

44009 Conviction of specified crimes
44010 Sex offense - definitions
44011 Controlled substance offense - definitions
44660-44665 Evaluation and assessment of performance of certificated employees
44830.1 Criminal record summary certificated employees
44932 Grounds for dismissal of permanent employee
44933 Other grounds for dismissal
44938 Unprofessional conduct or unsatisfactory performance; notice of charges
44940 Sex offenses and narcotic offenses; compulsory leave of absence
44940.5 Compulsory leave of absence; procedures; extension; compensation; bond or security; reports
44942 Suspension or transfer of certificated employee on grounds of mental illness
44944 Conduct of hearing
44948.3 Dismissal of employees on probation
45055 Drawing of warrants for teachers
51530 Advocacy or teaching of communism

GOVERNMENT CODE

3543.2 Scope of representation

HEALTH AND SAFETY CODE

11054 Schedule I; substances included
11055 Schedule II, substances included
11056 Schedule III, substances included
11357-11361 Marijuana
11363 Peyote
11364 Opium
11370.1 Possession of controlled substances with a firearm

PENAL CODE

667.5 Prior prison terms, enhancement of prison terms
1192.7 Plea bargaining limitation

COURT DECISIONS

Crowl v. Commission on Professional Competence (1990) 225 Cal. App. 3d 334 (275 Cal.Rptr. 86)

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4118:
SUSPENSION/DISCIPLINARY ACTION**

Suspension Without Pay

When a permanent certificated employee's unprofessional conduct is not considered serious enough to warrant dismissal, he/she may be suspended without pay on grounds of unprofessional conduct, following procedures designated in Education Code 44932(b).

A probationary certificated employee may be suspended without pay for a specified period during the school year as an alternative to dismissal following procedures designated in Education Code 44948.3.

Prior to any action on charges leading to suspension without pay on the grounds of unprofessional conduct, the Superintendent or designee shall give the employee written notice. This written notice shall: (Education Code 44938)

1. Indicate the nature of the employee's unprofessional conduct
2. Cite specific instances of unprofessional behavior
3. Give the employee a 45-day opportunity to correct the misconduct and overcome the grounds for the charge
4. Include the evaluation made pursuant to Education Code 44660-44665, if applicable

Compulsory Leave

The Superintendent or designee shall immediately place on compulsory leave of absence any certificated employee who is charged with committing: (Education Code 44830.1, 44940)

1. Any sex offense as defined in Education Code 44010
2. Any offense involving the unlawful sale, use or exchange to minors of controlled substances as listed in Health and Safety Code 11054, 11055 and 11056, with the exception of marijuana, mescaline, peyote, or tetrahydrocannabinols

Upon receipt of notification from the Department of Justice by telephone 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, that employee shall be immediately placed on leave without pay. (Education Code 44830.1)

Upon receipt of written electronic notification of the conviction from the Department of Justice the employee, as specified above, shall be terminated automatically, and without regard to any other termination procedure. (Education Code 44830.1)

The Board also may require an immediate compulsory leave of absence when a certificated employee is charged with "an optional leave of absence offense" as specified in law. (Education Code 44940)

The compulsory leave may extend for not more than 10 days after the entry of judgment in the proceedings. However, the Board may extend a certificated employee's compulsory leave by giving notice, within 10 days after the entry of judgment in the proceedings, that the employee will be dismissed in 30 days unless he/she demands a hearing. (Education Code 44940, 44940.5)

The Board shall report to the Commission on Teacher Credentialing (formerly the Commission for Teacher Preparation and Licensing) any action it takes in connection with extending a compulsory leave beyond 10 days. (Education Code 44940.5)

Employee compensation during the period of compulsory leave shall be made in accordance with Education Code 44940.5.

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

BOARD POLICY 4119.1: CIVIL AND LEGAL RIGHTS

The Governing Board believes that the personal life of an employee is not an appropriate concern of the district, except as it may directly relate to the employee's performance of his/her duties.

An employee's religious or political activities, or lack thereof, shall not be grounds for any discrimination or disciplinary action by the district, provided that these activities do not violate law, Board policy or administrative regulation.

A teacher shall have the right to refuse to submit to any evaluation or survey conducted by the district concerning personal values, attitudes and beliefs; sexual orientation; political affiliations or opinions; critical appraisals of other individuals with whom the teacher has a family relationship; or religious affiliations or beliefs. (Education Code 49091.24)

Whistleblower Protection

An employee shall have the right to disclose to a Board member, a school administrator, a member of the County Board of Education, County Superintendent of Schools, or the Superintendent of Public Instruction any improper governmental activity by the district or a district employee that violates state or federal law, is economically wasteful, or involves gross misconduct, incompetency or inefficiency. When the employee has reasonable cause to believe that the information discloses a violation of state or federal statute or a violation or noncompliance with a state or federal rule or regulation, he/she has the right to disclose such information to a government or law enforcement agency or to refuse to participate in any such activity. (Education Code 44112, 44113; Labor Code 1102.5)

The Superintendent or designee shall prominently display in lettering larger than size 14-point type a list of employees' rights and responsibilities under the whistleblower laws, including the telephone number of the whistleblower hotline maintained by the office of the California Attorney General. (Labor Code 1102.8)

No employee shall use or attempt to use his/her official authority or influence to intimidate, threaten, coerce or command another employee for the purpose of interfering with that employee's right to disclose improper governmental activity. (Education Code 44113)

An employee who has disclosed improper governmental activity and believes that he/she has subsequently been subjected to acts or attempted acts of reprisal shall file a written complaint in accordance with the district's complaint procedures. After filing a complaint

with the district, he/she may also file a copy of the complaint with local law enforcement in accordance with Education Code 44114.

Protection Against Liability

No employee shall be liable for harm caused by his/her act or omission when acting within the scope of employment or district responsibilities. For the protection against liability to apply, the act or omission must be in conformity with federal, state and local laws and must be in furtherance of an effort to control, discipline, expel or suspend a student, or to maintain order or control in the classroom or school. (20 USC 6736)

The protection against liability shall not apply when: (20 USC 6736)

1. The employee acted with willful or criminal misconduct, gross negligence, recklessness, or a conscious, flagrant indifference to the harmed person's right to safety.
2. The employee caused harm by operating a motor vehicle.
3. The employee was not properly licensed, if required, by state law for such activities.
4. The employee was found by a court to have violated a federal or state civil rights law.
5. The employee was under the influence of alcohol or any drug at the time of the misconduct.
6. The misconduct constituted a crime of violence pursuant to 18 USC 16 or an act of terrorism for which the employee has been convicted in a court.
7. The misconduct involved a sexual offense for which the employee has been convicted in a court.

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination on the basis of sex

7050-7058 Political activities of school officers and employees

44040 Discrimination based on employee's appearance before certain boards or committees

44110-44114 Reporting by school employees of improper governmental activity

49091.24 Teacher rights to refuse evaluation/survey of personal life

CIVIL CODE

51 Unruh Civil Rights Act

GOVERNMENT CODE

815.3 Intentional torts

820-823 Tort Claims Act

825.6 Indemnification of public entity

3540.1 Public employment definitions

3543.5 Interference with employee's rights prohibited

12940-12951 Discrimination prohibited; unlawful practices

LABOR CODE

1102.5-1106 Whistleblower protections

UNITED STATES CODE, TITLE 18

16 Crime of violence defined

UNITED STATES CODE, TITLE 20

6731-6738 Teacher liability protection

UNITED STATES CODE, TITLE 42

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

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

2000h-2000h-6 Title IX, 1972 Education Act Amendments

12101-12213 Americans with Disabilities Act

Management Resources:

WEB SITES

California Attorney General: <http://caag.state.ca.us>

***DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL***

BOARD POLICY 4119.11: SEXUAL HARASSMENT

The Governing Board prohibits sexual harassment of district employees and job applicants. The Board also prohibits retaliatory behavior or action against district employees or other persons who complain, testify or otherwise participate in the complaint process established pursuant to this policy and the administrative regulation.

The Superintendent or designee shall take all actions necessary to ensure the prevention, investigation and correction of sexual harassment, including but not limited to:

1. Providing periodic training to all staff regarding the district's sexual harassment policy, particularly the procedures for filing complaints and employees' duty to use the district's complaint procedures.
2. Publicizing and disseminating the district's sexual harassment policy to staff.
3. Ensuring prompt, thorough and fair investigation of complaints.
4. Taking timely and appropriate corrective/remedial actions. This may require interim separation of the complainant and the alleged harasser, and subsequent monitoring of developments.

All complaints and allegations of sexual harassment shall be kept confidential to the extent necessary to carry out the investigation or take other subsequent necessary action. (5 CCR 4964)

Any district employee or job applicant who feels that he/she has been sexually harassed, or who has knowledge of any incident of sexual harassment by or against another employee, a job applicant or a student, shall immediately report the incident to his/her supervisor, the principal, district administrator or Superintendent.

A supervisor, principal or other district administrator who receives a harassment complaint shall promptly notify the Superintendent or designee.

Complaints of sexual harassment shall be filed in accordance with AR 4031 - Complaints Concerning Discrimination in Employment. An employee may bypass his/her supervisor in filing a complaint where the supervisor is the subject of the complaint.

Any district employee who engages or participates in sexual harassment, or who aids, abets, incites, compels or coerces another to commit sexual harassment against a district employee, job applicant or student, is in violation of this policy and is subject to disciplinary action, up to and including dismissal.

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination on the basis of sex

GOVERNMENT CODE

12900-12996 Fair Employment and Housing Act

LABOR CODE

1101 Political activities of employees

1102.1 Discrimination: sexual orientation

CODE OF REGULATIONS, TITLE 2

7287.8 Retaliation

CODE OF REGULATIONS, TITLE 5

4900-4965 Nondiscrimination in elementary and secondary education programs receiving state financial assistance

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

2000h-2-2000h-6 Title IX, 1972 Education Act Amendments

CODE OF FEDERAL REGULATIONS, TITLE 34

106.9 Dissemination of policy

COURT DECISIONS

Department of Health Services v. Superior Court of California, (2003) 31 Cal.4th 1026

Faragher v. City of Boca Raton, (1998) 118 S.Ct. 2275

Burlington Industries v. Ellreth, (1998) 118 S.Ct. 2257

Gebser v. Lago Vista Independent School District, (1998) 118 S.Ct. 1989

Oncale v. Sundowner Offshore Serv. Inc., (1998) 118 S.Ct. 998

Juarez v. Ameritech Mobile Systems, (N.D. Ill.) 746 F.Supp. 798

Dornhecker v. Malibu Grand Prix Corp., (5th Cir. 1987) 828 F.2d. 307

Meritor Savings Bank, FSB v. Vinson et al., (1986) 447 U.S. 57

Management Resources:

OFFICE OF CIVIL RIGHTS AND NATIONAL ASSOCIATION OF ATTORNEYS GENERAL

Protecting Students from Harassment and Hate Crime, January, 1999

WEB SITES

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

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

U.S. Department of Education, Office of Civil Rights: <http://www.ed.gov/offices/OCR>

***DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL***

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4119.11:
SEXUAL HARASSMENT**

Prohibited sexual harassment includes, but is not limited to, unwelcome sexual advances, unwanted requests for sexual favors or other unwanted verbal, visual or physical conduct of a sexual nature made against another person of the same or opposite gender, in the work or educational setting, when: (Education Code 212.5; 5 CCR 4916)

1. Submission to the conduct is made expressly or implicitly a term or condition of the individual's employment
2. Submission to or rejection of such conduct by the individual is used as the basis for an employment decision affecting him/her
3. The conduct has the purpose or effect of unreasonably interfering with the other individual's work performance; creating an intimidating, hostile or offensive work environment; or adversely affecting the other individual's evaluation, advancement, assigned duties, or any other condition of employment or career development
4. Submission to or rejection of the conduct by the other individual is used as the basis for any decision affecting him/her regarding benefits, services, honors, programs or activities available at or through the district

Other examples of actions that might constitute sexual harassment, whether committed by a supervisor, an employee, or a non-employee, in the work or educational setting, include but are not limited to:

1. Unwelcome verbal conduct such as sexual flirtations or propositions; graphic comments about an individual's body; overly personal conversations or pressure for sexual activity; sexual jokes or stories; unwelcome sexual slurs, epithets, threats, innuendoes, derogatory comments, sexually degrading descriptions or the spreading of sexual rumors
2. Unwelcome visual conduct such as drawings, pictures, graffiti, gestures or sexually explicit e-mails; displaying sexually suggestive objects
3. Unwelcome physical conduct such as massaging, grabbing, fondling, stroking or brushing the body; touching an individual's body or clothes in a sexual way; cornering, blocking, leaning over or impeding normal movements

Prohibited sexual harassment may also include any act of retaliation against an individual who reports a violation of the district's sexual harassment policy or who participates in the investigation of a sexual harassment complaint.

Notifications

A copy of the Board policy and this administrative regulation shall: (Education Code 231.5)

1. Be displayed in a prominent location in the main administrative building or other area of the school where notices of district rules, regulations, procedures and standards of conduct are posted
2. Be provided to each faculty member, all members of the administrative staff, and all members of the support staff at the beginning of the first quarter or semester of the school year, or whenever a new employee is hired
3. Appear in any school or district publication that sets forth the school's or district's comprehensive rules, regulations, procedures and standards of conduct

All employees shall receive either a copy of information sheets prepared by the California Department of Fair Employment and Housing (DFEH) or a copy of district information sheets that contain, at a minimum, components on: (Government Code 12950)

1. The illegality of sexual harassment
2. The definition of sexual harassment under applicable state and federal law
3. A description of sexual harassment, with examples
4. The district's complaint process available to the employee
5. The legal remedies and complaint process available through DFEH and the Equal Employment Opportunity Commission (EEOC)
6. Directions on how to contact DFEH and the EEOC
7. The protection against retaliation provided by 2 CCR 7287.8 for opposing harassment prohibited by law or for filing a complaint with, or otherwise participating in an investigation, proceeding or hearing conducted by DFEH and the EEOC.

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

BOARD POLICY 4119.21:
PROFESSIONAL STANDARDS

The Governing Board expects district employees to maintain the highest ethical standards, follow district policies and regulations, and abide by state and federal laws. Employee conduct should enhance the integrity of the district and advance the goals of the educational programs. Each employee should make a commitment to acquire the knowledge and skills necessary to fulfill his/her responsibilities and should focus on his/her contribution to the learning and achievement of district students.

The Board encourages district employees to accept as guiding principles the professional standards and codes of ethics adopted by professional associations to which they may belong.

Legal Reference:

CODE OF REGULATIONS, TITLE 5
80331-80338 Rules of conduct for professional educators

Management Resources:

CDE PUBLICATIONS
California Professional Standards for Educational Leaders, 2001
COUNCIL OF CHIEF STATE SCHOOL OFFICERS PUBLICATIONS
Standards for School Leaders, 1996
NATIONAL EDUCATION ASSOCIATION PUBLICATIONS
Code of Ethics of the Education Profession, 1975
WEB SITES
CDE: <http://www.cde.ca.gov>
Commission on Teacher Credentialing: <http://www.ctc.ca.gov>
Association of California School Administrators: <http://www.acsa.org>
California School Leadership Academy: <http://www.csla.org>
Council of Chief State School Officers: <http://www.ccsso.org>
California Teachers Association: <http://www.cta.org>
California Federation of Teachers: <http://www.cft.org>
California School Employees Association: <http://www.csea.com>

PROFESSIONAL STANDARDS • EXHIBIT 1

CODE OF ETHICS OF THE EDUCATION PROFESSION

Preamble

The educator, believing in the worth and dignity of each human being, recognizes the supreme importance of the pursuit of truth, devotion to excellence, and the nurturing of democratic principles. Essential to these goals is the protection of freedom to learn and to teach and the guarantee of equal educational opportunity for all. The educator accepts the responsibility to adhere to the highest ethical standards.

The educator recognizes the magnitude of the responsibility inherent in the teaching process. The desire for the respect and confidence of one's colleagues, of students, of parents, and of the members of the community provides the incentive to attain and maintain the highest possible degree of ethical conduct. The Code of Ethics of the Education Profession indicates the aspiration of all educators and provides standards by which to judge conduct.

Principle I. Commitment to the Student

The educator strives to help each student realize his/her potential as a worthy and effective member of society. The educator therefore works to stimulate the spirit of inquiry, the acquisition of knowledge and understanding, and the thoughtful formulation of worthy goals.

In fulfillment of the obligation to the student, the educator:

1. Shall not unreasonably restrain the student from independent action in the pursuit of learning
2. Shall not unreasonably deny the student access to varying points of view
3. Shall not deliberately suppress or distort subject matter relevant to the student's progress
4. Shall make reasonable effort to protect the student from conditions harmful to learning or to health and safety
5. Shall not intentionally expose the student to embarrassment or disparagement
6. Shall not on the basis of race, color, creed, gender, national origin, marital status, political or religious beliefs, family, social, or cultural background, or sexual orientation, unfairly:
 - a. Exclude any student from participation in any program
 - b. Deny benefits to any student

- c. Grant any advantage to any student
- 7. Shall not use professional relationships with students for private advantage
- 8. Shall not disclose information in the course of professional service unless disclosure serves a compelling professional purpose or is required by law

Principle II. Commitment to the Profession

The education profession is vested by the public with a trust and responsibility requiring the highest ideals of professional service.

In the belief that the quality of the services of the education profession directly influences the nation and its citizens, the educator shall exert every effort to raise professional standards, to promote a climate that encourages the exercise of professional judgment, to achieve conditions that attract persons worthy of the trust to careers in education, and to assist in preventing the practice of the profession by unqualified persons.

In fulfillment of the obligation of the profession, the educator:

- 1. Shall not in any application for a professional position deliberately make a false statement or fail to disclose a material fact related to competency and qualifications
- 2. Shall not misrepresent his/her professional qualifications
- 3. Shall not assist any entry into the profession of a person known to be unqualified in respect to character, education, or other relevant attribute
- 4. Shall not knowingly make a false statement concerning the qualifications of a candidate for a professional position
- 5. Shall not assist a noneducator in the unauthorized practice of teaching
- 6. Shall not disclose information about colleagues obtained in the course of professional service unless disclosure serves a compelling professional purpose or is required by law
- 7. Shall not knowingly make false or malicious statements about a colleague
- 8. Shall not accept any gratuity, gift, or favor that might impair or appear to influence professional decisions or action

Source: National Education Association, 1975

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

BOARD POLICY 4119.22: DRESS AND GROOMING

The Governing Board believes that appropriate dress and grooming by district employees contribute to a productive learning environment and model positive behavior. During school hours and at school activities, employees shall maintain professional standards of dress and grooming that demonstrate their high regard for education, present an image consistent with their job responsibilities and assignment, and not endanger the health or safety of employees or students. All employees shall be held to the same standards unless their assignment provides for modified dress as approved by their supervisor.

Legal Reference:

EDUCATION CODE

35160 Authority of governing boards

35160.1 Broad authority of school districts

GOVERNMENT CODE

3543.2 Scope of representation

12949 Dress standards, consistency with gender identity

COURT DECISIONS

San Mateo City School District v. PERB (1983) 33 Cal. 3d 850

Domico v. Rapides Parish School Board (5th Cir. 1982) 675 F.2d 100

East Hartford Education Assn. v. Board of Education (2d Cir. 1977) 562 F. 2d 856

Finot v. Pasadena Board of Education (1967) 250 Cal.App.2d 189

PUBLIC EMPLOYMENT RELATIONS BOARD DECISIONS

Santa Ana Unified School District (1998) 22 PERC P29, 136

Inglewood Unified School District (1985) 10 PERC P17, 000

Management Resources:

WEB SITES

Public Employment Relations Board: <http://www.perb.org>

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

**BOARD POLICY 4119.23: UNAUTHORIZED RELEASE OF
CONFIDENTIAL/PRIVILEGED INFORMATION**

The Governing Board recognizes the importance of keeping confidential information confidential. Staff shall maintain the confidentiality of information acquired in the course of their employment. Confidential/privileged information shall be released only to the extent authorized by law.

Disclosure of Closed Session Information

An employee shall not disclose confidential information acquired by being present during a closed session to a person not entitled to receive such information, unless the Board authorizes disclosure of that information. (Government Code 54963)

Confidential information means a communication made in a closed session that is specifically related to the basis for the Board to meet lawfully in closed session. (Government Code 54963)

An employee who willfully discloses confidential information acquired during a closed session may be subject to disciplinary action if he/she has received training or notice as to the requirements of this policy. (Government Code 54963)

The district shall not take disciplinary action against any employee for disclosing confidential information acquired in a closed session, nor shall the disclosure be considered a violation of the law or Board policy, when the employee is: (Government Code 54963)

1. Making a confidential inquiry or complaint to a district attorney or grand jury concerning a perceived violation of law, including disclosing facts necessary to establish the illegality or potential illegality of a Board action that has been the subject of deliberation during a closed session
2. Expressing an opinion concerning the propriety or legality of Board action in closed session, including disclosure of the nature and extent of the illegal or potentially illegal action
3. Disclosing information that is not confidential

Other Disclosures

An employee who willfully releases confidential/privileged information about the district, students or staff shall be subject to disciplinary action.

No employee shall disclose confidential information acquired in the course of his/her official duties. Confidential information includes information that is not a public record subject to disclosure under the Public Records Act, information that by law may not be disclosed, or information that may have a material financial effect on the employee.

Any action by an employee which inadvertently or carelessly results in release of confidential/privileged information shall be recorded, and the record shall be placed in the employee's personnel file. Depending on the circumstances, the Superintendent or designee may deny the employee further access to any privileged information and shall take any steps necessary to prevent any further unauthorized release of such information.

Legal Reference:

EDUCATION CODE

35010 Control of district; prescription and enforcement of rules

35146 Closed sessions

35160 Authority of governing boards

44031 Personnel file contents and inspection

44932 Grounds for dismissal of permanent employees

44933 Other grounds for dismissal

45113 Rules and regulations for classified service

49060-49079 Pupil records

GOVERNMENT CODE

1098 Public officials and employees: confidential information

6250-6270 Inspection of public records

54950-54963 Brown Act

UNITED STATES CODE, TITLE 20

1232g Family Education Rights and Privacy Act

Management Resources:

WEB SITES

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

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

BOARD POLICY 4119.25: POLITICAL ACTIVITIES OF EMPLOYEES

The Governing Board respects the right of school employees to engage in political discussions and activities on their own time and at their own expense. On such occasions, employees shall make it clear that they are acting as individuals and not as representatives of the district.

Like other community members, employees may use school facilities for meetings under the Civic Center Act.

Employees shall refrain from prohibited activities identified in law and administrative regulations. Employees who engage in these activities shall be subject to disciplinary action and/or criminal penalties.

Legal Reference:

EDUCATION CODE

7050-7057 Political activities of school officers and employees

38130-38139 Civic Center Act

51520 Prohibited solicitations on school premises

GOVERNMENT CODE

3543.1 Rights of employee organizations

COURT DECISIONS

Downs v. Los Angeles Unified School District, (9th Cir. 2000) 228 F.3d 1003

California Teachers Association v. Governing Board of San Diego Unified School District, (1996) 45 Cal.App. 4th 1333

L.A. Teachers Union v. L.A. City Board of Education, (1969) 71 Cal.2d 551

ATTORNEY GENERAL OPINIONS

84 Ops.Cal.Atty.Gen. 106 (2001)

84 Ops.Cal.Atty.Gen. 52 (2001)

77 Ops.Cal.Atty.Gen. 56 (1994)

PERB RULINGS

California Federation of Teachers, Local 1931 v. San Diego Community College District (2001)

PERB Order #1467 (26 PERC 33014)

Management Resources:

CSBA PUBLICATIONS

Political Activities of School Districts: Legal Issues, 1998, revised 2001

WEB SITES

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

Office of the Attorney General, Dept. of Justice: <http://caag.state.ca.us/>

Public Employment Relations Board: <http://www.perb.ca.gov>

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

ADMINISTRATIVE REGULATION TO BOARD POLICY 4119.25:
POLITICAL ACTIVITIES OF EMPLOYEES

District employees shall not:

1. Use district funds, services, supplies or equipment to urge the passage or defeat of any ballot measure or candidate, including any candidate for election to the Governing Board (Education Code 7054)
2. During working hours and on district property, solicit or receive any political funds or contributions to promote the passage or defeat of a ballot measure that would affect the rate of pay, hours of work, retirement, civil service or other working conditions (Education Code 7056)
3. During working hours and on district property, solicit or receive any political funds or contributions to promote the passage or defeat of other types of ballot measures
4. Use district time to urge the passage or defeat of any ballot measure or candidate
5. Use district equipment for the preparation or reproduction of political campaign materials, even if the district is reimbursed
6. Post or distribute political campaign materials on district property
7. Disseminate political campaign materials through the district's mail service, e-mail or staff mailboxes
8. Use students to write, address or distribute political campaign materials
9. Present viewpoints on particular candidates or ballot measures in the classroom without giving equal time to the presentation of opposing views
10. Wear buttons or articles of clothing that express political opinions on ballot measures or candidates during instructional time

However, teachers shall not be prohibited from wearing political buttons during noninstructional time, such as Back-to-School Night.

Nothing in Board policy or administrative regulation shall be construed to prevent employees from soliciting or receiving funds or contributions for political purposes during nonworking time, including before and after school, the lunch period or other scheduled work intermittency during the school day. (Education Code 7056)

Employee Organizations

Employee organizations may use district mailboxes and other means to communicate with employees, subject to reasonable regulation. Employee organizations may have access at reasonable times to areas in which employees work; may use institutional bulletin boards, mailboxes, and other means of communication and may use district facilities at reasonable times for the purpose of meetings. (Government Code 3543.1)

However, employee organizations shall not use district funds, services, supplies or equipment, such as the district mail system, to urge the passage or defeat of any ballot measure or candidate, including any candidate for election to the Board (Education Code 7054)

Access to district communication channels shall be limited in cases where such access would be disruptive to district operations.

In the event of a concerted action or work stoppage, political activities by employee organizations and individual employees shall be restricted to peaceful informational picketing and other activities allowed by law.

***DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL***

BOARD POLICY 4119.3: DUTIES OF PERSONNEL

The Governing Board recognizes the importance of having adequate job descriptions for every district employee. Student safety, the district's fiscal stability, and the success of the educational program all depend on employees' fully understanding their responsibilities and duties.

The Superintendent or designee shall prepare and regularly update job descriptions for all positions. Job descriptions shall clearly specify all essential and peripheral/marginal functions and duties of the position, the degree of responsibility the position entails, the type and extent of training required, and the position of the person to whom the employee reports.

All employees shall fulfill the duties and responsibilities set forth in their job descriptions and shall comply with Board policies, administrative regulations, applicable employee agreements, and local, state and federal laws.

Legal Reference:

EDUCATION CODE

233.5 *Duty concerning instruction in morals, manners, citizenship*
35020 *Duties of employees fixed by governing board*
35035 *Further powers and duties of superintendent*
44014 *Report of assault*
44662 *Job responsibilities for certificated nonmanagement personnel*
44805 *Enforcement of course of studies, use of textbooks, rules and regulations*
44807 *Duty concerning conduct of pupils*
44809 *School register*
44816 *Annual report of elementary teacher*
45100.5-45108.7 *Senior management of the classified service*
45109 *Fixing of duties*
45110 *Inconsistent duties, compensation*
45256.5 *Senior management of classified service*

GOVERNMENT CODE

7293 *Local public agencies; bilingual employees*

CODE OF REGULATIONS, TITLE 5

5530-5531 *Duties of all certificated personnel*
5550-5552 *Duties of principals*
5570 *Duties of teachers*
5590 *Duties of temporary athletic team coaches*
11256 *Duties and responsibilities of mentor teachers*
12067 *Teacher aide duties under supervision of classroom teacher*
12068 *Teacher aide duties not under direct supervision of classroom teacher*
13003 *Duties of team leader*
16043 *Duties of library personnel*

UNITED STATES CODE, TITLE 42

12101-12213 *Americans With Disabilities Act*

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

BOARD POLICY 4119.41: EMPLOYEES WITH INFECTIOUS DISEASE

The Governing Board encourages each employee to inform the district as soon as possible if he/she contracts an infectious disease, which creates a physical or mental disability. The Board will reasonably accommodate the needs of such individuals.

The Board may reassign or grant disability leave to an employee who is unable to perform his/her job responsibilities because of illness or because the employee's illness significantly endangers his/her health or safety or the health or safety of others.

No employee will be discriminated against because of his/her disability. Legal protections established for disabled persons extend to individuals significantly impaired by infectious diseases.

When informed that an employee has a disabling infectious disease, the Superintendent or designee may request that the employee sign a release form to provide confidential medical information and records.

In determining a reasonable accommodation of the employee's condition, the Superintendent or designee may consult with public health officials or physicians with expertise in the diagnosis and treatment of infectious disease. The Superintendent or designee may also communicate with the employee's physician regarding the employee's ability to perform the essential requirements of the job with reasonable accommodation and without posing significant health or safety risks to the employee or others.

The Superintendent or designee shall prepare a confidential report which includes his/her recommendation and the medical information upon which it is based. These recommendations shall take into consideration:

1. The nature of the disease and the probability of its being transmitted, including the duration and severity of the risk
2. The physical condition of the employee, including diagnosis, treatment, and prognosis of the condition
3. The actual requirements of the employee's job and the expected type of interaction with others in the school setting

This report shall be forwarded to the Board for confidential review and action.

The job assignment of an employee with a disabling infectious disease shall be reevaluated whenever there is a change in medical knowledge or in the employee's medical regimen or health, which might affect his/her assignment.

Confidentiality

The Board and the Superintendent or designee shall ensure that employee rights to confidentiality are strictly observed. The district shall disclose medical record information only to the extent required or permitted by law. The medical records of any employee with a disabling infectious disease shall be held in strict confidence.

Legal Reference:

CIVIL CODE

56-56.37 Confidentiality of medical information

GOVERNMENT CODE

12900-12996 Fair Employment and Housing Act

HEALTH AND SAFETY CODE

120975-121020 Mandated blood testing and confidentiality to protect public health

CODE OF REGULATIONS, TITLE 2

7293.5 et seq.

UNITED STATES CODE, TITLE 29

701 et seq. Rehabilitation Act

UNITED STATES CODE, TITLE 42

12101-12213 Americans With Disabilities Act

COURT DECISIONS

School Board of Nassau County, Fla. v. Arline, 408 U.S. 273 (1987)

***DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL***

**ADMINISTRATIVE REGULATION 4121:
TEMPORARY/SUBSTITUTE PERSONNEL**

Hiring

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

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

Classification

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

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

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

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

4. Serve in a position for a period not to exceed 20 working days in order to prevent the stoppage of district business during an emergency when persons are not immediately available for probationary classification (Education Code 44919)

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

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

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

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

Qualifications

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

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

Qualifications for Special Education

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

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

In placing substitute teachers in special education classrooms, the district shall give first priority to substitute teachers with the appropriate special education credential(s), second

priority to substitute teachers with any other special education credential, and third priority to substitute teachers with a regular teaching credential. (Education Code 56062)

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

Salary/Benefits

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

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

Granting Probationary Status

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

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

Release from Employment/Dismissal

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

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

Reemployment Rights

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

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

Legal Reference:

EDUCATION CODE

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

CODE OF REGULATIONS, TITLE 5

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

COURT DECISIONS

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

Management Resources:

WEB SITES

CTC: <http://www.ctc.ca.gov>

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

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

BOARD POLICY 4128: SHARED TEACHING ASSIGNMENTS

The Governing Board realizes that for personal reasons, a certificated teacher sometimes may prefer to share the responsibility, salary and benefits of a full-time teaching position with one of his/her fellow teachers. When those sharing a position have compatible work patterns and similar goals, this situation can benefit teachers and students alike. By accommodating requests for shared teaching assignments, the district is more likely to retain teachers of outstanding capabilities.

The Superintendent or designee may authorize two teachers to share one full teaching assignment under terms and conditions specified in the collective bargaining agreement.

Legal Reference:

GOVERNMENT CODE

3543.2 *Scope of representation*

***DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL***

BOARD POLICY 4131: STAFF DEVELOPMENT

The Governing Board believes that in order to maximize student learning and achievement, certificated staff members must be continuously learning and improving their skills. The Superintendent or designee shall develop a program of ongoing professional development which includes opportunities for teachers and certificated teaching assistants to enhance their instructional and classroom management skills and increase their knowledge of academic content in the core curriculum. The program may include but is not limited to:

1. Mastery of discipline-based knowledge, including the state-adopted standards, and effective subject-specific pedagogical skills
2. Effective teaching methods and strategies
3. The use of technologies to enhance instruction
4. Sensitivity to and ability to meet the needs of diverse student populations, including, but not limited to, students of various racial and ethnic groups, students with disabilities, English language learners and economically disadvantaged students, and gifted and talented students
5. Understanding of how academic and vocational instruction can be integrated and implemented to increase student learning
6. Knowledge of strategies that enable parents/guardians to participate fully and effectively in their children's education
7. Effective classroom management skills and strategies for establishing a climate that promotes respect, fairness, and discipline, including conflict resolution, intolerance, and hatred prevention
8. Ability to relate to students, understand their various stages of growth and development, and motivate them to learn
9. Ability to interpret and use data and assessment results to guide instruction
10. Topics related to student health, safety and welfare
11. Topics related to employee health, safety and security

As necessary, teachers shall receive professional development, as defined in 20 USC 7801, which is designed to help them meet the requirements of federal law for teachers of core academic subjects. (20 USC 6319)

The Superintendent or designee shall ensure that the district meets its obligations related to the professional growth of individual probationary and permanent teachers.

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

The Superintendent or designee shall involve teachers, site and district administrators, and others, as appropriate, in the development of the district's staff development program. He/she shall ensure that the district's staff development program is aligned with district priorities for student achievement, school improvement objectives, and school plans established by individuals who are closest to the classroom and most knowledgeable about the needs of the school and its students.

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

The Superintendent or designee shall provide a means for continual evaluation of the benefit of staff development activities to staff and students and shall regularly report to the Board regarding the effectiveness of the staff development program.

Legal Reference:

EDUCATION CODE

41505-41508 Pupil Retention Block Grant; school plan
41520-41522 Teacher Credentialing Block Grant, including beginning teacher support and assessment
41530-41532 Professional Development Block Grant
41570-41573 School and Library Improvement Block Grant; school plan
44032 Travel expense payment
44259.5 Standards for preparation for all students
44277-44279 Professional growth requirements for maintaining valid credentials
44279.1-44279.7 Beginning Teacher Support and Assessment Program (BTSA)
44560 Inservice preparation in ethnic backgrounds
44570-44578 Inservice training, secondary education
44580-44591 Inservice training, elementary teachers
44630-44643 Professional Development and Program Improvement Act of 1968
44681-44689 Administrator training and evaluation
44700-44705 Classroom teacher instructional improvement program
44735 Teaching as a Priority; teacher recruitment and retention in high-priority schools
44755-44757.5 Inservice training in reading instruction, grades K-3
48980 Notification of parents/guardians: schedule of minimum days
51210 Courses of study for grades 1-6
51220 Courses of study for grades 7-12
52800-52870 School-Based Program Coordination Act
56240-56245 Staff development; service to persons with disabilities
99200-99205 Subject matter projects
99220-99227 California Professional Development Institutes
99230-99242 Mathematics and Reading Professional Development Program

REPEALED EDUCATION CODE FOR CATEGORICAL PROGRAMS

44579-44579.6 Instructional Time and Staff Development Reform Program

GOVERNMENT CODE

3543.2 Scope of representation of employee organization

CODE OF REGULATIONS, TITLE 5

6100-6125 Teacher qualifications, No Child Left Behind Act

11980-11986 Mathematics and Reading Professional Development Program

13025-13044 Professional development and program improvement programs

UNITED STATES CODE, TITLE 20

6319 Highly qualified teachers

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

7801 Definitions, highly qualified teacher

PUBLIC EMPLOYMENT RELATIONS BOARD DECISIONS

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

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

NCLB Teacher Requirements Resource Guide, March 2004

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

California Standards for the Teaching Profession, 1997

WEB SITES

Beginning Teacher Support and Assessment: <http://www.btsa.ca.gov>

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

California Department of Education, Professional Development: <http://www.cde.ca.gov/pd>

California Subject Matter Projects: <http://csmp.ucop.edu>

***DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL***

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4131:
STAFF DEVELOPMENT**

The Superintendent or designee shall ensure that certificated staff members have opportunities to learn both from outside sources and from each other. These opportunities may include release time, leaves of absence or use of non-instructional time for:

1. Visits to other classrooms and other schools
2. Attendance at professional education conferences or committee meetings
3. Participation in professional development networks that promote inquiry and allow staff to analyze and evaluate each other's work
4. Peer conferences and/or joint staff preparation time
5. Discussions with representatives of business and community agencies for the purpose of identifying the skills, knowledge and aptitudes necessary for specific career paths and developing meaningful career-related, work-based learning experiences
6. Internships in industry and community agencies where teachers can learn how academic skills are used in the workplace
7. Travel, study and research in subject matter content and effective educational practices
8. Training classes and workshops offered by the district, county office of education or state projects
9. Training in institutions of higher education, including credit courses conducted in or near the district whenever possible
10. Follow-up activities that help staff to implement newly acquired skills

The Superintendent or designee shall provide an up-to-date professional library for use by staff.

Instructional Time and Staff Development Reform Program

The Superintendent or designee shall design a program which provides staff development opportunities for certificated classroom teachers and certificated teaching assistants on

days that are not counted as instructional time. This staff development program shall meet the following conditions:

1. The program shall meet the district's educational priorities as defined by the Governing Board and be consistent with regulations adopted by the State Board of Education. (Education Code 44579.1)
2. The program shall provide staff development in the academic content of the core curriculum; in instructional methods, including teaching strategies and classroom management; and in any other training designed to improve student performance. (Education Code 44579.1)

"Core curriculum areas" means those areas of study specified in Education Code 51210(a)-(g) and 51220(a)-(j). (5 CCR 6000)

3. For each staff development day provided under this program, records of attendance shall be maintained and participants shall be present for the full day. (Education Code 44579.1)

The district shall maintain a certification of the contemporaneous record of attendance of the eligible participants who attended each full staff development day for which the district requests funding. If a single staff development day is conducted over several calendar days, the contemporaneous records must evidence that each employee who participated in the staff development day was present for the equivalent of a full-time instructional work day. (5 CCR 6001)

4. Each staff development day shall be at least as long as the full-time instructional day for certificated employees of the district. However, a single staff development day may be conducted over several calendar days. (Education Code 44579.1)
5. If the staff development day is conducted after completion of an instructional day, it may not be held on a minimum day for which parents/guardians were notified pursuant to Education Code 48980. (Education Code 44579.1)

Beginning Teacher Support

To support teachers who are serving in their first or second year of service and enhance their effectiveness in teaching district students, the Superintendent or designee shall: (Education Code 44279.2)

1. Develop, implement and evaluate a teacher induction program which meets the Quality and Effectiveness for Beginning Teacher Induction Program Standards adopted by the Commission on Teacher Credentialing

2. Support beginning teachers in meeting the competencies described in the California Standards for the Teaching Profession adopted by the Commission on Teacher Credentialing
3. Meet criteria for the cost-effective delivery of program services

***DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL***

BOARD POLICY 4131.5: PROFESSIONAL GROWTH

The Governing Board recognizes its obligation to help teachers meet their responsibility for fulfilling the professional growth requirements of their credentials. The Board expects that the increased competence attained by these teachers during their professional growth activities will contribute significantly to the district's educational program.

The Superintendent or designee shall maintain procedures for the selection of professional growth advisors. These procedures shall be designed to provide for the best possible match between teachers and advisors.

The Board may appoint one or more professional growth panels to participate in selecting, orienting and assisting professional growth advisors. (5 CCR 80556)

The Board may appoint one or more professional growth panels to resolve disputes between teachers and professional growth advisors. (5 CCR 80556)

The Superintendent or designee shall provide the Board with recommendations for panel membership. Panels may include administrators, teachers, parents and other members of the community.

Legal Reference:

EDUCATION CODE

44277-44279 Requirements for professional growth

CALIFORNIA CODE OF REGULATIONS, TITLE 5

80550-80565 Generally, especially:

80550 Professional growth requirements definitions

80552-80553 Specific renewal requirements

80554-80555 Elements of professional growth plan and professional growth record

80556 Professional growth advisors, and employing agencies; roles and responsibilities

80558 Definition of professional growth activities

80565 Professional service requirements

Management Resources:

CTC PUBLICATIONS

California Professional Growth Manual, second revision (1990)

***DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL***

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4131.5:
PROFESSIONAL GROWTH**

When selecting professional growth advisors, the Superintendent or designee shall consider: (5 CCR 80556)

1. Subject matter compatibility, interest in special topics, and interactive skills
2. Proximity to the work location of the teacher and reasonable workload for the advisor

The professional growth advisor shall:

1. Advise teachers of school district and state professional growth requirements.
2. Identify growth needs of the district.
3. Assist in defining the teacher's goals and objectives for professional growth.
4. Approve all plans prior to their implementation and upon completion.

The Superintendent or designee shall provide all teachers with the names and work locations of the district's designated professional growth advisors. (5 CCR 80556)

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

BOARD POLICY 4132: PUBLICATION OR CREATION OF MATERIALS

The Governing Board recognizes that district employees may create copyrightable materials at work, at home, or both at work and at home. The development of copyrightable materials during, or in part during, the work day shall be approved by the Superintendent or designee. However, the Superintendent or designee's approval or lack of approval shall not affect the district's ownership of copyrights for materials developed during work hours.

Materials written or developed by an employee during the normal school day are considered district property. (Education Code 60076, 17 USC 201)

Materials developed during both school and leisure hours are owned jointly by the employee and the district. In such cases, the Superintendent or designee shall ensure that a contractual agreement is made, clarifying the joint ownership. A partnership entity may be created to hold the copyright on behalf of both parties.

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

The Board may market or license any non-educational mainframe electronic software developed by the district. Proceeds from this marketing or licensing shall be used exclusively for educational purposes. (Education Code 35182)

Legal Reference:

EDUCATION CODE

32360 *Copyrights; use of funds*

32361 *Copyrights; use of employee work time*

35170 *Authority to secure copyrights*

35182 *Marketing or licensing noneducational mainframe electronic data-processing software*

60076 *Royalties or other compensation*

LABOR CODE

2870-2872 *Inventions made by an employee*

UNITED STATES CODE, TITLE 17

201 *Copyright Law*

201(a) *Copyright Law*

***DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL***

BOARD POLICY 4135: SOLICITING AND SELLING

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

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

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

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

Legal Reference:

EDUCATION CODE

51520 Prohibited solicitations on school premises

***DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL***

BOARD POLICY 4136: NONSCHOOL EMPLOYMENT

The Governing Board recognizes that district employees may receive compensation for outside activities as long as these activities are not inconsistent, incompatible, in conflict with or inimical to the employee's duties or to the duties, functions or responsibilities of the district.

Outside paid activities are incompatible with district employment if they require time periods that interfere with the proper, efficient discharge of the employee's duties, if they entail compensation from an outside source for activities which are part of the employee's regular duties, or if they involve using for private gain the district's name, prestige, time, facilities, equipment or supplies.

District employees shall not perform, without prior Board approval, any outside paid service which will be wholly or in part subject to the approval or control of another district employee or a district officer.

Upon determining that an employee's outside job is incompatible with district employment, the Superintendent or designee shall so inform the employee. An employee who continues to pursue an incompatible activity may be subject to disciplinary action. Appeals shall be addressed in accordance with law, Board policy and administrative regulations.

Legal Reference:

EDUCATION CODE

35160 Authority of governing boards

35160.1 Broad authority of school districts

51520 Prohibited solicitation on school premises

GOVERNMENT CODE

1126 Incompatible activities of employees

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

BOARD POLICY 4137: TUTORING

The Governing Board expects teachers and other members of the instructional staff to make every effort to resolve students' learning problems at school before recommending that parents/guardians engage a tutor or other professional help. By maintaining a competent, dedicated staff and adequate instructional resources, the Board seeks to minimize the need for individual tutoring.

To preclude conflicts of interest, teachers may not accept any kind of remuneration for tutoring a student enrolled in any of their classes. Teachers who tutor other students must perform this service outside of school facilities and make their own arrangements with parents/ guardians for the fees to be charged. The Board encourages teachers to tutor only in subjects or grade levels for which they are certificated.

Legal Reference:

GOVERNMENT CODE

1126 Incompatible activities of employees

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

BOARD POLICY 4141: COLLECTIVE BARGAINING AGREEMENT

The Governing Board recognizes that collective bargaining agreements are legally binding, bilateral agreements. The Board is committed to carrying out the provisions of each agreement and expects the agreements to be consistently and uniformly administered.

In order to help prepare for future negotiations, the Superintendent or designee shall identify any portions of the agreement that hinder the district's efforts to meet district goals.

Legal Reference:

EDUCATION CODE

35160 Authority of governing boards

35160.1 Broad authority of school districts

GOVERNMENT CODE

3540-3549.3 Educational Employment Relations Act

CODE OF REGULATIONS, TITLE 8

31001-32997 Regulations of employee relations boards

***DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL***

BOARD POLICY 4143: NEGOTIATIONS/CONSULTATION

The Governing Board is legally responsible for negotiating in good faith with exclusive employee representatives on wages, hours of employment, and other terms and conditions of employment identified in law as being within the scope of representation. (Government Code 3543.2)

The Board recognizes its responsibility to represent the public's interests in the collective bargaining process. The Board and/or Superintendent shall keep the public informed about the progress of negotiations and the ways in which negotiations affect district goals.

In reaching agreements on employee contracts, the Board shall balance the needs of staff and the priorities of the district in order to provide students with a high-quality instructional program based on a sound, realistic budget.

The Board endorses and uses an interest-based, nonadversarial approach to collective bargaining. The goal of negotiations shall be to reach an agreement, which meets the interests of all concerned.

The Board believes that effective negotiations require the input of all levels of the administration. The Board shall establish a bargaining team to assist in analyzing contract provisions and conducting contract negotiations.

The Board with its bargaining team shall establish standards of conduct pertaining to the negotiations process for individual Board members and members of the bargaining team. Meetings related to negotiations are not subject to state open meeting laws and shall be held in closed session. Matters discussed in these meetings shall be kept in strict confidence.

The Board shall provide its negotiator(s) with expected outcomes and clear parameters for acceptable contract provisions and may initiate proposals which promote the realization of district goals. The Board shall closely monitor the progress of negotiations and carefully consider how proposed contract provisions would affect the district's short- and long-term goals.

Consultation

The exclusive representative of certificated staff may consult with the Board on the definition of educational objectives, the determination of the content of courses and curriculum and the selection of textbooks.

Legal Reference:

GOVERNMENT CODE

3540-3549.3 *Educational Employment Relations Act*

***DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL***

BOARD POLICY 4143.1: PUBLIC NOTICE - PERSONNEL NEGOTIATIONS

Because the Governing Board has a responsibility to represent the public's interest in negotiations with employee organizations, the Board is committed to keeping the public informed about issues being negotiated, providing members of the public an opportunity to express their views, and disclosing the position of each Board member.

Public Notice

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

Meeting and negotiating between district and employee organization representatives shall not take place on these initial proposals until a reasonable time has elapsed after the submission of these proposals to enable the public to become informed and to express itself regarding the proposals at a public meeting. (Government Code 3547)

After the public has had an opportunity to provide input, the Board shall adopt its initial proposal at a public meeting. (Government Code 3547)

New subjects of meeting and negotiating arising after the presentation of initial proposals shall be made public within 24 hours. If a vote is taken on any such subject by the Board, each member's vote also shall be made public within 24 hours. (Government Code 3547)

Public Disclosure

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

A copy of the proposed agreement shall be made available to the public prior to the day of the Board meeting.

The Superintendent or designee shall prepare a summary of the major provisions and changes in the proposed agreement.

Certification of Agreement

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

Legal Reference:

EDUCATION CODE

42130-41234 Financial reports and certifications

GOVERNMENT CODE

3540.2 Meeting and negotiating in public educational employment

3547 Proposals relating to representation; informing public

3547.5 Major provisions of agreement with exclusive representative

CODE OF REGULATIONS, TITLE 8

32075 PERB regional office defined

32900 EERA and HEERA public notice: requirements for governing boards to adopt policy

32910 Filing of EERA or HEERA complaint

Management Resources:

CDE MANAGEMENT ADVISORIES

0515.92 Public Disclosure of Collective Bargaining Agreements, 92-01

CSBA PUBLICATIONS

Public Notice and Disclosure, Resource Guide for Employment Relations, December 1996

Maximizing School Board Leadership: Collective Bargaining, 1996

WEB SITES

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

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

Fiscal Crisis and Management Assistance Team: <http://www.fcmat.org>

Public Employment Relations Board: <http://www.perb.ca.gov>

***DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL***

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4143.1:
PUBLIC NOTICE - PERSONNEL NEGOTIATIONS**

The Superintendent or designee shall prepare a summary of the proposed agreement, which shall include, but may not necessarily be limited to:

1. Major provisions of the agreement that affect compensation, such as:
 - a. Direct increases in salaries and percentage change in on-schedule salaries
 - b. Changes in health and welfare benefits
 - c. Changes in health and welfare benefit dollar contributions by the district
 - d. Changes in step and column or longevity provisions
 - e. Changes in overtime, differential, callback, and standby pay provisions
 - f. Changes in staffing ratios
 - g. One-time bonuses or off-the-schedule increases
2. Other provisions that will result in increased costs to the district even if they do not involve an increase in employee compensation, such as class-size reduction or increased number of staff development days
3. Costs of the proposed agreement, for the current and subsequent fiscal years, categorized for salaries, benefits, other compensation, and other noncompensation costs, including percent increase of total compensation (salaries, benefits, and other compensation provisions) for the average represented employee as a result of the settlement and the approximate cost to the district of providing a one percent increase in total compensation
4. Proposed source(s) of funding for the current and subsequent fiscal years including the assumptions used to determine available resources to meet the obligations of the proposed agreement
5. Other major provisions that do not directly affect the district's costs, such as binding arbitration or grievance procedures

A copy of the summary shall be provided to the County Superintendent of Schools.

A copy of the Board policy implementing the public notice requirements shall be available in the district office. (8 CCR 32900)

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

BOARD POLICY 4144: COMPLAINTS

The Governing Board recognizes the need for providing employees with a complaint process.

The Board expects that employees and supervisors will make every effort to resolve employee complaints and disagreements informally before resorting to formal complaint procedures.

The Superintendent or designee shall establish complaint procedures which allow employees to appeal to the Board.

Legal Reference:

GOVERNMENT CODE

3543 *Public school employees' rights*

3543.1 *Rights of employee organizations*

53296 *Definitions*

53297 *Filing complaint*

53298 *Reprisals*

53298.5 *Violations; punishment*

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

ADMINISTRATIVE REGULATION TO BOARD POLICY 4144: COMPLAINTS

The following guidelines shall prescribe the manner in which complaints are handled:

1. A "complaint" shall be defined as an alleged misapplication of the district's policies, regulations, rules or procedures. Procedures for the resolution of employee complaints provide a route of appeal through administrative channels and to the Governing Board, if necessary. If the complaint is related to discrimination, the district's procedure for complaints concerning discrimination should be used.
2. If a complaint involves sexual harassment, the initial complaint should be made directly to the offending employee's immediate supervisor. An employee is not required to resolve sexual harassment complaints with the offending person.
3. So as not to interfere with school schedules, meetings related to a complaint shall be held before or after the complainant's regular working hours.
4. All matters related to a complaint shall be kept confidential. Only those individuals directly involved in resolving the complaint shall be informed of the complaint.
5. All documents, communications and records dealing with the complaint shall be placed in a district complaint file. No such material shall be placed in an employee's personnel file.
6. No reprisals shall be taken against any participant in a complaint procedure by reason of such participation.
7. Time limits specified in these procedures may be reduced or extended in any specific instance by written mutual agreement of the parties involved. If specified or adjusted time limits expire, the complaint may proceed to the next step.
8. Any complaint not taken to the next step within prescribed time limits shall be considered settled on the basis of the answer given at the preceding step.

Informal Complaints

Employees are encouraged to resolve complaints informally. Formal complaint procedures shall not be initiated unless informal efforts to resolve the complaint have been exhausted and the complainant has provided a written description of such efforts.

Formal Complaint Procedure - Step 1

If a complaint has not been satisfactorily resolved by informal procedures, the complainant may file a written complaint with the immediate supervisor or principal within 60 days of the act or event which is the subject of the complaint.

Within five working days of receiving the complaint, the immediate supervisor or principal shall conduct any necessary investigation and meet with the complainant in an effort to resolve the complaint.

The immediate supervisor or principal shall present all concerned parties with a written answer to the complaint within 10 working days after the meeting.

Formal Complaint Procedure - Step 2

If a complaint has not been satisfactorily resolved at Step 1, the complainant may file the written complaint with the Superintendent or designee within five working days of receiving the answer at Step 1. All information presented at Step 1 shall be included with the complaint, and the immediate supervisor or principal shall submit to the Superintendent or designee a report describing attempts to resolve the complaint at Step 1.

Within five working days of receiving the complaint, the Superintendent or designee shall conduct any necessary investigation and meet with the complainant in an effort to resolve the complaint.

The Superintendent or designee shall present all concerned parties with a written answer to the complaint within 10 working days after the meeting.

Formal Complaint Procedure - Step 3

If a complaint has not been satisfactorily resolved at Step 2, the complainant may file a written appeal to the Board within five working days of receiving the answer at Step 2. All information presented at Steps 1 and 2 shall be included with the appeal, and the Superintendent or designee shall submit to the Board a report describing attempts to resolve the complaint at Step 2.

An appeal hearing shall be held at the next regularly scheduled Board meeting which falls at least 12 days after the appeal is filed. This hearing shall be held in closed session if the complaint relates to matters properly addressed in closed session.

The Board shall make its decision within 30 days of the hearing and shall mail its decision to all concerned parties. The Board's decision shall be final.

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

BOARD POLICY 4151: EMPLOYEE COMPENSATION

In order to secure and hold staff committed to student learning, the Governing Board recognizes the importance of an attractive compensation package which includes salaries, health benefits and other amenities.

The Board shall adopt separate salary schedules for certificated, classified, and management/supervisory/confidential personnel. These schedules shall comply with law and negotiated agreements and shall be printed and made available for inspection at the district office. Salary schedules for staff who are not a part of a bargaining unit shall be determined by the Board at the recommendation of the Superintendent or designee.

Legal Reference:

EDUCATION CODE

44492-44494 *Mentor teacher stipends*
44977 *Salary deductions during absence*
45022-45061 *Salaries, especially:*
45023 *Availability of salary schedule*
45028 *Salary schedule for certificated employees*
45030 *Salary schedule for substitutes*
45032 *Power of governing board to increase salaries*
45160-45169 *Salaries for classified employees*
45268 *Salary schedule for classified service in merit system districts*

GOVERNMENT CODE

3540-3549 *Meeting and negotiating, especially:*
3543.2 *Scope of representation*
3543.7 *Duty to meet and negotiate in good faith*

***DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL***

BOARD POLICY 4154: HEALTH AND WELFARE BENEFITS

The district shall provide health and welfare benefits for certificated employees in accordance with state and federal law and subject to negotiated employee agreements and Board policies/regulations.

Employees who are not in bargaining units shall receive health and welfare benefits as specified in Board policy and administrative regulation.

To the extent that benefits are granted to spouses of employees, domestic partners registered in accordance with Family Code 297 shall have the same benefits. (Family Code 297.5)

The Superintendent or designee shall maintain the confidentiality of employee health records in accordance with law.

Retired Employees

Retired certificated employees may continue to participate in the district's group health and welfare benefit plan and dental care benefit plan in accordance with state and federal law and the DMCTA Master Contract.

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

Legal Reference:

EDUCATION CODE

7000-7008 Health and welfare benefits, retired certificated employees

35208 Liability insurance

35214 Liability insurance (self-insurance)

44041-44042 Payroll deductions for collection of premiums

44986 Leave of absence, state disability benefits

45136 Benefits for classified employees

FAMILY CODE

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

GOVERNMENT CODE

22750-22944 Public Employees' Medical and Hospital Care Act, especially:

22931 Application of education code provisions relating to inclusion of certain retirees in local health and welfare benefit plans

53200-53210 Group insurance

HEALTH AND SAFETY CODE

1366.20-1366.29 Cal-COBRA program, health insurance

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

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

INSURANCE CODE

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

10128.50-10128.59 Cal-COBRA program, disability insurance

UNEMPLOYMENT INSURANCE CODE

2613 Education program; notice of rights and benefits

UNITED STATES CODE, TITLE 26

4980B COBRA continuation coverage

UNITED STATES CODE, TITLE 29

1161-1168 COBRA continuation coverage

UNITED STATES CODE, TITLE 42

1395-1395g Medicare benefits

CODE OF FEDERAL REGULATIONS, TITLE 26

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

CODE OF FEDERAL REGULATIONS, TITLE 45

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

Management Resources:

WEB SITES

California Department of Industrial Relations: <http://www.dir.ca.gov>

California Employment Development Department: <http://www.edd.ca.gov>

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

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4154:
HEALTH AND WELFARE BENEFITS**

Retired Certificated Employees

The district's health and welfare benefit plan and dental care benefit plan provided for certificated employees shall permit enrollment by any former certificated employee who retired under any public retirement system and by his/her spouse/domestic partner. In addition, the plan shall be available to any surviving spouse/domestic partner of a former certificated employee who either retired from the district or was, at the time of death, employed by the district and a member of the State Teachers' Retirement System. (Education Code 7000)

A retired certificated employee or surviving spouse/domestic partner shall be allowed to enroll in the coverage within 30 days of losing active employee coverage. In addition, the Superintendent or designee shall annually select a one-month period during which former employees or their spouses/domestic partners may elect to enroll in the health or dental plan or change their enrollment from one plan to another. (Education Code 7000)

If a retired certificated employee or surviving spouse/domestic partner fails to enroll during the initial enrollment period, further opportunity to do so may be denied. A person who has previously received but then voluntarily terminated coverage also may be excluded from obtaining further coverage. (Education Code 7000)

Continuation of Coverage

Qualified district employees, their spouses/domestic partners and/or their dependent children shall be offered the opportunity to continue health and disability insurance coverage when they otherwise would lose coverage due to one of the following qualifying events: (Health and Safety Code 1366.23; Insurance Code 10128.53; 26 USC 4980B; 26 CFR 54.4980B-4)

1. The death of a covered employee
2. The termination other than by reason of the employee's gross misconduct, or reduction in hours of the covered employee's employment
3. The divorce or legal separation of a covered employee
4. A covered employee's becoming entitled to Medicare benefits
5. A dependent child ceasing to be a dependent child of a covered employee

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

The Superintendent or designee shall notify the health care service plan administrator of a qualifying event listed in item #1, 2 or 4 above, within 30 days of the event. A qualified beneficiary shall notify the service plan administrator of a qualifying event listed in item #3 or 5 above within 60 days of the event or of the date that the beneficiary would lose coverage, whichever is later. (26 USC 4980B; 29 USC 1163)

Continuation coverage shall be terminated in accordance with the district's insurance plan, 26 USC 4980B and 26 CFR 54.4980B-6.

However, a former employee who, prior to January 1, 2005, worked for the district for at least five years and who was age 60 or older on the date employment ended, or his/her spouse/domestic partner or former spouse/domestic partner, may continue benefits until the earlier of the following events: (Health and Safety Code 1373.621)

1. The date the individual reaches age 65
2. The date the individual is covered under any other health plan, regardless of whether that coverage is less valuable
3. The date the individual becomes entitled to Medicare benefits
4. For a spouse/domestic partner, five years from the date on which continuation coverage was scheduled to end for the spouse/domestic partner

Disability Insurance

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

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

***DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL***

ADMINISTRATIVE REGULATION 4154.1:

ELIGIBILITY FOR HEALTH AND WELFARE BENEFITS

- A. An eligible employee who attains age 55 and retires from active service under the State Teachers' Retirement System provisions may continue on the District's health plan until age 65 at District expense consistent with the current DMCTA Master Contract.

***DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL***

BOARD POLICY 4156.2: AWARDS AND RECOGNITION

The Governing Board believes the district's employees are its most valuable resource and encourages recognition of the services they provide. The Superintendent or designee may issue service pins, certificates, plaques or other mementos in accordance with Board policy and administrative regulations.

The Board authorizes awards to employees who: (Education Code 44015)

1. Propose ideas or procedures, which eliminate or reduce district expenditures or improve district operations
2. Perform special acts or services in the public interest
3. By their superior accomplishments, make exceptional contributions to the efficiency, economy, or other improvement in district operations

The Superintendent or designee shall recommend individuals to the Board for such awards.

The Superintendent or designee may appoint a merit awards committee to recommend such awards to the Board.

The Superintendent or designee shall establish regulations governing employee awards.

Legal Reference:

EDUCATION CODE

35160 Authority of governing boards

35160.1 Broad authority of school districts

35161 Powers and duties generally

44015 Awards to Employees

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

BOARD POLICY 4156.3: EMPLOYEE PROPERTY REIMBURSEMENT

The Governing Board authorizes the Superintendent or designee to pay the cost of replacing or repairing employee personal property, except cash, which has been stolen or intentionally destroyed or damaged while being used for work-related purposes.

No reimbursement shall be made for accidental damage or for any loss due to lack of personal supervision or failure to keep property in a secured area.

The maximum payment shall be the amount specified by the district's insurance carrier for such loss or the amount specified in the applicable collective bargaining agreement, whichever is less.

Reimbursement for personal items used for work-related purposes shall be made only if: (Education Code 35213)

1. Use of the personal property was approved by the principal, site supervisor or designee before the property was brought to school or district premises.
2. At that time, the employee and district representative agreed on the value of the property.

Legal Reference:

EDUCATION CODE

35213 Reimbursement for loss, destruction or damage of personal property

48904 Liability of parent/guardian for willful misconduct; withholding of grades, diplomas and transcripts

CIVIL CODE

1714.1 Liability of parent or guardian for act of willful misconduct by a minor

***DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL***

BOARD POLICY 4156.4: EMPLOYEE CHILD CARE PROGRAM

The Board of Trustees desires to provide parents, community, and staff with child care programs that meet the needs of parents, staff, and community. The Superintendent, or his designee, is directed to offer the following Child Care programs:

- After school child care program
- Summer Child care program
- After school enrichment program
- Children's Creative Workshop
- Employee Infant Care and Pre-School program

The District's Child Care program shall be fully self-sustaining, and shall not be supported by general fund resources. When the District's Child Care needs intrude on District staff and personnel, the Child Care program shall be required to pay the District the fair market value for all District services provided to the Child Care programs.

***DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL***

BOARD POLICY 4157: EMPLOYEE SAFETY

The Governing Board is committed to maximizing employee safety and believes that safety is every employee's responsibility. Working conditions and equipment shall be maintained in compliance with standards prescribed by federal, state and local laws and regulations.

No employee shall be required or permitted to be in any place of employment which is unsafe or unhealthful. (Labor Code 6402)

The Board expects all employees to use safe work practices and to correct any unsafe conditions, which may occur. If an employee is unable to correct an unsafe condition, he/she shall immediately report the problem to the Superintendent or designee.

The Superintendent or designee shall promote safety and correct any unsafe work practice through education, training and enforcement.

The Superintendent or designee shall establish and implement a written injury and illness prevention program in accordance with law. (Labor Code 6401.7)

The Board shall ensure that the Superintendent or designee provides eye protective devices as specified in law and administrative regulation.

No employee shall be discharged or discriminated against for making complaints, instituting proceedings or testifying with regard to employee safety or health, or for participating in any occupational health and safety committee established pursuant to Labor Code 6401.7. (Labor Code 6310)

Legal Reference:

EDUCATION CODE

32066 Safety: public and private institutions

LABOR CODE

6305 Occupational safety and health standards; special order

6310 Retaliation for filing complaint prohibited

6401.7 Injury prevention programs

6400-6413.5 Responsibilities and duties of employers and employees

CODE OF REGULATIONS, TITLE 8

3203 Injury and illness prevention program

5095-5100 Control of noise exposure

CODE OF FEDERAL REGULATIONS, TITLE 29

1910.95 Noise standards

Management Resources:

CAL/OSHA PUBLICATIONS

Guide to Developing Your Workplace Injury and Illness Prevention Program, revised April 1998

DHHS PUBLICATIONS

Preventing Occupational Hearing Loss - A Practical Guide, June 1996, Department of Health and Human Services (National Institute for Occupational Safety and Health)

WEB SITES

OSHA: <http://www.osha.gov>

Cal/OSHA: http://www.dir.ca.gov/occupational_safety.html

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

National Institute for Occupational Safety and Health: <http://www.cdc.gov/niosh>

National Hearing Conservation Association: <http://www.hearingconservation.org>

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

ADMINISTRATIVE REGULATION TO BOARD POLICY 4157:
EMPLOYEE SAFETY

The Superintendent or designee shall provide safety devices, safeguards, methods and processes for staff that are reasonably adequate to render the employment and place of employment safe.

Injury and Illness Prevention Program

The district's injury and illness prevention program shall cover all district employees and all other workers whom the district controls or directs and directly supervises on the job to the extent that workers are exposed to hazards specific to their worksite and job assignment. The obligation of contractors or other employers who control or direct and supervise their own employees on the job shall not be affected by the district's injury prevention program. (Labor Code 6401.7)

The district's injury and illness prevention program shall include: (Labor Code 6401.7; 8 CCR 3203)

1. The name/position of the person(s) with authority and responsibility for implementing the program.
2. A system for ensuring that employees comply with safe and healthful work practices, which may include but not be limited to:
 - a. Recognition of employees who follow safe and healthful work practices
 - b. Training and retraining programs
 - c. Disciplinary actions
3. A system for communicating with employees in a form readily understandable by all employees on matters related to occupational health and safety, including provisions designed to encourage employees to report hazards at the worksite without fear of reprisal. This system may include but not be limited to:
 - a. Meetings
 - b. Training programs
 - c. Posting
 - d. Written communications

- e. A system of anonymous notification by employees about hazards
 - f. A labor/management safety and health committee
4. Procedures for identifying and evaluating workplace hazards, including scheduled periodic inspections to identify unsafe conditions and work practices. Such inspections shall be made:
- a. Whenever introducing into the workplace new substances, processes, procedures or equipment that represent a new occupational safety or health hazard
 - b. Whenever the district is made aware of a new or previously unrecognized hazard
5. A procedure for investigating occupational injury or illness.
6. Methods and/or procedures for correcting unsafe or unhealthful conditions, work practices and work procedures in a timely manner based on the severity of the hazard when observed or discovered.

When an imminent hazard exists which cannot be immediately abated without endangering employee(s) and/or property, these procedures shall call for the removal of all exposed staff from the area except those necessary to correct the hazardous condition. Employees needed to correct the condition shall be provided necessary safeguards.

7. Training and instruction:
- a. To all new employees
 - b. To all employees given new job assignments for which training has not previously been received
 - c. Whenever new substances, processes, procedures or equipment are introduced into the workplace and represent a new hazard
 - d. Whenever the district is made aware of a new or previously unrecognized hazard
 - e. To familiarize supervisors with the safety and health hazards to which employees under their immediate direction and control may be exposed

Records of the steps taken to implement and maintain the injury and illness prevention program shall be kept in accordance with 8 CCR 3203.

Labor/Management Safety and Health Committee

The district's labor/management safety and health committee shall: (8 CCR 3203)

1. Meet regularly, but not less than quarterly.
2. Prepare and make available to affected employees written records of the safety and health issues discussed at committee meetings and maintained for review by Cal/OSHA upon request. These records shall be maintained for at least one year.
3. Review results of the periodic, scheduled worksite inspections.
4. Review investigations of occupational accidents and causes of incidents resulting in occupational injury or illness or exposure to hazardous substances. As appropriate, the committee may submit suggestions to the Superintendent or designee regarding the prevention of future incidents.
5. Review investigations of alleged hazardous conditions brought to the attention of any committee member. When determined necessary by the committee, it may conduct its own inspection and investigation to assist in remedial solutions.
6. Submit recommendations to assist in the evaluation of employee safety suggestions
7. Upon request of Cal/OSHA, verify abatement action taken by the district to abate citations issued by Cal/OSHA

Hearing Protection

When information indicates that any employee's exposure to noise may equal or exceed an eight-hour average sound level of 85 decibels, the Superintendent or designee shall implement a hearing conservation program in accordance with state and federal regulations. (8 CCR 5097, 29 CFR 1910.95)

Eye Safety Devices

Eye safety devices shall be worn by employees whenever they are engaged in or observing an activity involving hazards or hazardous substances likely to cause injury to the eyes. (Education Code 32030)

Such activities include, but are not limited to, the following: (Education Code 32031)

1. Working with hot molten metal
2. Milling, sawing, turning, shaping, cutting, grinding and stamping of any solid materials

3. Heat treating, tempering, or kiln firing of any metal or other materials
4. Gas or electric arc welding
5. Repair or servicing of any vehicles, machinery or equipment
6. Working with hot liquids or solids or with chemicals which are flammable, toxic, corrosive to living tissues, irritating, strongly sensitizing, radioactive, or which generate pressure through heat, decomposition, or other means

**DEL MAR UNION SCHOOL DISTRICT
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BOARD POLICY 4157.1: WORK-RELATED INJURIES

The Governing Board desires to provide its employees with insurance and workers' compensation benefits in accordance with law. The Superintendent or designee shall develop an efficient claims handling process in order to reduce costs and facilitate employee recovery.

An employee shall report any work-related injury or illness to his/her supervisor as soon as practicable. Upon learning of an injury, a supervisor shall promptly report the incident to the Superintendent or designee and the insurance carrier as appropriate.

The Superintendent or designee shall ensure that every new employee is notified of his/her right to receive workers' compensation if injured at work and that injured employees are given notice of rights in accordance with law.

The Superintendent or designee shall ensure that notifications regarding workers' compensation are posted in accordance with law.

Legal Reference:

EDUCATION CODE

44984 *Industrial accident and illness leaves, certificated employees*

45192 *Industrial accident and illness leaves, classified employees*

LABOR CODE

3200-4855 *Workers' compensation, especially:*

3550-3553 *Employee notice*

3600-3605 *Conditions of liability*

3760 *Report of injury to insurer*

4600 *Provision of medical and hospital treatment by employer*

4906 *Disclosures and statements*

5400-5413 *Notice of injury or death*

6409.1 *Reports*

CODE OF REGULATIONS, TITLE 8

15596 *Notice of employee rights*

Management Resources:

WEB SITES

California Department of Industrial Relations: <http://www.dir.ca.gov>

***DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL***

ADMINISTRATIVE REGULATION 4157.2: ERGONOMICS

To minimize employees' risk of repetitive motion injuries (RMIs), the Superintendent or designee shall implement an ergonomics program whenever two or more RMIs from an identical work activity have been reported by district employees within a 12-month period beginning July 3, 1997. In addition, all reported injuries must satisfy all of the following conditions: (8 CCR 5110)

1. The RMIs were predominantly caused (i.e., 50 percent or more) by a repetitive job, process or operation.
2. The employees incurring the RMIs were performing a job process or operation of identical work activity. Identical work activity means that the employees were performing the same repetitive motion task, such as similar word processing, assembly or loading tasks.
3. The RMIs were musculoskeletal injuries that a licensed physician objectively identified and diagnosed.

The Superintendent or designee shall ensure that the ergonomics program be designed to minimize RMIs in accordance with law. The program shall be composed of the following components: (8 CCR 5110)

1. Worksite evaluation

Each job, process or operation of identical work activity, or a representative number of such jobs, processes or operations of identical activities, shall be evaluated for exposures which have caused RMIs.

2. Control of exposures which have caused RMIs

Any exposures that have caused RMIs shall, in a timely manner, be corrected or, if not capable of being corrected, be minimized to the extent feasible. The district shall consider engineering controls, such as work station redesign, adjustable fixtures or tool redesign, and administrative controls such as job station, work pacing or work breaks.

3. Training

Employees shall be provided training that includes an explanation of:

- a. The district's program

- b. The exposures that have been associated with RMIs
- c. The symptoms and consequences of injuries caused by repetitive motion
- d. The importance of reporting symptoms and injuries to the employer
- e. Methods used by the district to minimize RMIs

Legal Reference:

EDUCATION CODE

44984 Industrial accident and illness leaves, certificated employees

45192 Industrial accident and illness leaves, classified employees

GOVERNMENT CODE

21153 Employer not to separate for disability members eligible to retire

LABOR CODE

142.3 Adoption, amendment or repeal of standards and orders

3200-4855 Workers' compensation, especially:

3550-3553 Employee Notice

3600-3605 Conditions of liability

3760 Report of injury to insurer

4600 Provision of medical and hospital treatment by employer

4906 Disclosures and statements

5400-5404 Notice of injury or death

6303 Place of employment; employment

6305 Occupational safety and health standards; special orders

6310 Retaliation for filing complaint prohibited

6357 Standards for workplace ergonomics

6401.7 Injury prevention programs

6409.1 Reports

CODE OF REGULATIONS, TITLE 8

3203 Injury and Illness Prevention Program

5110 Repetitive motion injuries

***DEL MAR UNION SCHOOL DISTRICT
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BOARD POLICY 4158: EMPLOYEE SECURITY

The Governing Board desires to provide a safe, orderly working environment for all employees. As part of the district's comprehensive school safety plan, the Superintendent or designee shall develop strategies for protecting employees from potentially dangerous persons and situations and for assisting them in the event of an emergency situation.

The Superintendent or designee shall ensure that employees are informed, in accordance with law, regarding crimes and offenses by students who may pose a danger in the classroom.

When violence is directed against an employee by any individual and the employee so notifies the Superintendent or designee, the Superintendent or designee shall take steps to ensure that appropriate legal measures are instituted. When the employee notifies the Superintendent or designee of a threat of bodily harm, the district shall take appropriate measures to enable the employee to request assistance if a threat occurs on school grounds.

The Superintendent or designee shall ensure that employees are trained in crisis prevention and intervention techniques in order to protect themselves and students. Staff development may include training in classroom management, effective communication techniques and crisis resolution.

The Board recognizes that access to two-way communications devices allows employees to call for assistance from their supervisor or law enforcement in the event of a threat of violence or medical emergency. The district shall provide such communications devices in classrooms to the extent possible.

Employees may possess a pepper spray weapon that meets the requirements of Penal Code 12403.7 on school property and at school activities for their own safety. Any employee who is negligent or careless in the possession or handling of pepper spray shall be subject to appropriate disciplinary measures.

Reporting of Injurious Objects

The Board requires school employees to take immediate action upon being made aware that any person is in possession of an injurious object on school grounds or at a school-related or school-sponsored activity. The employee shall use his/her own judgment as to the dangerousness of the situation and, based upon this analysis, shall do one of the following:

1. Confiscate the object and deliver it to the principal immediately

2. Immediately notify the principal, who shall take appropriate action
3. Immediately notify the local law enforcement agency and the principal

When informing the principal about the possession or seizure of a weapon or dangerous device, the employee shall report the name(s) of persons involved, witnesses, location, and the circumstances of any seizure.

Legal Reference:

EDUCATION CODE

32210-32212 Willful disturbance, public schools or meetings
32225-32226 Communication devices
35204 Contract with attorney in private practice or use of administrative advisor
35205 Contract for legal services
35208 Liability insurance
35213 Reimbursement for loss, destruction or damage of school property
44014 Report of assault by pupil against school employee
44807 Duty concerning conduct of students
48201 Transfer of student records
48900-48926 Suspension or expulsion Grounds for suspension or expulsion
49079 Notification to teacher; student who has engaged in acts constituting grounds for suspension or expulsion
49330-49335 Injurious objects

CIVIL CODE

51.7 Freedom from violence or intimidation

CODE OF CIVIL PROCEDURE

527.8 Workplace violence safety act

GOVERNMENT CODE

995-996.4 Defense of public employees

3543.2 Scope of representation

PENAL CODE

71 Threatening public officers and employees and school officials
240 Definition of assault
241.2 Assault on school or park property against any person
241.3 Assault against school bus drivers
241.6 Assault on school employee includes board member
242 Definition of battery
243 Battery; definition of "injury" and "serious bodily injury"
243.2 Battery on school or park property against any person
243.3 Battery against school bus drivers
243.6 Battery against school employee includes board member
245.5 Assault with deadly weapon; school employee includes board member
290 Registration of sex offenders
601 Trespass by person making credible threat
626.9 Gun-Free School Zone Act of 1995
626.10 Exceptions to bringing weapons on school grounds
646.9 Stalking
12403.7 Weapons approved for self defense
WELFARE AND INSTITUTIONS CODE
827 Juvenile court proceedings; reports; confidentiality
828.1 District police or security department, disclosure of juvenile records

Management Resources:

CDE CORRESPONDENCE

0401.01 Protecting Student Identification in Reporting Injurious Objects

WEB SITES

CDE, Safe Schools and Violence Prevention Office: <http://www.cde.ca.gov/spbranch/safety/safetyhome>
CSBA: <http://www.csba.org>

**DEL MAR UNION SCHOOL DISTRICT
CERTIFICATED PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4158:
EMPLOYEE SECURITY**

An employee may use reasonable and necessary force when necessary for self-defense, to protect another person or property, to quell a disturbance threatening physical injury to others, or to obtain possession of weapons or other dangerous objects on or within the control of a student. (Education Code 44807, 49001)

Employees shall promptly report to their principal or other immediate supervisor any attack, assault or physical threat made against them by a student.

Both the employee and the principal or other immediate supervisor shall promptly report such instances to the appropriate local law enforcement agency. (Education Code 44014)

In addition, employees shall promptly report to their principal or supervisor, and may report to law enforcement, any attack, assault or threat made against them on school grounds by any other individual.

Reports of attack, assault or threat also shall be forwarded immediately to the Superintendent or designee.

An employee whose person or property is injured or damaged by willful misconduct of a student may ask the district to pursue legal action against the student or the student's parent/guardian. (Education Code 48905)

Notice Regarding Student Offenses Committed While Under School Jurisdiction

The Superintendent or designee shall inform the teacher of each student who has engaged in, or is reasonably suspected of, any act during the previous three school years which could constitute grounds for suspension or expulsion under Education Code 48900, with the exception of the possession or use of tobacco products, or Education Code 48900.2, 48900.3, 48900.4, or 48900.7. This information shall be based upon district records maintained in the ordinary course of business or records received from a law enforcement agency. (Education Code 49079)

Upon receiving a transfer student's record regarding acts committed by the student that resulted in his/her suspension or expulsion, the Superintendent or designee shall inform any of the student's teacher(s) that the student was suspended from his/her former district and of the act that resulted in the suspension or expulsion. (Education Code 48201)

Information received by teacher(s) shall be received in confidence for the limited purpose for which it was provided and shall not be further disseminated by the teacher. (Education Code 49079)

Notice Regarding Student Offenses Committed While Outside School Jurisdiction

When a minor student has been found by a court of competent jurisdiction to have illegally used, sold or possessed a controlled substance or committed specified crimes involving serious acts of violence, the district police or security department may provide written notification to the Superintendent. (Welfare and Institutions Code 828.1)

When informed by the court that a minor student has been found by a court to have committed any felony or any misdemeanor involving curfew, gambling, alcohol, drugs, tobacco products, carrying of weapons, a sex offense listed in Penal Code 290, assault or battery, larceny, vandalism or graffiti, the Superintendent or designee shall so inform the school principal. (Welfare and Institution Code 827)

The principal shall disseminate this information to the counselor(s) who directly supervises or reports on the student's behavior or progress. The principal also may inform any teacher or administrator he/she thinks may need the information so as to work with the student appropriately, avoid being needlessly vulnerable, or protect others from vulnerability. (Welfare and Institutions Code 827)

Any court-initiated information that a teacher, counselor or administrator receives shall be kept confidential and used only to rehabilitate the student and protect other students and staff. The information shall be further disseminated only when communication with the student, parent/guardian, law enforcement staff and probation officer is necessary to rehabilitate the student or to protect students and staff. (Welfare and Institutions Code 827)

When a student is removed from school as a result of his/her offense, the Superintendent shall hold the court's information in a separate confidential file until the student is returned to public school. If the student is returned to a different district, the Superintendent shall transmit the information provided by the student's parole or probation officer to the Superintendent of the new district of attendance. (Welfare and Institutions Code 827)

Any confidential file of court-initiated information shall be kept until the student becomes 18, graduates from high school, or is released from juvenile court jurisdiction, whichever occurs first; it shall then be destroyed. (Welfare and Institutions Code 827)

Procedures to Maintain Confidentiality of Student Offenses

In order to maintain confidentiality when providing information about student offenses to counselors and teachers of classes/programs to which a student is assigned, the principal or designee shall send the staff member a written notification requesting him/her to review a student's file in the school office as soon as practicable. This notification shall not name or otherwise identify the student. The staff member shall be asked to initial the notification and return it to the principal or designee.

The staff member shall also initial the student's file when reviewing it in the school office. Once the district has made a good faith effort to comply with the notification requirement of Education Code 49079 and Welfare and Institutions Code 827, an employee's failure to review the file constitutes district compliance with the requirement to provide notice to the teacher.

Use of Pepper Spray

Employees who possess pepper spray on school property shall be notified of the following conditions:

1. The pepper spray shall be used only in self-defense.
2. An employee who uses pepper spray other than in self-defense shall be subject to disciplinary action by the district and, in accordance with law, a fine and/or imprisonment.
3. The employee shall ensure that the pepper spray is stored in a secure place and not accessible to students or other individuals. An employee who is negligent in the storage of pepper spray may be subject to disciplinary action.

Employees wishing to carry pepper spray on school property or to a school-related activity shall submit to the Superintendent or designee a written request setting forth the need for the pepper spray. Should the Superintendent or designee determine that the employee may not carry pepper spray, the employee shall receive a written statement of the reason for this determination.

***DEL MAR UNION SCHOOL DISTRICT
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BOARD POLICY 4159: EMPLOYEE ASSISTANCE PROGRAMS

The Governing Board recognizes that school district employees may have problems which can have detrimental effects upon job performance and student safety. The Board encourages employees to seek help when such problems exist and to take advantage of the resources that are available to assist them.

Employees shall have confidential access to information about the district's employee assistance program. This information shall be available to all employees and their spouses and dependents.

Management and supervisory staff shall be knowledgeable about the district's employee assistance program and may counsel employees about the program, as appropriate.

Participation in the assistance program shall not jeopardize an employee's employment or career advancement, nor will it protect the employee from disciplinary action for substandard job performance.

Legal Reference:

EDUCATION CODE

35160 Authority of governing board

35160.1 Broad authority of school districts

44962 Leaves of absence for certificated employees

44964 Power to grant leaves of absence for accident, illness or quarantine

45190-45209 Resignations and leaves of absence for classified employees

GOVERNMENT CODE

8355 Certification to contracting or granting agency; requisites

HEALTH AND SAFETY CODE

104420 Providing information re: smoking cessation program

UNITED STATES CODE, TITLE 41

701-707 Drug-Free Workplace Act

***DEL MAR UNION SCHOOL DISTRICT
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ADMINISTRATIVE REGULATION 4161.5: MILITARY LEAVE

Military leave shall be granted in accordance with law to employees performing military duties on a voluntary or involuntary basis in a uniformed service, including active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, examination to determine fitness for duty, and performance of funeral honors duty. (Education Code 44800; Military and Veterans Code 395, 395.01, 395.02, 395.05, 395.1, 395.2, 395.9; 38 USC 4301, 4303, 4316)

An employee who needs to be absent from the district to fulfill military service shall provide advance written or verbal notice to the Superintendent or designee, unless the giving of such notice is precluded by military necessity or is otherwise impossible or unreasonable. (38 USC 4312)

An employee's cumulative length of absence and length of all previous military leave shall not exceed five years, excluding those training and service obligations specified in 38 USC 4312(c). (38 USC 4312)

Compensation

An employee shall receive his/her salary or compensation for the first 30 days of an absence for military leave if he/she:

1. Is granted a temporary military leave of absence to engage in ordered military duty for purposes of active military training, encampment, naval cruises, special exercises or like activity as a member of the reserve corps or force of the United States Armed Forces, National Guard or Naval Militia, provided that: (Military and Veterans Code 389, 395, 395.01)
 - a. The ordered duty does not exceed 180 days, including time involved in going to and returning from such duty.
 - b. He/she has been employed by the district for at least one year immediately prior to the day the military leave begins.
2. Has served with the district for at least one year and is ordered, on other than a temporary basis, into active military duty as a member of the reserve corps of the United States Armed Forces, National Guard or Naval Militia or otherwise is inducted, enlisted, entered, ordered or called into active duty as a member of the Armed Forces (Military and Veterans Code 389, 395.02)

3. Is a member of the National Guard, however long employed by the district, who is engaged in military or naval duty during a state of extreme emergency as declared by the Governor, or during such time as the National Guard may be on active duty in situations described in Military and Veterans Code 146, including travel time to and from such duty (Military and Veterans Code 395.05)

In determining length of district employment when necessary to determine eligibility for compensation for military leave, all recognized military service performed during and prior to district employment shall be counted.

For classified employees, 30 days' compensation shall be one month's salary. For certificated employees, 30 days' compensation shall be one-tenth of the employee's annual salary. (Education Code 45059)

Certificated employees shall not be entitled to compensation during non-teaching, non-paying months of the year.

The 30-day pay entitlement is the maximum allowance which shall be paid for any one military leave or during any one fiscal year, unless otherwise authorized by the Governing Board pursuant to Military and Veterans Code 395.03 or Education Code 44018.

During the period of military leave, an employee may, but is not required to, use any vacation or similar paid leave accrued before the commencement of the military leave. (38 USC 4316)

Benefits

An employee may elect to continue his/her health coverage during the leave. For employees making this election after December 10, 2004, the maximum period of coverage for the employee and his/her dependents shall be either 24 months from the beginning of the leave or until the day after the employee fails to apply for or return to employment, whichever is less. (38 USC 4317)

An employee on military leave may be required to pay the employee cost, if any, of any funded benefit to the extent that other employees on leave are so required. (38 USC 4316)

An employee absent for 30 days or fewer shall not be required to pay more than the employee share for such coverage. An employee absent for 31 days or more may be required to pay not more than 102 percent of the full premium under the plan. (38 USC 4317)

Upon approval by the Board, any employee called into active military duty as a member of the California National Guard or a United States Military Reserve organization may receive, for up to 180 days, all benefits that the employee would have received if he/she

had not been called to active military duty, unless the benefits are prohibited or limited by vendor contracts. (Education Code 44018)

Vacation and Sick Leave Accrual

An employee on temporary military leave for the purposes described in item #1 in the section entitled "Compensation" above shall continue to accrue the same vacation, sick leave or holiday privileges for up to a maximum period of 180 days, provided he/she has been employed by the district for at least one year immediately prior to beginning the leave. (Military and Veterans Code 395)

An employee on military leave who is serving in active duty in time of war, national emergency or United Nations military or police operation shall not accrue sick leave or vacation leave during the period of such leave. (Military and Veterans Code 395.1)

However, an employee who is a National Guard member on active duty for the purposes described in item #3 in the section entitled "Compensation" above shall not suffer any loss or diminution of vacation or holiday privileges because of his/her leave of absence. (Military and Veterans Code 395.05)

Employment Status

Absence for military leave shall not affect the classification of any certificated employee. In the case of a certificated probationary employee, the period of such absence shall not count as part of the service required to obtain permanent status, but shall not be construed as a break in the continuity of service for any purpose. (Education Code 44800)

Pension Plan Service Credit

Pension plan service credit and vesting shall continue during an employee's military leave as though no break in service had occurred. Payment of employer and employee contributions shall be made in accordance with law for members of the State Teachers' Retirement System or Public Employees' Retirement System. (Education Code 22850-22856; Government Code 20990-21013)

Reinstatement Rights

At the conclusion of the military duty, an employee shall be entitled to be promptly reinstated in the position held at the beginning of the military leave, at the salary to which he/she would otherwise have been entitled, provided that the employee was not separated from military service with a disqualifying discharge or under other than honorable conditions. (Education Code 44800; Military and Veterans Code 395, 395.2; 38 USC 4304, 4313)

An employee who performs active military duty in time of war, national emergency or United Nations military or police operation has a right to return to his/her position within

six months of an honorable discharge or placement in inactive duty. Reemployment rights shall not be extended to any such employee who fails to return within 12 months after the first date upon which he/she could terminate or could cause to be terminated his/her active service. (Education Code 44800; Military and Veterans Code 395.1)

When an employee has been on military leave for reasons other than war or national emergency, the time frame for reinstatement shall depend on the length of military service as follows: (38 USC 4312)

1. For a leave of 30 days or fewer, the employee shall report for duty no later than the beginning of the first full work day following the completion of military service.
2. For a leave of 31 to 180 days, the employee shall complete an application for reemployment not later than 14 days after the completion of military service.
3. For a leave of more than 180 days, the employee shall submit an application for reemployment within 90 days after the completion of military service.

An employee who is hospitalized for, or convalescing from, an illness or injury incurred in or aggravated during the performance of military service shall report for duty or submit an application for reemployment at the end of the period that is necessary to recover from such illness or injury but no more than two years after the completion of military service. (38 USC 4312)

In cases where reporting within the periods specified in items #1 and 2 above is impossible or unreasonable through no fault of the employee, he/she shall report as soon as possible after the expiration of the period. (38 USC 4312)

An employee failing to apply for reemployment within the appropriate period does not automatically forfeit his/her rights, but shall be subject to the Board's rules governing unexcused absences. (38 USC 4312)

If the employee's previous position has been abolished, he/she shall be reinstated in a position of like seniority, status, and pay, if such position exists, or to a comparable vacant position for which he/she is qualified. (Military and Veterans Code 395, 395.1)

An employee may not be reemployed if the district's circumstances have so changed as to make such reemployment impossible or unreasonable; if the accommodation, training or effort described in 38 USC 4313(a)(3), (a)(4) or (b)(2)(B) would impose an undue hardship on the district; or if the employee's position was for a brief, nonrecurrent period and there was no reasonable expectation that such employment will continue indefinitely or for a significant period. (38 USC 4312)

Notices

The Superintendent or designee shall provide employees a notice of the rights, benefits and obligations of employees granted military leave and of the district under the Uniformed Services Employment and Reemployment Rights Act (USERRA), 38 USC 4301-4334. This requirement may be met by posting the notice where the district customarily places notices for employees. (38 USC 4334)

Legal Reference:

EDUCATION CODE

22850-22856 Pension benefits, STRS members on military leave

44018 Compensation for employees on active military duty

44800 Effect of active military service on status of employees

45059 Employee ordered to military/naval duty - computation of salary

GOVERNMENT CODE

18540 Definition of armed forces

18540.3 Recognized military service

20990-21013 Pension benefits, PERS members on military leave

MILITARY AND VETERANS CODE

146 Events justifying calling of militia into active service

389 Definitions; temporary military leave

395-395.9 Military leave

UNITED STATES CODE, TITLE 38

4301-4334 Uniformed Services Employment and Reemployment Rights Act of 1994

COURT DECISIONS

Wright v. City of Santa Clara (1989) 213 Cal. App.3d 1503

Bowers v. San Buenaventura (1977) 75 Cal. App.3d 65

ATTORNEY GENERAL OPINIONS

77 Ops.Cal.Atty.Gen. 209 (1994)

69 Ops.Cal.Atty.Gen. 185 (1986)

63 Ops.Cal.Atty.Gen. 924 (1978)

19 Ops.Cal.Atty.Gen. 132 (1952)

18 Ops.Cal.Atty.Gen. 178 (1951)

Management Resources:

U.S. DEPARTMENT OF LABOR PUBLICATIONS

A Non-Technical Resource Guide to the Uniformed Services Employment and Reemployment Rights Act (USERRA), rev. July 2004

NATIONAL SCHOOL BOARDS ASSOCIATION PUBLICATIONS

The Uniformed Services Employment and Reemployment Rights Act (USERRA), NSBA Federal File: Guidance on Federal School Law, 2003

WEB SITES

National Committee for Employer Support of the Guard and Reserve: <http://www.esgr.org>

National School Boards Association: <http://www.nsba.org>

U.S. Department of Labor, USERRA: <http://www.dol.gov/vets/programs/userra/main.htm>

***DEL MAR UNION SCHOOL DISTRICT
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**ADMINISTRATIVE REGULATION 4161.8:
FAMILY CARE AND MEDICAL LEAVE**

Eligibility

The district shall grant family care and medical leave of a minimum of 12 work weeks during any 12-month period, to eligible employees, for the following reasons: (Government Code 12945.2; 29 USC 2601)

1. Because of the birth of a child of the employee or placement of a child with the employee in connection with the adoption or foster care of the child by the employee.
2. To care for the employee's child, parent or spouse with a serious health condition.
3. Because of the employee's own serious health condition that makes him/her unable to perform the functions of his/her position. However, this does not include leave taken for disability on account of pregnancy, childbirth or related medical conditions.

The district shall not interfere with, restrain or deny the exercise of any right provided to an eligible employee under the law. Also, the district shall not discharge or discriminate against any employee for opposing any practice made unlawful by, or because of his/her involvement in any proceedings related to the family care and medical leave. (Government Code 12945.2; 29 USC 2615)

Definitions

Child means a biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis as long as the child is under 18 years of age or an adult dependent child. (29 USC 2611; Government Code 12945.2)

Eligible employee means an employee who has at least 12 months of service with the employer, and who has at least 1,250 hours of service with the employer during the previous 12-month period. (29 USC 2611; Government Code 12945.2)

Full-time teachers are deemed to meet the 1,250 hours of service requirement. (29 CFR 825.110)

Instructional employee means an employee whose principal function is to teach; instructional employees include athletic coaches, driving instructors, special education assistants and signers for the hearing impaired. The term does not include teacher

assistants or aides, counselors, psychologists, curriculum specialists or other primarily noninstructional employees. (29 CFR 825.600)

Parent means a biological, foster or adoptive parent, a stepparent, a legal guardian, or another person who stood in loco parentis to the employee when the employee was a child. (29 USC 2611; Government Code 12945.2)

Serious health condition means an illness, injury, impairment, physical or mental condition that involves either of the following: (29 USC 2611; Government Code 12945.2)

1. Inpatient care in a hospital, hospice or residential health care facility
2. Continuing treatment or continuing supervision by a health care provider

Rights to Reinstatement and Maintenance of Benefits

Upon granting an employee's request for family care and medical leave, the Superintendent or designee shall guarantee to reinstate the employee in the same or a comparable position when the leave ends. (29 USC 2614; Government Code 12945.2)

The district may refuse to reinstate an employee returning from leave to the same or a comparable position if all of the following apply: (29 USC 2614, Government Code 12945.2)

1. The employee is a salaried "key employee" who is among the highest paid 10 percent of those district employees who are employed within 75 miles of the employee's worksite
2. The refusal is necessary to prevent substantial and grievous economic injury to district operations
3. The district informs the employee of its intent to refuse reinstatement at the time it determines that the refusal is necessary, and the employee fails to immediately return to service

An employee who takes leave has no greater right to reinstatement than if he/she had been continuously employed during the leave period. If the district reduces its work force during the leave period and the employee is laid off for legitimate reasons at that time, he/she is not entitled to reinstatement, provided the district has no continuing obligations under a collective bargaining agreement or otherwise. (29 CFR 825.216)

During the period when an employee is on family care and medical leave, he/she shall maintain his/her status with the district and the leave shall not constitute a break in service for purposes of longevity, seniority or any employee benefit plan.

The district shall continue to provide an eligible employee on family care and medical leave, the group health plan coverage that was in place before he/she took the leave. If the employee fails to return to district employment after the expiration of the leave, for any reason other than the continuation, recurrence or onset of a serious health condition, or other circumstances beyond his/her control, he/she shall reimburse the district for premiums paid during the family care and medical leave.

Terms of Leave

This 12-month period shall coincide with the fiscal year. (29 CFR 825.200)

Leave taken pursuant to the California Family Rights Act shall run concurrently with leave taken pursuant to the federal Family and Medical Leave Act (FMLA), except for any leave taken under the FMLA for disability on account of pregnancy, childbirth, or related medical conditions. In addition to family care and medical leave, an employee may be entitled to take pregnancy disability leave of up to four months. During the otherwise unpaid portion of pregnancy disability leave, the employee may use any accrued vacation, sick time or other paid leave. (Government Code 12945, 12945.2)

Leave taken for the birth or placement of a child must be concluded within the 12-month period beginning on the date of the birth or placement of the child. Such leave does not have to be taken in one continuous period of time. The basic minimum duration of the leave shall be two weeks. However, the district shall grant a request for leave of less than two weeks' duration on any two occasions. (29 USC 2612; 2 CCR 7297.3)

If both parents of a child work for the district, their family care and medical leave related to the birth or placement of the child shall be limited to a total of 12 weeks. (Government Code 12945.2; 29 USC 2612)

During the period of family care and medical leave, the district shall require the employee to use his/her accrued vacation leave, other accrued time off, and any other paid or unpaid time off negotiated with the district. Accrued sick leave shall be used when the purpose of the family care and medical leave is one for which sick leave may be taken pursuant to collective bargaining agreements and/or Board policy. (Government Code 12945.2)

Intermittent Leave/Reduced Leave Schedule

Leave related to the serious health condition of the employee or his/her child, parent or spouse may be taken intermittently or on a reduced leave schedule when medically necessary. In such a case, the district may require the employee to transfer temporarily to a different position for which he/she is qualified, with equivalent pay and benefits, and that could better accommodate recurring periods of leave. Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent leave or a reduced leave schedule. (2 CCR 7297.3)

Where the employee involved is an instructional employee and would be on leave for greater than 20 percent of the total number of working days in the leave period, the employee shall have the option of temporarily transferring to an available alternative position or taking leave for periods of a particular duration, not to exceed duration of the planned medical treatment. (29 USC 2618)

Instructional Employees: Leaves Near the End of the Term

The district may require an instructional employee to continue taking a requested leave until the end of the term in any of the following situations: (29 USC 2618)

1. If the instructional employee begins a leave of three or more weeks duration more than five weeks before the end of a term and would subsequently return to work during the last three weeks of the term
2. If the instructional employee, for reasons other than his/her own serious health condition, begins a leave of more than two weeks duration during the period that begins five weeks before the end of the term and would subsequently return to work during the last two weeks of the term
3. If the instructional employee, for reasons other than his/her own serious health condition, begins a leave of more than five days duration during the period that begins three weeks before the end of the term

Request for Family Care and Medical Leave

An employee shall request family care and medical leave in writing, at least 30 days before the commencement date of the leave. If the leave becomes necessary less than 30 days before its commencement, the employee shall provide such notice as soon as practicable. (29 USC 2612; Government Code 12945.2)

In every case in which the necessity for the leave is foreseeable based on planned medical treatment or supervision, the employee shall make a reasonable effort to schedule the treatment or supervision to avoid disruption of district operations. This scheduling shall be subject to the health care provider's approval. (29 USC 2612; Government Code 12945.2)

Certification of Health Condition

A request by an employee for family care and medical leave for his/her serious health condition, or to care for a child, parent or spouse with a serious health condition, shall be supported by a certification from the health care provider of the employee or such other person as applicable. The certification shall include the following: (29 USC 2613; Government Code 12945.2; 2 CCR 7297.0)

1. The date on which the serious health condition began

2. The probable duration of the condition
3. If the employee is requesting leave to care for a child, parent or spouse with a serious health condition, the health care provider's certification of both of the following:
 - a. Estimated amount of time the health care provider believes the employee needs to care for the child, parent or spouse
 - b. Statement that the serious health condition warrants the participation of a family member to provide care during a period of the treatment or supervision of the child, parent or spouse
4. If the employee is requesting leave because of his/her own serious health condition, the health care provider's certification that due to the serious health condition, the employee is unable to perform the functions of his/her job
5. If the employee is requesting leave for intermittent treatment or is requesting leave on a reduced leave schedule for planned medical treatment, the certification must also state the medical necessity for the leave, the dates on which treatment is expected to be given, the duration of such treatment, and the expected duration of the leave

If the district doubts the validity of a certification that accompanies a request for leave, the district may require the employee to obtain a second opinion from a district-approved health care provider, at district expense. If the second opinion is contrary to the first, the district may require the employee to obtain a third medical opinion from a third health care provider approved by both the employee and the district, again at district expense. (29 USC 2613; Government Code 12945.2)

If additional leave is needed when the time estimated by the health care provider expires, the district may require the employee to provide recertification in the manner specified in the preceding paragraph. (29 USC 2613; Government Code 12945.2)

Employees who take family care and medical leave for their own serious health conditions shall present certification from their health care provider to the effect that they are able to resume work.

Notifications

The Superintendent or designee shall post separate notices about federal and state law related to family care and medical leave in a conspicuous place. Information about employee rights and obligations related to such leaves shall also be included in employee handbooks. (29 USC 2619; 2 CCR 7297.9)

At least the first time in each six-month period that an employee requests family care and medical leave, the Superintendent or designee shall provide written notice detailing specific expectations and obligations, and explaining any consequences of a failure to meet these obligations. The notice shall include: (29 CFR 825.301)

1. A statement that the leave will be counted against the employee's annual family care and medical leave entitlement
2. Requirements for the employee to furnish medical certification of a serious health condition
3. The employee's right to substitute paid leave, conditions related to any substitution, and whether the district requires this substitution
4. Health benefit arrangements
5. If applicable, the employee's status as a "key employee" and information related to restoration of that status
6. The employee's right to restoration to the same or an equivalent job
7. The employee's potential liability for health benefits should the employee not return to service
8. The district's requirement that the employee, upon return, present medical certification to the effect that he/she is able to resume work

Records

The Superintendent or designee shall maintain records pertaining to individual employees' use of family care and medical leave.

Legal Reference:

GOVERNMENT CODE

12940 Unlawful employment practices

12945 Pregnancy; childbirth or related medical condition; unlawful practice

12945.1-12945.2 California Family Rights Act

19702.3 Family care leave; exercise of rights

CODE OF REGULATIONS, TITLE 2

7291.2-7291.16 Sex discrimination: pregnancy and related medical conditions

7297.0-7297.11 Family care leave

UNITED STATES CODE, TITLE 29

2601-2654 Family and Medical Leave Act of 1993

CODE OF FEDERAL REGULATIONS, TITLE 29

825.100-825.800 Family and Medical Leave Act of 1993

Management Resources:

WEB SITES

U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division:

<http://www.dol.gov>

FAMILY CARE AND MEDICAL LEAVE • EXHIBIT 1

***YOUR RIGHTS UNDER THE
FAMILY AND MEDICAL LEAVE ACT OF 1993***

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to "eligible" employees for certain family and medical reasons. Employees are eligible if they have worked for a covered employer for at least one year, and for 1,250 hours over the previous 12 months, and if there are at least 50 employees within 75 miles.

REASONS FOR TAKING LEAVE

Unpaid leave must be granted for any of the following reasons:

- to care for the employee's child after birth, or placement for adoption or foster care;
- to care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
- for a serious health condition that makes the employee unable to perform the employee's job.

At the employee's or employer's option, certain kinds of paid leave may be substituted for unpaid leave.

ADVANCE NOTICE AND MEDICAL CERTIFICATION

The employee may be required to provide advance leave notice and medical certification. Taking of leave may be denied if requirements are not met.

- The employee ordinarily must provide 30 days' advance notice when the leave is "foreseeable."
- An employer may require medical certification to support a request for leave because of a serious health condition, and may require second or third opinions (at the employer's expense) and a fitness for duty report to return to work.
- For the duration of FMLA leave, the employer must maintain the employee's health coverage under any "group health plan."
- Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits and other employment terms.
- The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

UNLAWFUL ACTS BY EMPLOYERS

FMLA makes it unlawful for any employer to:

- interfere with, restrain, or deny the exercise of any right provided under FMLA;
- discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

ENFORCEMENT

- The U.S. Department of Labor is authorized to investigate and resolve complaints of violations.
- An eligible employee may bring a civil action against an employer for violations.

FMLA does not affect any federal or state law prohibiting discrimination, or supersede any state or local law or collective bargaining agreement which provides greater family or medical leave rights.

FOR ADDITIONAL INFORMATION

Contact the nearest office of the Wage and Hour Division, listed in most telephone directories under U.S. Government, Department of Labor.

FAMILY CARE AND MEDICAL LEAVE • EXHIBIT 2

**FAMILY CARE AND MEDICAL LEAVE (CFRA LEAVE)
AND PREGNANCY DISABILITY LEAVE**

Under the California Family Rights Act of 1993 (CFRA), if you have more than 12 months of service with us and have worked at least 1,250 hours in the 12-month period before the date you want to begin your leave, you may have a right to an unpaid family care or medical leave (CFRA leave). This leave may be up to 12 work weeks in a 12-month period for the birth, adoption or foster care placement of your child or for your own serious health condition or that of your child, parent or spouse.

Even if you are not eligible for CFRA leave, if you are disabled by pregnancy, childbirth or related medical conditions, you are entitled to take a pregnancy disability leave of up to four months, depending on your period(s) of actual disability. If you are CFRA-eligible, you have certain rights to take BOTH a pregnancy disability leave and a CFRA leave for reason of the birth of your child. Both leaves contain a guarantee of reinstatement to the same or to a comparable position at the end of the leave, subject to any defense allowed under law.

If possible, you must provide at least 30 days' advance notice for foreseeable events (such as the expected birth of a child or planned medical treatment for yourself or of a family member). For events which are unforeseeable, we need you to notify us, at least verbally, as soon as you learn of the need for the leave.

Failure to comply with these notice rules is grounds for, and may result in, deferral of the requested leave until you comply with this notice policy.

We may require certification from your health care provider before allowing you a leave for pregnancy or your own serious health condition or certification from the health care provider of your child, parent or spouse who has a serious health condition before allowing you a leave to take care of that family member. When medically necessary, leave may be taken on an intermittent or reduced work schedule.

If you are taking a leave for the birth, adoption or foster care placement of a child, the basic minimum duration of the leave is two weeks and you must conclude the leave within one year of the birth or placement for adoption or foster care.

Taking a family care or pregnancy disability leave may impact certain of your benefits and your seniority date. If you want more information regarding your eligibility for a leave and/or the impact of the leave on your seniority and benefits, please contact Rodger Smith, Director of Personnel/Facilities.

Authority Cited: Government Code Sections 12935, subd. (a) and 12945.2