

DRUG AND ALCOHOL-FREE WORKPLACE

The Board of Directors believes that the maintenance of a drug- and alcohol-free workplace is essential to staff and student safety and to help ensure a productive and safe work and learning environment.

(cf. 4112.41/4212.41/4312.41 - Employee Drug Testing)

An employee shall not unlawfully manufacture, distribute, dispense, possess, or use any controlled substance in the workplace. (Government Code 8355; 41 USC 8103)

Employees are prohibited from being under the influence of controlled substances or alcohol while on duty. For purposes of this policy, *on duty* means while an employee is on duty during both instructional and noninstructional time in the classroom or workplace, at extracurricular or cocurricular activities, or while transporting students or otherwise supervising them. *Under the influence* means that the employee's capabilities are adversely or negatively affected, impaired, or diminished to an extent that impacts the employee's ability to safely and effectively perform his/her job.

(cf. 4032 - Reasonable Accommodation)

The Chief Executive Officer (CEO) or designee shall notify employees of the Santa Clarita Valley School Food Services Agency's (SCVSFSA) prohibition against drug use and the actions that will be taken for violation of such prohibition. (Government Code 8355; 41 USC 8103)

(cf. 4112.9 – Employee Notifications)

An employee shall abide by the terms of this policy and shall notify SCVSFSA, within five days, of his/her conviction for violation in the workplace of any criminal drug statute. (Government Code 8355; 41 USC 8103)

The CEO or designee shall notify the appropriate federal granting or contracting agency within 10 days after receiving notification, from an employee or otherwise, of any conviction for a violation occurring in the workplace. (41 USC 8103)

In accordance with law and SCVSFSA's collective bargaining agreements, the CEO or designee shall take appropriate disciplinary action, up to and including termination, against an employee for violating the terms of this policy and/or shall require the employee to satisfactorily participate in and complete a drug assistance or rehabilitation program approved by a federal, state, or local public health or law enforcement agency or other appropriate agency.

(cf. 4112 - Appointment and Conditions of Employment)

DRUG AND ALCOHOL-FREE WORKPLACE (continued)

Drug-Free Awareness Program

The CEO or designee shall establish a drug-free awareness program to inform employees about: (Government Code 8355; 41 USC 8103)

1. The dangers of drug abuse in the workplace
2. SCVSFSA's policy of maintaining a drug-free workplace
3. Available drug counseling, rehabilitation, and employee assistance programs
4. The penalties that may be imposed on employees for drug abuse violations occurring in the workplace

Legal Reference:

EDUCATION CODE

44011 *Controlled substance offense*

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

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

44940 *Compulsory leave of absence for certificated persons*

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

45123 *Employment after conviction of controlled substance offense*

45304 *Compulsory leave of absence for classified persons*

GOVERNMENT CODE

8350-8357 *Drug-free workplace*

UNITED STATES CODE, TITLE 20

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

UNITED STATES CODE, TITLE 21

812 *Schedule of controlled substances*

UNITED STATES CODE, TITLE 41

701-707 *Drug-Free Workplace Act*

CODE OF FEDERAL REGULATIONS, TITLE 21

1308.01-1308.49 *Schedule of controlled substances*

COURT DECISIONS

Cahoon v. Governing Board of Ventura USD, (2009) 171 Cal.App.4th 381

Ross v. RagingWire Telecommunications, Inc., (2008) 42 Cal.4th 920

Management Resources:

WEB SITES

California Department of Alcohol and Drug Programs: <http://www.adp.ca.gov>

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

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

GAMUT update 11/10

NONDISCRIMINATION IN EMPLOYMENT

The Board of Directors is determined to provide Santa Clarita Valley School Food Services Agency (SCVSFSA) employees and job applicants a safe, positive environment where they are assured of full and equal employment access and opportunities, and protection from harassment or intimidation, and freedom from any fear of reprisal or retribution for asserting their employment rights in accordance with law.

No SCVSFSA employee shall be discriminated against or harassed by any coworker, supervisor, manager, or other person whom the employee comes in contact in the course of employment, on the basis of the person's actual or perceived race, religious creed, color, national origin, ancestry, age, marital status, pregnancy, physical or mental disability, medical condition, genetic information, military and veteran status, gender, gender identity, gender expression, sex, or sexual orientation, or association with a person or group with one or more of these actual or perceived characteristics.

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 4119.41/4219.41/4319.41 - Employees with Infectious Disease)

Discrimination in employment based on the characteristics listed above is prohibited in all areas of employment and in all employment-related practices, including the following:

1. Discrimination in hiring, compensation, terms, conditions, and other privileges of employment
2. taking of an adverse employment action, such as termination or the denial of employment, promotion, job assignment, or training
3. Unwelcome conduct, whether verbal, physical, or visual, that is so severe or pervasive as to adversely affect an employee's employment opportunities, or that has the purpose or effect of unreasonably interfering with the individual's work performance or creating an intimidating, hostile, or offensive work environment.
4. Actions and practices identified as unlawful or discriminatory pursuant to Government Code 12940 or CCR 11006-11086, such as:
 - a. Sex discrimination based on an employee's pregnancy, childbirth, breastfeeding, or any related medical condition or on an employee's gender, gender expression, or gender identity, including transgender status
 - b. Religious creed discrimination based on an employee's religious belief or observance, including his/her religious dress or grooming practices, or based on the district's failure or refusal to use reasonable means to accommodate an employee's religious belief, observance, or practice which conflicts with an employment requirement.
 - c. Disability discrimination based on a district requirement for a medical or psychological examination of a job applicant, or an inquiry into whether a job applicant has a mental or physical disability or a medical condition or as to the severity of any such disability or condition, without the showing of a job-related need or business necessity

NONDISCRIMINATION IN EMPLOYMENT (continued)

d. Disability discrimination based on the SCVSFSA's failure to make reasonable accommodation for the known physical or mental disability of an employee or to engage in a timely, good faith, interactive process with an employee, to determine effective reasonable accommodations for the employee, when he/she has requested reasonable accommodation for a known physical or mental disability or medical condition

(cf. 4119.41 – Employees with Infectious Disease)
(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

The Board also prohibits retaliation against any SCVSFSA employee who opposes any discriminatory employment practice by the SCVSFSA or its employees, agent, or representatives or who complains, testifies, assists, or in any way participates in the SCVSFSA's complaint process pursuant to this policy. No employee who requests an accommodation for any protected characteristic listed in this policy shall be subjected to any punishment or sanction, regardless of whether the request was granted. (Government Code 12940)

Complaints concerning employment discrimination, harassment, or retaliation shall immediately be investigated in accordance with procedures specified in the accompanying administrative regulation.

Any supervisory or management employee who observes or has knowledge of an incident of prohibited discrimination, or harassment, shall report the incident to the CEO or designated SCVSFSA coordinator as soon as practical after the incident. All other employees are encouraged to report such incidents to their supervisor immediately. The SCVSFSA shall protect any employee who does report such incidents from retaliation.

The CEO or designee shall use all appropriate means to reinforce the district's nondiscrimination policy. He/she shall provide training and information to employees about how to recognize harassment, discrimination, or other related conduct, how to respond appropriately, and components of the SCVSFSA's policies and regulations regarding discrimination. The CEO or designee shall regularly review the SCVSFSA's employment practices and, as necessary, shall take action to ensure agency compliance with the nondiscrimination laws.

In addition, the CEO or designee shall post, in a conspicuous place on agency premises, the California Department of Fair Employment and housing publication on workplace discrimination and harassment issued pursuant to 2 CCR 11013.

Any SCVSFSA employee who engages in prohibited discrimination, harassment, or retaliation or who aids, abets, incites, compels, or coerces another to engage or attempt to engage in such behavior in violation of this policy shall be subject to disciplinary action, up to and including dismissal.

(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

NONDISCRIMINATION IN EMPLOYMENT (continued)

The following position is designated as Coordinator for Nondiscrimination in Employment:

Chief Executive Officer (CEO)
25210 Anza Drive
Valencia, CA 91355
(661) 295-1574 ext. 103

Any employee or job applicant who believes that he/she has been or is being discriminated against or harassed in violation of SCVSFSA policy should, as appropriate, immediately contact his/her supervisor, the Coordinator, or the CEO who shall advise the employee or applicant about the SCVSFSA's procedures for filing, investigating, and resolving any such complaint.

Complaints regarding employment discrimination or harassment shall immediately be investigated in accordance with AR 4031 - Complaints Concerning Discrimination in Employment.

(cf. 4031 - Complaints Concerning Discrimination in Employment)

SCVSFSA's policy shall be posted in all SCVSFSA district schools. (5 CCR 4960)

NONDISCRIMINATION IN EMPLOYMENT (continued)

Legal Reference:

EDUCATION CODE

200-262.4 *Prohibition of discrimination*

CIVIL CODE

51.7 *Freedom from violence or intimidation*

GOVERNMENT CODE

11135 *Unlawful discrimination*

11138 *Rules and Regulations*

12900-12996 *Fair Employment and Housing Act*

PENAL CODE

422.56 *Definitions, hate crimes*

CODE OF REGULATIONS, TITLE 2

11006-11086 *Discrimination in employment*

11013 *Recordkeeping*

11019 *Terms, conditions and privileges of employment*

11023 *Harassment and discrimination prevention and correction*

11024 *Sexual harassment training and education*

CODE OF REGULATIONS, TITLE 5

4900-4965 *Nondiscrimination in elementary and secondary education*

UNITED STATES CODE, TITLE 20

1681-1688 *Title IX of the Education Amendments of 1972*

UNITED STATES CODE, TITLE 29

621-634 *Age Discrimination in Employment Act*

794 *Section 504 of the Rehabilitation Act of 1973*

UNITED STATES CODE, TITLE 42

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

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

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

2000h-2-2000h-6 *Title IX of the Civil Rights Act of 1964*

6101-6107 *Age discrimination in federally assisted programs*

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*

104.7 *Designation of responsible employee for Section 504*

104.8 *Notice*

106.8 *Designation of responsible employee and adoption of grievance procedures*

106.9 *Dissemination of policy*

110.1-110.39 *Nondiscrimination on the basis of age*

COURT DECISIONS

Thompson v. North American Stainless LP, (2011) 131S.Ct. 863

Shephard v. Loyola Marymount, (2002) 102 Cal.App.4th 837

Management Resources:

CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING PUBLICATIONS

California Law Prohibits Workplace Discrimination and Harassment, December 2014

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

Notice of Non-Discrimination, August 2010

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONS

Questions and Answers: Religious Discrimination in the Workplace, 2008

New Compliance Manual Section 15: Race and Color Discrimination, April 2006

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

NONDISCRIMINATION IN EMPLOYMENT (continued)

WEB SITES

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

U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/about/offices/list/ocr>

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

(4/13 4/15 12/15) **12/16**

Policy

SANTA CLARITA VALLEY SCHOOL FOOD SERVICES AGENCY

adopted: May 15, 2012

Valencia, California

REVISED: March 7, 2016 LS

October 18, 2016 LS

October 26, 2017

COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT

Complaint Procedure

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

1. **Notice and Receipt of Complaint:** Any employee or job applicant (the "complainant") who believes he/she has been subjected to prohibited discrimination or harassment shall promptly inform his/her supervisor or the Chief Executive Officer (CEO).

The complainant may file a written complaint in accordance with this procedure, or if he/she is an employee, may first attempt to resolve the situation informally with his/her supervisor.

A supervisor or manager who has received information about an incident of discrimination or harassment, or has observed such an incident, shall report it to the CEO, whether or not the complainant files a written complaint.

The written complaint should contain the complainant's name, the name of the individual who allegedly committed the act, a description of the incident, the date and location where the incident occurred, any witnesses who may have relevant information, other evidence of the discrimination or harassment, and any other pertinent information which may assist in investigating and resolving the complaint.

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

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4032 - Reasonable Accommodation)

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

2. **Investigation Process:** The CEO shall initiate an impartial investigation of an allegation of discrimination or harassment within five school days of receiving notice of the behavior, regardless of whether a written complaint has been filed or whether the written complaint is complete.

The CEO shall meet with the complainant to describe Santa Clarita Valley School Food Services Agency's (SCVSFSA) complaint procedure and discuss the actions being sought by the complainant in response to the allegation. The CEO shall inform the complainant that the allegations will be kept confidential to the extent possible, but that some information may be revealed as necessary to conduct an effective investigation.

(cf. 3580 - District Records)

(cf. 4112.6/4212.6/4312.6 - Personnel Files)

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)

COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT (continued)

If the CEO determines that a detailed fact-finding investigation is necessary, he/she shall begin the investigation immediately. As part of this investigation, the CEO should interview the complainant, the person accused, and other persons who could be expected to have relevant information.

When necessary to carry out his/her investigation or to protect employee or student safety, the CEO may discuss the complaint with SCVSFSA's legal counsel or risk manager.

The CEO also shall determine whether interim measures, such as scheduling changes, transfers, or leaves, need to be taken before the investigation is completed to ensure that further incidents do not occur. The CEO shall ensure that such interim measures do not constitute retaliation.

3. **Written Report on Findings and Corrective Action:** At the recommendation of the Agency's Legal Counsel, no more than 60 days after receiving the complaint, the CEO shall conclude the investigation and prepare a written report of his/her findings. This timeline may be extended for good cause. If an extension is needed, the CEO shall notify the complainant and explain the reasons for the extension.

The report shall include the decision and the reasons for the decision and shall summarize the steps taken during the investigation. If a determination has been made that discrimination or harassment occurred, the report also shall include any corrective action(s) that have been or will be taken to address the behavior, correct the effect on the complainant, and ensure that retaliation or further discrimination or harassment does not occur.

The report shall be presented to the complainant and the person accused.

4. **Appeal to the Board of Directors:** The complainant or the person accused may appeal any findings to the Board within 10 working days of receiving the written report of the CEO's findings. The CEO or designee shall provide the Board with all information presented during the investigation. Upon receiving an appeal, the Board shall schedule a hearing as soon as practicable. Any complaint against a SCVSFSA employee shall be addressed in closed session in accordance with law. The Board shall render its decision within 10 working days.

(cf. 1312.1 - Complaints Concerning District Employees)
(cf. 9321 - Closed Session Purposes and Agendas)

COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT (continued)

Other Remedies

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

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

Legal Reference: (see next page)

COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT (continued)

Legal Reference:

EDUCATION CODE

200-262.4 *Prohibition of discrimination*

GOVERNMENT CODE

12920-12921 *Nondiscrimination*

12940-12948 *Discrimination prohibited; unlawful practices, generally*

UNITED STATES CODE, TITLE 20

1681-1688 *Title IX of the Education Amendments of 1972*

UNITED STATES CODE, TITLE 29

621-634 *Age Discrimination in Employment Act*

794 *Section 504 of the Rehabilitation Act of 1973*

UNITED STATES CODE, TITLE 42

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

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

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

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

12101-12213 *Americans with Disabilities Act*

CODE OF FEDERAL REGULATIONS, TITLE 28

35.101-35.190 *Americans with Disabilities Act*

CODE OF FEDERAL REGULATIONS, TITLE 34

106.8 *Designation of responsible employee for Title IX*

Management Resources:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONS

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

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

WEB SITES

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

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

REASONABLE ACCOMMODATION

Except when undue hardship would result to the Santa Clarita Valley School Food Services Agency (SCVSFSA), the Chief Executive Officer (CEO) or designee shall provide reasonable accommodation:

1. In the job application process, to any qualified job applicant with a disability
2. To enable any qualified employee with a disability to perform the essential functions of the position he/she holds or desires to hold or to enjoy equal benefits or other terms, conditions, and privileges of employment as other similarly situated employees without disabilities

No employee or job applicant who requests an accommodation for his/her physical or mental disability shall be subjected to discrimination or to any punishment or sanction, regardless of whether the request for accommodation was granted. (Government Code 12940).

SCVSFSA 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.

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4031 - Complaints Concerning Discrimination in Employment)

Definitions

Disability, with respect to an individual, is defined as any of the following: (Government Code 12926; 20 CFR 1630.2)

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

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

Essential functions are the fundamental job duties of the position the individual with a disability holds or desires. The term does not include the marginal functions of the position. (Government Code 12926; 29 CFR 1630.2)

Reasonable accommodation means: (Government Code 12926; 29 CFR 1630.2)

REASONABLE ACCOMMODATION (continued)

1. For a qualified job applicant with a disability, modifications or adjustments to the job application process that enable him/her to be considered for the position he/she desires
2. For a qualified employee with a disability, modifications or adjustments to the work environment, or to the manner or circumstances under which the position the employee holds or desires is customarily performed, that enable him/her to perform the essential functions of that position or to enjoy equal benefits and privileges of employment as are enjoyed by SCVSFSA's other similarly situated employees without disabilities

Qualified individual with a disability means a job applicant or employee with a disability who: (29 CFR 1630.15, 1630.2)

1. Satisfies the requisite skill, experience, education, and other job-related requirements of the employment position he/she holds or desires
2. Can perform the essential functions of the position with or without reasonable accommodation
3. Would not pose a significant risk of substantial harm, which cannot be eliminated or reduced by reasonable accommodation, to himself/herself or others in the job he/she holds or desires

Undue hardship is a determination based on an individualized assessment of current circumstances that shows that the provision of a specific accommodation would cause significant difficulty or expense to SCVSFSA. (29 CFR 1630.2)

Request for Reasonable Accommodation

When requesting reasonable accommodation, an employee or his/her representative shall inform the employee's supervisor that he/she needs a change at work for a reason related to a medical condition. The supervisor shall inform the CEO of the employee's request as soon as practicable.

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

When the disability or the need for accommodation is not obvious, the CEO may ask the employee to supply reasonable documentation about his/her disability. In requesting this documentation, the CEO 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 CEO to submit a list of specific questions to his/her health care or vocational professional.

REASONABLE ACCOMMODATION (continued)

If the documentation submitted by the employee does not indicate the existence of a qualifying disability or explain the need for reasonable accommodation, the CEO shall request additional documentation that specifies the missing information. If the employee does not submit such additional documentation in a timely manner, the CEO may require him/her to submit to an examination by a health care professional selected and paid for by SCVSFSA.

SCVSFSA may make a medical or psychological inquiry of a job applicant or require him/her to submit to a medical or psychological examination after he/she has been given a conditional offer of employment but before the commencement of his/her job duties, provided the inquiry or examination is job-related, consistent with business necessity, and required for all incoming employees in the same job classification. (Government Code 12940)

The CEO shall not request any job applicant's or employee's genetic information except as authorized by law. (42 USC 2000ff-1, 2000ff-5)

(cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)

In accordance with law, the CEO shall take steps to ensure the confidentiality of information related to medical conditions or history. As applicable, he/she shall notify the supervisor or manager of the qualified individual of any reasonable accommodation granted the individual and may notify first aid and safety personnel when the disability of the qualified individual may require emergency treatment. (42 USC 12112)

(cf. 4112.6/4212.6/4312.6 - Personnel Records)

Granting Reasonable Accommodation

Upon receiving a request for reasonable accommodation from a qualified individual with a disability, the CEO shall:

1. Determine the essential functions of the job involved
2. Engage in an informal, interactive process with the individual to review the request for accommodation, identify the precise limitations resulting from the disability, identify potential accommodations, and assess their effectiveness
3. Develop a plan for reasonable accommodation which will enable the individual to perform the essential functions of the job or gain equal access to a benefit or privilege of employment without imposing undue hardship on SCVSFSA

REASONABLE ACCOMMODATION (continued)

A determination of undue hardship should be based on several factors, including: (29 CFR 1630.2)

- a. The nature and net cost of the accommodation needed, taking into consideration the availability of tax credits and deductions and/or outside funding
- b. The overall financial resources of the facility making the accommodation, the number of persons employed at this facility, and the effect on expenses and resources of the facility
- c. The overall financial resources, number of employees, and the number, type, and location of SCVSFSA facilities
- d. The type of the SCVSFSA operation, including the composition, structure, and functions of the workforce and the geographic separateness and administrative or fiscal relationship of the facility making the accommodation to other SCVSFSA facilities
- e. The impact of the accommodation on the operation of the facility, including the impact on the ability of other employees to perform their duties and the impact on the facility's ability to conduct business

The CEO may confer with any medical advisor chosen by SCVSFSA and/or other SCVSFSA staff before making a final decision as to the accommodation.

Appeal Process

Any qualified individual with a disability who is not satisfied with the decision of the CEO may appeal in writing to the CEO 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 CEO or designee shall give the individual his/her decision within 15 working days of receiving the appeal.

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

REASONABLE ACCOMMODATION (continued)

Legal Reference:

CIVIL CODE

51 *Unruh Civil Rights Act*

GOVERNMENT CODE

12900-12996 *Fair Employment and Housing Act*

UNITED STATES CODE, TITLE 29

701-794e *Vocational Rehabilitation Act*

UNITED STATES CODE, TITLE 42

2000ff-1-2000ff-11 *Genetic Information Nondiscrimination Act of 2008*

12101-12213 *Americans with Disabilities Act*

CODE OF FEDERAL REGULATIONS, TITLE 28

35.101-35.190 *Americans with Disabilities Act, especially:*

35.107 *Designation of employee*

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

CODE OF FEDERAL REGULATIONS, TITLE 29

1630.2 *Definitions*

COURT DECISIONS

A.M. v. Albertsons, LLC, (2009) Cal.App.4th 455

Colmenares v. Braemar Country Club, Inc., (2003) 29 Cal.4th 1019

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

US Airways, Inc. v. Barnett, (2002) 535 U.S. 391, 122 S.Ct. 1516

Management Resources:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONS

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

WEB SITES

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

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

U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/about/offices/list/ocr>

EMPLOYEE USE OF TECHNOLOGY

The Board of Directors recognizes that technological resources can enhance employee performance by offering effective tools to assist in providing a quality instructional program, facilitating communications with parents/guardians, students, and the community, supporting Santa Clarita Valley School Food Services Agency (SCVSFSA) operations, and improving access to and exchange of information. 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 professional development in the appropriate use of these resources.

(cf. 0440 - District Technology Plan)
(cf. 1100 – Communication with the Public)
(cf. 1113 - District and School Web Sites)
(cf. 4032 - Reasonable Accommodation)
(cf. 4131 - Staff Development)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)
(cf. 6163.4 - Student Use of Technology)

Employees shall be responsible for the appropriate use of technology and shall use SCVSFSA's technological resources primarily for purposes related to their employment.

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

The CEO or designee shall annually notify employees in writing that they have no reasonable expectations of privacy in the use of any equipment or other technological resources provided by or maintained by the agency, including, but not limited to, computer files, email, text messages, instant messaging, and other electronic communications, even when provided their own password. To ensure proper use, the CEO or designee and member district staff will coordinate efforts to monitor employee usage of district/agency technology at any time without advance notice or consent and for any reason allowed by law.

In addition, employees shall be notified that records maintained on any personal device or messages sent or received on a personal device that is being used to conduct agency business may be subject to disclosure, pursuant to a subpoena or other lawful request.

Employees shall report any security problem or misuse of district/agency technology to the CEO or designee.

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)
(cf. 5125 - Student Records)
(cf. 5125.1 - Release of Directory Information)

EMPLOYEE USE OF TECHNOLOGY (continued)

District/Agency technology includes, but is not limited to, computers, the agency's computer network including servers and wireless computer networking technology (wi-fi), the Internet, email, USB drives, wireless access points (routers), tablet computers, smartphones and smart devices, telephones, cellular telephones, personal digital assistants, pagers, MP3 players, wearable technology, any wireless communication device including emergency radios, and/or future technology innovations, whether accessed on or off site or through agency-owned or personally owned equipment or devices.

Employees shall not use district/agency technology to access, post, submit, publish, or display harmful or inappropriate matter that is threatening, obscene, disruptive, sexually explicit, or unethical or that promotes any activity prohibited by law, Board policy, or administrative regulations.

Online/Internet Services

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

The CEO or designee shall establish administrative regulations and an Acceptable Use Agreement, to be signed annually by ALL which outline employee obligations and responsibilities related to the use of SCVSFSA technology. Upon employment and whenever significant changes are made to the agency's Acceptable Use Agreement, employees shall be required to acknowledge in writing that they have read and agreed to the Acceptable Use Agreement

Inappropriate use may result in a cancellation of the employee's user privileges, disciplinary action, and/or legal action in accordance with law, Board policy, and administrative regulation.

(cf. 4118 - Suspension/Disciplinary Action)

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

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

Use of Cellular Phone or Mobile Communications Device

An employee shall not use a cellular phone or other mobile communications device for personal business while on duty, except in emergency situations and/or during scheduled work breaks.

Any employee that uses a cell phone or mobile communications device in violation of law, Board policy, or administrative regulation shall be subject to discipline and may be referred to law enforcement officials as appropriate.

EMPLOYEE USE OF TECHNOLOGY (continued)

(cf. 3513.1 - Cellular Phone Reimbursement)

(cf. 3542 - School Bus Drivers)

(cf. 4156.3/4256.3/4356.3 - Employee Property Reimbursement)

Legal Reference:

EDUCATION CODE

52295.10-52295.55 Implementation of Enhancing Education Through Technology grant program

GOVERNMENT CODE

3543.1 Rights of employee organizations

PENAL CODE

502 Computer crimes, remedies

632 Eavesdropping on or recording confidential communications

VEHICLE CODE

23123 Wireless telephones in vehicles

23123.5 Mobile communication devices; text messaging while driving

23125 Wireless telephones in school buses

UNITED STATES CODE, TITLE 20

6751-6777 Enhancing Education Through Technology Act, Title II, Part D, especially:

6777 Internet safety

UNITED STATES CODE, TITLE 47

254 Universal service discounts (E-rate)

CODE OF FEDERAL REGULATIONS, TITLE 47

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

COURT DECISIONS

City of Ontario v. Quon et al. (2010) 000 U.S. 08-1332

Management Resources:

WEB SITES

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

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

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

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

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

EMPLOYEE USE OF TECHNOLOGY

Online/Internet Services: User Obligations and Responsibilities

Employees are authorized to use Santa Clarita Valley School Food Services Agency (SCVSFSA) equipment to access the Internet or other online services in accordance with Board policy, SCVSFSA's Acceptable Use Agreement, and the user obligations and responsibilities specified below.

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

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4031 - Complaints Concerning Discrimination in Employment)

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

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

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

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

(cf. 6162.6 - Use of Copyrighted Materials)

7. Employees shall not attempt to interfere with other users' ability to send or receive email, nor shall they attempt to read, delete, copy, modify, or forge other users' email.

EMPLOYEE USE OF TECHNOLOGY (continued)

8. Employees shall not develop any work-related web sites, blogs, forums, or similar online communications representing SCVSFSA or using SCVSFSA equipment or resources without permission of the CEO or designee. Such sites shall be subject to rules and guidelines established for SCVSFSA online publishing activities including, but not limited to, copyright laws, privacy rights, and prohibitions against obscene, libelous, and slanderous content. Because of the unfiltered nature of blogs, any such site shall include a disclaimer that SCVSFSA is not responsible for the content of the messages. SCVSFSA retains the right to delete material on any such online communications.

(cf. 1113 - District and School Web Sites)

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

Exhibit

Employee Notifications

E 4112.9(a)

Personnel

Note: Unless otherwise indicated, code numbers below refer to Education Code sections.

I. To All Employees

When/Whom to Notify: At the beginning of school year or upon employment
Legal Code: Education Code 231.5, Government Code 12950, 2 CCR 7288.0
Board Policy/Administrative Regulation #: AR 4119.11/4219.11/4319.11
Subject: The SCVSFSA's policy on sexual harassment, legal remedies, complaints

When/Whom to Notify: Annually to all employees
Legal Code: Education Code 17612
Board Policy/Administrative Regulation #: AR 3514.2
Subject: Use of pesticide product, active ingredients, Internet address to access information

When/Whom to Notify: To all employees
Legal Code: Government Code 1126
Board Policy/Administrative Regulation #: BP 4136/4236/4336
Subject: Prohibition of activities that are inconsistent, incompatible, in conflict with, or inimical to duties; discipline; appeal

When/Whom to Notify: Prior to beginning employment
Legal Code: Government Code 3102
Board Policy/Administrative Regulation #: AR 4112.3/4212.3/4312.3
Subject: Oath or affirmation of allegiance required of public employees

When/Whom to Notify: To all employees
Legal Code: Government Code 8355; 41 USC 8102
Board Policy/Administrative Regulation #: BP 4020, BP 4159/4259/4359
Subject: SCVSFSA's drug- and alcohol-free workplace; actions that will be taken if violated

When/Whom to Notify: To all employees, with each paycheck
Legal Code: Labor Code 246
Board Policy/Administrative Regulation #: AR 4161.1/4261.1/4361.1
Subject: Amount of Sick leave available

When/Whom to Notify: To covered employees and former employees
Legal Code: Labor Code 2800.2
Board Policy/Administrative Regulation #: AR 4154/4254/4354
Subject: Availability of COBRA/Cal-COBRA continuation and conversion coverage; statement encouraging careful examination of options before declining coverage

Personnel

When/Whom to Notify: Upon employment or by end of first pay period

Legal Code: Labor Code 3551

Board Policy/Administrative Regulation #: BP 4157.1/4257.1/4357.1

Subject: Workers' compensation benefits, how to obtain medical care, role of primary physician, form for reporting personal physician/chiropractor

When/Whom to Notify: Prior to beginning employment

Legal Code: Penal Code 11165.7, 11166.5

Board Policy/Administrative Regulation #: AR 5141.4

Subject: Status as a mandated reporter of child abuse, reporting obligations, confidentiality rights, copy of law

When/Whom to Notify: To all employees via employee handbook, or to each new employee

Legal Code: 29 CFR 825.300

Board Policy/Administrative Regulation #: AR 4161.8/4261.8/4361.8

Subject: Benefits through Family and Medical Leave Act

When/Whom to Notify: To all employees and job applicants

Legal Code: 34 CFR 104.8, 106.

Board Policy/Administrative Regulation #: BP 0410, BP 4030

Subject: SCVSFSA's policy on nondiscrimination and related complaint procedures

V. To Individual Employees Under Special Circumstances

When/Whom to Notify: Prior to placing derogatory information in personnel file

Legal Code: Education Code 44031

Board Policy/Administrative Regulation #: AR 4112.6/4212.6/4312.6

Subject: Notice of derogatory information, opportunity to review and comment

When/Whom to Notify: 24 hours before Board meets in closed session to hear complaints or charges against employee

Legal Code: Government Code 54957

Board Policy/Administrative Regulation #: BB 9321

Subject: Employee's right to have complaints/charges heard in open session

When/Whom to Notify: Notice or training to employee with access to confidential information

Legal Code: Government Code 54963

Board Policy/Administrative Regulation #: BP 4119.23/4219.23/4319.23

Subject: Law prohibiting disclosure of confidential information obtained in closed session

Personnel

When/Whom to Notify: Within one working day of work-related injury or victimization of crime at workplace

Legal Code: Labor Code 3553, 5401

Board Policy/Administrative Regulation #: BP 4157.1/4257.1/4357.1

Subject: Potential eligibility for workers' compensation benefits, claim form

When/Whom to Notify: When adverse employment action is based on DOJ criminal history information or subsequent arrest notification

Legal Code: Penal Code 11105, 11105.2

Board Policy/Administrative Regulation #: AR 4112.5/4212.5/4312.5

Subject: Copy of DOJ notification

When/Whom to Notify: To any employee assigned to a work area where hazardous chemicals are present, upon initial assignment and upon new exposure situation

Legal Code: 8 CCR 5191

Board Policy/Administrative Regulation #: AR 3514.1

Subject: Location and availability of chemical hygiene plan, exposure limits, signs and symptoms of exposure, location of reference material

When/Whom to Notify: To any employee who may be exposed to hazardous substances in the work area, upon initial assignment and when new hazard is introduced into work area

Legal Code: 8 CCR 5191

Board Policy/Administrative Regulation #: AR 3514.1

Subject: Any presence of hazardous substances in the work area, location and availability of hazard communication program, new safety data sheet, employee rights

When/Whom to Notify: To employee eligible for military leave

Legal Code: 38 USC 4334

Board Policy/Administrative Regulation #: AR 4161.5/4261.5/4361.5

Subject: Notice of rights, benefits, and obligations under military leave

When/Whom to Notify: Within five days of employee's request for family care and medical leave

Legal Code: 29 CFR 825.300

Board Policy/Administrative Regulation #: AR 4161.8/4261.8/4361.8

Subject: Whether or not employee is eligible for FMLA leave, rights and obligations; consequences of failure to meet obligations

(7/12 4/13) 4/15

All Personnel

AR 4112.62(a)

4212.62

MAINTENANCE OF CRIMINAL OFFENDER RECORDS

4312.62

The Chief Executive Officer (CEO) or designee shall ensure that criminal record background checks on employees or prospective employees are conducted through the Department of Justice (DOJ) and that any Criminal Offender Record Information (CORI) received is maintained in accordance with law.

(cf. 1240 - Volunteer Assistance)

(cf. 3515.6 - Criminal Background Checks for Contractors)

(cf. 4112.5/4312.5 - Criminal Record Check)

(cf. 4112.6/4212.6/4312.6 - Personnel Records)

(cf. 4212.5 - Criminal Record Check)

To ensure its confidentiality, CORI shall be accessible only to the custodian of records and shall be kept in a locked file separate from other files. CORI shall be used only for the purpose for which it is requested and its contents shall not be disclosed or reproduced. (Education Code 44830.1, 45125)

Once a hiring determination is made, 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)

Any unauthorized release or reproduction of any criminal offender record or other violation of this administrative regulation may result in suspension, dismissal, and/or criminal or civil legal action.

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)

(cf. 9011 - Disclosure of Confidential/Privileged Information)

Custodian of Records

The CEO shall designate an employee as custodian of records. Beginning July 1, 2011, any employee designated as custodian of records shall receive a criminal background check clearance from the DOJ prior to serving in that capacity. (Penal Code 11102.2)

The custodian of records shall sign and return to the DOJ the Employee Statement Form acknowledging an understanding of the laws prohibiting misuse of CORI. In addition, the custodian of records shall ensure that any individual with access to CORI has on file a signed Employee Statement Form.

The custodian of records shall be responsible for the security, storage, dissemination, and destruction of all CORI furnished to the Santa Clarita Valley School Food Services Agency (SCVSFSA). He/she also shall serve as the primary contact for the DOJ for any related issues. (Penal Code 11102.2)

MAINTENANCE OF CRIMINAL OFFENDER RECORDS (continued)

By March 1, 2012, and by March 1 of every year thereafter, the CEO or designee shall notify the DOJ of SCVSFSA's designated custodian of records. In addition, the CEO or designee shall immediately notify the DOJ whenever a designated custodian of records ceases to serve in that capacity. (Penal Code 11102.2)

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*

49024 *Activity Supervisor Clearance Certificates*

PENAL CODE

667.5 *Prior prison terms, enhancement of prison terms*

1192.7 *Plea bargaining limitation*

11075-11081 *Criminal record dissemination*

11102.2 *Criminal records: custodian*

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

701-708 *Criminal offender record information*

Management Resources:

WEB SITES

Office of the Attorney General, Department of Justice, Background Checks:

<http://www.ag.ca.gov/fingerprints>

All Personnel

E 4112.62(a)

4212.62

MAINTENANCE OF CRIMINAL OFFENDER RECORDS

4312.62

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

As an employee/volunteer of Santa Clarita Valley School Food Services Agency, you may have access to confidential criminal record information which is controlled by state and federal statutes. Misuse of such information may adversely affect the individual's civil rights and violate constitutional rights of privacy. Penal Code 502 prescribes the penalties relating to computer crimes. Penal Code 11105 and 13300 identify who has access to criminal history information and under what circumstances it may be disseminated. Penal Code 11140-11144 and 13301-13305 prescribe penalties for misuse of criminal history information. Government Code 6200 prescribes felony penalties for misuse of public records. Penal Code 11142 and 13300 state:

"Any person authorized by law to receive a record or information obtained from a record who knowingly furnishes the record or information to a person not authorized by law to receive the record or information is guilty of a misdemeanor."

Civil Code 1798.53, Invasion of Privacy, states:

"Any person who intentionally discloses information, not otherwise public, which they know or should reasonably know was obtained from personal or confidential information maintained by a state agency or from records within a system of records maintained by a federal government agency, shall be subject to a civil action, for invasion of privacy, by the individual."

CIVIL, CRIMINAL, AND ADMINISTRATIVE PENALTIES:

*Penal Code 11141: DOJ furnishing to unauthorized person (misdemeanor)

*Penal Code 11142: Authorized person furnishing to other (misdemeanor)

*Penal Code 11143: Unauthorized person in possession (misdemeanor)

*California Constitution, Article I, Section 1 (Right to Privacy)

* Civil Code 1798.53, Invasion of Privacy

*Title 18 USC 641, 1030, 1951, and 1952

MAINTENANCE OF CRIMINAL OFFENDER RECORDS (continued)

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

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

Signature _____ Date _____

Printed Name _____ Title _____

Name of District _____

PLEASE NOTE: Do not return this form to the DOJ. Your Custodian of Records should maintain these forms.

All Personnel

BP 4119.23(a)

4219.23

**UNAUTHORIZED RELEASE OF CONFIDENTIAL/
PRIVILEGED INFORMATION**

4319.23

The Board of Directors 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)

(cf. 9011 - Disclosure of Confidential/Privileged Information)

(cf. 9321 - Closed Session Purposes and Agendas)

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)

(cf. 4118 - Suspension/Disciplinary Action)

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

The Chief Executive Officer (CEO) or designee shall provide all employees who attend closed sessions a copy of this policy. New employees who may attend closed sessions shall also receive a copy of this policy.

The Santa Clarita Valley School Food Services Agency (SCVSFSA) 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 SCVSFSA 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

(cf. 4119.1/4219.1/4319.1 - Civil and Legal Rights)

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

**UNAUTHORIZED RELEASE OF CONFIDENTIAL/
PRIVILEGED INFORMATION** (continued)

3. Disclosing information that is not confidential

Other Disclosures

An employee who willfully releases confidential/privileged information about SCVSFSA, 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.

(cf. 4112.6/4212.6/4312.6 - Personnel Files)

(cf. 4112.62/4212.62/4312.62 - Maintenance of Criminal Offender Records)

(cf. 4143/4243 - Negotiations/Consultation)

(cf. 5125 - Student Records)

(cf. 5125.1 - Release of Directory Information)

(cf. 5141.4 - Child Abuse Prevention and Reporting)

(cf. 6164.2 - Guidance/Counseling Services)

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 CEO or designee may deny the employee further access to any privileged information and shall take any steps necessary to prevent any further unauthorized release of such information.

Legal Reference: (see next page)

**UNAUTHORIZED RELEASE OF CONFIDENTIAL/
PRIVILEGED INFORMATION (continued)**

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>

All Personnel

BP 4119.25

4219.25

POLITICAL ACTIVITIES OF EMPLOYEES

4319.25

The Board of Directors respects the right of 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 Santa Clarita Valley School Food Services Agency.

(cf. 1160 - Political Processes)

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

(cf. 1330 - Use of School Facilities)

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.

(cf. 1325 - Advertising and Promotion)

(cf. 4118 - Suspension/Disciplinary Action)

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

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 1383

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>

All Personnel

AR 4119.25(a)
4219.25
4319.25

POLITICAL ACTIVITIES OF EMPLOYEES

Santa Clarita Valley School Food Services Agency (SCVSFSA) employees shall not:

1. Use SCVSFSA funds, services, supplies, or equipment to urge the passage or defeat of any ballot measure or candidate (Education Code 7054)

(cf. 1160 - Political Processes)

2. During working hours and on SCVSFSA 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 SCVSFSA property, solicit or receive any political funds or contributions to promote the passage or defeat of other types of ballot measures

4. Use SCVSFSA time to urge the passage or defeat of any ballot measure or candidate

5. Use SCVSFSA equipment for the preparation or reproduction of political campaign materials, even if the SCVSFSA is reimbursed

(cf. 3512 - Equipment)

6. Post or distribute political campaign materials on SCVSFSA property

7. Disseminate political campaign materials through SCVSFSA's mail service, e-mail, or staff mailboxes

(cf. 4040 - Employee Use of Technology)

8. Wear buttons or articles of clothing that express political opinions on ballot measures or candidates

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, the lunch period, or other scheduled work intermittency during the work day. (Education Code 7056)

Employee Organizations

Employee organizations may use SCVSFSA 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 SCVSFSA facilities at reasonable times for the purpose of meetings. (Government Code 3543.1)

AR 4119.25(b)
4219.25
4319.25

POLITICAL ACTIVITIES OF EMPLOYEES (continued)

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

(cf. 4140/4240 - Bargaining Units)

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

(cf. 4141.6/4241.6 - Concerted Action/Work Stoppage)

All Personnel

BP 4119.43

4219.43

UNIVERSAL PRECAUTIONS

4319.43

In order to protect employees from contact with potentially infectious blood or other body fluids, the Board of Directors requires that universal precautions be observed throughout the Santa Clarita Valley School Food Services Agency (SCVSFSA).

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.

(cf. 4157/4257/4357 - Employee Safety)
(cf. 5141 - Health Care and Emergencies)
(cf. 5141.22 - Infectious Diseases)
(cf. 5141.24 - Specialized Health Care Services)
(cf. 5141.6 - School Health Services)
(cf. 6145.2 - Athletic Competition)

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

(cf. 4119.42/4219.42/4319.42 - Exposure Control Plan for Bloodborne Pathogens)

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>

All Personnel

AR 4119.43(a)

UNIVERSAL PRECAUTIONS

4219.43

4319.43

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 Chief Executive Officer (CEO) or designee shall distribute to employees information provided by the California Department of Education (CDE) 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 CDE. (Health and Safety Code 120875, 120880)

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

(cf. 4119.42/4219.42/4319.42 - Exposure Control Plan for Bloodborne Pathogens)

Infection Control Practices

The CEO 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))

UNIVERSAL PRECAUTIONS (continued)

Where occupational exposure remains after the institution of engineering and work practice controls, the CEO 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 CEO or designee shall maintain, repair, make accessible and require employees to use and properly handle protective equipment. (8 CCR 5193(d))

The CEO or designee shall provide handwashing facilities which are readily accessible to employees. When provision of handwashing facilities is not feasible, the CEO 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.

UNIVERSAL PRECAUTIONS (continued)

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.

UNIVERSAL PRECAUTIONS (continued)

- a. 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.
 - b. 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.

(cf. 4157/4257/4357 - Employee Safety)
(cf. 5141 - Health Care and Emergencies)
(cf. 5141.22 - Infectious Diseases)
(cf. 5141.6 - School Health Services)
(cf. 6145.2 - Athletic Competition)

EMPLOYEE SAFETY

The Board of Directors is committed to maximizing employee safety and believes that workplace safety is every employee's responsibility. Working conditions and equipment shall comply with standards prescribed by federal, state, and local laws and regulations.

(cf. 0450 - Comprehensive Safety Plan)

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 the extent possible, 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 Chief Executive Officer (CEO) or designee.

The CEO or designee shall promote safety and correct any unsafe work practices through education and enforcement.

(cf. 4117.4 - Dismissal)

(cf. 4118 - Suspension/Disciplinary Action)

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

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

(cf. 3514 - Environmental Safety)

(cf. 3514.1 - Hazardous Substances)

(cf. 3516 - Emergencies and Disaster Preparedness Plan)

(cf. 4119.41/4219.41/4319.41 - Employees with Infectious Disease)

(cf. 4119.42/4219.42/4319.42 - Exposure Control Plan for Bloodborne Pathogens)

(cf. 4119.43/4219.43/4319.43 - Universal Precautions)

(cf. 4157.2/4257.2/4357.2 - Ergonomics)

(cf. 4158/4258/4358 - Employee Security)

The CEO or designee shall ensure the ready availability of first aid materials at Santa Clarita Valley School Food Services Agency (SCVSFSA) workplaces and shall make effective provisions, in advance, for prompt medical treatment in the event of an employee's serious injury or illness. (8 CCR 3400)

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

Legal Reference: (see next page)

EMPLOYEE SAFETY (continued)

Legal Reference:

EDUCATION CODE

32030-32034 *Eye safety*

32225-32226 *Communications devices in classrooms*

32280-32289 *School safety plans*

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

GOVERNMENT CODE

3543.2 *Scope of bargaining*

LABOR CODE

3300 *Definitions*

6305 *Occupational safety and health standards; special order*

6310 *Retaliation for filing complaint prohibited*

6400-6413.5 *Responsibilities and duties of employers and employees, especially:*

6401.7 *Injury and illness prevention program*

CODE OF REGULATIONS, TITLE 8

3203 *Injury and illness prevention program*

3400 *Medical services and first aid*

5095-5100 *Control of noise exposure*

CODE OF FEDERAL REGULATIONS, TITLE 29

1910.95 *Noise standards*

Management Resources:

DEPARTMENT OF INDUSTRIAL RELATIONS PUBLICATIONS

Guide to Developing Your Workplace Injury and Illness Prevention Program, rev. August 2005

WEB SITES

California Department of Industrial Relations, Occupational Safety and Health:

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

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

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

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

U.S. Department of Labor, Occupational Safety and Health Administration: <http://www.osha.gov>

EMPLOYEE SAFETY

The Chief Executive Officer (CEO) or designee shall provide and implement safety devices, safeguards, methods, and processes that are reasonably adequate to render the employment and place of employment safe and healthful. (Labor Code 6401)

(cf. 4157.1/4257.1/4357.1 - Work-Related Injuries)

(cf. 4157.2/4257.2/4357.2 - Ergonomics)

(cf. 4161.11/4361.11 - Industrial Accident/Illness Leave)

(cf. 4261.1 - Industrial Accident/Illness Leave)

Injury and Illness Prevention Program

The Santa Clarita Valley School Food Services Agency's (SCVSFSA) injury and illness prevention program shall cover all SCVSFSA employees and all other workers whom the SCVSFSA controls or directs and directly supervises on the job to the extent that the 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 SCVSFSA's injury and illness prevention program. (Labor Code 6401.7)

SCVSFSA'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

(cf. 4156.2/4256.2/4356.2 - Awards and Recognition)

- b. Training and retraining programs
- c. Disciplinary actions

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

(cf. 4118 - Suspension/Disciplinary Action)

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. The communications system may include, but not be limited to:
 - a. Meetings

EMPLOYEE SAFETY (continued)

- 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 new substances, processes, procedures, or equipment that represents a new occupational safety or health hazard is introduced into the workplace
 - b. Whenever SCVSFSA is made aware of a new or previously unrecognized hazard

(cf. 3514 - Environmental Safety)
(cf. 3514.1 - Hazardous Substances)

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 the hazard is 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. Provision of training and instruction as follows:
- a. To all new employees
 - b. To all employees given new job assignments for which training has not previously been received

EMPLOYEE SAFETY (continued)

- c. Whenever new substances, processes, procedures, or equipment is introduced into the workplace and represents a new hazard
- d. Whenever SCVSFSA is made aware of a new or previously unrecognized hazard
- e. To supervisors, to familiarize them with the safety and health hazards to which employees under their immediate direction and control may be exposed

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

Labor/Management Safety Committee

The SCVSFSA's labor/management safety committee shall: (8 CCR 3203)

1. Meet regularly.
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 the California Department of Industrial Relations' Division of Occupational Safety and Health (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 CEO 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 SCVSFSA to abate citations issued by Cal/OSHA.

EMPLOYEE SAFETY (continued)

Hearing Protection

Whenever employee noise exposure equals or exceeds the standards specified in law, the CEO or designee shall implement a hearing conservation program in accordance with state and federal regulations, including, when required, monitoring of sound levels, audiometric testing of affected employees, the provision of hearing protectors, and employee training. (8 CCR 5095-5100; 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 32030-32034)

First Aid and Medical Services

The CEO or designee shall ensure the ready availability of medical personnel for advice and consultation on matters of industrial health or injury. Whenever a workplace is not in close proximity to an infirmary, clinic, or hospital where all injured employees may be treated, the CEO or designee shall ensure that at least one employee is adequately trained to provide first aid. (8 CCR 3400)

The CEO or designee shall make adequate first aid materials readily available for employees at every worksite. Such materials shall be approved by a consulting physician and shall be kept in a sanitary and usable condition. The CEO or designee shall frequently inspect all first aid materials and replenish them as necessary. (8 CCR 3400)

To avoid unnecessary delay in medical treatment in the event of an employee's serious injury or illness, the CEO or designee shall use one or more of the following: (8 CCR 3400)

1. A communication system for contacting a physician or emergency medical service, such as access to 911 or equivalent telephone system. The communication system or the employees using the system shall have the ability to direct emergency services to the location of the injured or ill employee.
2. Readily accessible and available on-site treatment facilities suitable for treatment of reasonably anticipated injury and illness.

(cf. 5141.6 - School Health Services)

EMPLOYEE SAFETY (continued)

3. Proper equipment for prompt medical transport when transportation of injured or ill employees is necessary and appropriate.

WORK-RELATED INJURIES

The Board of Directors desires to provide its employees with insurance and workers' compensation benefits in accordance with law. The Chief Executive Officer (CEO) or designee shall develop an efficient claims handling process in order to reduce costs and facilitate employee recovery.

- (cf. 3320 - Claims and Actions Against the District)*
- (cf. 4032 - Reasonable Accommodation)*
- (cf. 4113.4/4213.4/4313.4 - Temporary Modified/Light-Duty Assignment)*
- (cf. 4154/4254/4354 - Health and Welfare Benefits)*
- (cf. 4157/4257/4357 - Employee Safety)*
- (cf. 4157.2/4257.2/4357.2 - Ergonomics)*
- (cf. 4161.11/4361.11 - Industrial Accident/Illness Leave)*
- (cf. 4261.11 - Industrial Accident/Illness Leave)*

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 CEO or designee and the insurance carrier as appropriate.

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

Legal Reference:

EDUCATION CODE

44984 Industrial accident and illness leaves, certificated employees

45192 Industrial accident and illness leaves, classified employees

LABOR CODE

3200-4855 Workers' compensation, especially:

3550-3553 Employee notice

3600-3605 Conditions of liability

3760 Report of injury to insurer

4600 Provision of medical and hospital treatment by employer

4906 Disclosures and statements

5400-5413 Notice of injury or death

6409.1 Reports

CODE OF REGULATIONS, TITLE 8

15596 Notice of employee rights

Management Resources:

WEB SITES

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

ERGONOMICS

To minimize employees' risk of repetitive motion injuries (RMIs), the Chief Executive Officer (CEO) or designee shall implement an ergonomics program whenever two or more RMIs from an identical work activity have been reported by Santa Clarita Valley School Food Services Agency (SCVSFSA) 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 CEO 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. SCVSFSA 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. SCVSFSA's program
- b. The exposures that have been associated with RMIs

ERGONOMICS (continued)

- 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 SCVSFSA to minimize RMIs

(cf. 4157 /4257/4357 - *Employee Safety*)

(cf. 4157.1/4257.1/4357.1 - *Work-Related Injuries*)

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*

Regulation
approved:

SANTA CLARITA VALLEY SCHOOL FOOD SERVICES AGENCY
Valencia, California

EMPLOYEE SECURITY

The Board of Directors desires to provide a safe and orderly work environment for all employees. As part of the Santa Clarita Valley School Food Services Agency's (SCVSFSA) comprehensive safety plan, the Chief Executive Officer (CEO) or designee shall develop strategies for protecting employees from potentially dangerous persons and situations and for providing them with necessary assistance and support when emergency situations occur.

(cf. 0450 - Comprehensive Safety Plan)

(cf. 3515 - Campus Security)

(cf. 5131.4 - Student Disturbances)

Any employee against whom violence or any threat of violence has been directed in the workplace shall notify the CEO or designee immediately. The CEO or designee shall initiate legal and security measures to protect the employee and others in the workplace. In addition, the CEO or designee may initiate legal proceedings against any individual to recover damages for injury caused by the willful misconduct of that individual to the person or property of an employee or another person on SCVSFSA premises.

(cf. 3320 - Claims and Actions Against the District)

(cf. 3515.4 - Recovery for Property Loss or Damage)

The CEO or designee may make available at appropriate locations communication devices that would enable two-way communication with law enforcement and others when emergencies occur.

(cf. 5141 - Health Care and Emergencies)

Use of Pepper Spray

Employees may not carry or possess pepper spray on school property or at school activities. On a case-by-case basis, however, the CEO or designee may allow an employee to possess pepper spray that meets the requirements of Penal Code 12403.7 when justified by unusual dangerous circumstances. Any employee who is negligent or careless in the possession or handling of pepper spray shall be subject to appropriate disciplinary measures.

EMPLOYEE SECURITY (continued)

(cf. 4118 - Suspension/Disciplinary Action)

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

Reporting of Injurious Objects

The Board requires employees to take immediate action upon being made aware that any person is in possession of an unauthorized 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 potential danger involved and, based upon this analysis, shall do one of the following:

1. Confiscate the object and deliver it to the school's principal immediately
2. Immediately notify the school's principal, who shall take appropriate action
3. Immediately call 911 and the school's principal

(cf. 5131.7 - Weapons and Dangerous Instruments)

(cf. 5144 - Discipline)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

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

Legal Reference: (see next page)

EMPLOYEE SECURITY (continued)

Legal Reference:

EDUCATION CODE

32210-32212 *Willful disturbance, public schools or meetings*

32225-32226 *Communication devices*

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*

49079 *Notification to teacher; student who has engaged in acts re: grounds 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*

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*

240-246.3 *Assault and battery, including:*

241.3 *Assault against school bus drivers*

241.6 *Assault on school employee includes board member*

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*

626-626.11 *School crimes*

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*

COURT DECISIONS

City of San Jose v. William Garbett, (2010) 190 Cal. App. 4th 526

Management Resources:

WEB SITES

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

California Department of Education, Safe Schools and Violence Prevention Office:

<http://www.cde.ca.gov/lv/ss>

Policy
adopted:

SANTA CLARITA VALLEY SCHOOL FOOD SERVICES AGENCY
Valencia, California

EMPLOYEE SECURITY

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

(cf. 5131.7 - Weapons and Dangerous Instruments)
(cf. 5144 - Discipline)

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

(cf. 3515.2 - Disruptions)

Reports of attack, assault, or threat shall be forwarded immediately to the Chief Executive Officer (CEO) or designee.

(cf. 3320 - Claims and Actions Against the District)
(cf. 3515.4 - Recovery for Property Loss or Damage)
(cf. 3530 - Risk Management/Insurance)

CATASTROPHIC LEAVE PROGRAM

When a catastrophic illness or injury incapacitates a permanent employee for an extended period of time and the employee has exhausted all paid leaves of absence, other permanent employees may donate accrued sick leave credits to the catastrophic sick leave bank for use by that employee under the specific requirements of the Santa Clarita Valley School Food Services Agency's catastrophic leave program.

Donations made under the catastrophic leave program shall be strictly voluntary and confidential.

(cf. 4135 – Soliciting and Selling)

(cf. 4161/4261/4361 – Leave: not adopted by SCVSFSA)

(cf. 4161.1/4361.1 – Personal Illness/Injury Leave: 4161.1 not adopted by SCVSFSA)

(cf. 4261.1 – Personal Illness/Injury Leave: not adopted by SCVSFSA)

Legal Reference:

EDUCATION CODE

44043.5 Catastrophic Leave

SANTA CLARITA VALLEY SCHOOL FOOD SERVICES AGENCY

Policy adopted: May 15, 2012

Valencia, California

REVISED: September 16, 2014 LK

CATASTROPHIC LEAVE PROGRAM

The Agency's Board Policy (approved by the Governing Board) establishes a catastrophic leave program - a sick leave bank to which classified permanent employees may irrevocably donate on behalf of another classified employee. When an employee or a member of his/her family experiences a catastrophic illness or injury which requires the employee to take time off from work for an extended period of time, and the employee has exhausted all available sick leave and other paid time off, he/she may request donations of accrued sick leave or vacation credits.

(Education Code 44043.5)

The employee shall provide verification (Physician's Verification of Disability Form) of their catastrophic injury or illness in order for the employee to use the catastrophic leave program. (Education Code 44043.5) Verification for a family member shall be made by means of a letter, dated and signed by the sick or injured person's physician, indicating the incapacitating nature and probable duration of the illness or injury.

Upon determination that the employee is unable to work due to his/her own or a family member's catastrophic illness or injury, any other employee, upon written notice to the Governing Board, may donate accrued vacation and/or sick leave credits to the requesting employee. Donations shall be at a minimum of eight hours, and in hour increments thereafter. (Education Code 44043.5)

To ensure that employees retain sufficient accrued sick leave to meet their own needs, donors shall not reduce their accumulated sick leave to fewer than twelve (12) days. Sick leave may not be donated until it's accrued. No employee may donate to the catastrophic sick leave bank more than one-half of his or her annual sick leave entitlement in a school year. All transfers of eligible leave credit shall be irrevocable, and the donor employee shall receive no compensation for the donated leave. Such leave shall not accrue to the donor employee in any manner, and will not be available for the donor employee's use as leave or retirement credit.

Withdrawal from the catastrophic sick leave bank may be made, on a case-by-case basis, by permanent employees who have exhausted all available paid leave, including differential pay entitlement for an extended illness, as a result of an illness leave of 20 or more work days - maximum of five (5) months and meets the determined criteria. Use of donated sick leave shall not affect the donor employee's rights to paid or unpaid leave under policy or federal or state law. Unpaid statutory leave, if any, under the Family and Medical Leave Act, California Family Rights Act, Fair Employment and Housing Act, or similar provisions, shall run concurrently with paid leave drawn from the catastrophic sick leave bank (FMLA Fact Sheet #28 & forms WH-381 & WH-382 or Agency equivalent). IF the

CATASTROPHIC LEAVE PROGRAM (continued)

criteria is met, this shall run concurrently with the use of the extended illness leave (5 months). (Agency MOU Article X, Section 10.7)

Upon a request of an employee to draw upon the catastrophic sick leave bank, the Agency "Cabinet" or designee shall determine the number of days to be authorized for the employee's use. No employee shall be authorized to draw more than 30 days of leave from the catastrophic sick leave bank in a school year. This limit of 30 days shall apply regardless of the number of hours per day the employee is regularly assigned to work.

The CEO or designee shall ensure that all donations are confidential. The employee who is the recipient of the donated leave credits shall use those credits within 12 consecutive months.

If the donated credits are not used by the employee within 12 consecutive months, the credits shall be placed in a pool that will be available to the next eligible employee who requests catastrophic leave.

An employee who receives paid catastrophic leave shall use any leave credits that he/she continues to accrue on a monthly basis before receiving paid leave pursuant to this program. (Education Code 44043.5)

(3/92) 10/98 3/13-NEW

SANTA CLARITA VALLEY SCHOOL FOOD SERVICES AGENCY
Santa Clarita, CA

Policy adopted: May 15, 2012
Revised: September 16, 2014 (LK)
Revised: October 24, 2016 LS

CLASSIFIED PERSONNEL

The Board of Directors 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 Santa Clarita Valley School Food Services Agency's (SCVSFSA) program.

(cf. 0200 - Goals for the School District)
(cf. 4211 - Recruitment and Selection)

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

(cf. 4215 - Evaluation/Supervision)

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)

(cf. 4211 - Recruitment and Selection)
(cf. 4212 - Appointment and Conditions of Employment)

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.

Assignment

Classified employees shall be assigned by their immediate supervisors with the approval of the Chief Executive Officer (CEO) 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.

(cf. 4141/4241 - Collective Bargaining Agreement)

Legal Reference: (see next page)

CLASSIFIED PERSONNEL (continued)

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*

Management Resources:

WEB SITES

California School Employees Association: <http://www.csea.com>

RECRUITMENT AND SELECTION

The Board of Directors desires to employ the most highly qualified and appropriate person available for each open position in order to improve student achievement and efficiency in Santa Clarita Valley School Food Services Agency (SCVSFSA) operations.

(cf. 4000 - Concepts and Roles)

(cf. 4100 - Certificated Personnel)

(cf. 4200 - Classified Personnel)

(cf. 4300 - Administrative and Supervisory Personnel)

The Chief Executive Officer (CEO) or designee shall recruit candidates for open positions based on an assessment of the agency'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 CEO 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.

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

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4031 - Complaints Concerning Discrimination in Employment)

(cf. 4032 - Reasonable Accommodation)

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

For each position, the CEO 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 CEO or designee.

(cf. 4112 - Appointment and Conditions of Employment)

(cf. 4112.2 - Certification)

(cf. 4112.24 - Teacher Qualifications Under the No Child Left Behind Act)

(cf. 4212 - Appointment and Conditions of Employment)

(cf. 4312.1 - Contracts)

RECRUITMENT AND SELECTION (continued)

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*
44740-44741 *Personnel Management Assistance Teams*
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>

LEGAL STATUS REQUIREMENT

The Board of Directors shall ensure that the Santa Clarita Valley School Food Services Agency (SCVSFSA) employs only those individuals who are lawfully authorized to work in the United States.

The Chief Executive Officer (CEO) or designee shall verify the employment eligibility of all persons hired by completing the U.S. Citizenship and Immigration Services Form I-9, Employment Eligibility Verification, for each individual hired and ensure that SCVSFSA does not knowingly hire or continue to employ any person not authorized to work in the United States. (8 USC 1324a)

In accordance with law, the CEO or designee shall ensure that SCVSFSA employment practices do not unlawfully discriminate on the basis of citizenship status or national origin, including, but not limited to, discrimination against any refugees, grantees of asylum, or persons qualified for permanent or temporary residency.

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

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4111 - Recruitment and Selection)

(cf. 4211 - Recruitment and Selection)

(cf. 4311 - Recruitment and Selection)

Legal Reference:

UNITED STATES CODE, TITLE 8

1324a Unlawful employment of aliens

1324b Unfair immigrant-related employment practices

CODE OF FEDERAL REGULATIONS, TITLE 8

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

Management Resources:

U.S. CITIZENSHIP AND IMMIGRATION SERVICES PUBLICATIONS

Handbook for Employers: Instructions for Completing Form I-9, April 2009

WEB SITES

U.S. Citizenship and Immigration Services: <http://www.uscis.gov>

LEGAL STATUS REQUIREMENT

Within three business days of hire, the Chief Executive Officer (CEO) or designee shall physically examine the documentation presented by the employee establishing his/her identity and employment authorization as set forth in U.S. Citizenship and Immigration Services Form I-9. The employee may present either an original document which establishes both employment authorization and identity or two separate original documents which establish authorization and identity. Only unexpired documents are acceptable. (8 CFR 274a.2)

(cf. 4030 - Nondiscrimination in Employment)
(cf. 4032 - Reasonable Accommodation)

The CEO or designee shall: (8 CFR 274a.2)

1. Ensure that the documents presented appear to be genuine and relate to the individual
2. Complete the "Employer Review and Verification" section and sign the attestation with a handwritten signature or electronic signature on Form I-9

Persons employed for three business 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 business 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 CEO or designee must reverify Form I-9, 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 shows either continuing employment authorization or a new grant of work authorization. (8 CFR 274a.2)

The Santa Clarita Valley School Food Services Agency (SCVSFSA) shall retain an individual's Form I-9 for three years after the date of the hire or for one year after the date his/her employment is terminated, whichever is later. (8 CFR 274a.2)

(cf. 3580 - District Records)

The CEO or designee shall copy documents presented by an individual for verification and shall retain them with the individual's Form I-9. The documents shall be kept confidential and used only as needed to help justify SCVSFSA's past decision to accept the documents as valid.

(cf. 4112.6/4212.6/4312.6 - Personnel Files)

APPOINTMENT AND CONDITIONS OF EMPLOYMENT

Upon recommendation of the Chief Executive Officer (CEO), the Board of Directors 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)
(cf. 4212.5 - Criminal Record Check)
3. Not have been convicted of any sex offense as defined in Education Code 44010 (Education Code 45123)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)
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)
(cf. 3515.5 - Sex Offender Notification)
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)
(cf. 4112.4/4212.4/4312.4 - Health Examinations)
8. File the oath or affirmation of allegiance required by Government Code 3100-3109
(cf. 4112.3/4212.3/4312.3 - Oath or Affirmation)
9. Submit to drug and alcohol testing as required by Board policy
(cf. 4112.41/4212.41/4312.41 - Employee Drug Testing)
10. Fulfill any other requirements as specified by law, collective bargaining agreement, Board policy or administrative regulation

APPOINTMENT AND CONDITIONS OF EMPLOYMENT (continued)

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

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)

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

(cf. 4151/4251/4351 - Employee Compensation)

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

OATH OR AFFIRMATION

All Santa Clarita Valley School Food Services Agency (SCVSFSA) 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 SCVSFSA. 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 SCVSFSA employees are subject to disaster service activities as assigned to them by their supervisors or by law. (Government Code 3100-3102)

(cf. 3516 - Emergencies and Disaster Preparedness Plan)
(cf. 9224 - Oath or Affirmation)

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

At the advice of legal counsel, the Chief Executive Officer (CEO) or designee may exempt an employee from taking the oath if he/she raises a valid religious objection.

The CEO or other person authorized in Education Code 60 shall administer the affirmation when a SCVSFSA employee is hired.

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

(cf. 4121 - Temporary/Substitute Personnel)

The CEO 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 CEO or designee shall ascertain and certify that the employee has taken the oath or affirmation. (Government Code 3107)

Legal Reference: (see next page)

OATH OR AFFIRMATION (continued)

Legal Reference:

EDUCATION CODE

60 Persons authorized to administer and certify oaths

44334 Oath or affirmation required for credential

44354 Administration of oath required for credential

GOVERNMENT CODE

3100-3109 Oath or affirmation of allegiance

CALIFORNIA CONSTITUTION

Article 20, Section 3 Oath of office

COURT DECISIONS

Chilton v. Contra Costa Community College District 55 Cal. App. 3d 544 (1976)

Vogel v. County of Los Angeles (1967) 68 Cal. 2d 18, 22

OATH OR AFFIRMATION

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)

HEALTH EXAMINATIONS

Tuberculosis Tests

No applicant shall be initially employed in a classified position unless, within the past 60 days, he/she has submitted to an intradermal tuberculin skin test or other approved tuberculin test and, if that test was positive, has subsequently obtained an x-ray of the lungs. The applicant shall submit to the Santa Clarita Valley School Food Services Agency (SCVSFSA) a certificate signed by an authorized health care provider indicating that he/she is free of active tuberculosis. (Education Code 49406; 5 CCR 5503)

The cost of the pre-employment tuberculosis examination shall be paid by the applicant.

An applicant who was previously employed in a California school district or private or parochial school may fulfill the tuberculosis examination requirement either by producing a certificate showing that he/she was examined within the last four years and found to be free of active tuberculosis or by having his/her previous employer verify that it has on file a certificate which contains that evidence. (Education Code 49406)

Every SCVSFSA employee who tests negative shall undergo a tuberculosis examination at least once every four years, or more often if so directed by the Board of Directors upon recommendation of the county health officer, for as long as the employee's test remains negative. An employee with a documented positive test for tuberculosis infection shall no longer be required to submit to the examination but shall be referred to the county health officer within 30 days of the examination to determine the need for follow-up care. (Education Code 49406)

Tuberculosis tests for employees shall be provided by SCVSFSA or at SCVSFSA expense. (Education Code 44839, 45122, 49406)

If an employee's religious belief prevents him/her from undergoing a tuberculosis examination, the employee shall file an affidavit stating that he/she adheres to the faith or teachings of a well-recognized religious sect, denomination, or organization and, in accordance with its creed, tenets, or principles, depends for healing upon prayer in the practice of religion and that, to the best of his/her knowledge or belief, he/she is free from active tuberculosis. In order to exempt the individual, the Board shall determine by resolution, after a hearing, that the health of students would not be jeopardized. (Education Code 49406)

The Chief Executive Officer (CEO) or designee may exempt from the tuberculosis testing requirement classified employees who are employed for less than a school year if their functions do not require frequent or prolonged contact with students. (Education Code 49406)

HEALTH EXAMINATIONS (continued)

The CEO or designee may exempt a pregnant employee from the requirement that a positive tuberculin skin test be followed by an x-ray of the lungs, for a period not to exceed 60 days following termination of the pregnancy. (Education Code 49406)

Legal Reference:

EDUCATION CODE

44839 *Medical certificate; periodic medical examination*

44839.5 *Requirements for employment of retirant*

44932 *Grounds for dismissal of permanent employee*

44942 *Suspension or transfer of certificated employee on ground of mental illness*

45122 *Physical examinations*

49406 *Examination for tuberculosis*

BUSINESS AND PROFESSIONS CODE

2700-2838 *Nurses*

3500-3546 *Physician assistants*

HEALTH AND SAFETY CODE

121525 *Private and parochial school employees, examination for tuberculosis*

CODE OF REGULATIONS, TITLE 5

5502 *Filing of notice of physical examination for employment of retired persons*

5503 *Physical examination for employment of retired persons*

5504 *Medical certification procedures*

COURT DECISIONS

Doe v. Lincoln Unified School District, (2010) 188 Cal.App.4th 758

Leonel v. American Airlines, Inc., (2005) 400 F.3d. 702

Raven v. Oakland Unified School District, (1989) 213 Cal.App.3d 1347

Management Resources:

WEB SITES

California Department of Public Health: <http://www.cdph.ca.gov>

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

Public Health Institute: <http://www.phi.org>

U.S. Food and Drug Administration: <http://www.fda.gov>

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.

The Chief Executive Officer (CEO) 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 Santa Clarita Valley School Food Services Agency (SCVSFSA) is using the Live Scan system, the CEO or designee shall also provide the applicant with a Live Scan request form and a list of nearby Live Scan locations.

The CEO 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 Board of Directors shall not employ an applicant until the Department of Justice completes its check of the state criminal history files. (Education Code 45125)

(cf. 4212 - Appointment and Conditions of Employment)

The CEO 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 and a pardon. (Education Code 45122.1)

Subsequent Arrest Notification

The CEO or designee shall request subsequent arrest notification from the Department of Justice as provided under Penal Code 11105.2. (Education Code 45125)

CRIMINAL RECORD CHECK (continued)

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 CEO 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 CEO or designee shall terminate the temporary, substitute or probationary employee without regard to any other procedure for termination specified in the Education Code or SCVSFSA procedures, unless that employee has received a certificate of rehabilitation and a pardon. (Education Code 45122.1)

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

If the employee challenges the Department of Justice record and the Department of Justice withdraws in writing its notification, the CEO or designee shall immediately reinstate the employee with full restoration of salary and benefits. (Education Code 45122.1)

Legal Reference: (see next page)

CRIMINAL RECORD CHECK (continued)

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>

PERSONNEL FILES

The Chief Executive Officer (CEO) or designee shall maintain personnel files for all current employees at the Central Kitchen office. The CEO or designee shall determine the types of information to be included in personnel files, including, but not limited to, records required by law, and shall process all material to be placed in such files.

Personnel records for current and former employees shall be retained in accordance with 5 CCR 16023.

(cf. 3580 – Agency Records)

Placement of Material in Personnel Files

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

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

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

An employee may initiate a written reaction or response to his/her performance evaluation. The response shall be permanently attached to the evaluation and placed in the employee's personnel file.

(cf. 4115/4215/4315 – Evaluation/Supervision)

Derogatory Information

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

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 4112.9 – Employee Notifications)

(cf. 4117.4 - Dismissal)

(cf. 4118 - Suspension/Disciplinary Action)

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

(cf. 5141.4 - Child Abuse Prevention and Reporting)

PERSONNEL FILES (continued)

Persons with Authorized Access

The CEO or designee shall maintain the confidentiality of any personnel records which, if inappropriately disclosed, would constitute an unwarranted invasion of the employee's privacy.

Access to an employee's personnel shall be granted only to the employee, persons authorized by the employee, district personnel, and others with a valid "right to know" or "need to know" who are authorized access by the CEO or designee.

(cf. 4119.23/4219.23/4319.23—Unauthorized Release of Confidential/Privileged Information)

Individual Governing Board members shall not be allowed to access personnel files, but the Board may request pertinent information from an employee's file in cases of personnel action.

(cf. 9011 – Disclosure of Confidential/Privileged Information)

(cf. 9321 – Closed Session Purposed and Agendas)

(cf. 9321.1 – Closed Session Actions and Reports)

Any authorized reviewer shall maintain strict confidence of the contents of a personnel file. Personnel files shall be reviewed and replaced within the shortest time possible. In no case shall a personnel file be left unattended or left unsecured overnight.

File Review by Employee

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

With the exceptions noted below, all personnel records related to the employee's performance or to any grievance concerning the employee shall be made available for inspection by the employee. Noncredentialed employees shall have access to any numerical scores obtained as a result of written examinations. (Education Code 44031; Labor Code 1198.5)

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

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

PERSONNEL FILES (continued)

(cf. 4112.41/4212.41/4312.41 – Employee Drug Testing)

(cf. 4112.62/4212.62/4312.62 – Maintenance of Criminal Offender Records)

Personnel records related to the employee's job performance or to any grievance concerning him/her shall be made available to the employee at reasonable intervals and at reasonable times. The CEO or designee shall not be required to make such records available at a time when the employee is required to render services to SCVSFSA, unless the employee is required to view the file where it is stored. (Education Code 44031; Labor Code 1198.5)

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

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

The employee may be accompanied by a representative of his/her choice while reviewing his/her personnel records.

Inspection shall take place in the presence of the CEO or designee. The CEO or designee shall keep a record of the date and time the file was reviewed and the name and title of the person(s) present during the review.

In no instance shall any material be removed from the records. Requests for copies of material in a personnel record must be made in writing.

File Review by Management and Board

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

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)

Legal Reference:

EDUCATION CODE

35253 Regulations to destroy records

44031 Personnel file contents and inspection

44663 Performance appraisals and related materials

PERSONNEL FILES (continued)

GOVERNMENT CODE

3305-3306.5 District police officers; personnel files

6250-6270 California Public Records Act, especially:

6254 Exemption for personnel records if invasion of personal privacy

6254.3 Disclosure of home address and phone number

LABOR CODE

1198.5 Inspection of personnel files

PENAL CODE

11165.14 Report of investigation of child abuse complaint

CODE OF REGULATIONS, TITLE 5

16020-16022 Records, general provisions

16023-16027 Retention of records

COURT DECISIONS

Marken v. Santa Monica-Malibu Unified School District, (2012) 202 Cal.App.4th 1250

Bakersfield City School District v. Superior Ct. (2004) 118 Cal.App.4th 1041

ATTORNEY GENERAL OPINIONS

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

(2/98 3/01) 7/12 3/13

EMPLOYMENT OF RELATIVES

The Board of Directors desires to maximize staff and community confidence in Santa Clarita Valley School Food Services Agency (SCVSFSA) hiring, promotion, and other employment decisions by promoting practices that are free of conflicts of interest or the appearance of impropriety.

(cf. 4030 - Nondiscrimination in Employment)
(cf. 9270 - Conflict of Interest)

The Board prohibits the appointment of any person to a position for which his/her relative maintains management, supervisory, evaluation, or promotion responsibilities and prohibits an employee from participating in any decision that singularly applies to any of his/her relatives.

(cf. 4111/4211/4311 - Recruitment and Selection)
(cf. 4115 - Evaluation/Supervision)
(cf. 4215 - Evaluation/Supervision)
(cf. 4315 - Evaluation/Supervision)

For purposes of this policy, *relative* includes the individual's spouse, domestic partner, parents, grandparents, great-grandparents, children, grandchildren, great-grandchildren, brothers, sisters, aunts, uncles, nieces, nephews, and the similar family of the individual's spouse or domestic partner.

In addition, the Chief Executive Officer (CEO) or designee may determine, on a case-by-case basis, whether to appoint a person to a position in the same department or facility as an employee with whom he/she maintains a personal relationship when that relationship has the potential to create (1) an adverse impact on supervision, safety, security, or morale of other SCVSFSA employees or (2) a conflict of interest for the individuals involved which is greater because of their relationship than it would be for another person.

(cf. 4031 - Complaints Concerning Discrimination in Employment)

An employee shall notify his/her supervisor within 30 days of any change in his/her circumstances that may constitute a violation of this policy.

Legal Reference: (see next page)

EMPLOYMENT OF RELATIVES (continued)

Legal Reference:

EDUCATION CODE

35107 School district employees

FAMILY CODE

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

GOVERNMENT CODE

1090-1098 Prohibitions applicable to specified officers

12940 Unlawful employment practices

CODE OF REGULATIONS, TITLE 2

7292.0-7292.6 Marital status discrimination, especially:

7292.5 Employee selection

Management Resources:

WEB SITES

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

Institute for Local Government: <http://www.cacities.org/index.jsp?zone=ilsg>

EMPLOYEE DRUG TESTING

The Board of Directors 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.

- (cf. 0450 - Comprehensive Safety Plan)*
- (cf. 4020 - Drug and Alcohol-Free Workplace)*
- (cf. 4030 - Nondiscrimination in Employment)*
- (cf. 4032 - Reasonable Accommodation)*
- (cf. 4112.42/4212.42/4312.42 - Drug and Alcohol Testing for School Bus Drivers)*
- (cf. 5131.61 - Drug Testing)*

Pre-Employment Drug/Alcohol Testing for Safety-Sensitive Positions

Because students and staff have the right to a safe and secure campus where they are free from physical and psychological harm, the Board authorizes the testing of prospective employees in safety-sensitive positions for drug and alcohol use. The following positions are safety-sensitive and are subject to the Santa Clarita Valley School Food Services Agency's (SCVSFSA) program:

Position	Safety-Sensitive Duties
Delivery Drivers	Driving agency vehicle on school grounds.

Once a conditional offer of employment has been made, prospective employees in these identified positions may 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.

Final selection of a job applicant for a position shall not be made until the applicant has successfully completed the screening.

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

- (cf. 4112.4/4212.4/4312.4 - Health Examinations)*
- (cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)*

Legal Reference: (see next page)

EMPLOYEE DRUG TESTING (continued)

Legal Reference:

EDUCATION CODE

44011 *Controlled substance offense*

44455 *Conviction for 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 for controlled substance offense*

45304 *Compulsory leave of absence for classified persons*

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*

CALIFORNIA CONSTITUTION

Article 1, Section 28(c) *Right to Safe Schools*

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

Lanier v. City of Woodburn, (2008, 9th Circuit) 518 F.3d 1147

Knox County Education Association v. Knox County Board of Education, (1998, 6th Circuit) 158 F.3d 361

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) 489 U.S. 456

EMPLOYEE DRUG TESTING

Pre-Employment Drug/Alcohol Screening for Safety-Sensitive Positions

Applicants shall sign a form consenting to the drug and alcohol testing. The consent form shall authorize release of the test results to the Santa Clarita Valley School Food Services Agency (SCVSFSA). To ensure an individual's privacy, SCVSFSA shall not use test results for any purpose other than those stated in Board policy and administrative regulation, shall maintain the confidentiality of screening records, and shall not disclose such records unless the applicant consents or the Chief Executive Officer (CEO) or designee is presented with a court order requiring the disclosure.

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)
(cf. 4112.4/4212.4/4312.4 - Health Examinations)

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

EMPLOYMENT REFERENCES

The Chief Executive Officer (CEO) or designee shall process all requests for references, letters of recommendation, or information about the reasons for separation regarding all Santa Clarita Valley School Food Services Agency (SCVSFSA) employees other than himself/herself. All letters of recommendation to be issued on behalf of SCVSFSA for current or former employees must be approved by the CEO or designee.

At his/her discretion, the CEO or designee may refuse to give a recommendation. Any recommendation he/she gives shall provide a careful, truthful and complete account of the employee's job performance and qualifications.

(cf. 4112.6/4212.6/4312.6 - Personnel Files)

(cf. 4117.5/4217.5/4317.5 - Termination Agreements)

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

All Personnel

AR 4212.61
4312.61

EMPLOYMENT REFERENCES

No employee shall write or sign 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.

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 Santa Clarita Valley School Food Services Agency.

TEMPORARY MODIFIED/LIGHT-DUTY ASSIGNMENT

The Board of Directors recognizes that, when employees have temporarily disabling medical conditions, temporary modified or light-duty assignments can allow the Santa Clarita Valley School Food Services Agency (SCVSFSA) to continue to use their valuable knowledge, skills, and abilities while minimizing time away from work. Temporary modified/light-duty assignments may also serve to facilitate the employee's transition back to his/her regular duties or full-time work.

(cf. 3530 - Risk Management/Insurance)
(cf. 4157.1/4257.1/4357.1 - Work-Related Injuries)
(cf. 4161.1/4361.1 - Industrial Accident/Illness Leave)
(cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)
(cf. 4261.8 - Industrial Accident/Illness Leave)

Any employee may request a modified or light-duty assignment when he/she has a temporary medical condition which prevents the performance of the essential functions of his/her current assignment or position. The Chief Executive Officer (CEO) or designee shall determine, on a case-by-case basis, whether a suitable temporary position currently exists to accommodate the physical restrictions specified by the employee's medical provider.

(cf. 4032 - Reasonable Accommodation)

An employee's initial assignment to a temporary modified or light-duty position shall be for a limited duration, not to exceed 30 days. At the end of the initial assignment, the employee may request that the CEO or designee extend the assignment. When requesting any such extension, the employee shall submit documentation from his/her medical provider verifying that the employee is still temporarily disabled and is not medically able to return to his/her regular assignment. Temporary assignments generally shall not exceed 90 days, but may be extended at the discretion of the CEO or designee for an additional 90 days upon verification by the employee's medical provider that such an extension will allow the employee to return to unrestricted regular duties.

An employee who rejects a temporary modified/light-duty assignment may be subject to a loss of workers' compensation benefits in accordance with SCVSFSA's insurance policy.

Legal Reference: (see next page)

TEMPORARY MODIFIED/LIGHT-DUTY ASSIGNMENT (continued)

Legal Reference:

EDUCATION CODE

44984 *Required rules for industrial accident and illness leave*

45192 *Industrial accident and illness leave for classified employees*

GOVERNMENT CODE

12900-12996 *Fair Employment and Housing Act*

12945.1-12945.2 *California Family Rights Act*

UNITED STATES CODE, TITLE 29

2601-2654 *Family Care and Medical Leave Act*

UNITED STATES CODE, TITLE 42

12101-12213 *Americans with Disabilities Act*

COURT DECISIONS

Raine v. City of Burbank, (2006) 135 Cal.App.4th 1215

Management Resources:

WEB SITES

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

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

RESIGNATION

Any Santa Clarita Valley School Food Services Agency (SCVSFSA) 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 Board of Directors encourages employees to provide advance notice that is appropriate for the position they hold.

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

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

TERMINATION AGREEMENTS

If a termination settlement agreement has been made with an employee, the Chief Executive Officer (CEO) 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.

(cf. 1340 - Access to District Records)
(cf. 4112.6/4212.6/4312.6 - Personnel Files)
(cf. 4112.61/4212.61/4312.61 - Employment References)

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 Santa Clarita Valley School Food Services Agency 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)

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

CIVIL AND LEGAL RIGHTS

The Board of Directors believes that the personal life of an employee is not an appropriate concern of the Santa Clarita Valley School Food Services Agency (SCVSFSA), except as it may directly relate to the employee's performance of his/her duties.

An employee's religious or political personal beliefs and activities, including religious, political, cultural, social, or other beliefs or activities, or lack thereof, shall not be grounds for any discrimination or disciplinary action by SCVSFSA, against the employee, provided that these the beliefs or activities do not violate law, Board policy, or administrative regulation.

(cf. 4030 - Nondiscrimination in Employment)
(cf. 4119.21/4219.21/4319.21 - Professional Standards)
(cf. 4119.25/4219.25/4319.25 - Political Activities of Employees)

The Agency shall make no inquiry concerning the personal values, attitudes, and beliefs of Agency employees or their sexual orientation or political or religious affiliations, beliefs, or opinions except when authorized by law. In addition, no Agency employee shall be required to provide critical appraisals of other individuals with whom the employee has a familial relationship. However, the Agency reserves the right to access any publicly available information about any employee.

Employees do not have a reasonable expectation of privacy with regards to SCVSFSA property under an employee's control including, but not limited to, desks, offices, file cabinets, computers, or phones. As necessary to protect the health, welfare, or safety of staff, the Chief Executive Officer (CEO) or designee may search such items in order to uncover evidence that the employee is violating the law, Board policy, administrative regulation, or other SCVSFSA rules.

No employee shall be disciplined or retaliated against solely for acting to protect a student engaged in conduct authorized under Education Code 48907 or 48950.

When necessary to protect the health, welfare, or safety of students and staff, school officials may search district property under an employee's control.

(cf. 3515 - Campus Security)
(cf. 4040 - Employee Use of Technology)

Whistleblower Protection

An employee shall have the right to disclose to a Board member, the CEO, a member of the County Board of Education, County Superintendent of Schools, or the Superintendent of Public Instruction any improper governmental activity by SCVSFSA or a SCVSFSA 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)

CIVIL AND LEGAL RIGHTS (continued)

The CEO 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)

(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

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 SCVSFSA's complaint procedures. After filing a complaint with SCVSFSA, he/she may also file a copy of the complaint with local law enforcement and/or seek civil law remedies against the supervisor or administrator who retaliated or attempted to retaliate against him/her, in accordance with Education Code 44114.

(cf. 1312.1 - Complaints Concerning District Employees)
(cf. 1312.3 - Uniform Complaint Procedures)
(cf. 4144/4244/4344 - Complaints)

Protection Against Liability

No employee shall be liable for harm caused by his/her act or omission when he/she is acting within the scope of employment or Agency responsibilities; when the employee's act or omission is in conformity with federal or state law, Agency policy, or administrative regulation; or when the employee's act or omission is in furtherance of an effort to control, discipline, expel, or suspend a student or to maintain order or control in the classroom or school.

NOTE: Agency's Personal Vehicle Use Form states "If you drive your personal automobile while on agency business and you are involved in an accident, by law your liability insurance policy is used first. The Agency liability policy would be used only after your policy limits have been exceeded. Agency does not cover, nor is it responsible for, comprehensive and collision coverage to your vehicle.

(cf. 3320 – Claims and Actions Against the District)
(cf. 9260 – Legal Protection)

The protection against liability shall not apply when:

1. The employee acted with willful or criminal misconduct, gross negligence, recklessness, or a conscious, flagrant indifference to rights or safety of the individual harmed.

CIVIL AND LEGAL RIGHTS (continued)

2. The licensed employee caused harm by operating a motor vehicle or other vehicle requiring license or insurance.
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.
8. The misconduct occurred during background investigations, or other actions, involved in the employee's hiring.

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*
48907 *Student freedom of expression; employee's protection of student rights*
48950 *Speech and other communication*
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*
12650-12656 *False claims actions*
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*

COURT DECISIONS

Hartnett v. Crosier, (2012) 205 Cal.App.4th 685
Johnson v. Poway Unified School District, (2011) 658 F.3d 954
Ohton v. CSU San Diego, (2007) 56 Cal.Rptr.3d 111
Garcetti v. Ceballos, (2006) 543 U.S. 1186
O'Conner v. Ortega, (1987) 480 U.S. 709
New Jersey v. T.L.O., (1985) 468 U.S. 325

CIVIL AND LEGAL RIGHTS (continued)

Management Resources:

WEB SITES

California Attorney General: <http://oag.ca.gov>

SEXUAL HARASSMENT

The Board of Directors prohibits sexual harassment of Santa Clarita Valley School Food Services Agency (SCVSFSA) employees and job applicants. The Board also prohibits retaliatory behavior or action against SCVSFSA employees or other persons who complain, testify or otherwise participate in the complaint process established pursuant to this policy and administrative regulation. Sexual harassment includes, but is not limited to, harassment that is based on the gender, gender identity, gender expression, or sexual orientation of the victim. This policy shall apply to all agency employees and, when applicable, to interns, volunteers, and job applicants.

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 4030 - Nondiscrimination in Employment)

The Chief Executive Officer (CEO) or designee shall take all actions necessary to ensure the prevention, investigation, and correction of sexual harassment, including but not limited to:

1. Providing training to employees in accordance with law and administrative regulation
2. Publicizing and disseminating SCVSFSA's sexual harassment policy to staff

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

3. Ensuring prompt, thorough, and fair investigation of complaints
4. Taking timely and appropriate corrective/remedial action(s), which 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 to take other subsequent necessary actions. (2 CCR 11023)

Any SCVSFSA 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 or the CEO.

A supervisor or other SCVSFSA administrator who receives a harassment complaint shall promptly notify the CEO or designee.

Complaints of sexual harassment shall be filed in accordance with (Complaints Concerning Discrimination in Employment) AR 4030-NONDISCRIMINATION IN EMPLOYMENT. An employee may bypass his/her supervisor in filing a complaint where the supervisor is the subject of the complaint.

(cf. 4031 - Complaints Concerning Discrimination in Employment)

SEXUAL HARASSMENT (continued)

BP 4219.11(b)
4319.11

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

(cf. 4117.4 - Dismissal)

(cf. 4118 - Suspension/Disciplinary Action)

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

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination on the basis of sex

GOVERNMENT CODE

12900-12996 Fair Employment and Housing Act, especially:

12940 Prohibited discrimination

12950 Sexual harassment; distribution of information

12950.1 Sexual harassment training

LABOR CODE

1101 Political activities of employees

1102.1 Discrimination: sexual orientation

CODE OF REGULATIONS, TITLE 2

11009 Employment discrimination

11021 Retaliation

11023 Harassment and discrimination prevention and correction

11024 Sexual harassment training and education

11034 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 Title IX prohibition against discrimination

UNITED STATES CODE, TITLE 42

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

CODE OF FEDERAL REGULATIONS, TITLE 34

106.1-106.9 Dissemination of policy Nondiscrimination on the basis of sex in education programs or activities

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

COURT DECISIONS

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

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

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

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

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

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

SEXUAL HARASSMENT (continued)

BP 4219.11(c)
4319.11

Management Resources:

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONS
Promising Practices for Preventing Harassment, November 2017

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 for Civil Rights:

<http://www.ed.gov/about/offices/list/ocr/index.html>

(7/05 12/15) (12/16) **(3/18)**

SANTA CLARITA VALLEY SCHOOL FOOD SERVICES AGENCY

Policy adopted: May 15, 2012

Valencia, California

Revised: October 26, 2017

March 28, 2018 (LS)

SEXUAL HARASSMENT

This administrative regulation shall apply to all allegations of sexual harassment involving employees, interns, volunteers, and job applicants, but shall not be used to resolve any complaint by or against a student.

Definitions

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 sex in the work or educational setting when: (Education Code 212.5; Government Code 12940; 2 CCR 11034)

1. Submission to the conduct is made explicitly 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 the individual.
3. Submission to or rejection of the conduct is used as the basis for any decision affecting the individual regarding benefits, services, honors, programs, or activities available at or through the Santa Clarita Valley School Food Services Agency (SCVSFSA).

Prohibited sexual harassment also includes conduct which, regardless of whether or not it is motivated by sexual desire, is so severe or pervasive as to unreasonably interfere with the victim's work performance or create an intimidating, hostile, or offensive work environment.

Examples of actions that might constitute sexual harassment in the work or educational setting, whether committed by a supervisor, a co-worker, or a non-employee, 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, or gestures; sexually explicit emails; 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

Training

The CEO or designee shall ensure that all employees receive training regarding the agency's sexual harassment policies when hired and periodically thereafter. The training shall include how to recognize prohibited or harassing conduct, the procedures for reporting and/or filing complaints involving an employee, employees' duty to use the agency's complaint procedures, and employee obligations when a sexual harassment report involving a student is made to the employee. The training shall also include information about processes for employees to informally share or obtain information about harassment without filing a complaint.

(cf. 1312.3 – uniform complaint procedures)
Cf. 4030 – Nondiscrimination in Employment
(cf. 5145.7 – Sexual Harassment)

Every two years, the Chief Executive Officer (CEO) or designee shall ensure that supervisory employees receive at least two hours of classroom or other effective interactive training and education regarding sexual harassment. All such newly hired or promoted supervisory employees shall receive training within six months of their assumption of the supervisory position. (Government Code 12950.1)

A supervisory employee is any employee having the authority, in the interest of the agency, to hire, transfer, suspend, lay off, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct them, adjust their grievances, or effectively recommend such action, when the exercise of the authority is not of a merely routine or clerical nature, but requires the use of independent judgement. (Government Code 12926)

The SCVSFSA's sexual harassment training and education program for supervisory employees shall be aimed at assisting them in preventing and effectively responding to incidents of sexual harassment, as well as implementing mechanisms to promptly address and correct wrongful behavior. The training shall include but is not limited to the following: (Government Code 12950; 2 CCR 11024)

1. Information and practical guidance regarding federal and state laws on the prohibition, prevention, and correction of sexual harassment, the remedies available to sexual

harassment victims in civil actions, and potential district and/or individual exposure or liability

2. The types of conduct that constitute sexual harassment and practical examples which illustrate sexual harassment, discrimination, and retaliation using training modalities such as role plays, case studies, and group discussions, based on factual scenarios taken from case law, news and media accounts, and hypotheticals based on workplace situations and other sources

3. A supervisor's obligation to report sexual harassment, discrimination, and retaliation of which he/she becomes aware and what to do if the supervisor himself/herself is personally accused of harassment

4. Strategies for preventing harassment, discrimination, and retaliation and appropriate steps to ensure that remedial measures are taken to correct harassing behavior, including an effective process for investigation of a complaint

5. The essential elements of the agency's anti-harassment policy, including the limited confidentiality of the complaint process and resources for victims of unlawful sexual harassment, such as to whom they should report any alleged sexual harassment, and how to use the policy if a harassment complaint is filed

6. A copy of the agency's sexual harassment policy and administrative regulation, which each participant shall acknowledge in writing that he/she has received

7. The definition and prevention of abusive conduct that addresses the use of derogatory remarks, insults, or epithets, or other verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, and the gratuitous sabotage or undermining of a person's work performance

8. Practical examples of harassment based on gender identity, gender expression, and sexual orientation

The CEO or designee shall retain for at least two years the records of any training provided to supervisory employees. Such records shall include the names of trained employees, date of training, the type of training, and the name of the training provider. (2CCR 11024)

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 SCVSFSA office or other areas where notices of SCVSFSA rules, regulations, procedures, and standards of conduct are posted
2. Be provided to every agency employee at the beginning of the first quarter or semester of the school year or whenever a new employee is hired

(cf. 4112.9/4212.9/4312.9 – Employee Notifications)

3. Appear in any SCVSFSA publication that sets forth the SCVSFSA's comprehensive rules, regulations, procedures, and standards of conduct

All employees shall receive a copy of an information sheet prepared by the California Department of Fair Employment and Housing (DFEH) or a copy of SCVSFSA 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. SCVSFSA's complaint process available to the employee

(cf. 4031 - Complaints Concerning Discrimination in Employment)

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

SEXUAL HARASSMENT (continued)

AR 4219.11(e)
4319.11

In addition, SCVSFSA shall post, in a prominent and accessible location, the DFEH poster on discrimination in employment and the illegality of sexual harassment and the DFEH poster regarding transgender rights. (Government Code 12950)

SANTA CLARITA VALLEY SCHOOL FOOD SERVICES AGENCY

Regulation approved: May 15, 2012

Valencia, California

Revised: October 26, 2017

March 28, 2018 (LS)

EMPLOYEES WITH INFECTIOUS DISEASE

The Board of Directors desires to promote the health of Agency staff in order to reduce absenteeism and enhance employee and student performance. The CEO or designee shall develop strategies to prevent the outbreak or spread of infectious diseases at the Agency.

(cf. 4161.1/4361.1 – Personal Illness/Injury Leave)

(cf. 4261.1 – Personal Illness/Injury Leave)

(cf. 5113 – Absences and Excuses)

(cf. 5113.1 – Chronic Absence and Truancy)

An infectious disease is one that is caused by a microorganism and is potentially transmittable to another individual, whether through airborne transmission, blood borne transmission, skin-to-skin contact, foodborne transmission, or other casual or noncasual means. A communicable infectious disease, such as influenza or chicken pox, is contagious and can be readily transmitted by infectious bacteria or viral organisms.

In accordance with law, job applicants shall be required to provide evidence that they are free of tuberculosis or any other communicable infectious disease prior to beginning employment.

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

To prevent the outbreak or spread of infectious diseases, the CEO or designee may provide infection prevention supplies and information to employees, including information about recommended vaccinations. Employees also shall observe universal precautions to avoid contact with potentially infectious blood or other bodily fluids.

(cf. 4119.42/4219.42/4319.42 – Exposure Control Plan for Blood borne Pathogens)

(cf. 4119.43/4219.43/4319.43 – Universal Precautions)

(cf. 4131 – Staff Development)

(cf. 4231 – Staff Development)

(cf. 4331 – Staff Development)

(cf. 4161.1/4361.1 - Personal Illness/Injury Leave)

(cf. 4261.1 - Personal Illness/Injury Leave)

Plans for addressing a communicable infectious disease outbreak, including, but not limited to, plans for addressing employee shortages during such an outbreak, shall be included in the district's emergency preparedness plan.

(cf. 3516 – Emergencies and Disaster Preparedness Plan)

(cf. 5112.2 – Exclusions from Attendance)

(cf. 5141.22 – Infectious Diseases)

(cf. 5141.31 – Immunizations)

The CEO or designee shall immediately report to the local health officer the presence or suspected presence of any communicable infectious disease. In addition, a health care provider who knows of or is in attendance on a case or suspected case of any of the diseases or conditions listed in 17 CCR 2500 shall make a report to the local health officer. If no health care provider is in attendance, any individual having knowledge of

EMPLOYEES WITH INFECTIOUS DISEASE (continued)

a person who is suspected to be suffering from one of the specified diseases or conditions may make a report to the local health officer. (17 CCR 2500, 2508)

(cf. 5141.6 – School Health Services)

Nondiscrimination/Reasonable Accommodation

The district shall not discriminate against any employee or job applicant who has an infectious disease that meets the federal or state definition of a disability under the Americans with Disabilities Act, California Fair Employment and Housing Act, or Section 504 of the Federal Rehabilitation Act. (Government Code 12900-12996; 29 USC 794; 42 USC 12101-12213)

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4031 - Complaints Concerning Discrimination in Employment)

Upon request, any qualified person with a disability shall be provided reasonable accommodation to perform the essential duties of his/her position in accordance with the criteria and processes described in AR 4032 - Reasonable Accommodation.

(cf. 4032 - Reasonable Accommodation)

Legal Reference:

EDUCATION CODE

44839 *Medical certificate; periodic medical examination*

44839.5 *Requirements for employment of retiree*

49406 *Examination for tuberculosis (employees)*

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 - 7294.2 *Discrimination based on disability*

CODE OF REGULATIONS, TITLE 5

5502-5504 *Medi-Cal Certification*

CODE OF REGULATIONS, TITLE 17

2500 *Reportable diseases and conditions*

2508 *Reporting of communicable diseases; duty of schools*

UNITED STATES CODE, TITLE 29

794 *Section 504 of the Rehabilitation Act of 1973*

UNITED STATES CODE, TITLE 42

12101-12213 *Americans With Disabilities Act*

COURT DECISIONS

Chevron USA v Echazabal 536 U.S. 73, 1225.ct.2045 (2002)

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

EMPLOYEES WITH INFECTIOUS DISEASE (continued)

Management Resources:

CSBA PUBLICATIONS

H1N1 Influenza (Swine Flu), Fact Sheet, April 2009

Pandemic Influenza, Fact Sheet, September 2007

CALIFORNIA DEPARTMENT OF PUBLIC HEALTH PUBLICATIONS

California HIV/AIDS Laws, 2009, January 2010

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONS

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

WEB SITES

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

California Department of Public Health: <http://www.cdph.ca.gov>

California School Nurses Organization: <http://www.csno.org>

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

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

U.S. Department of Health and Human Services: <http://www.hhs.gov>

(6/88 12/91) 7/12

SANTA CLARITA VALLEY SCHOOL FOOD SERVICES AGENCY

Policy adopted: May 15, 2012

Valencia, California

Revised: March 19, 2013

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 Santa Clarita Valley School Food Services Agency (SCVSFSA), and/or enhance personal growth.

(cf. 4261.3 - Professional Leaves)

The Chief Executive Officer (CEO) or designee shall develop a program of ongoing staff development which may include, but not be limited to, activities related to:

1. General workplace skills and/or skills and knowledge specific to the duties of each classified position

(cf. 1340 - Access to District Records)
(cf. 3515.3 - District Police/Security Department)
(cf. 3542 - School Bus Drivers)
(cf. 4200 - Classified Personnel)
(cf. 4222 - Teacher Aides/Paraprofessionals)
(cf. 5148 - Child Care and Development)
(cf. 5148.3 - Preschool/Early Childhood Education)

2. The role of classified staff in achieving SCVSFSA goals and promoting achievement

(cf. 0000 - Vision)
(cf. 0200 - Goals for the School District)

3. The use of technologies to improve job performance

(cf. 0440 - District Technology Plan)

4. Effective communication and interaction with other staff, students, parents/guardians, and community members

(cf. 6020 - Parent Involvement)
(cf. 6171 - Title I Programs)

5. Topics related to employee health, safety, and security

(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)
(cf. 4119.43/4219.43/4319.43 - Universal Precautions)
(cf. 4157/4257/4357 - Employee Safety)
(cf. 4158/4258/4358 - Employee Security)

STAFF DEVELOPMENT (continued)

The CEO or designee shall involve classified staff, SCVSFSA administrators, and others, as appropriate, in the development of SCVSFSA's staff development program. He/she shall ensure that SCVSFSA's staff development program is aligned with SCVSFSA goals and plans.

(cf. 0000 - Vision)
(cf. 0200 - Goals for the School District)
(cf. 0420 - School Plans/Site Councils)
(cf. 0420.1 - School-Based Program Coordination)
(cf. 0520.2 - Title I Program Improvement Schools)
(cf. 0520.3 - Title I Program Improvement Districts)

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

(cf. 4215 - Evaluation/Supervision)

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

(cf. 3350 - Travel Expenses)

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

(cf. 0500 - Accountability)
(cf. 9000 - Role of the Board)

Legal Reference:

EDUCATION CODE

41530-41532 Professional Development Block Grant
44032 Travel expense payment
44390-44393 California School Paraprofessional Teacher Training Program
45380-45387 Retraining and study leave (classified)

56240-56245 Staff development; service to persons with disabilities

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

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:

WEB SITES

California Association of School Business Officials: <http://www.casbo.org>
California School Employees Association: <http://www.csea.com>

PROFESSIONAL DEVELOPMENT

Non-Bargaining Unit Employees

The Board of Directors recognizes the benefits of providing a program to non-bargaining unit employees that makes such employees eligible for a professional growth stipend. The Board expects that the increased competence attained by employees through professional growth activities will positively contribute to the Agency's educational program.

Employees eligible for a professional growth stipend pursuant to this policy include: (1) Confidential employees (Account Clerk, Human Resources Assistant); (2) Supervisors (Production Supervisor, Procurement Specialist, Operations Supervisor, Chef, Payroll and Human Resources Specialist, IT Manager, and Payroll Technician); (3) Managers (Executive Assistant to the CEO, and Nutrition Specialist); (4) Directors (Director of Finance and Administration, Director of Food Services, and Chief Executive Officer).

A stipend available to an employee under this policy shall not exceed 5% of the employee's salary, as specified below.

The eligibility requirements and rules for receiving a professional growth stipend are as follows:

(1) Confidential Employees

School Nutrition Association (SNA) – Certificate Level 1: An employee who has a current Certificate Level 1 is eligible for a 5% stipend if he or she has valid certification.

(2) Supervisors

School Nutrition Association - Certificate Level 1: An employee who has a current Certificate Level 1 is eligible for a 2.5% stipend if he or she has valid certification.

School Nutrition Association - Certificate Level 2: An employee who has a current Certificate Level 2 is eligible for a 5% stipend if he or she has valid certification.

(3) Managers

School Nutrition Association - Certificate Level 1: An employee who has a current Certificate Level 1 is eligible for a 2% stipend if he or she has valid certification.

PROFESSIONAL DEVELOPMENT (continued)

School Nutrition Association - Certificate Level 2: An employee who has a current Certificate Level 2 is eligible for a 4% stipend if he or she has valid certification.

School Nutrition Association - Certificate Level 3: An employee who has a current Certificate Level 3 is eligible for a 5% stipend if he or she has valid certification.

School Nutrition Association - School Nutrition Specialist (SNS) Credential: An employee who has a current SNS Credential is eligible for a 5% stipend if he or she has a valid credential document from SNA.

(4) Directors

School Nutrition Association - Certificate Level 1: An employee who has a current Certificate Level 1 is eligible for a 1.5% stipend if he or she has valid certification.

School Nutrition Association- Certificate Level 2: An employee who has a current Certificate Level 2 is eligible for a 2.5% stipend if he or she has valid certification.

School Nutrition Association- Certificate Level 3: An employee who has a current Certificate Level 3 is eligible for a 4% stipend if he or she has valid certification.

School Nutrition Association - School Nutrition Specialist (SNS) Credential: An employee who has a current SNS Credential is eligible for a 5% stipend if he or she has a valid credential document from SNA.

Eligibility for Stipend Continuance

It is solely the employee's responsibility to keep her/his certification and/or credentialing current and provide the Agency's Personnel Office with the required documentation. If the certification or credentialing has expired the employee will automatically lose his/her eligibility for receiving the professional development stipend.

Responsibility for Costs and Expenses

All training requirements, course and exam fees, and related incidental expenses are the responsibility of the employee seeking eligibility for the stipend program.

STAFF DEVELOPMENT

Upon approval of the Chief Executive Officer (CEO) or designee, classified staff members may participate in staff development opportunities which may include, but are not limited to:

1. Orientation and support for new employees
2. Attendance at professional conferences or committee meetings
3. Classes and workshops offered by the Santa Clarita Valley School Food Services Agency, county office of education, institutions of higher education, private organizations, or other appropriate agencies

(cf. 4261.3 - Professional Leaves)

4. Follow-up activities that help staff implement newly acquired skills

SOLICITING AND SELLING

Employees shall not solicit Santa Clarita Valley School Food Services Agency (SCVSFSA) staff with the intent to sell general merchandise, equipment, or services for their own personal profit or benefit.

(cf. 1325 - Advertising and Promotion)
(cf. 1321 - Solicitation of Funds from and by Students)
(cf. 4136/4236/4336 - Nonschool Employment)
(cf. 5022 - Student and Family Privacy Rights)

Staff members shall respect the confidentiality of SCVSFSA employees and students and shall not use their status as SCVSFSA 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.

(cf. 5125.1 - Release of Directory Information)

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

(cf. 4161.9/4261.9/4361.9 - Catastrophic Leave Program)

Legal Reference:

EDUCATION CODE
51520 Prohibited solicitations on school premises

Negotiations/Consultation

BP 4243(a)

Personnel

The Board of Directors recognizes its responsibility to represent the public's interests in the collective bargaining process. In ratifying agreements on employee contracts, the Santa Clarita Valley School Food Services Agency (SCVSFSA) shall balance the needs of staff and the priorities of the SCVSFSA in order to provide students with a high-quality nutrition program based on a sound, realistic budget.

(cf. 3100 - Budget)

(cf. 4140/4240/4340 - Bargaining Units)

(cf. 4141/4241 - Collective Bargaining Agreement)

The Board and the Chief Executive Officer (CEO) or designee of the SCVSFSA shall establish a bargaining team to assist in analyzing contract provisions and conducting contract negotiations. The SCVSFSA shall provide its negotiator(s) with expected outcomes and clear parameters for acceptable contract provisions which promote the realization of SCVSFSA goals and priorities.

The SCVSFSA and its bargaining team shall negotiate 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)

When the SCVSFSA intends to make any change to matters within the scope of representation, it shall give reasonable written notice of its intent to the exclusive representative for the purpose of providing the exclusive representative a reasonable amount of time to negotiate with the SCVSFSA regarding the proposed changes. (Government Code 3543.2) This amendment to law is consistent with previous decisions by the Public Employment Relations Board (PERB).

A reasonable number of representatives of the employee organization shall have the right to receive reasonable periods of released time without loss of SCVSFSA compensation when meeting and negotiating and/or for the processing of grievances. (Government Code 3543.1)

The SCVSFSA and its bargaining team shall establish standards of conduct pertaining to the negotiations process for members of the bargaining team. Certain meetings related to negotiations shall not be open to the public in accordance with Government Code 3549.1 and 54957.6, except as otherwise required by law. Matters discussed in these meetings shall be kept in strict confidence in accordance with law.

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)

(cf. 9010 - Public Statements)

(cf. 9011 - Disclosure of Confidential/Privileged Information)

(cf. 9321 - Closed Session Purposes and Agendas)

Personnel

The SCVSFSA and its negotiator(s) shall not knowingly provide the employee organization with inaccurate information regarding the financial resources of the district. (Government Code 3543.5)

The SCVSFSA shall monitor the progress of negotiations and carefully consider how proposed contract provisions would affect the SCVSFSA's short- and long-term fiscal, programmatic and personnel goals.

The Board and/or CEO or designee shall keep the public informed about the progress of negotiations and the ways in which negotiations may affect SCVSFSA goals unless otherwise agreed upon by the SCVSFSA and exclusive representative.

(cf. 4143.1/4243.1- Public Notice - Personnel Negotiations)

Whenever the SCVSFSA has a qualified or negative certification on an interim fiscal report, it shall allow the county office of education at least 10 working days to review and comment on any proposed agreement with exclusive representatives of employees. The SCVSFSA shall provide the County Superintendent of Schools with all information relevant to gain an understanding of the financial impact of any final collective bargaining agreement. (Government Code 3540.2)

(cf. 3460 - Financial Reports and Accountability)

Once the final terms of the agreement have been ratified by the membership of the employee organization, the contract shall be presented to the Board at a public meeting for acceptance.

Any agreement adopted by the Board may be for a term not to exceed three years. (Government Code 3540.1)

In the event of an impasse in negotiations, the SCVSFSA shall participate in good faith in mediation and fact-finding procedures pursuant to Government Code 3548-3548.8. (Government Code 3543.5)

(cf. 4141.6/4241.6 - Concerted Action/Work Stoppage)

Following adoption of the collective bargaining agreement, any subsequent amendments shall be executed in writing and ratified by the Board and the employees' exclusive representative.

Personnel

Consultation

Legal Reference:

EDUCATION CODE

45210 Service as officer of employee organization (classified)

GOVERNMENT CODE

3540-3549.3 Educational Employment Relations Act

PUBLIC EMPLOYMENT RELATIONS BOARD DECISIONS

Berkeley Council of Classified Employees v. Berkeley Unified School District, (2008) PERB Decision No. 1954

Management Resources:

CSBA PUBLICATIONS

Collective Bargaining DVD-ROM

Maximizing School Board Governance: Collective Bargaining

Before the Strike: Planning Ahead in Difficult Negotiations, 1996

WEB SITES

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

California Public Employee Relations: <http://cper.berkeley.edu>

Center for Collaborative Solutions: <http://www.ccscenter.org/labormgmt>

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

State Mediation and Conciliation Service (SMCS): <http://www.dir.ca.gov/csmcs/smcs.aspx>

4/15

Policy

adopted: September 15, 2015

SANTA CLARITA VALLEY SCHOOL FOOD SERVICES AGENCY

Valencia, California

LEAVES

Healthy Workplaces, Healthy Families Act of 2014

The Board of Directors shall provide for paid and unpaid leaves of absence for employees in accordance with law, Board policy, administrative regulation, and the Agency's Memorandum of Understanding (MOU), as applicable.

Management, Confidential, and Supervisory Employees

Classified management, confidential, and supervisory employees who are not subject to the Agency's MOU for bargaining unit classified employees shall be entitled to those leave provisions provided in the MOU for other classified employees unless otherwise specified in individual contract, MOU, Board policy, administrative regulation, or law.

Management, confidential and supervisory employees shall not accrue additional leave under this policy, but may use up to three (3) days of the sick leave earned under the provisions of the California Education Code for the purposes stated herein.

Bargaining Unit Employees

Employees that are members of the classified bargaining unit shall be entitled to sick leave and other leaves as provided in the Memorandum of Understanding. Bargaining unit employees shall not accrue additional leave under this policy, but may use up to three (3) days of the sick leave earned under the provisions of the MOU for the purposes stated herein.

Short-Term and Substitute Employees

Short-term and substitute employees who are neither management, confidential, supervisory, nor members of the bargaining unit shall accrue paid sick days at the rate of one (1) hour per every thirty (30) hours worked, effective July 1, 2015, or as of the date of commencement of employment, whichever is later. Such accrual shall cease upon reaching three (3) days of sick leave each year, and, if said employee continues employment, accrual shall resume at the beginning of the next school year. Regardless of the number of years served, accrual shall cease upon the earlier of (a) 3 days (24 hours) in a year or (b) upon the accrual of 48 hours or 6 days unused sick leave, due to carry over to the next year. If the number of accrued and unused days drops below 6 (48 hours), accrual shall resume at the beginning of the following school year.

Short-term and substitute employees are entitled to use accrued paid sick days beginning on the ninetieth (90th) day of employment. Accrued paid sick days shall carry over to the following year of employment. For substitute and short-term employees, use of paid sick leave is limited to twenty-four (24) hours or three (3) days in each year of employment.

The minimum increment for use of sick leave under this section shall be at least two hours.

LEAVES

Use of Sick Leave Under This Policy: All Employees

All employees may use up to three (3) days per year of earned sick leave upon oral or written request for the following purposes:

(1) Diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member. The term "family member" shall mean a biological, adopted, or foster child, step-child, legal ward, or a child to whom the employee stands *in loco parentis*, regardless of age or dependency status. Family member shall also mean a biological, adoptive, or foster parent, step-parent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood *in loco parentis* when the employee was a minor child. Family members shall also include a spouse, a registered domestic partner, a grandparent, a grandchild, or a sibling.

(2) For an employee who is a victim of domestic violence, sexual assault, or stalking (Labor Code section 230(c) and 230.1(a)).

Records

(1) The Agency shall provide each employee with written notice setting out the amount of paid sick leave available on itemized wage statements.

(2) Records of hours worked and paid sick days accrued and used shall be maintained for at least three years.

(cf. 4261.9/4361.9 - Catastrophic Leave Program)
(cf. 4261.8/4361.8 – Family Care and Medical Leave)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)
(cf. 4300 - Administrative and Supervisory Personnel)
(cf. 4312.1 - Contracts)
(cf. 4361.1 – Personal Illness/Injury Leave)

LEAVES

Legal Reference:

EDUCATION CODE

44018 *Compensation for employees on active military duty*
44036-44037 *Leaves of absence for judicial and official appearances*
44043.5 *Catastrophic leave*
45190-45210 *Leaves of absence (classified)*

FAMILY CODE

297-297.5 *Registered domestic partner rights, protections and benefits*

GOVERNMENT CODE

3543.1 *Release time for representatives of employee organizations*
3543.2 *Scope of representation*
12945.1-12945.2 *California Family Rights Act*
20990-21013 *Pension benefits, PERS members on military leave*

LABOR CODE

230-230.2 *Leaves 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 or domestic partner*

MILITARY AND VETERANS CODE

395-395.9 *Military leave*
395.10 *Leave when spouse on leave from military deployment*

UNITED STATES CODE, TITLE 29

2601-2654 *Family and Medical Leave Act of 1993*

UNITED STATES CODE, TITLE 38

4301-4334 *Uniformed Services Employment and Reemployment Rights Act of 1994*

(12/88 10/98 7/08) 6/15

Policy **SANTA CLARITA VALLEY SCHOOL FOOD SERVICES AGENCY**
Adopted: June 16, 2015 (TB) Valencia, CA

PERSONAL ILLNESS/INJURY LEAVE

AR 4261.1(a)

Classified employees employed five days a week are entitled to 12 days' leave of absence with full pay for personal illness or injury (sick leave) per fiscal year. Employees who work less than a full fiscal year or fewer than five days a week (part-time employees) shall be granted sick leave in proportion to the time they work. However, any part-time employee whose work hours are so few as to entitle him/her to less than 24 hours of paid sick leave per fiscal year shall be granted sick leave pursuant to Labor Code 246, if he/she is eligible. (Education Code 45191; Labor Code 245-249)

Use of Sick Leave

A Classified employee may use sick leave for absences due to:

1. Accident of illness, whether or not the absence arises out of or in the course of employment, or by quarantine which results from contact with other persons having a contagious disease during the employee's performance of his/her duties. (Education Code 45199)

2. Pregnancy, childbirth, and recovery. (Education Code 45193)

(cf. 4161.8/4261.8-Family Care and Medical Leave)

3. Personal necessity as specified in Education Code 45207.

(cf. 4161.2/4261.2-Personal Leaves)

4. Medical or dental appointments, in increments of not less than one hour.

5. Industrial accident or illness when leave granted specifically for that purpose has been exhausted. (Education Code 45192)

(cf. 4161.11/4261.11-Industrial Accident/Illness Leave)

6. Need of an employee to bond with a child within one year of the child's birth, adoption or foster care placement (parental leave). (Education Code 45196.1; Government Code 12945.2, 12945.6; USC 2612; 29 CFR 825.112)

7. Need of the employee or his/her family member, as defined in Labor Code 245.5, for the diagnosis, care, or treatment of an existing health condition or for preventative care (Labor Code 233, 246.5).

8. Need of the employee to seek or obtain any relief or medical attention specified in Labor Code 230(c) and 230.1(a) for the health, safety, or welfare of the employee, or his/her child, when the employee has been a victim of domestic violence, sexual assault, or stalking (Labor Code 233, 246.5).

PERSONAL ILLNESS/INJURY LEAVE

AR 4261.1(b)

Unused days of sick leave shall be accumulated from year to year without limitation. (Education Code 45191)

Additional Leave for Disabled Military Veterans

In addition to any other entitlement for sick leave with pay, a classified employee who is a former active duty member of the U.S. Armed Forces or a former or current member of the California National Guard or a federal reserve component shall be entitled to sick leave with pay of up to 12 days for the purpose of undergoing medical treatment, including mental health treatment, for a military service-connected disability rated at 30 percent or higher by the U.S. Department of Veterans Affairs. An eligible employee who works less than five days per week shall be entitled to such leave in proportion to the time he/she works. (Education Code 45191.5)

The amount of leave shall be credited to the employee either on the date the employee receives confirmation of the submission of his/her disability application to the U.S. Department of Veterans Affairs or on the first day the employee begins or returns to employment after active duty, whichever is later. When the employee receives his/her disability rating decision, he/she shall report that information to the Superintendent or designee. If the disability rating decision makes the employee eligible for the leave, the time used before the decision shall be counted toward the 12-day maximum leave. If the disability rating decision makes the employee ineligible for the leave, the district may change the sick leave time used before the disability rating decision to an alternative leave balance. (Education Code 45191.5)

The CEO or designee may require verification, in accordance with the section "Verification Requirements" below, that the employee used the leave to obtain treatment of a military service-connected disability.

Leave for military-service connected disability shall be available for 12 months following the first date that the leave was credited. Leave not used during the 12-month period shall not be carried over and shall be forfeited. (Education Code 45191.5)

Continued Absence After Available Sick Leave

A classified employee who has exhausted all paid leaves, including sick leave, shall for the remainder of the five-month period of absence to which he/she is entitled, receive his/her salary minus the actual amount paid a substitute to fill the employee's position during his/her absence. (Education Code 45196)

The five-month period shall commence on the first day of the leave of absence and shall run concurrently with any other paid leave.

Administrative and Supervisory Personnel

Each year, each Administrative and Supervisory Personnel shall be credited with no fewer than 100 working days of paid leave for personal illness or accident, including

PERSONAL ILLNESS/INJURY LEAVE

AR 4261.1(c)

current year and accumulated days of leave. 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 of the 100 days of leave not used during the year in which they are credited shall be forfeited and shall not accumulate from year to year. This paid leave shall be exclusive of any other paid leave, holidays, vacation, or compensatory time to which the employee may be entitled. (Education Code 45196)

After a management or supervisory employee has exhausted all available sick leave, including all accumulated sick leave, and, due to illness or injury, continues to be absent for an additional period up to five months, he/she shall receive 50 percent of his/her regular salary during the five-month period of absence.

Parental Leave

During each school year, a classified employee may use all available sick leave, including accumulated sick leave, for the purpose of parental leave for a period up to 12 work weeks. The 12-week period shall be reduced by any period of sick leave, including accumulated sick leave, taken during a period of such parental leave. (Education Code 45196.1)

Eligibility for such leave shall not require 1,250 hours of service with the district during the previous 12 months. (Education Code 45196.1)

An employee who has exhausted all available sick leave, including accumulated sick leave, and continues to be absent on account of parental leave shall receive differential pay for the remainder of the 12 work weeks.

Parental leave taken pursuant to Education Code 45196.1 shall run concurrently with the parental leave taken pursuant to Government Code 12945.2 or 12945.6, and the aggregate amount of parental leave shall not exceed 12 work weeks in a 12-month period. (Education Code 45196.1; Government Code 12945.2, 12945.6)

Extension of Leave

A permanent employee who is absent because of a personal illness or injury and who has exhausted all available sick leave, vacation, compensatory overtime, and any other paid leave 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. The total additional leave granted shall not exceed 18 months. (Education Code 45195)

(cf. 4216 - Probationary/Permanent Status)

If the employee is still unable to resume his/her duties after all available paid and unpaid leaves have been exhausted, the employee shall be placed on a reemployment list

PERSONAL ILLNESS/INJURY LEAVE

AR 4261.1(d)

for a period of 39 months. If during this time the employee becomes able to resume the duties of his/her position, he/she shall be offered reemployment in the first vacancy in the classification of his/her previous assignment. During the 39 months, the employee's reemployment shall take preference over all other applicants except those laid off for lack of work or lack of funds, in which case the employee shall be ranked according to his/her seniority. (Education Code 45195)

Healthy Workplaces, Healthy Families Act Requirements

No employee, including a short-term or substitute employee, shall be denied the right to use accrued sick days and the Agency shall not in any manner discriminate or retaliate against an employee for using or attempting to use sick leave, filing a complaint with the Labor Commissioner, or alleging district violation of Labor Code 245-249.

To ensure the district's compliance with Labor Code 245-249, the CEO or designee shall:

1. At a conspicuous location in each workplace, display a poster on paid sick leave that includes the following information:
 - a. That an employee is entitled to accrue, request, and use paid sick days
 - b. The amount of sick days provided by Labor Code 245-249
 - c. The terms of use of paid sick days
 - d. That discrimination or retaliation against an employee for requesting and/or using sick leave is prohibited by law and that an employee has the right to file a complaint with the Labor Commissioner if the district discriminates or retaliates against him/her
 2. Provide at least 24 hours or three days of paid sick leave to each eligible employee to use per year and allow eligible employees to use accrued sick leave upon reasonable request
 3. Provide eligible employees written notice, on their pay stub or other document issued with their pay check, of the amount of paid sick leave they have available
- (cf. 4112.9/4212.9/4312.9 - Employee Notifications)
4. Keep a record documenting the hours worked and paid sick days accrued and used by each eligible employee for three years

Legal Reference:

EDUCATION CODE

45190 Leaves of absence and vacations

45191 Leaves of absence for illness and injury

45191.5 Leave for military service connected disability

45193 Leave of absence for pregnancy (re use of sick leave under certain circumstances)

45195 Additional leave for nonindustrial accident or illness; reemployment preference

PERSONAL ILLNESS/INJURY LEAVE

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45196 Salary; deductions during sick leave

45196.1 Differential pay during parental leave up to 12 weeks after sick leave is exhausted

GOVERNMENT CODE

230 jury duty; legal actions by domestic violence, sexual assault and stalking victims, right to time off

230.1 Employers with 25 or more employees; domestic violence, sexual assault and stalking victims, right to time off

233 Illness of child, parent, spouse or domestic partner

245-249 Healthy Workplaces, Healthy Families Act of 2014

UNITED STATES CODE, TITLE 29

2601-2654 Family and Medical Leave Act of 1993, as amended

UNITED STATES CODE, TITLE 42

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

CODE OF FEDERAL REGULATIONS, TITLE 29

825.100-825.800 Family and Medical Leave Act of 1993

1635.1-1635.12 Genetic Information Nondiscrimination Act of 2008

COURT DECISIONS

California School Employees Association v. Colton Joint Unified School District, (2009) 170 Cal.App.4th 957

California School Employees Association v. Tustin Unified School District, (2007) 148 Cal.App.4th 510

ATTORNEY GENERAL OPINIONS

53 Ops.Cal.Atty.Gen. 111 (1970)

SANTA CLARITA VALLEY SCHOOL FOOD SERVICES AGENCY

Regulation approved: May 15, 2012

Valencia, California

Revised: March 30, 2018 (LS)

PROFESSIONAL LEAVES

The Board of Directors 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 Santa Clarita Valley School Food Services Agency (SCVSFSA). (Education Code 45381)

(cf. 4161/4261/4361 - Leaves)

(cf. 4231 - Staff Development)

To be eligible for a leave for study purposes, the employee must have served SCVSFSA 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 SCVSFSA for at least three consecutive years. (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)

PROFESSIONAL LEAVES (continued)

Legal Reference:

EDUCATION CODE

45380-45387 Leaves of absence for study or retraining, classified personnel

All Personnel

FAMILY CARE AND MEDICAL LEAVE

AR 4261.8(a)

The Santa Clarita Valley School Food Services Agency (SCVSFSA) shall not interfere with, restrain, or deny the exercise or attempted exercise by any eligible employee of his/her right to any family care and medical leave or pregnancy disability leave (PDL) provided to an eligible employee, as defined below, under the law pursuant to the Family and Medical Leave Act (FMLA), the California Family Rights Act (CFRA), or the Fair Employment and Housing Act (FEHA), nor shall it discharge or discriminate or retaliate against any employee for his/her involvement in any inquiry or proceeding related to any leave under any of these laws or his/her opposition to or challenge of any unlawful district practice in relation to any rights granted by any of these laws. (29 USC 2615; Government Code 12945.2; 2CCR 11094; 29 USC 2615)

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4032 – Reasonable Accommodation)

(cf. 4033 – Lactation Accommodation)

Definitions

The words and phrases defined below shall have the same meaning throughout this administrative regulation except where a different meaning is otherwise specified.

Child (son or daughter) 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; 2CCR 11087; Government Code 12945.2)

Eligible employee for FMLA and CFRA purposes means an employee who has been employed with the SCVSFSA for at least 12 months and who has at least 1,250 hours of service with the SCVSFSA during the previous 12-month period. However, these requirements shall not apply when an employee applies for PDL. (29 USC 2611; 2CCR 11087; 29 CFR 825.110; Government Code 12945.2)

Employee disabled by pregnancy means a woman who, in the opinion of her health care provider, is:

1. Unable because of pregnancy to perform any one or more of the essential functions of her job or to perform any of them without undue risk to herself, her pregnancy's successful completion
2. Who is suffering from severe "morning sickness" or needs to take time off for prenatal or postnatal care, bed rest, gestational diabetes, pregnancy-induced hypertension, preeclampsia, postpartum depression, childbirth, loss or end of pregnancy, recovery from childbirth or loss or end of pregnancy, or any other pregnancy-related condition

FAMILY CARE AND MEDICAL LEAVE

AR 4261.8(b)

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. Parent does not include a spouse's parents. (Government Code 12945.2; 2 CCR 11087; 29 USC 2611; 29 CFR 825.122)

Serious health condition means an illness, injury, (including, but not limited to, on-the-job injuries), impairment, or physical or mental condition of the employee or his/her child, parent, or spouse, including, but not limited to, treatment for substance abuse, that involves either of the following: (Government Code 12945.2; 2 CCR 11087, 11097; 29 USC 2611; 29 CFR 825.113-825.115)

1. Inpatient care in a hospital, hospice, or residential health care facility, any subsequent treatment in connection with such inpatient care, or any period of incapacity.

A person is considered an inpatient when a health care facility formally admits him/her to the facility with the expectation that he/she will remain overnight and occupy a bed, even if it later develops that the person can be discharged or transferred to another facility and does not actually remain overnight.

Incapacity means the inability to work, attend school, or perform other regular daily activities due to a serious health condition, its treatment, or the recovery that it requires.

2. Continuing treatment or continuing supervision by a health care provider, including one or more of the following:
 - a. A period of incapacity of more than three consecutive full days
 - b. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition
 - c. Any period of incapacity due to pregnancy or for prenatal care under FMLA.
 - d. Any period of incapacity which is permanent or long term due to a condition for which treatment may not be effective
 - e. Any period of absence to receive multiple treatments, including recovery, by a health care provider

Spouse means a partner in marriage as defined in Family Code 300, including same **sex** partners in marriage, or a registered domestic partner within meaning of Family Code 297-297.5. (Family Code 297, 297.5, 300; 2CCR 825.122)

FAMILY CARE AND MEDICAL LEAVE

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Eligibility

The SCVSFSA shall grant FMLA or CFRA leave to eligible employees for any of the following reasons:

(Government Code 12945.2, 12945.6; 29 USC 2612; 29 CFR 825.112)

1. The birth of a child of the employee or placement of a child with the employee in connection with the employee's adoption or foster care of the child (parental leave)
2. To care for the employee's child, parent, or spouse with a serious health condition
3. The employee's own serious health condition that makes him/her unable to perform one or more essential functions of his/her position,
4. Any qualifying exigency arising out of the fact that the employee's spouse, child, or parent is a military member on covered active duty or call to active duty (or has been notified of an impending call or order to covered active duty)
5. To care for a covered service member with a serious injury or illness if the covered servicemember is the spouse, child, parent, or next of kin, as defined, of the service member

In addition, the SCVSFSA shall grant PDL to any employee who is disabled by pregnancy, childbirth, or any related medical condition. (Government Code 12945; 2 CCR 11037)

Terms of Leave

An eligible employee shall be entitled to a total of 12 work weeks of FMLA and/or CFRA leave during any 12-month period, except in the case of leave to care for a covered service member as provided under "Military Caregiver Leave" below. (29 USC 2612; Government Code 12945.2)

This 12-month period shall be based a "rolling" 12-month period measured backward from the date an employee uses any FMLA/CFRA leave. (29 CFR 825.200)

In addition, any employee who is disabled by pregnancy, childbirth, or other related condition shall be entitled to PDL for the period of the disability not to exceed four months. For a part-time employee, the four months shall be calculated on a proportional basis. (Government Code 12945; 2 CCR 7291.9)

PDL shall run concurrently with FMLA leave for disability caused by an employee's pregnancy. At the end of the employee's FMLA leave for disability caused by pregnancy, or

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at the end of four months of PDL, whichever occurs first, a CFRA-eligible employee may request to take CFRA leave of up to 12 work weeks for the reason of the birth of ~~her~~ a child, or to bond with or care for the child. (Government Code 12945, 12945.2; 2 CCR 11046, 11093)

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 need to be taken in one continuous period of time. (2 CCR 11090; 29 USC 2612)

If both parents of a child work for the Agency, their family care and medical leave related to the birth or placement of the child shall be limited to a combined total of 12 work weeks. This restriction shall apply regardless of the legal status of both parents' relationship. (Government Code 12945.2, 12945.6; 2 CCR 11088; 29 USC 2612)

Use/Substitution of Paid Leave

During the period of PDL or any FMLA or CFRA leave, the employee may elect to use his/her accrued vacation leave, accrued sick leave, or any other paid or unpaid time off negotiated with SCVSFSA. If the leave is because of the employee's own serious health condition, the employee may use accrued sick leave pursuant to the collective bargaining agreement and/or Board policy. (29 USC 2612; Government Code 12945.2; 12945, 12945.6; 2 CCR 11044; 11092)

SCVSFSA and the employee may also negotiate for the employee's use of any additional paid or unpaid time off instead of using the employee's CFRA leave. (2 CCR 11092)

(cf. 4141/4241 - Collective Bargaining Agreement)

(cf. 4161/4261/4361 - Leaves)

(cf. 4161.1/4361.1 - Personal Illness/Injury Leave)

(cf. 4261.1 - Personal Illness/Injury Leave)

Intermittent Leave/Reduced Leave Schedule

PDL and family care and medical leave for the serious health condition of an employee or his/her child, parent, or spouse may be taken intermittently or on a reduced leave schedule when medically necessary, as determined by the health care provider of the person with the serious health condition. However, the SCVSFSA may limit leave increments to the shortest period of time (shortest period of time is one day) that its payroll system uses to account for absences or use of leave, not to be greater than one hour. (29 USC 2612; 2 CCR 11042, 11090)

The basic minimum duration of leave for the birth, adoption, or foster care placement of a child shall be two weeks. However, the district shall grant a request for such leave of less than two weeks on any two occasions.

The SCVSFSA may require an employee to transfer temporarily to an available alternative position under any of the following circumstances:

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The employee needs intermittent leave or leave on a reduced work schedule that is foreseeable based on a planned medical treatment for the employee or family member.

1. A medical certification is provided by the employee's health care provider that, because of pregnancy, the employee has a medical need to take intermittent leave or leave on a reduced work schedule.
2. The Agency agrees to permit intermittent leave or leave on a reduced work schedule due to the birth, adoption, or foster care placement of the employee's child.

This alternative position must have equivalent pay and benefits and must better accommodate recurring periods of leave than the employee's regular job, and the employee must be qualified for the position. Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent leave or a reduced work or leave schedule. (29 USC 2612; 11041; 11090; 29 USC 2612)

Request for Leave

The SCVSFSA shall consider an employee's request for PDL or family care and medical leave only if the employee provides at least verbal notice sufficient to make the Agency aware of the need to take the leave and the anticipated timing and duration of the leave. (2 CCR 11050, 11091)

For family care and medical leave, the employee need not expressly assert or mention FMLA/CFRA to satisfy this requirement. However, he/she must state the reason the leave is needed (e.g., birth of child, medical treatment). If more information is necessary to determine whether the employee is eligible for family care and medical leave, the Superintendent or designee shall inquire further and obtain the necessary details of the leave to be taken. (2 CCR 11091)

The district shall respond to requests for leave as soon as practicable, but no later than five business days after receiving the employee's request. (2 CCR 11091)

Based on the information provided by the employee, the CEO or designee shall designate the leave, paid or unpaid, as FMLA/CFRA qualifying leave and shall give notice of such designation to the employee. Failure of an employee to respond to permissible inquiries regarding the leave request may result in denial of CFRA protection if the Agency is unable to determine whether the leave is CFRA qualifying. (2 CCR 11091; 29 CFR 825.300)

When an employee is able to foresee the need for PDL or family care and medical leave at least 30 days in advance of the leave, the employee shall provide the district with at least 30 days advance notice before the leave. When the 30 days' notice is not practicable because of a lack of knowledge of when leave will be required to begin, a change of circumstances, a medical emergency, or other good cause, the employee shall provide the SCVSFSA with notice as as soon as practicable. Failure of an employee to provide required notice may result in denial of leave. (2CCR 1105, 11091)

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In all instances, the employee shall consult with the CEO or designee and make a reasonable effort to schedule, subject to the health care provider's approval, any planned appointment or medical treatment or supervision so as to minimize disruption to district operations. (Government Code 12945.2; 2 CCR 11050, 11091)

Certification of Health Condition

Within five business days of an employee's request for family care and medical leave for his/her own or his/her child's, parent's or spouse's serious health condition, the CEO or designee shall request that the employee provide certification by a health care provider of the need for leave. Upon receiving the SCVSFSA's request, the employee shall provide the certification within 15 days, unless either the CEO or designee provides additional time or it is not practicable under the particular circumstances, despite the employee's diligent, good faith efforts. (29 CFR 825.305; 2 CCR 11091)

The certification shall include the following: (Government Code 12945.2; 2 CCR 11087; 29 USC 2613)

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, both of the following:
 - a. Statement that the serious health condition warrants the participation of the employee to provide care during a period of the treatment or supervision of the child, parent, or spouse during a period of the treatment or supervision
 - b. Estimated amount of time the health care provider believes the employee needs to care for the child, parent, or spouse
4. If the employee is requesting leave because of his/her own serious health condition, a statement that due to the serious health condition, he/she is unable to work at all or is unable to perform one or more essential functions of his/her job
5. If the employee is requesting leave for intermittent treatment or on a reduced work or leave schedule for planned medical treatment, a statement of 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

When an employee has provided sufficient medical certification to enable the SCVSFSA to determine whether the employee's leave request is FMLA/CFRA-eligible, the CEO or designee shall notify the employee within five business days whether the leave is FMLA/CFRA-eligible. The CEO or designee may also retroactively designate leave as FMLA/CFRA as long as there is no harm to the employee. (29 CFR 825.301)

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If the CEO or designee doubts the validity of a certification that accompanies a request for leave for the employee's own serious health condition, he/she may require the employee to obtain a second opinion from an SCVSFSA-approved health care provider, at SCVSFSA expense. If the second opinion is contrary to the first, the CEO or designee may require the employee to obtain a third medical opinion from a third health care provider approved by both the employee and the SCVSFSA, again at SCVSFSA expense. The opinion of the third health care provider shall be final and binding. (29 USC 2613; 2CCR 11091; Government Code 12945.2)

For PDL, the CEO or designee shall request that the employee provide certification by a health care provider of the need for leave at the time the employee gives notice of the need for PDL, or within two business days of giving the notice. If the need for PDL is unforeseen, the CEO or designee shall request the medical certification within two business days after the leave commences. The CEO or designee may request certification at some later date if he/she has reason to question the appropriateness of the leave or its duration. (2CCR 11050)

For PDL that is foreseeable and for which at least 30 days' notice has been given, the employee shall provide the medical certification before the leave begins. When this is not practicable, the employee shall provide the certification within the time frame specified by the CEO or designee which must be at least 15 days after the request, unless it is not practicable under the particular circumstances despite the employee's diligent, good faith efforts. (2CCR 11050)

Medical certification for PDL purposes shall include a statement that the employee needs to take the leave because she is disabled by pregnancy, childbirth, or a related medical condition, the date on which the employee became disabled because of pregnancy, and the estimated duration of the leave. (2CCR 11050)

If additional PDL or family care and medical leave is needed when the time estimated by the health care provider expires, the SCVSFSA may require the employee to provide recertification in the manner specified for the leave. (29 USC 2613; Government Code 12945.2; 2CCR 11050)

The Superintendent or designee shall not request any genetic information related to an employee except as authorized by law in accordance with the California Genetic Information Nondiscrimination Act of 2011.

Release to Return to Work

Upon expiration of an employee's PDL or family care and medical leave taken for his/her own serious health condition, the employee shall present certification from his/her health care provider that he/she is able to resume work. The certification from the employee's health care provider shall address the employee's ability to perform the essential functions of his/her job.

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

FAMILY CARE AND MEDICAL LEAVE

AR 4261.8(i)

Rights to Reinstatement

Upon granting an employee's request for PDL or FMLA/CFRA leave, the CEO 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)

However, the SCVSFSA may refuse to reinstate an employee returning from FMLA or CFRA to the same or a comparable position if all of the following apply: (29 USC 2614; Government Code 12945.2; 2 CCR 11089)

1. The employee is a salaried "key employee" who is among the highest paid 10 percent of those SCVSFSA 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 SCVSFSA operations.
3. SCVSFSA 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.

(cf. 4117.3 - Personnel Reduction)

(cf. 4217.3 - Layoff/Rehire)

The district may also refuse to reinstate an employee to the same or a comparable position if the FMLA/CFRA leave was fraudulently obtained by the employee. (2 CCR 11089; 29 CFR 825.216)

The SCVSFSA may refuse to reinstate an employee to the same position after taking PDL if, at the time the reinstatement is requested, the employee would not otherwise have been employed in that position for legitimate business reasons unrelated to the employee's PDL. (2CCR 11043)

Maintenance of Benefits/Failure to Return from Leave

During the period when an employee is on PDL or family care and medical leave, he/she shall maintain his/her status with the SCVSFSA and the leave shall not constitute a break in service for purposes of longevity, seniority under any collective bargaining agreement, or any employee benefit plan. (29 USC 2614; Government Code 12945.2; 2CCR 11092)

For up to a maximum of four months for PDL or 12 work weeks for other family care and medical leave, the SCVSFSA shall continue to provide an eligible employee the group health plan coverage that was in place before he/she took the leave. The employee shall reimburse the SCVSFSA for premiums paid during the leave if he/she fails to return to SCVSFSA employment after the expiration of all available leaves and the failure is for a reason other than the continuation, recurrence, or onset of a serious health condition or other

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circumstances beyond his/her control. (29 USC 2614; 29 CFR 825.213; Government Code 12945.2; 2CCR 11044, 11092)

(cf. 4154/4254/4354 - Health and Welfare Benefits)

In addition, during the period when an employee is on PDL or family care and medical leave, the employee shall be entitled to continue to participate in other employee benefit plans including life insurance, short-term or long-term disability insurance, accident insurance, pension and retirement plans, and supplemental unemployment benefit plans to the same extent and under the same conditions as apply to an unpaid leave taken for any other purpose. However, for purposes of pension and retirement plans, the SCVSFSA shall not be required to make plan payments for an employee during the leave period and the leave period shall not be counted for purposes of time accrued under the plan. (Government Code 12945.2; 2CCR 11044)

Military Family Leave Resulting from Qualifying Exigencies

An eligible employee may take up to 12 work weeks of unpaid FMLA leave, during the 12-month period established by the SCVSFSA while a military member is on covered active duty or call to covered active duty status for one or more qualifying exigencies while his/her child, parent, or spouse who is a military member is on covered active duty or on call to covered active duty status. (29 USC 2612; 29 CFR 825.126)

Covered active duty means duty during the deployment of a member of the regular Armed Forces to a foreign country or duty during the deployment of a member of the National Guard or Reserves to a foreign country under a call or order to active duty in support of a contingency operation pursuant to law. (29 USC 2611; 29 CFR 825.126)

Qualifying exigencies include time needed to: (29 CFR 825.126)

1. Address issues arising from short notice deployment (up to seven calendar days from the date of receipt of call or order of short notice deployment)
2. Attend military events and related activities, such as any official ceremony or family assistance program related to the covered active duty or call to covered active duty status
3. Arrange childcare or attend school activities arising from the covered active duty or call to covered active duty, such as arranging for alternative childcare, enrolling or transferring a child to a new school, or attending meetings
4. Make or update financial and legal arrangements to address a military member's absence
5. Attend counseling provided by someone other than a health care provider

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6. Spend time (up to fifteen days of leave per instance) with a military member who is on short-term temporary Rest and Recuperation leave during deployment
7. Attend to certain post-deployment activities, such as arrival ceremonies or reintegration briefings
8. Care for a military member's parent who is incapable of self-care when the care is necessitated by the military member's covered active duty
9. Address any other event that the employee and SCVSFSA agree is a qualifying exigency

The employee shall provide the CEO or designee with notice of the need for the qualifying exigency leave as soon as practicable, regardless of how far in advance such leave is foreseeable. (29 CFR 825.302)

An employee who is requesting such leave for qualifying exigencies shall provide the CEO or designee with a copy of the military member's active duty orders, or other documentation issued by the military, and the dates of the service. In addition, the employee shall provide the CEO or designee with certification of the qualifying exigency necessitating the leave. The certification shall contain the information specified in 29 CFR 825.309.

The employee's qualifying exigency leave may be taken on an intermittent or reduced work or leave schedule basis. (29 CFR 825.302)

During the period of qualified exigency leave, the SCVSFSA's rule regarding an employee's use of his/her accrued vacation leave and any other accrued paid or unpaid time off, as specified in the section "Use/Substitution of Paid Leave" above, shall apply.

Military Caregiver Leave

The SCVSFSA shall grant up to a total of 26 work weeks of leave during a single 12-month period, measured forward from the first date of leave taken, to an eligible employee to care for a covered servicemember with a serious illness or injury. In order to be eligible for such military caregiver leave, an employee must be the spouse, son, daughter, parent, or next of kin of the covered servicemember. This 26-week period is not in addition to, but rather is inclusive of, the 12 work weeks of leave that may be taken for other FMLA qualifying reasons. (29 USC 2611, 2612; 29 CFR 825.127)

Covered servicemember may be: (29 CFR 825.127)

1. A current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy; is otherwise in outpatient status; or is otherwise on the temporary disability retired list for a serious injury or illness

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2. A veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran

Son or daughter of a covered service member means the biological, adopted, or foster child, stepchild, legal ward, or a child of any age for whom the covered service member stood in loco parentis. (29 CFR 825.127)

Parent of a covered service member means the covered service member's biological, adopted, step or foster parent, or any other individual who stood in loco parentis to the covered service member (except "parents in law"). (29 CFR 825.127)

Next of kin means the nearest blood relative to the covered service member, or as designated in writing by the covered service member. (29 USC 2611, 2612)

Outpatient status means the status of a member of the Armed Forces assigned to a military medical treatment facility as an outpatient or a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients. (29 USC 2611; 29 CFR 825.127)

Serious injury or illness means:

(29 USC 2611; 29 CFR 825.127)

1. For a current member of the Armed Forces, an injury or illness incurred by the member in the line of duty on active duty, or that existed before the beginning of the member's active duty in the Armed Forces, and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating
2. For a veteran, an injury or illness incurred or aggravated by the member's service in the line of duty on active duty in the Armed Forces, including the National Guard or Reserves, that manifested itself before or after the member became a veteran and that is at least one of the following:
 - a. A continuation of a serious injury or illness incurred or aggravated while the veteran was a member of the Armed Forces and rendered him/her unable to perform the duties of his/her office, grade, rank, or rating
 - b. A physical or mental condition for which the veteran has received a U.S. Department of Veterans Affairs (VA) Service-Related Disability Rating of 50 percent or greater, based wholly or partly on that physical or mental condition
 - c. A physical or mental condition that substantially impairs the veteran's ability to secure or follow a substantially gainful occupation by reason of one or more disabilities related to his/her military service or that would do so but for treatment received by the veteran

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d. An injury, including a psychological injury, on the basis of which the veteran has been enrolled in the VA's Program of Comprehensive Assistance for Family Caregivers

The employee shall provide reasonable and practicable notice of the need for the leave in accordance with the procedures in the section entitled "Request for Leave" above.

An employee requesting leave to care for a covered service member with a serious injury or illness shall provide the CEO or designee with certification from an authorized health care provider of the service member that contains the information specified in 29 CFR 825.310.

The leave may be taken intermittently or on a reduced work or leave schedule when medically necessary. An employee taking military caregiver leave in combination with other leaves pursuant to this administrative regulation shall be entitled to a combined total of 26 work weeks of leave during a single 12-month period. When both spouses work for the SCVSFSA and both wish to take such leave, the spouses are limited to a maximum combined total of 26 work weeks during a single 12-month period. (29 USC 2612)

During the period of military caregiver leave, SCVSFSA's rule regarding an employee's use of his/her accrued vacation leave and other accrued paid or unpaid time off, as specified in "Use/Substitution of Paid Leave" above, shall apply.

Notifications

The CEO or designee shall provide the following notifications about state and federal law related to PDL or FMLA/CFRA:

1. **General Notice:** Information explaining the provisions of the FEHA/PDL and FMLA/CFRA and employee rights and obligations shall be posted in a conspicuous place on SCVSFSA premises, or electronically, and shall be included in employee handbooks. (29 USC 2619; 2 CCR 11049, 11095)

The general notice shall also explain an employee's obligation to provide the CEO or designee with at least 30 days' notice of the need for the leave, when the need for the leave is reasonably foreseeable. (4 2CCR 11050, 11091)

2. **Eligibility Notice:** When an employee requests leave, including PDL, or when the CEO or designee acquires knowledge that an employee's leave may be for an FMLA/CFRA qualifying reason, the CEO or designee shall, within five business days, provide notification to the employee of his/her eligibility to take such leave. (2 CCR 7291.16; 29 CFR 825.300; 2CCR 11049)
3. **Rights and Responsibilities Notice:** Each time the eligibility notice is provided to an employee, the CEO or designee shall provide written notification explaining the specific expectations and obligations of the employee, including any consequences for a failure to meet those obligations. Such notice shall include, as appropriate: (29 CFR 825.300)

- a. A statement that the leave may be designated and counted against the employee's annual FMLA/CFRA leave entitlement and the appropriate 12-month entitlement period, if qualifying
- b. Any requirements for the employee to furnish medical certification of a serious health condition, serious injury or illness, or qualifying exigency arising out of active duty or call to active duty status and the consequences of failing to provide the certification
- c. The employee's right to substitute paid leave, whether SCVSFSA will require substitution of paid leave, conditions related to any substitution, and the employee's entitlement to take unpaid leave if the employee does not meet the conditions for paid leave
- d. Any requirements for the employee to make premium payments necessary to maintain health benefits, the arrangement for making such payments, and the possible consequences of failure to make payments on a timely basis
- e. If applicable, the employee's status as a "key employee," potential consequence that restoration may be denied following the FMLA leave, and explanation of the conditions required for such denial
- f. The employee's right to maintenance of benefits during the leave and restoration to the same or an equivalent job upon return from leave
- g. The employee's potential liability for health insurance premiums paid by the SCVSFSA during the employee's unpaid FMLA leave should the employee not return to service after the leave

Any time the information provided in the above notice changes, the CEO or designee shall, within five business days of his/her receipt of an employee's first notice of need for leave, provide the employee with a written notice referencing the prior notice and describing any changes to the notice. (29 CFR 825.300)

4. Designation Notice: When the CEO or designee has information (e.g., sufficient medical certification) to determine whether the leave qualifies as FMLA/CFRA leave, he/she shall, within five business days, provide written notification designating the leave as FMLA/CFRA qualifying or, if the leave will not be so designated, the reason for that determination. (29 CFR 825.300; 2CCR 11091)

If the amount of leave needed is known, the notice shall include the number of hours, days, or weeks that will be counted against the employee's FMLA/CFRA entitlement. If it is not possible to provide that number at the time of the designation notice, notification shall be provided of the amount of leave counted against the employee's entitlement upon request by the employee and at least once in every 30-day period if leave was taken in that period. (29 CFR 825.300; 2CCR 11091, 11097)

If the SCVSFSA requires paid leave to be substituted for unpaid family care and medical leave, the notice shall so specify. If SCVSFSA requires an employee to present a fitness-for-

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duty certification that addresses the employee's ability to perform the essential functions of the job, the notice shall also specify that requirement. (29 CFR 825.300)

Any time the information provided in the designation notice changes, the CEO or designee shall, within five business days, provide the employee with written notice referencing the prior notice and describing any changes to the notice. (29 CFR 825.300)

Records

The CEO or designee shall maintain records pertaining to an individual employee's use of family care and medical leave in accordance with law. (29 USC 2616; 42 USC 2000ff-1; 29 CFR 825.500; Government Code 12946)

Legal Reference:

EDUCATION CODE

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

FAMILY CODE

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

300 *Validity of marriage*

GOVERNMENT CODE

12926 *Fair employment and housing act, definitions*

12940 *Unlawful employment practices*

12945 *Pregnancy; childbirth or related medical condition; unlawful practice*

12945.1-12945.2 *California Family Rights Act*

12946 *Fair Employment and Housing Act: discrimination prohibited*

CODE OF REGULATIONS, TITLE 2

11035-11051 *Sex discrimination: pregnancy and related medical conditions*

11087-11098 *California Family Rights Act*

UNITED STATES CODE, TITLE 1

7 *Definition of marriage*

UNITED STATES CODE, TITLE 29

2601-2654 *Family and Medical Leave Act of 1993, as amended*

UNITED STATES CODE, TITLE 42

2000ff-1-2000ff-11 *Genetic Information Nondiscrimination Act of 2008*

CODE OF FEDERAL REGULATIONS, TITLE 29

825.100-825.800 *Family and Medical Leave Act of 1993*

COURT DECISIONS

United States v Windsor, (2013) 699 F.3d 169

Faust v. California Portland Cement Company, (2007) 150 Cal.App.4th 864

Tellis v. Alaska Airlines, (9th Cir., 2005) 414 F.3d 1045

FAMILY CARE AND MEDICAL LEAVE

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Management Resources:

U.S. DEPARTMENT OF LABOR PUBLICATIONS

Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers

WEB SITES

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

U.S. Department of Labor, FMLA: <http://www.dol.gov/whd/fmla>

(3/09 3/10) 8/13 **3/18**

SANTA CLARITA VALLEY SCHOOL FOOD SERVICES AGENCY

Regulation approved: March 27, 2012

Valencia, California

REVISED: December 17, 2013 (LK)

March 29, 2018 (LS)

ADMINISTRATIVE AND SUPERVISORY PERSONNEL

The Board of Directors recognizes that effective management is vital to the success of Santa Clarita Valley School Food Services Agency (SCVSFSA) programs. Management personnel are expected to demonstrate initiative and good judgment in the development, implementation, and oversight of SCVSFSA programs. Supervisors shall promote the productivity, professional growth, and teamwork of SCVSFSA staff.

(cf. 4000 - Concepts and Roles)

The Board shall adopt policies related to administrative and supervisory personnel insofar as they are needed to comply with law and describe terms of employment within SCVSFSA.

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 *Purpose*

3540.1 *Definitions*

3543.4 *Management position; representation*

3545 *Appropriateness of unit; basis*

COURT DECISIONS

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

ADMINISTRATIVE STAFF ORGANIZATION

The Board of Directors authorizes the Chief Executive Officer (CEO) to organize the administrative and supervisory staff in a manner that best supports efficient operations.

(cf. 2110 - Superintendent Responsibilities and Duties)

(cf. 4300 - Administrative and Supervisory Personnel)

The CEO shall establish and define job responsibilities for supervisory and administrative personnel. (Education Code 44662)

(cf. 4000 - Concepts and Roles)

(cf. 4315 - Evaluation/Supervision)

The CEO or designee may adjust staff responsibilities temporarily or permanently as needed to accommodate the workload and/or individual capabilities.

(cf. 4032 - Reasonable Accommodation)

The CEO shall maintain a current Santa Clarita Valley School Food Services Agency (SCVSFSA) organization chart which designates lines of primary responsibility and the relationships among all SCVSFSA positions. Lines of responsibility shall in no way prevent staff members at all levels from collaborating, communicating, and cooperating to develop the best possible programs and provide efficient services.

Legal Reference:

EDUCATION CODE

35010 *Control of district; prescription and enforcement of rules*

35020 *Duties of employees fixed by governing board*

35035 *Powers and duties of superintendent*

44662 *Job responsibilities and evaluation*

Management Resources:

CSBA PUBLICATIONS

Maximizing School Board Governance: The Board's Relationship to District Staff, 2007

WEB SITES

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

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

CONTRACTS

The Board of Directors recognizes the importance of attracting and retaining qualified administrative and supervisory personnel to help the Santa Clarita Valley School Food Services Agency (SCVSFSA) achieve its goals. To that end, the Board may employ administrative and supervisory personnel on a contract basis. Prior to entering into any such contract, the Board and Chief Executive Officer (CEO) shall consider the financial and legal implications of the contract in order to protect SCVSFSA from any potentially adverse obligations.

(cf. 0000 - Vision)
(cf. 2121 - Superintendent's Contract)
(cf. 3460 - Financial Reports and Accountability)
(cf. 4111/4211/4311 - Recruitment and Selection)
(cf. 4300 - Administrative and Supervisory Personnel)
(cf. 4313.2 - Demotion/Reassignment)
(cf. 4314 - Transfers)

All contracts shall be ratified by the Board during an open session of a Board meeting and reflected in the Board's minutes. Copies of the contracts shall be available to the public upon request. (Education Code 35031; Government Code 53262)

(cf. 1340 - Access to District Records)
(cf. 9322 - Agenda/Meeting Materials)
(cf. 9324 - Minutes and Recordings)

A contract shall be extended only by Board action and subsequent to a satisfactory evaluation of the employee's performance.

(cf. 4315 - Evaluation/Supervision)

During the term of the contract and with the consent of the employee, the Board may reemploy him/her on those terms and conditions mutually agreed upon by the Board and the employee for a new term to begin on the effective date of the termination of the existing term of employment. (Education Code 35031)

If the Board decides not to reelect or reemploy an administrative or supervisory employee upon the expiration of his/her term, it shall notify the employee in writing 45 days prior to the expiration of the term of the contract. (Education Code 35031)

Employee contracts shall include a provision specifying the legal maximum cash settlement that the employee may receive upon termination of the contract. (Government Code 53260)

(cf. 4117.5/4217.5/4317.5 - Termination Agreements)

CONTRACTS (continued)

Legal Reference:

EDUCATION CODE

35030 Title of deputy, associate or assistant superintendent for certain positions

35031 Term of employment

44842 Automatic declining of employment

44843 Notice of employment to county superintendent

44929.20 Continuing contract

44951 Continuation in position unless notified

GOVERNMENT CODE

53260-53264 Employment contracts

54954 Time and place of regular meetings

54957 Closed session, personnel matters

Management Resources:

CSBA PUBLICATIONS

Maximizing School Board Governance: The Board's Relationship to District Staff, 2007

WEB SITES

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

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

EVALUATION/SUPERVISION

The Board of Directors recognizes the importance of regular and comprehensive evaluations of administrative and supervisory personnel to provide ongoing feedback for continuous improvement of employee performance. Evaluations shall be linked to Santa Clarita Valley School Food Services Agency's vision, strategic plan, school improvement goals, professional development plan, and goals for student achievement.

(cf. 0000 - Vision)

(cf. 0200 - Goals for the School District)

(cf. 0500 - Accountability)

(cf. 2140 - Evaluation of the Superintendent)

(cf. 4300 - Administrative and Supervisory Personnel)

Senior Management and supervisory employees shall be evaluated in accordance with the procedures developed by the Chief Executive Officer (CEO) or designee and approved by the Board.

(cf. 4215 - Evaluation/Supervision)

Evaluations shall be used to recognize the exemplary skills and accomplishments of classified senior management and supervisory employees and to identify areas needing improvement. When the evaluation indicates areas needing improvement, the Board expects such staff to take the initiative to improve their performance and for their supervisors to assist them in obtaining needed job skills.

(cf. 4331 - Staff Development)

The evaluation shall be dated and signed by the classified senior manager or supervisory employee and his/her supervisor. The manager or supervisory employee may respond in writing to the evaluation within a reasonable time after receiving a copy of the evaluation. The response shall be attached to the evaluation and placed in his/her personnel file.

(cf. 4112.6/4212.6/4312.6 - Personnel Records)

Legal Reference: (see next page)

EVALUATION/SUPERVISION (continued)

Legal Reference:

EDUCATION CODE

33039 *State guidelines for teacher evaluation procedures*

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

44660-44665 *Evaluation and assessment of performance of certificated employees*

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

GOVERNMENT CODE

3543.2 *Scope of representation*

UNITED STATES CODE, TITLE 20

6319 *Highly qualified teachers*

7801 *Definition of highly qualified teacher*

Management Resources:

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

Standards of Quality and Effectiveness for Administrative Services Credentials, 2001

WEB SITES

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

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

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

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

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

STAFF DEVELOPMENT

Cautionary Notice: As added and amended by SBX3 4 (Ch. 12, Third Extraordinary Session, Statutes of 2009), ABX4 2 (Ch. 2, Fourth Extraordinary Session, Statutes of 2009), and SB 70 (Ch. 7, Statutes of 2011), Education Code 42605 grants districts flexibility in "Tier 3" categorical programs. The Santa Clarita Valley School Food Services Agency has accepted this flexibility and thus is deemed in compliance with the statutory or regulatory program and funding requirements for these programs for the 2008-09 through 2014-15 fiscal years. As a result, the district may temporarily suspend certain provisions of the following policy or regulation that reflect these requirements. For further information, please contact the Superintendent or designee.

The Board of Directors 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.

(cf. 4119.21/4219.21/4319.21 - Professional Standards)

The Chief Executive Officer (CEO) or designee shall develop a plan for administrator support and development activities based on a systematic assessment of the needs of Santa Clarita Valley School Food Services Agency (SCVSFSA) staff and aligned to SCVSFSA's vision and goals. The Board desires that all administrators participate in planning activities that are pertinent to their specific areas of responsibility.

(cf. 0000 - Vision)

(cf. 0200 - Goals for the School District)

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

(cf. 3350 - Travel Expenses)

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

(cf. 0500 - Accountability)

Legal Reference: (see next page)

STAFF DEVELOPMENT (continued)

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>

PERSONAL ILLNESS/INJURY LEAVE

Personnel

SCVSFSA employees employed five school days per week are entitled to 10 days' leave of absence with full pay for personal illness or injury (sick leave) per school year of service. Employees who work less than five school days per week (part-time employees) shall be granted sick leave in proportion to the time they work. However, any part-time employee who is entitled to less than three days of paid sick leave per year due to the amount of time worked shall be granted sick leave pursuant to Labor Code 246, if he/she is eligible. (Education Code 44978; Labor Code 245-249)

Use of Sick Leave

SCVSFSA employees may use sick leave for absences due to:

1. Accident or illness, whether or not the absence arises out of or in the course of employment; quarantine which results from contact with other persons having a contagious disease during the employee's performance of his/her duties; or temporary inability to perform assigned duties because of illness, accident, or quarantine (Education Code 44964)

(cf. 4157.1/4257.1/4357.1 - Work-Related Injuries)

2. Pregnancy, miscarriage, childbirth, and related recovery (Education Code 44965, 44978)

(cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)

3. Personal necessity (Education Code 44981)

(cf. 4161.2/4261.2/4361.2 - Personal Leaves)

4. Medical and dental appointments, in increments of not less than one hour

5. Industrial accidents or illnesses when leave granted specifically for that purpose has been exhausted (Education Code 44984)

(cf. 4161.2/4261.2/4361.2-Personal Leaves)

6. Need of the employee to bond with a child within one year of the child's birth, adoption, or foster care placement (parental leave) (Education Code 44977.5; Government Code 12945.2, 12945.6; 29 USC 2612; 29 CFR 825.112)

7. Need of the employee or his/her family member, as defined in Labor Code 245.5, for the diagnosis, care, or treatment of an existing health condition or for preventive care (Labor Code 233, 246.5)

PERSONAL ILLNESS/INJURY LEAVE

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8. Need of the employee to seek or obtain any relief or medical attention specified in Labor Code 230(c) and/or 230.1(a) for the health, safety, or welfare of the employee or his/her child, when the employee has been a victim of domestic violence, sexual assault, or stalking (Labor Code 233, 246.5)

For the purposes specified in items #7-8, an employee may use, in any calendar year, the amount of sick leave he/she would accrue during six months at his/her current rate of entitlement. (Labor Code 233)

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)

At the beginning of each school year, employees shall be notified of the amount of sick leave they have accumulated.

(Education Code 44979, 44980)

Parental Leave

During each school year, a certificated employee may use all available sick leave, including accumulated sick leave, for the purpose of parental leave for a period up to 12 work weeks. The 12-week period shall be reduced by any period of sick leave, including accumulated sick leave, taken during a period of such parental leave. (Education Code 44977.5)

Eligibility for such leave shall not require 1,250 hours of service with the district during the previous 12 months. (Education Code 44977.5)

An employee who has exhausted all available sick leave, including accumulated sick leave, and continues to be absent on account of parental leave shall receive differential pay for the remainder of the 12 work weeks. (Education Code 44977.5)

Parental leave taken pursuant to Education Code 44977.5 shall run concurrently with the parental leave taken pursuant to Government Code 12945.2 or 12945.6, and the aggregate amount of parental leave shall not exceed 12 work weeks in a 12-month period. (Education Code 44977.5; Government Code 12945.2, 12945.6)

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 CEO or designee may require verification whenever an employee's absence record shows chronic absenteeism or a pattern of absences immediately before or after

PERSONAL ILLNESS/INJURY LEAVE

AR 4361.1(c)

weekends and/or holidays or whenever available evidence clearly indicates that an absence is not related to illness or injury.

In addition, the CEO or designee may require an employee to visit a physician selected by the Agency, at Agency 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.

Any Agency request for additional verification by an employee's physician or an Agency-selected physician shall be in writing and shall specify that the report to be submitted to the district should not contain the employee's genetic information.

Any genetic information received by the Agency on behalf of an employee shall be treated as a confidential medical record, maintained in a file separate from the employee's personnel file, and shall not be disclosed except in accordance with 29 CFR 1635.9.

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 to duty and stipulating any necessary restrictions or limitations.

(cf. 4032 - Reasonable Accommodation)

(cf. 4113.4/4213.4/4313.4 - Temporary Modified/Light-Duty Assignment)

Additional Leave for Disabled Military Veterans

In addition to any other entitlement for sick leave with pay, a certificated employee who is a former active duty member of the U.S. Armed Forces or a former or current member of the California National Guard or a federal reserve component shall be entitled to sick leave with pay of up to 10 days for the purpose of undergoing medical treatment, including mental health treatment, for a military service-connected disability rated at 30 percent or more by the U.S. Department of Veterans Affairs. An eligible employee who works less than five days per week shall be entitled to such leave in proportion to the time he/she works. (Education Code 44978.2)

The amount of leave shall be credited to the employee either on the date the employee receives confirmation of the submission of his/her disability application to the U.S. Department of Veterans Affairs or on the first day the employee begins or returns to employment after active duty, whichever is later. When the employee receives his/her disability rating decision, he/she shall report that information to the Superintendent or designee. If the disability rating decision makes the employee eligible for the leave, the time used before the decision shall be counted toward the 10-day maximum leave. If the disability rating decision makes the employee ineligible for the leave, the district may

PERSONAL ILLNESS/INJURY LEAVE

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change the sick leave time used before the disability rating decision to an alternative leave balance. (Education Code 44978.2)

The Superintendent or designee may require verification, in accordance with the section "Verification Requirements" below, that the employee used the leave to obtain treatment of a military service-connected disability.

Leave for military-service connected disability shall be available for 12 months following the first date that the leave was credited. Leave not used during the 12-month period shall not be carried over and shall be forfeited. (Education Code 44978.2)

Healthy Workplaces, Healthy Families Act Requirements

No employee shall be denied the right to use accrued sick days, and the district shall not in any manner discriminate or retaliate against an employee for using or attempting to use sick leave, filing a complaint with the Labor Commissioner, or alleging district violation of Labor Code 245-249.

To ensure the district's compliance with Labor Code 245-249, the Superintendent or designee shall:

1. At a conspicuous location in each workplace, display a poster on paid sick leave that includes the following information:
 - a. That an employee is entitled to accrue, request, and use paid sick days
 - b. The amount of sick days provided by Labor Code 245-249
 - c. The terms of use of paid sick days
 - d. That discrimination or retaliation against an employee for requesting and/or using sick leave is prohibited by law and that an employee has the right to file a complaint with the Labor Commissioner if the district discriminates or retaliates against him/her
2. Provide at least 24 hours or three days of paid sick leave to each eligible employee to use per year and allow eligible employees to use accrued sick leave upon reasonable request
3. Provide eligible employees written notice, on their pay stub or other document issued with their pay check, of the amount of paid sick leave they have available

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

4. Keep a record documenting the hours worked and paid sick days accrued and used by each eligible employee for three years

PERSONAL ILLNESS/INJURY LEAVE

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Continued Absence After Available Sick Leave is Exhausted/Differential Pay

After a management or supervisory employee has exhausted all available sick leave, including all accumulated sick leave, and, due to illness or injury, continues to be absent for an additional period up to five months, he/she shall receive 50 percent of his/her regular salary during the five-month period of absence.

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 up to five months after sick leave is exhausted*
- 44978 Provisions for sick leave of certificated employees*
- 44978.1 Inability to return to duty; placement in another position or on reemployment list*
- 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*
- 44984 Industrial accident or illness*
- 44986 Leave of absence for disability allowance applicant*

LABOR CODE

- 220 Sections inapplicable to public employees*
- 233 Illness of child, parent, spouse or domestic partner*
- 234 Absence control policy*

CODE OF REGULATIONS, TITLE 5

- 5601 Transfer of accumulated sick leave*

UNITED STATES CODE, TITLE 42

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

COURT DECISIONS

- Veguez v. Governing Board of Long Beach Unified School District, (2005) 127 Cal.App.4th 406*

SANTA CLARITA VALLEY SCHOOL FOOD SERVICES AGENCY

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