



**DEL MAR UNION SCHOOL DISTRICT  
ARTICLE 4  
PERSONNEL  
(Series 4000)**

**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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**BOARD POLICY 4000: CONCEPTS AND ROLES**

The Governing Board recognizes that the success of district students and programs hinges on effective personnel. The Board desires to establish safe and supportive working conditions that will attract and retain staff members who are highly qualified and dedicated to the education and welfare of students. The district's personnel policies and related regulations shall be designed to ensure a supportive, positive climate and shall be consistent with collective bargaining agreements and in conformance with state and federal law and regulations.

As the legal representative of the district in negotiations with employee representatives, the Board shall set goals and guidelines for collective bargaining, select the bargaining team, maintain communications during the bargaining process, and adopt the negotiated contract. Terms and conditions of employment, which have been negotiated and stated in employee contracts, shall have the force of policy. The Board shall hear employee complaints and appeals when such hearings are in accordance with Board policy or negotiated agreements. The Board shall also adopt wage and salary schedules and shall commit budget funds for staff development so that staff members may continue developing their skills.

The Superintendent has primary responsibility for overseeing the district's personnel system. To support this effort, the Board shall approve a framework for sound hiring practices. The Superintendent shall nominate all personnel for employment, and the Board shall approve only those persons so recommended. Individuals who approach Board members regarding prospective employment shall be referred to the Superintendent or designee.

The Superintendent or designee shall assign and supervise the work of all employees and shall evaluate their work in accordance with effective accountability systems approved by the Board. The Superintendent or designee also shall recommend disciplinary action, which the Board may take against employees when warranted pursuant to Board policy, administrative regulations and/or state or federal law.

The Board recognizes that every employee has a stake in the district's successful operation. The Board encourages all district employees to express their ideas, concerns and proposals related to the improvement of working conditions and the total educational program. The Superintendent or designee shall establish procedures whereby he/she will receive and consider employee suggestions and submit them, when appropriate, for consideration by the Board.

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***Legal Reference:***

**EDUCATION CODE**

35020 Duties of employees fixed by governing board

35035 Powers and duties of superintendent

35160 Powers of governing board

**GOVERNMENT CODE**

3540-3549.3 Public education

employer-employee relations

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**BOARD POLICY 4020:**  
**DRUG AND ALCOHOL-FREE WORKPLACE**

The Governing Board believes that the maintenance of drug- and alcohol-free workplaces is essential to school and district operations.

No employee shall unlawfully manufacture, distribute, dispense, possess, use or be under the influence of any alcoholic beverage, drug or controlled substance as defined in 21 USC 81 at any school district workplace. These prohibitions apply before, during and after school hours. A school district workplace is any place where school district work is performed, any school-owned or school-approved vehicle used to transport students to and from school or school activities; any off-school sites when accommodating a school-sponsored or school-approved activity or function where students are under district jurisdiction; or during any period of time when an employee is supervising students on behalf of the district or otherwise engaged in district business.

The Superintendent or designee shall notify employees of these prohibitions. (Government Code 8355; 41 USC 702)

An employee shall abide by the terms of this policy and notify the district, within five days, of any criminal drug or alcohol statute conviction which he/she receives for a violation occurring in the workplace. (41 USC 702)

The Superintendent or designee shall notify the appropriate federal granting or contracting agencies within 10 days after receiving notification, from an employee or otherwise, of any conviction for a violation occurring in the workplace. (41 USC 701)

The Board may not employ or retain in employment persons convicted of a controlled substance offense as defined in Education Code 44011. If any such conviction is reversed and the person acquitted in a new trial or the charges dismissed, his/her employment is no longer prohibited. A plea or verdict of guilty, a finding of guilt by a court in a trial without a jury, or a conviction following a plea of nolo contendere shall be deemed to be a conviction. (Education Code 44836, 45123)

A classified employee may be reemployed after conviction of such an offense if the Board determines, from the evidence presented, that the person has been rehabilitated for at least five years. (Education Code 45123)

The Board may take appropriate disciplinary action, up to and including termination, or require the employee to satisfactorily participate in and complete a drug assistance or rehabilitation program approved by a federal, state or local health, law enforcement or other appropriate agency.

The Superintendent or designee shall establish a drug- and alcohol-free awareness program to inform employees about: (Government Code 8355)

1. The dangers of drug and alcohol abuse in the workplace
2. The district policy of maintaining drug- and alcohol-free workplaces
3. Any available drug and alcohol counseling, rehabilitation, and employee assistance programs
4. The penalties that may be imposed on employees for drug and alcohol abuse violations.

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**Legal Reference:**

EDUCATION CODE

44011 *Controlled substance offense*

44425 *Conviction of controlled substance offenses as grounds for revocation of credential*

44836 *Employment of certificated persons convicted of controlled substance offenses*

44940 *Compulsory leave of absence for certificated persons*

44940.5 *Procedures when employees are placed on compulsory leave of absence*

45123 *Employment after conviction of controlled substance offense*

45304 *Compulsory leave of absence for classified persons*

GOVERNMENT CODE

8350-8357 *Drug-free workplace*

UNITED STATES CODE, TITLE 20

7111-7117 *Safe and Drug Free Schools and Communities Act*

UNITED STATES CODE, TITLE 21

812 *Schedule of controlled substances*

CODE OF FEDERAL REGULATIONS, TITLE 21

1308.01-1308.49 *Schedule of controlled substances*

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**BOARD POLICY 4030: NONDISCRIMINATION IN EMPLOYMENT**

The Governing Board prohibits unlawful discrimination against and/or harassment of district employees and job applicants on the basis of actual or perceived race, color, national origin, ancestry, religion, age, marital status, pregnancy, physical or mental disability, medical condition, veteran status, gender, sex or sexual orientation at any district site and/or activity. The Board also prohibits retaliation against any district employee or job applicant who complains, testifies or in any way participates in the district's complaint procedures instituted pursuant to this policy.

Any district employee who engages or participates in unlawful discrimination, or who aids, abets, incites, compels or coerces another to discriminate, is in violation of this policy and is subject to disciplinary action, up to and including dismissal.

Any district employee who observes or has knowledge of an incident of unlawful discrimination or harassment shall report the incident to the principal, district administrator or Superintendent as soon as practical after the incident. Failure of a district employee to report discrimination or harassment may result in disciplinary action.

The Superintendent or designee shall regularly publicize, within the district and in the community, the district's nondiscrimination policy and the availability of complaint procedures. Such publication shall be included in each announcement, bulletin or application form that is used in employee recruitment. (34 CFR 100.6, 106.9)

The district's policy and administrative regulation shall be posted in all schools and offices including staff lounges. (5 CCR 4960)

The Board designates the following position as Coordinator for Nondiscrimination in Employment:

Director of Human Resources  
225 Ninth Street  
Del Mar, CA 92014  
858-523-6186

**Other Remedies**

An employee may, in addition to filing a discrimination complaint with the district, file a complaint with either the California Department of Fair Employment and Housing (DFEH) or the Equal Employment Opportunity Commission (EEOC). The time limits for filing such complaints are as follows:

1. To file a valid complaint with DFEH, the employee must file his/her complaint within one year of the alleged discriminatory act(s), unless an exception exists pursuant to Government Code 12960. (Government Code 12960)
2. To file a valid complaint directly with EEOC, the employee must file his/her complaint within 180 days of the alleged discriminatory act(s). To file a valid complaint with EEOC after filing a complaint with DFEH, the employee must file the complaint within 300 days of the alleged discriminatory act(s) or within 30 days after the termination of proceedings by DFEH, whichever is earlier. (42 USC 2000e-5)

Employees wishing to file complaints with the DFEH and EEOC should contact the nondiscrimination coordinator for more information.

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**Legal Reference:**

CIVIL CODE

51.7 Freedom from violence or intimidation

GOVERNMENT CODE

11135 Unlawful discrimination

12900-12996 Fair Employment and Housing Act

PENAL CODE

422.56 Definitions, hate crimes

CODE OF REGULATIONS, TITLE 2

7287.6 Terms, conditions and privileges of employment

CODE OF REGULATIONS, TITLE 5

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

UNITED STATES CODE, TITLE 20

1681-1688 Discrimination based on sex or blindness, Title IX

UNITED STATES CODE, TITLE 29

794 Section 504 of the Rehabilitation Act of 1973

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

CODE OF FEDERAL REGULATIONS, TITLE 34

100.6 Compliance information

104.8 Notice

106.8 Designation of responsible employee and adoption of grievance procedures

106.9 Dissemination of policy

COURT DECISIONS

Carter v. California Department of Veterans Affairs (2003) 2003 Cal.LEXIS 5694

Shephard v. Loyola Marymount (2002) 102 CalApp.4<sup>th</sup> 837

**Management Resources:**

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors, June 1999

Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act, March, 1999

U.S. DEPARTMENT OF EDUCATION, OFFICE OF CIVIL RIGHTS

Notice of Non-Discrimination, January, 1999

WEB SITES

EEOC: <http://www.eeoc.gov>

OCR: <http://www.ed.gov/offices/OCR>

DFEH: <http://www.dfeh.ca.gov>

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**ADMINISTRATIVE REGULATION TO BOARD POLICY 4030:  
NONDISCRIMINATION IN EMPLOYMENT**

Unlawful discrimination or harassment of an individual includes:

1. Slurs, epithets, threats or verbal abuse
2. Derogatory or degrading comments, descriptions, drawings, pictures or gestures
3. Unwelcome jokes, stories, teasing or taunting
4. Any other verbal, written, visual or physical conduct against the individual which:
  - a. Adversely affects his/her employment opportunities, or
  - b. Has the purpose or effect of unreasonably interfering with his/her work performance or creating an intimidating, hostile or offensive work environment

Any employee or job applicant who feels that he/she has been or is being unlawfully discriminated against or harassed should immediately contact his/her supervisor, the nondiscrimination coordinator or the Superintendent in order to obtain procedures for reporting a complaint. Such complaints shall be filed in accordance with AR 4031 - Complaints Concerning Discrimination in Employment. An employee may bypass his/her supervisor when the supervisor is the alleged offender. In the event the complaint is against the Superintendent, the complainant shall file the complaint with the Director of Personnel who must immediately notify the Board President, who will initiate the investigation of the complaint.

Any supervisor who receives a discrimination/harassment complaint shall immediately notify the nondiscrimination coordinator or the Superintendent, who shall ensure that the complaint is appropriately investigated in accordance with district policy and regulations.

The Superintendent or designee shall ensure that annual training is provided to all employees regarding the issues of discrimination.

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**ADMINISTRATIVE REGULATION 4031:  
COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT**

The following procedures shall be used when a district employee or job applicant has a complaint alleging that a specific action, policy, procedure or practice discriminates against him/her on any basis specified in the district's nondiscrimination policies.

1. The complaint should be initiated promptly after a complainant knew, or should have known, of the alleged discrimination.
2. All parties involved in allegations of discrimination shall be notified when a complaint is filed, when a complaint meeting or hearing is scheduled, and when a decision or ruling is made. The parties also shall be notified of their right to appeal the decision to the next level.
3. When a complaint is brought against the individual responsible for the complaint process at any level, the complainant may address the complaint directly to the next appropriate level.
4. Meetings related to a complaint shall be held at times the district determines appropriate to the circumstances.
5. For the protection of all the parties involved, complaint proceedings shall be kept confidential insofar as appropriate.
6. All documents, communications and records dealing with the investigation of the complaint shall be placed in a confidential district personnel complaint file and not in the employee's individual personnel file.
7. Time limits specified in these procedures may be revised only by written agreement of all parties involved. If the district fails to respond within a specified or adjusted time limit, a complainant may proceed to the next level. If a complainant fails to take the complaint to the next step within the prescribed time, the complaint shall be considered settled at the preceding step.

***Level I***

The complainant shall first meet informally with his/her supervisor or the administrator of the school where the alleged discriminatory act occurred. A complaint regarding discrimination away from the school site should be discussed informally with the complainant's supervisor. If the complainant's concerns are not clear or cannot be resolved through informal discussion, the supervisor or other administrator shall prepare,

within 10 working days, a written summary of his/her meeting(s) with the complainant. This report shall be made available to the nondiscrimination coordinator (coordinator) designated by the Governing Board in BP 4030 - Nondiscrimination in Employment.

### ***Level II***

If a complaint cannot be resolved to the satisfaction of the complainant at Level I, he/she may submit a formal written complaint to the coordinator within 10 working days of his/her attempt to resolve the complaint informally. The written complaint shall include the following:

1. The complainant's name, address and telephone number
2. The name and work location of the district staff member who committed the alleged violation
3. A description of the alleged discriminatory act(s) or omission(s)
4. The discriminatory basis alleged
5. A specific description of the time, place, nature, participants in and witnesses to the alleged violation
6. Other pertinent information which may assist in investigating and resolving the complaint
7. The complainant's signature or that of his/her representative

The coordinator shall assign a staff member to assist the complainant with this writing if such help is needed. The coordinator shall respond to the complaint in writing within 10 working days.

The coordinator shall conduct any investigation necessary to respond to the complaint, including discussion with the complainant, person(s) involved, appropriate staff members and students, and review of the Level I report and all other relevant documents. If a response from third parties is necessary, the coordinator may designate up to 10 additional working days for investigation of the complaint.

### ***Level III***

If the complaint cannot be resolved at Level II, either party may present the complaint to the Superintendent or designee within 10 working days. The Superintendent or designee shall review the Level II investigation file, including the written complaint and all responses from district staff. The Superintendent or designee shall respond to the complaint in writing within 10 working days.

If the Superintendent or designee finds it necessary to conduct further investigation, he/she may designate up to 10 additional working days for such investigation and shall respond to the complaint in writing within 10 working days of completing the investigation.

***Level IV***

If the matter is not resolved at Level III, either party may file a written appeal to the Board within 10 working days after receiving the Level III response. The Superintendent or designee shall provide the Board with all information presented at previous levels.

The Board shall grant the hearing request for the next regular Board meeting for which the matter can be placed on the agenda. Any complaint against a district employee shall be addressed in closed session in accordance with law. The Board shall render its decision within 10 working days.

The Board may appoint a hearing panel to review the complaint and previous decisions and make recommendations to the Board. The panel shall hear the appeal and render its decision within 10 working days.

***Other Remedies***

Complainants may appeal the Board's action to the California Department of Education. The Superintendent or designee shall ensure that complainants are informed that injunctions, restraining orders and other civil law remedies may also be available to them. This information shall be published with the district's nondiscrimination complaint procedures and included in any related notices. (Education Code 262.3)

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**Legal Reference:**

EDUCATION CODE

200-262.4 Prohibition of discrimination

GOVERNMENT CODE

12920-12921 Nondiscrimination

12940-12948 Discrimination prohibited; unlawful practices, generally

UNITED STATES CODE, TITLE 29

621-634 Age Discrimination in Employment Act

794 Section 504 of the Rehabilitation Act of 1973

UNITED STATES CODE, TITLE 42

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

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

2001h-2-2001h-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:**

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act, March, 1999

OFFICE OF CIVIL RIGHTS AND NATIONAL ASSOCIATION OF ATTORNEYS GENERAL

Protecting Students from Harassment and Hate Crime, January, 1999

WEB SITES

EEOC: <http://www.eeoc.gov>

OCR: <http://www.ed.gov/offices/OCR>

**DEL MAR UNION SCHOOL DISTRICT  
ALL PERSONNEL**

**ADMINISTRATIVE REGULATION 4032: REASONABLE ACCOMMODATION**

***Definitions***

Disability, with respect to an individual, is defined as any of the following: (Government Code 12926; 29 CFR 1630.2)

1. A physical or mental impairment that limits one or more of the major life activities
2. A record of such an impairment
3. Being regarded as having such an impairment

Limits shall be determined without regard to mitigating measures such as medications, assistive devices, prosthetics or reasonable accommodations, unless the mitigating measure itself limits a major life activity. (Government Code 12926)

Essential functions are the fundamental job duties of the position the individual with a disability holds or desires. The term does not include the marginal functions of the position. (29 CFR 1630.2)

Reasonable accommodations that an employer may need to provide in connection with modifications to the work environment or adjustments in how and when a job is performed that enable an individual with a disability to enjoy equal employment opportunities include, but are not limited to: (29 CFR 1630.2)

1. Making existing facilities accessible and usable
2. Restructuring the job duties
3. Offering part-time or modified work schedules
4. Acquiring or modifying equipment or devices
5. Changing tests, training materials or policies
6. Providing qualified readers or interpreters
7. Reassigning the employee to a vacant position

Qualified individual with a disability means an individual with a disability who satisfies the requisite skill, experience, education and other job-related requirements of the

employment position and who, with or without reasonable accommodation, can perform the essential functions of such position. (29 CFR 1630.2)

Undue hardship is a determination based on an individualized assessment of current circumstances that shows that a specific reasonable accommodation would cause significant difficulty or expense. A determination of undue hardship should be based on several factors, including: (29 CFR 1630.2)

1. The nature and net cost of the accommodation needed, taking into consideration the availability of tax credits and deductions and/or outside funding
2. The overall financial resources of the facility making the reasonable accommodation, the number of persons employed at this facility, the effect on expenses and resources of the facility, or the impact on the operations of the facility
3. The overall financial resources, size, number of employees, and the number, type and location of facilities of the district
4. The type of operation of the district, including the structure and functions of the workforce, the geographic separateness, and the administrative or fiscal relationship of the facility involved in making the accommodation
5. The impact of the accommodation on the operation of the facility, including the impact on the ability of other employees to perform their duties and the impact on the facility's ability to conduct business.

### ***Requests for Reasonable Accommodation***

The district designates the position specified in BP 4030 - Nondiscrimination in Employment as the coordinator of its efforts to comply with the Americans with Disabilities Act (ADA) and to investigate any and all related complaints.

When requesting reasonable accommodation, the employee or employee's representative shall inform the employee's supervisor that he/she needs a change at work for a reason related to a medical condition.

When requesting reasonable accommodation during the hiring process, a job applicant shall inform the coordinator that he/she will need a reasonable accommodation for the process.

Employees' requests for reasonable accommodation may first be considered informally by the site administrator. The site administrator shall consult with the coordinator before any decision as to accommodation is made.

When the disability and/or the need for accommodation is not obvious, the coordinator may ask the employee to supply reasonable documentation about his/her disability. In

requesting this documentation, the coordinator shall specify the types of information that are being sought about the employee's condition, the employee's functional limitations and the need for reasonable accommodation. The employee may be asked to sign a limited release allowing the district to submit a list of specific questions to the health care or vocational professional.

If the documentation submitted by the employee does not specify the existence of a qualifying disability and explain the need for reasonable accommodation, the district may require the employee to submit to an examination by a health care professional selected and paid for by the district.

Upon receiving a request to reasonably accommodate a qualified employee with a disability, the coordinator shall:

1. Determine the essential functions of the job
2. Engage in an informal, interactive process with the employee to review the request for accommodation, identify the precise limitations resulting from the disability, identify potential means for providing accommodation, and assess their effectiveness
3. Develop a plan for reasonable accommodation which is effective and allows the employee to perform the essential functions of the job or to gain equal access to a benefit or privilege of employment and does not impose undue hardship on the district

To qualify for a job, an individual shall not pose a significant risk of substantial harm to himself/herself or others in the workplace, which cannot be eliminated or reduced by reasonable accommodation. (29 CFR 1630.2)

The determination of whether an individual poses a significant risk of substantial harm to himself/herself or others shall be made on a case-by-case basis and shall be based on objective, factual evidence, taking into consideration the duration of the risks, the nature and severity of the potential harm, the likelihood that the potential harm will occur and the imminence of potential harm. (29 CFR 1630.2)

The coordinator may confer with the site administrator, the district medical advisor and/or other district staff before making a final decision as to the accommodation.

#### ***Reasonable Accommodation Committee***

The coordinator may appoint a Reasonable Accommodation Committee to review or assist in the development of appropriate plans to reasonably accommodate an employee or qualified job applicant who has requested an adjustment in work duties or environment because of known physical or mental disabilities. The membership of this committee may change on a case-by-case basis. The committee may include:

1. A district administrator
2. A site administrator
3. A medical advisor or rehabilitation specialist
4. A certificated employee
5. A classified employee

Committee members shall be selected on the basis of their knowledge of the relevant issues, including:

1. The specific functions and duties required in the position
2. The physical work environment
3. Available accommodations

At the coordinator's discretion, the employee or applicant requesting accommodation may participate in or be excluded from committee meetings. If the employee or applicant is excluded from committee meetings, the coordinator shall communicate with him/her so that he/she has the opportunity to interact and contribute to planning the reasonable accommodation.

The coordinator shall take steps to ensure the confidentiality of information related to medical conditions.

### ***Appeal Process***

If the employee or applicant is not satisfied with the decision of the coordinator, he/she may appeal in writing to the Superintendent or designee. This appeal shall be made within 10 working days of receiving the decision and shall include:

1. A clear, concise statement of the reasons for the appeal
2. A statement of the specific remedy sought

The Superintendent or designee shall consult with the coordinator and review the appeal, together with any available supporting documents. The Superintendent or designee shall give the employee or applicant his/her decision within 15 working days of receiving the appeal.

Any further appeal for reasonable accommodation shall be considered a complaint concerning discrimination in employment and may be taken to the Governing Board in accordance with the district's procedure for such complaints.

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**Legal Reference:**

CIVIL CODE

51 Unruh Civil Rights Act

GOVERNMENT CODE

12900-12996 Fair Employment and Housing Act

UNITED STATES CODE, TITLE 29

701-794e Vocational Rehabilitation Act

UNITED STATES CODE, TITLE 42

12101-12213 Americans with Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 28

35.101-35.190 Americans with Disabilities Act, especially:

35.107 Designation of employee

36.101-36.608 Nondiscrimination on the basis of disability by public facilities

CODE OF FEDERAL REGULATIONS, TITLE 29

1630.2 Direct threat

COURT DECISIONS

Colmenares v. Braemar Country Club, Inc., 2003 Cal.LEXIS 1131

Chevron USA v. Echazabal, (2002) 536 U.S. 73, 122 S.Ct. 2045

US Airways, Inc. v. Barnett, (2002) 535 U.S., 122 S.Ct. 1516

**Management Resources:**

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

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

WEB SITES

EEOC: <http://www.eeoc.gov>

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

***DEL MAR UNION SCHOOL DISTRICT  
ALL PERSONNEL***

**BOARD POLICY 4040: EMPLOYEE USE OF TECHNOLOGY**

The Governing Board recognizes that technological resources can enhance employee performance by improving access to and exchange of information, offering effective tools to assist in providing a quality instructional program, and facilitating district and school operations. The Board expects all employees to learn to use the available technological resources that will assist them in the performance of their job responsibilities. As needed, employees shall receive training in the appropriate use of these resources.

Employees shall be responsible for the appropriate use of technology and shall use the district's technological resources only for purposes related to their employment. Such use is a privilege, which may be revoked at any time.

Employees should be aware that computer files and communications over electronic networks, including e-mail and voice mail, are not private. These technologies shall not be used to transmit confidential information about students, employees or district operations without authority.

The Superintendent or designee shall ensure that all district computers with Internet access have a technology protection measure that prevents access to visual depictions that are obscene or pornographic, and that the operation of such measures is enforced. The Superintendent or designee may disable the technology protection measure during use by an adult to enable access for bona fide research or other lawful purpose. (20 USC 6777; 47 USC 254)

To ensure proper use of the system, the Superintendent or designee may monitor the district's technological resources, including e-mail and voice mail systems, at any time without advance notice or consent. If passwords are used, they must be known to the Superintendent or designee, so that he/she may have system access.

The Superintendent or designee shall establish administrative regulations which outline employee obligations and responsibilities related to the use of district technology. He/she also may establish guidelines and limits on the use of technological resources. Inappropriate use shall result in a cancellation of the employee's user privileges, disciplinary action and/or legal action in accordance with law, Board policy and administrative regulations.

The Superintendent or designee shall provide copies of related policies, regulations and guidelines to all employees who use the district's technological resources. Employees shall be asked to acknowledge in writing that they have read and understood these policies, regulations and guidelines.

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**Legal Reference:**

EDUCATION CODE

51870-51874 Education technology

GOVERNMENT CODE

3543.1 Rights of employee organizations

PENAL CODE

502 Computer crimes, remedies

632 Eavesdropping on or recording confidential communications

UNITED STATES CODE, TITLE 47

254 Universal service discounts (E-rate)

CODE OF FEDERAL REGULATIONS, TITLE 47

54.520 Internet safety policy and technology protection measures, E-rate discounts

UNITED STATES CODE, TITLE 20

6751-6777 Education Through Technology Act, No Child Left Behind Act, Title II, Part D

6777 Internet Safety

**Management Resources:**

CDE PUBLICATIONS

K-12 Network Technology Planning Guide: Building the Future, 1994

CDE PROGRAM ADVISORIES

1223.94 Acceptable Use of Electronic Information Resources

WEB SITES

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

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

Federal Communications Commission: <http://www.fcc.gov>

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

American Library Association: <http://www.ala.org>

**DEL MAR UNION SCHOOL DISTRICT  
ALL PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4040:  
EMPLOYEE USE OF TECHNOLOGY**

***On-Line/Internet Services: User Obligations and Responsibilities***

Employees are authorized to use district equipment to access the Internet or on-line services in accordance with Governing Board policy and the user obligations and responsibilities specified below.

1. The employee in whose name an on-line services account is issued is responsible for its proper use at all times. Employees shall keep account information, home addresses and telephone numbers private. They shall use the system only under their own account number.
2. Employees shall use the system responsibly and primarily for work-related purposes.
3. Employees shall not access, post, submit, publish or display harmful or inappropriate matter that is threatening, obscene, disruptive or sexually explicit, or that could be construed as harassment or disparagement of others based on their race/ethnicity, national origin, gender, sexual orientation, age, disability, religion or political beliefs.
4. Employees shall not use the system to promote unethical practices or any activity prohibited by law, Board policy or administrative regulations.
5. Copyrighted material shall not be placed on the system without the author's permission. Employees may download copyrighted material only in accordance with applicable copyright laws.
6. Employees shall not intentionally upload, download or create computer viruses and/or maliciously attempt to harm or destroy district equipment or materials or the data of any other user, including so-called "hacking."
7. Employees shall not read other users' electronic mail or files. They shall not attempt to interfere with other users' ability to send or receive electronic mail, nor shall they attempt to read, delete, copy, modify or forge other users' mail.
8. Users shall report any security problem or misuse of the services to the Superintendent or designee.

**District Telecommunications Network  
Employee Account Agreement**

**Exhibit 1**

Name \_\_\_\_\_

Position \_\_\_\_\_

School or Department \_\_\_\_\_

I have read the district acceptable use policy. I agree to follow the rules contained in this policy. I understand that if I violate the rules, I may face disciplinary action, up to and including dismissal.

I understand that my use of district technology is subject to the district's right to monitor its technology, including e-mail, Internet files and Internet access, at any time without advance notice of consent when there is a business need to do so.

I understand and agree that the district makes no warranties of any kind, either express or implied, that the functions or the services provided by or through the district telecommunications network will be error-free or without defect; that the district will not be responsible for any claim, damages, or injury of any nature whatsoever, which users may suffer as a result, whether directly or indirectly, of use of the district telecommunications network, including, but not limited to, personal injury, emotional distress or suffering, or the loss of data or interruptions of service; that the district is not responsible for the accuracy or quality of the information obtained through or stored on the system; and that the district will not be responsible for financial obligations arising through the unauthorized use of the district telecommunications network, including but not limited to the purchase of products or services.

I hereby release the district, its personnel and any institutions with which it is affiliated, from any and all claims or damages of any nature whatsoever arising from my use of, or inability to use, the district telecommunications network, and will indemnify the district for any costs as a result of my unauthorized use of the system to purchase products or services.

Signature \_\_\_\_\_ Date \_\_\_\_\_

Supervisor \_\_\_\_\_ Date \_\_\_\_\_

Printed Name \_\_\_\_\_

School/Dept. \_\_\_\_\_

Approved by \_\_\_\_\_ Date \_\_\_\_\_

<b>District Telecommunications Network Administrator Use Only</b>	
Assigned User Name:	_____
Assigned Temporary Password:	_____
Completed By:	_____

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

**BOARD POLICY 4100: CERTIFICATED PERSONNEL**

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

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

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

Policies, rules and regulations related to certificated personnel shall be available to all concerned and shall be administered in a fair and equitable manner.

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***Legal Reference:***

**EDUCATION CODE**

90 *Definition, certificated and certified*

44006 *Certificated person*

44490-44497 *Mentor teacher program*

**GOVERNMENT CODE**

3543.2 *Scope of representation*

**DEL MAR UNION SCHOOL DISTRICT  
CERTIFICATED PERSONNEL**

**BOARD POLICY 4111: RECRUITMENT AND SELECTION**

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

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

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

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

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

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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  
CERTIFICATED PERSONNEL**

**BOARD POLICY 4111.2: LEGAL STATUS REQUIREMENT**

The district shall hire only citizens and aliens who are lawfully authorized to work in the United States. The Superintendent or designee shall ensure that district employment practices do not unlawfully discriminate on the basis of citizenship status or national origin, including but not limited to, discrimination against any refugees, grantees of asylum, or persons qualified for permanent or temporary residency.

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

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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  
CERTIFICATED PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4111.2:  
LEGAL STATUS REQUIREMENT**

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

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

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

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

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

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

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

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

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

Individuals appointed to the certificated staff shall:

1. Possess the appropriate certification qualifications and register the certification document in accordance with law and Board policy (Education Code 44250-44279, 44330)
2. Demonstrate proficiency in basic skills as required by law and Board policy (Education Code 44252.5, 44830)
3. When required by the federal No Child Left Behind Act for teachers of core academic subjects, possess the qualifications of "highly qualified" teachers as defined in law, Board policy and administrative regulations (20 USC 6319)
4. Submit to fingerprinting as required by law (Education Code 44830.1)
5. Not have been convicted of a violent or serious felony as defined in Penal Code 667.5 or 1192.7, unless the individual has received a certificate of rehabilitation and pardon (Education Code 44830.1)
6. Not have been convicted of any sex offense as defined in Education Code 44010 (Education Code 44836)
7. Not have been required to register as a sex offender pursuant to Penal Code 290 because of a conviction for a crime where the victim was a minor under the age of 16 (Penal Code 290.95)
8. Not have been determined to be a sexual psychopath pursuant to Welfare and Institutions Code 6300-6332 (Education Code 44837)
9. Not have been convicted of any controlled substance offense as defined in Education Code 44011 (Education Code 44836)
10. Submit to a physical examination, tuberculosis testing and/or provide a medical certificate as required by law and Board policy (Education Code 44839, 49406)

11. Submit to drug and alcohol testing as required by Board policy
12. Furnish a statement of military service and, if any was rendered, a copy of the discharge or release from service or, if no such document is available, other suitable evidence of the termination of service (Education Code 44838)
13. File the oath or affirmation of allegiance required by Government Code 3100-3109
14. Fulfill any other requirements as specified by law, collective bargaining agreement, Board policy or administrative regulation

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**Legal Reference:**

EDUCATION CODE

35161 Powers and duties  
44008 Effect of termination of probation  
44009 Conviction of specified crimes; definitions  
44010 Sex offense  
44011 Controlled substance offense  
44066 Limitation on certification requirements  
44250-44279 Credential types  
44330 Effect of registration of certification document  
44830.1 Felons; certificated positions; criminal record summary; fingerprints  
44836 Employment of person convicted of sex offenses or controlled substance offenses  
44837 Employment of sexual sociopath  
44838 Statement of military service  
44839 Medical certificate  
44839.5 Medical certificate for retirant  
49406 Examination for tuberculosis

GOVERNMENT CODE

3100-3109 Oaths or affirmations of allegiance for disaster service workers and public employees  
12940-12950 Unlawful employment practices

PENAL CODE

290 Registration of sex offenders  
290.95 Disclosure by persons required to register as sex offenders  
667.5 Prior prison terms, enhancement of prison terms  
1192.7 Plea bargaining limitation

WELFARE AND INSTITUTIONS CODE

6300-6332 Sexual psychopaths

CODE OF REGULATIONS, TITLE 5

6100-6125 Teacher qualifications, No Child Left Behind Act

UNITED STATES CODE, TITLE 20

6319 Highly qualified teachers  
7801 Definitions, highly qualified teacher

CODE OF FEDERAL REGULATIONS, TITLE 34

200.55-200.57 Highly qualified teachers

**DEL MAR UNION SCHOOL DISTRICT  
CERTIFICATED PERSONNEL**

**ADMINISTRATIVE REGULATION 4112.1: CONTRACTS**

When initially employed, certificated employees shall receive a written statement of their employment status and salary. In the case of temporary employees, this statement shall clearly indicate the temporary nature of the employment and the length of time for which the person is being employed. (Education Code 44916)

***Employee Notification***

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

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***Legal Reference:***

**EDUCATION CODE**

- 44832 Teachers; notice of intent to return*
- 44842 Failure to provide notice or to report to work*
- 44843 Notice of employment (to county superintendent)*
- 44916 Time of classification; statement of employment status*
- 44929.20 Continuing contract-districts w/less than 250 ADA*
- 44955 Reduction in number of employees*

**DEL MAR UNION SCHOOL DISTRICT  
CERTIFICATED PERSONNEL**

**BOARD POLICY 4112.2: CERTIFICATION**

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

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

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

***National Board for Professional Teaching Standards Certification***

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

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

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**Legal Reference:**

**EDUCATION CODE**

- 8360-8370 *Qualifications of child care personnel*
- 32340-32341 *Unlawful issuance of a credential*
- 35186 *Complaints regarding teacher vacancy or misassignment*
- 42647 *Drawing of warrants*
- 44066 *Limitations on certification requirements*
- 44200-44405 *Teacher credentialing, especially:*
- 44225.6 *CTC annual report on availability of teachers*
- 44251 *Period of credentials*
- 44252 *Standards and procedures for issuance; proficiency testing of basic skills*
- 44252.5 *State basic skills assessment required for certificated personnel*
- 44258.9 *Monitoring of teacher assignments by county superintendent*
- 44259 *Minimum requirements for teaching credential*
- 44259.5 *Standards for teachers of all students, including English language learners*
- 44270.3-44270.4 *Out-of-state credentials, administrative services*
- 44274-44274.5 *Out-of-state credentials*

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

CODE OF REGULATIONS, TITLE 5

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

UNITED STATES CODE, TITLE 20

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

CODE OF FEDERAL REGULATIONS, TITLE 34

200.55-200.57 *Highly qualified teachers*  
200.61 *Parent notification regarding teacher qualifications*

COURT DECISIONS

*Association of Mexican-American Educators et. al. v. State of California and the Commission on Teacher Credentialing, (1993) 836 F.Supp. 1534*

**Management Resources:**

CSBA POLICY ADVISORIES

*Teacher Credentialing Commission Eliminates Emergency Permits, August 2003*

COMMISSION ON TEACHER CREDENTIALING CODED CORRESPONDENCE

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

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

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

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

*California Standards for the Teaching Profession, July 1997*

U.S. DEPARTMENT OF EDUCATION GUIDANCE

*Improving Teacher Quality State Grants, December 19, 2002*

WEB SITES

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

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

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

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

**DEL MAR UNION SCHOOL DISTRICT  
CERTIFICATED PERSONNEL**

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

***Registration***

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

***Basic Skills Proficiency Test***

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

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

***Out-of-State/Country Credentials***

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

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

***Emergency Substitute Teaching Permits***

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

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

2. A person with an emergency career substitute teaching permit shall not serve as a substitute for more than 60 days for any one teacher during the school year. (5 CCR 80025.1)
3. A person with an emergency substitute permit for prospective teachers shall not serve as a substitute for more than 30 days for any one teacher during the school year and not more than 90 days total during the school year. (5 CCR 80025.2)
4. A person authorized for day-to-day substitute teaching shall not serve as a special education substitute for more than 20 days for any one teacher during the school year. (5 CCR 80025.4)
5. A person with an emergency substitute permit for vocational education shall not serve as a substitute for more than 30 days for any one teacher during the school year. (5 CCR 80025.5)

Before employing any person pursuant to 5 CCR 80025 or 80025.5, the Superintendent or designee shall prepare and keep on file a signed statement of need. The statement of need shall describe the situation or circumstances that necessitate the use of a 30-day substitute permit holder and state either that a credentialed person is not available or that the available credentialed person does not meet the district's specified employment criteria. (5 CCR 80025, 80025.5)

### ***Short-Term and Provisional Internship Permits***

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

1. Verify that it has conducted a local recruitment for the short-term staff permit being requested
2. Verify that it has provided the permit holder with orientation to the curriculum and to instruction and classroom management techniques, and has assigned a mentor teacher for the term of the permit
3. Submit written justification for the permit signed by the Superintendent or designee

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

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

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

2. That orientation, guidance, and assistance will be provided to the permit holder as specified in 5 CCR 80026.5

The orientation shall include, but not be limited to, an overview of the curriculum the teacher is expected to teach and effective instruction and classroom management techniques at the permit holder's assigned level. The Superintendent or designee shall assign an experienced educator to guide and assist each permit holder. (5 CCR 80026.5)

3. That the district will assist the permit holder in developing a personalized plan through a district-defined assessment that would lead to subject-matter competence related to the permit
4. That the district will assist the permit holder to seek and enroll in subject-matter training, such as workshops or seminars and site-based courses, along with training in test-taking strategies, and will assist the permit holder in meeting the credential subject-matter competence requirement related to the permit
5. That a notice of intent to employ the applicant in the identified position has been made public

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

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

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

***BOARD POLICY 4112.21: INTERNS***

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

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

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

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

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

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

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

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**Legal Reference:**

EDUCATION CODE

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

CODE OF REGULATIONS, TITLE 5

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

UNITED STATES CODE, TITLE 20

6319 Highly qualified teachers  
7801 Definitions, highly qualified teacher

**Management Resources:**

CTC PUBLICATIONS

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

CTC CODED CORRESPONDENCE

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

U.S. DEPARTMENT OF EDUCATION GUIDANCE

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

CSBA ADVISORIES

New Law Amends District Intern Program, September 2003

WEB SITES

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

**DEL MAR UNION SCHOOL DISTRICT  
CERTIFICATED PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4112.21: INTERNS**

***University Internship Program***

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

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

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

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

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

***District Internship Program***

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

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

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

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

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

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

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

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

### ***Individualized Internship Certificate***

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

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

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

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

***ADMINISTRATIVE REGULATION 4112.22:  
STAFF TEACHING STUDENTS OF LIMITED ENGLISH PROFICIENCY***

***Definitions***

Instruction for English language development means instruction designed specifically for limited-English-proficient students to develop their listening, speaking, reading, and writing skills in English. (Education Code 44253.2)

Specially designed academic instruction in English (SDAIE) means instruction in a subject area, delivered in English, that is specially designed to meet the needs of limited-English-proficient students. (Education Code 44253.2)

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

***Teacher Qualifications***

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

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

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**Legal Reference:**

EDUCATION CODE

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

CODE OF REGULATIONS, TITLE 5

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

UNITED STATES CODE, TITLE 20

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

CODE OF FEDERAL REGULATIONS, TITLE 34

200.55-200.57 Highly qualified teachers

COURT DECISIONS

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

**Management Resources:**

CDE PROGRAM ADVISORIES

0300.97 Programs for English learners

CTC PUBLICATIONS

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

CL-622 Serving English Learners, February 2004

CTC CODED CORRESPONDENCE

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

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

U.S. DEPARTMENT OF EDUCATION GUIDANCE

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

WEB SITES

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

California Department of Education, English Learners: <http://www.cde.ca.gov/sp/el>

California Teachers of English to Speakers of Other Languages: <http://www.catesol.org>

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

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

**DEL MAR UNION SCHOOL DISTRICT  
CERTIFICATED PERSONNEL**

**BOARD POLICY 4112.23: SPECIAL EDUCATION STAFF**

***Resource Specialists***

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

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

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

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***Legal Reference:***

***EDUCATION CODE***

*56195.8 Adoption of policies*

*56361 Program options*

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

*56362.1 Caseload*

*56362.5 Resource specialist certificate of competence*

*56362.7 Bilingual-crosscultural certificate of assessment competence*

*56363.3 Average caseload limits*

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

*56728.6 Instructional personnel funding*

*56728.8 Instructional personnel funding; services to infants*

***CODE OF REGULATIONS, TITLE 5***

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

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

**BOARD POLICY 4112.24:**

**TEACHER QUALIFICATIONS UNDER THE NO CHILD LEFT BEHIND ACT**

Recognizing the importance of teacher effectiveness in improving student achievement, the Governing Board desires to recruit, hire and train teachers who possess the subject matter knowledge and teaching skills required by the federal No Child Left Behind Act in programs for educationally disadvantaged students and for students in core academic subjects.

All teachers newly hired to teach core academic subjects in a program supported by Title I funds shall be "highly qualified" as defined by federal law and the State Board of Education. (20 USC 6319, 7801; 34 CFR 200.55; 5 CCR 6100-6115)

All teachers teaching in core academic subjects shall be "highly qualified" not later than the end of the 2005-06 school year. (20 USC 6319, 7801; 34 CFR 200.55; 5 CCR 6100-6115)

The Superintendent or designee shall provide the Board with regular reports on the progress of the district's teachers toward becoming fully qualified. Such reports shall include, but need not be limited to, the percentage of teachers in core academic subjects, districtwide and at each school, who meet the definition of a "highly qualified" teacher in accordance with federal law and the percentage of teachers who are receiving professional development to enable them to satisfy this definition.

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**Legal Reference:**

EDUCATION CODE

44500-44508 Peer Assistance and Review Program for Teachers

44662 Performance evaluation; Stull Act review

44664 Teacher evaluation; program to improve performance

CODE OF REGULATIONS, TITLE 5

6100-6125 Teacher qualifications, No Child Left Behind Act

UNITED STATES CODE, TITLE 20

6311 Parental notifications

6312 District Title I plan

6314 Schoolwide programs

6315 Targeted assistance schools

6319 Highly qualified teachers

7801 Definitions, highly qualified teacher

CODE OF FEDERAL REGULATIONS, TITLE 34

200.55-200.57 Highly qualified teachers

200.61 Parent notification regarding teacher qualifications

**Management Resources:**

CDE PUBLICATIONS

NCLB Teacher Requirements Resource Guide, March 2004

CTC PUBLICATIONS

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

Standards of Quality and Effectiveness for Professional Teacher Preparation Programs,

September 2001

California Standards for the Teaching Profession, July 1997

U.S. DEPARTMENT OF EDUCATION GUIDANCE

New No Child Left Behind Flexibility: Highly Qualified Teachers, Fact Sheet, March 15, 2004

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

January 16, 2004

CSBA ADVISORIES

California's Implementation of the No Child Left Behind Act, July 2003

WEB SITES

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

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

U.S. Department of Education, No Child Left Behind: <http://www.ed.gov/nclb>

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

**DEL MAR UNION SCHOOL DISTRICT  
CERTIFICATED PERSONNEL**

**ADMINISTRATIVE REGULATIONS TO BOARD POLICY 4112.24:  
TEACHER QUALIFICATIONS UNDER THE NO CHILD LEFT BEHIND ACT**

***Definitions***

Core academic subjects include English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history and geography. (20 USC 7801)

Teacher new to the profession is a teacher who either graduated from an accredited institution of higher education and received a credential, or began an approved intern program, on or after July 1, 2002. (5 CCR 6100)

Teacher not new to the profession is a teacher who either graduated from an accredited institution of higher education and received a credential, or was enrolled in or had completed an approved intern program, before July 1, 2002. (5 CCR 6100)

***Teacher Qualifications***

To meet the teacher qualification requirements of the federal No Child Left Behind (NCLB) Act for staff newly hired to teach core academic subjects in Title I programs and all staff teaching core academic subjects by the end of the 2005-06 school year, a teacher shall meet all of the following conditions: (20 USC 6319, 7801; 5 CCR 6101, 6110)

1. Hold at least a bachelor's degree
2. Have a credential or be currently enrolled in an approved intern program for less than three years
3. Demonstrate subject matter competency in accordance with the applicable requirements below

Subject matter competency shall be demonstrated in accordance with the following requirements based on the grade levels taught and the teacher's length of time in the profession: (5 CCR 6100-6112)

1. An elementary teacher who is new to the profession shall pass a validated statewide subject matter examination certified by the Commission on Teacher Credentialing (CTC). (5 CCR 6102)
2. An elementary teacher who is not new to the profession shall complete one of the following: (5 CCR 6103-6104)

- a. A validated statewide subject matter examination that the CTC has utilized to determine subject matter competence for credentialing purposes
  - b. A high objective uniform state standard evaluation (HOUSSE), as described below, to determine the teacher's subject matter competence in each of the academic subjects taught by the teacher
- ~~3. A middle or high school teacher who is new to the profession shall pass or complete one of the following for every core academic subject currently assigned: (5 CCR 6111)~~
- ~~a. A validated statewide subject matter examination certified by the CTC~~
  - ~~b. University subject matter program approved by the CTC~~
  - ~~c. Undergraduate major in the subject taught~~
  - ~~d. Graduate degree in the subject taught~~
  - ~~e. Coursework equivalent to the undergraduate major~~
- ~~4. A middle or high school teacher who is not new to the profession shall pass or complete one of the following for every core subject currently assigned: (5 CCR 6112)~~
- ~~a. A validated statewide subject matter examination that the CTC has utilized to determine subject matter competence for credentialing purposes~~
  - ~~b. University subject matter program approved by the CTC~~
  - ~~c. Undergraduate major in the subject taught~~
  - ~~d. Graduate degree in the subject taught~~
  - ~~e. Coursework equivalent to the undergraduate major~~
  - ~~f. Advanced certification or credential, such as certification from the National Board for Professional Teaching Standards~~
  - ~~g. A high objective uniform state standard evaluation (HOUSSE), as described below, to determine the teacher's subject matter competence in each of the academic subjects taught by the teacher~~

To demonstrate fulfillment of the HOUSSE option as described in item #2 or #4 above, a teacher who is not new to the profession shall use forms available through the California Department of Education to summarize his/her years of experience in the grade span or

subject, core academic coursework in the assigned grade span or subject, standards-aligned professional development, and service to the profession in the relevant core academic content area. If this summation is insufficient to demonstrate competency, the evaluation shall include direct observation and portfolio assessment in the grade span or subject taught to determine whether the teacher meets Standards 3 and 5.1 of the California Standards for the Teaching Profession. If the teacher does not satisfactorily meet Standards 3 and 5.1, subject matter competency shall be demonstrated through completion of the Peer Assistance and Review Program for Teachers pursuant to Education Code 44500-44508 or other individualized professional development plan pursuant to Education Code 44664 aimed at assisting the teacher to meet Standards 3 and 5.1. (5 CCR 6104)

A teacher who has been determined by another school district in California to have met the teacher qualification requirements for the grade level and/or subject taught shall not be required to demonstrate again that he/she meets those requirements. A teacher who has been determined to meet the subject matter competency requirements outside of California shall be considered to have met those subject matter requirements for the particular subject and/or grade span in California. (5 CCR 6120, 6125)

A teacher shall not meet the teacher qualification requirements of the NCLB if he/she is teaching: (5 CCR 6115)

1. With an emergency permit
2. With a supplemental authorization, except where the supplemental authorization is based on a major or a major equivalent in the subject taught, or a local authorization for the subject taught
3. With a state or local waiver for the grade or subject taught
4. As a pre-intern

### ***Certification of Compliance***

All teachers teaching core academic subjects shall complete and sign a certificate of compliance and attach appropriate documentation. The Superintendent or designee shall verify the information and retain the signed original copy.

The principal of each school receiving Title I funds shall annually attest in writing as to whether the school is in compliance with federal requirements related to teacher qualifications. Copies of the attestation shall be maintained at the school and at the district office and shall be available to any member of the public upon request. (20 USC 6319)

District Plan for Highly Qualified Teachers

Within the district's Title I plan, the Superintendent or designee shall develop a plan for ensuring that all teachers of core academic subjects will meet NCLB requirements no later than the end of the 2005-06 school year. (20 USC 6312, 6319)

As part of this plan, the Superintendent or designee shall provide high-quality professional development designed to enable teachers to meet the NCLB requirements. (20 USC 6319)

***Parent Notifications***

At the beginning of each school year, the Superintendent or designee shall notify the parents/guardians of each student attending a school receiving Title I funds that they may request information regarding the professional qualifications of their child's classroom teachers, including but not limited to: (20 USC 6311)

1. Whether the teacher has met state qualification and licensing criteria for the grade levels and subject areas in which the teacher provides instruction
2. Whether the teacher is teaching under emergency or other provisional status through which state qualification or licensing criteria have been waived
3. The baccalaureate degree major of the teacher and any other graduate certification or degree held by the teacher, and the field of discipline of the certification or degree
4. Whether the student is provided services by paraprofessionals and, if so, their qualifications

In addition, the Superintendent or designee shall provide timely notice to individual parents/guardians of students attending a Title I school whenever their child has been assigned, or has been taught for four or more consecutive weeks by, a teacher of a core academic subject who does not meet NCLB teacher qualification requirements. (20 USC 6311; 34 CFR 200.61)

The notice and information provided to parents/guardians shall be in an understandable and uniform format, and to the extent practicable, be provided in a language that the parents/guardians can understand. (20 USC 6311)

**TEACHER QUALIFICATIONS UNDER THE NO CHILD LEFT BEHIND ACT**  
**EXHIBIT 1**

**ATTESTATION REGARDING QUALIFICATIONS OF TITLE I TEACHERS**

Instructions: The following certification must be annually completed and signed by each principal in a school that operates a Title I program pursuant to 20 USC 6314 (schoolwide programs) and 20 USC 6315 (targeted assistance schools).

School: \_\_\_\_\_ Principal: \_\_\_\_\_

I certify that all teachers hired after the first day of the 2002-03 school year to teach core academic subjects in a program supported by Title I funds meet the following qualifications:

1. Hold at least a bachelor's degree
2. Have a credential or are currently enrolled in an approved intern program for less than three years
3. Have demonstrated subject matter competence as required by 5 CCR 6100-6115 for the grade level(s) taught and the teacher's length of time in the profession

\_\_\_\_\_  
Signature of Principal

\_\_\_\_\_  
Date

***TEACHER QUALIFICATIONS UNDER THE NO CHILD LEFT BEHIND ACT  
EXHIBIT 2***

**PARENTAL NOTIFICATION OF TEACHER QUALIFICATIONS**

To Parents/Guardians:

Your child is attending a school receiving Title I federal funds through the No Child Left Behind (NCLB) Act. This federal law requires that parents/guardians be notified when a teacher who has not demonstrated that he/she meets the NCLB teacher requirements has taught their child for four or more consecutive weeks.

Under the NCLB, teachers of core academic subjects are required to hold state certification and demonstrate subject matter competency for the grade span or subject matter taught. Newly hired Title I teachers must meet the NCLB requirements when hired. All other teachers have until the end of the 2005-06 school year to meet the requirements.

These requirements help us to ensure that all our students receive the best education by teachers who are highly skilled and knowledgeable in their subject areas. Our school district is currently working to determine that our teachers meet these requirements and, if necessary, help teachers meet the requirements through additional support and training.

Currently, a teacher who is authorized to teach in California, but who has not yet completed the process for meeting the NCLB requirements, has taught your child for four or more consecutive weeks. Under the law, school districts have until June 2006 to determine if all their teachers meet the federal requirements. Therefore, your child's teacher may meet the requirements and has just not had the opportunity to demonstrate that he/she does.

You may contact     [insert school name]     to request the qualifications of your child's teacher. If you have any questions, please contact     [insert principal name]     at     [insert telephone number]    .

**DEL MAR UNION SCHOOL DISTRICT  
CERTIFICATED PERSONNEL**

**ADMINISTRATIVE REGULATION 4112.3: OATH OR AFFIRMATION**

All district employees are declared by law to be disaster service workers and thus shall take the oath or affirmation required for disaster service workers before beginning employment with the district. In the event of natural, manmade or war-caused emergencies, which result in conditions of disaster or extreme peril to life, property and resources, all district employees are subject to disaster service activities as assigned to them by their supervisors or by law. (Government Code 3100-3102)

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

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

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

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

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

***Reimbursement of Expenses for Disaster Service Workers***

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

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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  
CERTIFICATED PERSONNEL**

**BOARD POLICY 4112.4: HEALTH EXAMINATIONS**

***New Employees***

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

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

***Continuing Employees***

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

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

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

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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  
CERTIFICATED PERSONNEL**

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

***New Employees***

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

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

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

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

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

***Continuing Employees***

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

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

**DEL MAR UNION SCHOOL DISTRICT  
CERTIFICATED PERSONNEL**

**BOARD POLICY 4112.41: EMPLOYEE DRUG TESTING**

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

***Pre-Employment Drug/Alcohol Testing***

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

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

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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  
CERTIFICATED PERSONNEL**

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

***Pre-Employment Drug/Alcohol Screening***

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

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

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

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

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

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

**DEL MAR UNION SCHOOL DISTRICT  
CERTIFICATED PERSONNEL**

**ADMINISTRATIVE REGULATION 4112.5: CRIMINAL RECORD CHECK**

***Applicants for Employment***

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

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

***Subsequent Arrest Notification***

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

***Current Employees***

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

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

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

If the employee challenges the Department of Justice record and the Department of Justice withdraws in writing its notification, the Superintendent or designee shall immediately reinstate that employee with full restoration of salary and benefits for the period of time from the suspension without pay to the reinstatement. (Education Code 44830.1)

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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  
CERTIFICATED PERSONNEL**

**BOARD POLICY 4112.61: EMPLOYMENT REFERENCES**

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

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

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

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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  
CERTIFICATED PERSONNEL**

**ADMINISTRATIVE REGULATION 4112.62:**  
**MAINTENANCE OF CRIMINAL OFFENDER RECORDS**

***Maintenance of Criminal Offender Records***

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

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

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

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

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

Upon a hiring determination, the records shall be destroyed to the extent that the identity of the individual can no longer be reasonably ascertained. (Education Code 44830.1, 45125; 11 CCR 708)

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

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

***Interagency Agreements***

Upon receipt from the Department of Justice of a criminal history record or report of subsequent arrest for any person on a common list of persons eligible for employment, the designated district shall give notice to the Superintendent or any participating district, or the person designated in writing by that Superintendent, that the report is available for inspection on a confidential basis by the Superintendent or the written designee. The

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

The designated district shall not release a copy of that information to any participating district or any other person. In addition, the designated district shall retain or dispose of the information in the manner specified in law and in this administrative regulation after all participating districts have had an opportunity to inspect it in accordance with law. (Education Code 44830.2, 45125.01)

The designated district shall maintain a record of all persons to whom the information has been shown. This record shall be available to the Department of Justice. (Education Code 44830.2, 45125.01)

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

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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  
CERTIFICATED PERSONNEL**

**BOARD POLICY 4112.8: EMPLOYMENT OF RELATIVES**

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

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

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***Legal Reference:***

GOVERNMENT CODE

12940 *Unlawful employment practices, exceptions*

**DEL MAR UNION SCHOOL DISTRICT  
CERTIFICATED PERSONNEL**

**ADMINISTRATIVE REGULATION 4112.9: EMPLOYEE NOTIFICATIONS**

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

***Acknowledgments Required by Law***

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

***Acknowledgments Not Required by Law***

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

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

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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  
CERTIFICATED PERSONNEL***

***BOARD POLICY 4113: ASSIGNMENT***

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

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

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

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

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

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

**Committee on Assignments**

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

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**Legal Reference:**

EDUCATION CODE

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

GOVERNMENT CODE

- 3543.2 Scope of representation

CODE OF REGULATIONS, TITLE 5

- 6100-6126 Teacher qualifications, No Child Left Behind Act

UNITED STATES CODE, TITLE 20

- 6319 Highly qualified teachers
- 7801 Definitions, highly qualified teacher

CODE OF FEDERAL REGULATIONS, TITLE 34

- 200.55-200.57 Highly qualified teachers

**Management Resources:**

WEB SITES

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

**DEL MAR UNION SCHOOL DISTRICT  
CERTIFICATED PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4113: ASSIGNMENT**

***Procedures for Verifying Subject Matter Knowledge***

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

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

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

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

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

**DEL MAR UNION SCHOOL DISTRICT  
CERTIFICATED PERSONNEL**

**BOARD POLICY 4113.4:**

**TEMPORARY MODIFIED/LIGHT-DUTY ASSIGNMENT**

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

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

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

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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  
CERTIFICATED PERSONNEL***

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

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

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

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

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

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

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

**DEL MAR UNION SCHOOL DISTRICT  
CERTIFICATED PERSONNEL**

**BOARD POLICY: EVALUATION/SUPERVISION**

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

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

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

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

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**Legal Reference:**

EDUCATION CODE

33039 *State guidelines for teacher evaluation procedures*

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

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

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

GOVERNMENT CODE

3543.2 *Scope of representation*

UNITED STATES CODE, TITLE 20

7801 *Definition of highly qualified teacher*

**Management Resources:**

CTC PUBLICATIONS

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

*California Standards for the Teaching Profession, 1997*

WEB SITES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**DEL MAR UNION SCHOOL DISTRICT  
CERTIFICATED PERSONNEL**

**BOARD POLICY 4116: PROBATIONARY/PERMANENT STATUS**

***Probationary Status***

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

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

***Permanent Status***

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

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***Legal Reference:***

***EDUCATION CODE***

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

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

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

***Permanent Status***

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

***Interns***

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

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

**DEL MAR UNION SCHOOL DISTRICT  
CERTIFICATED PERSONNEL**

**BOARD POLICY 4117.11: PRERETIREMENT PART-TIME EMPLOYMENT**

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

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

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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  
CERTIFICATED PERSONNEL**

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

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

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

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

**DEL MAR UNION SCHOOL DISTRICT  
CERTIFICATED PERSONNEL**

**BOARD POLICY 4117.12: RETIREMENT CONSULTANCY CONTRACTS**

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

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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  
CERTIFICATED PERSONNEL**

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

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

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

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

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

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

***Emergency Exemptions from Postretirement Compensation Limitation***

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

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

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

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

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

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

**DEL MAR UNION SCHOOL DISTRICT  
CERTIFICATED PERSONNEL**

**BOARD POLICY 4117.13: EARLY RETIREMENT OPTION**

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

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

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

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

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

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

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

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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  
CERTIFICATED PERSONNEL**

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

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

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

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

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

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

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

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

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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  
CERTIFICATED PERSONNEL**

**BOARD POLICY 4117.2: RESIGNATION**

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

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

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

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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  
CERTIFICATED PERSONNEL**

**BOARD POLICY 4117.3: PERSONNEL REDUCTION**

The Governing Board may reduce the number of certificated personnel, or their hours and wages, due to any of the following conditions: (Education Code 44955)

1. Declining enrollment, provided that the percentage of reduction in probationary and permanent certificated personnel shall not exceed the corresponding percentage of student attendance lost
2. Reduction or discontinuance of programs or services
3. State-mandated modification of the curriculum
4. The fiscal crisis that may occur after enactment of the Budget Act when the total revenue limit per ADA has not increased by at least two percent (Education Code 44955.5)

The Board recognizes that its authority in the reduction of personnel is subject to legal requirements. Except as otherwise provided by statute, a permanent employee who is certificated and competent to render a service shall not be terminated or given a reduction in hours and wages while a probationary employee or other employee with less seniority is retained to render the service. (Education Code 44955)

To be considered competent, an employee must have academic training and one year of full-time experience in the specialized area to which the district would be able to assign him/her. The district will also consider the recency of the employee's experience.

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**Legal Reference:**

EDUCATION CODE

44830 *Employment of certificated persons*  
44949 *Dismissal of probationary employees*  
44955 *Reduction in number of permanent employees*  
44955.5 *Termination of certificated employees*  
44956-44959.5 *Rights of employees*

GOVERNMENT CODE

3543.2 *Scope of representation*

COURT DECISIONS

Menagh v. Montebello Unified School District (1993) 20 Cal.App.4th 1846  
Forker v. Board of Trustees (1984) 160 Cal.App.3d 13  
Moreland Teachers Assoc. v. Kurze (1980) 109 Cal.App.3d 648  
King v. Berkeley Unified School District (1979) 89 Cal.App. 3d 1016

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

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4117.3:  
PERSONNEL REDUCTION**

For purposes of reduction of certificated personnel, terminations shall generally be in order of least seniority. The district may deviate from terminating or reappointing a certificated employee in order of seniority for either of the following reasons: (Education Code 44955, 44956)

1. To fill a demonstrated specific need for personnel to teach a specific course or courses of study, or to provide services authorized by a services credential with a specialization in either student personnel services or health for a school nurse, when the certificated employee has the necessary special training and experience which others with more seniority do not possess
2. To maintain or achieve compliance with constitutional requirements related to equal protection of the law

Before assigning or reassigning any certificated employee to teach a subject which he/she has not previously taught, and for which he/she does not have a teaching credential or which is not within the employee's major area of postsecondary study, the Board shall require the employee to pass a subject matter competency test in the appropriate subject. (Education Code 44955, 44956)

Terminated certificated employees shall not be subject to any requirements that were not imposed on employees who continued in service; their period of absence shall be treated as a leave of absence and not considered a break in the continuity of their service. (Education Code 44956, 44957)

***Notice and Right to Hearing***

When the district needs to reduce the number of certificated staff, the district shall adhere to the notice, hearing and layoff procedures in Education Code 44949 and 44955.

When the Board, during the time period between five days after enactment of the Budget Act and August 15, determines that the total revenue limit per ADA has not increased by at least two percent and that the district therefore needs to reduce the number of certificated staff pursuant to Education Code 44955.5, the Board shall adopt a schedule of notice and hearings, and the district shall otherwise proceed pursuant to Education Code 44949 and 44955. (Education Code 44955.5)

***Reappointment***

If the number of employees is increased or the discontinued service reestablished, permanent certificated employees under 65 years of age shall have the right to reappointment in order of seniority for 39 months after being terminated. Probationary certificated employees under 65 years of age shall have the same right for 24 months after being terminated, subject to the prior reappointment rights of permanent employees. (Education Code 44956, 44957)

**DEL MAR UNION SCHOOL DISTRICT  
CERTIFICATED PERSONNEL**

**ADMINISTRATIVE REGULATION 4117.4: DISMISSAL**

***Permanent Employees***

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

***Probationary Employees***

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

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

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***Legal References:***

**EDUCATION CODE**

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

**GOVERNMENT CODE**

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

**DEL MAR UNION SCHOOL DISTRICT  
CERTIFICATED PERSONNEL**

**ADMINISTRATIVE REGULATION 4117.5: TERMINATION AGREEMENTS**

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

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

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

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

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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  
CERTIFICATED PERSONNEL**

**ADMINISTRATIVE REGULATION 4117.6: DECISION NOT TO REHIRE**

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

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

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

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**Legal Reference:**

EDUCATION CODE

44885.5 District interns

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

44929.23 Districts with daily attendance less than 250

44948.2 Election to use provisions of Education Code 44948.3

44948.3 Dismissal of probationary employees (over 250 ADA)

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

44955 Reduction in number of permanent employees

COURT DECISIONS

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

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

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

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

**DEL MAR UNION SCHOOL DISTRICT  
CERTIFICATED PERSONNEL**

**ADMINISTRATIVE REGULATION 4117.7: EMPLOYMENT STATUS REPORTS**

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

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

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

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

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

***Notice of Other Violations***

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

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

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

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

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

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**Legal Reference:**

EDUCATION CODE

44225 Powers and duties of the Commission on Teacher Credentialing

44242.5 Reports and review of alleged misconduct

44420-44440 Adverse actions by CTC against credential holder

CODE OF REGULATIONS, TITLE 5

80303 Reports of change in employment status, alleged misconduct

80304 Notice of sexual misconduct

**Management Resources:**

WEB SITES

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

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

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

***BOARD POLICY 4118: SUSPENSION/DISCIPLINARY ACTION***

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

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

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

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**Legal Reference:**

EDUCATION CODE

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

GOVERNMENT CODE

- 3543.2 Scope of representation

HEALTH AND SAFETY CODE

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

PENAL CODE

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

COURT DECISIONS

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

**DEL MAR UNION SCHOOL DISTRICT  
CERTIFICATED PERSONNEL**

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

***Suspension Without Pay***

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

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

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

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

***Compulsory Leave***

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

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

Upon receipt of notification from the Department of Justice by telephone that a current temporary employee, substitute employee, or probationary employee serving before March 15 of the employee's second probationary year has been convicted of a violent or

serious felony, that employee shall be immediately placed on leave without pay. (Education Code 44830.1)

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

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

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

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

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

**DEL MAR UNION SCHOOL DISTRICT  
CERTIFICATED PERSONNEL**

**BOARD POLICY 4119.1: CIVIL AND LEGAL RIGHTS**

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

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

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

***Whistleblower Protection***

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

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

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

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

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

***Protection Against Liability***

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

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

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

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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  
CERTIFICATED PERSONNEL***

***BOARD POLICY 4119.11: SEXUAL HARASSMENT***

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

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

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

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

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

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

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

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

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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

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

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

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

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

**Management Resources:**

OFFICE OF CIVIL RIGHTS AND NATIONAL ASSOCIATION OF ATTORNEYS GENERAL

Protecting Students from Harassment and Hate Crime, January, 1999

WEB SITES

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

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

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

**DEL MAR UNION SCHOOL DISTRICT  
CERTIFICATED PERSONNEL**

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

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

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

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

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

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

#### Notifications

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

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

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

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

**DEL MAR UNION SCHOOL DISTRICT  
CERTIFICATED PERSONNEL**

**BOARD POLICY 4119.21:**  
**PROFESSIONAL STANDARDS**

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

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

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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**  
**CODE OF ETHICS OF THE EDUCATION PROFESSION**

***Preamble***

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

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

***Principle I. Commitment to the Student***

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

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

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

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

***Principle II. Commitment to the Profession***

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

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

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

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

Source: National Education Association, 1975

**DEL MAR UNION SCHOOL DISTRICT  
CERTIFICATED PERSONNEL**

**BOARD POLICY 4119.22: DRESS AND GROOMING**

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

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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  
CERTIFICATED PERSONNEL**

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

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

***Disclosure of Closed Session Information***

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

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

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

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

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

***Other Disclosures***

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

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

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

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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  
CERTIFICATED PERSONNEL**

**BOARD POLICY 4119.25: POLITICAL ACTIVITIES OF EMPLOYEES**

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

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

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

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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  
CERTIFICATED PERSONNEL**

**BOARD POLICY 4119.3: DUTIES OF PERSONNEL**

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

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

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

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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  
CERTIFICATED PERSONNEL**

**BOARD POLICY 4119.41: EMPLOYEES WITH INFECTIOUS DISEASE**

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

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

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

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

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

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

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

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

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

### ***Confidentiality***

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

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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  
CERTIFICATED PERSONNEL**

**BOARD POLICY 4119.42:**

**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  
CERTIFICATED PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4119.42:  
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  
CERTIFICATED PERSONNEL**

**BOARD POLICY 4119.43: 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  
CERTIFICATED PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4119.43:  
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  
CERTIFICATED PERSONNEL**

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

***Hiring***

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

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

***Classification***

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

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

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

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

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

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

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

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

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

### ***Qualifications***

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

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

### ***Qualifications for Special Education***

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

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

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

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

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

### ***Salary/Benefits***

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

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

### ***Granting Probationary Status***

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

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

### ***Release from Employment/Dismissal***

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

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

## ***Reemployment Rights***

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

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

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### ***Legal Reference:***

#### ***EDUCATION CODE***

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

#### ***CODE OF REGULATIONS, TITLE 5***

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

#### ***COURT DECISIONS***

- Kavanaugh v. West Sonoma Union High School District, (2003) 29 Cal.4<sup>th</sup> 911*

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

#### ***WEB SITES***

*CTC: <http://www.etc.ca.gov>*

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

**DEL MAR UNION SCHOOL DISTRICT  
CERTIFICATED PERSONNEL**

**BOARD POLICY 4128: SHARED TEACHING ASSIGNMENTS**

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

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

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**Legal Reference:**

GOVERNMENT CODE

3543.2 *Scope of representation*

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

**BOARD POLICY 4131: STAFF DEVELOPMENT**

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

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

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

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

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

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

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

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

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**Legal Reference:**

EDUCATION CODE

41505-41508 Pupil Retention Block Grant; school plan  
41520-41522 Teacher Credentialing Block Grant, including beginning teacher support and assessment  
41530-41532 Professional Development Block Grant  
41570-41573 School and Library Improvement Block Grant; school plan  
44032 Travel expense payment  
44259.5 Standards for preparation for all students  
44277-44279 Professional growth requirements for maintaining valid credentials  
44279.1-44279.7 Beginning Teacher Support and Assessment Program (BTSA)  
44560 Inservice preparation in ethnic backgrounds  
44570-44578 Inservice training, secondary education  
44580-44591 Inservice training, elementary teachers  
44630-44643 Professional Development and Program Improvement Act of 1968  
44681-44689 Administrator training and evaluation  
44700-44705 Classroom teacher instructional improvement program  
44735 Teaching as a Priority; teacher recruitment and retention in high-priority schools  
44755-44757.5 Inservice training in reading instruction, grades K-3  
48980 Notification of parents/guardians: schedule of minimum days  
51210 Courses of study for grades 1-6  
51220 Courses of study for grades 7-12  
52800-52870 School-Based Program Coordination Act  
56240-56245 Staff development; service to persons with disabilities  
99200-99205 Subject matter projects  
99220-99227 California Professional Development Institutes  
99230-99242 Mathematics and Reading Professional Development Program  
REPEALED EDUCATION CODE FOR CATEGORICAL PROGRAMS  
44579-44579.6 Instructional Time and Staff Development Reform Program

GOVERNMENT CODE

3543.2 Scope of representation of employee organization  
CODE OF REGULATIONS, TITLE 5  
6100-6125 Teacher qualifications, No Child Left Behind Act  
11980-11986 Mathematics and Reading Professional Development Program  
13025-13044 Professional development and program improvement programs

UNITED STATES CODE, TITLE 20

6319 Highly qualified teachers  
6601-6702 Preparing, Training and Recruiting High Quality Teachers and Principals  
7801 Definitions, highly qualified teacher

PUBLIC EMPLOYMENT RELATIONS BOARD DECISIONS

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

**Management Resources:**

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

NCLB Teacher Requirements Resource Guide, March 2004

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

California Standards for the Teaching Profession, 1997

WEB SITES

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

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

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

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

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

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

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

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

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

**Instructional Time and Staff Development Reform Program**

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

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

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

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

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

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

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

#### **Beginning Teacher Support**

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

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

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

**DEL MAR UNION SCHOOL DISTRICT  
CERTIFICATED PERSONNEL**

**BOARD POLICY 4131.5: PROFESSIONAL GROWTH**

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

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

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

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

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

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**Legal Reference:**

EDUCATION CODE

44277-44279 Requirements for professional growth

CALIFORNIA CODE OF REGULATIONS, TITLE 5

80550-80565 Generally, especially:

80550 Professional growth requirements definitions

80552-80553 Specific renewal requirements

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

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

80558 Definition of professional growth activities

80565 Professional service requirements

**Management Resources:**

CTC PUBLICATIONS

California Professional Growth Manual, second revision (1990)

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

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

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

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

The professional growth advisor shall:

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

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

**DEL MAR UNION SCHOOL DISTRICT  
CERTIFICATED PERSONNEL**

**BOARD POLICY 4132: PUBLICATION OR CREATION OF MATERIALS**

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

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

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

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

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

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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  
CERTIFICATED PERSONNEL**

**BOARD POLICY 4135: SOLICITING AND SELLING**

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

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

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

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

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**Legal Reference:**

**EDUCATION CODE**

*51520 Prohibited solicitations on school premises*

**DEL MAR UNION SCHOOL DISTRICT  
CERTIFICATED PERSONNEL**

**BOARD POLICY 4136: NONSCHOOL EMPLOYMENT**

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

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

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

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

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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  
CERTIFICATED PERSONNEL**

**BOARD POLICY 4137: TUTORING**

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

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

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**Legal Reference:**

**GOVERNMENT CODE**

*1126 Incompatible activities of employees*

**DEL MAR UNION SCHOOL DISTRICT  
CERTIFICATED PERSONNEL**

**BOARD POLICY 4139 (was BP/AR 4119): PEER ASSISTANCE AND REVIEW**

In order to assist teachers who may need additional development in subject matter knowledge and/or teaching strategies, the Governing Board shall work with the local teachers' organization to establish and maintain a program of peer assistance and review linking participating teachers with exemplary teachers serving as consulting teachers. Consulting teachers shall provide sustained, intensive support including, but not limited to, multiple classroom observations, recommendations for staff development and regular meetings with participating teachers.

The Superintendent or designee shall establish in accordance with law a joint teacher-administrator peer review panel to manage the program.

Board decisions regarding the continued employment of an individual participating teacher shall include consideration of the results of the individual's participation in the peer assistance and review program and the recommendations of the consulting teacher and review panel.

The Board shall coordinate policies and procedures related to the district's peer assistance and review program with other district activities for staff development, teacher support and staff evaluation.

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**Legal Reference:**

**EDUCATION CODE**

44279.1-44279.7 *Beginning teacher support and assessment*  
44305-44308 *Pre-internship teaching program*  
44325-44328 *District intern program*  
44490-44497 *Mentor teacher program*  
44500-44508 *Peer assistance and review program*  
44662 *Evaluation of certificated employees*  
44664 *Evaluation*

**Management Resources:**

**WEB SITES**

CSBA: <http://www.csba.org>  
CDE: <http://www.cde.ca.gov>  
California Commission on Teacher Credentialing: <http://www.ctc.ca.gov>  
California Teachers Association: <http://www.cta.org>  
California Federation of Teachers: <http://www.cft.org>

**DEL MAR UNION SCHOOL DISTRICT  
CERTIFICATED PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4139 (was BP/AR 4119):  
PEER ASSISTANCE AND REVIEW**

**Joint Teacher-Administrator Peer Review Panel**

The joint teacher-administrator peer review panel shall: (Education Code 44502)

1. Select teachers to serve as consulting teachers
2. Review peer review reports prepared by consulting teachers
3. Make recommendations to the Governing Board regarding participants in the peer assistance and review program including forwarding to the Board the names of individuals who, after sustained assistance, have been unable to demonstrate satisfactory improvement
4. Annually evaluate the impact of the program in order to improve the program, including but not limited to, interviews or surveys of program participants, and submit any recommendations for improvement to the Board and exclusive representative of certificated employees in the district

The majority of the panel shall be composed of certificated classroom teachers chosen by other certificated classroom teachers. The remainder of the panel shall be composed of school administrators chosen by the Superintendent or designee. (Education Code 44502)

**Program Participation**

Teachers may volunteer to participate in the program or may be referred as a result of an unsatisfactory rating in their performance evaluation. Teachers also may be referred pursuant to a collective bargaining agreement. (Education Code 44500)

A teacher participating in the program shall be a permanent employee of the district. (Education Code 44500)

**Selection of Consulting Teachers**

Consulting teachers shall be selected by the majority vote of the joint teacher-administrator peer review panel. The selection process shall include provisions for the panel to observe the candidate's classroom. (Education Code 44502)

A teacher selected to serve as a consulting teacher shall: (Education Code 44501)

1. Have substantial recent experience in classroom instruction
2. Have demonstrated exemplary teaching ability as indicated by, at a minimum, effective communication skills, subject matter knowledge, and mastery of a range of teaching strategies necessary to meet the needs of students in different contexts
3. Be a credentialed classroom teacher with permanent status in the district

#### Program Components

The district's peer assistance and review program shall include: (Education Code 44500)

1. Written performance goals for an individual teacher that are clearly stated, aligned with student learning and consistent with the evaluation criteria specified in Education Code 44662
2. Assistance and review through multiple observations of a teacher during periods of classroom instruction
3. A cooperative relationship between the consulting teacher and the principal with respect to the process of peer assistance and review
4. Sufficient staff development activities to assist a teacher to improve his/her teaching skills and knowledge
5. A monitoring component with a written record

The final evaluation of a teacher's participation in the program shall be made available for placement in the teacher's personnel file. (Education Code 44500)

**DEL MAR UNION SCHOOL DISTRICT  
CERTIFICATED PERSONNEL**

**BOARD POLICY 4140: BARGAINING UNITS**

The Governing Board recognizes the right of public school employees to form bargaining units, select an employee organization as the exclusive representative of their unit, and be represented by that organization in their employment relationship with the district.

The Board is committed to negotiating in good faith and respecting the rights of employees and employee organizations. As required by law, the Board shall negotiate only with the exclusive representative of each bargaining unit.

Employees shall not be intimidated, restrained, coerced or discriminated against, either by the district or by employee organizations, because of their membership or nonmembership in an employee organization.

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**Legal Reference:**

GOVERNMENT CODE

3540-3549.3 *Educational Employment Relations Act*

**DEL MAR UNION SCHOOL DISTRICT  
CERTIFICATED PERSONNEL**

**BOARD POLICY 4141: COLLECTIVE BARGAINING AGREEMENT**

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

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

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**Legal Reference:**

EDUCATION CODE

35160 Authority of governing boards

35160.1 Broad authority of school districts

GOVERNMENT CODE

3540-3549.3 Educational Employment Relations Act

CODE OF REGULATIONS, TITLE 8

31001-32997 Regulations of employee relations boards

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

**BOARD POLICY 4143: NEGOTIATIONS/CONSULTATION**

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

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

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

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

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

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

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

***Consultation***

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

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***Legal Reference:***

**GOVERNMENT CODE**

*3540-3549.3 Educational Employment Relations Act*

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

***BOARD POLICY 4143.1: PUBLIC NOTICE - PERSONNEL NEGOTIATIONS***

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

***Public Notice***

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

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

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

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

***Public Disclosure***

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

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

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

### ***Certification of Agreement***

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

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#### ***Legal Reference:***

##### **EDUCATION CODE**

42130-41234 *Financial reports and certifications*

##### **GOVERNMENT CODE**

3540.2 *Meeting and negotiating in public educational employment*

3547 *Proposals relating to representation; informing public*

3547.5 *Major provisions of agreement with exclusive representative*

##### **CODE OF REGULATIONS, TITLE 8**

32075 *PERB regional office defined*

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

32910 *Filing of EERA or HEERA complaint*

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

##### **CDE MANAGEMENT ADVISORIES**

0515.92 *Public Disclosure of Collective Bargaining Agreements, 92-01*

##### **CSBA PUBLICATIONS**

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

*Maximizing School Board Leadership: Collective Bargaining, 1996*

##### **WEB SITES**

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

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

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

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

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

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

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

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

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

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

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

***BOARD POLICY 4144: COMPLAINTS***

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

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

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

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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  
CERTIFICATED PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4144: COMPLAINTS**

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

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

***Informal Complaints***

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

***Formal Complaint Procedure - Step 1***

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

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

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

***Formal Complaint Procedure - Step 2***

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

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

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

***Formal Complaint Procedure - Step 3***

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

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

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

**DEL MAR UNION SCHOOL DISTRICT  
CERTIFICATED PERSONNEL**

**BOARD POLICY 4151: EMPLOYEE COMPENSATION**

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

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

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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  
CERTIFICATED PERSONNEL**

**BOARD POLICY 4154: HEALTH AND WELFARE BENEFITS**

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

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

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

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

***Retired Employees***

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

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

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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  
CERTIFICATED PERSONNEL**

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

***Retired Certificated Employees***

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

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

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

***Continuation of Coverage***

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

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

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

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

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

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

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

### ***Disability Insurance***

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

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

**DEL MAR UNION SCHOOL DISTRICT  
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**ADMINISTRATIVE REGULATION 4154.1:**

**ELIGIBILITY FOR HEALTH AND WELFARE BENEFITS**

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

**DEL MAR UNION SCHOOL DISTRICT  
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**BOARD POLICY 4156.2: AWARDS AND RECOGNITION**

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

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

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

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

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

The Superintendent or designee shall establish regulations governing employee awards.

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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  
CERTIFICATED PERSONNEL**

**BOARD POLICY 4156.3: EMPLOYEE PROPERTY REIMBURSEMENT**

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

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

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

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

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

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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  
CERTIFICATED PERSONNEL***

***BOARD POLICY 4156.4: EMPLOYEE CHILD CARE PROGRAM***

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

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

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

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

***BOARD POLICY 4157: EMPLOYEE SAFETY***

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

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

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

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

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

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

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

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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  
CERTIFICATED PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4157:  
EMPLOYEE SAFETY**

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

***Injury and Illness Prevention Program***

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

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

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

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

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

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

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

***Labor/Management Safety and Health Committee***

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

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

***Hearing Protection***

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

***Eye Safety Devices***

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

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

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

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

**DEL MAR UNION SCHOOL DISTRICT  
CERTIFICATED PERSONNEL**

**BOARD POLICY 4157.1: WORK-RELATED INJURIES**

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

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

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

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

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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  
CERTIFICATED PERSONNEL**

**ADMINISTRATIVE REGULATION 4157.2: ERGONOMICS**

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

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

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

1. Worksite evaluation

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

2. Control of exposures which have caused RMIs

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

3. Training

Employees shall be provided training that includes an explanation of:

- a. The district's program

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

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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  
CERTIFICATED PERSONNEL***

**BOARD POLICY 4158: EMPLOYEE SECURITY**

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

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

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

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

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

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

***Reporting of Injurious Objects***

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

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

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

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

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**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/sbranch/safety/safetyhome>

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

**DEL MAR UNION SCHOOL DISTRICT  
CERTIFICATED PERSONNEL**

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

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

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

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

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

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

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

***Notice Regarding Student Offenses Committed While Under School Jurisdiction***

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

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

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

***Notice Regarding Student Offenses Committed While Outside School Jurisdiction***

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

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

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

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

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

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

***Procedures to Maintain Confidentiality of Student Offenses***

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

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

***Use of Pepper Spray***

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

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

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

**DEL MAR UNION SCHOOL DISTRICT  
CERTIFICATED PERSONNEL**

**BOARD POLICY 4159: EMPLOYEE ASSISTANCE PROGRAMS**

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

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

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

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

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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  
CERTIFICATED PERSONNEL**

**ADMINISTRATIVE REGULATION 4161.5: MILITARY LEAVE**

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

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

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

***Compensation***

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

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

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

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

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

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

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

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

### ***Benefits***

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

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

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

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

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

***Vacation and Sick Leave Accrual***

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

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

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

***Employment Status***

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

***Pension Plan Service Credit***

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

***Reinstatement Rights***

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

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

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

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

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

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

In cases where reporting within the periods specified in items #1 and 2 above is impossible or unreasonable through no fault of the employee, he/she shall report as soon as possible after the expiration of the period. (38 USC 4312)

An employee failing to apply for reemployment within the appropriate period does not automatically forfeit his/her rights, but shall be subject to the Board's rules governing unexcused absences. (38 USC 4312)

If the employee's previous position has been abolished, he/she shall be reinstated in a position of like seniority, status, and pay, if such position exists, or to a comparable vacant position for which he/she is qualified. (Military and Veterans Code 395, 395.1)

An employee may not be reemployed if the district's circumstances have so changed as to make such reemployment impossible or unreasonable; if the accommodation, training or effort described in 38 USC 4313(a)(3), (a)(4) or (b)(2)(B) would impose an undue hardship on the district; or if the employee's position was for a brief, nonrecurrent period and there was no reasonable expectation that such employment will continue indefinitely or for a significant period. (38 USC 4312)

## Notices

The Superintendent or designee shall provide employees a notice of the rights, benefits and obligations of employees granted military leave and of the district under the Uniformed Services Employment and Reemployment Rights Act (USERRA), 38 USC 4301-4334. This requirement may be met by posting the notice where the district customarily places notices for employees. (38 USC 4334)

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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  
CERTIFICATED PERSONNEL**

**ADMINISTRATIVE REGULATION 4161.8:  
FAMILY CARE AND MEDICAL LEAVE**

***Eligibility***

The district shall grant family care and medical leave of a minimum of 12 work weeks during any 12-month period, to eligible employees, for the following reasons: (Government Code 12945.2; 29 USC 2601)

1. Because of the birth of a child of the employee or placement of a child with the employee in connection with the adoption or foster care of the child by the employee.
2. To care for the employee's child, parent or spouse with a serious health condition.
3. Because of the employee's own serious health condition that makes him/her unable to perform the functions of his/her position. However, this does not include leave taken for disability on account of pregnancy, childbirth or related medical conditions.

The district shall not interfere with, restrain or deny the exercise of any right provided to an eligible employee under the law. Also, the district shall not discharge or discriminate against any employee for opposing any practice made unlawful by, or because of his/her involvement in any proceedings related to the family care and medical leave. (Government Code 12945.2; 29 USC 2615)

***Definitions***

Child means a biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis as long as the child is under 18 years of age or an adult dependent child. (29 USC 2611; Government Code 12945.2)

Eligible employee means an employee who has at least 12 months of service with the employer, and who has at least 1,250 hours of service with the employer during the previous 12-month period. (29 USC 2611; Government Code 12945.2)

Full-time teachers are deemed to meet the 1,250 hours of service requirement. (29 CFR 825.110)

Instructional employee means an employee whose principal function is to teach; instructional employees include athletic coaches, driving instructors, special education assistants and signers for the hearing impaired. The term does not include teacher

assistants or aides, counselors, psychologists, curriculum specialists or other primarily noninstructional employees. (29 CFR 825.600)

Parent means a biological, foster or adoptive parent, a stepparent, a legal guardian, or another person who stood in loco parentis to the employee when the employee was a child. (29 USC 2611; Government Code 12945.2)

Serious health condition means an illness, injury, impairment, physical or mental condition that involves either of the following: (29 USC 2611; Government Code 12945.2)

1. Inpatient care in a hospital, hospice or residential health care facility
2. Continuing treatment or continuing supervision by a health care provider

***Rights to Reinstatement and Maintenance of Benefits***

Upon granting an employee's request for family care and medical leave, the Superintendent or designee shall guarantee to reinstate the employee in the same or a comparable position when the leave ends. (29 USC 2614; Government Code 12945.2)

The district may refuse to reinstate an employee returning from leave to the same or a comparable position if all of the following apply: (29 USC 2614, Government Code 12945.2)

1. The employee is a salaried "key employee" who is among the highest paid 10 percent of those district employees who are employed within 75 miles of the employee's worksite
2. The refusal is necessary to prevent substantial and grievous economic injury to district operations
3. The district informs the employee of its intent to refuse reinstatement at the time it determines that the refusal is necessary, and the employee fails to immediately return to service

An employee who takes leave has no greater right to reinstatement than if he/she had been continuously employed during the leave period. If the district reduces its work force during the leave period and the employee is laid off for legitimate reasons at that time, he/she is not entitled to reinstatement, provided the district has no continuing obligations under a collective bargaining agreement or otherwise. (29 CFR 825.216)

During the period when an employee is on family care and medical leave, he/she shall maintain his/her status with the district and the leave shall not constitute a break in service for purposes of longevity, seniority or any employee benefit plan.

The district shall continue to provide an eligible employee on family care and medical leave, the group health plan coverage that was in place before he/she took the leave. If the employee fails to return to district employment after the expiration of the leave, for any reason other than the continuation, recurrence or onset of a serious health condition, or other circumstances beyond his/her control, he/she shall reimburse the district for premiums paid during the family care and medical leave.

***Terms of Leave***

This 12-month period shall coincide with the fiscal year. (29 CFR 825.200)

Leave taken pursuant to the California Family Rights Act shall run concurrently with leave taken pursuant to the federal Family and Medical Leave Act (FMLA), except for any leave taken under the FMLA for disability on account of pregnancy, childbirth, or related medical conditions. In addition to family care and medical leave, an employee may be entitled to take pregnancy disability leave of up to four months. During the otherwise unpaid portion of pregnancy disability leave, the employee may use any accrued vacation, sick time or other paid leave. (Government Code 12945, 12945.2)

Leave taken for the birth or placement of a child must be concluded within the 12-month period beginning on the date of the birth or placement of the child. Such leave does not have to be taken in one continuous period of time. The basic minimum duration of the leave shall be two weeks. However, the district shall grant a request for leave of less than two weeks' duration on any two occasions. (29 USC 2612; 2 CCR 7297.3)

If both parents of a child work for the district, their family care and medical leave related to the birth or placement of the child shall be limited to a total of 12 weeks. (Government Code 12945.2; 29 USC 2612)

During the period of family care and medical leave, the district shall require the employee to use his/her accrued vacation leave, other accrued time off, and any other paid or unpaid time off negotiated with the district. Accrued sick leave shall be used when the purpose of the family care and medical leave is one for which sick leave may be taken pursuant to collective bargaining agreements and/or Board policy. (Government Code 12945.2)

***Intermittent Leave/Reduced Leave Schedule***

Leave related to the serious health condition of the employee or his/her child, parent or spouse may be taken intermittently or on a reduced leave schedule when medically necessary. In such a case, the district may require the employee to transfer temporarily to a different position for which he/she is qualified, with equivalent pay and benefits, and that could better accommodate recurring periods of leave. Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent leave or a reduced leave schedule. (2 CCR 7297.3)

Where the employee involved is an instructional employee and would be on leave for greater than 20 percent of the total number of working days in the leave period, the employee shall have the option of temporarily transferring to an available alternative position or taking leave for periods of a particular duration, not to exceed duration of the planned medical treatment. (29 USC 2618)

***Instructional Employees: Leaves Near the End of the Term***

The district may require an instructional employee to continue taking a requested leave until the end of the term in any of the following situations: (29 USC 2618)

1. If the instructional employee begins a leave of three or more weeks duration more than five weeks before the end of a term and would subsequently return to work during the last three weeks of the term
2. If the instructional employee, for reasons other than his/her own serious health condition, begins a leave of more than two weeks duration during the period that begins five weeks before the end of the term and would subsequently return to work during the last two weeks of the term
3. If the instructional employee, for reasons other than his/her own serious health condition, begins a leave of more than five days duration during the period that begins three weeks before the end of the term

***Request for Family Care and Medical Leave***

An employee shall request family care and medical leave in writing, at least 30 days before the commencement date of the leave. If the leave becomes necessary less than 30 days before its commencement, the employee shall provide such notice as soon as practicable. (29 USC 2612; Government Code 12945.2)

In every case in which the necessity for the leave is foreseeable based on planned medical treatment or supervision, the employee shall make a reasonable effort to schedule the treatment or supervision to avoid disruption of district operations. This scheduling shall be subject to the health care provider's approval. (29 USC 2612; Government Code 12945.2)

***Certification of Health Condition***

A request by an employee for family care and medical leave for his/her serious health condition, or to care for a child, parent or spouse with a serious health condition, shall be supported by a certification from the health care provider of the employee or such other person as applicable. The certification shall include the following: (29 USC 2613; Government Code 12945.2; 2 CCR 7297.0)

1. The date on which the serious health condition began

2. The probable duration of the condition
3. If the employee is requesting leave to care for a child, parent or spouse with a serious health condition, the health care provider's certification of both of the following:
  - a. Estimated amount of time the health care provider believes the employee needs to care for the child, parent or spouse
  - b. Statement that the serious health condition warrants the participation of a family member to provide care during a period of the treatment or supervision of the child, parent or spouse
4. If the employee is requesting leave because of his/her own serious health condition, the health care provider's certification that due to the serious health condition, the employee is unable to perform the functions of his/her job
5. If the employee is requesting leave for intermittent treatment or is requesting leave on a reduced leave schedule for planned medical treatment, the certification must also state the medical necessity for the leave, the dates on which treatment is expected to be given, the duration of such treatment, and the expected duration of the leave

If the district doubts the validity of a certification that accompanies a request for leave, the district may require the employee to obtain a second opinion from a district-approved health care provider, at district expense. If the second opinion is contrary to the first, the district may require the employee to obtain a third medical opinion from a third health care provider approved by both the employee and the district, again at district expense. (29 USC 2613; Government Code 12945.2)

If additional leave is needed when the time estimated by the health care provider expires, the district may require the employee to provide recertification in the manner specified in the preceding paragraph. (29 USC 2613; Government Code 12945.2)

Employees who take family care and medical leave for their own serious health conditions shall present certification from their health care provider to the effect that they are able to resume work.

### ***Notifications***

The Superintendent or designee shall post separate notices about federal and state law related to family care and medical leave in a conspicuous place. Information about employee rights and obligations related to such leaves shall also be included in employee handbooks. (29 USC 2619; 2 CCR 7297.9)

At least the first time in each six-month period that an employee requests family care and medical leave, the Superintendent or designee shall provide written notice detailing specific expectations and obligations, and explaining any consequences of a failure to meet these obligations. The notice shall include: (29 CFR 825.301)

1. A statement that the leave will be counted against the employee's annual family care and medical leave entitlement
2. Requirements for the employee to furnish medical certification of a serious health condition
3. The employee's right to substitute paid leave, conditions related to any substitution, and whether the district requires this substitution
4. Health benefit arrangements
5. If applicable, the employee's status as a "key employee" and information related to restoration of that status
6. The employee's right to restoration to the same or an equivalent job
7. The employee's potential liability for health benefits should the employee not return to service
8. The district's requirement that the employee, upon return, present medical certification to the effect that he/she is able to resume work

### **Records**

The Superintendent or designee shall maintain records pertaining to individual employees' use of family care and medical leave.

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

**DEL MAR UNION SCHOOL DISTRICT  
CLASSIFIED PERSONNEL**

**BOARD POLICY 4200: CLASSIFIED PERSONNEL**

The Governing Board shall fill each of its classified positions with qualified persons, consistent with position requirements. The primary role of classified personnel is to provide services that support and enhance the district's educational program.

Each classified staff member shall be held accountable for duties assigned to him/her and shall undergo regular performance evaluations in accordance with Board policies and regulations.

***Classification of Employees***

The Board shall classify all employees and positions not requiring certification qualifications as the classified service, except for those employees and positions specifically exempt from classified service. (Education Code 45103)

Individuals who possess certification qualifications shall not be prohibited from being employed in a classified position. (Education Code 45104)

Before employing a short-term classified employee, the Board, at a regularly scheduled meeting, shall specify the service required to be performed by the employee and shall certify the ending date of the service. The Board may shorten or extend the ending date, but the date shall not be extended beyond 75 percent of the school year, as defined. (Education Code 45103)

Each position shall have a designated title and regular minimum number of assigned hours per day, days per week and months per year. A job description shall be established for each position.

***Probationary Period***

The probationary period for classified employees shall be one (1) year.

***Assignment***

Classified employees shall be assigned by their immediate supervisors with the approval of the Superintendent or designee. They shall be required to perform those duties prescribed by the Board for the position the employee holds, in accordance with applicable job descriptions and collective bargaining agreements.

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***Legal Reference:***

**EDUCATION CODE**

- 45100-45139 *Employment of classified staff*
- 45160-45169 *Salaries and differential compensation*
- 45190-45210 *Resignation and leaves of absence*
- 45220-45320 *Merit system*
- 49406 *Examination for tuberculosis*
- 51760-51769.5 *Work experience education*

**DEL MAR UNION SCHOOL DISTRICT  
CLASSIFIED PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4200:  
CLASSIFIED PERSONNEL**

***Exemption from Classified Service***

Individuals hired solely for the following purposes are exempt from the classified service:  
(Education Code 45103)

1. Substitute or short-term employees, as defined, who are employed and paid for less than 75 percent of the school year

Substitute employee means any person employed to replace any classified employee who is temporarily absent from duty. In addition, if the district is then engaged in a procedure to hire a permanent employee to fill a vacancy in any classified position, the Governing Board may fill the vacancy through the employment, for not more than 60 calendar days, of one or more substitute employees, except to the extent that a collective bargaining agreement then in effect provides for a different period of time.

Short-term employee means any person who is employed to perform a service for the district, upon the completion of which the service required or similar services will not be extended or needed on a continuing basis.

Seventy-five percent of the school year means 195 working days, including holidays, sick leave, vacation and other leaves of absences, irrespective of the number of hours worked per day.

2. Part-time playground positions (noon duty aides), when the employees are not otherwise employed in classified positions in the district
3. Apprentices and professional experts employed on a temporary basis for a specific project regardless of length of employment
4. Full-time students employed part time
5. Part-time students employed part time in any college work-study program, or in a work experience education program conducted by a community college district, and which is financed by state or federal funds

Persons hired solely for purposes, which are exempted from the classified service shall nevertheless fulfill the obligations of classified employees related to physical examinations pursuant to Education Code 45122, fingerprinting pursuant to Education Code 45125, and tuberculosis tests pursuant to Education Code 49406. (Education Code 45106)

**DEL MAR UNION SCHOOL DISTRICT  
CLASSIFIED PERSONNEL**

**BOARD POLICY 4211: 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  
CLASSIFIED PERSONNEL**

**BOARD POLICY 4211.2: 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  
CLASSIFIED PERSONNEL***

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4211.2:  
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  
CLASSIFIED PERSONNEL**

**ADMINISTRATIVE REGULATION 4212:  
APPOINTMENT AND CONDITIONS OF EMPLOYMENT**

Upon recommendation of the Superintendent, the Governing Board shall approve the appointment of all classified employees. The position and the pay rate shall be reported to the Board at a regular meeting.

Individuals appointed to the classified staff shall, at a minimum:

1. Submit to fingerprinting as required by law (Education Code 45125)
2. Not have been convicted of a violent or serious felony (Education Code 45122.1)
3. Not have been convicted of any sex offense as defined in Education Code 44010 (Education Code 45123)
4. Not have been determined to be a sexual psychopath pursuant to Welfare and Institutions Code 6300-6332 (Education Code 45124)
5. If the individual will be working directly and in an unaccompanied setting with minor children on a more than incidental and occasional basis or will have supervision or disciplinary power over minor children, not be required to register as a sex offender pursuant to Penal Code 290 because of a conviction for a crime where the victim was a minor under the age of 16 (Penal Code 290.95)
6. Not have been convicted of any controlled substance offense as defined in Education Code 44011 (Education Code 45123)
7. Submit to a physical examination or provide proof thereof as required by law and Board policy (Education Code 45122, 49406)
8. File the oath or affirmation of allegiance required by Government Code 3100-3109
9. Submit to drug and alcohol testing as required by Board policy
10. Fulfill any other requirements as specified by law, collective bargaining agreement, Board policy or administrative regulation

### ***Notification of Classification and Compensation***

When first employed and upon each subsequent change in classification, classified employees other than short-term, limited-term or provisional employees shall be given two copies of their class specification, salary data, assignment or work location, duty hours and prescribed work-week. Salary data shall specify pay period (monthly, semimonthly or other) and applicable rates of compensation (daily, hourly, overtime and differential rates). Employees shall keep one copy of this information and shall sign and date the other copy and return it to their supervisor. (Education Code 45169)

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***Legal Reference:***

EDUCATION CODE

35161 Powers and duties  
44010 Sex offense - definitions  
44011 Controlled substance offense - definitions  
44066 Limitation on certification requirements  
45103 Classified service in districts not incorporating the merit system  
45104 Positions not requiring certification qualifications  
45105 Positions under various acts not requiring certification qualifications  
45108 Restricted positions  
45113 Rules and regulations for classified service in districts not incorporating the merit system  
45122 Physical examinations  
45122.1 Classified employees, conviction of a violent or serious felony  
45123 Employment after conviction of sex offense or controlled substance offense  
45125 Use of personal identification cards to ascertain conviction of crime  
45169 Employee salary data  
49406 Examination for tuberculosis  
60850-60856 High school exit exam

GOVERNMENT CODE

3100-3109 Oaths or affirmations  
12940-12950 Unlawful employment practices

PENAL CODE

290 Registration of sex offenders  
290.95 Disclosure by person required to register as sex offenders  
667.5 Prior prison terms, enhancement of prison terms  
1192.7 Plea bargaining limitation  
1203.4 Discharged petitioner, change of plea

WELFARE AND INSTITUTIONS CODE

6300-6332 Sexual psychopaths

**DEL MAR UNION SCHOOL DISTRICT  
CLASSIFIED PERSONNEL**

**ADMINISTRATIVE REGULATION 4212.3: 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  
CLASSIFIED PERSONNEL**

**BOARD POLICY 4212.4: 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  
CLASSIFIED PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4212.4:  
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  
CLASSIFIED PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4212.41:  
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  
CLASSIFIED PERSONNEL**

**BOARD POLICY 4212.41: 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  
CLASSIFIED PERSONNEL***

***ADMINISTRATIVE REGULATION 4212.5: CRIMINAL RECORD CHECK***

***Applicants for Employment***

Each person to be employed in a classified position, including temporary, substitute and part-time positions, shall be required to submit fingerprint identification data. However, secondary school students attending a district school who are to be employed in a temporary or part-time position shall not be required to submit fingerprint identification data. (Education Code 45125)

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 card, 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 request the Department of Justice to forward one copy of the applicant's fingerprint identification data to the Federal Bureau of Investigation for the purpose of obtaining any record of previous convictions if the applicant: (Education Code 45125)

1. Has not resided in the State of California for at least one year immediately preceding the application for employment
2. Has resided for more than one year, but less than seven years, in the State of California and the Department of Justice has ascertained that the person was convicted of a sex offense where the victim was a minor or a drug offense where an element of the offense is either the distribution to or the use of a controlled substance by a minor

The Governing Board shall not employ an applicant until the Department of Justice completes its check of the state criminal history files. (Education Code 45125)

The Superintendent or designee shall ensure that no person is hired 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 or pardon. (Education Code 45122.1)

The Superintendent or designee may hire a classified employee without waiting for the disposition of the employee's criminal history files upon a determination that an emergency or exceptional situation exists and that a delay in filling the position would endanger student health or safety. (Education Code 45125)

### ***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 45125)

### ***Current Employees***

Upon notification by telephone from the Department of Justice that a current temporary, substitute or probationary classified employee has been convicted of a violent or serious felony, the Superintendent or designee shall immediately place that employee on leave without pay, unless the employee has received a certificate of rehabilitation and a pardon. (Education Code 45122.1)

Upon receipt of written notification of the fact of conviction from the Department of Justice, the Superintendent or designee shall terminate the temporary, substitute or probationary 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 45122.1)

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 the employee with full restoration of salary and benefits. (Education Code 45122.1)

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#### ***Legal Reference:***

##### ***EDUCATION CODE***

- 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 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 Classified employees; interagency agreements*
- 45125.1 Fingerprint for contractors*
- 45125.5 Automated records check*
- 45126 Duty of Department of Justice to furnish information*

##### ***GOVERNMENT CODE***

- 6200-6203 Crimes related to public records*

##### ***PENAL CODE***

- 502 Unauthorized access to computers*
- 667.5 Violent felonies*
- 1192.7 Serious felonies*
- 11075-11081 Criminal record dissemination*
- 11105-11105.75 Criminal identification*
- 11140-11144 Furnishing of state criminal history information*
- 13300-13305 Local summary criminal history information*

##### ***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  
CLASSIFIED PERSONNEL**

**ADMINISTRATIVE REGULATION 4212.6: 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.

An 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  
CLASSIFIED PERSONNEL**

**BOARD POLICY 4212.61: 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  
CLASSIFIED PERSONNEL**

**ADMINISTRATIVE REGULATION 4212.62:  
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  
CLASSIFIED PERSONNEL**

**BOARD POLICY 4212.8: 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  
CLASSIFIED PERSONNEL***

***ADMINISTRATIVE REGULATION 4212.9: 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 classified employee membership in the Public Employees' 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 classified employee's employment status and salary
5. State disability insurance rights and benefits
6. Classified 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  
CLASSIFIED PERSONNEL**

**BOARD POLICY 4213.4:**

**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  
CLASSIFIED PERSONNEL***

***ADMINISTRATIVE REGULATION TO BOARD POLICY 4213.4:  
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  
CLASSIFIED PERSONNEL**

**BOARD POLICY 4215: EVALUATION/SUPERVISION**

The Governing Board recognizes that appropriate supervision and regular, comprehensive evaluations can help employees to continually improve in the performance of their responsibilities. Evaluations shall be made in accordance with job-specific standards of performance for the Board-approved job description.

The Board expects supervisors to gauge employees' on-the-job effectiveness and appraise their major accomplishments and progress in a fair, objective and consistent manner. Evaluations shall address the competence and care with which the employee executes his/her assigned responsibilities. As appropriate, evaluations also may address the extent to which the employee works cooperatively with others and observes school or district rules and regulations.

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

The Superintendent or designee shall ensure that classified employees have access to written rules or procedures related to the evaluation of their performance. (Education Code 45262)

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**Legal Reference:**

EDUCATION CODE

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

45261 Subjects of rules (merit system districts)

45262 Printing and distribution of rules

GOVERNMENT CODE

3543.2 Scope of representation

**DEL MAR UNION SCHOOL DISTRICT  
CLASSIFIED PERSONNEL**

**BOARD POLICY 4216: PROBATIONARY/PERMANENT STATUS**

Employees newly hired for regular positions in the classified service shall be considered probationary employees until they have satisfactorily completed one year of probationary service. Upon satisfactorily completing this period, they shall become permanent classified employees of the district.

Probationary employees shall receive written performance evaluations by their supervisor during the probationary period. These evaluations shall indicate whether the evaluator is satisfied or not satisfied with the employee's ability, performance, and compatibility with the job.

The Superintendent or designee may dismiss an employee during the initial probationary period.

Permanent employees promoted to a higher classification shall be considered probationary in their new position until they have satisfactorily completed one year of service in that position.

A permanent employee who accepts a promotion and fails to complete the probationary period for that promotional position shall be employed in the classification from which he/she was promoted. (Education Code 45113)

This policy shall be made available to classified employees and the public. (Education Code 45113)

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**Legal Reference:**

**EDUCATION CODE**

45113 Rules and regulations for classified service in districts not incorporating the merit system  
45240-45320 Merit system

**Management Resources:**

**WEB SITES**

California School Employees Association: <http://www.csea.org>

**DEL MAR UNION SCHOOL DISTRICT  
CLASSIFIED PERSONNEL**

**ADMINISTRATIVE REGULATION 4217.13:**

**EARLY RETIREMENT OPTION – HEALTH INSURANCE COVERAGE**

***Retired Classified Employees***

The district's health and welfare benefit plan and dental care benefit plan provided for classified employees shall permit enrollment by any former classified 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 classified employee who either retired from the district or was, at the time of death, employed by the district and a member of the Public Employees Retirement System. (Education Code 7000)

A retired classified 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 classified 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)

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1. An eligible classified employee who retires from active service under the Public Employees Retirement System provisions, and his/her spouse, may continue on the District's health, dental, and vision plans until age 65 at District expense consistent with District payment for current classified employees.
    - A. To be eligible, an employee must:
      - 1.) Be employed by the Del Mar Union School District at the time of application
      - 2.) Be at least 55 years of age
      - 3.) Have completed the required years of service in the Del Mar Union School District by the following ages:
        - a.) If a classified employee retires at age 55, then he/she must have completed 20 years of full time service.

- b.) If a classified employee retires at age 56, then he/she must have completed 19 years of service.
  - c.) If a classified employee retires at age 57, then he/she must have completed 18 years of service.
  - d.) If a classified employee retires at age 58, then he/she must have completed 17 years of service.
  - e.) If a classified employee retires at age 59, then he/she must have completed 16 years of service.
  - f.) If a classified employee retires at age 60, then he/she must have completed 15 years of service.
  - g.) If a classified employee retires at age 61, then he/she must have completed 14 years of service.
  - h.) If a classified employee retires at age 62, then he/she must have completed 13 years of service.
  - i.) If a classified employee retires at age 63, then he/she must have completed 12 years of service.
  - j.) If a classified employee retires at age 64, then he/she must have completed 11 years of service.
- 4. Not be on any disability retirement
  - 5. Be ineligible for reasonably comparable health benefits through any other employer

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**Legal Reference:**

EDUCATION CODE

45101 Definitions

45103 Classified service in districts not incorporating the merit system

45105 Positions under various acts not requiring certification qualifications; classification

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

45114 Layoff and reemployment procedures; definitions

45115 Layoff: Reinstatement from service retirement

45117 Notice of layoff

45286 Limited term employees

45297 Right to take equivalent examination while employee in military service

45298 Reemployment and promotional examination preference of persons laid off; voluntary demotions or reductions in time

45308 Order of layoff and reemployment; length of service

45309 Reinstatement of permanent noncertified employees after resignation

UNITED STATES CODE, TITLE 38

4301-4307 Veterans' Reemployment Rights

COURT DECISIONS

San Mateo City School District v. Public Employment Relations Board (1983) 33 Cal.3d 850, 866

**Management Resources:**

WEB SITES

California School Employees Association: <http://www.csea.com>

**DEL MAR UNION SCHOOL DISTRICT  
CLASSIFIED PERSONNEL**

**BOARD POLICY 4217.2: 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  
CLASSIFIED PERSONNEL**

**ADMINISTRATIVE REGULATION 4217.3: LAYOFF/REHIRE**

Classified employees shall be subject to layoff for lack of work or lack of funds. (Education Code 45114, 45308)

***Order of Layoff/Determination of Seniority***

The order of layoff within the class shall be determined by length of service. (Education Code 45114, 45308)

Length of service shall be determined by the date of hire. The employee who has been employed the shortest time by the district shall be laid off first.

Length of service credit shall be granted for military leave of absence, including voluntary or involuntary active duty during a period of national emergency or war as a member of the Military Reserve or the National Guard. (Education Code 45297, 45308)

Length of service credit may be granted for time spent on unpaid illness or maternity leave, unpaid family care leave, or unpaid industrial accident leave. Length of service credit shall not be granted for other types of unpaid leaves. (Education Code 45308, 45114)

Persons employed under Education Code Section 45105(b) or 45259 in "restricted" positions do not acquire permanent status under Education Code 45113 or 45301 and do not acquire seniority credits for the purpose of layoff for lack of work or lack of funds. However, after completing six months of satisfactory service, persons hired into these positions shall be given the opportunity to take qualifying examinations that are required for all other persons serving in the same class in the classified service. If they successfully complete the examination, they shall be entitled to the full rights, benefits and burdens of regular classified employees, and his/her service for layoff purposes shall be counted from the original date of employment in the "restricted" position. (Education Code 45105)

A classified employee shall not be laid off if a short-term employee is retained to render a service that the classified employee is qualified to render. (Education Code 45117)

***Notice of Layoff***

Classified employees subject to layoff because of lack of work in the event of a bona fide reduction or elimination of service being performed shall receive notice of the layoff 45 days before the effective date. They shall be informed of their displacement rights, if any, and their reemployment rights. (Education Code 45117)

In cases where positions in specially funded programs expire at the end of any school year, classified employees subject to layoff for lack of funds shall receive written notice on or before April 29. The notice shall inform them of the layoff effective at the end of the school year, their displacement rights, if any, and reemployment rights. If the termination date of the specially funded program is other than June 30, the notice shall be given at least 45 days before the effective date of the layoff. (Education Code 45117)

The district is not bound to provide 45 days' notice in the event of an actual and existing financial inability to pay the salaries of classified employees or if the layoff is due to a lack of work resulting from conditions not foreseeable or preventable by the district. (Education Code 45117)

The district also is not bound to provide 45 days' notice to any person hired as a short-term employee for a period not exceeding 45 days. (Education Code 45117)

***Voluntary Demotion or Voluntary Reduction of Hours***

Employees who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff, or in order to remain in their present position rather than be reclassified or reassigned, shall be granted the same rights as persons laid off. (Education Code 45114, 45298)

***Reemployment Eligibility***

Classified employees laid off because of lack of work or lack of funds are eligible for reemployment within a period of 39 months and shall be reemployed in preference to new applicants. Persons so laid off also have the right to apply and establish their qualification for vacant promotional positions within the district during the 39-month period. (Education Code 45114, 45298)

Employees who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff, reclassification or reassignment shall retain eligibility to be considered for reemployment in a position of the previously held class or positions with increased assigned time, provided that the same tests of fitness under which they qualified for appointment to the class are still applicable. The length of this additional period of time shall be determined by the Governing Board on a class-by-class basis and shall not exceed 24 months. (Education Code 45114, 45298)

Employees who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff shall have the option of returning to a position in their former class or to positions with increased assigned time as vacancies become available, and without limitation of time. If there is a valid reemployment list they shall be ranked on that list in accordance with their proper seniority. (Education Code 45114, 45298)

Upon rejecting two offers of reemployment, the employee's name will be removed from the reemployment list and he/she will forfeit all reemployment rights to which he/she would otherwise be entitled.

When an employee is notified of a vacancy and fails to respond or report to work within time limits specified by district procedures, his/her name will be removed from the reemployment list and he/she will forfeit all reemployment rights to which he/she would otherwise be entitled.

### ***Reemployment Procedures***

Reemployment shall be in reverse order of layoff. (Education Code 45114, 45298, 45308)

In order to be reinstated, an employee must be fully capable of performing the normal and customary duties of the job. Employees whose physical condition is such that they cannot be reinstated at the time called for reemployment will be kept on the reemployment list until physically capable of returning to work or for a period not to exceed 39 calendar months.

When a vacancy occurs, the senior employee who has held prior permanency in the position shall be so notified by certified U.S. mail at his/her last known address and given the opportunity to accept or reject appointment into the vacant position. The employee shall advise the district of his/her decision no later than 10 calendar days following notification. If the employee accepts, he/she shall report to work no later than two calendar weeks from the vacancy notification date or on a later date specified by the district.

When a laid-off employee is reemployed, all accumulated sick leave credit shall be restored.

A laid-off permanent employee shall be reemployed with all rights and benefits accorded to him/her at the time of layoff. A laid-off probationary employee shall be reemployed as a probationary employee, and the time served toward the completion of the required probationary period shall be counted. He/she shall also be reemployed with all rights and benefits accorded to him/her at the time of layoff.

A laid-off employee, when reemployed, shall be placed on the salary step held at the time of layoff. An employee who bumped into a lower class shall, when reinstated to the previous class, be placed on the salary step to which he/she would have progressed had he/she remained there. An adjusted anniversary date shall be established for step increment purposes so as to reflect the actual amount of time served in the district.

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**Legal Reference:**

EDUCATION CODE

45101 Definitions

45103 Classified service in districts not incorporating the merit system

45105 Positions under various acts not requiring certification qualifications; classification

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

45114 Layoff and reemployment procedures; definitions

45115 Layoff: Reinstatement from service retirement

45117 Notice of layoff

45286 Limited term employees

45297 Right to take equivalent examination while employee in military service

45298 Reemployment and promotional examination preference of persons laid off; voluntary demotions or reductions in time

45308 Order of layoff and reemployment; length of service

45309 Reinstatement of permanent noncertified employees after resignation

UNITED STATES CODE, TITLE 38

4301-4307 Veterans' Reemployment Rights

COURT DECISIONS

San Mateo City School District v. Public Employment Relations Board (1983) 33 Cal.3d 850, 866

**Management Resources:**

WEB SITES

California School Employees Association: <http://www.csea.com>

**DEL MAR UNION SCHOOL DISTRICT  
CLASSIFIED PERSONNEL**

**ADMINISTRATIVE REGULATION 4217.5: 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  
CLASSIFIED PERSONNEL**

**ADMINISTRATIVE REGULATION 4218:  
DISMISSAL/SUSPENSION/DISCIPLINARY ACTION**

***Termination of Probationary Employment***

At any time prior to the expiration of the probationary period, the Superintendent or designee may, at his/her discretion, dismiss a probationary classified employee from district employment. A probationary employee shall not be entitled to a hearing.

***Involuntary Suspension Without Pay, Demotion, Reduction of Pay Step in Class, or Dismissal of Permanent Classified Employees***

Permanent classified employees shall be subject to personnel action (suspension without pay, demotion, reduction of pay step in class, dismissal) only for cause. The Board's determination of the sufficiency of the cause for disciplinary action shall be *conclusive*.

1. Causes

In addition to any disqualifying or actionable causes otherwise provided for by statute or by policy or regulation of this district, each of the following constitutes cause for personnel action against a permanent classified employee:

- a. Falsifying any information supplied to the school district, including, but not limited to, information supplied on application forms, employment records, or any other school district records
- b. Incompetency
- c. Inefficiency
- d. Neglect of duty
- e. Insubordination
- f. Dishonesty
- g. Drinking alcoholic beverages while on duty or in such close time proximity thereto as to cause any detrimental effect upon the employee or upon employees associated with him/her
- h. Possessing or being under the influence of a controlled substance at work or away from work, or furnishing a controlled substance to a minor

- i. Conviction of a felony, conviction of any sex offense made relevant by provisions of law, or conviction of a misdemeanor which is of such a nature as to adversely affect the employee's ability to perform the duties and responsibilities of his/her position. A plea or verdict of guilty, or a conviction following a plea of nolo contendere, is deemed to be a conviction for this purpose.
- j. Absence without leave
- k. Immoral conduct
- l. Discourteous treatment of the public, students, or other employees
- m. Improper political activity
- n. Willful disobedience
- o. Misuse of district property
- p. Violation of district, Board or departmental rule, policy, or procedure
- q. Failure to possess or keep in effect any license, certificate, or other similar requirement specified in the employee's class specification or otherwise necessary for the employee to perform the duties of the position
- r. Refusal to take and subscribe any oath or affirmation, which is required by law in connection with his/her employment
- s. A physical or mental disability which precludes the employee from the proper performance of his/her duties and responsibilities as determined by competent medical authority, except as otherwise provided by a contract or by law regulating the retirement of employees
- t. Unlawful discrimination, including harassment, on the basis of race, religious creed, color, national origin, ancestry, physical handicap, marital status, sex, or age against the public or other employees while acting in the capacity of a district employee
- u. Unlawful retaliation against any other district officer or employee or member of the public who, in good faith, reports, discloses, divulges, or otherwise brings to the attention of any appropriate authority any information relative to an actual or suspected violation of state or federal law occurring on the job or directly related thereto

- v. Any other failure of good behavior either during or outside of duty hours, which is of such nature that it causes discredit to the district or his/her employment

Except as defined in item "s" above, no personnel action shall be taken for any cause which arose before the employee became permanent, nor for any cause which arose more than two years before the date of the filing of the notice of cause unless this cause was concealed or not disclosed by the employee when it could be reasonably assumed that the employee would have disclosed the facts to the district.

2. Initiation and Notification of Charges

The Superintendent or designee may initiate a personnel action as defined herein against a permanent classified employee.

In all cases involving a personnel action, the person initiating the action shall file a written recommendation of personnel action with the Board. A copy of the recommendation shall be served upon the employee either personally or by registered or certified mail, return receipt requested, at the employee's last known address. The recommendation shall include:

- a. A statement of the nature of the personnel action (suspension without pay, demotion, reduction of pay step in class, or dismissal)
- b. A statement of the cause or causes for the personnel action, as set forth above
- c. A statement of the specific acts or omissions upon which the causes are based. If a violation of rule, policy, or regulation of the district is alleged, the rule, policy, or regulation violated shall be stated in the recommendation
- d. A statement of the employee's right to appeal the recommendation and the manner and time within which the appeal must be filed
- e. A card or paper, the signing and filing of which shall constitute a demand for hearing and a denial of all charges

3. Employment Status Pending Appeal or Waiver

Except as provided herein, any employee against whom a recommendation of personnel action has been issued shall remain on active duty status and responsible for fulfilling the duties of the position pending his/her appeal or waiver thereof.

If the Superintendent or designee determines that a permanent classified employee should be dismissed and that his/her continuing in active duty status *would*

present an unreasonable risk of harm to students, staff, or property while proceedings are pending, the Superintendent or designee may order the employee immediately suspended from duty without pay in conjunction with the recommendation of personnel action. This suspension order shall be in writing and shall state the reasons that the suspension is deemed necessary. The suspension order shall be served upon the employee either personally or by registered or certified mail, return receipt requested, immediately after issuance. Except in cases of emergency when the employee must be removed from the premises immediately, the Superintendent or designee shall give the employee written notice of the proposed recommendation of dismissal at least five calendar days before the effective date of any order of suspension issued in conjunction with a recommendation involving dismissal. This notice shall state that immediate suspension without pay is being considered, the reasons for the proposed dismissal and proposed immediate suspension without pay, materials upon which the proposed action is based, and the employee's right to respond to the Superintendent or designee orally or in writing before the final recommendation and order are issued.

4. Time Limit of Suspension

Except for a suspension imposed under #3 above, any suspension invoked under these rules against any one person for one or more periods shall not aggregate more than 90 calendar days in any 12-month period; however, this time limitation shall not apply to cases in which a personnel action of dismissal is modified by the Board to a suspension.

5. Right to Appeal

Within five calendar days after receiving the recommendation of personnel action described above, the employee may appeal by signing and filing the card or paper included with the recommendation. Any other written document signed and appropriately filed within the specified time limit by the employee shall constitute a sufficient notice of appeal. A notice of appeal is filed only by delivering the notice of appeal to the office of the Superintendent or designee during normal work hours of that office. A notice of appeal may be mailed to the office of the Superintendent or designee but must be received or postmarked no later than the time limit stated herein. In cases where an order of suspension without pay has been issued in conjunction with a recommendation of dismissal, any appeal of the recommendation of dismissal shall also constitute an appeal of the suspension order, and the necessity of the order shall be an issue in the appeal hearing.

If the employee fails to file a notice of appeal within the time specified in these rules, he/she shall be deemed to have waived his/her right to appeal, and the Board may order the recommended personnel action into effect immediately.

6. Amended/Supplemental Charges

At any time before an employee's appeal is finally submitted to the Board or to a hearing officer for decision, the complainant may, with the consent of the Board or hearing officer, serve on the employee and file with the Board an amended or supplemental recommendation of personnel action.

If the amended or supplemental recommendation presents new causes or allegations, the employee shall be afforded a reasonable opportunity to prepare his/her defense. Any new causes or allegations shall be deemed controverted and any objections to the amended or supplemental causes or allegation may be made orally at the hearing and shall be noted on the record.

7. Hearing Procedures

- a. The hearing shall be held at the earliest convenient date, taking into consideration the established schedule of the Board or hearing officer and the availability of counsel and witnesses. The parties shall be notified of the time and place of the hearing. The employee shall be entitled to appear personally, produce evidence, and have counsel. The employee shall be entitled to a public hearing if he/she demands it when the Board is hearing the appeal. The complainant may also be represented by counsel. The procedure entitled "Administrative Adjudication" commencing with Government Code 11500 shall not apply to any such hearing before the Board or a hearing officer. Neither the Board nor a hearing officer shall be bound by rules of evidence used in California courts. Informality in any such hearing shall not invalidate any order or decision made or approved by the hearing officer or the Board.
- b. All hearings shall be heard by a hearing officer (who shall be an attorney licensed in the State of California) except in those cases where the Board determines to hear the appeal itself. In any case in which the Board hears the appeal, the Board may use the services of its counsel or a hearing officer in ruling upon procedural questions, objections to evidence, and issues of law. If the appeal is heard by the Board, the Board shall affirm, modify or revoke the recommended personnel action.
- c. If the appeal is heard by a hearing officer, he/she shall prepare a proposed decision in a form that may be adopted by the Board as the decision in the case. A copy of the proposed decision shall be received and filed by the Board and furnished to each party within 10 days after the proposed decision is filed by the Board. The Board may:
  - (1) Adopt the proposed decision in its entirety.
  - (2) Reduce the personnel action set forth in the proposed decision and adopt the balance of the proposed decision.

- (3) Reject a proposed reduction in personnel action, approve the personnel action sought by the complainant or any lesser penalty, and adopt the balance of the proposed decision.
  - (4) Reject the proposed decision in its entirety.
- d. If the Board rejects the proposed decision in its entirety, each party shall be notified of such action and the Board may decide the case upon the record including the transcript, with or without the taking of additional evidence, or may refer the case to the same or another hearing officer to take additional evidence. If the case is so assigned to a hearing officer, he/she shall prepare a proposed decision, as provided in item "c" above, upon the additional evidence and the transcript and other papers which are part of the record of the prior hearing. A copy of this proposed decision shall be furnished to each party within 10 days after the proposed decision is filed by the Board.
- e. In arriving at a decision or a proposed decision on the propriety of the proposed personnel action, the Board or the hearing officer may consider the records of any prior personnel action proceedings against the employee in which a personnel action was ultimately sustained and any records that were contained in the employee's personnel files and introduced into evidence at the hearing.

8. Hearing Decision

The decision of the Board shall be in writing and shall contain findings of fact and the personnel action approved, if any. The findings may reiterate the language of the pleadings or simply refer to them.

The decision of the Board shall be certified to the Superintendent or designee who recommended the personnel action, and he/she shall enforce and follow this decision. A copy of the decision shall be delivered to the appellant or his/her designated representative personally or by registered mail. The decision *of the* Board shall be final.

9. Compulsory Dismissal

The district shall not employ or retain in employment any person who has been convicted of any sex offense as defined in Education Code 44010 or any controlled substance offense as defined in Education Code 44011. However, the district may employ a person convicted of a controlled substance offense if the Board determines from the evidence it requires that the person has been rehabilitated for at least five years. If any such conviction is reversed and the person acquitted or charges dismissed except as otherwise provided below, the employee may be reemployed by the district, although reemployment is not a guarantee. (Education Code 45123)

The district reserves the right to dismiss an employee for any acts upon which the original criminal charges were based, despite the disposition by the courts. If dismissal is recommended and upheld, an employee will not be reemployed or compensated for the time he/she was suspended unless otherwise required by law. An employee shall be given notice of the possibility of not being reimbursed during mandatory suspension if he/she is ultimately dismissed for the acts upon which the original charges were based.

10. Extension of Compulsory Leave

The Board may extend an employee's compulsory leave of absence by giving him/her notice, within 10 days after the entry of judgment in the proceedings, that he/she will be dismissed in 30 days unless he/she demands a hearing. Employee compensation during the period of compulsory leave shall be made in accordance with law. (Education Code 44940.5)

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**Legal Reference:**

EDUCATION CODE

35161 *Delegation of powers and duties*

44009 *Conviction of specified crimes*

44010 *Sex offense*

44011 *"Controlled substance offense" defined*

44940 *Leave of absence; employee charged with mandatory or optional leave of absence offense*

44940.5 *Compulsory leave of absence; procedures; extension; compensation; bond or security; reports*

45101 *Definitions (including "disciplinary action," "cause")*

45109 *Fixing of duties*

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

45123 *Employment after conviction of sex or narcotics offense*

45302 *Demotion and removal from permanent classified service*

45303 *Additional cause for suspension or dismissal of employees in classified service*

45304 *Suspension for reasonable cause; filing of charges; employee charged with mandatory or optional leave of absence offense*

VEHICLE CODE

1808.8 *School bus drivers; dismissal for safety-related cause*

UNITED STATES CODE, TITLE 42

12101 -12213 *Americans With Disabilities Act*

COURT DECISIONS

CSEA v. Foothill Community College District, 52 Cal. App. 3rd 150, 155-156, 124 Cal. Rptr 830 (1975)

**DEL MAR UNION SCHOOL DISTRICT  
CLASSIFIED PERSONNEL**

**BOARD POLICY 4219.1: 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  
CLASSIFIED PERSONNEL***

***BOARD POLICY 4219.11: 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

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

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

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

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

**Management Resources:**

OFFICE OF CIVIL RIGHTS AND NATIONAL ASSOCIATION OF ATTORNEYS GENERAL

Protecting Students from Harassment and Hate Crime, January, 1999

WEB SITES

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

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

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

**DEL MAR UNION SCHOOL DISTRICT  
CLASSIFIED PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4219.11:  
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  
CLASSIFIED PERSONNEL***

***BOARD POLICY 4219.2: EMPLOYMENT RESPONSIBILITIES***

Each classified position represents a service that is important in carrying on the program of public education in this district. The community expects much from its public employees in return for adequate salaries and responsible conditions of employment.

The first responsibility of any employee is to do well in the position to which he/she has been assigned. The safety and health of students are affected by the condition of the buildings, ground and equipment. The Governing Board believes that since the classified employees are working in an educational environment and many are working closely with students they should attempt to conduct themselves in a manner that will serve as a good example to youth.

Public education is a cooperative venture involving the services of many people. The district functions best when there is a spirit of cooperation among all employees when the employees have confidence in and respect for the rights and responsibilities of others.

Each employee should seek to learn as much as possible about the total program of the schools, for he/she will be called upon frequently to answer questions about the schools and to interpret the school program to the community.

**BOARD POLICY 4219.2 • EXHIBIT 1**

**CODE OF ETHICS  
CLASSIFIED EMPLOYEES**

School employees who are in daily contact with many phases of educational work should be persons whose conduct is beyond reproach and who sincerely believe in the advancement of education and the betterment of working conditions; therefore, the California School Employees' Association proposes this Code of Ethics as a standard for its members.

**AS A SCHOOL EMPLOYEE I WILL:**

1. Be proud of my vocation in order that I may use my best endeavors to elevate the standards of my position so that I may merit a reputation for high quality of service -- to the end that others may emulate my example.
2. Be a person of integrity, clean speech, desirable personal habits, and physical fitness.
3. Be just in my criticism and be generous in my praise; to improve and not destroy.
4. At all times be courteous in my relations with students, parents, teachers and others.
5. Be a resourceful person who readily adapts himself to different kinds of work and changed conditions and finds better ways to do things.
6. Conduct myself in a spirit of friendly helpfulness to my fellow employees to the end that I will consider no personal success legitimate or ethical which is secured by taking unfair advantage of another.
7. Associate myself with employees of other districts for the purpose of discussing school problems and cooperating in the improvement of public school conditions.
8. Always uphold my obligations as a citizen to my nation, my state, my school district and my community, and give them unswerving loyalty.
9. Always bear in mind that the purpose of CSEA is to promote the efficiency and raise the standards of all school employees and that I shall be equally obligated to assist all my fellow workers.

**SOURCE: CALIFORNIA SCHOOL EMPLOYEES' ASSOCIATION**

**DEL MAR UNION SCHOOL DISTRICT  
CLASSIFIED PERSONNEL**

**BOARD POLICY 4219.22: 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  
CLASSIFIED PERSONNEL**

**BOARD POLICY 4219.23: 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  
CLASSIFIED PERSONNEL**

**BOARD POLICY 4219.25: 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  
CLASSIFIED PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4219.25:  
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  
CLASSIFIED PERSONNEL**

**BOARD POLICY 4219.3: 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  
CLASSIFIED PERSONNEL**

**BOARD POLICY 4219.41: 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  
CLASSIFIED PERSONNEL**

**BOARD POLICY 4219.42:**

**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  
CLASSIFIED PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4219.42:  
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  
CLASSIFIED PERSONNEL**

**BOARD POLICY 4219.43: 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  
CLASSIFIED PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4219.43:  
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  
CLASSIFIED PERSONNEL***

***BOARD POLICY 4222: TEACHER AIDES/PARAPROFESSIONALS***

The Governing Board recognizes that paraprofessionals support student learning by providing valuable assistance to teachers and other certificated personnel and enabling greater individualized instruction and supervision of students. Such employees may perform instructional and/or administrative tasks in accordance with law, Board policy and administrative regulation.

The Superintendent or designee shall ensure that paraprofessionals possess the qualifications required by law for their positions.

Paraprofessionals shall be under the immediate supervision and direction of certificated personnel.

In determining the assignment of paraprofessionals, the Superintendent or designee shall consider the greatest benefit to students based on such factors as class size, grade levels, student needs, subject matter and teacher workload.

Each paraprofessional shall be provided with a clear definition of his/her roles and responsibilities.

The Superintendent or designee shall ensure that all paraprofessionals receive ongoing support and regular performance assessments. Teachers shall receive training in how to collaborate effectively with an assistant and are expected to assign duties consistent with written job descriptions for paraprofessionals.

The Board encourages qualified paraprofessionals to pursue opportunities that lead to attainment of a teaching credential and enable them to increase their skills and experience in the classroom.

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**Legal Reference:**

EDUCATION CODE

44390-44393 California School Paraprofessional Teacher Training Program

44833 Postsecondary students as nonteaching aides

44835 Duties of nonteaching work study aides

45330 Paraprofessionals

45340-45349 Instructional aides

45350-45354 Teacher assistants

45360-45367 Teacher aides

54480-54486 Special Teacher Employment Programs

CODE OF REGULATIONS, TITLE 5

12065-12070 Teacher aides for Special Teacher Employment Programs

UNITED STATES CODE, TITLE 20

6311 State plans

6314 Schoolwide programs

6315 Targeted assistance schools

6318 Parent involvement

6319 Qualifications for teachers and paraprofessionals

CODE OF FEDERAL REGULATIONS, TITLE 34

200.58-200.59 Qualifications and duties of paraprofessionals

**Management Resources:**

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

*Roles for Education Paraprofessionals in Effective Schools, 1997*

WEB SITES

CTC Paraprofessional Teacher Training Program: <http://www.ctc.ca.gov/para>

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

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

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

California School Employees Association: <http://www.csea.com>

National Resource Center for Paraprofessionals: <http://www.nrcpara.org>

National Clearinghouse for Paraeducator Resources:

<http://www.usc.edu/dept/education/CMMR/Clearinghouse.html>

***DEL MAR UNION SCHOOL DISTRICT  
CLASSIFIED PERSONNEL***

***ADMINISTRATIVE REGULATION TO BOARD POLICY 4222:  
TEACHER AIDES/PARAPROFESSIONALS***

***Qualifications and Duties of Paraprofessionals***

No person shall be initially assigned to assist in instruction as a paraprofessional unless he/she has demonstrated proficiency in reading, writing and mathematics skills up to or exceeding that required for high school seniors pursuant to Education Code 51220(a) and (f) in the high school district that includes all or the largest portion of the district. (Education Code 45330, 45344.5, 45361.5)

A paraprofessional who has passed a proficiency test in another district shall be considered to have met the district's proficiency standards, unless the district determines that the other district's test is not comparable. (Education Code 45344.5, 45361.5)

Instructional aides shall perform only such duties as, in the judgment of the certificated personnel to whom the instructional aide is assigned, may be performed by a person not licensed as a classroom teacher. These duties shall not include assignment of grades to students. (Education Code 45344)

Instructional aides need not perform their duties only in the physical presence of the teacher, but the teacher shall retain responsibility for the instruction and supervision of the students in his/her charge. (Education Code 45344)

**DEL MAR UNION SCHOOL DISTRICT  
CLASSIFIED PERSONNEL**

**BOARD POLICY 4231: STAFF DEVELOPMENT**

Classified staff shall have opportunities to participate in staff development activities in order to improve job skills, retrain to meet changing conditions in the district and/or enhance personal growth.

The Superintendent or designee shall develop a program of ongoing staff development designed to improve general workplace skills and/or skills and knowledge specific to the duties of each classified position. Staff development activities may include, but not be limited to, training in:

1. The role of classified staff in achieving district goals
2. The use of technologies to improve job performance
3. Effective interaction with other staff, students, parents/guardians and community members
4. Issues related to student health, safety and welfare

The district's staff development plan for classified staff shall be coordinated with school improvement objectives and school-site plans.

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

The Superintendent or designee shall provide a means for continual evaluation of the benefit of these activities to staff and the district.

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**Legal Reference:**

**EDUCATION CODE**

44032 Travel expense payment

44579-44579.4 Instructional Time and Staff Development Reform Program

45380-45387 Retraining and study leave (classified)

56240-56245 Staff development; service to persons with disabilities

**GOVERNMENT CODE**

3543.2 Scope of representation of employee organization

**CODE OF REGULATIONS, TITLE 5**

6000-6002 Instructional Time and Staff Development Reform Program

**PUBLIC EMPLOYMENT RELATIONS BOARD DECISIONS**

San Mateo City School District, (1984) PERB Dec. No. 375, 8 PERC 15021

Jefferson School Districts, (1980) PERB Dec. No. 133, 4 PERC 11117

**DEL MAR UNION SCHOOL DISTRICT  
CLASSIFIED PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4231:  
STAFF DEVELOPMENT**

Staff development opportunities for classified staff may include, but are not limited to, the following:

1. Visits to other schools and school districts
2. Local and state conferences involving other classified personnel
3. Training classes and workshops offered by the district, county office of education, institution of higher education, private organization or other appropriate agency
4. Access to a professional library, which shall include books and reference materials related to job responsibilities

***Classified Classroom Instructional Aides***

Classified classroom instructional aides may participate in staff development related to the academic content of the core curriculum and/or instructional methods, including teaching strategies, classroom management and other training designed to improve student performance. Such staff development shall be conducted on days that are not counted as instructional time and shall meet other requirements of Education Code 44579.1.

Probationary and permanent classified employees shall not receive regular pay on such staff development days unless they are required to report for duty on those days. (Education Code 44579.1)

**DEL MAR UNION SCHOOL DISTRICT  
CLASSIFIED PERSONNEL**

**BOARD POLICY 4232: 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  
CLASSIFIED PERSONNEL**

**BOARD POLICY 4235: 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  
CLASSIFIED PERSONNEL**

**BOARD POLICY 4236: 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  
CLASSIFIED PERSONNEL**

**BOARD POLICY 4240: BARGAINING UNITS**

The Governing Board recognizes the right of public school employees to form bargaining units, select an employee organization as the exclusive representative of their unit, and be represented by that organization in their employment relationship with the district.

The Board is committed to negotiating in good faith and respecting the rights of employees and employee organizations. As required by law, the Board shall negotiate only with the exclusive representative of each bargaining unit.

Employees shall not be intimidated, restrained, coerced or discriminated against, either by the district or by employee organizations, because of their membership or nonmembership in an employee organization.

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**Legal Reference:**

**GOVERNMENT CODE**

3540-3549.3 *Educational Employment Relations Act*

**DEL MAR UNION SCHOOL DISTRICT  
CLASSIFIED PERSONNEL**

**BOARD POLICY 4241: COLLECTIVE BARGAINING AGREEMENT**

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

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

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***Legal Reference:***

**EDUCATION CODE**

35160 Authority of governing boards

35160.1 Broad authority of school districts

**GOVERNMENT CODE**

3540-3549.3 Educational Employment Relations Act

**CODE OF REGULATIONS, TITLE 8**

31001-32997 Regulations of employee relations boards

**DEL MAR UNION SCHOOL DISTRICT  
CLASSIFIED PERSONNEL**

**BOARD POLICY 4243: NEGOTIATIONS/CONSULTATION**

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

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

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

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

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

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

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

***Consultation***

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

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***Legal Reference:***

GOVERNMENT CODE

3540-3549.3 *Educational Employment Relations Act*

***DEL MAR UNION SCHOOL DISTRICT  
CLASSIFIED PERSONNEL***

***BOARD POLICY 4243.1: PUBLIC NOTICE - PERSONNEL NEGOTIATIONS***

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

***Public Notice***

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

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

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

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

***Public Disclosure***

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

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

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

### ***Certification of Agreement***

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

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#### ***Legal Reference:***

##### EDUCATION CODE

42130-41234 *Financial reports and certifications*

##### GOVERNMENT CODE

3540.2 *Meeting and negotiating in public educational employment*

3547 *Proposals relating to representation; informing public*

3547.5 *Major provisions of agreement with exclusive representative*

##### CODE OF REGULATIONS, TITLE 8

32075 *PERB regional office defined*

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

32910 *Filing of EERA or HEERA complaint*

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

##### CDE MANAGEMENT ADVISORIES

0515.92 *Public Disclosure of Collective Bargaining Agreements, 92-01*

##### CSBA PUBLICATIONS

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

*Maximizing School Board Leadership: Collective Bargaining, 1996*

##### WEB SITES

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

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

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

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

**DEL MAR UNION SCHOOL DISTRICT  
CLASSIFIED PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4243.1:  
PUBLIC NOTICE - PERSONNEL NEGOTIATIONS**

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

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

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

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

**DEL MAR UNION SCHOOL DISTRICT  
CLASSIFIED PERSONNEL**

**BOARD POLICY 4244: 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  
CLASSIFIED PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4244: 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  
CLASSIFIED PERSONNEL**

**BOARD POLICY 4251: 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  
CLASSIFIED PERSONNEL***

***BOARD POLICY 4254: HEALTH AND WELFARE BENEFITS***

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

Classified 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 classified employee health records in accordance with law.

***Retired Classified Employees***

Retired classified employees and other qualified persons 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 classified 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  
CLASSIFIED PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4254:  
HEALTH AND WELFARE BENEFITS**

For the 2005/2006 school year, the District will contribute up to a maximum of \$8,048 per full-time classified employee per school year for health, dental, vision and life insurance policies.

1. Effective October 1, 1999, part-time employees whose regular assignment by the District is at least four hours per day but less than eight hours, and who have been employed by the District in a full or partial paid status continuously for at least three school years shall be entitled to a partial payment of the premium for Kaiser health benefits for the employee only. For an employee eligible under this provision, the District will contribute up to seventy percent of the premium per month (for twelve months per year while the employee remains eligible) toward the purchase of benefits under the Kaiser health benefit program. In order to participate in the benefit program, the eligible employee must complete the required enrollment forms during the open enrollment period and he/she must agree in writing to contribute, by automatic monthly payroll deduction, the difference between the District contribution and the premium cost of the health benefit program.
2. If in any year(s), the costs for the health benefits program exceed the specific maximum contribution per full-time employee per school year, the amount over the specific maximum contributions will be deducted from the paychecks of the employee.

***Retired Classified Employees***

The district's health and welfare benefit plan and dental care benefit plan provided for classified employees shall permit enrollment by any former classified 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 classified employee who either retired from the district or was, at the time of death, employed by the district and a member of the Public Employees Retirement System. (Education Code 7000)

A retired classified 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)

*Board Policy/Administrative Regulation 4254 (was BP 4210 Approved Jan. 10, 1996, Revisions Approved Nov. 13, 1996, Apr. 14, 1999, Mar. 30, 2004): Approved by the Board of Trustees March 28, 2006*

If a retired classified 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. Pursuant to and consistent with applicable law, such as Education Code sections 7000-7003, once a classified 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 classified 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 classified 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)

*Board Policy/Administrative Regulation 4254 (was BP 4210 Approved Jan. 10, 1996, Revisions Approved Nov. 13, 1996, Apr. 14, 1999, Mar. 30, 2004): Approved by the Board of Trustees March 28, 2006*

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  
CLASSIFIED PERSONNEL**

**BOARD POLICY 4256.2: 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  
CLASSIFIED PERSONNEL**

**BOARD POLICY 4256.3: 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  
CLASSIFIED PERSONNEL***

***BOARD POLICY 4256.4: EMPLOYEE CHILD CARE PROGRAM***

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

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

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

***DEL MAR UNION SCHOOL DISTRICT  
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***BOARD POLICY 4257: 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  
CLASSIFIED PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4257:  
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  
CLASSIFIED PERSONNEL**

**BOARD POLICY 4257.1: 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  
CLASSIFIED PERSONNEL**

**ADMINISTRATIVE REGULATION 4257.2: 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  
CLASSIFIED PERSONNEL**

**BOARD POLICY 4258: 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.

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**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  
CLASSIFIED PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4258:  
EMPLOYEE SECURITY**

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

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

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

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

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

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

***Notice Regarding Student Offenses Committed While Under School Jurisdiction***

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

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

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

***Notice Regarding Student Offenses Committed While Outside School Jurisdiction***

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

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

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

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

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

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

***Procedures to Maintain Confidentiality of Student Offenses***

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

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

***Use of Pepper Spray***

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

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

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

**DEL MAR UNION SCHOOL DISTRICT  
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**BOARD POLICY 4259: 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  
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**BOARD POLICY 4261: LEAVES**

The Governing Board shall provide for paid and unpaid employee leaves of absence in accordance with law, Board policy, administrative regulation and collective bargaining agreements.

The Board recognizes the following justifiable reasons for absence as provided by law:

1. Personal illness or injury
2. Industrial accident or illness
3. Childbirth and recovery, care of newborn, placement of a child with the employee for foster care or adoption of a child
4. Military service
5. Family illness or accident; bereavement; fire, flood or other immediate danger to the employee's home or property; and other personal emergencies
6. Vacations for classified staff and certificated management staff, as applicable
7. Jury duty or required court appearances
8. Religious observances
9. Participation in child's school or day care activities
10. For certificated staff, sabbaticals for purposes of study or travel; for classified staff, sabbaticals for purposes of study or retraining
11. Attendance at work-related meetings and staff development opportunities
12. Compulsory leave

***Long-Term Leaves***

With Board approval, employees may receive a long-term leave of absence without pay and without increment, seniority or service credit, for a period of up to one school year. Applications for long-term leave shall be made in writing and shall state the purpose for which leave is requested. All long-term leave agreements shall be in writing and shall

state the terms and conditions of the leave, including the conditions governing the employee's return.

At the end of a long-term leave, the employee shall be reinstated in a position at the same level as that held at the time leave was granted, unless otherwise agreed upon.

The Board shall consider any written request by an employee to return to work prior to the expiration date of the leave.

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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*

*44842 Failure to provide notice or to report to work*

*44940 Sex offenses and narcotic offenses; compulsory leave of absence*

*44962-44988 Leaves of absence (certificated)*

*45190-45210 Leaves of absence (classified)*

*GOVERNMENT CODE*

*3543.2 Scope of representation*

**DEL MAR UNION SCHOOL DISTRICT  
CLASSIFIED PERSONNEL**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 4261: LEAVES**

***Disability Leave***

The Governing Board may grant a leave of absence to any certificated employee who has applied for disability benefits, not to exceed 30 days beyond final determination of the employee's eligibility for disability benefits by the State Teachers' Retirement System. If the employee is determined to be eligible, that leave shall be extended for the term of the disability, but not more than 39 months. (Education Code 44986)

***Return to Service After Leaves***

By February 1 of each school year, the clerk or secretary of the Board may request any certificated employee on leave of absence to notify the district, in the manner described in Education Code 44842, of his/her intention to remain in service with the district the following school year. (Education Code 44842)

For year-round schools with a track that starts within 14 days of July 1, by April 30 of each school year, the district may request that any certificated employee on a leave of absence notify the district in the manner described in Education Code 44842 of his/her intention to remain in service with the district the following school year. (Education Code 44842)

Following a request by the district to give notice in the manner described in Education Code 44842, an employee who is on leave of absence for 20 or more consecutive working days after April 30 of any school year may have his/her employment terminated if: (Education Code 44842)

1. The employee, without good cause, fails to notify the district by July 1 that he/she intends to remain in service the following school year.
2. The employee, without good cause and without being granted a leave of absence, fails to report for duty at the beginning of the next school year for 20 consecutive days after being notified at least five days in advance of the time and place at which to report to work.

***Use of Leaves by Classified Employees***

A classified employee may interrupt or terminate vacation leave in order to begin another type of paid leave without a return to active service, as long as the employee provides adequate notice and relevant supporting information regarding the basis for such interruption or termination. (Education Code 45200)

***DEL MAR UNION SCHOOL DISTRICT  
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**ADMINISTRATIVE REGULATION 4261.1:  
PERSONAL ILLNESS/INJURY LEAVE**

Full-time classified employees are entitled to 12 days leave of absence, with full pay, for personal illness or injury per fiscal year. Employees who serve less than a full fiscal year or less than five days a week shall be granted comparable sick leave in proportion to the time they work. (Education Code 45191)

An employee may take sick leave at any time during the year, even if credit for sick leave has not yet been accrued. However, new employees shall not be entitled to more than six days of sick leave until they have completed six months of active service with the district. (Education Code 45191)

When available paid leave has been exhausted, the employee shall be so notified in writing and shall be offered an opportunity to request additional leave. (Education Code 45195)

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 45191)

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

A classified employee who leaves the district after at least one year of employment and accepts employment in another district or county office of education within one year shall have transferred with him/her the total amount of accumulated sick leave. This provision shall not apply to employees whose employment is terminated due to action initiated by the district for cause. The district shall not require new employees to waive their leave accumulated in a previous district. (Education Code 45202)

Sick leave may be used by a classified employee for:

1. Absences caused by accident or illness, whether or not the absence arises out of or in the course of employment, or by quarantine which results from contact during the performance of the employee's duties with other persons having a contagious disease (Education Code 45199)
2. Absences due to pregnancy, childbirth and recovery (Education Code 45193)

3. Cases of personal necessity (Education Code 45207)
4. Medical or 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 45192)
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 as necessary. 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 by 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 12 Days***

Each year, regular classified employees shall be credited with 100 working days of paid sick leave, including those current-year and accumulated days for which the employee is entitled to full pay. This paid sick leave shall be exclusive of any other paid leave, holidays, vacation or compensatory time to which the employee may be entitled. When the current-year and accumulated days at full pay are exhausted, the remainder of the 100 days shall be compensated at 50 percent of the employee's regular salary. Any such days of leave not used during the year in which they are credited shall be forfeited and shall not accumulate from year to year.

After a permanent employee who is absent because of nonindustrial accident or illness has exhausted all available sick leave, vacation, compensatory overtime and any other paid leave, he/she shall be so notified in writing and offered an opportunity to request additional leave. The Board may grant the employee additional leave, paid or unpaid, for a period not to exceed six months and may renew this leave for two additional six-month periods or for lesser periods. Total leave so granted shall not exceed 18 months. (Education Code 45195)

When a classified employee has exhausted all available leaves, paid or unpaid, and is still not able to resume his/her duties, the employee shall be placed on a reemployment list for a period of 39 months. If during this time the employee becomes able, he/she shall be reemployed in the first vacancy in the classification of his/her previous assignment. The employee's reemployment shall take preference over all other applicants except those laid off for lack of work or funds, in which case the employee shall be ranked according to his/her seniority. (Education Code 45195)

### ***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, after giving notice to the employee, may 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***

*45190 Leaves of absence and vacations*

*45191 Leaves of absence for illness and injury*

*45193 Leave of absence for pregnancy (re use of sick leave under certain circumstances)*

*45195 Additional leave for nonindustrial accident or illness; reemployment preference*

*45196 Salary; deductions during sick leave*

*45202 Transfer of accumulated sick leave and other benefits*

***LABOR CODE***

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

**DEL MAR UNION SCHOOL DISTRICT  
CLASSIFIED PERSONNEL**

**ADMINISTRATIVE REGULATION 4261.11:  
INDUSTRIAL ACCIDENT/ILLNESS LEAVE**

Leave of absence for industrial accidents or illnesses shall be provided to classified employees who have served in the district continuously for at least three years.

In each fiscal year, allowable leave for any single industrial accident or illness shall be for 60 working days. (Education Code 45192)

Allowable leave shall not accumulate from year to year. (Education Code 45192)

When a classified employee is absent from his/her duties because of an industrial accident or illness: (Education Code 45192)

1. Industrial accident or illness leave shall start on the first day of absence.
2. Payment for wages lost on any day shall not, when added to an award granted the employee under the workers' compensation laws of this state, exceed the normal wage for the day.
3. Industrial accident or illness leave shall be reduced by one day for each day of authorized absence, regardless of a compensation award made under workers' compensation.
4. If an industrial accident or illness leave overlaps into the next fiscal year, the employee is entitled to only that amount remaining at the end of the fiscal year in which the injury or illness occurred, for the same illness or injury.

Upon expiration of allowable leave for an industrial accident or illness, the employee shall use personal illness and injury leave as provided by Education Code 45191. If the employee continues to receive workers' compensation, he/she shall be entitled to use only as much of his/her accumulated or available sick leave, accumulated compensating time, vacation or other available leave as, when added to the employee's workers' compensation award, will provide for a full day's wage or salary. (Education Code 45192)

During any paid leave of absence, the employee shall endorse to the district the workers' compensation 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 and other authorized contributions. (Education Code 45192)

When available paid leave has been exhausted, the employee shall be so notified in writing and shall be offered an opportunity to request additional leave. (Education Code 45192)

When all available leaves of absence, paid or unpaid, have been exhausted and the employee is not medically able to assume the duties of his/her position, the employee shall be placed either in another position or on a reemployment list for a period of 39 months. If during this time the employee becomes medically able, he/she shall be employed in a vacant position in the class of his/her previous assignment over all other available candidates, except for a reemployment list established because of lack of work or lack of funds, in which case the employee shall be listed in accordance with appropriate seniority regulations. An employee who has been placed on a reemployment list and has been medically released for return to duty, but fails to accept an appropriate assignment, shall be dismissed. (Education Code 45192)

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 45192)

During this leave, the employee may return to his/her position without suffering any loss of status or benefits. Periods of leave of absence, paid or unpaid, shall not be considered to be a break in service of the employee. (Education Code 45192)

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***Legal Reference:***

***EDUCATION CODE***

*45191 Leave of absence for illness or injury*

*45192 Industrial accident and illness leaves for classified employees*

**DEL MAR UNION SCHOOL DISTRICT  
CLASSIFIED PERSONNEL**

**ADMINISTRATIVE REGULATION 4261.2: 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 (3) days, or five (5) days if out-of-state and/or in-state travel that exceeds 400 miles 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 employee's or the employee's spouse's mother (stepmother), father (stepfather), daughter (stepdaughter, daughter-in-law), son (stepson, son-in-law), grandmother, grandfather, granddaughter, grandson sister (stepsister, sister-in-law) brother (stepbrother, brother-in-law, niece, nephew, aunt, uncle; 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  
CLASSIFIED PERSONNEL**

**ADMINISTRATIVE REGULATION 4261.3: PROFESSIONAL LEAVES**

The Governing Board may grant a leave of absence of up to one year to classified employees for the purpose of permitting study or retraining the employee to meet changing conditions within the district (Education Code 45381)

To be eligible for a leave for study purposes, the employee must have served in the district for at least seven consecutive years preceding the leave, unless the leave is for purposes of retraining, in which case the employee must have served in the district for at least three consecutive years. Sick leave shall not be deemed a break in service, except if it will not be included as service in computing service for the granting of any subsequent professional leave. (Education Code 45382)

No more than one such leave of absence shall be granted in each seven or three-year period. (Education Code 45382)

The Board may require that such leaves of absence be taken in separate six-month periods or in any other appropriate periods as long as the total leave is completed within three years. Any period of service by the employee between the separate periods of leave shall comprise a part of the service required for qualifying for a subsequent leave of absence. (Education Code 45381)

Every employee granted a leave of absence for these purposes may be required to perform such services during the leave as the Board and employee may agree upon in writing. (Education Code 45383)

The employee shall receive such compensation during the leave as the Board and employee agree upon in writing, which shall be not less than the difference between the employee's salary and the salary of a substitute employee. In lieu of such a difference, the Board may pay one-half of the salary of the employee or any additional amount up to and including the full salary of the employee. (Education Code 45383)

Compensation during the leave shall be paid in the manner authorized by Education Code 45384.

The Board may grant reimbursement of the costs, including tuition fees, to any permanent classified employee who satisfactorily completes approved training to improve his/her job knowledge, ability or skill. Programs eligible for reimbursement include, but are not limited to, courses of study at approved academic institutions, seminars and training institutes conducted by recognized professional associations, conferences, meetings and other training programs designed to upgrade the classified service and encourage the retraining of employees who may otherwise be subject to layoff as the result of technological changes. (Education Code 45387)

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**Legal Reference:**

**EDUCATION CODE**

*45380-45387 Leaves of absence for study or retraining, classified personnel*

**DEL MAR UNION SCHOOL DISTRICT  
CLASSIFIED PERSONNEL**

**BOARD POLICY 4262: VACATION PLAN**

**A. Eligibility:**

All classified employees shall be provided paid vacations. Employees shall not be permitted to take vacation days during their initial 6-month probationary period.

**B. Paid Vacation:**

Employees shall accrue paid vacation according to hours of daily service, for each month they are in paid status. Upon completing six (6) months of employment, employees may request from their Director/Supervisor to use vacation leave. However, employees may only use the vacation leave, which they earned during those six (6) months. Any exception to this directive must be approved by the Superintendent. All employees shall earn vacation benefits on a fiscal year basis (July 1 – June 30).

**C. Vacation Schedule For 12-Month Employees:**

- 12 working days with pay after one year
- 15 working days with pay after five years
- 18 working days with pay after ten years

**Vacation Schedule For Less Than 12-Month Employees:**

Employees who work less than 12 months shall accrue paid vacation prorated on the basis of the length of their regularly assigned work year.

**Vacation Schedule For Management Employees:**

Employees who are designated as management employees and who are 12-month employees shall receive twenty-two (22) working days paid vacation per year. Such management employees who work less than twelve months shall receive paid vacation prorated on the basis of the length of their regularly assigned work year.

**D. Vacation Pay:**

Pay for vacation days for classified employees shall be the same as that which the employee would have received had they been in a working status.

**E. Vacation Pay Upon Termination:**

An employee terminating for any reason, after six (6) months of service, shall be paid for any unused vacation earned. The termination date will be the employee's last day of service, and any unused vacation to be paid will be computed to that date.

**F. Vacation Postponement:**

1. If an employee's vacation becomes due during a period when they are on leave due to illness or injury, they may request that their vacation date be changed, and the District shall grant such request in accordance with vacation dates available at

the time. The employee may elect to have their vacation rescheduled in accordance with the vacation schedule available at the time, or may request to carry-over vacation to the following year.

2. If for any reason a classified employee is not permitted to take all or any part of their annual vacation the amount not taken shall be accumulated for use in the following year.

**G. Limit On Accrual Of Vacation:**

An employee may not accumulate more than twice their allowed annual vacation days of accrued vacation benefits. If an employee's balance of accrued vacation benefits reaches or exceeds twice their allowed annual vacation days, then the District will pay the employee the cash value of the number of days in excess of twice their allowed annual vacation days. This payment and related adjustment to the employee's benefit accrual balance shall occur at the subsequent pay period.

**H. Holidays:**

When a paid holiday falls during the scheduled vacation of an employee, such paid holiday shall not be counted as a vacation day.

**I. Vacation Scheduling:**

Vacations shall be scheduled by the District at times requested by employees consistent with the best interest of the District and within the District's work requirement.

**J. Interruption Of Vacation:**

A classified employee shall be permitted to interrupt or terminate vacation leave in order to begin another type of paid leave without a return to active service, provided the employee supplies prior written notice and supporting information regarding the basis for such interruption or termination.

**K. Holidays:**

Classified employees shall be granted the following fourteen (14) holidays with pay to be scheduled each year by the District provided they are in paid status during a portion of the working day immediately preceding or succeeding the holiday:

New Year's Day	Labor Day
Martin Luther King, Jr. Day	Veteran's Day
Lincoln's Day	Thanksgiving Holidays (2)
Washington's Day	Christmas Holidays (2)
Memorial Day	New Year's Eve
Independence Day	Admission Day <u>or</u> Local Holiday

Classified employees also shall be granted pursuant to applicable and current law additional holidays which are declared by the President or the Governor, as provided for in subdivisions (b) and (c) of Education Code Section 37200 for a public fast, thanksgiving or holiday; or any day declared a holiday under Education Code Section

37222. To be eligible for any such additional holidays, classified employees must be in paid status during a portion of the working day immediately preceding or succeeding the holiday.

Pursuant to applicable and current law, classified employees also shall receive regular pay whether or not they are required to report for work on school days which pupils would otherwise have been in attendance but are not and for which certificated personnel receive regular pay. To be eligible for any such additional paid day, classified employees must be in paid status during a portion of the working day immediately preceding or succeeding the paid day.

***Legal Reference:***

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*Education Code section 45197, 45200*

*Board Policy 4262 (was Board Policy 4206 Adopted by the Board: January 10, 1996; Revisions Approved April 15, 1998, December 8, 1999, January 23, 2002) Approved by the Board of Trustees: April 25 2006*

**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 retiree

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 retirees 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**

**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**

**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 4312.61: 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 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 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 4317.11: 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**

**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.

**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 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 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 4319.11: 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 4319.3: 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 4319.41: 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

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INSURANCE CODE

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UNITED STATES CODE, TITLE 26

4980B COBRA continuation coverage

UNITED STATES CODE, TITLE 29

1161-1168 COBRA continuation coverage

UNITED STATES CODE, TITLE 42

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

**Management Resources:**

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**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.

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**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 4361.11:  
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**

**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*