

**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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**BOARD POLICY 4300: MANAGEMENT, SUPERVISORY AND CONFIDENTIAL  
PERSONNEL**

The Governing Board recognizes that effective management is vital to the success of district operations. Management personnel are expected to demonstrate initiative and good judgment in the development, implementation and oversight of district programs. Supervisors shall promote the productivity, professional growth and teamwork of district staff.

The Board shall adopt policies related to management, supervisory and confidential personnel insofar as they are needed to comply with law and describe circumstances of employment within the district.

The Board may, by resolution, establish or abolish positions designated as senior management of the classified service.

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**Legal Reference:**

EDUCATION CODE

35031 Term of employment

45100.5 Senior management positions

45104.5 Abolishment of senior classified management positions

45108.5 Definitions of senior classified management employees

45108.7 Waiver of provisions of 45108.5

45128 Overtime

45130 Exclusion from overtime provisions

45256.5 Designation of certain positions

GOVERNMENT CODE

3540.1 Definitions

3543.4 Management position; representation

3545 Appropriateness of unit; basis

COURT DECISIONS

Auer v. Robbins, (1997) 117 S.Ct. 905

**DEL MAR UNION SCHOOL DISTRICT  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4300:  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

Management, supervisory and confidential positions shall be classified as follows:  
(Government Code 3540.1)

1. Management employees are those having significant responsibilities for formulating district policies or administering district programs and who serve in a position, which the Governing Board has legally designated as a management position.
2. Supervisory employees are those who, using independent judgment, have the authority, in the interest of the district, to make or effectively recommend:
  - a. Hiring, transfer, suspension, layoff, recall, promotion, discharge, assignment, reward, or discipline
  - b. Assigning work to employees and directing them
  - c. Adjusting employee grievances
3. Confidential employees are those who are required to develop or present management positions with respect to employer-employee relations or whose duties normally require access to confidential information that is used to contribute significantly to the development of management positions.

***Senior Management of the Classified Service***

A senior management employee is either a fiscal advisor to the Superintendent or an employee in the highest position not requiring certification in a principal district program area, with districtwide responsibility for formulating policy or administering the program. (Education Code 45108.5)

Employees designated as senior management are part of the classified service and shall have the same rights, benefits and duties except the right to permanent status in these positions. (Education Code 45100.5)

***DEL MAR UNION SCHOOL DISTRICT  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL***

***BOARD POLICY 4311: 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.

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**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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**BOARD POLICY 4311.2: 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.

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**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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4311.2:  
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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**ADMINISTRATIVE REGULATION 4312.3: 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)

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**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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**BOARD POLICY 4312.4: 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)

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***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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4312.4:  
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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**ADMINISTRATIVE REGULATION 4312.5: 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)

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**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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL***

***ADMINISTRATIVE REGULATION 4312.6: PERSONNEL FILES***

The Superintendent or designee shall maintain personnel files for all current employees. All personnel files are confidential and shall be available only to the employee, persons authorized by the employee and those authorized by the Superintendent or designee. Official employee files shall be maintained at the district's central office. The Superintendent or designee shall determine the types of information to be included and shall process all material to be placed in a personnel file.

The contents of all personnel files shall be kept in strict confidence by any authorized reviewer.

Personnel files shall be reviewed and replaced within the shortest time possible. In no case shall a personnel file be left unattended or left unfiled overnight.

***Placement of Material in Personnel Files***

Any person who places written material or drafts written material for placement in an employee's file shall sign the material and signify the date of placement.

When an employee is asked to sign any material that is to be placed in his/her file, it is with the understanding that his/her signature signifies only that he/she has read the material and does not necessarily indicate agreement with its contents.

Any request by an employee to include materials in his/her personnel file must be approved by the Superintendent or designee.

A certificated employee may initiate a written reaction or response to his/her performance evaluation and that response shall become a permanent attachment to the employee's personnel file. (Education Code 44663)

***Derogatory Information***

Information of a derogatory nature shall not be entered into an employee's personnel file unless and until the employee is given notice and an opportunity to review and comment on that information. Such a review shall take place during normal business hours. The employee shall be released from duty for this purpose without a salary reduction. The employee may enter his/her own comments and have them attached to the derogatory statement. (Education Code 44031)

***File Review by Employee***

The contents of personnel records relating to the employee's performance or to any grievance concerning the employee shall be made available to the employee at reasonable intervals and at reasonable times. The Superintendent or designee shall not be required to make such records available at a time when the employee is required to render services to the district, unless the employee is required to view the file where it is stored. (Labor Code 1198.5; Education Code 44031)

The Superintendent or designee shall do one of the following: (Labor Code 1198.5)

1. Keep a copy of each employee's personnel records at the place where the employee reports to work
2. Make the employee's personnel records available at the place where the employee reports to work within a reasonable period of time following an employee's request
3. Permit the employee to inspect the personnel records at the location where the district stores the personnel records, with no loss of compensation to the employee

Any employee wishing to inspect his/her personnel record shall contact the Superintendent or designee.

With the exceptions noted below, all personnel records related to the employee's performance or to any grievance concerning the employee shall be made available for inspection by the employee. Non-credentialed employees shall have access to any numerical scores obtained as result of written examinations. (Education Code 44031)

The Superintendent or designee shall not be required to make available to the employee: (Labor Code 1198.5, Education Code 44031)

1. Records relating to the investigation of a possible criminal offense
2. Letters of reference
3. Ratings, reports or records that were obtained prior to the employee's employment, prepared by identifiable examination committee members, or obtained in connection with a promotional examination

The employee may be accompanied by a representative of the employee's choice while reviewing the record.

Inspection shall take place in the presence of the Superintendent or designee. All reviews of personnel records shall be recorded, including the date and time the file was reviewed and the name and title of the person(s) present during the review.

***File Review by Management and Board***

Management personnel or district legal counsel with a valid "right to know" or "need to know" may, with the Superintendent or designee's authorization, review an employee's personnel file.

Board members are not individually allowed to request and access personnel files but the Board may request pertinent information from an employee's file in cases of personnel action.

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***Legal Reference:***

EDUCATION CODE

35253 Regulations to destroy records

44031 Personnel file contents and inspection

44663 Performance appraisals and related materials

GOVERNMENT CODE

3305-3306 District police officers; personnel files

6254.3 Disclosure of home address and phone number

LABOR CODE

1198.5 Inspection of personnel files

PENAL CODE

11165.14 Report of investigation of child abuse complaint

CODE OF REGULATIONS, TITLE 5

16020-16022 Records, general provisions

16023-16027 Retention of records

ATTORNEY GENERAL OPINIONS

Cal. Atty. Gen., Indexed Letter, no. IL 75-73 (June 6, 1975)

**DEL MAR UNION SCHOOL DISTRICT  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**BOARD POLICY 4312.8: 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.

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**Legal Reference:**

GOVERNMENT CODE

12940 Unlawful employment practices, exceptions

**DEL MAR UNION SCHOOL DISTRICT  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**ADMINISTRATIVE REGULATION 4312.9: 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

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**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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**BOARD POLICY 4312.41: 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.

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***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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4312.41:  
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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**BOARD POLICY 4312.61: 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)

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**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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**ADMINISTRATIVE REGULATION 4312.62:  
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)

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**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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**BOARD POLICY 4313.1: LOAD/SCHEDULING/HOURS OF EMPLOYMENT**

The Governing Board designates in accordance with law salaried positions which are exempt from overtime. Persons holding these positions work whatever hours are necessary in order to fulfill their assignments. Their positions are set apart from other positions by virtue of the duties, flexibility of hours, salary, benefit structure and authority which they entail.

Employees serving in positions excluded from overtime shall not be unreasonably discriminated against as a result of the exclusion. (Education Code 45130)

Exempt employees' pay shall not be subject to salary deductions for absences of less than a day.

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**Legal Reference:**

EDUCATION CODE

45130 Exclusion from overtime provisions

UNITED STATES CODE, TITLE 29

201-215 Fair Labor Standards Acts

CODE OF FEDERAL REGULATIONS, TITLE 29

511-800 Department of Labor Relations

COURT DECISIONS

Abshire v. County of Kern, (9th Cir. 1990) 908 F.2d 483

**DEL MAR UNION SCHOOL DISTRICT  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**BOARD POLICY 4313.2: PROMOTION/DEMOTION/REASSIGNMENT**

The Governing Board may promote, demote, and reassign management and confidential employees when such action is determined to be in the best interest of the district. The Board shall consider the recommendation of the Superintendent or designee when making decisions related to promotion, demotion and reassignment.

The Superintendent or designee shall ensure that the district complies with all applicable statutory deadlines and due process procedures.

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**Legal Reference:**

EDUCATION CODE

35031 Senior management employee in the classified service: nonreelection

44660-44665 Evaluation and assessment of performance of certificated employees

44850.1 No tenure in administrative or supervisory positions

44896 Transfer of administrator or supervisor to teaching position

44951 Continuation in position unless notified (position requiring administrative or supervisory credential)

45101 Definitions (including disciplinary action, cause)

45113 Rules for classified service in districts not incorporating the merit system

COURT DECISIONS

Jefferson v. Compton Unified School District, (1993) 14 Cal.App. 4th 32

Ellerbroek v. Saddleback Valley Unified School District, (1981) 177 Cal. Rptr. 910

Hentschke v. Sink, (1973) 34 Cal.App. 3d 19

**DEL MAR UNION SCHOOL DISTRICT  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4313.2:  
PROMOTION/DEMOTION/REASSIGNMENT**

***Certificated Management and Supervisory Personnel***

Certificated employees holding an administrative or supervisory credential may be released and placed in a different position for the following year.

Before March 15, the Governing Board shall meet and determine whether the identified employee may be released from his/her position effective the end of the school year and reassigned to a different position.

By March 15, the employee shall be notified of the Board's action by registered mail or in person. If the notice is presented to the employee in person, the employee's signature acknowledging receipt of the notice shall be obtained on the district's copy of the written notice. (Education Code 44951)

Before July 1, the Board shall take additional action to bring into effect the release and reassignment of employees who received the above notice.

If the reassignment is to a teaching position, the Board shall give the employee, if requested, a written statement of the reasons for the reassignment. If these reasons include incompetency as an administrator or supervisor, the district shall have completed an evaluation of the employee within the 60-day period immediately preceding the notice date. (Education Code 44896)

***Classified Management, Supervisory and Confidential Personnel***

For personnel in this classification:

Demotion means assignment to an inferior position or status, without the employee's written voluntary consent. (Education Code 45101)

Reclassification means the upgrading of a position to a higher classification as a result of the gradual increase of the duties being performed by the incumbent in such position. (Education Code 45101)

If assigned to a position within a bargaining unit, management, supervisory and confidential classified employees shall be reclassified at the discretion of the district subject to provisions of the applicable collective bargaining agreement.

Any decision regarding the demotion of a permanent management, supervisory or confidential classified employee shall be subject to the causes, appeal rights, and procedure set forth in district policy, regulation or collective bargaining agreements for disciplinary action against classified employees. (Education Code 45113)

The Board shall provide 45 days' notice before demoting a deputy, associate or assistant superintendent or employee in the senior management of the classified service. (Education Code 35031)

In initiating the involuntary reassignment of a classified manager, the Superintendent or designee shall provide the classified manager with prior written notice of the intent to reassign him/her to a designated position. The notice will inform the manager of the specific reasons for the reassignment, his/her right to a hearing, and the time within which an appeal must be filed. The notice shall also contain a card or paper for requesting a hearing. The classified manager may, within five days after receiving such notice, file a written request for hearing before the Board.

The request for hearing shall be filed in the office of the Superintendent or designee. If the manager fails to file a request for hearing as specified above, he/she will be deemed to have waived the right to a hearing and the reassignment may be made effective immediately.

If a request for hearing is filed as specified above, a hearing shall be scheduled before the Board. The Board shall hear the matter, with the party initiating the reassignment bearing the burden of proving the reasons for the reassignment. The hearing shall be recorded by a reporter or tape recording. After the hearing, the Board shall determine whether to approve, modify, or revoke the reassignment. The decision of the Board shall be final.

**DEL MAR UNION SCHOOL DISTRICT  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**BOARD POLICY 4313.4:**

**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.

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***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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL***

***ADMINISTRATIVE REGULATION TO BOARD POLICY 4313.4:  
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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**BOARD POLICY 4314: TRANSFERS**

The Superintendent or designee shall assess the needs of the district and place management personnel in positions, which will meet those needs.

***Voluntary Transfer***

The Governing Board recognizes that management employees may wish to request transfers to vacant positions for which they are qualified in order to promote their professional growth and broaden their management background. The Superintendent or designee shall establish procedures for the transfer of management personnel.

***Involuntary Transfer***

Involuntary transfers within an administrator's classification (same job title) shall be initiated at the recommendation of the Superintendent or designee in the best interests of the district.

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***Legal Reference:***

**EDUCATION CODE**

35035 Additional powers and duties of superintendent

**COURT DECISIONS**

Hentschke v. Sink (1973) 34 Cal.App. 3d 19

**DEL MAR UNION SCHOOL DISTRICT  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4314: TRANSFERS**

***Voluntary Transfer***

Requests for voluntary transfers shall be submitted to the Superintendent or designee at the time of the known vacancy. The employee will be notified in writing of the decision within 15 days.

Transfer requests may be withdrawn by the employee at any time.

***Involuntary Transfer***

Before recommending the involuntary transfer or lateral end-of-the-year rotation of administrators, the Superintendent or designee shall confer with the affected employee and notify him/her of the intent to recommend the transfer or rotation and the specific reasons for the transfer. For transfers effective at the beginning of the school year, this conference shall take place before May 30.

If, after the conference, the recommendation to transfer or rotate administrators is made, the Superintendent or designee shall so notify the affected employee in writing at least 20 days before the transfer, except in emergency situations. This notice shall stipulate the reasons for the transfer.

**DEL MAR UNION SCHOOL DISTRICT  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**BOARD POLICY 4317.2: 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)

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***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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**ADMINISTRATIVE REGULATION 4317.3: PERSONNEL REDUCTION**

When the district needs to reduce the kind and/or number of management staff, layoff proceedings shall be initiated at the recommendation of the Superintendent or designee and after consultation with legal counsel.

***Certificated Management***

When the district needs to reduce the number and/or kind of certificated management staff and also needs to reduce the overall number of certificated employees, the district shall proceed pursuant to the requirements of Education Code 44955. By March 15, affected employees shall be notified of the Board's action by registered mail or in person.

When the district needs to reduce the number and/or kind of certificated management staff and intends to place the displaced personnel in other certificated positions (causing no reduction in the overall number of certificated employees of the district), the district shall proceed pursuant to Education Code 44951. By March 15, affected employees shall be notified of the Board's action by registered mail or in person. If the notice is presented in person, the employee's signature acknowledging receipt of the notice shall be obtained on the district's copy of the notice.

During the time period between five days after enactment of the Budget Act and August 15, the Board may determine that the total revenue limit per ADA has not increased by at least two percent and that the district needs to reduce the number and/or kind of management staff pursuant to Education Code 44955.5. In such a situation, the Board shall adopt a schedule of notice and hearings and shall otherwise proceed pursuant to Education Code 44951 or 44955.

An employee who has served as an administrator in the district for at least two years shall have permanent certificated status in the district as a teacher. (Education Code 44893, 44894, 44929.21) However, the period of employment in the administrative position is not included when calculating seniority related to layoff and reemployment, except for: (Education Code 44956.5)

1. Site administrators who are entitled to earn up to three years' seniority for these purposes.
2. Administrators who were initially employed in an administrative position before July 1, 1983.

***Classified Management/Confidential Employees***

Classified managers shall be entitled to the same procedure and have the same layoff rights as all other classified employees.

***Senior Management of the Classified Service***

The Board may by resolution abolish any or all positions of the senior management of the classified service. Any employee occupying a senior management position abolished by Board action shall become a member of the classified or certificated service in a position to which he/she would otherwise be entitled if the employee had not been in a senior management position. (Education Code 45104.5)

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***Legal Reference:***

***EDUCATION CODE***

- 44951 Continuation in position unless notified*
- 44955 Certificated employee layoff*
- 44955.5 Termination of certificated employees; insufficient increase in revenue limits*
- 44956 Reemployment rights of laid-off certificated employees*
- 44956.5 Seniority of certificated administrators*
- 45100.5 Senior management positions*
- 45104.5 Abolition of position*
- 45108.5 Senior management employee*
- 45114 Layoff and reemployment procedures*
- 45117 Notice of layoff*
- 45298 Reemployment and promotional exam*
- 45308 Order of layoff and reemployment*

**DEL MAR UNION SCHOOL DISTRICT  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**ADMINISTRATIVE REGULATION 4317.5: 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)

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**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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**BOARD POLICY 4317.11: 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.

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**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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 3117.11:  
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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**BOARD POLICY 4317.12: 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.

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**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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4317.12:  
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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**ADMINISTRATIVE REGULATION 4317.13:**

**EARLY RETIREMENT OPTION – HEALTH INSURANCE COVERAGE**

***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)

- 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. To be eligible, certificated management employees must:
1. Have been employed as a certificated employee in the District on a full-time basis for the past ten or more years (The years must be consecutive with no breaks in service).
  2. Be at least 55 years of age.
  3. Be actually drawing benefits from the State Teachers Retirement System.
  4. Be ineligible for such health benefits through any other employer.
  5. Be eligible for such health benefits within the conditions and provisions of the District's health insurance program.
  6. Abide by all procedures established by the District to implement this Policy.

- B. Pursuant to and consistent with applicable law, such as Education Code sections 7000-7003, once a certificated employee is retired from the District, he/she shall have the option to remain an active participant in the District health and dental care benefit programs as set forth in the Health and Welfare benefits Board Policy unless:
1. The retired certificated employee fails to pay the full cost of all premiums for retired employees through payment at least one month in advance of the month of coverage, or
  2. The retired certificated employee becomes eligible for such benefits through another employer.

***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)

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### ***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. 4<sup>th</sup> 1510

### ***Management Resources:***

#### WEB SITES

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

**DEL MAR UNION SCHOOL DISTRICT  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**ADMINISTRATIVE REGULATION 4317.14:  
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)

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***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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**BOARD POLICY 4319.1: 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.

An employee 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.

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**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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**BOARD POLICY 4319.3: 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.

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**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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**BOARD POLICY 4319.11: 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.

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**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.4<sup>th</sup> 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

Oncala 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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4319.11:  
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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**BOARD POLICY 4319.21: 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.

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**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**  
**CALIFORNIA PROFESSIONAL STANDARDS FOR**  
**EDUCATIONAL LEADERS**

*Preamble*

The administrator(s) at a school site have numerous responsibilities that ultimately lead to the improvement of the performance of all students in the school. By acquiring the skills, attitudes and behaviors as outlined in the following Professional Standards for School Leaders, students have the best opportunity to achieve the mission and vision of the district and to meet the expectations of high standards for student learning.

*Standards*

A school administrator is an educational leader who promotes the success of all students by:

1. Facilitating the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by the school community
2. Advocating, nurturing, and sustaining a school culture and instructional program conducive to student learning and staff professional growth
3. Ensuring management of the organization, operations, and resources for a safe, efficient and effective learning environment
4. Collaborating with families and community members, responding to diverse community interests and needs, and mobilizing community resources
5. Modeling a personal code of ethics and developing professional leadership capacity
6. Understanding, responding to, and influencing the larger political, social, economic, legal, and cultural context

*Source: California Professional Standards for Educational Leaders, 2001*

**DEL MAR UNION SCHOOL DISTRICT  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**BOARD POLICY 4319.22: 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.

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***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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**BOARD POLICY 4319.23: 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.

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**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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**BOARD POLICY 4319.25: 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.

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**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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**BOARD POLICY 4319.41: 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.

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#### ***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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**BOARD POLICY 4319.42:**

**EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS**

As part of its commitment to provide a safe and healthful work environment, the Governing Board recognizes the importance of developing an exposure control plan. The Superintendent or designee shall establish a written exposure control plan in accordance with state and federal standards for dealing with potentially infectious materials in the workplace to protect employees from possible infection due to contact with bloodborne pathogens, including but not limited to hepatitis B virus, hepatitis C virus and human immunodeficiency virus (HIV).

The Superintendent or designee shall determine which employees have occupational exposure to bloodborne pathogens and other potentially infectious materials. In accordance with the district's exposure control plan, employees having occupational exposure shall be offered the hepatitis B vaccination.

The Superintendent or designee may exempt designated first aid providers from pre-exposure hepatitis B vaccination under the conditions specified by state regulations. (8 CCR 5193(f))

Any employee not identified by the Superintendent or designee as having occupational exposure may submit a request to the Superintendent or designee to be included in the training and hepatitis B vaccination program. The Superintendent or designee may deny a request when there is no reasonable anticipation of contact with any infectious material.

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**Legal Reference:**

LABOR CODE

142.3 Authority of Cal/OSHA to adopt standards

144.7 Requirement to amend standards

CODE OF REGULATIONS, TITLE 8

3204 Access to employee exposure and medical records

5193 California bloodborne pathogens standards

CODE OF FEDERAL REGULATIONS, TITLE 29

1910.1030 OSHA bloodborne pathogens standards

**Management Resources:**

CDE ADVISORIES

1016.89 Guidelines for Informing School Employees about Preventing the Spread of Infectious Diseases, including Hepatitis B and AIDS/HIV Infections and Policies for Dealing with HIV-Infected Persons in School Settings

WEB SITES

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

Cal/OSHA: [http://www.dir.ca.gov/occupational\\_safety.html](http://www.dir.ca.gov/occupational_safety.html)

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

**DEL MAR UNION SCHOOL DISTRICT  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4319.42:  
EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS**

***Definitions***

Occupational exposure means reasonably anticipated skin, eye, mucous membrane, or parenteral contact with blood or other potentially infectious materials that may result from the performance of an employee's duties. (8 CCR 5193(b))

Exposure incident means a specific eye, mouth, other mucous membrane, non-intact skin, or parenteral contact with blood or other potentially infectious materials that result from the performance of an employee's duties. (8 CCR 5193 (b))

Parenteral contact means piercing mucous membranes or the skin barrier through such events as needlesticks, human bites, cuts, and abrasions. (8 CCR 5193(b))

A sharp is any object that can be reasonably anticipated to penetrate the skin or any other part of the body and to result in an exposure incident. (8 CCR 5193(b))

A sharps injury is any injury caused by a sharp, including but not limited to cuts, abrasions or needlesticks. (8 CCR 5193(b))

Work practice controls are controls that reduce the likelihood of exposure by defining the manner in which a task is performed. (8 CCR 5193(b))

Engineering controls are controls, such as sharps disposal containers, needleless systems, and sharps with engineered sharps injury protection, that isolate or remove the bloodborne pathogens hazard from the workplace. (8 CCR 5193(b))

Engineered sharps injury protection is a physical attribute built into a needle device or into a non-needle sharp which effectively reduces the risk of an exposure incident. (8 CCR 5193(b))

***Exposure Control Plan***

The district's exposure control plan shall contain at least the following components: (8 CCR 5193(c))

1. A determination of which employees have occupational exposure to blood or other potentially infectious materials

The district's exposure determination shall be made without regard to the use of personal protective equipment and shall include a list of:

- a. All job classifications in which all employees have occupational exposure
  - b. Job classifications in which some employees have occupational exposure
  - c. All tasks and procedures, or groups of closely related tasks and procedures, in which occupational exposure occurs and which are performed by employees listed in item #b above
2. The schedule and method of implementing:
- a. Methods of compliance required by 8 CCR 5193(d), such as universal precautions, general and specific engineering and work practice controls, and personal protective equipment
  - b. Hepatitis B vaccination
  - c. Bloodborne pathogen post-exposure evaluation and follow-up
  - d. Communication of hazards to employees, including labels, signs, information and training
  - e. Recordkeeping
3. The district's procedure for evaluating circumstances surrounding exposure incidents
4. An effective procedure for gathering information about each exposure incident involving a sharp, as required for the log of sharps injuries
5. An effective procedure for periodically determining the frequency of use of the types and brands of sharps involved in exposure incidents documented in the sharps injury log
6. An effective procedure for identifying currently available engineering controls and selecting such controls as appropriate for the procedures performed by employees in their work areas or departments
7. An effective procedure for documenting instances when a licensed healthcare professional directly involved in a patient's care determines, in the reasonable exercise of clinical judgment, that the use of an engineering control would jeopardize an individual's safety or the success of a medical, dental or nursing procedure involving the individual

8. An effective procedure for obtaining the active involvement of employees in reviewing and updating the exposure control plan with respect to the procedures performed by employees in their respective work areas or departments

The exposure control plan shall be reviewed and updated at least annually and whenever necessary to: (8 CCR 5193(c))

1. Reflect new or modified tasks and procedures affecting occupational exposure
2. To the extent that sharps are used in the district, reflect progress in implementing the use of needleless systems and sharps with engineered sharps injury protection
3. Include new or revised employee positions with occupational exposure
4. Review and evaluate the exposure incidents which occurred since the previous update
5. Review and respond to information indicating that the exposure control plan is deficient in any area

The district's exposure control plan shall be accessible to employees upon request. (8 CCR 3204(e))

### ***Preventive Measures***

The Superintendent or designee shall use engineering and work practice controls to eliminate or minimize employee exposure, and shall regularly examine and update controls to ensure their effectiveness. (8 CCR 5193(d))

### ***Hepatitis B Vaccination***

The hepatitis B vaccination and vaccination series shall be made available at no cost to all employees who have occupational exposure. The hepatitis B vaccination shall be made available after an employee with occupational exposure has received the required training and within 10 working days of initial assignment, unless the employee has previously received the complete hepatitis B vaccination series, or antibody testing has revealed that the employee is immune, or vaccination is contraindicated by medical reasons. (8 CCR 5193(f))

Employees who decline to accept the vaccination shall sign the hepatitis B declination statement. (8 CCR 5193(f))

The Superintendent or designee may exempt designated first aid providers from the pre-exposure hepatitis B vaccine in accordance with 8 CCR 5193 (f).

Information and Training

The Superintendent or designee shall ensure that all employees with occupational exposure participate in a training program containing the elements required by state regulations, during working hours and at no cost to the employee. This program shall be offered at the time of initial assignment to tasks where occupational exposure may take place, at least annually thereafter, and whenever a change of tasks or procedures affects the employee's exposure. (8 CCR 5193(g))

Designated first aid providers shall receive training that includes the specifics of reporting first-aid incidents which involve blood or body fluids which are potentially infectious. (8 CCR 5193(g))

### ***Reporting Incidents***

All exposure incidents shall be reported as soon as possible to the Superintendent or designee.

Unvaccinated designated first aid providers must report any first aid incident involving the presence of blood or other potentially infectious material, regardless of whether an exposure incident occurred, by the end of the work shift. The full hepatitis B vaccination series shall be made available to such employees no later than 24 hours after the first aid incident. (8 CCR 5193(f))

### ***Sharps Injury Log***

The Superintendent or designee shall establish and maintain a log recording each exposure incident involving a sharp. The exposure incident shall be recorded within 14 working days of the date the incident is reported to the district. (8 CCR 5193(c))

The information recorded shall include the following, if known or reasonably available: (8 CCR 5193(c))

1. Date and time of the exposure incident
2. Type and brand of sharp involved in the exposure incident
3. A description of the exposure incident, including:
  - a. Job classification of the exposed employee
  - b. Department or work area where the exposure incident occurred
  - c. The procedure that the exposed employee was performing at the time of the incident
  - d. How the incident occurred
  - e. The body part involved in the incident

- f. If the sharp had engineered sharps injury protection, whether the protective mechanism was activated and whether the injury occurred before, during or after the protective mechanism was activated
- g. If the sharp had no engineered sharps injury protection, the injured employee's opinion as to whether and how such a mechanism could have prevented the injury
- h. The employee's opinion about whether any other engineering, administrative or work practice could have prevented the injury

***Post-Exposure Evaluation and Follow-up***

Following a report of an exposure incident, the Superintendent or designee shall immediately make available to the exposed employee, at no cost, a confidential medical evaluation, post-exposure evaluation and follow-up. The Superintendent or designee shall, at a minimum: (8 CCR 5193(f))

- 1. Document the route(s) of exposure and the circumstances under which the exposure incident occurred
- 2. Identify and document the source individual, unless that identification is infeasible or prohibited by law
- 3. Provide for the collection and testing of the employee's blood for hepatitis B, hepatitis C and HIV serological status
- 4. Provide for post-exposure prophylaxis, when medically indicated, as recommended by the U.S. Public Health Service
- 5. Provide for counseling and evaluation of reported illnesses

The Superintendent or designee shall provide the health care professional with a copy of 8 CCR 5193; a description of the employee's duties as they relate to the exposure incident; documentation of the route(s) of exposure and circumstances under which exposure occurred; results of the source individual's blood testing, if available; and all medical records maintained by the district relevant to the appropriate treatment of the employee, including vaccination status. (8 CCR 5193(f))

The district shall maintain the confidentiality of the affected employee and the exposure source during all phases of the post-exposure evaluation. (8 CCR 5193(f))

***Records***

Upon an employee's initial employment and at least annually thereafter, the Superintendent or designee shall inform employees with occupational exposure of the existence, location and availability of related records; the person responsible for maintaining and providing access to records; and the employee's right of access to these records. (8 CCR 3204)

Medical records for each employee with occupational exposure shall be kept confidential and not disclosed or reported without the employee's written consent to any person within or outside the workplace except as required by law. (8 CCR 5193(h))

Upon request by an employee, or a designated representative with the employee's written consent, the Superintendent or designee shall provide access to a record in a reasonable time, place and manner, no later than 15 days after the request is made. (8 CCR 3204(e))

Records shall be maintained as follows: (8 CCR 3204(d), 5193(h))

1. Medical records shall be maintained for the duration of employment plus 30 years.
2. Training records shall be maintained for three years from the date of training.
3. The sharps injury log shall be maintained five years from the date the exposure incident occurred.
4. Exposure records shall be maintained for at least 30 years.
5. Each analysis using medical or exposure records shall be maintained for at least 30 years.

**EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS • EXHIBIT 1**

***Hepatitis B Vaccine Declination***

I understand that due to my occupational exposure to blood or other potentially infectious materials I may be at risk of acquiring hepatitis B virus (HBV) infection. I have been given the opportunity to be vaccinated with hepatitis B vaccine, at no charge to myself. However, I decline hepatitis B vaccination at this time. I understand that by declining this vaccine, I continue to be at risk of acquiring hepatitis B, a serious disease. If in the future I continue to have occupational exposure to blood or other potentially infectious materials and I want to be vaccinated with hepatitis B vaccine, I can receive the vaccination series at no charge to myself.

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Signature

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Employee Name (Please print)

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Date

**DEL MAR UNION SCHOOL DISTRICT  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**BOARD POLICY 4319.43: UNIVERSAL PRECAUTIONS**

In order to protect employees from contact with potentially infectious blood or other body fluids, the Governing Board requires that universal precautions be observed throughout the district.

Universal precautions are appropriate for preventing the spread of all infectious diseases and shall be used regardless of whether bloodborne pathogens are known to be present.

Employees shall immediately report any exposure incident or first aid incident in accordance with the district's exposure control plan or other safety procedures.

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**Legal Reference:**

HEALTH AND SAFETY CODE

117600-118360 Handling and disposal of regulated waste

120875 Providing information to school districts on AIDS, AIDS-related conditions and Hepatitis B

120880 Information to employees of school district

CODE OF REGULATIONS, TITLE 8

5193 California bloodborne pathogens standard

CODE OF FEDERAL REGULATIONS, TITLE 29

1910.1030 OSHA bloodborne pathogens standards

**Management Resources:**

CDE PROGRAM ADVISORIES

1016.89 Guidelines for Informing School Employees about Preventing the Spread of Infectious Diseases, including Hepatitis B and AIDS/HIV Infections and Policies for Dealing with HIV-Infected Persons in School Settings

WEB SITES

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

**DEL MAR UNION SCHOOL DISTRICT  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4319.43:  
UNIVERSAL PRECAUTIONS**

***Definitions***

Universal precautions are an approach to infection control. All human blood and certain human body fluids, including but not limited to semen, vaginal secretions and any body fluid that is visibly contaminated with blood, are treated as if known to be infectious for human immunodeficiency virus (HIV), hepatitis B virus (HBV), hepatitis C virus (HCV) and other bloodborne pathogens. (8 CCR 5193(b))

Personal protective equipment includes specialized clothing or equipment worn or used for protection against a hazard. General work clothes such as uniforms, pants, shirts or blouses not intended to function as protection against a hazard are not considered to be personal protective equipment. (8 CCR 5193(b))

A sharp is any object that can be reasonably anticipated to penetrate the skin or any other part of the body and to result in an exposure incident. (8 CCR 5193(b))

Engineered sharps injury protection is a physical attribute built into a needle device or into a non-needle sharp which effectively reduces the risk of an exposure incident. (8 CCR 5193(b))

***Employee Information***

The Superintendent or designee shall distribute to employees information provided by the California Department of Education regarding acquired immune deficiency syndrome (AIDS), AIDS-related conditions, and hepatitis B. This information shall include, but not be limited to, any appropriate methods employees may use to prevent exposure to AIDS and hepatitis B, including information concerning the availability of a vaccine to prevent contraction of hepatitis B, and that the cost of this vaccination may be covered by the health plan benefits of the employees. Information shall be distributed at least annually, or more frequently if there is new information supplied by the California Department of Education. (Health and Safety Code 120875, 120880)

***Infection Control Practices***

The Superintendent or designee shall ensure that the worksite is effectively maintained in a clean and sanitary condition, and shall implement an appropriate written schedule for cleaning and decontamination of the worksite. (8 CCR 5193(d))

Where occupational exposure remains after the institution of engineering and work practice controls, the Superintendent or designee shall provide appropriate personal protective equipment at no cost to the employee. Such equipment may include gloves,

gowns, masks, eye protection, and other devices that do not permit blood or other potentially infectious materials to pass through or reach the employee's clothes, skin, eyes, mouth or other mucous membranes under normal conditions of use. The Superintendent or designee shall maintain, repair, make accessible and require employees to use and properly handle protective equipment. (8 CCR 5193(d))

The Superintendent or designee shall provide handwashing facilities, which are readily accessible to employees. When provision of handwashing facilities is not feasible, the Superintendent or designee shall provide an appropriate antiseptic hand cleanser in conjunction with clean cloth or paper towels, or antiseptic towelettes. (8 CCR 5193(d))

For the prevention of infectious disease, employees shall routinely: (8 CCR 5193(d))

1. Perform all procedures involving blood or other potentially infectious materials in such a manner as to minimize splashing, spraying, spattering, and generating droplets of these substances.
2. Use personal protective equipment as appropriate.
  - a. Appropriate clothing, including but not limited to, gowns, aprons, lab coats, clinic jackets or similar outer garments, shall be worn in occupational exposure situations.

If a garment becomes penetrated by blood or other potentially infectious materials, the employee shall remove the garment immediately or as soon as feasible. All personal protective equipment shall be removed prior to leaving the work area. When removed, it shall be placed in an appropriately designated area or container for storage, washing, decontamination or disposal.

- b. Gloves shall be worn when it can be reasonably anticipated that the employee may have hand contact with blood, other potentially infectious materials, mucous membranes and nonintact skin, and when handling or touching contaminated items or surfaces.

Disposable gloves shall be replaced as soon as practical when contaminated, or as soon as feasible if they are torn, punctured, or when their ability to function as a barrier is compromised. They shall not be washed or decontaminated for reuse. Utility gloves may be decontaminated for reuse if the integrity of the gloves is not compromised, but must be discarded if they are cracked, peeling, torn, punctured, or exhibit other signs of deterioration or when their ability to function as a barrier is compromised.

- c. Masks in combination with eye protection devices or face shields shall be worn whenever splashes, spray, spatter, or droplets of blood or other

potentially infectious materials may be generated and eye, nose or mouth contamination can be reasonably anticipated.

3. Wash hands and other skin surfaces thoroughly with soap and running water:
  - a. Immediately or as soon as feasible following contact of hands or any other skin or mucous membranes with blood or other potentially infectious materials
  - b. Immediately after removing gloves or other personal protective equipment

When handwashing facilities are not available, the employee shall use antiseptic hand cleanser in conjunction with clean cloth or paper towels, or antiseptic towelettes. In such instances, hands shall be washed with soap and running water as soon as feasible.

4. Refrain from eating, drinking, smoking, applying cosmetics or lip balm, or handling contact lenses in work areas with a reasonable likelihood of occupational exposure.
5. Clean and decontaminate all equipment and environmental and work surfaces after contact with blood or other potentially infectious material, no later than the end of the shift or more frequently as required by state regulations.
6. Rather than using the hands directly, use mechanical means such as a brush and dust pan, tongs or forceps to clean up broken glassware which may be contaminated.
7. Use effective patient-handling techniques and other methods designed to minimize the risk of a sharps injury in all procedures involving the use of sharps in patient care.
  - a. Needleless systems shall be used to administer medication or fluids, withdraw body fluids after initial venous or arterial access is established, and conduct any other procedure involving the potential for an exposure incident for which a needleless system is available as an alternative to the use of needle devices. If needleless systems are not used, needles or non-needle sharps with engineered sharps injury protection shall be used.
  - b. Contaminated needles or other sharps shall not be broken, bent, recapped, removed from devices, or stored or processed in a manner that requires employees to reach by hand into the containers where these sharps have been placed.
  - c. Disposable sharps shall not be reused.

8. Handle, store, treat and dispose of regulated waste in accordance with Health and Safety Code 117600-118360 and other applicable state and federal regulations.
  - a. Immediately or as soon as possible after use, contaminated sharps shall be placed in containers meeting the requirements of 8 CCR 5193(d)(3)(D). Containers shall be easily accessible, maintained upright throughout use where feasible, and replaced as necessary to avoid overfilling.
  - b. Specimens of blood or other potentially infectious material shall be placed in a container, which prevents leakage during collection, handling, processing, storage, transport or shipping.

**DEL MAR UNION SCHOOL DISTRICT  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**BOARD POLICY 4331: STAFF DEVELOPMENT**

The Governing Board recognizes that professional development opportunities enhance employee effectiveness and contribute to personal growth. Staff development for management, supervisory and confidential personnel shall be designed to guide instructional improvement, build leadership skills, and enhance overall management efficiency.

The Superintendent or designee shall develop a plan for administrator support and development activities based on a systematic assessment of the needs of district students and staff and aligned to the district's vision and goals. The Board desires that all administrators participate in planning activities that are pertinent to their specific areas of responsibility.

Within budget parameters, the Superintendent or designee may approve participation in activities that will benefit individual administrators and enhance their contributions to the district.

The Superintendent or designee shall evaluate the benefit to staff and students of professional development activities.

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**Legal Reference:**

EDUCATION CODE

44510-44517 Principal training program

44681-44689.2 Administrator training and evaluation

60119 Instructional materials funds

**Management Resources:**

CDE PUBLICATIONS

California Professional Standards for Educational Leaders, 2001

WEB SITES

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

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

Association of California School Administrators: <http://www.acsa.org>

California School Leadership Academy: <http://www.csla.org>

***DEL MAR UNION SCHOOL DISTRICT  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL***

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4331:  
STAFF DEVELOPMENT**

Staff development activities may include but are not limited to:

1. Professional education conferences or committee meetings
2. Courses offered by institutions of higher education
3. Workshops offered by the district, county office of education, or state
4. Small-group activities
5. Self-directed learning
6. Observation of other schools
7. Follow-up activities that help staff implement newly acquired skills

**DEL MAR UNION SCHOOL DISTRICT  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**BOARD POLICY 4332: 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)

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**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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**BOARD POLICY 4335: 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.

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**Legal Reference:**

**EDUCATION CODE**

*51520 Prohibited solicitations on school premises*

**DEL MAR UNION SCHOOL DISTRICT  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**BOARD POLICY 4336: 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.

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**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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**BOARD POLICY 4344: 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.

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***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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4344: 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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**BOARD POLICY 4351: 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.

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**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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**BOARD POLICY 4354: HEALTH AND WELFARE BENEFITS**

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

Certificated management 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 Certificated Management Employees***

Retired certificated management 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.

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.

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**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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4354:  
HEALTH AND WELFARE BENEFITS**

***Retired Certificated Management Employees***

The district's health and welfare benefit plan and dental care benefit plan provided for certificated management employees shall permit enrollment by any former certificated management 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 management 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 management 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 certificated management 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 management 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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**ADMINISTRATIVE REGULATION 4354.1:**

**HEALTH AND WELFARE BENEFITS FOR CERTIFICATED  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL EMPLOYEES**

- A. An eligible certificated management 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. To be eligible, certificated management employees must:
1. Have been employed as a certificated management employee in the District on a full-time basis for the past ten or more years (The years must be consecutive with no breaks in service).
  2. Be at least 55 years of age.
  3. Be actually drawing benefits from the State Teachers Retirement System.
  4. Be ineligible for such health benefits through any other employer.
  5. Be eligible for such health benefits within the conditions and provisions of the District's health insurance program.
  6. Abide by all procedures established by the District to implement this Policy.
- B. Pursuant to and consistent with applicable law, such as Education Code sections 7000-7003, once a certificated management employee is retired from the District, he/she shall have the option to remain an active participant in the District health and dental care benefit programs as set forth in the Health and Welfare benefits Board Policy unless:
1. The retired certificated management employee fails to pay the full cost of all premiums for retired employees through payment at least one month in advance of the month of coverage, or
  2. The retired certificated management employee becomes eligible for such benefits through another employer.

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**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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**BOARD POLICY 4356.2: 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.

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**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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**BOARD POLICY 4356.3: 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

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**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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL***

***BOARD POLICY 4357: 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)

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**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](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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4357:  
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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**BOARD POLICY 4357.1: 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.

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**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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**ADMINISTRATIVE REGULATION 4357.2: 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

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**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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**BOARD POLICY 4358: 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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4358:  
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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**BOARD POLICY 4359: 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.

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**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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**BOARD POLICY 4361: LEAVES**

The Governing Board recognizes the need to provide for leaves which management and confidential personnel may take for justifiable reasons. Such leaves shall be authorized pursuant to Board policies and/or administrative regulations.

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**Legal Reference:**

**EDUCATION CODE**

- 44036 Leaves of absence for judicial and official appearances*
- 44037 Unlawful to encourage exemption from jury duty*
- 44940 Sex offenses and narcotic offenses; compulsory leave*
- 44962-44988 Leaves of absence (certificated)*
- 45190-45210 Leaves of absence (classified)*

**DEL MAR UNION SCHOOL DISTRICT  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**ADMINISTRATIVE REGULATION 4361.1:  
PERSONAL ILLNESS/INJURY LEAVE**

Full-time Management, Supervisory and Confidential employees are entitled to 12 days leave of absence for personal illness or injury (sick leave) per year, with full pay. Employees working less than five days per week shall be granted comparable sick leave in proportion to the time they work.

An employee may take sick leave at any time during the school year, even if credit for sick leave has not yet been accrued. (Education Code 44978)

An employee who does not complete a given year of service shall be charged for any unearned sick leave used as of the date of termination.

Unused days of sick leave shall be accumulated from year to year without limitation. (Education Code 44978)

By November 1 of each school year, employees shall be notified of the amount of sick leave they have accumulated.

Any Management, Supervisory and Confidential employees who leaves the district after at least one year of employment and accepts a certificated position in another district, county office of education or community college district within one year shall have transferred with him/her the total amount of accumulated sick leave. The district shall not require new employees to waive their leave accumulated in a previous district. (Education Code 44979, 44980)

Sick leave may be used by a Management, Supervisory or Confidential employee for:

1. Cases of temporary inability to perform duties because of illness, accident or quarantine, whether or not the cause of absence arises out of and in the course of employment (Education Code 44964)
2. Absences due to pregnancy, miscarriage, childbirth and recovery (Education Code 44965, 44978)
3. Cases of personal necessity (Education Code 44981)
4. Medical and dental appointments, in increments of not less than one hour
5. Cases of industrial accidents or illnesses when leave granted specifically for that purpose has expired (Education Code 44984)

6. Illness of the employee's child, parent, spouse, registered domestic partner or domestic partner's child, up to the amount of sick leave that would be accrued during six months (Labor Code 233)

An employee shall notify the district of his/her need to be absent as soon as such need is known, so that substitute services may be secured. This notification shall include an estimate of the expected duration of absence. If the absence becomes longer than estimated, the employee shall so notify the district. If the duration of absence becomes shorter than estimated, the employee shall notify the district not later than 3 p.m. of the day preceding the day on which he/she intends to return to work. If failure to so notify the district results in a substitute being secured, the cost of the substitute shall be deducted from the employee's pay.

### ***Sick Leave Beyond 10 Days***

A Management, Supervisory and Confidential employee shall receive 50 percent of his/her regular salary during any period of absence due to illness or injury up to five months, beginning after all available paid leave has been exhausted.

After five months, if a Management, Supervisory and Confidential employee has exhausted all available sick leave and is not medically able to resume his/her duties, the employee shall be placed either in another position or on a reemployment list. If the employee is on probationary status, he/she shall be placed on the reemployment list for 24 months beginning at the expiration of the five-month period provided pursuant to Education Code 44977; if on permanent status, the employee shall be placed on the reemployment list for 39 months. If during this time the employee becomes medically able, he/she shall be returned to employment in a position for which he/she is credentialed and qualified. (Education Code 44978.1)

### ***Verification Requirements***

After any absence due to illness or injury, the employee shall verify the absence by submitting a completed and signed district absence form to his/her immediate supervisor.

The Superintendent or designee may, at any time, require additional written verification by the employee's physician or practitioner. Such verification shall be required whenever an employee's absence record shows chronic absenteeism or a pattern of absences immediately before or after weekends and/or holidays or whenever clear evidence indicates that an absence is not related to illness or injury.

The Superintendent or designee may require an employee to visit a physician selected by the district and at district expense in order to receive a report on the medical condition of the employee. The report shall include a statement as to the employee's need for further leave of absence and a prognosis as to when the employee will be able to return to work. If the report concludes that the employee's condition does not warrant continued absence, the Superintendent or designee may, after giving notice to the employee, deny further leave.

Before returning to work, an employee who has been absent for surgery, hospitalization or extended medical treatment may be asked to submit a letter from his/her physician stating that he/she is able to return and stipulating any recommended restrictions or limitations.

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***Legal Reference:***

*EDUCATION CODE*

*44964 Power to grant leave of absence in case of illness, accident or quarantine*

*44965 Granting of leaves of absence for pregnancy and childbirth*

*44976 Transfer of leave rights when school is transferred to another district*

*44977 Salary deduction during absence from duties*

*44978 Provisions for sick leave of certificated employees*

*44979 Transfer of accumulated sick leave to another district*

*44980 Transfer of accumulated sick leave to a county office of education*

*44981 Leave of absence for personal necessity*

*44983 Exception to sick leave when district adopts specific rule*

*44986 Leave of absence for disability allowance applicant*

*LABOR CODE*

*233 Illness of child, parent, spouse or domestic partner*

*234 Absence control policy*

*CODE OF REGULATIONS, TITLE 5*

*5601 Transfer of accumulated sick leave*

**DEL MAR UNION SCHOOL DISTRICT  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**ADMINISTRATIVE REGULATION 4361.2: PERSONAL LEAVES**

Whenever possible, employees shall request personal leaves in advance and prepare suitable lesson plans or instructions for a substitute employee.

***Bereavement***

Employees are entitled to a leave of up to three days, or five days if out-of-state travel is required, upon the death of any member of the employee's immediate family. No deduction shall be made from the employee's salary, nor shall such leave be deducted from any other leave to which the employee is entitled. (Education Code 44985, 45194)

Members of the immediate family include the mother, father, grandmother, grandfather or grandchild of the employee or of the employee's spouse; the employee's spouse, son, son-in-law, daughter, daughter-in-law, brother or sister; or any relative living in the employee's immediate household. (Education Code 44985, 45194)

At the employee's request, bereavement leave may be extended under personal necessity leave provisions. (Education Code 44981, 45207)

***Personal Necessity***

Employees may use up to seven days of their accrued sick leave during each contract year for reasons of personal necessity. (Education Code 44981, 45207)

Acceptable reasons for the use of personal necessity leave include:

1. Death of a member of the employee's immediate family when the number of days of absence exceeds the limits set by bereavement leave provisions (Education Code 44981, 45207)
2. An accident involving the employee's person or property or the person or property of a member of the employee's immediate family (Education Code 44981, 45207)
3. A serious illness of a member of the employee's immediate family
4. A classified employee's appearance in any court or before any administrative tribunal as a litigant, party or witness under subpoena or other order (Education Code 45207)
5. Fire, flood or other immediate danger to the home of the employee

6. Personal business of a serious nature, which the employee cannot disregard

Leave for personal necessity may be allowed for other reasons at the discretion of the Superintendent or designee. However, no such leave shall be granted for purposes of personal convenience, for the extension of a holiday or vacation, or for matters which can be taken care of outside of working hours. The Superintendent or designee shall have final discretion as to whether a request reflects true personal necessity.

Advance permission shall not be required of any employee in cases involving the death of a member of the employee's immediate family or an accident involving the employee's person or property or the person or property of a member of his/her immediate family.

After any absence due to personal necessity, the employee shall verify the absence by submitting a completed and signed district absence form to his/her immediate supervisor.

### ***Legal Duties***

Classified employees called for jury duty shall be granted leave with pay up to the amount of the difference between the employee's regular earnings and any amount received for jury or witness fees. (Education Code 44037)

Employees shall be granted leaves to appear in court as witnesses other than litigants or to respond to an official order from another governmental jurisdiction for reasons not brought about through the connivance or misconduct of the employee. Such employees shall receive pay up to the amount of the difference between the employee's regular earnings and any amount received for witness fees.

An employee may take time off work in order to: (Labor Code 230)

1. Serve on an inquest jury or trial jury
2. Comply with a subpoena or other court order to appear as a witness

Notices, summons and subpoenas for court appearances shall be submitted to the district office when requesting leave.

### ***Leaves for Crime Victims***

An employee may be absent from work in order to attend judicial proceedings related to a crime when he/she is a victim, immediate family member of a victim, registered domestic partner of a victim, or child of a registered domestic partner of a victim of the following crimes: (Labor Code 230.2)

1. A violent felony as defined in Penal Code 667.5(c)

2. A serious felony as defined in Penal Code 1192.7(c)
3. A felony provision of law proscribing theft or embezzlement

For these purposes, the employee may use vacation, personal leave, sick leave, compensatory time off that is otherwise available to the employee, or unpaid leave. (Labor Code 230.2)

Prior to taking time off, an employee shall give his/her supervisor a copy of the notice of each scheduled proceeding that is provided by the responsible agency, unless advance notice is not feasible. When advance notice is not feasible or an unscheduled absence occurs, the employee shall, within a reasonable time after the absence, provide documentation evidencing the judicial proceeding from the court or government agency setting the hearing, the district attorney or prosecuting attorney's office, or the victim/witness office that is advocating on behalf of the victim. (Labor Code 230.2)

The supervisor and Superintendent or designee shall keep confidential any records pertaining to the employee's absence from work. (Labor Code 230.2)

#### ***Leaves for Victims of Domestic Violence or Sexual Assault***

An employee who is a victim of domestic violence or sexual assault as defined by law may take time off work to obtain or attempt to obtain any relief, including but not limited to a temporary restraining order, restraining order or other injunctive relief to help ensure the health, safety or welfare of the employee or his/her child. (Labor Code 230)

In addition, an employee who is a victim of domestic violence or sexual assault may take time off work to attend to the following activities: (Labor Code 230.1)

1. Seek medical attention for injuries caused by domestic violence or sexual assault
2. Obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence or sexual assault
3. Obtain psychological counseling related to an experience of domestic violence or sexual assault
4. Participate in safety planning and take other actions to increase safety from future domestic violence or sexual assault, including temporary or permanent relocation

An employee who is a victim of domestic violence or sexual assault may use vacation, personal leave or compensatory time off that is otherwise available to the employee under the applicable terms of employment. (Labor Code 230, 230.1)

Prior to taking time off, an employee shall give reasonable notice to his/her supervisor, unless advance notice is not feasible. When an unscheduled absence occurs, the employee

shall provide, within a reasonable time, certification of the absence in the form of any of the following documents: (Labor Code 230, 230.1)

1. A police report indicating that the employee was a victim of domestic violence or sexual assault
2. A court order protecting or separating the employee from the perpetrator of an act of domestic violence or sexual assault, or other evidence from the court or prosecuting attorney that the employee has appeared in court
3. Documentation from a medical professional, domestic violence advocate or advocate for victims of sexual assault, health care provider or counselor that the employee was undergoing treatment for physical or mental injuries or abuse resulting from an act of domestic violence or sexual assault

The supervisor and Superintendent or designee shall maintain the confidentiality of such an employee to the extent authorized by law. (Labor Code 230, 230.1)

#### ***Personal Leave for a Child's School Activities***

Any employee who is a parent/guardian or grandparent having custody of one or more children who are enrolled in grades K-12, or who attend a licensed day care facility, may use up to 40 hours of personal leave, vacation or compensatory time off each school year in order to participate in school or day care activities. Such leave shall not exceed eight hours in any month of the year, and the employee shall give reasonable advance notice of the absence. (Labor Code 230.8)

In lieu of using vacation, personal leave or compensatory time off, eligible employees giving reasonable advance notice may take up to 40 hours without pay each school year for this purpose, not to exceed eight hours in any month.

If both parents of a child are employed at the same work site, this leave shall be allowed for the first parent who applies; simultaneous absence by the second parent may be granted by the Superintendent or designee. (Labor Code 230.8)

Upon request by the Superintendent or designee, the employee shall provide documentation from the school or licensed day care facility that he/she participated in school or licensed day care facility activities on a specific date and at a particular time. (Labor Code 230.8)

#### ***Service on Education Boards, Committees and State or Employee Organizations***

Employees shall be granted up to 20 school days of paid leave per school year for service performed within the state on any education boards, commissions, committees or groups authorized by Education Code 44987.3 or statute, provided that all of the following conditions are met: (Education Code 44987.3)

1. The service is in the state of California.
2. The board, commission, organization or group informs the district in writing of the service.
3. The board, commission, organization or group agrees, prior to service, to reimburse the district, upon the district's request, for compensation paid to the employee's substitute and for actual related administrative costs.

Employees may take a leave of absence without loss of compensation to serve as an elected officer of a district employee organization or any statewide or national employee organization with which the local organization is affiliated. The leave shall include, but is not limited to, absence for purposes of attending periodic, stated, special or regular meetings of the body of the organization. (Education Code 44987, 45210)

***Leave for Emergency Duty***

An employee may take time off to perform emergency duty as a volunteer firefighter, a reserve peace officer, or emergency rescue personnel. (Labor Code 230.3)

An employee who is a volunteer firefighter shall be permitted to take temporary leaves of absence, not to exceed an aggregate total of 14 days per calendar year, for the purpose of engaging in fire or law enforcement training. (Labor Code 230.4)

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**Legal Reference:**

EDUCATION CODE

- 44036-44037 Leaves of absence for judicial and official appearances
- 44963 Power to grant leaves of absence (certificated)
- 44981 Leave of absence for personal necessity (certificated)
- 44985 Leave of absence due to death in immediate family (certificated)
- 44987 Service as officer of employee organization (certificated)
- 44987.3 Leave of absence to serve on certain boards, commissions, etc.
- 45190 Leaves of absence and vacations (classified)
- 45194 Bereavement leave of absence (classified)
- 45198 Effect of provisions authorizing leaves of absence
- 45207 Personal necessity (classified)
- 45210 Service as officer of employee organization (classified)

FAMILY CODE

- 297.5 Domestic partner rights

GOVERNMENT CODE

- 3543.1 Release time for representatives of employee organizations

LABOR CODE

- 230-230.2 Leave for victims of domestic violence, sexual assault or specified felonies
- 230.3 Leave for emergency personnel
- 230.4 Leave for volunteer firefighters
- 230.8 Leave to visit child's school
- 233 Illness of child, parent, spouse, domestic partner or domestic partner's child
- 234 Absence control policy

PENAL CODE

- 667.5 Violent felony, defined
- 1192.7 Serious felony, defined

CALIFORNIA CONSTITUTION

- Article 1, Section 8 Religious discrimination

UNITED STATES CODE, TITLE 42

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

COURT DECISIONS

- Rankin v. Commission on Professional Competence (1988) 24 Cal.3d 167

**Management Resources:**

WEB SITES

- California Teachers Association: <http://www.cta.org>
- California Federation of Teachers: <http://www.cft.org>
- California School Employees Association: <http://www.csea.com>

**DEL MAR UNION SCHOOL DISTRICT  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**ADMINISTRATIVE REGULATION 4361.5: 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)

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### 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  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**ADMINISTRATIVE REGULATION 4361.8:  
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.

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### **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:*

*Sections 12935, subd. (a) and 12945.2,  
Government Code*

**DEL MAR UNION SCHOOL DISTRICT  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**ADMINISTRATIVE REGULATION 4361.11:  
INDUSTRIAL ACCIDENT/ILLNESS LEAVE**

In each fiscal year, allowable leave for Management, Supervisory and Confidential employees for any single industrial accident or illness shall be for 60 days during which the schools of the district are in session or when the employee would otherwise have been performing work for the district.

Allowable industrial accident/illness leave shall not accumulate from year to year. (Education Code 44984)

When a Management, Supervisory and Confidential employee is absent from his/her duties because of an industrial accident or illness: (Education Code 44984)

1. Industrial accident or illness leave shall start on the first day of absence.
2. The employee shall be paid such portion of the salary due for any month in which the absence occurs as, when added to the temporary disability indemnity under Division 4 or 4.5 of the Labor Code, will result in a payment to the employee of not more than his/her full salary.
3. Industrial accident or illness leave shall be reduced by one day for each day of authorized absence, regardless of a temporary disability indemnity award.
4. When an industrial accident or illness leave overlaps into the next fiscal year, the employee is entitled to only the amount of unused leave due the employee for the same illness or injury.

Upon expiration of allowable leave for an industrial accident or illness, the employee may use personal illness and injury leave. If the employee continues to receive temporary disability indemnity, he/she may elect to take as much of the accumulated sick leave which, when added to his/her temporary disability indemnity, will result in a payment to the employee of not more than the employee's full salary. (Education Code 44984)

During any paid leave of absence, the employee may endorse to the district the temporary disability indemnity checks received on account of his/her industrial accident or illness. In those cases, the district shall issue appropriate salary warrants for payment of the employee's salary, and shall deduct normal retirement, other authorized contributions, and the temporary disability indemnity, if any, actually paid to and retained by the employee for periods covered by such salary warrants. (Education Code 44984)

Any employee receiving benefits under this leave shall, during periods of injury or illness, remain within the State of California unless the Governing Board authorizes travel outside the state. (Education Code 44984)

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***Legal Reference:***

***EDUCATION CODE***

*44977 Salary deductions during absence from duties*

*44978 Provisions for certificated employee sick leave*

*44983 Exception to sick leave*

*44984 Required rules for industrial accident and illness leave of absence*

***Management Resources:***

***WEB SITES***

*Department of Industrial Relations: <http://www.dir.ca.gov/DIR/OS&H/DOSH/dosh1.html>*

**DEL MAR UNION SCHOOL DISTRICT  
MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**BOARD POLICY 4317.13: 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.

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**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. 4<sup>th</sup> 1510

**Management Resources:**

WEB SITES

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

Board Policy No. 4116.1

Health Insurance For Retired Certificated Management Employees

- 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. To be eligible, certificated management employees must:
1. Have been employed as a certificated management employee in the District on a full-time basis for the past ten or more years (The years must be consecutive with no breaks in service).
  2. Be at least 55 years of age.
  3. Be actually drawing benefits from the State Teachers Retirement System.
  4. Be ineligible for such health benefits through any other employer.
  5. Be eligible for such health benefits within the conditions and provisions of the District's health insurance program.
  6. Abide by all procedures established by the District to implement this Policy.
- B. Pursuant to and consistent with applicable law, such as Education Code sections 7000-7003, once a certificated management employee is retired from the District, he/she shall have the option to remain an active participant in the District health and dental care benefit programs as set forth in the Health and Welfare benefits Board Policy unless:
1. The retired certificated management employee fails to pay the full cost of all premiums for retired employees through payment at least one month in advance of the month of coverage, or
  2. The retired certificated management employee becomes eligible for such benefits through another employer.